



## Volume II

### Introductory

The Commission examined the evidence police stationwise. In each police station jurisdiction, police officers and public witnesses have been examined. In all, there are 26 police jurisdictions which are covered by the evidence.

The Commission has also examined media persons, senior police officers and politicians.

A summary of the material before the Commission is presented in the following pages.

## CHAPTER I

### Police Station

#### 1. Agripada Police Station

1.1 This is an area in which majority of residents are Hindus, but there are certain known pockets of Muslims. Communally sensitive areas which experienced previous communal trouble are Kalapani Junction, Sakhli Street, Junction of Meghraj Shetty Marg and Baburao Jagtap Marg, Tank Pakhadi Road, Hindustan Masjid, Sunder Galli, Tambit Naka, Paise Street, S-Bridge and Dhobighat.

1.2 On 7th December 1992, at about 1230 hours, trouble started near the Byculla Fire Brigade Station with an attack on the Mhasoba Mandir by a mob of Muslims. The Muslim mob damaged the temple and when this news spread, a Hindu mob collected near the Mhasoba Mandir and started throwing stones and other missiles at the Muslims who had gathered near Meghraj Street. The police intervened and resorted to firing to control the situation. The miscreants damaged not only the temple structure, but also the idol inside and ransacked the belongings of the temple's priest who lived on the premises. On the same day, a Vithal Mandir situated on Meghraj Street was also damaged and the property of the priest living there was also ransacked. The property damage was estimated to be over a lakh of rupees.

1.3 At 2030 hours, on 7th December 1992, there were clashes between Hindu and Muslim mobs at Sunder Galli and Kalapani Junction. Stones were thrown by the miscreants from Patra Chawl side on B.J. Road.

1.4 On 8th December 1992 there were pitched battles between mobs of Hindus and Muslims in Tank Pakhadi, Transit Camp, Tambit Naka, Hindustan Masjid and Khatau Mill areas. During the melee one police officer, A.S. Sawant, was injured on his thigh by stone throwing and some of the miscreants in the Muslim mob attempted to snatch away the rifle of one of the constables. Police resorted to firing resulting in injuries to two persons.

1.5 During December 1992 the police registered six offences, out of which two pertained to the attack on the Mhasoba and Vithal Mandirs. The other four offences consisted of three attacks on Muslim properties and an attack on a rationing shop on 9th December 1992.

1.6 Trouble started in January 1993 with an incident of stabbing at Mominpura Patra Chawl at about 0100 hours on 7th January 1993 in which a Hindu was stabbed by unknown persons. At the same time, the news about incidents of stabbing, arson, and stone throwing occurring with alarming frequency in the adjoining jurisdictions of Dongri, Pydhonie, Nagpada and in Mahim heightened the communal tension in this area. The police managed

to maintain an uneasy peace on 7th January 1993 and upto the evening of 8th January 1993.

1.7 From 2100 hours on 8th January 1993, riots erupted at BIT Chawls, Maulana Azad Road, Sakhli Street and Kalapani Junction. The trouble seems to have first erupted in BIT Chawls No. 12, 11, and 23. Though the police claim that the incident was one of a violent clash between armed mobs of Hindus and Muslims, the true picture seems to be different. According to the evidence of one of the Muslim victims, Mumtaz Rehman, the trouble in the BIT Chawls started at about 7.30 p.m. with the Hindu residents attacking Chawl No. 12 occupied by Muslims with stones, soda-water bottles and petrol bombs, shouting "*Landyabhai ko maro*", "*Pakistan ko bhagao*" and "*Bara number me ghuso*". Sixty-three out of the eighty tenements in Chawl No.12 are occupied by Muslims and the rest by Christians.

In the other BIT Chawls, the preponderant majority is of Hindus, though a few tenements are occupied by Muslims. When the stone throwing started, Mumtaz Rehman telephoned the Agripada Police Station to complain that the Muslim residents of BIT Chawl No.12 were being attacked by Hindus. The telephone was answered by an unidentified person in the police station who, on receiving the request for help, rudely replied, "*Landyabhai Chup baitho, Abhi kuch nahi huva*" and banged down the phone. Mumtaz then frantically phoned for help to some Muslim corporators of Janata Dal and some Muslim officers in the military. After about an hour or so, a police mobile came to BIT Chawl No. 2 with three constables and an officer. The main entrance of that chawl has a collapsible iron grill which had been shut and locked by the residents who feared for their lives. The police repeatedly rattled the collapsible iron grill, calling upon the residents of Chawl No.12 to open the lock.

According to Mumtaz, the Hindu miscreants in the surrounding chawls were standing around with swords and choppers in their hands. But instead of dealing with them, the police threatened the residents of Chawl No.12 that if they did not open the collapsible door they would be shot. By this time, some of the miscreants had cut off the telephone line, electricity line and water connection of Chawl No.12. There was also an attempt to set fire to Chawl No.12, which, according to Mumtaz, occurred in the presence of the police without the police taking any action. The miscreants set fire to two taxis and two motorcycles of Muslims, looted four gas cylinders from Muslim houses in Block No.11, kept them in front of Chawl No.12 and attempted to set fire to them. Major catastrophe was, however, avoided since the police took charge of and removed the gas cylinders.

The water, electricity and telephone lines were restored only on 9th January 1993 at about 1230 hrs, after the arrival of military personnel accompanied by plumbers. The police claim that the collapsible iron door had been connected to live electric wires as a result of which the police constable who attempted to open the collapsible door got an electric shock. The story appears apocryphal. Mumtaz says that the police were repeatedly rattling the collapsible door. The Senior Police Inspector's evidence shows that no attempt was made to discover if the theory of electric current was true. As a matter of fact, at the material time the electric connection itself had been disrupted. Senior Police Inspector Tikam, says that he did not notice any electric wires connected to the collapsible iron shutter, nor did the police attempt to force open the said door.

A police picket was posted in front of Chawl No.12 and in the morning at about 6 a.m. the police managed to enter the building from a side entrance. This time the police were armed with electric testers and when they tested the iron grill of the shutter, it was not found electrified. There is also no mention of any of this story in the Station Diary of the police station, though Tikam admitted that this was a very serious incident and all serious incidents must be noted in the Station Diary.

Sarwaribegum, resident of BIT Chawl No. 8, says that, at about 2200 hours on 8th January 1993, the miscreants repeatedly banged on her door and broke open the door to her tenement. She along with her two daughters-in-law and children was inside. One of the miscreants, Santosh Nagaonkar, started damaging the articles in the house and another placed a chopper on her neck and asked about the whereabouts of menfolk. The women pleaded for their lives, managed to run away and seek shelter in Prabhat Building. Sarwaribegum says that, when all this was happening, she saw the police standing 15 feet away from the building, doing nothing.

When she complained to the police about the attack on her chawl and requested action

against the miscreants, the police asked her to go away. She made a complaint to the police station on 16th January 1993 narrating what transpired during the night of 8th January 1993. She denies the correctness of what is alleged to be her statement (Exhibit 550 (P)) and maintains that she had specifically given the name of Santosh to the police officer who took down the complaint. So much, for the reliability of the police records.

1.8 The Senior Police Inspector claimed that there were several instances of private firing upon the residents of Pathan Chawl (now known as Bhagwa Mahal) resulting in injuries to three Hindus, Chandrashekhar Bhiva Sawant, Sanjay Ramchandra Sawant and Prakash Keshav More. These three persons gave identical evidence that, because of fireballs thrown at Pathan Chawl by the Muslim residents of the adjoining building known as "80 tenements", the Pathan Chawl caught fire. And when the residents of Pathan Chawl were running around to extinguish the fire, they were shot at from the 80 tenements Chawl. They also claimed to have identified the person firing at them as one Nasir Bakerywala.

1.9 That these three persons were injured by bullets is certain; it is doubtful whether they were injured in an incident of private firing. The material on record seems to suggest that probably they were injured in police firing, while participating in the riots, which they are now passing off as the result of private firing. Though each one of them claims to have seen Nasir Bakerywala firing at them, one says that the firing was from a pistol and another that it was from a big gun. None of them named Nasir Bakerywala in the police statements. The police have also submitted a supplementary report to the Additional Commissioner of Police (Crime) (Exh.569(C)) giving full particulars of the incident in CR No.33/93. In that supplementary report these three are shown to have been injured in police firing.

1.10 The metamorphosis of 'Pathan Chawl' into 'Bhagwa Mahal' is also interesting. Though all others claimed that there was no connection between Shiv Sena and Pathan Chawl, Mohan Kadam Bahadur Lama, a resident of Pathan Chawl from 1969, who knew Prakash Keshav More, Sanjay Dattaram Sawant, Chandrashekar Bhiwa Sawant and Dattaram Vasant Narvekar, gives a different version. According to him, the name of Pathan Chawl was changed to Bhagwa Mahal when the Shiv Sena started moving about frequently. Someone from the Shiv Sena had come and said that Pathan Chawl should henceforth be called Bhagwa Mahal and, "since they said so, it is also called Bhagwa Mahal". This obviously indicates that the residents of Pathan Chawl or Bhagwa Mahal were very much protagonists, if not activists, of Shiv Sena.

Lama's affidavit was filed at the instance of one Tukaram Amre and another "fat police officer" was accompanying him. This Tukaram Amre was the person instructing the Shiv Sena's counsel when the cross-examination was going on before the Commission and was identified by the witness Lama. Lama also said that, apart from him, Tukaram Amre had brought four or five persons to file affidavits and was accompanied by one fat police officer. This evidence leads the Commission to think that the story about private firing is a contrived one, put forward at the instance of the activists of Shiv Sena and the police, though the identity of the "fat police officer" is unascertainable.

1.11 Meherunnissa Mohammed Yakub Ansari (Exh.577) also says that from about 1930 hours on 8th January 1993, till about 1330 hours on 9th January 1993, there were continuous attacks on their chawl No.12. The attackers were all Hindus from BIT Chawls who kept shouting, "*Landyabai ka ghar kidar hai*" and knocking on her door. They were carrying choppers and other weapons. She is emphatic about what the police told her when she complained to them. Says, the witness, "I cannot forget during my entire life the words used by the police — '*Pakistan chale jao; yahan kyon ate ho marne ke liye*'. After the Muslim residents had moved away to safety locking their houses, their houses were systematically ransacked and looted.

1.12 On 10th January 1993 riots erupted simultaneously at about 1030 hours near Fancy Market, Moreland Road, Hirve Chawl on Maulana Azad Road, Pathan Chawl on B.J. Road and Dhobighat. There was extensive arson and looting of property. In fact, the vicious nature of the riots can be gauged from the statistics given by the police themselves. About 200 Muslim families from Dhobighat area had abandoned their houses and fled to safety. Their houses were systematically ransacked, damaged, looted and subjected to arson. According to the police, in all about 200 incidents of arson and looting took place on 10th January 1993; in almost all cases the victims were Muslims.

1.13 There were crude attempts by the police to cover up the role of the Shiv Sena in the

incidents of January 1993 :

(a) Though the Senior Police Inspector had filed particulars of the *Mahaartis* organised (Exhibit 514(P)), in which the number of *Mahaartis* were shown as having been organised by the Shiv Sena, he later on claimed that there was a mistake in it and filed another sanitized version in which it was sought to be maintained that the different *Mahaartis* were organised by different organisations, though the leaders of the Shiv Sena happened to remain present at the *Mahaartis*.

b) There was another attempt to underplay the role of four accused arrested in C.R. No.17 of 1993, who were reported to be Shiv Sainiks. Senior Police Inspector Tikam had made an endorsement in the case papers of C.R. No.17 of 1993 that the four accused persons arrested from BIT were Shiv Sainiks and that a report to that effect has been given to Assistant Commissioner of Police, Mehta of S.B.-I CID. When closely questioned about this endorsement, Tikam feigned lapse of memory. Daljitsingh Parmar, the investigating officer stated that the Senior Police Inspector Tikam must have got the information that the four accused were Shiv Sainiks and, though he made inquiries from public and interrogated the accused, he could not get confirmation of the said fact. He had even questioned the *Shakha Pramukh* of *Shakha* No.37 who stated that the four accused arrested in C.R. No.17 of 1993 were working along with Shiv Sainiks, but were not "authorised members" of Shiv Sena. No attempts appear to have been made to look into the records of membership or to cross-check the information given by the *Shakha Pramukh*. Daljitsingh Parmar conceded that if he had done such exercise he would have been able to ascertain whether the four accused were members of Shiv Sena and that it was a mistake on his part not to have done so.

1.14 There was a report of private firing from a building known as Al Madina on Motlibai Street. Though Senior Police Inspector denied that there was any such private firing, under cross-examination he was forced to admit that information to this effect was received by him, not only from public but also from the officers of the military column located near YMCA, that the military officers also claimed that they had heard the noise of firing from the direction of Al Madina and thought that it was directed at them. The military officers came near Al Madina Mansion and wanted to search Al Madina building to flush out the miscreants, but were unable to do so without a written requisition from the Senior Police Inspector. Tikam says that he refused to give such a written requisition because according to him the situation was not so serious as to justify the area being handed over to the military authorities. This, despite his believing the information about private firing from Al Madina mansion. After a lapse of time, Tikam himself carried out a search of Al Madina mansion, but predictably did not recover any fire-arms, though some petrol bombs were recovered.

1.15 That Shri Babanrao Pachpute, then Minister of State (Home), was possibly interfering with police work, is brought out in the cross-examination of Tikam. Tikam had picked up 21 persons from Al Madina building for questioning. By a strange coincidence, Mr. Pachpute visited the police station in the wee hours on 11th January 1993 and was shown the offensive materials seized during the search of Al Madina mansion. Soon thereafter, Tikam says that he was satisfied that there was no material against the 21 persons and they were allowed to go! Tikam, of course, denied that Shri Pachpute had anything to do to the release of those 21 persons. Tikam's lapse of memory under cross-examination was so acute that, at one stage, in his anxiety to deny that there was private firing from the building behind YMCA Hostel, he point blank denied that there was any such incident. Confronted with the Agripada Mobile Log Book entries of 10th January 1993 showing that the police party was subjected to such private firing and that the constables in the Agripada mobile had replied the firing (Exh. 531(SS)), Tikam admitted the fact but had no explanation as to why there was no reference to it in his affidavit.

When the police searched Al Madina Mansion, not only did they recover petrol bombs, but they also seized certain quantity of materials useful for making crude bombs from the terrace of the building. It is admitted by Tikam that this might have been stored on the terrace of Al Madina as a plan to attack the Hindus and the police and that such an act would be an offence. Strangely, no offence has been registered, nor is the officer able to give any explanation as to why none was registered. Though the Shiv Sena had often cried wolf with regard to incidents of private firing, in this instance at least, its grievance appears justified.

1.16 The strange manner in which the police moved against the suspects is highlighted by another incident. Though a written complaint dated 5th February 1993 [Exhibit 534(SS)] was made that the persons responsible for the private firings upon Bhagwa Mahal on 10th January 1993 were Nasir Mastan Bakerywala, Aziz, Vakil and Shakil, the police were not able to nab any of them as they were said to be absconding. Interestingly, on 3rd April 1993 a public function appears to be organised for Id Milad in which the fathers of the three suspects, Mastan Bakerywala, Haji Vakil and Shakil were part of the organising committee. Tikam also maintained that none of his staff reported to him if any of the four absconding suspects had attended the function.

1.17 From the evidence of Yashwant Dattatraya Puntambekar [Exhibit 468(P)] it appears that on 8th and 10th January 1993, Hindus and Muslims were both on the offensive, though he would not be able to say as to which of these two mobs was acting in self-defence. During December 1992 and January 1993, 41 offences were registered, of which eight pertained to rioting, seven pertained to rioting with murder, 19 were cases of stabbing and the remaining were cases of house-breaking and looting. During December 1992 and January 1993, in the stabbing cases, 11 Hindus and 10 Muslims were stabbed. Out of the 15 cases of murder by stabbing, three victims were Hindus and 12 Muslims.

1.18 One constable, Ashok Naik (P.C.No.23960, L.A.IV) was arrested in connection with an offence of rioting and causing damage to Muslim property (C.R. No.28/93). Another police constable, Rajaram K. Bhoir, was arrested by N.M.Joshi Marg Police Station while indulging in a similar offence.

1.19 Some Urdu pamphlets [(Exh.538(SS))] containing inciting material were distributed near Hindustan Masjid, but there appears to be little follow-up action by the police.

## 2 Antop Hill Police Station

2.1 This police station is spread over an area of about 8 to 12 sq. kms. with a total population around 5 lakhs, the majority being Hindus. There are some Muslim pockets in the area, like Suleman Compound, Sangam Nagar, Pratiksha Nagar, Bangalipura, Vijaynagar, Kokri Agar and Makkawadi. Roughly about 20% of the population consists of Muslims. This area has about 17 temples, 18 Masjids, seven Gurudwaras, three churches and seven Buddha Mandirs. The jurisdictional area of this police station is spread over two Vidhan Sabha constituencies and the two Sitting MLAs at the material time belonged to Bharatiya Janata Party and Congress-I. The three corporators in the area at the material time were two from Congress-I and one from Janata Dal.

2.2 There was no instance of Muslims being instigated to resort to violence or rioting. They had spontaneously reacted on hearing news of the demolition of Babri Masjid. There was no active Muslim organisation within this area, nor any attempt to instigate Muslims by communal speeches or distribution of printed material or by writings on blackboards.

2.3 The first reaction to the demolition of Babri Masjid came on 7th December 1992, during which angry Muslims directed their anger at the police or BEST buses by stoning them (C.R. No.354 of 1992). In another incident (C.R. No. 357 of 1992) which occurred on 8th December 1992 at 1315 hours in Rajiv Gandhi Nagar, a mob of 300 to 500 persons set fire to some of the huts therein. The police are unable to say whether the violent mob which was throwing stones at them consisted of Hindus or Muslims. However, the two huts in Rajiv Gandhi Nagar which were set on fire were occupied by Hindus and, it may be correct to presume that the aggressive mob was one of Muslims. The slogans shouted by the mob also lend support to this assumption.

That there was a Hindu mob which also attacked the huts in the transit camp, Rajiv Gandhi Nagar, and committed acts of arson is evident from the material on record. The police resorted to firing to quell the mobs in which three Muslim residents of Agarwal Compound sustained injuries and subsequently died.

2.4 On 9th December 1992, between 2300 to 2330 hours, a mob of 100-150 Muslims attempted to attack the Hindu settlement at Vijaynagar and was marching towards the local Ganapati Mandir. There was stone throwing by the said mob and slogans shouted that all the huts should be set on fire. The police interdicted them and resorted to *lathi* charge followed by firing. In this case (C.R. No.358 of 1992), 23 Muslim accused were arrested and one Muslim died in the police firing.

2.5 January 1993 saw thick rumours being floated around in the area that there was an imminent attack by Muslims. The Hindus were being incited and instigated to prepare against such attacks. Feelings were running high.

2.6 By far the most serious incidents took place in January 1993 in Pratiksha Nagar and Kokri Agar. All the action in this area took place on 9th and 10th January 1993. Witness after witness has come and deposed before the Commission that on 3rd January 1993 a bunch of young persons in the age group of 18 to 25 moved around in Pratiksha Nagar area pretending to be Housing Board employees and elicited details of Muslim residents in the chawls therein. It is also said that chalk marks were made on the houses of Muslims.

2.7 On 9th January 1993 a violent mob of Hindus attacked the house of a Muslim in Pratiksha Nagar with stones, ransacked the articles inside and set fire to them. On 10th January 1993, one Mohamad Hanif Quereshi was killed by a mob which attacked him with *lathis* and swords, in Building A-31, Pratiksha Nagar, near the Saibaba Mandir. The place of offence was hardly 250 to 350 feet from the Pratiksha Nagar Police chowky wherein a police picket consisting of police sub-inspector Patil and four constables was said to be on duty. The investigations into this case were carried out by Police Inspector Kenge, Police Inspector Shinde and police sub-inspector Mane. The case has been classified in "A" summary.

2.8 On 9th January 1993, at about 1200 hours, a Muslim, returning from the open field after answering the call of nature, was assaulted and stabbed (C.R. No.18 of 1993).

2.9 On 10th January 1993, two bodies were found in badly mutilated condition in Pratiksha Nagar. One was discovered near the Tata Power line at about 1800 hours and the other in the night at about 0100 hours. One was identified as the body of a Muslim, Zafar Abdul Karim, and the other was unidentified.

2.10 On 11th January 1993, at about 0600 hours, two Muslims were stabbed in Pratiksha Nagar, resulting in the death of one and injuries to the other. This case (C.R. No.18 of 1993) has been classified in "A" summary. C.R. No.19 of 1993 is another case where one Mohamad Salim was injured in stabbing. This case has also been classified in "A" summary.

2.11 There was an attack on a Masjid known as Markaz-E-Tamir- Millat Masjid by Hindu mob (C.R.No.20 of 1993). The mob threw stones at the masjid and the adjoining huts of Muslims and torched vehicles and handcarts on the road. The resulting fire burnt six Hindu huts also. In this case, the police have arrested 17 Muslims and seven Hindus on the spot.

2.12 A Muslim driving his vehicle in Pratiksha Nagar near the Santosh Hotel was attacked by a violent mob of Hindus on 11th January 1993 at about 1300 hours (C.R.No.22 of 1993).

2.13 A Hindu driving a vehicle was attacked by a violent mob on 12th January 1993 at about 1703 hours opposite the Kokri Agar Church. Surprisingly, in this case, the accused arrested are both Hindus (C.R.No.23 of 1993).

2.14 Three Muslims travelling in a Maruti car in Pratiksha Nagar were pulled out, severely assaulted, put back in the car and the car was set on fire resulting in their being burnt alive. The incident occurred opposite Building No.20, Manohar Kini Memorial Library, Sardar Nagar No.1, Pratiksha Nagar on 14th January 1993 at 1430 hours (C.R. No. 27 of 1993). Three police constables, one of them armed, were present on fixed bandobust duty at Shivaji Chowk in Sardar Nagar No.1 and they were all in uniforms. The place where the incident took place was hardly 150 feet from Shivaji Chowk where this picket was on bandobust duty. No attempt appears to have been made by the police picket to stop the gruesome incident.

An interesting fallout of this incident is that on 15th January 1993 the police arrested two persons in connection with this incident and on the same day a *morcha* of about 3000 to 4000 men and women led by the local Shiv Sena *Shakha Pramukh* Prahlad Thombre, Shiv Sena MLA Shri Kalidas Kolamkar, Congress MLA Shri Eknath Gaikwad, Congress corporator Smt. Karuna Mhatre, Shiv Sena corporator Shri Krishna Vishwasrao, Shiv Sena *Vibhag Pramukh* Sudam Pandit and one Arvind Samant came to the police station demanding release of the arrested accused, one of whom was Bal Thombre.

2.15 There were several cases of systematic attack on and ransacking of Muslim houses in

the different chawls in Pratiksha Nagar (C.R. Nos. 39, 40, 43, 44, 45, 46, 47, 48, 49, 51, 52, and 54 of 1993). The manner in which these cases have been investigated by the police leaves much to be desired. Most of these cases were recommended by the investigating officer for being classified in "A" summary; the recommendations were accepted by Senior Police Inspector Vinayak Raosaheb Patil and the cases were classified in "A" summary under the orders of the assistant Commissioner of police of the division.

In most of these cases, much before the actual date on which the I.O. recommended classification in "A" summary, there were written complaints made by the victims clearly identifying the miscreants and giving particulars of their residential addresses. In most of the cases, the miscreants were residents of the chawl in which the victim lived or of adjacent chawls. The accused were well-known persons and the victims had given their names and addresses. Most of such statements were recorded by the police and the NGOs when the Muslim victims had been temporarily sheltered at the Musafirkhana Relief Camp in South Bombay. These statements were forwarded to the Senior Police Inspector of Antop Police Station sometime in February 1993, and yet the investigating officer and the Senior Police Inspector appear to have recommended closing these cases and classifying them in "A" summary, sometime in June 1993.

The details of the statements of the different victims identifying the accused persons and giving their addresses are brought out in the cross-examination of Senior Police Inspector Vinayakrao Raosaheb Patil and also in the copies of the statements which have been taken on record by the Commission. It would appear that the investigating officer, for reasons now fathomable, recommended classification of these cases in "A" summary. Fortunately, in some of the cases, the deputy commissioner of police of the region appeared to have noticed this glaring omission and directed reopening of the cases and investigations upon which only some of the accused were arrested. Ominously, some names are repeated by the victims and some of the persons named as miscreants appear to have been connected with Mitra Mandals of Pratiksha Nagar known as Vishwa Jagrutti Mitra Mandal, Prabhat Mitra Mandal and Jai Maharashtra Mitra Mandal. The witnesses examined before the Commission have asserted that these Mitra Mandals were but fronts of the Shiv Sena and the persons active in these Mitra Mandals were all Shiv Sainiks.

2.16 In most of these cases, the investigating officer was sub-inspector Pawar, whose recommendation for classification in "A" summary appears to have been accepted by the Senior Police Inspector K.E. Nath, who was the Senior Police Inspector at the material time. Senior Police Inspector Nath was examined before the Commission and he clearly stated that none of the documents containing details of the names and addresses of the miscreants was filed in the case papers put up before him together with the recommendation of the investigation officer for classification in "A" summary. He also states that the investigating officer must have surreptitiously inserted the relevant documents in the case papers, subsequent to the classification of the cases in "A" summary.

The evidence of Senior Police Inspector Kisan E. Nath, (Witness No. 308) is very significant and reveals the police modus operandi of scuttling inconvenient investigations. Nath also says that between 22nd October 1993 to 23rd October 1994, no case diary had been written by the investigating officer. Some enquiry appears to have been conducted into the conduct of investigating officer, assistant Police Inspector Pawar which resulted in his being deprived of three years increments. The punishment inflicted upon him appears to be too light considering the manner in which he attempted to scuttle the investigation of cases in which hundreds of Muslim residences in Pratiksha Nagar were systematically ransacked, looted and the articles in the houses were set on fire.

2.17 The Commission had issued notices under Section 8B of the Commissions of Inquiry Act to the following police personnel attached to the Antop Hill Police station at the material time :-

- (a) Police Inspector B.B.Shinge,
- (b) Police sub-inspector Shivgonda Patil,
- (c) Arvind Mahadeo Ghadi  
(H.C. No. 1517),
- (d) Akram Yeshwant Kamble

(P.C. No. 19044),

(e) Prakash Sitaram Dukare

(P.C. No.4064),

(f) Dhanaji Rajaram Phadtare

(P.C. No. 19044),

(g) Shankar Pandurang Patil

(P.C. No.543)

(h) Bhausahab Kisan Gaikwad (P.C.No.25702)

2.18 After seeking time for giving their replies to the notice, the following persons stated on 5th December 1994 before the Commission that they did not propose to file any replies to the notices issued to them, nor desired to cross-examine the witnesses already examined before the Commission. They are :

a) Arvind Mahadeo Ghadi

(H.C. No. 1517),

b) Akram Yeshwant Kamble (P.C.No.19044),

c) Prakash Sitaram Dukare (P.C.No.4064),

d) Dhanaji Rajaram Phadtare (P.C.No.22279),

e) Shankar Pandurang Patil (P.C.No.543)

f) Bhausahab Kisan Gaikwad (P.C.No.25702)

2.19 Inspector B.B Shinge and sub-inspector Shivgonda Patil sought leave to appear through Counsel and they were given permission. They also filed written replies vide Exhibit 2227(P) (Colly.). Smt. Manjula Rao, learned counsel appearing for them, was also given opportunity to cross examine one of the witnesses, Hafiza Kadar Khan, who had made allegations against them. This was done on 23rd February 1994.

2.20 Witness after witness has come before the Commission from Pratiksha Nagar area to give in graphic details the manner in which the Muslims were driven out from their houses at the point of swords, knives and under threats. In some of the cases their property was damaged, destroyed and set on fire in their very presence. In several cases the Muslims of Pratiksha Nagar ran away to seek shelter elsewhere and their locked houses were broken open, ransacked and their articles looted or set on fire. The witnesses have said that the attacking miscreants were Hindus, that they were mostly youths shouting slogans like, 'Jai Shri Ram', 'Jai Bhavani', 'Jai Bhim', 'Jai Maharashtra' and 'Shiv Sena Zindabad'. Some of them have also stated that they were wearing *bhagwa* (Saffron) coloured headbands. One of the witnesses states that some of the miscreants were wearing Tee-shirts with the words "Shiv Sena" in Marathi printed on them. There appears to be unanimity in the deposition of the witnesses of Pratiksha Nagar that the survey carried out on 3rd January 1993 was unauthorized and definitely intended to target the Muslim houses for violent attacks, though at the point of time when it was done, the victims did not suspect foul play. The victims also clearly maintained that they were targeted and subjected to violent action in the very presence of policemen and officers, some of whom were armed, and that the police did not even lift a little finger to help them.

2.21 The evidence of Reshma Umar Makki, young lady of 27 years, who was herself a Hindu Maharashtrian, Dalvi, before she fell in love with Umar Makki and converted to Islam, is very revealing. Her house was also surveyed on 3rd January 1993 and an indelible mark was put on her door by the surveying party. On 9th January 1993 there was an attack on her house by Shiv Sainiks who made enquiries about her "*Landya*" husband. Reshma hid her husband inside a box type mattress before opening the door and informed the mob of attackers that her husband was not in the house and invited them to search the house.

The attackers were armed with swords, choppers, knives and *lathis*. Another attack took



place on 11th January 1993 by an armed mob of Shiv Sainiks. They abused her as to why she got married to a "*landya*" and whether all Hindus were dead. She identified the mob as comprising inmates of Andhra Chawl, out of whom she clearly recognized one Umesh, a Shiv Sainik living near Sundar Hotel. He and three to four other boys entered her house, placed a chopper on her head and threatened her that, if she spoke up, she would be stripped, raped and killed. She says that when she contacted Senior Police Inspector Vinayak Patil of the police station for help, he refused to come and retorted, "If a Muslim dies, there would be one Muslim less".

Reshma maintained that the facts that the Shiv Sena boys coming every now and then and giving trouble to her, taunting and filthily abusing her for marrying a Muslim, openly moving around wearing white Tee-shirts with the name of Shiv Sena printed upon them, without the police in any way interfering with them, made her believe that the police had deliberately adopted a policy of non-interference and helping the Shiv Sena. She spiritedly retorted to the Senior Police Inspector that she had marked his words and his words would cost him dearly one day. Prophetically, she was proved right, because Senior Police Inspector Vinayak R. Patil was summarily sacked by the government on serious allegations, one of which was his close association with "communal organisations".

Under cross-examination by the learned council for the Shiv Sena, Reshma Umar Makki, admitted that she did not know whether the miscreants were actually Shiv Sainiks or not, but they were at least claiming to be Shiv Sainiks. She was even honest enough to point out that whoever wrote her complaint in the Musafirkhana had made a mistake and that she had never stated that the miscreants had robbed her of her jewellery. There is no reason to discount the evidence of this and other witnesses from Pratiksha Nagar.

2.22 From the evidence brought on record, it would appear that there was a systematic attack for terrorizing the Muslims in Pratiksha Nagar. The Muslim houses were subjected to a selective unauthorized survey by the Hindus on 3rd January 1993. There was a vicious rumour floated around that there was an imminent attack by Muslims on Hindu houses and thereby Hindu communal passions were whipped up. On 9th, 10th and 11th January 1993 the Muslim houses in Pratiksha Nagar were systematically broken open, ransacked, some of the articles looted and some others deliberately set on fire. One of the witnesses said that on 9th January 1993 about seven truckloads of miscreants had come, most of whom were from Lalbaug area and some were from the Andhra Chawl. This fortifies the conclusion that there was a planned, systematic attempt to attack the Muslim houses in Pratiksha Nagar.

2.23 One 18-year-old girl, Shamim Bano, was kidnapped and, in spite of the names of the culprits being disclosed to police, the police took little action in the matter and the girl was not traced thereafter (C.R. No. 27 of 1993).

2.24 One handicapped person, Abdul Mannan, was brutally murdered by the miscreants and, though their names were given to police, no action seems to have been taken (C.R. No.114 of 1993).

2.25 Between 9th January 1993 to 12th January 1993 a large number of Muslims, numbering about 3,000-5,000, who had left their houses for fear of attack had congregated near Sunder Vihar Hotel. They were surrounded by 40,000-50,000 Hindus and had to spend almost three days under constant fear of attack till they were rescued from there with the help of army column on 12th January 1993. The intensity of communal hatred which had gripped even the ordinary citizens during the riot periods is demonstrated by this incident. Police were unable to help the Muslims because of overwhelmingly large mobs of Hindus which prevented the police from rescuing the Muslims. When an attempt was made to supply food to the marooned Muslims, the vehicles carrying the food were chased away. Finally, when the army column was transporting the marooned Muslim families, it was also attacked by the Hindu mobs which had to be dispersed by firing resorted to by army personnel.

2.26 The role of the police during this incident has been distressing. On occasions, they acted passively and permitted the pillaging mobs to carry on their nefarious activities; sometimes, they even encouraged them and joined them. In these circumstances, the lapses in the investigations into the offences registered were probably not cases of negligence, but deliberate attempts to suppress material evidence and sabotage investigations. The evidence on record clearly points out that the police were communally biased against the Muslims. In short, the conduct of the police during the incidents was

such as to cause loss of faith in the law and order machinery.

2.27 To top it all, there is the order dated 30th April 1993 by which senior police inspector Vinayakrao Raosaheb Patel of Antop Hill Police Station, was removed from service with effect from 30th April 1993 for reasons, inter alia, of developing relationship with 'criminals' and 'communal elements' in Antop Hill police station area, thereby shielding them from legal action. The conduct of the officers, Police Inspector B.B. Shinge, police sub-inspector Shivgonda Patil, investigating officer, sub-inspector Pawar and the police constables, namely, Arvind Mahadeo Ghadi (H.C.No.1517), Akram Yeshwant Kamble (P.C.No.19044), Prakash Sitaram Dukare (P.C.No.4064), Dhanaji Rajaram Phadtare (P.C.No.22279), Shankar Pandurang Patil (P.C.No.543) and Bhausahab Kisan Gaikwad (P.C.No.25702) is not at all above board.

The Commission is satisfied that it was because of such conduct on the part of police personnel that incidents of such serious nature took place in Pratiksha Nagar. It was a massive operation launched by the Hindu miscreants in Pratiksha Nagar, some of whom openly professed that they were connected with the Shiv Sena, and some identified to be local Shiv Sena activists, actively and passively supported by the local police, to terrorize and cripple the Muslim residents of Pratiksha Nagar. That this massive operation succeeded is testimony to the ineffectiveness of the police machinery which was paralysed into inaction as it was infected with the virus of communalism.

2.28 That the Shiv Sena was spearheading the attack on the Muslims in this area comes through from the evidence of witness after witness before the Commission. The big *morcha* taken out by the local Shiv Sena leaders to demand unconditional release of the accused arrested in C.R. No. 27/93 indirectly supports what has been directly suggested by the witnesses.

### 3. Azad Maidan Police Station

3.1 The population in this area consists of 90% Hindus.

3.2 On 11th December 1992, at about 1715 hours, some of the Hindu boys playing cricket on Azad Maidan were fired upon by two unknown assailants on a motorcycle, resulting in the death of one Nathuram Dhondu Mohite and injuries to four others (C.R.No.841 of 1992). Although one Aslam Koradia, a known Muslim criminal, was suspected of the offence and arrested, he was discharged as none of the witnesses identified him. Some of the recovered empties bore markings in Arabic script. The police appear to have been very remiss in the investigation of this offence in that the empties were not sent to the Ballistic expert for opinion as to the type, calibre and make of the firearm from which the empties could have been fired. The statement of Ramchandra Gopal Khadse, an eyewitness to the incident, suggests that, just before the firing incident the miscreants were seen making inquiries with the onlookers for sometime. Though the miscreants have not been arrested, the incident had all the hallmarks of a communal incident, at the instance of Muslims or someone with intent to stir up communal trouble.

3.3 Another incident of serious nature is the one in which a crude bomb was hurled at the Gol Masjid. This incident occurred despite a bandobust picket posted right in front of the Gol Masjid to protect the Masjid. The police picket was led by assistant sub-inspector Matare and five constables. In the offence registered (C.R. No. 843/92), there is not even a statement of assistant sub-inspector Matare recorded by the investigating officer. The Senior Police Inspector admits, and the Commission agrees, that the conduct of assistant sub-inspector Matare and his picket in sitting inside the Gol Masjid Chowky, though required to be on bandobust in front of Gol Masjid, was thoroughly irresponsible. Strangely, no action appears to have been taken against him for this irresponsible behaviour. Though the Assistant Commissioner of Police Shyam Narahar Kundalkar made a query about the absence of assistant sub-inspector Matare's statement while scrutinising the case diary, nothing further was done.

3.4 It is the assessment of Assistant Commissioner of Police Kundalkar that in January 1993, within Azad Maidan Police Station area, the trouble was created by groups of people from the adjoining areas of L.T. Marg, Girgaum and V.P. Road police station areas and that the incidents within Colaba and Cuffe Parade were sporadic and carried out stealthily.

3.5 During January 1993, there were in all 12 cases of looting, arson and mischief registered by the police as detailed in Annexure "C" to the affidavit of Senior Police

Inspector Deore.

3.6 One Urdu pamphlet inciting the Muslim youths to resort to guerilla war against Hindus, and the brutal and communally-minded police force, was seized by the police, though no arrests were made in this case. Though the miscreants were not identified, it is apparent that they were bent upon stirring up communal disharmony.

3.7 The Shiv Sena referred to and strongly relied on the information contained in C.R. No. 5 of 1993, DCB-CID (initially C.R. No.122 of 1993 registered by Azad Maidan Police Station) to contend that there was a widespread conspiracy amongst various criminals funded by the notorious Dubai based criminal, Dawood Ibrahim Kaskar, to smuggle arms and ammunition into India and to distribute them to the Muslim criminal elements in the Muslim dominated areas in order to bring about communal riots. But, careful reading of the case papers in light of evidence of the then Additional Commissioner of Police in-charge of SB-I, CID, V.S. Deshmukh, negatives this contention. Apart from the statement of the police officer lodging the FIR, Police Inspector Rajan Dinanath Dhobale, there appears to be no other material to support Shiv Sena's theory.

The offence is said to have occurred between 7th December 1992 to 7th January 1993, but conveniently reported on 8th January 1993 at 2000 hours. All the local criminals, incidentally Muslims, have been named as conspirators. The only supporting evidence is a statement of another police officer from DCB-CID, assistant Police Inspector Nagesh Shivdas Lohar, who claims to have relied on "secret information" received from informants to put forward the theory of conspiracy, but says that none of the informants was prepared to come forward and give statements, because of fear and terror created by five Muslim persons whom he has named. There is one more statement of Police Inspector Mohan Vasant Rao Aklujkar of DCB-CID, based on information received that Kadar Rangilla, an associate of the notorious criminal, Dawood Ibrahim Kaskar, was active during the December 1992 and January 1993 riots and that he received firearms from Dawood which he distributed to criminals and miscreants in Muslim dominated areas. The said Kadar Rangilla was arrested and taken into custody. There are *panchanamas* dated 9th January 1993, 19th January 1993, 26th January 1993, 31st January 1993, 6th February 1993, 23rd February 1993, of searches conducted by police at various places during which nothing incriminating was found, nor seized. The entire case appears to be based on some "reliable information" which the police have never put to test. In fact, all the persons who were initially arrested on suspicion were discharged as nothing incriminatory was found.

3.8 Finally, the police classified the case in "A" summary, i.e. "true but undetected". In the view of the Commission, the truth, if any, has not been vouched by any police officer and the 'reliable information' relied upon by them could not be put to test. During the said period there were all kinds of rumours floated by word of mouth and in newspapers, based on strong partisan views.

3.9 The Commission, therefore, is unable to accept the contention of the Shiv Sena that the case papers of this case bear out the Conspiracy Theory advocated by it, without any material apart from the *ipse dixit* of police officers. In fact, Additional Commissioner of Police, V.N. Deshmukh, was candid enough to admit that, though such a conspiracy was suspected, despite vigorous investigations, the police were not able to unearth any material to support the theory, nor were they able to seize any arms and ammunition alleged to have been smuggled into the Muslim dominated areas for the purpose of engineering riots.

3.10 That the police were sold on the conspiracy theory is apparent from the fact that, even in C.R. No.841 of 1992, without carrying out proper investigations or seeking expert ballistic opinion, Senior Police Inspector Deore, shot off a report dated 26th December 1992 to his superiors hazarding a guess that the miscreants must have been Muslims and that the arms might have been illegally brought into the country from Pakistan. Under the stress of cross-examination, he was forced to admit that these views were expressed by sheer guess work and that there was no material in support.

3.11 The conspiracy theory propounded by the Shiv Sena falls to the ground.

#### 4 Bhoiwada Police Station

4.1 This police station is a Hindu dominated area though there are small Muslim pockets strewn about.

4.2 Generally speaking, here the Muslims were at the receiving end in both the phases of riots.

4.3 Soon after the demolition of the Babri Masjid on 6th December 1992, there was no reaction from the Muslims from this area, either on 6th or 7th December 1992 or during the entire month of December 1992.

4.4 There are no active Muslim organisations in this area though Shiv Sena and BJP are very much active in this area.

4.5 Out of the 15 cases registered during December 1992, except in one (C.R.No.537 of 1992), the aggressors were Hindus and victims were Muslims. Out of 23 cases registered during January 1993, except in two cases (C.R. Nos. 30 and 35 of 1993), in all other cases Hindus were aggressors and Muslims were the victims. Properties damaged, looted, ransacked and subjected to arson were those belonging to Muslims. Out of the three hundred fifty four properties which were damaged, looted, ransacked or set on fire, about two hundred and six belonged to Muslims. The largest number of Hindu properties were damaged in a case (C.R.No.35 of 1993) was 16. Even in that case the miscreant mob was of Hindus and the properties indiscriminately damaged, destroyed were mostly vehicles parked on the road.

4.6 There was concentrated stone throwing at a restaurant known as 'Jehangir Restaurant' belonging to a Muslim (C.R.No.537 of 1992). Though the Senior Police Inspector says that the attacking mob was that of Muslims, it is difficult to believe his version that a Muslim mob attacked a Muslim's restaurant. Further, there is reference to "an opposing mob of 50-60 persons which was indulging in rioting and unlawful assembly" in the case papers. The Senior Police Inspector conceded that the description given in the FIR would suggest that there was a Hindu mob also which was indulging in rioting and unlawful activities. The Senior Police Inspector, however, was unable to suggest the root cause of the trouble or who started it. Here also, all the properties damaged, looted, ransacked belonged to Muslims.

4.7 The evidence suggests that even during December 1992 there were no acts of rioting or violence on the part of Muslims and the trouble started because of the Hindu mobs.

4.8 The influence of Shiv Sena in this area appears to be dominant. In fact, even during December 1992, there was an attack on one mosque known as Takhia Masjid led by the office bearers of local Shiv Sena *Shakha* who were raising slogans, "*Hum Masjid tod denge, Hum Masjid jala denge*". The Senior Police Inspector admitted that, except in a few cases, they were unable to discern whether the accused belonged to any political party or organisation. The only cases where the police were able to discern the connection of accused with any communal organisation were those in which the accused were connected with Shiv Sena.

4.9 The situation appeared to be peaceful during December 1992, despite the demolition of Babri Masjid. The trouble seems to have been caused after the *Mahaartis* started here from 31st December 1992. Another contributory factor to the trouble was the wide and extensive rumour that Muslims were going to attack the Hindus and hordes of Muslims would arrive by trucks to attack. Consequently, Hindus were under constant tension and spent sleepless nights posting vigil against the apprehended attacks.

4.10 The only case in December 1992, where Muslims appear to be aggressors, is registered under C.R. No. 537 of 1992 in which they resorted to violence in Adam Mistry Lane on 8th December 1992 between 1730 hours to 2000 hours. Here again, it is admitted by the Senior Police Inspector that there is no evidence to suggest that the Muslims started the trouble, though the evidence suggests that all the damage was suffered by Muslims.

4.11 The interrogation of some of the accused suggests that after the crowd dispersed from *Mahaarti* held on 7th January 1993 at Parel T.T., the dispersing crowd indulged in systematic stone throwing at Muslim establishments along the lane. The Hindu accused stated during interrogation that the crowd returning from *Mahaarti* held on 9th January 1993 at 1930 hours in Hanuman Mandir on Dadasaheb Phalke Road had attacked the Muslim establishments (C.R.No.34 of 1993).

4.12 Though there was curfew, without relaxation, enforced from 9th January 1993 to 22nd January 1993, the manner of enforcement of the order was most unsatisfactory. In fact, the control room gave a message on 10th January 1993 (vide transcript of Cassette 'B' dated

10th January 1993) that it had come to the notice of the superiors that there was no enforcement of curfew and a direction was given that strict enforcement of the curfew order be observed. Though Senior Police Inspector asserted that the curfew order had been strictly enforced within his jurisdiction, he was unable to explain as to why the control room gave such a directive. The riots had aggravated so much and gone out of control that Superintendent of Police Mushrif was especially entrusted with the supervision of this area, despite the presence of Deputy Commissioner of Police Zone III and Assistant Commissioner of Police of the division.

4.13 Written complaints were given by the victims of attacks that the attacks were made in full view of the police pickets who did nothing to prevent the attacks (C.R.No.21 of 1993). There is a complaint made by one V.A. Krishnan, manager of 'Cafe Shelar Restaurant', on 10th January 1993, that there was information about attack on his establishment and he apprehended arson and looting. His request fell on deaf ears and, as apprehended, the restaurant which belonged to a Muslim was ransacked and property worth seven lakhs was looted. This restaurant is within walking distance of five minutes from the police station. Along Babasaheb Ambedkar Road several establishments within a few yards distance were freely looted and set on fire.

4.14 The inflammatory boards seized on 2nd, 4th and 5th January 1993 from Shiv Sena *shakhas* and on 6th January 1993 from the Bharatiya Janata Party office suggest that they were inciting communal passions within the area.

4.15 The investigations carried out into the riot-related offences are also unsatisfactory. Several leads, which could have turned up valuable clues to the identity of the miscreants, were ignored — negligently or intentionally — by the police. C.R. No. 43 of 1993 is an instance in which anonymous information was given to the police station that the son of Prabhakar Bhumkar, Sunil, and others named therein, were ransacking and looting establishments near Kohinoor Mill Chawl. However, the concerned case diary does not indicate any investigation made in this connection. Though Sunil was arrested in connection with C.R.No.26 of 1993, the interrogation carried out in that case also does not suggest that he was interrogated in connection with the offence in C.R.No.43 of 1993.

There was another letter that one Santosh Pawar had looted a godown and had kept looted property in the house of his sister at Kannamwar Nagar. Santosh Pawar is identified as a person carrying on the business of posters. No investigation is done to follow-up this information. There was another case in which one Kishore Kisan Chavan, resident of Old Naigaum, B.D.D. Chawl No.13/41, B.G. Devrukhkar Road, Bombay-14, was named as one of the active killers, plunderers and spreaders of rumours against Muslims. No worthwhile investigation seems to have been done to follow-up this lead.

4.16 One Muslim was severely assaulted on Acharya Donde Marg and thereafter set on fire (C.R.No.23 of 1993). There was a statement made by one Vijay Jairam Ghag that the miscreant was one Santosh Ghanekar whom he had seen bashing the victim with a big stone and setting him on fire. Though the statement was made on 7th February 1993, there appears an affidavit in the case papers sworn on 8th April 1993 before a Notary Public retracting the earlier statement and denying the identity of the miscreant as Santosh Ghanekar. Though Santosh Ghanekar was arrested by police on the first statement of Vijay Jairam Ghag, he was released because of the subsequent affidavit. The Senior Police Inspector admits that Vijay Jairam Ghag must have been threatened and, for that reason, must have declined to cooperate with the police. This case came to be classified as "A" summary.

4.17 Accused Chandrakant Bhagwan Shinde was arrested in connection with the looting of Masha Allah Restaurant (C.R.No.46 of 1993). Though under interrogation he admitted that he had broken open and looted the said restaurant, no attempt appears to have been done by the police to have him identified by any one from the said restaurant. The Senior Police Inspector admitted that this was a serious lapse in the investigation as somebody from the restaurant might have been able to identify the miscreant.

4.18 One Narayan Babaji Yadav gave evidence before the Commission that his brother-in-law Ramchandra alias Nana Krishna Khedekar was missing and was not traceable. He also stated that he had no complaint that the police had not attempted to trace out his brother-in-law. On the basis of his evidence the witness says that Commission should recommend to the Government that his brother-in-law must have been killed in riots and that he be paid compensation. No circumstances have been brought out in his evidence to suggest

that his brother-in-law might have been killed in the riots. All that has been shown is that his brother-in-law is missing. In these circumstances, the Commission is unable to grant his request as on the basis of the material on record the Commission is unable to say that Ramchandra alias Nana Krishna Khedekar might have died in a riot-related incident.

## 5. Byculla Police Station

5.1 The majority of residents here are Hindus though there are pockets of Muslims. Tadwadi, Love Lane, Parab Chowk are Hindu majority areas, while Navanagar, Dockyard Road, Hussain Patel Marg are Muslim majority areas. Anjirwadi locality has a mixed population of Hindus and Muslims, though in Anjirwadi itself the residents are all Hindus. Sitafalwadi is predominantly inhabited by Muslims. Kasargalli is a Hindu predominant area. Dattaram Karande Marg (Old Belvedere Road) has a mixed population of Hindus and Muslims, though Muslims are in majority. Boatawala Chawl, also known as Haji Kasam Chawl, has a mixed population of Hindus and Muslims; within the chawls, the Muslims are in minority, but in the vicinity, the Muslims are in majority. Ghagara building is completely inhabited by Muslims, while in Hathi Baug the Hindus are in majority. Modi Compound is mostly occupied by Muslims. BPT Chawls has more number of Hindu residents than Muslims in all its 10 buildings. Laxmi Industrial Estate and Kopargaon Estate have mixed population; the number of Muslim residents is larger in Laxmi Industrial Estate, while the number of Hindu residents is larger in Kopargaon Estate area.

5.2 This area never had any known criminal gang operating therein, nor is it under the influence of any drug peddlers or criminal gangs.

5.3 Bharatiya Janata Party does not have any office or noticeable activity in this area, but Shiv Sena has three *Shakhas* located at Tadwadi, Love Lane and Kasar Galli.

5.4 The first incident took place in this jurisdiction on 7th December 1992 between 1100 to 1200 hours near Dockyard Junction when a mob of about 500–600 hundred Muslim youths were trying to enforce a bandh and obstructing the traffic on the main road and also deflating the tyres of the vehicles on the road. This was objected to by a mob of about 200–250 Hindus coming from Kasar Galli. The police also attempted to prevent the blockage of traffic. This resulted in stone throwing by each mob against the other and the police. The police resorted to firing to disperse the mobs. A section of the Hindu mob dispersed into D'lima Road which is inhabited by Muslims and Christians. The mob damaged a Maruti car parked on the road belonging to a Muslim and several Muslim shops and establishments on that road.

5.5 At about 2015 hours, on 7th December 1992, it was noticed that one Police Constable, Chandrakant Ramji Khopkar, of LA-II was stabbed to death near the bus stop opposite J.J. Hospital.

5.6 At about 2245 hours on 7th December 1992, the area of Haji Kasam Compound and Modi Compound saw pitched battles between Hindus and Muslims. A Muslim mob of about 200–250, pelted stones and soda-water bottles at Botawala Chawls which house Hindus. Some of the miscreants in the mob also damaged a small roadside Hanuman Temple and broke the idol. *Lathi* charge by the police did not produce results and police resorted to firing to bring the situation under control.

5.7 The area of Modi Compound saw another round of stone throwing and riots between Hindus and Muslims on 8th December 1992 at about 0730 hours which required firing of 12 rounds to control the situation. There was also throwing of stones and soda-water bottles by Muslims from Ghagra Building towards Botawala Chawl.

5.8 On 9th December 1992, at about 1025 hours, there were riots between Hindu and Muslim mobs, when a mob of 150 persons of Hindus from BPT colony started attacking the Muslims on Hussain Patel Marg. Sixty miscreants (34 Muslims and 26 Hindus) were arrested by the police, out of whom some of the miscreants were not residents of the area, indicating that they were outsiders who had come in for making trouble. The interrogatory statements of these accused do not even indicate whether they were interrogated as to what the accused were doing in BPT Colony (Ekta Nagar) though they were residents of distant areas, during the trouble that was going on all around the city on that day.

5.9 On 9th December 1992 there was also an incident of a motorcar being set ablaze in Prabhatwadi Compound, Love Lane.

5.10 On 12th December 1992, at about 0230 hours, one Phulchand V. Waghela was stabbed and on the same day at about 0730 hours, a motorcycle was burnt in the compound of J.J. Hospital. On 18th December 1992, a complaint was made by advocate M.H. Khan, on behalf of one Abdul Haq Kasim Ali Ansari, owner of Tabussam Enterprises in Mhatra Compound, Narialwadi, about rioting, assault and arson on 7th December 1992.

5.11 This area did not see any incidents after 12th December 1992.

5.12 On 7th January 1993, at about 0645 hours, one Shripati Shriram Shelar, a BEST lightman on duty of switching off electric lights on Dr. Mascerenhas Road, was stabbed by four unknown persons. On the same day, at about 1915 hours, one Nilesh Dujya Mulya was stabbed near the main gate of J.J. Hospital and another Hindu, Dinesh Dujya, was injured in the stabbing.

5.13 On 8th January 1993, at about 1145 hours, a Muslim shop opposite Shirin Manzil, Tadwadi, was attacked by Hindus and damaged. The mob of Hindus also chased and stabbed one Anwar Karim Lulla, Muslim, who was passing along the road. At about 1430 hours one Pralhad Shamrao Ghorpade, Hindu, was stabbed to death on the footpath of J.J. Hospital. At about the same time, a tin shed in the Dhobighat within J.J. Hospital compound housing the shoe-making business of a Muslim was attacked with fireballs and set on fire by the Hindu residents of a tall residential building behind the Dhobighat. Hindu mobs armed with stones, knives and fire-balls damaged Muslim shops at the junction of St. Mary Road and S.V. Road and ran towards Tadwadi. Some of the establishments of Muslims in that area were set on fire by the Hindu residents. Shirin Manzil was repeatedly attacked by Hindu mobs and each time the attack was repulsed by the police by resorting to tear-gas and even firing. Hindu mobs attacked the offices of advocates opposite Mazgaon Court with stones, bottles and fire-balls and set fire to the office of one Muslim advocate resulting in the fire spreading to the adjoining offices.

5.14 On 8th January, between 2215 and 2300 hours, there was a violent clash between Hindus and Muslims on Dr. Mascerehans Road, near Hasna Baug, opposite Anjirwadi. At about 2015 hours, on the same day, one Muslim, Abbas Kasim Mharana, driving along Gunpowder Cross Lane and near Badshah Hotel was surrounded by a mob of 15 Hindus who threw kerosene on his car and set it ablaze. Abbas received extensive burn injuries and died as a result thereof. Surprisingly, there was a fixed police picket near Militia Apartment on Mathar Pakhadi, barely two lanes away from this ghastly incident, which seemed hardly aware of the incident.

5.15 On 9th January 1993, at about 2030 hours, a mob of about 200-300 Hindus was found throwing stones, soda-water bottles and brickbats near BIT Chawl, Love Lane. At the same time, another mob of 200-300 collected nearby and was indulging in similar activities. Attempts to control them by the police enraged the two mobs who started attacking the police. The police resorted to *lathi* charge, but the receding mobs started damaging the property on the road, like handcarts and motorcars by setting them on fire. At about this time, another 300-strong mob entered Love Lane from Parab Chowk and started throwing fire balls and soda-water bottles on the road. The police were encircled by the different Hindu mobs and had to resort to firing to disperse the mob. The riotous activities of the mob left in their wake a godown, a motorcar, opposite Mazgaon Telephone Exchange, and a motor-taxi in front of BIT chawls, on fire. Some of the stalls, shops, one motorcar and scooters, at Parab Chowk, and a carpet godown at Hathi Baug, were also set on fire. The arson of the carpet godown resulted in the burning alive of one Mallappa Dharmappa Kamble who was inside the godown.

5.16 On 9th January 1993, at about 0645 hours, a Hindu mob collected at Kasargalli near Ghosia Road and was throwing soda-water bottles and stones on the road. When the police attempted to intercept it, the mob turned its attack on the police. There were also stabbing incidents in which two Muslims, Hussain Ibrahim Bangi and Abdul Razak Fakir Mohamad, were stabbed in Kasargalli. Hussain Ibrahim subsequently succumbed to the injuries.

5.17 On 10.1.1993, at about 1100 hours, there was riotous activity by a mob of about 100-150 Muslims armed with swords, stones and bottles throwing the missiles on the road while advancing along Gun Powder road. At the same time, another mob of Hindus also collected near Star Cinema, about 75 yards away from Kasargalli, and was hurling stones and soda-

water bottles. Vehicles parked on the road and the shops around the Star Cinema were attacked and set on fire. Though the police maintain that at about this time there was an instance of private firing from the terrace of the masjid opposite Star Cinema, the evidence on record does not support this story of the police. The police actually entered the mosque opposite Star Cinema and searched the terrace of the mosque as well that of as the adjacent residential building known as Masjid House. Though they managed to seize two crates of soda-water bottles, eight iron rods and four fire-balls, no firearms were recovered. Though the police produced a piece of fired bullet as the recovered empty bullet fired in private firing, allegedly found on the footpath opposite the masjid, the ballistic expert has opined that it was fired from a .303 calibre, a fire-arm used by the police. The story of private firing does not lend itself to credence.

5.18 On 10th January 1993, at about 1200 hours, a mob of Hindus numbering 100-200 went on the rampage near D.P. Wadi, Ghodapdeo and set on fire parked vehicles on Arbi Marg. One Umesh Shantaram Salunke, a Hindu, who died in police firing and another Hindu, Sayaji Babu Gharde, who was injured in the police firing, were residents of the same area. Surprisingly, in April or May 1993, a cross lane situated near the place where Umesh Shantaram Salunke was shot, was renamed by Bombay Municipal Corporation as Umesh Shantaram Salunke Marg. Though the police maintain that Umesh Shantaram Salunke was not connected with any political party, and was actually indulging in riotous activities when shot, this renaming of the lane suggests political connection, or absurdity.

5.19 On 10th January 1993, at about 1000 hours, a mob of Hindus collected opposite Ranibaug in Ramnagar and started setting fire to the wooden stalls of Muslims on the footpath. Intervention by the police resulted in stones and bottles being thrown at the police. This invited police firing as a result of which one Hindu, Naresh Ganpat Tavate, was killed and another Hindu, Palani Mani, was injured. At about the same time, a Hindu mob went on rampage on D.S. Patanwala Road and started setting fire to the parked vehicles on that road and a mob of 100-150 Hindus collected near Masina Hospital to attack the vehicles parked on the road and set them on fire. A mob of about 1300-1400 Muslim youths collected near Mustafa Bazar Masjid and was indulging in riotous activities. When the police went to deal with it, another armed and violent mob of Muslims, about 300-400 strong, came rushing from Narielwadi towards Mustafa Bazar and it appeared that the police contingent was likely to be trapped between the two violent mobs. The police also alleged that there was private firing at them from someone in the mob. To meet the situation, the police resorted to firing and dispersed the mob. The police later discovered that two Muslims were stabbed and injured on Sant Savta Marg. Strangely, the two stabbed Muslims were found lying on Sant Savta Marg at a distance of about 100 to 150 feet from Masina Hospital gate, despite a fixed police bandobust in the close vicinity. It would appear that the two stabbing incidents took place before the two Muslim mobs came to the area and were probably the cause for the Muslim mobs to go on rampage.

5.20 On 11th January 1993, between 0200 to 0600 hours, one Muslim, Mohamad Salim, was found stabbed and dead in a pool of blood on Shivdas Chapsi Marg near Ali Kadri School. Another Muslim was also found lying in a pool of blood near the bus stop on the road with stab injuries. Both the deceased did not appear to be local residents but outsiders.

5.21 On 10th January 1993 at about 1150 hours, there was a full-scale riot at Haji Kasam Chawl, Rambhau Ghogare Marg in which a Hindu mob clashed with a Muslim mob. Though, the police claimed that there was private firing at them, they are unable to say whether the private firing was from the Hindu or the Muslim mob. The police firing to quell the mob resulted in the death of one Hindu and another person whose identity is not established. Two Hindus were also injured in police firing. Two Muslims were found stabbed in mob action of stabbing and one Hindu died as a result of stabbing during the incident.

5.22 On 11th January 1993, at about 2340 hours, a violent mob of 100-150 Hindus gathered at Ghodapdeo Cross Road No.1 and started throwing fire-balls and bottles filled with kerosene and lighted, on the timber godowns of Muslims. As a result the said godowns caught fire. In the attempt to burn down the Muslim establishments, several Hindu godowns also caught fire and burnt down. Four Hindus have been arrested in this case.

5.23 On 10th January 1993, at about 0838 hours one Babu Jaiwant Wagh, Hindu, was stabbed by unidentified persons when he was coming out of Reay Road Railway Station.



5.24 On 13th January 1993, at 1315 hours, an industrial establishment in Laksmi Industrial Estate was set on fire by unknown persons by throwing a lighted object through the window of the establishment. One Hindu has been arrested in this case.

5.25 On 14th January 1993, at about 1100 hours, Rahimatulla Jamaluddin Shaikh, a Muslim, walking along Nesbeitt Road was pounced upon by a mob of Hindus who questioned him as to his name and, after making sure that he was a Muslim, stabbed him with sharp weapons. Three Hindu accused, local boys from Tadwadi area, have been arrested.

5.26 On 10th January 1993, at 0745 hours, one Sayyed Mohamad Shafiq Zaidi, Muslim, was pounced upon by four Hindus and stabbed with knives. Four Hindus have been arrested in this case and all of them are residents of Tadwadi. The Senior Police Inspector admitted that during the relevant period, a number of young boys were going around and indulging in such acts of violence against persons of the other community, so that they could boast of having done something great.

5.27 On 21st January 1993, at about 1145 hours a Muslim, Abdul Hussain Dalvi, passing by Shubh Sandesh Building on Hansraj Lane, was accosted by two persons who came on scooter, questioned him in Marathi about his name, and after ascertaining that he is a Muslim, shot him with a revolver. Dalvi and his nephew walking along with him ran towards Nesbeitt Road, but were again subjected to firing by the culprits, resulting in injuries to Dalvi. Hansraj Lane is a predominantly Hindu area and the residents of Shubh Sandesh building are all Hindus.

5.28 On 10th January 1993, at about 1430 hours, there was an attempted arson of godowns situated on Tank Bunder Road and Ray Road. Two mobs of about 100–150 Hindus went around indulging in riotous and violent activities and setting fire to godowns and vehicles parked on Ray Road.

5.29 On 10th December 1992, at about 0930 hours, one Abdul Kadar Malbarwala going towards St. Peter's School was shot at opposite Nandu General Stores, opposite Shivdas Chapsi Marg by three unknown persons. He was admitted in the hospital and discharged on 30th December 1992, but reported the matter only on 4th February 1993, when his complaint was registered.

5.30 On 8th January 1993, one Ram Dubey, Hindu, walking along Barrister Nath Pai Marg was stabbed and injured by unknown assailants.

5.31 During December 1992 and January 1993, although there was an army column deployed in this jurisdictional area, the police used it only for the purpose of flag marching and there was no instance when the army personnel were called upon to take charge of any situation. The Senior Police Inspector asserted that he did not come across a single situation where the army should have taken up operations for handling the situation.

5.32 The Senior Police Inspector maintained that the quality and quantity of arms and ammunition, equipment, communication equipment and transport vehicles was inadequate to meet even the normal day-to-day situation and was, therefore, hopelessly inadequate to meet the situations which arose during December 1992 and January 1993.

5.33 During the period August to December 1992, Bharatiya Janata Party and VHP carried out *Ram Paduka Pujan* programmes and *Ghantanaad* to focus the attention of the Hindus on the Ram Janmabhoomi–Babri Masjid dispute.

5.34 This area houses the residence of Shri Chhagan Bhujbal, one time stalwart of Shiv Sena, who later on defected to Congress–I. The Shiv Sena organized protests on 15th November 1992 against his act of desertion of the party and made an attempt to perform his symbolic '*shraadh*' (funeral) rite which was prevented by the police.

5.35 Haji Kasam Chawl appears to be a focal point of communal clashes since 1984. In fact, in 1984 and 1987 communal clashes took place in Haji Kasam Chawl between the Hindu and Muslim residents because of support to the Pakistan Cricket team voiced by the Muslims.

5.36 The call given by the Bombay Muslim Action Committee for bandh on 2nd December

1992 evoked wide response in the Muslim predominant areas of Nava Nagar, Modi Compound, Narielwadi, Sitafalwadi, Mustafa Bazar, Dr. Mascerenhas Road and Sant Savta Marg, where 90 % of the Muslim establishments remained closed. There was equally enthusiastic response to the call for bandh on 7th December 1992 by Muslims. Nasim Kazi, a corporator of Janata Dal, appears to have been active in moving around on 7th December 92 to enforce the bandh and he is an accused in connected C.R. No. 570/92.

5.37 Cross-examination by the Shiv Sena brought into focus the activities of one Muslim family of Barmares residing on the ground floor of Botawala Chawl. The Barmare brothers, Shaukat, Fayyaz, Sajid and Salim, appear to be notorious characters frequently indulging in criminal activities. Shaukat, Sajid and Salim have been arrested in criminal cases in which provisions of TADA Act were applied.

5.38 According to the Senior Police Inspector, during the December 1992 riots, the Muslims were the rioters and their first targets were the police, Hindus and their properties, in that order. He also says that during December 1992 the riots were confined to the Muslim predominant areas and Muslims started the riots for the reason that they were generally angry with the police for failure to give proper protection to the Babri Masjid.

5.39 The paucity of manpower is pleaded as an explanation for the inability of the police to effectively patrol all the lanes and bye-lanes which resulted in a spate of stabbing cases around the J.J. Hospital area.

5.40 This area saw one case of private firing in December 1992 and at least two cases of private firing in January 1993 in which the victims were Hindus. Searches of the suspected premises from which private firing were made, but did not result in recovery of fire-arms. The work of maintaining the list of licensed fire-arm holders is concentrated in the office of the Commissioner of Police. Though all Senior Police Inspectors had suggested that each police station be supplied with a list of licensed fire-arm holders in their respective jurisdictions, this suggestion did not meet the approval of the Commissioner. As a result, no Senior Police Inspector is sure of the identity of persons who hold licensed fire-arms in his jurisdiction.

5.41 The Senior Police Inspector asserted that in December 1992 the initial attacks on Hindus were made by Muslims which invited retaliatory attacks by Hindus upon Muslims and in January 1993, the spate of stabbing incidents of Hindus coupled with the news regarding the murder of Mathadi workers in Dongri area and the Radhabai Chawl incident had heightened communal tension within the area and that the rioting which started on 7th January 1993 in the area was also started by Muslims.

5.42 A curious fact came to light with regard to the manner in which the Shiv Sena was doing propaganda to prejudice the mind of the management of Mazgaon Dock. Some of the accused arrested in connection with the rioting near Star Cinema were Muslims. The Shiv Sena Union represented to the authorities of Mazgaon Dock that Mazgaon Dock was a high security area and that the Muslims accused in offences for rioting should not be allowed to enter the Dock areas. As a next step, the Shiv Sena propagated that, all persons belonging to Muslim community are unreliable and all Muslim workers should be prevented from entering the Mazgaon Dock area. Boards to that effect were put up in the Mazgaon Dock area. The Hindu residents of Kasar Galli, which is mainly used for passing through to Mazgaon Dock, took upon themselves the burden of enforcing this injunction of the Shiv Sena.

5.43 The manner in which the riot-related offences were investigated by the police, both in December 1992 and January 1993, give the distinct impression that the police were won over by the activists of Shiv Sena.

5.44 In C.R.No.591 of 1992, the complainant, Abdul Haq Kasim Ali Ansari, owned a tailoring business, Tabussum Enterprise, at Narielwadi, Mazgaon. On 7th December 1992 his establishment was attacked by Hindus from his locality with whom he was very familiar. Abdul filed a complaint bearing C.R.No.591 of 1992 in which he named the miscreants as Sada, Chotu, Sunil, Rajesh Mhatre and 15-20 other persons. The miscreants had looted his establishment, carried away some valuable machinery and set fire to the establishment. All miscreants were from Narielwadi and stayed right opposite his establishment and he knew them for more than 15 years. He also knew the residential addresses of Sada, Rajesh Mhatre, Sunil and Chotu and that every day they used to sit and play cards with the police.

When the incident of attack and looting took place, Senior Police Inspector Patankar, Inspector Wahule and Sub-Inspector Ram Desai were present near his establishment and the entire incident of looting the properties took place under their very noses without any attempt being made to stop the miscreants. Again, during the night of 7th December 1992, Sada and Chotu were seen sitting and chatting away with Inspector Wahule and some constables on bandobust duty right opposite the factory of Ansari. In the morning of 8th December 1992, between 0530 to 0600 hours, while the policemen had moved away, Sada, Chotu, Sunil and Rajesh, and some other persons, again attacked the factory of Ansari with stones. Ansari made a complaint on telephone to the Byculla Police Station requesting for police help. Senior Police Inspector Patankar told him that there was some staff already on bandobust who would take care of the situation.

Between 0730 to 0830 hours police came to the spot. This time the police party was led by Inspector Wahule who barged into the factory and started assaulting Ansari and his cutter-master with an iron rod, resulting in fracture of his hand. Ansari was thereafter dragged by Police Inspector Wahule to the police van and taken away to the police station, being assaulted all the time. Half the number of his workers had run away because of fear and the other half locked themselves inside the factory. The police broke open the factory's entrance and arrested the workers inside.

While Ansari, his brother and others were in lock up, no medical treatment was made available to them, and whenever a complaint of pain was made by Ansari, officers Desai and Wahule retorted that they should consider themselves lucky that they had only broken hands and not broken legs. To add insult to injury, the police filed a false case against Ansari and his workers. The Criminal Court released him on bail on 15th December 1992. On 18th December 1992 Ansari handed over a written complaint to the police station. On 19th December 1992 Inspector Wahule came to the factory and made a *panchnama*. Nothing was heard till 4th January 1993. On 4.1.93 Ansari was called to the police station. Inspector Wahule insisted that he would have to compromise with Sada, Chotu, Sunil and Rajesh Mhatre. Ansari refused to do so. Ansari's signature on his purported statement in original C.R.No.591 of 1992 was taken on that day. Inspector Wahule impressed upon Ansari that since the C.R. had already been prepared and registered on 29th December 1992, Ansari's signature should be backdated to that date and Ansari complied with this request.

Ansari denied the contents of his so-called statement. He asserted that Sada, Sunil, Chotu and Rajesh Mhatre were activists of Shiv Sena and that he had never made a statement to the police that he was mistaken about the identity of Rajesh Mhatre or that he did not know Sada, Chotu and Sunil since they were outsiders. Ansari asserted that the full name of Sada is Sadashiv Shankar Deshmukh, who resides in Sai Krupa building and is popularly known as Sada by the people in Narielwadi. He used to be an activist of Chagan Bhujbal, when Bhujbal was in Shiv Sena. Ansari denied that he had told the police that the Sada named by him in his statement was not Sadashiv Shankar Deshmukh, resident of Sai Krupa building.

The evidence of Senior Police Inspector given on this issue before the Commission appears to be wholly unreliable. The Senior Police Inspector was asked searching questions by the Commission and from the answers given by him it appears that the entries in the case diaries were fabricated in order to oblige Sada, Chotu, Sunil and Rajesh Mhatre. Taken in conjunction with the evidence of Ansari on oath, the Commission has no doubt that there was deliberate scuttling of the investigation by the police, because the accused were influential Shiv Sainiks. Inspector Wahule, Sub-Inspector Ram Desai and Senior Police Inspector Patankar are squarely to blame for this. (Section 8-B notices issued)

5.45 In a case of attack on one Anwar Karim Mulla, who was chased and stabbed opposite Shirin Manzil, Tadwadi, one of the arrested accused, Krishna Narayan Rane, is a Shiv Sainik. Though the papers in the C.R. do not indicate this fact, the Senior Police Inspector admitted the said fact.

5.46 The Hindus virtually terrorized the Muslim residents in the areas along Shivdas Chapsi Marg right upto Hancock Bridge, and in the Malpakhadi area, leading to a feeling of insecurity in the minds of the Muslim residents causing exodus of Muslims to safer places. In the subsequent looting and ransacking of properties in this area, which is the subject matter of C.R. No.15/93, out of the 73 properties damaged, 66 belonged to Muslims and seven belonged to Hindus.

5.47 In the incidents which are subject matters of C.R. No. 20/93, under stress of cross-examination, Senior Police Inspector Patankar admitted that Durga Bhavan and three adjoining buildings situated at D'Lima street are inhabited by Hindus and that the Hindu residents of those buildings were throwing stones and soda-water bottles on the Muslim establishments situated on D'Lima Street.

5.48 There is a building by name Meena Apartments on Chapsi Bhimji Marg, Mathar Pakhadi. On 9th January 1993 the Muslim houses in that building were broken open and ransacked between 2300 to 2400 hours. Significantly, there was an armed picket of three to four policemen stationed at about 50 to 60 yards from the entrance to Meena Apartments. In C.R.No.25 of 1993, despite the witnesses naming a large number of Hindu persons as miscreants, only two have been arrested and the rest are said to be absconding.

5.49 This is another area where the *Mahaartis* led to violence. The police, of, course maintain that the *Mahaartis* passed off peacefully and did not result in any violent activities.

5.50 The records of the police do not show what really transpired. Although the Commissioner of Police had instructed that, in the event of complete blocking of traffic, cases had to be registered against the organizers of the *Mahaarti*, the police found a convenient excuse to evade action by saying that the traffic was diverted through some other area and therefore it would not be a situation of complete blockage. This happened with regard to the *Mahaarti* between 2015 to 2040 hours on 9th January 1993 at Hanuman Mandir on Dr. Babasaheb Ambedkar Road.

5.51 Another strange feature here is that out of five *Mahaartis* held in this area, the *Mahaarti* held at Hanuman Mandir on Dr. Mascerenhas Road on 9th January 1993 and another held on the same day at Hanuman Mandir B.A. Road, were held during the period when curfew orders were in operation. Senior Police Inspector admitted that despite the operation of the curfew order he had, on his own responsibility, taken a decision to permit the *Mahaarti* as otherwise the situation would have deteriorated. This he did, notwithstanding the instructions of the Commissioner of Police by B.C. Message that the curfew order had to be implemented strictly.

5.52 The *Mahaarti* was not a surprise event. The timings of *Mahaartis* were publicized in advance and the police very well knew them. Even the Assistant Commissioner of Police of the division, Chavan, was present during the *Mahaarti*. The curfew order was reduced to a farce in view of this attitude of the police. The assertion of the Senior Police Inspector that there was no violence in the wake of *Mahaartis* was proved false in view of the wireless messages exchanged between the Control Room and Byculla Mobiles and the Assistant Commissioner of Police's mobile. The Assistant Commissioner of Police, Byculla Division, gave a message (page 21 of Cassette 34/A dated 9th January 1993) in which he said that the people coming from the *Mahaarti* at Sant Savta Mandai, Dr. B.A. Road, were indulging in riots. Though the Assistant Commissioner of Police clearly said that the people coming out from the *Mahaarti* were indulging in "*danga*" (riot) and was himself present at the place of incident, Patankar maintained that the people were merely singing *bhajans* and songs and shouting slogans like "*Jai Bajrang Bali*". This is another instance of over-enthusiasm on the part of the police officers to cover up the fact that the *Mahaarti* did lead to violence. Under persistent cross-examination, the Senior Police Inspector was forced to admit that, as soon as the *Mahaartis* at Hanuman Mandir and Anjirwadi on 9th January 1993 took place, there were riotous and violent incidents in areas within a half-kilometre radius from the sites of the *Mahaartis*.

5.53 Finally, Senior Police Inspector Patankar admitted that a serious incident narrated in paragraph 33 of his affidavit took place on 9th January 1993 soon after the *Mahaarti*, and it must have been done by the crowd dispersing from the *Mahaartis*, but because the police were extremely short of manpower, they were unable to maintain adequate bandobust at the places of incidents. That the police were short of manpower and, therefore, such incidents took place is understandable; the crude and pathetic attempt to prevaricate and mislead the Commission on this issue is despicable.

5.54 The people who participated in the *Mahaartis* were unarmed according to the police. However, after the *Mahaarti*, while the dispersing crowd went on rampage and indulged in riotous and violent activities, they appeared to be magically armed with iron bars, crow-bars and such other articles used to break open the shops. The police explanation for this magical presence is that the people might have gone home and picked up such

weapons!

5.55 Though the police maintain that, despite their best efforts, they had not been able to identify the people who fomented the trouble in December 1992 or January 1993, the Control Room wireless conversations give an indication. For example, in the Control Room Cassette 39/B page 15 dated 10th January 1993 corresponding to Log Book Entry of the Wireless Control Room at 0010 hours on 10th January 1993, there is message from Control Room to Senior Police Inspector Byculla, that on Gun Powder Road and Chapsi Bhimji Road, Shiv Sainiks had congregated. The Commission assumes that they had not congregated at the height of the riots, and in the dead of the night, to sing *bhajans* and *kirtans* (songs of devotion).

5.56 The evidence of the private witnesses examined before the Commission makes very unhappy reading, clearly showing the bias of the police. The police were not promptly attending to complaints made by Muslim victims and, on occasions, the Muslim victims who went to complain were taunted for being Muslims and were themselves falsely charged with offences.

5.57 From the evidence of Gausia Abdul Aziz Shaikh, it would appear that the Muslim residents of Pathan Chawl were attacked with stones and soda-water bottles on 10th January 1993. When there was a complaint made by one Sultanbhai residing in the building, the police arrived at the spot, but instead of chasing away the miscreants and taking action against them, the police misbehaved with the residents of Pathan Chawl. This led to a protest *morcha* by Muslims to the police station. There was also a counter-blast protest *morcha* by the Hindu ladies claiming that the police were harassing Hindus.

5.58 There is one incident which is very serious in the view of the Commission and amounts to cold-blooded murder by the police. Between 1100 to 1130 hours on 10th January 1993, after having arrived at Pathan Chawl, the police forcibly entered the premises of the Muslims and started picking them up. They entered the residence of one Hasanmiya Wagle, terrorized the wife of Hasanmiya and his daughter Yasmin at the point of rifle, picked up Hasanmiya's 16-year-old son, Shahnawaz, and dragged him out, all the while kicking him and assaulting him with rifle butts. Yasmin Hasan Wagle, saw Shahnawaz being taken towards police vehicle, when one of the constables standing behind him shot him from behind, almost at point blank range. Immediately, the policemen dragged the body of Shahnawaz by the feet and dumped it in the vehicle and took it away. Yasmin and her mother came down later and saw that the spot where Shahnawaz was shot down had a pool of blood.

5.59 Yasmin Hasan Wagle is a young, intelligent and educated girl who gave evidence before the Commission. Her evidence was precise and clear, though punctuated with bitter sobs. The Commission is inclined to accept her evidence as true. In fact, after recording her evidence, the Commission had directed the Commissioner of Police to make an inquiry into this grisly incident.

The Commissioner of Police directed the Deputy Commissioner of Police of Zone-IV, Surindar Kumar, to hold an inquiry. Surindar Kumar held an inquiry and submitted a report to this Commission which is at Exhibit 2060(P) (Collectively). Despite overwhelming evidence which, in the opinion of the Commission, clearly indicts the police for cold-blooded murder of Shahnawaz, the Deputy Commissioner of Police has adroitly white-washed the affair and recorded a finding that the statements of two/three witnesses could not be safely relied upon and that Yasmin or other witnesses had never reported the incident to the police.

It would be a sheer waste of time of the Commission to scan the record of the enquiry or the manner in which it was held and the atrocious findings recorded therein. The Commission cannot, however, but highlight the statement of Manohar Pandharinath Gobdule, Police Naik No.9217 recorded on 24th June 1994 by Deputy Commissioner of Police Surindar Kumar. The said police Naik stated that on 10th January 1993, at about 1130 hours, Police Sub-Inspector Fadtare and PC 17385 (Devdutta Ramaji Yadav) of Byculla Police Station brought injured persons in a public Matador No. BLB 4530 working under Byculla Police Station and that he was present there at that time. The name 'Wagle Taher Shah' is entered in the APR register vide Sr. No.343, where the remark "bullet injury" is shown and the patient is shown as having expired on 11th January 1993.

Devdutta Ramaji Yadav (PC 17385) obviously prevaricated when he stated that he did not

go to Pathan Chawl locality on 10th January 1993, did not admit any injured person in J.J. Hospital or that he did not know who admitted the injured persons. Similarly, according to the statement of Police Sub-Inspector Jagganthrao R. Fadtare, recorded on 18th June 1994, he was not even aware that one Shahnawaz Hasanmiya Wagle was injured in police firing or that he died in police firing. According to Fadtare, he had recorded the statement of PN 18422 Gowalkar about the riots which took place and that there was no mention in the FIR about any person being injured or dying in consequence of police firing. Fadtare barefacedly lied that no person injured in police firing was brought to the police station, nor was he given information about any such person taken to hospital.

5.60 That the concerned Police constable and the Sub-Inspector were lying is evident. That the Deputy Commissioner of Police glibly recorded his finding that 'the evidence of the Muslim witnesses was unreliable' indicates either that there was utter non-application of mind to the statements before him, or that he was a party to the brazen cover-up of what is virtually cold-blooded murder of one young Muslim boy, irrespective of whether he was accused of any offence or not. The Commission strongly feels that this is a matter of which the Government must take a very serious notice, and have it investigated by an impartial agency and take strict action against the guilty persons. Yasmin and her father have disowned their purported statements recorded by the police and have said that no such statements were made by them.

5.61 The evidence of Dilip Narayan Vijapurkar, an activist of Bharatiya Janata Party, brings out that several activists of Bharatiya Janata Party and Shiv Sena reside in Haji Kasam Chawl. Though he maintains that the trouble was started on 6th and 7th December 1992 from the Muslims who continuously threw stones at the residences of the Hindus, resulting in injuries to some Hindu residents, he says that if the Hindus had not retaliated, they would have been finished in the 20 or 25 minutes that the police took to come to the spot. Of course, according to him, the "retaliation" merely consisted of picking up planks of wood and using them as shields to protect themselves.

5.62 As to the trouble which took place in January 1993, Dilip has something interesting to say. According to him, on 10th January 1993 he was at home and the moment the news spread that one Prasad Mahadeo Kochare, a resident of the chawl aged about 22 was killed, the rioting started and the attack immediately started from all three sides. The news which spread was that Kochare had been killed by Muslims, and according to Dilip, along with the news the attack also started. Again, the Hindus retaliated, but apart from throwing small bottles like milk bottles, hair-oil bottles and cups and saucers, there was no further 'retaliation' by Hindus who merely called the Byculla Police Station to send help. There is an element of the comic in this story. Prasad Kochare, innocent, apolitical, quiet and peaceful man, was presumably killed by Muslims. If this news spread, then it would be impossible to think that the Muslims should mount the attack. The attack obviously must have started from the Hindus enraged because of Prasad Kochare being killed. Undoubtedly, the witness tried to underplay the role of the Hindus, but unwittingly gave a glimpse of the truth. Dilip's version needs to be accepted with a pinch of salt in view of the fact that he was himself an accused in riot cases and also an externed *goonda*.

5.63 The evidence of Rajendra Yeshwant Shirke brings out the role played by Shaukat Barmare, Faiz, Zuber, Junaid and other Muslims in attacking the people moving in vehicles and/or foot along Barrister Nath Pai Marg on 6th December 1992 and supports the version of the police that the Barmare brothers were instigating trouble.

5.64 The evidence of Laxmi Narayan Ramchandra Bhattad, a lessee of some of the plots of Reay Road on which timber godowns had been constructed, suggests that one Hyderali and his son were instrumental in creating trouble and setting fire to the godowns of timber establishments on Reay Road, which resulted in heavy losses. According to him, the police had failed to take action despite a previous warning of the attack on his godowns and he strongly felt that the police might have acted 'on instructions from political leaders'. Bhattad certified that the basis for this belief was that during the riot periods a number of MLAs and corporators used to regularly visit Byculla Police Station and Hyderali himself was on the Peace Committee.

5.65 The evidence of Shabbir Abdul Hussain Tambawala, resident of Meena Housing Society, Mazgaon, Mathar Pakhadi Road, shows that the attack on his building came in full view of a police picket which was hardly 150 feet from the gate. In fact, he says that two policemen with arms had come there and were standing near the locked gate of the

building, when the Hindu miscreants were jumping over the gate of the building to attack the Muslim residences. The role of one Assistant Police Inspector Jaiswal in connection with this incident corroborates the suspicion that the police were collaborating with Shiv Sainiks. According to Shabbir, one Shekhar, a Hindu resident of the building, was responsible for the attack on his house. He made a complaint about the entire incident on 9th January 1993 which was registered only as a non-cognizable offence on 25th February 1993 by the police. According to the witness, Shekhar was warned in the presence of Shabbir and nothing further was done. Interestingly, when Assistant Police Inspector Jaiswal, the police officer concerned, called Shekhar and Shabbir to the police station, some of the local leaders of Mazgaon, Shashi and Anant Narayan Shingre, a local Shiv Sena *Shakha Pramukh* were present there. Assistant Police Inspector Jaiswal counselled Shabbir that during communal disturbances some such incidents were bound to take place, that he should not take them seriously if he intended to continue to stay in the same locality and that he should give in writing that he was compromising the matter. Shabbir of course refused to give any such thing in writing.

5.66 The evidence of Sayyed Mahomad Hussain, the owner of a Confectionery shop in Kanji Allarakha Building on Mathar Pakhadi Road also suggests that the police were biased against the Muslims and were collaborating with the Shiv Sena. This, despite Sayyed's attempt to be on the good books of ex-Shiv Sena leader, Chhagan Bhujbal, by sending him a 4 kg. chocolate cake in the shape of bow and arrow (the election symbol of Shiv Sena). He says that he did not make any complaints earlier, as he was scared. The main persons behind the attacks on the Muslim shops including his shop were Praful Naik and Ram Naik, Bharatiya Janata Party activists. According to him, despite repeated attempts made by him to contact Byculla Police Station, he was unable to get through. He then called the Commissioner of Police and made a complaint with one Virani, secretary of the Commissioner of Police. When he attempted to make a second call to the Commissioner about another event, he was snubbed by Virani.

5.67 By an order dated 8th June 1994, the Commission had issued a notice under Section 8B of the Commissions of Inquiry Act to Police Sub-Inspector Wahule in view of the serious allegations made against him in the evidence of Abdul Haque Kasimali Ansari. On 4th July 1994, Police Sub-Inspector Wahule appeared before the Commission in response to Section 8B notice and stated that he did not desire to be represented by independent counsel and he would be satisfied with representation by the counsel for the police before the Commission. He also did not file any explanation in the matter with regard to the allegations made against him.

## 6. Colaba Police Station

6.1 The jurisdictional area of this police station is about 2.59 sq. kms. About 80% of the residents of this area are highly educated Hindus belonging to the upper strata of society, though the area also has its share of slums like Sundar Nagari, Azad Nagari, Sudam Nagari, Darya Nagari, Geeta Nagar and Ganesh Murti Nagar abutting the seaface which are inhabited both by Hindus and Muslims. About 80% of the slum population comprises Hindus and the rest Muslims.

6.2 During December 1992, though there was increase in communal tension on account of the atmosphere prevailing elsewhere in the city, there were no communal incidents at all in this jurisdiction. This fact has considerable significance and leads to the inference that the communal incidents which occurred in January 1993 might have been engineered by interested persons.

6.3 In January 1993, the local Shiv Sena and Bharatiya Janata Party workers organized *Mahaartis* on 7th, 8th, 9th and 10th. The *Mahaarti* on 9th January 1993 organized by the Shiv Sena *Shakha Pramukh* at Hanuman Temple, Colabawadi, between 1940 to 2040 hours was attended by a number of local Shiv Sena leaders, apart from about 2000-2500 others. There was no incident after this.

6.4 The Shiv Sena organized another *Mahaarti* at Veer Bajrang Temple, at the junction of S.B. Road and Arthur Bunder Road, Jaggannath Jairam Palan Chowk, between 2000 to 2100 hours on 11th January 1993. The crowd dispersing from this *Mahaarti* appeared to be angry and restive and, for that reason, was accompanied by police officers. When the crowd came near Blue Star Company, the crowd started running, looking for one Abdul Razak alias Aba Kalsekhar, a local Muslim and a known *goonda*. In the meanwhile, Abdul Razak alias Aba Kalsekhar appeared on the scene. It is alleged by the police that he and

three or four of his associates were armed with swords and were abusing and threatening the members of the public and the police; suddenly there was a scuffle and the mob attacked Aba Kalshekar with sharp weapons. The police story is that he had attempted to assault one of the police constables with a sword as a result of which there was firing. Four to five rounds were fired by the police at the end of which the police recovered the bleeding body of Aba Kalshekar, who was declared dead before admission by the hospital.

6.5 The story set up by the police rings hollow. Senior Police Inspector Upendrabahadur Ramadhar Singh, (Witness No.140), says that the crowd which attended the *Mahaarti* was peaceful and not carrying any weapons, that the speeches delivered by the Shiv Sena local leaders were absolutely innocuous and contained little else except exhortation to the public to attend *Mahaartis*, the details of which were given on the public address system. The post-mortem report of the body of Abdul Razak alias Aba Kalshekar shows that he had 45 serious stab and incised injuries in addition to one injury caused by fire-arm, all injuries being ante-mortem.

6.6 That the crowd was chasing Abdul Razak with murderous intent is apparent from the statements of all witnesses recorded in the concerned case (C.R.No.13 of 1993). It is unbelievable that the peaceful crowd suddenly came to possess lethal weapons, as if by magic. That the crowd was angry when dispersing from *Mahaarti*, is the testimony of Senior Police Inspector Singh and the statements of the other police officers. The statements recorded in the case seem to suggest that Abdul Razak had swung his sword at the head of P.N. No. 985, who ducked, and when Abdul Razak attempted to strike another blow with his sword at P.N.No.985, Police Sub-Inspector ordered him to fire. No one is sure whether Abdul Razak was injured in that firing. According to the statement of Suresh Pandurang Ithape, P.N. No. 3181, Aba continued to run towards Azadnagari, all the while brandishing his sword. In the meanwhile, the mob with murderous intentions surrounded Aba and hacked him to death.

Ithape says that he had fired one round from .410 musket which resulted in dispersal of mob. When the police party advanced, they found the body of Abdul Razak lying in a pool of blood with multiple injuries and shifted his body to St. George's Hospital where he was declared dead before admission. Senior Police Inspector Singh admits that the mood of the mob appeared to be that, because Abdul Razak was a Muslim and had given cause for offence, the property belonging to Muslims must be destroyed. If the Police version is true, then at one point Abdul Razak must have been close enough to the police party to strike them with his sword. It is surprising as to why he was not overpowered and had to be shot, at almost point blank range.

The Commission feels that this is a case where the police not only passively allowed a local *goonda* to be exterminated by the blood-thirsty mob, but actively aided the mob by firing upon Abdul Razak. The fact that he might have been a notorious criminal of the area would be no justification for the police to allow his being hacked by the mob. In the view of the Commission, the entire police party which was at the scene of the offence comprising Sub-Inspector Vasant Madhukar More, Assistant Police Inspector Sahebrao Hari Jadhav, P.N.No.3181 Suresh Pandurang Ithape, P.N. No. 985 Shivaji Govindrao Kashid, P.N. No.22338 Hanumant Pandurang Chavan, H.C. No. 3649 Gopichand Shaitram Borase is culpable for the cold-blooded murder of Abdul Razak.

The story of the police that Abdul Razak was carrying a sword and brandishing it also does not seem true, since the *panchanama* made contemporaneously does not disclose seizure of a sword. It is tepidly suggested by the police that the sword was later on deposited by a police constable as having been seized at the spot. The crowning irony of the situation is that the FIR registered vide C.R.No.13 of 1993 is not for murder of Abdul Razak, but treats him as an accused who was attempting to commit murder, voluntarily cause hurt to members of public with sword and attempting to promote enmity between different groups on the basis of religion, offences under Sections 307, 304, 153A and Section 34 of the Indian Penal Code. The fact that the statement of Banu Abdul Razak Kalshekar, widow of Abdul Razak Kalshekar, was neither treated as an FIR, nor was a complaint registered in respect of his death, fortifies the conclusion that the police connived in the elimination of Abdul Razak.

6.7 The mood of the mob to destroy the property of Muslims, sensed by Senior Police Inspector Singh, appears to have been translated into action over the next three days. The area saw a case of arson of a *pav* stall and a *chappal* stall of a Muslim on 12th January 1993



(C.R.No.15 of 1993), arson of a cycle shop of a Muslim on 13th January 1993 (C.R.No.18 of 1993) and the throwing of a burning bottle on Colabawadi Mosque on 20th January 1993 (C.R.No.23 of 1993). All these cases have been classified in "A" summary on the ground that the identity of the accused could not be established.

6.8 Despite the vehemence with which Senior Police Inspector Singh maintained that the *Mahaartis* organized in his jurisdiction by the local Shiv Sena *shakha* leaders went off peacefully and that there were no inciting speeches made therein, it appears too much of a coincidence to believe that the area which was calm and quiet upto the time the *Mahaartis* were conducted, without reason, suddenly erupted into incidents of communal violence. It appears obvious that somebody was engineering the incidents. The clue to this is given by the Confidential Source Report. The SB-I, CID had by a Source Report warned all the police stations that Hindus returning from *Mahaartis*, particularly Shiv Sainiks, were likely to indulge in damaging and looting of Muslim establishments. Despite such a Source Report, the Senior Police Inspector considered it advisable to allow the *Mahaartis* as he felt that refusal to allow them would have created bigger law and order problem. Senior Police Inspector Singh is equally culpable for the consequences of the *Mahaartis*.

6.9 The Commission is inclined to think that the circumstantial evidence on record is too strong to accept the theory of the police that there was no connection between the *Mahaartis* and the communal incidents.

### 7 Cuffe Parade Police Station

7.1 On 7th December 1992 three persons attacked the petrol pump on Madam Cama Road adjacent to Mantralaya, threatened the staff at the point of revolver and attempted to set fire to the petrol pump. Although the miscreants fired four rounds from the revolver, none was injured in the firing. An offence (C.R.No.546 of 1992) was registered by the police station. As a result of the investigations, one Aslam Koradia, a known Muslim criminal, came to be arrested.

7.2 On 8th December 1992 there was an incident in which some unknown persons set fire to a cold drink stall of one Muslim near Chandramukhi building on Barrister Rajni Patel Marg (C.R. No.547 of 1992).

7.3 On 9th December 1992, at about 0100 hours, one wooden tea stall belonging to a Hindu situated behind Hotel Oberoi, Nariman Point, was set on fire (C.R.No.548 of 1992).

7.4 Barring these incidents, there were no other incidents with communal overtones during December 1992.

7.5 On 10th January, 1993, at about 1415 hours, a wooden kiosk of a Muslim situated on the footpath on Dinshaw Vaccha Road, and two hand-carts, were set on fire. One Christian, Francis Joseph Pereira, and three Hindus, Ajit Sadashiv, Raju alias Chandrashekhar and Dattaram Shetty were arrested in connection with this offence and are standing trial. On the same day, between 2000 to 2230 hours, a *pan bidi* stall of a Muslim situated opposite Express Towers, Nariman Point, was set on fire. An offence vide C.R.No.16 of 1993 has been registered but the accused have not been traced.

7.6 On 13th January, 1993, at about 2035 hours, the car of one Jaykumar Dhond proceeding along General Jagannath Bhonsale Marg was accosted and pelted with stones by unknown accused resulting in injury to said Jaykumar (C.R.No.20 of 1993). Accused are untraced.

7.7 On 14th January, 1993, at about 2300 hours, an armed mob of rioters surrounded two persons and, after ascertaining the religion of the victims, attempted to kill them. One Hindu, Suresh G. Goswami, was killed, though the other escaped. The incident occurred in front of Palm Spring Building, G.D. Somani Road (C.R.No.23 of 1993).

7.8 Between 14th January to 16th January, 1993, three Hindus Ramprasad Hemant, Omprakash Sharma and Laxman Jaysingh Khude, threatened one Muslim, Shabbir Mohamad Umar Shaikh, at the point of knife and attempted to extort money from him (C.R.No.29 of 1993). The accused have been arrested and are standing trial. On 14th January, 1993, there was a serious incident of rioting and murder in which one person was stabbed to death by a mob (C.R.No.23 of 1993). It appears that the murder was due to mistaken identity. The miscreants were Hindus on the look out for Muslims. When the victims, both Hindus, were accosted, one of them revealed his identity as a Hindu and was

let off. The other person, though a Hindu, started running away. The mob chased and killed him, believing him to be a Muslim.

7.9 On 18th January, 1993 at 0300 hours, motor scooter No. MMC 8359 of one Hindu, Shrikant Dattaram Tade, was set on fire (C.R.No.30 of 1993).

7.10 On 22nd January 1993 at 1445 hours, a motor-cycle of one Mahendra Galabhai was set on fire near Chandramukhi Building (C.R.No.40 of 1993).

7.11 This area saw a number of *Mahaartis* organized by the Shiv Sena. In all, there were ten incidents of arson/attempted arson, but arrests have been made only in three cases, C.R. Nos. 546 of 1992, 16 of 1993 and 29 of 1993.

7.12 During the January 1993 phase of the rioting, some of the watchmen of the buildings in this area were accosted by miscreants who attempted to elicit particulars of the Muslim residents. This led to panic in the area and most of the societies dismantled name plates showing Muslim names. Though Senior Police Inspector Shukhla and Assistant Commissioner of Police Kundalkar say that this was a mere rumour and that none of the watchmen was able to give accurate information about such persons, the fact that such panic spread, even in buildings like Buena Vista, occupied by retired and current senior Government and Police officers, testifies to the terror generated. Combing and search of the Macchimar Nagar *zopadpattis* by the Police led to seizure of weapons like swords and choppers. Interestingly, the searches were conducted on the basis of reliable information which proved to be true. The Commission cannot but notice the strange coincidence that the *Shakha Pramukh* of local Shiv Sena *Shakha* resides in Macchimar Nagar.

#### 8 D.B. Marg Police Station

8.1 This jurisdictional area has a majority of Hindu residents, but there are several Muslim residences and commercial establishments in the areas close to the border of V.P. Road, Nagpada and Tardeo Police Stations.

8.2 During December 1992, the police station registered four communal incidents, out of which one (C.R. No.592 of 1992) pertains to an incident in which one Muslim male died of injuries in a stone throwing incident at Dreamland Cinema.

8.3 One Hindu was injured in communal violence by mob and died as a consequences of the injuries sustained (C.R.No.31 of 1993). Two police officers were injured in stone throwing incidents. Three other cases were registered in respect of ransacking and looting of establishments. It is admitted by Senior Police Inspector Ramchandra Namdeo Bhakare, that in all the incidents of ransacking, looting and arson of establishments which took place between the period 13th December 1992 to 31st January 1993, the establishments belonged to Muslims. All establishments which were looted, ransacked and subjected to arson, even during December 1992 belonged to Muslims.

8.4 On 7th December 1992 there was stone throwing by Muslim residents of Kalyan Building at Nago Sayaji Chawl and Maharaja Chawl which are predominantly inhabited by Hindus. Surprisingly, in the connected case (C.R.No.562 of 1992), though the case diary records that one Hindu Pratap Chavan had been injured in stone throwing and had complained to the police, there was no such statement recorded in the case papers produced before the Commission. This incident occurred at the junction of Patthe Bapurao Marg and Parshuram Tukaram Marg which is the border area of Nagpada and D.B. Marg Police Stations and has mixed populations of Hindus and Muslims. The police resorted to firing of sixty rounds and the estimated damage to property was about Rs.2 lakhs. The firing resulted in the death of two Muslims. The Investigating Officer, Police Inspector Patil, had not even visited the residences of the two Muslim victims and recorded any one's statement. The explanation given was that because of the tenseness of the situation he was afraid that his visit might cause re-eruption of riots. More surprisingly the Senior Police Inspector Madhavrao Shankarrao Jadhav was blissfully unaware of this fact.

8.5 During January 1993, the police station registered thirty one offences, most of which pertained to looting, ransacking and arson of Muslim establishments. In three cases (C.R. Nos. 24, 25 and 26 of 1993) in all twenty Hindu accused were apprehended, some, while committing the offence, and others, later on.

8.6 Eleven *Mahaartis* were held in this jurisdiction during December 1992 and January 1993, but the one held on 9th January 1993 at Kabirwadi Hanuman Mandir deserves special mention because soon after this *Mahaarti* there was widespread looting, damaging of Muslim shops in the immediate vicinity. According to Senior Police Inspector Bhakare, he was present throughout the *Mahaarti* which had been organized by the activists of Shiv Sena. At the instance of the SB-I, CID, a video recording of the *Mahaarti* was made by a professional Video Photographer, Sudhir Naginlal Shah. Though the Mill Diary clearly states that the people in the *Mahaarti* had become agitated, turned violent and had to be controlled by use of appropriate force, the Senior Police Inspector Bhakare, maintained that the record was wrong and that it would be incorrect to describe the congregation in such words. According to him, while the *Mahaarti* was going on, *Azaan* was heard from the nearby Grant Road Masjid, which agitated the devotees attending the *Mahaarti*. As a result of the *Azaan*, a section of the crowd in the *Mahaarti* became angry and started spreading out towards the Masjid. They had to be dispersed by use of force in the form of *lathi* charge which lasted for about fifteen to twenty minutes. A part of the dispersing crowd damaged shops and stalls along this road, though, interestingly, all commercial establishments in the area had been closed on that day. The photographer Shah (Witness No.53) who video recorded the entire *Mahaarti* for about fifty minutes, maintains that the *Arti* was continuing when the *Azaan* was heard, the crowd in the *Mahaarti* was reciting the *Arti*, clapping their hands and also beating cymbals and drums and that there was a loudspeaker on which the *Arti* was being sung. According to him, the sound of *Azaan* was not so loud as to disturb the people in the *Mahaarti* and could not have attracted the attention of the people at all. He also says that the *Azaan* was heard only for about fifteen to twenty minutes prior to the end of the *Mahaarti* and he did not observe the crowd becoming angry, as the people in the crowd were enjoying the *Arti*.

According to the Senior Police Inspector the crowd in the *Mahaarti* was shouting slogans of 'Vande Mataram', 'Mandir Wahi Banayenge' and 'Bolo Shri Ram ki Jai' and no inflammatory speeches were given at the *Mahaarti*. It is admitted by the police that this *Mahaarti* resulted in total blockage of traffic on the road, but no cases appear to have been filed against the Shiv Sena leaders including MLA Shri Chandrakant Padwal and Corporator Shri Arvind Nerkar who had organized this *Mahaarti*. A case appears to have been filed against Arvind Nerkar, Amod Usapkar, Joglekar, Pravin Bhosale, Arun Chaphekar and Arun Gawand in respect of a *Mahaarti* held on 11th February 1993 near Dutt Mandir, though nothing untoward happened on that day. The video cassette of the Kabir Mandir *Mahaarti* was played before the Commission and in the video recording the *Azaan* is not heard at any time during the *Mahaarti*. The video recording also shows that there was very high decibel level making it impossible for the crowd to have heard the *Azaan*. There is an interesting fact observed in the video recording. At the commencement of the *Mahaarti*, certain pamphlets are seen being distributed. Though the Senior Police Inspector maintains that the pamphlets only contained the text of the song sung at the *Arti*, the police failed to procure a pamphlet and produce it before the Commission. We have only the words of Senior Police Inspector Bhakre as to the contents of the pamphlets. Considering the manner in which the apparently peaceful and devoted crowd turned into a looting and rampaging mob at the end of the *Mahaarti*, it seems probable that something more serious than the unheard *Azaan* must have transpired, which the police are either totally unaware of, or are suppressing from the Commission. This, in the face of Source Report dated 7th January 1993 on the subject of the *Mahaartis* cautioning that the Shiv Sainiks dispersing from the *Mahaarti* were likely to attack Muslim shops. The Senior Police Inspector maintained that, in spite of such a Source Report, he permitted the *Mahaarti* on 9th January 1993 and all the *Mahaartis* held subsequently. It would appear that the police were unwilling to become wiser, before the event or even after the event.

8.7 The investigation of C.R.No.562 of 1992 is wholly unsatisfactory and obviously required things like recording statements of relevant witnesses has not been done without any satisfactory explanation. The explanation given for not registering a case against the organizers of the *Mahaarti* on 9th January 1993 is ridiculous, since it is claimed that there was no law and order problem as a result of the *Mahaarti*. A case of turning Nelson's eye.

8.8 In the several offences of looting, ransacking and arson of commercial establishments, most of them appear to have taken place within close vicinity of police pickets and the police, as usual, appeared to be the last to arrive on the scene. At least in one case, (C.R.No.15 of 1993) the miscreant mob was heard shouting slogans like 'Shiv Sena Zindabad'.

8.9 In C.R.No.28 of 1993, one Police Hawaldar was assaulted by the miscreant mob, presumably of Muslims, as a result of which he fractured his left wrist.

8.10 During the rioting in December 1992, while three shops of Muslims were damaged, in the January 1993 rioting, ninety five shops of Muslims and ten of Hindus were damaged. Of the thirty accused arrested during January 1993, twenty one were arrested in connection with looting, breaking and damaging of properties and all of them were Hindus.

8.11 In C.R.No.91 of 1993, there appears to be a case of mistaken identity. Three Hindu accused are alleged to have chased a Tamilian Hindu boy under the impression that he was a Muslim and, being unable to understand his shouts in Tamil, killed him.

8.12 All three accused in C.R.No.46 of 1993 were Hindus and belong to Shiv Sena. The investigation done in this C.R. appears to be somewhat strange. Though the Senior Police Inspector claims that he made inquiries with Amod Usapkar, the *Shakha Pramukh* of *Shakha* No.21, by calling him to the police station and also questioned corporator Nerkar of Shiv Sena, there are no statements of these persons recorded.

8.13 After the incidents of looting and rioting which took place on 9th and 10th January 1993, the police carried out searches in buildings and isolated places in Chunam Lane and Tara Temple Lane. These searches were carried out to recover looted properties and, in fact, a part of the looted properties was recovered from some of the premises. The Hindus organized a *Mahaarti* on 14th January 1993 at Dutt Mandir on R.R. Road spear-headed by the leaders of Shiv Sena and Bharatiya Janata Party, during which it was announced that a *morcha* would be taken out to the police station to protest against the searches carried out in Chunam Lane and Tara Temple Lane. Actually, a *morcha* was taken out to the D.B.Marg Police Station and the curious demand of the people in the *morcha* was that a similar search of the Grand Masjid should be carried out to unearth illegal arms.

The police, very compliantly, obliged those people and searched the Grant Road Masjid but drew a blank. The Senior Police Inspector, without the least hesitation, admitted that the search at Grant Road Masjid was done only because of the pressure of the organizers of the *Mahaarti* (read Shiv Sena and Bharatiya Janata Party) and that the police did not have any information about concealment of illegal arms therein. He also admitted that at the *Mahaarti* on 6th January 1993 at Kabirwadi, the organizers had announced that if there was resumption of *Azaan* during the *Mahaarti*, they would retaliate 'by any means'. That, all the accumulated experience and inputs in the confidential Source Reports did not make the Senior Police Inspector wiser, suggests incurable obtuseness or bias towards organizers of the *Mahaarti*, to wit, the Shiv Sena.

8.14 The evidence of Assistant Commissioner of Police, Trimbak Dattatraya Moghe (Witness No.49), brought some surprising facts to light. Though it has been asserted by the State Government and police that the first communal incident occurred on 6th December 1992, near Minara Masjid in Pydhonie jurisdiction, the Control Room Log Book shows that the D.B. Marg I-Mobile had given a message at 0021 hours on 7th December 1992 that there was trouble at the police chowky near the J.S.S. Road and that 50 persons of Shiv Sena and Bharatiya Janata Party were present and were doing *rasta roko*. Moghe, the divisional Assistant Commissioner of Police surprisingly showed total ignorance about this incident, though he felt that against the backdrop of the events happening at that time, such an incident would be seriously capable of creating communal violence. Nor did the Mill Diary and Station Diary of V.P. Road Police station, within whose jurisdiction the incident occurred, make any mention of the incident. There is no explanation as to why such an important happening is not reflected in the records of V.P. Road Police Station. He stated that nobody had brought such an incident to his notice and that it was the first time that he had heard of it. The police chowky at Kandewadi is located on J.S.S. Road in close proximity of Bharatiya Janata Party office and the record of V.P. Road Police Station shows that two constables were deputed near the Bharatiya Janata Party office on the J.S.S. Road. Moghe candidly admitted that as the Assistant Commissioner of Police of the division he thought that the incident which happened on J.S.S. Road was a serious one and should have been mentioned in the Station Diary and Mill Diary of the concerned Police Station.

8.15 The Commission finds itself in a situation where it cannot implicitly rely on the police records. It is difficult to believe that the Assistant Commissioner of Police of the division was completely in the dark, when an admittedly serious incident with explosive potential

occurs during the midnight of 6th/7th December 1992, when the entire police force presumably was on tenterhooks.

8.16 On 9th, 13th and 20th December 1992, *Navaakal*, a Marathi daily, had published inflammatory and inciting writings against Muslims. Offences were registered vide (C.R.Nos.57, 58 and 59 of 1992) and sanctions for prosecution under Section 153A were sought from the Government. The Government dithered and did not sanction the permission till 17th August 1993 on which date the witness was examined.

8.17 According to Moghe, the decision to exempt *Mahaarti* from Section 37 of the Bombay Police Act, on the ground of it being a religious activity, was taken by the Commissioner of Police prior to commencement of riots on 6th December 1992. Even after the riots had started, during a discussion in the monthly meeting called by the Commissioner of Police, the officers were of the view that the exemption to *Mahaartis* was causing problems in law enforcement. Though this issue was pointedly brought to the notice of Commissioner of Police, it was decided that the problem should be resolved by appealing to the good sense of Hindus and Muslims.

8.18 In fact, this officer candidly admitted that what was anticipated by SB-I, CID, while issuing the circular cautioning attacks on Muslim establishments by Shiv Sainiks returning from *Mahaartis* turned out to be correct.

8.19 Talking about the intelligence gathering activities in his division, Moghe pointed out that, once the riot commenced on 6th December 1992 intelligence gathering was given up, but intelligence gathering activities were resumed after 15th December 1992. There was no intelligence gathered till the end of December 1992 about the likelihood of a second round of riots in January 1993. According to Moghe the second round of riots in January 1993, at least in Girgaum area, was a total surprise to him.

8.20 Another surprising fact which emerges from the evidence of Moghe is that during January 1993, though there was curfew, entire Girgaum area was excluded from the curfew order. The consequence — 40 shops and establishments were looted/set on fire within Girgaum area during January 1993. There was no curfew order at all within the jurisdiction of D.B. Marg Police Station during December 1992 or January 1993.

8.21 Moghe drew a distinction between the pattern of rioting in December 1992 and January 1993. According to him, while during the December 1992 riots the miscreants would come out in the open and create trouble, during the January 1993 riots, miscreants were doing it covertly. He admitted that January 1993 phase of the riots had all the hallmarks of 'organized property crime' as referred to in Standing Order 131. The same was true about December 1992, but there were also several offences against human body.

## 9 Deonar Police Station

9.1 Prior to 1984 the area falling in this police station was part of Trombay Police Station jurisdiction and consisted of large tracts of wasteland used for dumping garbage. The shifting of the abattoir from Bandra to Deonar brought in its wake relocation of large number of butchers in this area. This police station was established some time in the year 1985 to attend to law and order problems which had arisen on account of large scale influx of illegal squatters and mushrooming of unauthorized slums. 80% to 90% of the total population of about 5 lakhs in this area comprises Muslims. Large tracts of lands are marshy and vacant, belonging to Government of Maharashtra or Bombay Municipal Corporation. There has been haphazard reclamation of land from the marshy creeks. This area is considered to be communally most sensitive in view of the large population of Muslims living cheek-by-jowl with Hindus. The Muslim population is concentrated in localities like Shivaji Nagar, Bainganwadi, Lotus Colony, Rafiq Nagar, Sanjay Nagar, Kamala Raman Nagar, Padma Nagar, Zakir Hussain Nagar and Tata Nagar which are thickly populated hutment colonies having extremely narrow lanes for access. The strong Hindu pockets are around Ram Mandir in Shivaji Nagar, Plot Nos.1 to 10 of Bainganwadi, Teachers' Colony, Municipal Workers Colony, Lumbini Baug, one pocket in Padma Nagar, one pocket in Saibaba Nagar and Sanjay Nagar.

9.2 The assessment of manpower, equipment and arms and ammunition prior to December 1992 is that it was hopelessly inadequate to meet even the day-to-day working of the police station and obviously inadequate to meet the extraordinary situations which arose during the two riot periods.

9.3 Despite the area being dominated by Muslims, the Hindutva parties like Bharatiya Janata Party and VHP were active in the area and carried out their activities of holding meetings, distributing pamphlets and giving speeches on the disputed issue of Ram Janmabhoomi–Babri Masjid during July to December 1992. They also held *Ghantanaad* programmes on the day of *Kar Seva* i.e. on 6th December 1992.

9.4 Despite its highly sensitive nature, this police station was unfortunate in having its senior officers transferred during the height of riots. Deputy Commissioner of Police Ramchandran was transferred on 5th December 1992 and replaced by Deputy Commissioner of Police P.D. Pawar on the same day. Similarly, during the height of the riots, Senior Police Inspector Bhagwatrao Bandu Padwal–Patil was transferred out on 19th December 1992 and replaced by Senior Police Inspector S.D. Jadhav w.e.f. 28th December 1992. Though it is claimed that the transfer of Senior Police Inspector Padwal–Patil was a routine matter and did not amount to reflection on his handling of the riots during the month of December 1992, changing of horses in midstream obviously had its adverse effects.

9.5 This is one police station jurisdiction where, during both phases of riots, the Muslims gave more than they took. During December 1992 police registered 36 cases of communal violence/rioting of which 18 cases were closed by classifying them in "A" summary and charge–sheets were filed in rest of the cases. In one case accused died after the charge–sheet was filed in the Court and the case abated. Out of the 36 cases registered by police, 19 cases were in connection with rioting and mob action and 17 pertained to assaults on individuals.

9.6 The trouble began in December 1992 at about 2100 hours on 6th December 1992 when mobs of Muslims started pelting stones at vehicles and BEST buses moving along the link road through Muslim dominated areas. At about 2300 hours on the same day there was an attack on the house of one Gundeti, a local Bharatiya Janata Party activist and leader of Bharatiya Janata Party from Shivaji Nagar (C.R.No.893 of 1992). The interrogatory statements of the accused arrested in this case, which included two Hindus, suggest that the reason for the attack was the organizing of several meetings in the area by Gundeti. There was also an attack on Shiva temple and Geeta Vikas School and an attack on Hanuman temple at Shivaji Nagar, Plot no.34. (C.R.Nos.894 and 895 of 1992). There was damage and attempted arson to Shiva temple and Geeta Vikas School. Hanuman temple in Shivaji Nagar was damaged completely and the idol of Hanuman was smashed to pieces. There was heavy stone pelting at the houses around the Hanuman temple. Though the police claimed that the Muslim mob had carried out heavy stone pelting at houses around the Hanuman Mandir in Shivaji Nagar, the *panchanama* recorded in C.R.No.895 of 1992 does not bear out this fact. Nor is there any reference in the FIR to attack on Hindu houses on Plot No.34 in Shivaji Nagar.

9.7 There is another case of serious rioting on 7th December 1992 at between 0900 to 0930 hours near Janata Dairy, Hari Masjid, Shivaji Nagar (C.R.No.896 of 1992). Though it is the case of the police that a large mob of Muslims wearing black bands on their arms and shouting slogans against the demolition of Babri Masjid had demolished the Hanuman Mandir and attacked the Hindus in the locality, one of the accused who died in police firing was a Hindu by name Keshavlal Modi residing in the close vicinity. According to the statement of Sub–Inspector Patel, one of the officers injured in mob action, Keshavlal Modi, was a part of the rioting mob and was inciting the persons in the mob to attack the police by taking active part in rioting and had been injured in police firing. The post–mortem report shows that he had been shot in the chest and he also had an injury on his right middle arm caused by a hard and blunt object. Crime Report No.11 made by the investigating officer on 17th March 1993 shows that at the time of the offence there was rioting between Hindus and Muslims and that Keshavlal Modi had been injured in the police firing. These facts suggest that there was a Hindu mob at the place of incident, though it is not clear whether the Hindu mob came later on to defend the attack on the Hanuman Mandir. The investigation into this serious offence appears to have been carried out shoddily with no attempts made by the investigating officer to ascertain the particulars of the Hindu mob. Although Senior Police Inspector Padwal–Patil came on the spot immediately after the incident had occurred, the staff on duty appeared to have given him the impression that it was only a Muslim mob that had attacked the police and did not even inform him that one Hindu had died during the incident. In fact, under stress of cross–examination, when confronted with records, Senior Police Inspector Padwal–Patil conceded that attack on the police during the incident did not appear to be only by the

Muslim mob and that the investigations carried out into the offence were wholly improper. It would appear that at the time when Senior Police Inspector Padwal-Patil went to the scene he had seen only the Muslim mob and based on it asserted that it was a case of a Muslim mob attacking the police.

9.8 There was one more incident on 7th December 1992 between 1000 to 1100 hours (C.R.No.897 of 1992) in which there was rioting and unlawful assembly by Muslims between Plot Nos. 20 and 31 at Shivaji Nagar. Police action, which included firing, resulted in apprehension of 32 Muslim accused on the spot and two Muslim accused subsequently. Death of three Muslims and injuries to three Muslims took place in this police action. Even in this case, according to the FIR, there was a Hindu mob which was also rioting and there was firing towards the Hindu mob which resulted in two Hindus being injured and falling down. However, the police records do not indicate any particulars of the two injured Hindus, except stating so. While the police appear to have taken great pains to make inquiries from all the private and government hospitals to obtain information about persons treated for bullet injuries and appear to have tracked down some of the Muslim accused injured in police firing, curiously, they appear to have drawn a blank with regard to Hindu accused. Crime Report No.11 dated 24th December 1992 (Ex. 2745-C) suggests that instructions were given by Deputy Commissioner of Police and other senior officers that the attempt to investigate and identify accused who had received bullet injuries was stopped as it was apprehended that such action of police may lead to escalation of communal tension. During this incident of rioting 23 establishments of Hindus and 43 establishments of Muslims were subjected to damage and looting. In fact, the statement (Ex.2756-C) of Jagannath K.Salve, PC-26010, recorded in this case shows that when he and Police Inspector Pandit reached the scene of incident and alighted from the jeep they saw a violent mob throwing stones and soda-water bottles in the direction of Hari Masjid, Lotus Colony and Rafiq Nagar. More curiously, the words, "*Lotus Colony Wa Rafiq Nagarchya*" in the statement have been scored out.

Lotus Colony and Rafiq Nagar are predominant Muslim localities. Even the FIR suggests that the first firing carried out by Police Inspector Pandit and staff was towards the Hindu mob. By that time the Muslim mob came dangerously close to the police party led by Police Inspector Pandit and one of them even tried to snatch away a rifle carried by a policeman. The police fired in air to scare away the mob. It was the third instance of firing in which six Muslims were hit. The interrogatory statement of arrested accused Ahmed Ulla Barkat Ulla Khan suggests that he and other Muslims were preparing to take out a protest *morcha* to protest against demolition of Babri Masjid when others started pelting stones, the police arrived at the scene people started running away and around this time he was apprehended.

9.9 Another incident of rioting took place between 0900 to 1200 hours on 7th December 1992 in Padma Nagar (C.R.No.898 of 1992). A violent mob of Muslims attacked the police during the course of which two policemen HC-13181 (Sawant) and PN-5933 (Bhalerao) were attacked with sharp weapons and killed. Bhalerao fell down bleeding and died before he could be admitted to the hospital. The miscreants dragged away the body of HC Sawant which was later on discovered concealed under garbage in the garbage-dump. The discovery came to be made as a result of interrogation of an accused in another case. There was a police picket of nine constables near Datta Mandir in Padma Nagar for *bandobast*. The violent mob of Muslims overran the police picket and attacked the two police personnel despite firing of 18 rounds by police. The police were so hopelessly outnumbered that they had to beat a strategic retreat and requisition additional help. In the meanwhile, Bhalerao was killed by the attacking mob and Sawant was dragged away in injured condition. Thirteen Muslims were killed in the incident and six were injured, apart from the two constables killed by Muslim mob. One hundred fifty one establishments of Hindus and 147 of Muslims were damaged and destroyed. In seven cases the damage was due to arson and rest of the establishments were looted.

9.10 Between 1000 to 1230 hours on 7th December 1992 there was a violent clash between Hindu and Muslim mobs in the area from Sharda Hotel Junction to Rafiq Nagar dumping ground, Shivaji Nagar (C.R.No.899 of 1992). Three Muslims and one Hindu died in police firing in this case. In this case the property damage consisted of 340 establishments of Muslims, 44 of Hindus and one of a Christian.

9.11 On 7th December 1992 between 1245 to 1400 hours there was a violent clash between Hindu and Muslim mobs at Plot Nos.25, 26, 27, and 1 to 6, Shivaji Nagar and the open space

on Plot Nos.7 to 12, Govandi (C.R.No.900 of 1992). Three Muslims and two Hindus were killed in police firing while one Muslim and two Hindus were injured. Twenty three establishments of Muslims and eight of Hindus were damaged during the incident. Forty three Muslims, all accused, have been arrested in this case. There is some confusion as to the death of one Jhakuram Mohar Jaiswal. The post-mortem report and warrant for disposal of the body by coroner stated that the death occurred on 8th December 1992. Even the statement of the nephew of the deceased, Jagannath Jaiswal, indicates the date of the death as 8th December 1992. But the date is overwritten as 7th December 1992 in the FIR.

9.12 The next case pertains to unlawful assembly and rioting on 8th December 1992 between 2100 to 2200 hours near market place, Bainganwadi, Plot Nos.9 and 10 Govandi (C.R.No.902 of 1992). Seven Hindus have been arrested in this case while one Hindu, Manik Tukaram Kamble, died in police firing of nine rounds fired during the incident. This was a case where the Hindus were led by Manik Tukaram Kamble, a local Shiv Sena leader, who was inciting the Hindus to attack the Muslims. Seventy four establishments of Muslims and 71 of Hindus and one of a Christian were damaged in this incident.

9.13 On 8th December 1992 a motor-car MRD 6025 was stopped when it was about to enter the curfew bound jurisdiction of Deonar. The constables on duty were informed by the passengers in the car that they were the representatives of press, but no curfew passes were produced for inspection. While the police were still inquiring with the passengers, the car reversed and drove away towards Bainganwadi. The said car was found parked near the rickshaw stand in Bainganwadi. Subsequently, the passengers of the car were arrested and one Taher Yunus Ashrafi was amongst them. All the accused were residents of Sakhli Street in Nagpada jurisdiction. According to the complaint made by Abdul Hamid Khan, Special Executive Magistrate, Taher Ashrafi had taken a meeting of Muslims in the Bainganwadi area and was instigating the Muslim boys to do illegal acts. The Senior Police Inspector tried to brush off this incident by saying that it was a minor incident, but the cross-examination by Shiv Sena's Council elicited the utter negligence of police in not properly investigating the incident and the admission of Senior Police Inspector that the incident was a serious one meriting careful investigation which has not been done (C.R.No.903 of 1992).

9.14 On 8th December 1992 between 1330 to 1330 hours, there was an incident of arson and an alleged attack on the police at Umarkhadi Dumping Ground, Govandi (C.R.No.909 of 1992). The police resorted to firing resulting in the death of four Muslims and injuries to two Muslims. Strangely, however, the incident left in its wake property damage to 40 establishments of Hindus and 207 establishments of Muslims, though in the entire FIR, there is no reference to the presence of any Hindu mob. The suggested explanation for this strange phenomenon by the police is that the fire started in a Hindu house and spread to the adjacent Muslim houses. One Muslim, Shaikh Mohd. Sallauddin, sustained stab injuries due to mob action. This is indicative of the fact that perhaps there was a rival mob of Hindus also involved in the incident which the police have either ignored or suppressed. That the statement of Police Sub-Inspector Milind Pandurang Kedare about the mob attacking the police with swords is an exaggerated version is admitted by the Senior Police Inspector. There is also utter confusion with regard to identities of injured persons. Though the police papers show one Haji Mohd. Yunus Jhelani, Muslim, age 35, as a wanted accused, the actual person who was injured in police firing is a boy of 13 years who was treated in Shatabdi Hospital for bullet injuries as an out-patient, admitted in the hospital on 11th December 1992 and discharged on 27th January 1993. Though a hypothesis was advanced by the police that some of the claims made by the Muslims with regard to the property damage could have been bogus, it is admitted by Senior Police Inspector Padwal-Patil that there was no material to suggest this.

9.15 There was an attack on the Marimata temple, presumably by Muslims, on 19th December 1992 between 2100 to 2300 hours (C.R. No. 923/92). This case has been classified in "A" summary.

9.16 The case regarding destruction of Dutta Mandir on Plot No.13, G Line on 8th December 1992 between 0100 to 0230 hours (C.R.No.925 of 1992) was classified in "A" summary. Though the complainant had stated that the police had fired during the incident, there is no record showing that police had fired.

9.17 There was an incident of attempted arson at Kena Market Masjid between 2345 to 0030 hours on 7th December 1992 (C.R.No.928 of 1992). The damage to the Masjid was a burnt



electric box. Kena Market Masjid was attacked on two occasions by Hindus within a short period. The police fired two rounds on the first occasion and seven rounds during the second and chased away the attackers. This case has also been classified in "A" summary.

9.18 C.R.Nos.948 of 1992, 927 of 1992, 936 of 1992, 937 of 1992, 945 of 1992, 914 of 1992 and 950 of 1992 are cases of attacks on individuals, presumably by members of rival community. The miscreants have not been identified and all these cases have been classified in "A" summary.

9.19 There was an attack on and destruction of Shankar Mandir, unlawful assembly and rioting near the vicinity of Shantinagar, Baiganwadi, Govandi on 8th December 1992 between 0730 to 0815 hours (C.R.No.911 of 1992). The police fired 15 rounds, one in the air and 14 at the rioters causing the death of one Muslim, Tayyabali Shaikh. One Muslim accused has been arrested and a case is pending against him. The property damage in the incident consisted of 32 establishments of Hindus and 43 establishments of Muslims.

9.20 On 8th December 1992 at about 1100 hours, there was a case of rioting and unlawful assembly on Plot No.6, Baji Prabhu Deshpande Marg (C.R.No.917 of 1992). The police fired to quell the riot and caused the death of one Muslim, Mohsin Khan. The property damage consisted of 13 establishments of Hindus and eight of Muslims. One Hindu, Devendra Zende, was injured in police firing.

9.21 In an incident of rioting, arson and looting opposite Akani Estate, Sanjay Nagar, on 8th December 1992 between 1115 to 1215 hours (C.R.No.910 of 1992), there was firing by police resulting in death of seven Muslims and one Hindu and injury to one Hindu. Two hundred thirty establishments of Hindus and 63 of Muslims were damaged during the incident. The dead included a Muslim child of six years, Nissar Ahmed Rais Khan. Investigation in this case resulted in the arrest of two Muslims, Mohd.Aslam alias Acchhemiya Akhtar Miya alias Gharya Aslam and Abdul Ghani Kamaruddin Mulla alias Kadvekar, both notorious characters in the local area with previous criminal record.

9.22 Opposite Sanjay Nagar School, Bainganwadi, there was an incident of rioting and unlawful assembly between violent mobs of Hindus and Muslims on 8th December 1992 between 0915 to 1045 hours (C.R.No.901 of 1992). Thirty-six accused, all Muslims, have been arrested in connection with this incident. Thirty two accused were arrested on the spot and four later on. Fifty-three establishments of Hindus and 58 of Muslims were damaged during the incident. Nine Muslims died in police firing while one Hindu and two Muslims were injured. The seriousness of the incident can be gauged by the fact that 132 rounds were fired by police. Three swords, broken pieces of hand bomb and five bottles filled with petrol were seized from the miscreants. Ballistic expert's report suggests that pieces of bomb were remnants of an explosive device.

9.23 The then Chief Minister Shri Sudhakar Rao Naik had attended one function within this jurisdiction for distribution of compensation to riot victims and their families. But the families of the deceased policemen, Bhalerao and Sawant, were not given any compensation during that function.

9.24 Out of the 50 persons killed in different incidents during December 1992, only six are Hindus and 44 are Muslims.

9.25 There is a justified grievance made by Shiv Sena that during the period of riots the hands of the police were tied by the instructions given by the government that no firing was to be effected. Reference is made to B.C. Message No.414 dated 10th December 1992 at 2340 hour from Additional Commissioner of Police addressed to all static wireless, all SRPF vehicles, officers and mobiles. The message was, "under no circumstances should there be firing in order to bring riots under control. Tear-gas and *lathi* charge should be used on large-scale and the situation should be brought under control". That, such instructions were received by the police station is beyond doubt. Though, the Commissioner of Police, S.K. Bapat, denies all knowledge of having authorized issuance of such a message, it is difficult to accept his version. Even in the official copies of the B.C. Messages maintained by the police Control Room such a message is seen.

9.26 There is also a grievance made by Shiv Sena that by B.C. Message 426 dated 11th December 1992 from the Commissioner of Police, all Senior Police Inspectors were instructed to release persons preventively arrested, for curfew violation or arrested under Section 6 of the Bombay Police Act. There is a third grievance that by B.C. Message issued

on the same day, the Senior Police Inspectors were instructed not to waste their time and energy in arresting persons for minor offences and that they should look into all cases of preventive arrests and release people on bail.

9.27 During December 1992 riots 11 temples in the area were damaged while only one masjid i.e. the Kena Market Masjid was attacked. And in an attempted arson there was minor damage caused to the electric meter box in the masjid.

9.28 Shri Javed Khan, the then Housing Minister, had visited the police station on 23rd October 1992 for pressurizing police not to register cases against some of his followers. He also used to visit the police station during the period 6th to 13th of December 1992. There is no material on record from which it can be said that during this period Shri Javed Khan had put pressure against the police not to arrest Muslim accused or to let them off as suggested by Shiv Sena.

9.29 There was a strange case of a telephone message even by Police Sub-Inspector Joshi of SB-I, CID, Eastern Zone, Ghatkopar on 16th December 1992 at 0320 for immediate arrest of certain activists of ISS, Bainganwadi, adjacent to Noori Masjid. This requisition was in response to the banning of ISS by the Government of India. The police appear to have done nothing in this matter.

9.30 The learned counsel for Shiv Sena pointedly drew attention of the Commission to the recovery of a sword at the instance of accused Abdul Ghani Kamruddin Mulla alias Kadvekar from a hut in front of which there was a flag flying with the words, "*Ghausia Pak*". Obviously, the suggestion was that it had something to do with Pakistan. The suggestion stems from not understanding that the words merely referred to Holy Saint Gelani who is popularly known as Ghaus; the word "Pak" in Urdu only means "Holy". Much has been made of the fact that Senior Police Inspector Patil was hospitalized on 13th December 1992 and after attending the office on 19th December 1992 he was immediately transferred to Crime Branch. There is no material to accept the suggestion of Shiv Sena that Senior Police Inspector was transferred because he had refused to toe the line of Muslim appeasement adopted by the senior officers.

9.31 In this area too it is claimed that there were instances of private firing. It is claimed that there was private firing at the police from a terrace of a building situated opposite Khalid Bakery on Gajanan Colony Road (C.R.No.899 of 1992). It is claimed that the person doing private firing was injured by police firing, but he could not be traced thereafter. The material on record is too scanty to support the theory. Though it is claimed by Shiv Sena that one Chandrakant Yamagar who died in this incident had died because of private firing, there is no material to suggest this.

9.32 There was an attack on the house of local activist of Shiv Sena, Balkrishna Gosavi Patil, on 7th December 1992 at 1900 hours (C.R.No.915 of 1992). Sixteen accused (14 Muslims and two Hindus) were arrested. The interrogation of Hindu accused, Shama Rangappa Wadari, disclosed that all the accused were instigated by Ramzan Dadhiwala and Faludawala Khan to collect together and attack the house of Balkrishna Gosavi Patil. Both Ramzan Dadhiwala and Faludawala Khan are local notorious characters who used to help Shri Javed Khan in his election work. Abdul Ghani, another accused in the case, is another notorious character in the area. The attack resulted in injuries to the wife of Balkrishna Gosavi Patil.

9.33 The attacks on the Hindus in Bainganwadi area appear to have been masterminded by Aslam alias Acchhemiya Akhtar Miya alias Gharya Aslam and Abdul Ghani Kamruddin Mulla alias Kadvekar, two notorious characters of the locality.

9.34 The police station had an officer Police Sub-Inspector Sakharkar on its roles whose father was the *Shakha Pramukh* of Shivaji Nagar *Shakha* of Shiv Sena. Though the Senior Police Inspector has asserted that he had no doubt whatsoever that Sakharkar was not in any way influenced by his father's links with Shiv Sena, such a possibility cannot be ruled out. His posting in Deonar area gave ground for the allegation that Shiv Sena had easy access to the police. There were also complaints against Police Inspector Dhengle, Police Inspector Gajur, Police Inspector Pandit, Police Sub-Inspector Bobade, Police Sub-Inspector Kadam and Police Sub-Inspector Sakharkar that they were communal in their approach.

9.35 Though the testimony of Police Inspector Namdeo Mohan Dhengle indicates that Shri

Javed Khan had visited the police station on 9th and 10th December 1992 at which time Deputy Commissioner of Police Y.C. Pawar, Joint Commissioner of Police, R.D.Tyagi, and Additional Commissioner of Police R.S. Pasricha were also present, Dhengle says that he has no idea of what transpired between these senior officers and Shri Javed Khan as he was not present in the room where they had a discussion.

9.36 Sudhir Dattaram Jadhav took charge of Deonar Police Station as Senior Police Inspector on 28th December 1992 and was in-charge of the police station during the January phase of riots.

9.37 In all 28 riot-related cases were registered during January 1993. There were only three cases in which police fired (C.R.Nos.23, 24 and 36 of 1993).

9.38 According to Police Inspector Jadhav the blood pressure of Senior Police Inspector Padwal-Patil went up because of enormous stress and strain and not because of altercation with his seniors on the issue of appeasing the Muslims. Jadhav unhesitatingly states that while working as Senior Police Inspector he found Shri Javed Khan and Shri Jaffer Shariff attempting to interfere with his work. In fact, this straight forward officer promptly put down his observations in his reports dated 18th January 1993, 25th January 1993, 5th June 1993, 19th January 1994 and 27th March 1994 (Ex. 2745-C) He has given in detail the manner in which Shri Javed Khan attempted to pressurize him in his duties and complained to the Commissioner of Police, requesting proper action. The gist of the complaint is that Shri Javed Khan and other ministers were making unscheduled visits to the police station, throwing their weight about to find out details about certain accused arrested by police and rudely ticking off the officers saying that they had arrested innocent persons. Commissioner of Police, S.K. Bapat, accepted that such a complaint had been made to him and said that he had taken up the matter with the then Chief Minister who promised that he will look into the matter, but ultimately nothing ensued.

9.39 Jadhav's assessment is that by and large Deonar area continued to be peaceful during January 1993 despite riots raging in other parts of the city. The cases registered in 1993 were stray cases of stabbing. Even the news of Radhabai Chawl incident and Mathadi murders did not provoke communal incidents in the area.

9.40 Though it would not be necessary to use graded force in communal riots, he confessed that, considering the large number of police firing deaths which occurred in December 1992, he put his officers and himself under restraint and used graded force which was a decision based on his experience gained during the December 1992 phase of the riots. He claims that he was not influenced by the instructions given in B.C. Message No.414 dated 10th December 1992.

9.41 There was at least one case (C.R.No.23 of 1993) in which the police fortunately took a view that the situation had gone out of control and handed it over to the army. Their judgment appears to have been partly influenced by the fact that the incident of rioting occurred in the hutments of Tata Nagar close to Tata Electric Supply Power Lines.

9.42 The first communal incident in January 1993 took place on 7th January 1993 and is the subject matter of C.R.No.15 of 1993.

9.43 There was an attempted attack on Datta Mandir though the mandir did not sustain any damage (C.R.No.92 of 1993). An attack was mounted by a Hindu mob on Kena Market Masjid in three separate groups (C.R.No.23 of 1993). The FIR in this case exhibits certain peculiarities. The names of the accused written originally appear to have been erased and overwritten by words "1000 Hindu-Muslim mob". Though the police claim that it was a mistake on the part of junior Police Sub-Inspector Tamboli, this became the subject of critical remarks by the Metropolitan Magistrate before whom the case came up and who directed the Commissioner of Police to effect investigations in this regard. Nothing seems to have been done thereafter, not even an explanation was asked for from Tamboli for what appears to be a serious lapse. A scrutiny of the erasures showed that the two names of the accused originally written there were 'Pravin' and 'Bhima'.

9.44 No sophisticated or foreign weapons were seized from the area either during December 1992 or January 1993.

9.45 Sayyed Ajmat Ali Kudrat Sayyed alias Ramzan Pathan alias Ramzan Dadhiwala was arrested and was in police custody from 4th June 1992 and lodged in the Ghatkopar police

station lock up. Shri Javed Khan and Shri Jaffer Shariff appear to have taken an extraordinary interest in meeting this person without permission. Further, it appears that prior thereto Ramzan Dadhiwala was with Shri Javed Khan though he was shown as a wanted accused in C.R.Nos.900 and 915 of 1992.

9.46 At least one accused (Salim Rahim Shaikh) in the bomb blasts case was arrested from Bainganwadi area and a 9mm pistol and forty eight rounds were seized from him.

9.47 The police maintain that during December 1992 the maximum rioting and violent incidents were at the instance of Muslims during which there was damage to lives and properties belonging to Hindus. Though in a manner of speaking it appears to be true, the Commission found that in some cases at least the trouble was provoked by Hindus who resorted to stone throwing at the Muslim localities and masjid, after which the situation became a free-for-all with the police intervening.

9.48 Jadhav agreed that as a consequence of December 1992 riots the morale of police went down and secondly, that the police had been restrained from firing while dealing with violent situations upto 8th January 1993 and thirdly, the police made no investigations to trace the source of arms and ammunition supply to the rioters to flush out such arms and ammunition. He also agreed that during January 1993 all attacks took place with the help of dangerous weapons on Hindus.

9.49 Jadhav was at pains to assert that Police Sub-Inspector Sakharkar was an upright officer and that the fact that his father was a *Shakha Pramukh* in no way affected in discharge of his duties. He also states that he had been instructed to investigate complaints against police officers Dhengle, Gajur, Pandit, Bobade, Kadam, Sakharkar and Padwal-Patil and after investigation he found the complaints were false and baseless. The report made by him has not been produced before the Commission.

9.50 Amongst the public witnesses, most of the Hindu witnesses were from Hanuman Seva Mandal area. They stated that there was attack by Muslims on the Hanuman Seva Mandal Hutments and Hanuman Mandir causing widespread damage.

9.51 Some of the Muslim witnesses examined before the Commission were themselves accused in different cases and perhaps their evidence was an attempt to forestall the criminal case against them. In some other cases witnesses have given evidence about the high-handed manner in which police treated them. For example, Himmat Ali Ashiq Ali (Witness No. 413-BBA) states that on 8th December 1992 at about 1600 hours when he was checking whether his hand-cart parked in front of his house was in proper position, a patrolling police party caught hold of him, pulled him to an isolated area and asked whether he was a Muslim. Though, out of fear he gave his name as Raju, the officer made him take out his trousers and, noticing that he was a circumcised Muslim, asked him to put up his hands and turn around and fired at him. They also beat him with the rifle butts. Luckily for Himmat Ali, the bullets did not kill him though four bullets were fired at him. He also says that police officer who fired at him had a short stature, addressed him in Marathi and abused him as "*landya*". After he was shot at, he was pulled by his hair and after dumping him into the van and taken to the police station.

This witness is not accused in any of the riot-related cases registered by the Deonar Police Station and this fact is confirmed by the police station. His name also does not figure in the names of the injured persons. No statement of this witness has been recorded by police in any case registered by them. He also says that he had not participated in any riot. He was treated at KEM Hospital and the bullet lodged in his body was removed and given to him which he produced at Ex. 2875-C. The Commission is of the view that this was a case where the police went berserk and fired indiscriminately.

9.52 Witness Kisan Tukaram Rathod from Shastri Nagar Zopadpatti stated that the persons who attacked the mandir were shouting slogan, "*Javed Khan Zindabad*" and looked like Muslims, as they wore *lungies*.

9.53 The case of Mohd. Baba Hashmi is another instance of high-handed action on the part of police. He was doing the business of repairing cycles and hiring them out. On 12th December 1992 he was going to Bainganwadi to buy cycle parts and for that purpose he was carrying Rs.7,000 with him. When he was close to the said shop, at about 0800 hours, a police picket accosted him, abused him by calling him '*landya*' and hammered him with rifle butts. There was a Shiv Sena *Shakha* situated near the spot where the incident took

place. After assaulting him, police signalled the Shiv Sainiks. The Shiv Sainiks came there, assaulted him with chopper and robbed him of his cycle and Rs.7,000. He managed to run away, but fell down and became unconscious. After two hours he regained consciousness, went home and thereafter got himself treated. When he went to his shop he noticed that his cycle shop had also been robbed. The incident took place near Geeta Vikas Mandal Chowky. This witness is also not an accused in any criminal case.

9.54 There is the evidence of Parveen Banu Irshad Ahmed Shaikh (Witness No. 420-C). Her husband works for gain in Saudi Arabia and had come to Bombay to visit his wife who was keeping poor health. On 8th December 1992 in the early hours at 0300 hours the police barged into the house by breaking open the door, caught hold of her husband, bashed him up with rifle butts and dragged him away. The injuries caused by police to Parveen Banu's husband required his hospitalization for one-and-a-half months and also caused him loss of his job as he could not go back to Saudi Arabia in time. Injuries have also resulted in permanent partial disability as he had to be fitted with an iron rod in his leg to heal the fracture. Neither Parveen Banu, nor her husband Irshad Ahmed, is an accused in any case filed by police. To a pointed query by the Commission for the motive for the assault by police, Parveen Banu had a simple answer and said, "Maybe, the police were getting something out of it, or the police were inimical towards Muslims!!"

9.55 The case of Abdul Kalam Mohd. Ishaq (Witness No. 421-LLAC) also makes sad reading. On 7th December 1992 at about 1100 hours he was inside his house along with one Munna aged 7 years. Three constables in uniform barged into the house carrying rifles, slapped Munna and asked them to run away. Abul Kalam was shot in his leg while he was running. Police caught him by his legs and dragged him for some distance and then dropped him on the road and went away. He is also not an accused in any case.

9.56 Asgar Khan Ashiq Khan's (Witness No.428-LLAC) is another case of police high-handedness. On 28th December 1992 he was in front of Ram Mandir, Shivaji Nagar, along with his younger brother Zahir Khan. They were stopped by police. While the police allowed some Hindus who had been stopped by them to go, Asgar and Zahir were stopped. The police party assaulted them with *lathis* and rifle butts. Though the scene was witnessed by police officers sitting on chairs they did nothing. Zahir managed to escape, but Asgar fell down and the police continued to assault him and insult him by calling him '*landya*'. Due to the continuous assault he fell unconscious. When he regained consciousness he found that his wrist watch and wallet containing Rs.5,000 missing. The police threatened him and asked him to run away. When Asgar was going in front of Shiv Sena *Shakha*, four youngsters with swords pounced on him and asked him to disclose his identity. However, they let him off without trouble. Asgar suffered several injuries due to the assault by police. This is another witness who is not an accused in any criminal case filed by police.

9.57 On 8th December 1992 Maulana Abdul Hannan Ashrafi (Witness No.429-BBA) was sitting inside the Noor-e-Elahi Masjid along with others after the morning *namaaz*. He is a teacher in a *madrassa* in Govandi. At about 1000 hours he heard commotion outside the mosque, peeped out and saw people running helter-skelter and the police were firing. According to him, police set the mosque and several shops on fire. When he along with others attempted to extinguish the fire, policemen entered the mosque and started assaulting them. They were made to come out of the mosque and stand in a single file at the point of gun. Abdul Gaffar, Gen. Secretary of the mosque was shot in the chest and died on the spot. Yakub was shot in the abdominal region and was severely wounded. Hafiz Mohd. Kafil was assaulted and taken away by police and his whereabouts are still not known. This witness is also not an accused in any criminal case.

9.58 Noor-e-Islam Abid Ali Kazi (Witness No.441-BBA) deposed that on 9th December 1992 while he was sleeping in his room the police barged into his room and started assaulting him and his sister who tried to save him. They dragged him and his nephew out of the house, all the while beating him mercilessly, into a lane towards the Shiv Sena *Shakha*. They also threatened to finish him by taking him to another locality and gave him an option whether he would like to be finished by police or by the Shiv Sainiks. Thereafter, he was dragged near the Shiv Sena *Shakha* where a Police Inspector was present who asked the policemen as to why he had been brought there. The policemen falsely stated that he had been apprehended from a masjid while he was holding a sword in his hand. The officer thereafter continued to abuse and assault him and abruptly told him to run away. When he started running through a lane they fired at him but missed. At the corner

of the lane 10–12 Shiv Sainiks attacked him with swords, hockey sticks, bottles and cycle chains. He fell down unconscious after which the Shiv Sainiks ran away. After he regained consciousness he made his way back to his house.

In his affidavit he has named Police Inspector Nikam and Police Sub–Inspector Sakharkar as the officers who had barged into his house and dragged him. He also alleges that the police and the Shiv Sainiks were co-ordinating their operations within the area as Sakharkar’s father was a local Shiv Sena *Shakha Pramukh*. According to him Police Sub–Inspector Sakharkar used to stay with his father, very close to his residence and PSI Sakharkar also used to sit in the Shiv Sena *Shakha* at Govandi opposite Municipal School. He is well acquainted with Nikam and Sakharkar as they used to take frequent rides in his rickshaw. He has also alleged that PC Shelke was also along with the officers who dragged him out of house and he is well acquainted with them. He has given instances as to how police and Shiv Sainiks used to eat, walk and talk together. The witness was shown police officers Chavan, Dhengle, Pandit and Gajur but stated that none of them was the officer sitting in the *Shakha* office. He also stated that Dharasingh Garbhari Shelke, PC–24486, shown to him, was not the constable referred to in his affidavit. An interesting development was that after this witness gave his evidence on 9th August 1996 and the hearing was adjourned to 12th August 1996; on 12th August 1996 when the hearing resumed, the witness made a complaint that on the previous day while plying his rickshaw he was stopped at the junction of Eastern Express Highway by two young boys and he was threatened against giving evidence.

9.59 It appears to the Commission that though the witness was clear in his mind about the identity of the officers and constables who had barged into his house, in the interregnum, he appears to have been won over either by threats or inducement with the result he declined to identify the officers and constables whom he had named specifically in his affidavit as having barged into his house and dragged him out of his house. This witness is also not an accused in any criminal case.

9.60 Taking an overall view it appears to the Commission that because two constables were killed by the violent Muslim rioters in this area the police acted in a vengeful manner and behaved in high–handed fashion with several Muslims in the area, who were apparently innocent, on the excuse that they were investigating serious cases of murders. The Commission has deliberately restrained from commenting on the evidence of persons who are themselves accused in cases as it would be within the province of the Criminal Court to deal with the charges against them.

## 10 Dharavi Police Station

10.1 This is one of the most communally sensitive areas which has seen communal riots between Hindus and Muslims on several previous occasions.

10.2 The jurisdictional area spans 3.5 to 4 sq. kms. across a widespread slum which has the dubious distinction of being the biggest slum in Asia. This slum is dotted with shanties and hovels with no access to air or light, approached only through narrow congested lanes insulating the area from vehicular traffic. The population is about 5.5 lakhs, the bulk of which comprise economically backward sections of society doing manual labour and eking out a living, and petty traders themselves. The area has large pockets of South Indian Muslims and backward Hindus. The Muslim residents in this area are mainly engaged in the work of tanning leather and manufacturing and selling leather goods. There are 28 temples and 35 mosques and *madrassas* within the jurisdiction of this police station.

10.3 Naiknagar, Socialnagar, Chamda Bazar, Indiranagar, Muslimnagar, Dambar Company are some of the known Muslim pockets in this area, while Kumbharwada, Bhagat Singhnagar, Vijaynagar, Dhobi Ghat, Mukundnagar, Shastrinagar, Dhorwada, Anandnagar, Kamrajnagar, Koliwada, Shahunagar and Laxmibaug are dominated by Hindus, though there are Muslim residents there also. Valmikinagar, Matunganagar Camp and Sidharathnagar are predominantly occupied by *Nav Baudhas*. There is big mosque by name Badi Masjid situated on the Dharavi Main Road around which there are clusters of Muslim residences, though the area itself is predominantly occupied by Hindus. Similarly, Ashrafi Masjid is situated in Valmikinagar which itself is a Hindu predominant area. Conversely, Murugan Temple, a temple constructed by the South Indian Hindus, is situated in the area predominantly occupied by Muslims.

10.4 The period between July to 4th December 1992 saw a number of activities organized

by the local Bharatiya Janata Party and Shiv Sena units to propagate the view points of the *Hindutvawaadis* on the Ram Janmabhoomi-Babri Masjid dispute. Both Bharatiya Janata Party and Shiv Sena have a visible presence in this area and are quite active. Some other political parties like Congress-I and Republican Party also have small influential pockets within this area. This area saw considerable activity on the part of two Muslim organisations, Tanzeem-Allah-O-Akbar and Dalit Muslim Suraksha Sangh, which organized demonstrations and meetings in the period of run up to the date of *Kar Seva*. Political campaigning was carried out on the disputed issue by holding processions and meetings. *Ram Paduka* processions, *Ram Paduka Poojan Karyakram*, *Chowk Sabhas* etc. were carried out in full swing during July 1992 to November 1992.

10.5 Though some of the speeches given by the speakers in a meeting organized on 18th October 1992, prima facie, appear to be communally provocative in their militant exhortation of Hindus that they were insecure at the hands of outsiders (Muslims), the police appear to have condoned it on the ground that there was nothing objectionable in those speeches per se as no problem of law and order entailed. A pamphlet was circulated in Tamil on 12th October 1992 in which it was emphasized that Muslims had an ancestry of invaders who had come to this country with the sole purpose of plundering it and expanding their religious interests. Neither the local police nor the SB-I, CID seems to have taken such things seriously.

10.6 There were meetings held on 21st October 1992 and 1st December 1992 by the Muslims advocating protection of the Babri Masjid and opposing the construction of Ram Mandir at the disputed site at Ayodhya. These meetings were held in Naiknagar on L.B. Shastri Marg. When the contents of these meetings were reported to Assistant Commissioner of Police Sukhtankar, he was provoked to query whether legal action should be taken for the speeches given therein, which he considered prima facie communally inciting. One of the speeches advocated that if the Hindus were to snatch away the Babri Masjid from Muslims, there would be no stopping of disintegration of country; that if Hindus were to build a Ram Mandir at Ayodhya and usher in Ram Rajya, then the Muslims would, through the Babri Masjid Committee, fly the green flag on the Red Fort at Delhi and rule the country. Three activists of Tanzeem-Allah-O-Akbar, which organized some of the meetings, Hayatbhai, Sayyedbhai and Shakoorbhai were quite active during the violent incidents which took place on 7th December 1992. In one of the meetings organized by the Muslims on 15th November 1992, one Maqsood Khan declared that 25 crores of Muslims in India would not remain passive without demanding and getting a partition of the country, as they would not like to remain slaves in this country. Once again, no action ensued, since the police considered that, though objectionable, the speeches were not actionable in law.

10.7 This area had the dubious distinction of housing an illegal crude bomb manufactory. Unfortunately for the miscreants, a minor explosion occurred which was noticed by the residents in the area and reported to the police. The police raided the place and arrested the miscreants red-handed and filed appropriate cases against them, even invoking the provisions of the TADA Act.

10.8 Though, some cases of private firing were alleged in this area, the material on record does not clearly indicate such incidents apart from the fact that witnesses have alleged that they had heard sounds of firing from a particular direction. Fortunately, the police were prompt in this area to take possession of licensed fire-arms during the January 1993 phase of the riots.

10.9 As we come closer to the D-day i.e. 6th December 1992, the *Hindutvawaadis* led by VHP were getting more and more active and strident in their propaganda. On 28th November 1992, the VHP organized a cycle procession in support of construction of Ram temple at Ayodhya, which the police feel did not add to the communal tension in the area, though the rallyists shouted slogans like, "*Hindustan me rahena hoga, Vande Mataram kahena hoga; Vahin banega vahin banega, Ram Mandir, vahin banega*"; "*Nam Mitao Babarka; Hindustan Hinduonka, nahi kisike baap ka*". The explanation of Senior Police Inspector for not considering these slogans as communally inciting, given the background of the impending *Kar Seva* and the long standing Mandir-Masjid dispute at Ayodhya, is quite ingenuous. The Senior Police Station repeatedly asserted that apart from the cycle rally organized by Shiv Sena on 6th December 1992 no other programme or activity carried out by any other organisation prior to that day or during December 1992 or during January 1993 generated or added the communal tension in this area.

10.10 Both during December 1992 and January 1993, there were a large number of cases where individuals (both Muslims and Hindus) were attacked and stabbed after ascertaining their identity. There were 32 such cases registered in December 1992 and 33 in January 1993. It would appear that 54 cases out of them were classified in "A" summary as the police were not able to get any clues as to the identity of the miscreants. Surprisingly, a number of these stabbing cases occurred during curfew period in shopping areas, but according to the police most of the shops were closed in curfew and there were no witnesses available.

10.11 Apart from these individual cases, there were also cases of rioting and systematic ransacking, looting and destruction of houses registered both in December 1992 and January 1993. In fact, 14 of the rioting incidents were registered on 7th December 1992 itself despite a ban order under Section 37 of the Bombay Police Act having been issued. On 7th December 1992 between 0930 hours to 1600 hours as many as 265 establishments were damaged, out of which 83 belonged to Hindus, 89 to Muslims and four to Christians. In the incident which occurred in Laxmibaug and Socialnagar areas (C.R.No.73 of 1992), the aggregate loss/damage, according to the estimates of the victims, was about Rs.56.85 lakhs of which damage suffered by the Hindus was approximately Rs.16.8 lakhs and the damage suffered by Muslims was about Rs.40 lakhs. In another case registered on the same day, (C.R.No.723 of 1992), 272 establishments suffered damage, out of which 88 belonged to Muslims, 188 to Hindus and two to Christians.

10.12 There were some cases in which the accused admitted that they were connected with a political organisation : C.R. No.720 of 1992 in which the accused were connected with Tanzeem-Allah-O-Akbar; C.R. No.718 of 1992 in which the Hindu accused admitted connection with Shiv Sena and C.R. No.53 of 1993, in which some of the accused admitted connection with Bharatiya Janata Party and RSS. Apart from these, there does not appear to be any effort made by the police to ascertain the organisational connections of the accused arrested in other cases.

10.13 Some of the politically active persons in the area figure in the list of victims or accused. The local Shiv Sena *Shakha Pramukh* Pawar is accused of having assaulted the complainant along with his associates on 10th December 1992 (C.R.No.752 of 1992). A complaint was made by one M.I. Shinde, the local Municipal Corporator, of an assault on him with lethal weapons (C.R.No.757 of 1992). Because of non-co-operation by the complainant, the police classified the case in 'A' summary.

10.14 Analysis of the rioting cases in December 1992 indicates that there was an orchestrated attempt by Muslim youths to enforce a bandh on 6th December 1992. Inept and insensitive handling of the situation by the police initially, and not taking sufficiently deterrent action later, emboldened the Muslim youths to resort to violence like damaging and arson of vehicles on the road and roadside shops. When the police attempted to intervene, the police became targets of attack by the violent mobs of Muslims. In the meanwhile, the Hindus who were incensed with attacks on their temples and establishments, collected in large numbers and started retaliation. At this point of time, the initiative was completely wrested out of the hands of the police and a complete free for all ensued, with each community claiming that it was retaliating for atrocities perpetrated on it. In the bargain, establishments were ransacked, looted and set on fire. Vehicles were smashed up and temples and mosques were attacked and damaged.

Each act of violence led to a chain reaction of further aggression and retaliation, in which the police appeared to be hapless spectators. Despite repeated instructions of the Commissioner of Police that if the situation was out of control, the police should take the active assistance of the army column, and notwithstanding the presence of the army column in close vicinity, the police appeared to have taken no steps to invoke army's active operational assistance in controlling the situation. The explanation by the Senior Police Inspector is two-fold. First, he claims that in the assessment of himself and his senior officers, the situation was very much within control, second, that if the army had been allowed to handle the situation they would have resorted to indiscriminate firing resulting in larger number of deaths. The former is totally contradicted by the urgent messages transmitted on the wireless which indicate that the local police were appealing to the Control Room that the situation was beyond control; as to the latter, the police by their action, did not produce a smaller number of casualties since the number of deaths during December 1992 and January 1993 was 62 (three by arson, three by mob action, 28 by police firing, 28 in stabbing cases) in which 43 Muslims, 17 Hindus, one other and one



unknown person died.

10.15 The very first serious communal incident which occurred on 6th December 1992 in Bombay originated within Dharavi jurisdiction. It is, therefore, worthwhile scrutinizing the events in Dharavi, in greater detail. At about 4 p.m. the Shiv Sena organized a procession to celebrate the successful demolition of Babri Masjid. It consisted of cyclists and pedestrians and started from Dharavi Koliwada and passed through Dharavi Main Road, Jasmine Mill Road, T.H. Kataria Marg, Kumbharwada Junction, 90 feet road, Dharavi Cross Road, Dhorwada Lane, 90 feet road and terminated at Kala Killa, at the junction of Sant Rohidas Marg and 90 feet road. The procession had been organized by the local *Shakha* of the Shiv Sena and some of its local leaders like Ramkrishna Keni, Baburao Mane, Theresa Killekar, Jagannath Khade, Rajaram Narkar, Vithal Pawar, Ajit Sanghare, Suresh Sawant, Suresh Sonavane, Muthu Thewar, Suryakant Rajguru, Kutti Thevar, Baban Kale, Shekhar, Babu Vaity, Bamaya Gandhi, Shiva Kamati and Kitya Kharande were actively participating in the said procession.

10.16 Though Senior Police Inspector Gcharge claimed that an application had been made by the local Shiv Sena *Shakha* for taking out such a cycle rally and permission therefore had been refused, the version given by Gcharge does not appear reliable. An outward register, Exh. 2221-P, produced to corroborate his word, is a patently got up document. Even a cursory look shows that the relevant entry at Sr. No. 16959 is interpolated. All serial numbers in the register on 6th December 1992, from 16952 to 16958, are written in Marathi and in serial order. All particulars for that day appear to have been written. It is only the entry at Sr. No. 16959 which has been interpolated in some space that was available at the bottom of the page and the serial numbers of all the other entries have been subsequently over-written by increasing the number by one. Senior Police Inspector Gcharge was unable to produce either the original application made by Shiv Sena for taking out the procession, or the office copy of the letter refusing permission. The only evidence offered by him to substantiate his testimony was the outward register which obviously has been fabricated. Gcharge produced a letter dated 28th November 1992 from Mumbai VHP, (Exh. 2219-P), asking for holding a cycle rally on 28th November 1992 at about 1800 hours which was specifically rejected by a letter issued by the Senior Police Inspector on the same day. The inference is two-fold. Either no such application for permission was made by Shiv Sena, or if made, the permission had been granted by the police who are now trying to cover up their lapse.

10.17 The significance of this procession/cycle rally becomes clear when we look at the background against which the rally was taken out and what transpired in the procession and the meeting held at the end of the procession. The entire country was gripped by apprehensions as to what would happen to Babri Masjid at the time of *Kar Seva* on 6th December 1992. On a previous occasion, during *Kar Seva*, despite elaborate *bandobast*, some of the *Kar Sevaks* were seen to have climbed atop the dome of the Babri Masjid and dancing thereupon. Elaborate precautionary measures were put in force by the police in the city of Bombay in view of the explosive potential of the situation. In the teeth of these, granting permission to hold such a cycle rally or procession, which was ostensibly to celebrate the demolition of the Babri Masjid, would be utter irresponsibility on the part of the police. It is to cover up their Himalayan blunder that the police have concocted the story that an application to hold the cycle rally had been made by Shiv Sena and was rejected by the police. If it was rejected, then there is no explanation why such a cycle rally/procession and the meeting were permitted in blatant defiance. This cycle rally was nothing but an attempt by the Shiv Sena to provoke Muslims by rubbing salt in their wounds by open gloating over what was, from the point of view of the Muslims, an unfortunate and tragic event. The consequences of permitting such a procession ought to have been foreseen by any police officer worth his salt. The police are to be squarely blamed for this unpardonable act. What transpired thereafter bears out this conclusion.

10.18 The processionists in the rally/procession shouted slogans like, "*Talwar Nikala Myanse, Mandir Banayenge Shanse*", "*Kasam Ramki Khate Hain, Mandir Vahin Banayenge*", "*Hath Main Lungi Muha Main Pan, Bhago Landya Pakistan*", "*Shiv Sena Zindabad*", "*Jai Bhavani, Jai Shivaji*" and "*Balasaheb Thackeray Zindabad*". When the rally was passing from in front of Anjuman Kadria Masjid, Dhorwada, at about the time when Muslims were offering evening *namaaz* at the said Masjid, someone threw a stone which fell inside the masjid premises. Though the procession was accompanied by several police officers and police constables, no steps were taken to prevent the shouting of provocative slogans or the incident of stone throwing. The procession terminated at Kala

Killa and a meeting was held there under aegis of Shiv Sena. That neither the cycle rally nor the meeting was held on the spur of the moment, is clear from the fact that a big stage had been prepared at Kala Killa where the meeting was to be held. The meeting was addressed by several local leaders of Shiv Sena and, considering the situation which then existed, the speeches were not only likely, but intended to provoke Muslims by heaping insult upon injury.

In fact, it is the assessment of the police themselves that the procession/rally and the meeting held thereafter caused subsequent communal riots which broke out in Dharavi. A special report of the incident was called by the State of Maharashtra. Two such reports were made to the Additional Chief Secretary, Home (Special), by the Deputy Commissioner of Police Zone VIII, one on 24th June 1993 and the other on November 20, 1993. In his report, the Deputy Commissioner of Police says, "when the procession was coming near the Kadria Masjid, some of the people in the procession threw stones at the masjid and gave provocative slogans because of which tension was created between the Hindus and Muslims. The processionists were giving (Sic) "extremely provocative slogans as a result of which communal feelings were hurt and a situation was created with a possibility of breaking out of communal riots". By his second letter dated 20th November 1993, the Deputy Commissioner of Police reiterated what was stated in his previous letter. By a letter dated 1st April 1993, Exh. 2090-C, addressed to the Public Prosecutor, in connection with instructions for opposing the anticipatory bail application of the accused, the investigating officer, Assistant Police Inspector Khan, stated that investigations of this case brought to light that after the cycle rally the accused had held a "public meeting *with the permission of the authority*" in which they gave inflammatory speeches against the Muslim community with the result that on 7th December 1992 the communal riots broke out. This letter also suggests that the very persons who were accused in the offence registered in connection with incident (C.R.No.718 of 1992) were also the members of the Peace Committee meeting.

10.19 The next communal incident was the one in which One Mohd. Moosa Abdul Shaikh was found killed with stab wounds near Mahim Level Crossing (C.R.No.719 of 1992).

10.20 What happened on 7th December 1992 is equally distressing. At about 0907 hours a procession was taken out by Muslims from Shahu Nagar which wended its way through different areas, passed through Matunga Labour Camp and gathered near Bismillah Hotel Junction. The purpose for which this procession was taken out appears to have been peaceful to start with. Even the police records of the concerned case (C.R.No.720 of 1992) show that the initial intention of the Muslim processionists, was to protest against the demolition of the Babri Masjid and to carry out *Rasta Roko*. What transpired there, which converted the peaceful procession of the angry Muslims into a rampaging mob is another story. A reading of the FIR and the statements recorded in C.R.No.720 of 1992 suggests that the crowd gathered at Bismillah junction suddenly went out of control of its leaders and indulged in violent activities. There appears to be more than what meets the eye. According to the statements of the police constables recorded in the case, a crowd of Muslims led by Hayatbhai, Shakurbhai and Sayyedbhai comprising 150-200 persons came to Koliwada junction, opposite Bismillah Hotel and was doing *Rasta Roko*. Assistant Commissioner of Police Sukhtankar and Senior Police Inspector Gharge were persuading Hayatbhai, leader of Tanzeem-Alla-ho-Akbar, to disperse the *morcha*. The people in the *morcha* were shouting slogans, "*Masjid Vahin Banayenge*".

In the meanwhile, Sukhtankar got a wireless message that he was needed near Murugam Mandir where there was a serious trouble. When he attempted to leave the place, his car was stopped by the processionists. Suddenly, people in the crowd started throwing stones, brickbats, soda-water bottles and fire balls at the police. Thereafter, the crowd moved about smashing the vehicles parked on the road and attacked the police with soda-water bottles and stones and the police had to fire to disperse the mob. It is also claimed by the police that during the melee one of the processionists attacked Police Inspector Kadam with a sword. Statements of the police uniformly suggest that the crowd, which was initially peaceful, suddenly turned violent and started attacking all those in the vicinity around and the houses along the 60 feet road. The reason why the crowd which was initially peaceful turned violent can be discerned from some of the statements of some of the witnesses recorded in this case. Abdul Majid Abdul Haleem states that the local Muslim leaders had organized a procession near Bismillah junction on 60 feet road and he was a part of that. At about 0900 hours some people from Koliwada started throwing stones at the processionists.

This angered the processionists who retaliated, despite attempts on the part of the police to control them. Then came a *lathi* charge by police, which in turn caused the processionists to attack the police. It is obvious that once the processionists were provoked by stone throwing from Koliwada, the people in the procession went berserk and started throwing stones indiscriminately at the people (Hindus) in Koliwada. The police then provoked the Hindu residents to stone throwing. This is vindicated by the statements of Albert Gomes and Sayed Jamal. Thereafter the situation went beyond control and mobs of both the communities started attacking each other and the police. The interrogatory statement (Exh. 2108-C) of Mohammed Hayat Saleh Mohammed also suggests that the procession which was brought by him and other Muslim leaders for demonstration and *Rasta Roko* became violent somewhere along the line as the leaders could not control it. That the procession was intended to be peaceful is also seen from the fact that about 15/20 women from the Muslim Nagar *zopadpattis* joined the procession and were protesting against the demolition of the Babri Masjid. They were abusing police officers for having failed to protect the Babri Masjid. So is the statement of Madhav Nathu Ahire (Exh.2109-C) who is a Police Constable. In fact, Ahire states that when he asked the processionists as to why they had congregated, he was informed that the *morcha* had been taken out to protest against the demolition of Babri Masjid. Once the trouble started, it overtook every one and then it became a clash between the Hindus and Muslims residents of Dharavi. The Muslims rushed into Kumbharwada and smashed up the earthen pots. The residents of Kumbharwada rushed out and attempted to damage the masjid behind the Dharavi Police Station. The police instead of controlling the riots were caught between the two violent mobs and appeared to have panicked, opened fire, not for controlling the mobs, but more as an instinctive reaction. The witnesses whose statements have been recorded by the police have repeatedly stated that the police were chasing the crowds when suddenly they started firing. The police lost the initiative and riots broke out all over the jurisdictional area of Dharavi.

10.21 This police station has registered in all 59 cases in respect of the incidents which took place in December 1992. Out of these 59 cases, though the demonstration on 7th December 1992 appears to have been organized by Muslim organisation viz. Tanzeem-Allah-o-Akbar, there is nothing to indicate that it was intended to be a violent demonstration or that there was any design to indulge in violent activities. In fact, Senior Police Inspector Gharge in his evidence has stated that he was not even aware of the existence of the organisation called Tanzeem-Allah-o-Akbar prior to 7th December 1992. It is also admitted by Gharge that, in the cases which had occurred in Kumbharwada, the miscreants were incited by their leaders. Four temples were demolished and two temples were slightly damaged while one *madrassa* was set on fire and four masjids were attacked and some shops adjacent to the masjids were damaged.

10.22 Senior Police Inspector Gharge says that, because nobody from the Muslim community had complained against the slogans shouted by Hindus, he did not consider the slogans to be provocative. Gharge admitted that ban order under Section 37 of the Bombay Police Act was promulgated and had become effective from 2200 hours and that his Assistant Commissioner of Police, Sukhtankar, had instructed him to refuse permission to the cycle rally as there was possibility of break down of law-and-order. That the police did not expect any reaction from the Hindus in the area to the demolition of the Babri Masjid or to the protest to the demolition of the Babri Masjid, is falsified by Senior Police Inspector Gharge when he candidly admitted that the cycle rally and meeting organized by Shiv Sena on 6th December 1992 had the potentiality to add to the communal tension. It was clear that a stone had been thrown at the masjid with the intention of hurting the religious sentiments of Muslims. Sections 153A and 153B were invoked and the Government was moved for sanctioning prosecution under these sections. The Government does not appear to have granted the sanctions at all, for reasons which are difficult to fathom. The accused in C.R. No.718 of 1992 were all local Shiv Sena leaders, but they were not arrested as the police were of the view that their arrests might give rise to more trouble.

10.23 It will appear that the police were more afraid of the consequences ensuing from the arrests of local Shiv Sena leaders than the consequences of letting them loose in the area. For example, in C.R.No.752 of 1992, the offence was registered on 10th December 1992, the date on which the offence was committed. Though the informant had clearly identified the accused, including Suryakant Pawar, as his assailants, Pawar was not arrested. The explanation for not immediately arresting him was that the accused was 'not available' till 26th December 1992. On the candid admission of Gharge, the entire area of Dharavi was

under curfew when large number of incidents of looting and ransacking were going on. Considering the number of incidents which took place, and the duration for which they took place, even when the curfew order was effective, the situation had completely gone out of the hands of the police. Yet, the army column was called only to do flag marching from 11th December 1992. In fact, Gharge summed up by saying that with the manpower and the machinery available with him, there was no better way in which he could have enforced the curfew or prevented the numerous incidents which took place during the period.

Surprisingly, when the Commissioner of Police sought information from the Assistant Commissioner of Police whether the curfew was being imposed effectively, the answer given was, "curfew is being implemented effectively. We have absolutely men-free roads except in some lanes", with the Commissioner of Police reiterating "even in small lanes ensure that there is no collection of people; otherwise there will be some false..." (See Transcript of Control Room Cassette No.25/A dated 9th January 1993, page 16). Apparently, the Commissioner of Police was lulled into false security because of such false assurances from the local police officers, though deep down they knew that they were unable to implement the curfew order effectively.

10.24 During January 1993 the situation was somewhat different. In fact, Senior Police Inspector Gharge admitted that the facts of C.R.No.28 of 1993 showed that the police appeared to be chasing the miscreants from one scene to another and there was no instance of the police intercepting the miscreants and preventing occurrence of offence. He also stated that, considering the circumstances which prevailed during the material time, it was virtually impossible to anticipate and prevent occurrences of offence in the jurisdictional area. The main reasons given were : (1) inadequate man-power and (2) insufficient means of communication. According to Gharge, though the police could see the miscreants congregating and indulging in some kind of offence at a distance, the police had only two options, either to fire at them from long distance, which would prove useless and counter-productive, or to run after the miscreants, inevitably being unable to apprehend them.

10.25 Another peculiar feature of the cases registered in January 1993 was that most of the cases were classified as "A" summary despite the fact that the accused were correctly described, identified and even when their addresses were given. The standard answer given by Gharge was that the accused were 'not traceable'. At no point of time was any situation handed over to the army column for controlling. In fact, the army column No.3 had been stationed in the Drive-in-theatre which is very close-by to the Dharavi jurisdictional area so that it could be requisitioned at short notice. Explanation given by Gharge is that if the situation had been handed over to the army they would have resorted to indiscriminate firing! When the police did take effective action in Dharavi area during January 1993, the Hindus, spearheaded by Shiv Sena, set up a cry that Additional Commissioner of Police, A.A. Khan, was responsible for indiscriminate firing resulting in the killing of only Hindus. A protest *morcha* was taken to the police station with demonstrators shouting, "*Khan ko Hata Do*".

10.26 Senior Police Inspector Gharge admitted that a crowd of about 3500-4000 Hindus had gathered at Saibaba Mandir and that he knew some of them. According to him, the mob gathered was so big that it was not possible to identify the people and during the subsequent investigation the police got information about the people who were at the front of the mob. Gharge claimed without batting an eye lid that he had no knowledge whatsoever of the persons who had organized the *Ghantanaad* programme on 8th January 1993, though he admitted that the same persons who had organized *Ghantanaad* programme were the persons who had spearheaded the protest *morcha*. Krishna Shamrao Patil, a witness, in his statement recorded in C.R.No.41 of 1993 on 31st July 1993 clearly identified Pratap Ramchandra Arekar as the local leader of Bharatiya Janata Party who had organized the *Ghantanaad* programme on behalf of VHP and had incited the Hindus to rioting on 8th January 1993 on the 90-foot road, DOC Chawl, and that he was the same person who was giving anti Muslim slogans and had participated in the *morcha*. This Patil is a Police Constable attached to Dharavi Police Station.

Another witness, Nardabegam Sharafatali Shaikh, identified Govardhan Keshav Chavan as an activist of Bharatiya Janata Party who was inciting the people to riot on 8th January 1993. Abdul Gani Yusuf Khan also identified one *videowala* as the person who was instigating the mob to break down his house on 8th January 1993. But, according to

Gharge, there is no *videowala* by name 'Kona' but there was a *videowala* by name 'Hona'. However, he was not brought in for identification and before Gharge could bring the said person for questioning and having him identified by Abdul Gani, Abdul Gani had gone to his native place and died there. Atikur Rehman Mirza Bashir Ahmed Saifi, in his statement dated 19th January 1993 described the attack on his house stating that the mob was carrying deadly missiles and weapons, that Raju Kunchikurve, Arekar and Ganesh Marwadi were instigating the mob to indulge in rioting and that they were the same persons who had attacked and ransacked his house. Again, the bland answer was that these accused named by the witness could not be arrested as they were absconding.

10.27 The explanation that the protesters on 8th January 1993 were demonstrating against the incident of Radhabai Chawl, Jogeshwari incident also appears to be unbelievable, as while giving the details of the discussions with Gharge and the Assistant Commissioner of Police had with the demonstrator, there was no mention made of Radhabai Chawl incident at all. The only explanation being, "he forgot to do so."

10.28 The lack of communication of vital facts to the police officers is brought out in Gharge's admission that he learnt about the demolition of the Babri Masjid only at about 1900/1915 hours when the Shiv Sena held a meeting at Kala Killa. The Dharavi Police Station officers appeared to be woefully ignorant of Muslim organisations in their area. In fact, it is surprising that Senior Police Inspector Gharge came to know about the activities of Tanzeem-Allah-O-Akbar only on 6th December 1992 when he spoke to one of its activists, Hayatbhai, near Bismillah junction. Either the intelligence machinery operated ineffectively, or the relevant signals were suppressed. One reason given for ignorance in this behalf is that there was no person on the staff of Dharavi Police Station who could read and write Urdu—a convenient but lame excuse. Though the Senior Police Inspector Gharge was quick to admit the suggestions of Shiv Sena that all the incidents which are the subject matter of C.R.Nos.720, 721, 725, 728, 729, 730, 732, 834, 739, 746 and 767 of 1992, were started by Muslims, he later on changed his stand and maintained that it was not possible to say that in all the cases Muslims were the aggressors or that the Muslim mobs came on the road only to defend themselves. He said, "in some cases Hindus were also the aggressors."

10.29 It appears to the Commission that not only were the police unable to prevent the situation from deteriorating into a full-scale violence riot, but post-facto investigations of the offences registered were also very unsatisfactory and perfunctory. Though under the Code of Criminal Procedure the police have no power to stop investigations into an offence by classifying it in "A" summary, the police seem to have done it liberally, even when witness after witness kept naming the accused and virtually giving addresses of the accused, perhaps with a view to avoid serious investigations. The Commission has, however, noticed that when it came to classification of cases in "A" summary the police here were even-handed. Cases where the Muslims were accused or Hindus were accused were given the same "A" summary treatment.

10.30 Vithal Pawar, *Shakha Pramukh* of Shiv Sena *Shakha* No.87 had addressed a letter dated 31st December 1992 to the Senior Police Inspector naming Fajju, Parvesh, Salim, Akram, Hanif, Mustaq and Nisam as the Muslim *goondas* who had ransacked and looted his house on 7th December 1992. Surprisingly, that letter was not found in the case papers of the concerned case (C.R.No.723 of 1992), nor is there any reference to it in the crime reports written by the investigating officer. The Senior Police Inspector Gharge said that the said letter had not been brought to his notice by anybody and that he was seeing the letter for the first time while giving evidence—a very sad state of affairs. The result, the case was classified as "A" summary.

10.31 Another controversy raised is about the failure of the police to carry out combing operations. Some of the accused in C.R.No.40 of 1993 were arrested and provisions of TADA Act were applied as the accused were found involved in the activity of making crude bombs. A case under the Arms Act was also registered vide LAC No.882 of 1993. The explanation given for not carrying out combing operations immediately on arrest of the accused is that it was not possible to carry out the combing operations since the riots had broken out, and, after the riots were over, carrying out of such operations was fruitless. If at all any arms and ammunition were recovered, the recovery appears to be fortuitous.

10.32 Gharge agreed with the suggestion of the Shiv Sena that in 1992 the trouble started because of the Muslims but he said that it was not possible for him to say so with regard to

the January 1993 phase of the riots, as stone throwing instances first started in Muslim Nagar and Indira Nagar and there was no way of finding out who started the stone throwing first. Gharge was made to admit that, between 1st January to 4th January 1993, in all 14 communal incidents took place and all of them had taken place prior to the murder of Mathadi workers at Dongri and Radhabai Chawl incident. To a query from the Commission, Gharge admitted that against the back-drop of the demolition of the Babri Masjid it was possible that the provocative slogans given by the cycle rally processionists might have angered the Muslims and provoked them as the Muslims were residing along the road taken by the cycle rally. Though Gharge denied the suggestion that the Muslims were demonstrating peacefully at Kumbharwada junction till they were provoked by the stone throwing by Hindus, the circumstantial evidence appears to be otherwise.

10.33 Though the version of the incident in C.R.No.720 of 1992 given by Gharge suggested that the trouble was all started by the Muslims, he admitted under cross-examination that there was stone throwing from the building occupied predominantly by Hindus and that incident took place only after the Hindu mob had come on the scene. He also had to admit that in the affidavit of Bane, PC-19119, the version given was that there was a Hindu mob and that both the mobs were pelting stones at each other. Gharge back-tracked and said that, once the rioting erupted, it was impossible to make out who the miscreants were.

10.34 On 7th December 1992 one Mahrut Ali Siddiqui of *Madrassa* Talim-ul-Quran Sunni Jamaat-ul-Muslimeen, addressed a letter to the Dharavi Police giving information that some mischievous elements had caused damage to the masjid and that adequate security arrangements be made. Prophetically, on 8th December 1992 there was an attempted arson of the masjid and shops adjacent to the masjid were set on fire; the fire caused some damage to the masjid also (C.R.No.742 of 1992).

10.35 On 10th December 1992 at about 0730 hours an attack was made on Madina Masjid by throwing stones, brickbats and fire-balls (C.R.No.748 of 1992).

10.36 Out of the total number of 54 incidents of assaults on individuals, during the December 1992 and January 1993 phases of riots, in 42 cases (24 in December 1992 and 18 in January 1993) the victims were Muslims.

10.37 The evidence of Yeshwant Dada Hire (Witness No.337) indicates that the assault on the police in Naiknagar by the Muslim mob was because the police picket consisting of two traffic constables was attempting to prevent a mob of about 3,000 riotous Muslims from demolishing the Shiv Mandir. In fact, according to Hire, he and others diplomatically saved the constables from serious consequences by taking them aside. Hire has named eleven of the miscreants as Hanubhai, Ikrarbhai, Nizambhai, Babarbhai, Sattarbhai son of Bhanu, Yakub, Munna, Matabhai, Ansar Driver and Momahadbhai, all residents of Naiknagar and its vicinity. He has also identified one Kasam another resident of Naiknagar. His statement was recorded by the police in C.R. No.729 of 1992 [Exh.2231(P)]. According to Hire, during the course of his statement to the police, he had given the names of the 11 miscreants to the police. Surprisingly, this statement of the witness recorded by the police in the case (C.R. No.729 of 1992) does not give the names of any of the miscreants and the case has been closed by classifying it in "A" summary.

10.38 Safiq-ul-Hasan alias Safiq Khan was carrying on business of ready made garments on the premises opposite Madina Masjid, near Tata Power House. On 8th December 1992 his house and business premises, which were in the same building, were attacked by a Hindu mob consisting of youngsters in the age range of 18 to 20 years. He identified Ashok Daruwala, Ganesh, Vijay, Balu, Atul, Suresh, Mahendra, Anand, Sunil, Sanjay and Tankya from amongst the miscreants and asserts that they were all Shiv Sainiks from the local Shiv Sena *shakha*. According to him, the mob of Shiv Sainiks forced him to shout "*Jai Shri Ram*" or else go to "*Pakistan or Kabrastan*". They also shouted that his property would be converted into Shiv Sena office. Shafiq Khan ran away from there to save his life and subsequently found that his premises was converted into a Shiv Sena office with the Shiv Sena flag flying atop and Ashok Daruwala being in charge. He made written complaints to the Deputy Commissioner of Police, Rakesh Maria and to the Commissioner of Police. Both the complaints are acknowledged by the respective offices. He also received a reply from Dharavi Police station dated 12th March 1993 asking him to visit the police station and meet Police Sub-Inspector Vasant Sonawane between 0830 to 1200 hours or between 1700 to 2100 hours on any working day in connection with the complaint made against Ashok Daruwala and others.

The witness asserts that though he attended the police station on several occasions, nobody took interest in the matter and the local hoodlums continued to occupy his premises till he personally complained to Deputy Commissioner of Police, Pande, sometime in the month of *Ramzan*. Immediately, Deputy Commissioner of Police Pande raided the illegal activity carried out by Ashok Daruwala and got his premises vacated and possession of the premises was handed over to Shafiq Khan. Apart from suggesting that the story of the witness meeting Deputy Commissioner of Police Pande did not have any supporting documentary evidence, nothing else appears in the cross-examination. It is obvious to the Commission that the police at the lower lever were under the strong influence of Shiv Sena hoodlums and there was at least one straight forward officer who promptly responded to the complaint and took quick and decisive action.

10.39 Gandhi Ganapati Pillai, an active worker of Communist Party of India (Marxist), told the Commission that he and his party believed in secularism and was opposed to religious fundamentalism preached by Bharatiya Janata Party and Shiv Sena. And, for the said reason, also opposed to Muslim fundamentalists parties. He was a witness to the incident of the cycle rally taken out by the Shiv Sena and the inflammatory slogans "*Hindustan me rahana hoga to Hindu banke rahana hoga*" shouted by the rallyist. He also witnessed the attempts by Muslim boys who forced a bandh of the shops near Dharavi Main Road Masjid, Shafiq Building and Navgiri Apartment at about 0730 hours on 7th December 1992. According to him, two or three utensil shops owned by Hindus in that area did not close down, which resulted in an altercation between the owners and the boys which led to the boys turning violent by throwing the utensils and articles from the shops on to the street and finally the owners relenting and closing down the shops. He also says that at about 0830 hours a mob of Hindu miscreants started looting and burning shops owned by Muslims in the Dharavi Koliwada area. He saw a stove repairing shop, a garment store, a grain store and a leather shop, all owned by Muslims, being looted and burnt down by the Hindu miscreants. He also says that, opposite the main masjid, one jewellery shop, medical stores, milk shop and *pan bidi* shop were also looted and burnt by Muslim miscreants, while a scooter parked outside Irani hotel at Dharavi naka was set on fire. It is his sad experience that when he telephoned to Dharavi police station, no help was forthcoming. There was also an attack by Muslim boys on the CPI(M) party office at Vikewadi. He repeatedly telephoned to the police station and asked for help, but the answer given to him was that there were hardly any people in the police station and hence they could not help.

10.40 Masood Ibrahim Kazi, a registered Government Contractor and a social worker, is a resident of Dharavi. According to him, he was the first Muslim member of Shiv Sena and was at some time *Shakha Pramukh* at Ratnagiri till he moved to Bombay. He knows a number of Shiv Sainiks of the local area. On 7th December 1992 after the tension had spread in the area, his Hindu neighbour, Smt. Budhiman, requested help to fetch back her children who had gone to school in Mahim. Maqsood went to Mahim and brought back the children. While they were walking through Shahunagar at about 1030 hours a mob of 12 persons surrounded him, pulled him aside and started assaulting him with hockey sticks and iron bars till he fell down bleeding profusely. According to Maqsood, most of the persons who participated in the assault were known to him since they were Shiv Sainiks attached to Dharavi *shakha*. He specifically identified Sunil Kore, Baban Narailwala and Pratap Kore by name and said that they were all from Shahunagar area. He says that Pratap Kore had contested the municipal election as a candidate of Shiv Sena and he had helped him by donating money and giving him a motor-car for use and claimed that he was well acquainted with Sunil and his brother Pratap Kore. Surprisingly, there is hardly any challenge to the testimony of this witness.

10.41 Mohamad Hussain Sattar Dayakar and his brothers, Iqbal and Rahim, owned fire-wood godowns in Rajabali Chawl compound on Dharavi Link Road. According to him, his godown used to contain 3 to 3.5 lakhs of fire-wood at any given time. On 7th December 1992 at about 0500 hours, his godown was set on fire by a mob of 20-30 persons, out of whom his servant on the spot could recognize Joseph, Cyril and Rahi as local Kolis. Before the godown could be totally gutted, the fire was brought under control and extinguished. Again, on 8th December 1992 at about 0900 hours his godown was set on fire and a report was received by the witness on telephone. Since the situation all around was dangerous for him, he followed a military truck on his scooter and came near the godown. There he noticed that the godown was on fire and some of the boys were standing around the godown. At that spot he met Inspector of Police Khan of Traffic Branch and requested for help. Inspector Khan told him that he could not leave his station. Repeated telephone calls

to the police station also produced no results as the police told him that they were on bandobust duty and he should telephone the fire control room. Urgent requests to the fire control room produced the reply that their priority was extinguishing fires in residential premises, after which only they could attend the fire to commercial premises. At about 1100 hours a tempo belonging to Dayakar, laden with firewood and being driven by his employee Abdul, on its way to the godown, was waylaid on the highway and Abdul was chased. All three brothers, whose godowns were situated in close proximity, suffered the same fate. The police were most uncooperative and were ever ready to put forward excuses for inaction.

10.42 Once again, on 6th January 1993, while the witness, his three brothers and two/three workers were inside the godown, about 30-35 people attacked the godown. Being wiser by his previous experience, the witness and his men quietly withdrew from the scene and did not turn up at the place for about 10-15 days. After 15 days they visited the spot and found that the godown was burnt, ransacked and looted of whatever useful articles it contained. Inquiries with the police, elicited the reply that the local Koli boys were the miscreants. The witness had a serious grievance against Police Sub-Inspector Sonawane of the police station to whom the complaint was made. He says that despite recording his complaint, the said officer did nothing in the matter till or about 18th April 1993 when C.R. No.741 of 1992 was registered.

10.43 Mohamad Sajid Quereshi was sitting in his brother's house and watching television with his family when they were disturbed by smoke drifting in. When they came out they saw that an adjacent shop, 'Radio and Tape Service', belonging to his Muslim friend, Farid, was about to catch fire from the fire burning in an Ambassador car which was in front of the said shop. Mohamad and his family members started running around to douse the fire. In the meanwhile, police officer Sub-Inspector Kulkarni came there and started firing without any warning. Mohamad started running away due to fright. Senior Police Inspector Gharge and his party which had arrived by a jeep started firing from the opposite direction and, in the bargain, Mohamad was hit in the chest by a bullet. He does not claim that he had been deliberately fired upon, but it appears to the Commission that the firing was somewhat random, being a knee-jerk reaction. Without ascertaining whether Mohamad and his family members were really culprits running away after setting fire to the shop of Farid, or whether they were themselves victims of the incident, the police officers just fired on the people whom they saw running away though they were unarmed.

## 11 Dongri Police Station

11.1 Dongri is a predominantly Muslim area with a history of being communally hypersensitive. It is also the haunt of several illegal activities like drug-peddling. According to Senior Police Inspector Chandrakant Prataprao Bagwe (Witness No.193), the communal peace in this jurisdictional area is so fragile that any incident happening elsewhere, or even a minor incident within the area, results in disruption of communal peace and creates problems of law and order. Bhiwandi riots in 1984 had resulted in 34 incidents of stabbing from 19th May 1984 to 3rd June 1984. This area also saw riots in 1987 on the issue of protest against the book *Satanic Verses* by Salman Rushdie. Even non-communal incidents like missing of Hazratbal in Kashmir, Kuwait war, or minor traffic accidents, have had their repercussions on the law and order situation in this area.

11.2 The man-power available in this police station was less by about 20% to handle even the day-to-day working of the police station. The arms, ammunition and equipment available in the police station was inadequate by at least 50% to handle even normal situations. The largest number of weapons that the police station had were of .410 muskets, which are hopelessly outmoded. The police station had only five .303 rifles, apart from revolvers and a 9 mm. carbine.

11.3 Notorious underworld figures like Dawood Ibrahim, Salim Talwar, Lambu Shakil and Karim Lala carried on their nefarious operations within this jurisdictional area. Previous communal troubles were caused by Raza Academy, Students Islamic movement of India (SIMI) and Jamaat-E-Islam-E-Hind.

11.4 There are a few Hindu pockets within this area like Umarkhadi, Keshavji Naik Marg and Nowrojee Hill Road No.9.

11.5 According to the police, the area has a large number of unemployed, uneducated and



ill-informed youth who provide fertile ground for hostile propaganda.

11.6 The campaign of demolition of illegal and unauthorized structures carried out by the BMC officers angered a number of underworld figures who owned such structures.

11.7 Despite the known communal history of the area, and its hyper-sensitivity, activities in support of the *Kar Seva* and construction of Ram Mandir were freely permitted by the police on the facile excuse that they were religious activities. The period from October to the end of November 1992 saw a well-orchestrated campaign in favour of construction of Ram Mandir and *Kar Seva*, in this area. These activities were carried out by VHP and Bajrang Dal.

11.8 On 30th November 1992, G.R. Khairnar, Deputy Municipal Commissioner, demolished certain unauthorized stalls in this area. There was an allegation that certain Muslim religious objects and a copy of Holy Quran were desecrated during the demolitions. Khairnar, of course, denied the allegation. It is his version that after the stalls were demolished some of the stall holders and interested local political leaders placed a copy of Holy Quran on top of the debris and took photographs and howled protests that there was insult to Islam. The police, of course, have not registered any offence under section 153A. The Additional Municipal Commissioner held an inquiry as a result of which he was satisfied that there was no truth in the allegation of insult to Holy Quran or religious objects of Muslims. The evidence on record also does not satisfy the Commission that the allegation is true. The over-zealous and vigorous demolition campaign carried out by G.R. Khairnar, Deputy Municipal Commissioner, must have angered the stall holders, who saw in it a threat to their livelihood and some interested people raised the bogie of insult to Islam. The fragileness of the peace in this area can be seen from the instantaneous stopping of traffic and stoning by misguided mobs, which resulted in *lathi* charge by police. One police officer, four constables and a person from the mob, were injured. Seven BEST Buses and two vehicles of the BMC were damaged.

11.9 When the trouble started on 6th December 1992, the members of the Peace Committees were not seen anywhere except when they came to the police to secure curfew passes for themselves, their relatives and friends.

11.10 No attention seems to have been paid to the closed-door meeting held by the Bombay Muslim Action committee on 2nd December 1992 at Madanpura. The only information that the police were able to get was that in the meeting it was decided to hoist black flags on Muslims establishments in the Muslim areas. Apparently, the police did not consider it serious. No follow-up action seems to have been taken in this connection.

11.11 Though an order under Section 37 of the Bombay Police Act was in operation, the police did not enforce the order strictly. Even on 5th December 1992, there was a *chowk sabha* held by VHP. In the assessment of the Senior Police Inspector, in the city of Bombay it is difficult to strictly enforce the ban order, though it was possible to stop the *chowk sabha*. Finally, he did not see that the *chowk sabhas* could create any serious law and order situation though the organizers of the *chowk sabhas* moved in taxis in Ganesh Chowk, Advocate Anandrao Surve Marg, Nowroji Hill Road No.7, Dr. Meshri Road and near the Sandhurst Bridge area. These are the very areas which saw serious rioting incidents during December 1992 and January 1993.

11.12 A *Lalkar Ghantanaad Karyakram* on 6th December 1992 organized by the VHP, admittedly to focus attention on *Kar Seva* at Ayodhya on that day, was not dispersed because the Senior Police Inspector thought that it was a religious assembly exempted from the ban order.

11.13 The first communal incident which took place in this area occurred on 6th December 1992 at about 2345 hours, opposite the Murgi Mohalla Masjid on Memonwada Road. Though there is no wireless communication with regard to the incident, the police have registered an offence vide C.R. No.492 of 1992 of Dongri. According to the Senior Police Inspector, the incident was accidentally witnessed by him while proceeding from Bhendi Bazar junction to Char Nal junction. He saw that some stone throwing was going on. Assistant Commissioner of Police Zende also came there and a mild *lathi* charge took place, without resulting in any major injuries.

11.14 During the riot periods there was damage to 231 properties of Muslims, 84 of Hindus, two of Christians and one of a Jew. There were 33 deaths due to stabbing, out of which 23

were of Hindus and 10 were of Muslims. There were 55 cases of injuries due to stabbing, out of which 44 victims were Hindus and 11 were Muslims. There were 41 cases of deaths in police firing incidents, out of which four were of Hindus and 37 were of Muslims. Out of the 52 persons injured in police firing, 10 were Hindus and 42 were Muslims. In addition, according to the police, two Hindus died and one Muslim was injured in private firing. The Shaneshwar temple was attacked and damaged on 7th December 1992.

11.15 During December 1992, most of the Hindu establishments on Zakaria Street, Char Nal road, SVP road and Ibrahim Merchant Road were selectively attacked and looted, presumably, by Muslims.

11.16 One Mathadi worker, Balu Bhau Bhosale, was murdered on 26th December 1992. The investigations did not indicate any motive for killing, at the material time. Later it has been established that the accused, a Muslim, admitted that he was a chronic alcoholic and had committed the murder under the influence of alcohol. Though there was no communal motive for the murder, Hindu organisations and newspapers supporting them, imputed communal motives to this murder and stepped up propaganda along communal lines.

11.17 News about isolated incidents of stabbing on 6th January 1993 resulting in the killing of 12 Hindus and injuries to 20 Hindus, coupled with the news about the Radhabai Chawl incident gave rise to a spate of stabbings in which Muslims were victims. The Hindu victims appeared to have been stabbed with an intention to kill, presumably by professional killers, but the Muslim victims did not bear injuries which would indicate such an intention or attempt.

11.18 According to the Senior Police Inspector, these cases generated a Hindu backlash against the Muslims, in the predominantly Hindu areas. He admitted that each Hindu in the area did not simultaneously decide to take revenge, but 'bad elements' were responsible to give a direction to Hindu backlash. He maintained that those 'bad elements' were independent elements and that there was no connection, direction, nor communication to carry out their nefarious design. Says the Senior Police Inspector, "My feeling is that each of the individuals must have, at about the same time, thought of expressing his anger by stabbing a person of Muslim community". A statement which strains the credulity of the Commission. The Commission has noticed that the police were at pains to impress upon it that the Hindu backlash was so spontaneous that each individual Hindu was simultaneously struck by the thought of revenge!

11.19 Despite maintaining that the thought of taking revenge had occurred to individual Hindus simultaneously, the Senior Police Inspector did concede that there were news reports in *Saamna* and *Navaakal* highlighting the atrocities on Hindus by the Muslims during December 1992 and January 1993. To a pointed question as to whether the investigations by the police indicated that the attacks on Muslims were sporadic individual acts, or were organized attacks, the Senior Police Inspector blandly said that the investigations in that directions were going on and no results had yet been achieved. However, despite the fact that stabbing incidents started soon after the demolition of Babri Masjid, and there was a discernible pattern in communal riots during December 1992 and January 1993, the Senior Police Inspector said that he was equally unable to say whether there were any organized attacks by the Muslims on the Hindus during the said period. The evidence before the Commission indicates that as a result of the breaking out of the news of demolition of Babri Masjid, the incensed Muslims took to the streets and vented their spleen against the police, public property and properties of Hindus, there is no material that these incidents were initiated and/or directed by any individuals or organisations.

11.20 The investigations carried out into the riot-related incidents, both in December 1992 and January 1993, singularly lack direction and the will to isolate and identify the elements responsible for it. Out of the three temples in the area viz. Vithal Mandir, Shaneshwar Mandir, and Laxmi-Narayan Mandir, Vithal Mandir was attacked at 2345 hours on 6th December 1992, Shaneshwar Mandir was attacked at 0215 hours on 7th December 1992, and Laxmi-Narayan Mandir was attacked on the same day between 1130 hours and 1430 hours Senior Police Inspector Bagwe is unable to say that these attacks were pre-planned or spontaneous, he is also unable to say that the attacks came about because of the demolition of the Babri Masjid. Though the attackers had carried articles and implements for facilitating arson, as far as the police are concerned, they are unable to say that it was a pre-planned attack.

11.21 During the period 8th December 1992 to 31st December 1992, 23 cases of communal incidents were registered by the Dongri police station in which Hindus were aggressors in seven cases and Muslims were aggressors in 16 cases. Contrary to the police perception that during the December 1992 phase of the riots, it was only the Muslims who were aggressors, it appears that the Hindus also contributed their share towards riots and communal incidents during this period. Out of the seven cases in which Hindus were aggressors, four were cases in which Muslims were stabbed; in two cases there was looting and one involved looting and arson of a Muslim establishment. During the same period, out of the 16 cases in which Muslims were aggressors, nine were individual stabbing cases, and seven were cases of looting of different Hindu establishments.

11.22 Large scale rioting and looting took place on 6th December 1992 and there were only sporadic incidents of looting and stabbing during the next four days. According to police, only one incident of private firing occurred at Bhendi Bazar junction, when private firing was noticed from the mob gathered there. Though combing operations were carried in December 1992 and January 1993, other than recovery of knives, sickles, choppers, Molotov cocktails and broken tube-lights, the Dongri police did not recover any arm or ammunition nor was any person who had carried out private firing arrested by them.

11.23 The manner in which riot-related offences were investigated by the police attracts comment. There is no interrogation of arrested persons to elicit from them their connections with communal organisations or criminal gangs. Though it is asserted that such interrogations were carried out, there is no trace of such interrogations in the police papers. The facile explanation that the accused had given negative answers and that negative answers are not recorded, is unbelievable because in other jurisdictions and in interrogations carried by the DCB-CID, even negative answers were recorded.

11.24 During the January 1993 phase of rioting, from 1st January 1993 to 5th January 1993, five Hindus were stabbed in different localities at different times, after ascertaining their identity as Hindus. These incidents occurred in predominantly Muslim areas.

11.25 Though information was made available to the Senior Police Inspector by his assistants that on 9th January 1993 that there was a call given on loud-speakers calling upon the Muslims to take to arms and take to streets in some parts of Dongri, no follow-up was made. Examination of Control Room Log Book entries shows such calls having been made.

11.26 There are a large number of firing incidents in which Hindu victims have been killed/injured in the police firing. While the police claimed that the victims were miscreants who were fired upon, the Shiv Sena alleges that these were victims of private firing. As usual, there is no recovery of bullets or ballistic evidence to resolve the conflicting claims. The Shiv Sena suggests that police were interested in suppressing all evidence of criminality of Muslims, presumably under the political pressure, though it is hotly denied by the Senior Police Inspector.

11.27 Shiv Sena is active in the areas of Dr. Meshri Road, Umarkhadi, Keshavji Naik Road and Walpakhadi and has a *shakha* office near the Sandhurst Road Bridge. These areas, coincidentally saw a number of communal incidents during January 1993 phase of rioting. Apart therefrom, even during December 1992 most of the Muslim establishments were selectively attacked and looted.

11.28 The manner of investigations of the riot-related incidents during December 1992 and January 1993 leaves much to be desired. In fact, it gives an impression that the police were in league with the Hindus, particularly those linked to Shiv Sena.

11.29 On 7th December 1992, at about 1330 hours about 100 local youngsters broke open the main gate of M/s.Pahelvi Bakery shouting '*Shiv Sena Zindabad*'. They were armed with *lathis*, iron rods and swords. The bakery was looted and damaged. On 12th December 1992 a written complaint was made by the Partner of M/s.Pahelvi Bakery in which he specifically mentioned that he could recognize and identify Bipin, son of Dudhwala, opposite the bakery, and the son of a liquor don (Daruwala) of the locality. This complaint was treated as FIR and registered under C.R.No.526 of 1992. No investigations have been made as to who the alleged miscreants are and where they reside. Despite the conspicuous slogan '*Shiv Sena Zindabad*' shouted by the miscreants, no investigations pursued to discover this link.

11.30 Fifteen houses of Muslims in Sophia Manzil, 16 houses of Muslims in Takiwala building, 10 houses of Muslims in Darvesh building, eight houses of Muslims in Ayeshabhai building and 57 houses of Muslims in Chhotani Manzil, on Dr. Meshri Road, were looted and set on fire (C.R.Nos.60, 67 and 70 of 1993). Barring Sophia, other buildings are within a distance of about 100 feet from the Dongri Police station, while Sophia Manzil is at about 400-450 feet from the Dongri police station. All the residents of these buildings had moved out to safer places on 8th January 1993 on account of fear. That these houses within such a short distance from the police station could be broken open, looted and subjected to arson, with impunity, indicates utter negligence of the police.

11.31 One Abdul Kadar Malbarwala made a written complaint on 19th January 1993 that 19 women, children and family members inside a locked house were attacked on 8th January 1993 and several houses in his building were broken open and looted (C.R.No.60 of 1993). Despite shouting for help to the police, the police did nothing in the matter and it was only after he contacted the Municipal Mahasangh of which he is a treasurer and Smt. Hamida Mistry, that help was provided to them at 0140 hours on 8th January 1993. When he was shouting for help, Police Inspector Patil asked him not to shout failing which he threatened to shoot him. He also alleges that Patil insulted Smt. Hamida Mistry while she was persuading him to provide help to the besieged families. Despite such serious allegations of atrocious behaviour on behalf of police, no investigation appears to have been done by either the Senior Police Inspector or by any other senior police officer. Malbarwala identified Bedi Cablewala of Tarwadi, Vinod Lakhoom and Naresh More as the miscreants who looted his house on 6th January 1993 and also gave their addresses in his complaints. While Vinod Lakhoom and Naresh More were arrested, Bedi Cablewala was not traced.

11.32 D.N. Shaikh of Chhotani Manzil has made a written complaint alleging that on 8th January 1993 during curfew hours at about 1600 hours a mob attacked their building from the back side with soda-water bottles, stones and brickbats. The attackers then attacked the Dargah building, ransacked and looted the houses of inmates of Dargah building on Mauji Rathod Road. Their appeals to the police produced no result. On 10th January 1993 at about 0330 hours three persons carrying swords had climbed on to the roof on the rear side of the building and despite informing the Police Control Room on telephone, nothing was done. This resulted in the Muslim residents fearing for their lives and moving out their houses. When they came back they found that their residences were completely ransacked and looted. In spite of some of the miscreants having been identified, no action has been taken.

11.33 A written complaint dated 27th January 1993 was made by Ahmed Hussain Aftabkhan and others naming a large number of miscreants who had looted their houses. Barring one Soda, others have not been arrested and the investigating officer's remark in the case diary is that they are not 'available'.

11.34 Abdul Gafoor Sheikh gave a complaint dated 16th February 1993 addressed to the Prime Minister, with copy to the Senior Police Inspector of Dongri Police Station. He had also given a specific list of miscreants to the Joint Commissioner of Police, M.N. Singh. Only Soda was arrested. The crime report of the investigating officer does not indicate as to what was done as far as the other miscreants were concerned and what was the result.

11.35 An anonymous letter was received by the Dongri police giving names of two persons who had received stolen goods. The crime reports of investigating officer does not show any efforts to follow-up the lead.

11.36 H. Karmali and Co. addressed a letter to the Joint Commissioner of Police on which the Joint Commissioner of Police made an endorsement on 19.1.1993 requesting the Additional Commissioner of Police (South Region), to 'look into this letter'. This letter specifically alleges that one Kaliya, doing liquor business, was the main accused in the crime. However, no action appears to have been taken by the police.

11.37 There is a complaint by one Abdul Gafoor Sheikh dated 22nd February 1993 naming specifically nine miscreants. However, no one has been arrested and no follow-up action appears to have been taken by the police.

11.38 On 23rd March 1993 Vinoo Bhupad and Girdhar Butler made a complaint giving specific names of the miscreants, but no inquiry was made nor any action was taken with regard to this complaint.

11.39 A complaint dated 8th December 1992 is made by Mohd. Ismail, owner of Azmi Stores, which was looted (C.R.No.511 of 1992). The complainant specifically alleges that after looting his shop the miscreants poured kerosene and attempted to set it on fire but the people in the building stopped the miscreants from doing so as there were Hindu residents also in that building. No attempt was made by police to find out as who were the Hindus who stopped the miscreants from setting the Azmi Stores on fire, though the Senior Police Inspector admits that had they been identified they could have given valuable information about the miscreants and their descriptions. While recording his statement pursuant to his application dated 8th December 1992, the officer specifically asked Mohd. Ismail whether the complaint bore his signature, but nothing further beyond it with regard to the serious allegations made by him. Without any serious effort to investigate the matter, everybody concerned agreed that the case should be classified in "A" summary case, which was done on 15th December 1992.

11.40 Murgi Mohalla is a Muslim area. There are several shops of Hindu Marwadis here. Interestingly, none of these shops was damaged during December 1992 or January 1993 riots. On Jail Road also there are a number of Marwadi jewellers shops which were also not damaged during the riot periods. Barring the families of the police personnel residing in the Imamwada BIT chawls, there was no other case of a Hindu family being evacuated to safer place.

11.41 In the incident in C.R.No.35 of 1993 there was a clash between a Hindu mob and Muslim mob. Police fired 33 rounds during which one Muslim died and two Muslims were injured. This incident occurred in the Imamwada BIT chawls. Police were able to nab 81 Muslims on the spot, but not a single Hindu was arrested on the spot. Senior Police Inspector frankly admitted that he had no explanation to offer for this strange phenomenon.

11.42 Assistant Commissioner of Police Zende (Witness No.194) admits that it had come to his notice that, in a large number of cases, written complaints had been made naming Shiv Sainiks as miscreants, but because of the "circumstances" in a number of cases proper investigations were not carried out. Though he was on leave from 8th January 1993 to 20th January 1993, he blamed his subordinates for not bringing such specific instances to his notice soon after he rejoined duties. He points out an interesting development, viz., that when the Shiv Sena riots in 1969 took place, the Commissioner of Police had formed a Special Cell for investigating riot-related cases. However, during the December 1992 and January 1993, no such Special Cell was created, though he had suggested to his Deputy Commissioner of Police that one agency should co-ordinate and investigate all riot-related cases. If such a cell had been created there could have been faster and more effective investigation of the riot-related cases. Urdu papers like *Hindustan*, *Urdu Times*, and *Shamnama* and Hindu communally-minded papers like *Saamna*, *Dopahar ka Saamna*, *Navaakal* and *Navshakti* were fanning the communal feelings of Muslims and Hindus respectively.

There is a candid admission by Assistant Commissioner of Police Zende that, because of number of attacks on police and circulation of hand-bills in Muslim areas exhorting Muslims to attack police, police were apprehending attack in secluded places from the Muslims. Because of this factor, to a certain extent, "the senior officers were giving wide latitude to mob action". Zende was categorical that though a number of private firing incidents were alleged, after investigation they were found to be false alarms or mistaken cases. The only material produced by the police with regard to private firing was a dented helmet of a police officer.

11.43 Zende is acute in his perception about the qualitative difference noticed during the December 1992 riots. Despite requests from the police, the mobs refused to disperse, there were defiant confrontations and a number of attacks on the police. There were also cases of private firing, both during December 1992 and January 1993. According to Zende's assessment, about 97 to 98% of the incidents which took place during December 1992 were at the instance of criminals belonging to the Muslim community. Again, with regard to the selective attacks on Hindus from 1st January 1993, Zende says that, according to him, the attackers were criminals. After 8th January 1993 stabbing incidents came down and incidents of looting and arson increased. After the Radhabai Chawl incident, the retaliation on the part of Hindus started occurring in his jurisdiction.

11.44 The assessment of senior officers like Zende about the background of the riots is

important. Because of the continuous propaganda of BJP, VHP and RSS about the building of the Ram Mandir, there was a sense of resentment amongst Muslims. This feeling kept on building up as developments continued to take place at Ayodhya. He says that Muslims had a continuing sense of injustice and the feeling that they were victims of atrocity. They also entertained a feeling of hurt as their place of religious worship had been targeted for demolition. They also entertained a feeling that the government did not do enough to protect their religious interests. *Ram Charan Paduka* processions in September and October 1992 in different localities, added to the existing communal tension and sharpened the feeling of resentment and victimisation entertained by the Muslim community. Newspaper reports about large gathering of *Kar Sevaks* at Ayodhya further enhanced the tension which was already existing in the area. Against the background of the developments of the communal tension, he was of the view that the demolition of the Babri Masjid was the 'direct and immediate cause' for the communal riots on 6th of December 1992 in Bombay.

11.45 Zende says that he had uncorroborated reports about audio and video cassettes being circulated by the Hindus showing previous *Kar Seva*, while the Muslims were distributing similar cassettes to highlight the damage caused to Babri Masjid. He had also heard rumours that the cassettes were being shown to public in different localities clandestinely.

11.46 Zende is clear that, despite its ostensible religious nature, *Ghantanaad* programme had political and communal overtones. Though he felt that they were likely to add to the communal disturbance, he did not feel that would result in communal riots.

11.47 Zende admitted that the different investigating officers, in their anxiety to make the records upto date, might have relied on the story of somebody and many times people might have been wrongly shown to have died in an incident which might not be factually correct. He also admitted that *Mahaartis* were not purely religious phenomenon but had political and communal overtones. However, he added that as *Mahaartis* were held only in Hindu areas, they were not likely to lead to any communal situation and he did not stop them.

11.48 In C.R.No.39 of 1993 there were complaints made by different Muslim individuals. Each one of them alleged that the looting was done by Shiv Sainiks. In the statements recorded by the investigating officers, though there is specific reference to the fact that looting had taken place, surprisingly there is no reference to the specific complaints made that the looting was done by the Shiv Sainiks, nor is there any reference to the inquiries made to ascertain the truth or otherwise of the allegations.

11.49 C.R.No.76 of 1993 is a case of ransacking and looting of a Muslim house. One of the accused, Anand Baraokar, admitted that he was a member of Shiv Sena *shakha* No.5 and accountant of Chinchbunder Sarvajanik Ganesh Utsav Mandal. Another accused Jayawant Tadwalkar stated that he was the secretary of the said Ganesh Utsav Mandal. Looted properties including personal jewellery worth Rs.55,000 were recovered from the accused persons.

11.50 Though it was asserted by the Senior Police Inspector that in several cases Muslims had started the trouble, he back-tracked under the cross-examination and admitted that in several cases there was nothing in the record of the case papers to show that the Muslims had started the trouble initially.

11.51 On 6th January 1993 none of the Hindus had come out on the streets to protest against the murders of the Mathadi workers, though the shops in the Hindu dominated areas were closed because of the bandh called by the Mathadi Kamgar Union.

11.52 There are about 30-40 organisations such as Sarvajanik Ganesh Utsav Mandal, Dahikala Mandals and Navratri Mandals in Dongri area, but the police are unable to say whether any of them were working as fronts for the Shiv Sena.

11.53 The use to which army column was put in this area is less than satisfactory. Rioting incidents continued from 6th to 14th January 1993. Army column was deployed and attached to the police station in the afternoon of 9th January 1993, which continued upto and beyond 14th January 1993. The army column had no role to play except doing flag marches. Senior Police Inspector said that they were given strict instructions that, unless police gave written instructions to take charge of a situation, they should not take any

action. According to him there was no occasion warranting such instructions being given to the army column.

11.54 During January 1993, 323 Muslim establishments, as against 33 Hindu establishments, were looted by the miscreants. Out of the 27 dead in police firing, 24 were Muslims and three were Hindus. Most of the Muslims were killed in the incidents of attacks against police or against Hindus. But Hindus were killed only while looting or setting fire to Muslim establishments. The number of Muslim establishments looted was larger, as most of the Muslims had fled from the area after locking their houses. There was no instance of any Hindu fleeing from the area on account of fear and, consequently, there was no question of opening refugee camps for Hindus. The only exception is the case of police families of police personnel from Imamwada BIT chawls who had to be moved to safety and relocated.

11.55 One Muslim woman Noorjehan (C.R.No.35 of 1993) and one Zarina (C.R.No.36 of 1993) were killed in police firing while they were inside their residences. Two Muslim women protesting against the arrest of their menfolks were injured in the police firing (C.R.No.43 of 1993). Explanation given for these casualties is unacceptable. It is said that possibly the two women were standing behind rioters indulging in stone throwing on the police and the police firing directed against the rioters might have injured them. Hardly believable.

11.56 One Muslim girl aged 11 and one Muslim child aged 2 (C.R.No.54 of 1993) were injured in police firing while they were very much inside their residence. One Muslim girl, Rubina Rubali Sheikh, aged 10 was injured (C.R.No.57 of 1993). The story of the police that she was injured in private firing does not appear probable.

11.57 On 13th January 1993 Retired Major Sayyed Rahimtulla had taken permission from the Deputy Control, Colaba, for distribution of milk and grains in this area. However, on account of the high-handedness of police, permission for such distribution was refused and he was made to go away.

11.58 There are two incidents which need special mention : The incident of attack on the police lines at Imamwada BIT chawls and the firing at Suleman Bakery. In both incidents, the Commission feels that the police acted in a manner not befitting the police force of any civilized, democratic state.

#### SULEMAN BAKERY INCIDENT

11.59 Suleman Bakery, situated on Ibrahim Rahimtula Road, is a small establishment which caters to the citizens of the locality. It is situated immediately adjacent to the Chunabhatti Masjid, on the southern side. Opposite the bakery, across the main road, is situated a Jain Derasad and immediately to the southern side of the Jain Derasad is situated Taj Book Depot Building.

11.60 On 9th January 1993 a police picket consisting of Assistant Sub-Inspector Nagare, H.C. No.7230 and P.C. No.7406 were on *bandobast* on Ibrahim Rahimtula in front of Taj Book Depot Building. Police Inspector Anant Keshav Ingale who was on a supervision round reached this spot at 0930 hours. When he reached this spot, the constables on duty reported to him that there was firing in their direction from the roof top of Suleman Bakery. According to Ingale, when he was watching the situation, one round came to be fired towards them from the roof top of Suleman Bakery, though he could not observe as to who had fired. This was followed by further firing of three or four rounds. Under his orders P.C. No.20689 fired five rounds, P.C. No.23157 fired four rounds and PN 7406 fired two rounds from .410 muskets towards the roof top of Suleman Bakery. Ingale and his party climbed to the terrace of Taj Book Depot building from where they could notice eight-ten persons hiding behind the water tank. Ingale shouted warnings and claims that, because his warnings were not heeded, he fired two rounds from his revolver in their direction. P.C. No.10805 also fired one round from his .303 rifle and the firing from the roof top of the bakery ceased for some time. Ingale alleges that at this time he observed the miscreants on the roof top of Suleman Bakery, that one carried an automatic weapon like sten-gun and two others had revolvers. Ingale then came down and informed the control room and requested for additional help.

11.61 At about 1230 hours Joint Commissioner of Police, R.D.Tyagi, accompanied by the Special Operations Squad (SOS) arrived at the scene. It is alleged that there was firing upon the police even after the SOS came on the spot. The SOS demanded the opening of

the closed door of the bakery, but instead of opening the door the inmates started throwing acid bulbs and soda-water bottles at the police. Tear-gas shells were burst by the police with no effect. The SOS stormed into the bakery by breaking open the entrance door. According to the police, the party which entered the premises was attacked by 1-15 persons armed with choppers, iron bars and knives. They advanced towards the police and because they did not surrender despite of warnings shouted, the police had to open fire and advance inside; about 40-50 persons attempted to obstruct the police party and the SOS went to the roof top of the bakery; about 15-20 persons were hiding in the space between the water tank and the walls of Chunabhathi Masjid; the officers and men of the party called upon them to surrender; the miscreants armed with sten-gun like weapons, fired at the police; when the SOS returned the firing, about eight-ten jumped in the gutter passage between the bakery and masjid and escaped; the persons carrying the firearms jumped down into the masjid and escaped; the SOS overpowered some of the persons on the roof top and took them in custody. In all 78 persons were flushed out from the bakery and taken into custody. This incident resulted in the death of nine persons.

11.62 After carefully examining the evidence on record, the Commission is of the view that the story of the police does not inspire credence. The *panchanama* carried out by the police specifically refers to bullet marks on the bakery building and the two adjacent structures. Obviously, these were the marks made by the firing of the police party. Strangely, no attempt is made to carry out a similar *panchanama* of the Taj Book Depot building and adjacent buildings towards which there was alleged firing from the roof top of the bakery. Significantly, no member of the police party, nor of public, received any injury as a result of the alleged private firing. Although firing upon the police would be considered as a most serious offence, Ingale or the staff on duty at the said spot, made no complaint nor sent any message to the Pydhonie or Dongri police station requesting re-enforcement from 0830 to 1200 hours. Ingale's version about the timings of his presence at the *bandobast* point adjacent to Taj Book Depot Building is contradictory. In one breath he says that between 0930 hours to 1030 hours he was attending an incident near Nawab Masjid (C.R.No.115 of 1993 of Pydhonie), and in the next, he says that between 0930 hours to 1230 hours he was attending to the incident covered by C.R.No.97/93 (Pydhonie). Under cross-examination, Ingale admitted that, "...because of the distance separating us, I would not be able to say for sure, but I felt that I had seen the miscreants wielding one sten-gun and two revolvers". He is also not sure whether the nine deaths, which occurred in this incident, resulted because of the firing by SOS or by his picket.

11.63 Reference to the Control Room Log Book entry of 9th January 1993, further obfuscates the picture. At 1231 hours Pydhonie Mobile-I gave a message to Control Room : "Public is firing on the police from Suleman Bakery, Minara Masjid". At 1252 hours again there is a message from Pydhonie Mobile-I to Control Room : "there is firing (public) from Suleman Bakery". At 1303 hours Joint Commissioner of Police (Crime), R.D.Tyagi, gave a message to the Control Room : "We are trying to apprehend one person near Suleman Bakery". At 1310 hours Joint Commissioner of Police, (Crime), R.D.Tyagi, gave a message to Control Room : "I have taken into custody 4/5 persons at Suleman Bakery". At 1333 hours Joint Commissioner of Police, Tyagi, gave message to Control Room : "At Mohd. Ali Road, Hussain Bakery, they were firing with one sten and one rifle and they injured four persons. Two persons have been sent to J.J. ...Two persons...". At 1340 hours Senior Police Inspector Dongri gave a message to Control Room : "We are coming to Suleman Bakery". At 1345 hours Deputy Commissioner of Police Zone-II gave a message to Control Room : "Instruct Senior Police Inspector to bring empty vehicle to Suleman Bakery". At 1349 hours Senior Police Inspector Dongri gave a message to Control Room : "We have arrived at Suleman Bakery".

11.64 This exchange of conversation between Joint Commissioner of Police, (Crime), R.D.Tyagi, and the Control Room does not indicate a sense of urgency. That there was an attack on the police and they retaliated, resulting in nine deaths of miscreants and arrested 78 is evident. Reading the message given by Tyagi at 1333 hours gives the impression that four persons had been injured by the firing from Suleman Bakery using rifle and sten-gun. Surprisingly, their names are not indicated in C.R.No.46 of 1993, nor are their statements recorded. They would have been the best persons who could have thrown light on this gruesome incident.

11.65 The SOS personnel were armed to the teeth. According to Police Inspector Ingale they were carrying self-loading rifles, 9 mm. pistols, Carbines and one of them was even carrying an AK-47 rifle. Police Inspector Ingale admitted that the police party was beyond



the firing range of revolvers. The manner in which SOS effected its entry, according to the police, is also not beyond doubt. Suleman Bakery has a window on the first floor which overlooks Ibrahim Rahimtulla Road. If at all some miscreants carrying sten-gun and other firearms were holed in the bakery, it would have been very easy for them to fire upon the police party attempting to enter the bakery from the first floor window. No such thing appears to have been done. Normally, if armed miscreants are holed up in any place, the police party approaching the said place would do so with utmost caution and circumspection. The manner in which SOS banged upon the door and stormed into the bakery by breaking open the door indicates that they were not expecting any firing at them from the inmates of the bakery. The most significant fact is that not even a single policeman from the *bandobast* picket at Taj Book Depot Building corner, nor from the SOS, received any injury from firearms or even from soda-water bottles, stones and acid bulbs alleged to have been thrown at them.

Joint Commissioner of Police Tyagi's reaction to absence of police casualties was one of surprise because he expected that the number of casualties should have been less. Apparently, Tyagi was not expecting the people inside the bakery to offer armed resistance. Significantly, neither Tyagi nor Ingale, entered the bakery premises and both claim that they were standing outside the main entrance of the bakery.

11.66 The entrance to the bakery is very narrow and, as soon as one steps over the threshold, one has to climb a very narrow and steep stair case which is not even wide enough to permit two averagely built persons to climb it shoulder to shoulder. After reaching the top of the flight of the stairs, one has to gain access to the landing at the top of the staircase by pulling on a hanging rope. Evidence on record suggests that when the SOS came to the landing at the top of the staircase, the only obstruction came from unarmed persons who were pushed aside to gain access to the room on the first floor. The story put forward by the police that they met with armed resistance from the persons on the roof hiding behind the water tank is unbelievable.

11.67 The post mortem reports of the nine dead bodies do not indicate that the persons were hit by bullets while facing and confronting the police. On the contrary, they are suggestive of the victims being shot down in the back while trying to flee. This is the opinion of the Forensic Expert, Dr. Pritam Phatnani, appointed as Expert Assessor by the Commission. That the persons were covering behind the water tanks, was an understandable normal reaction of any person faced with a storming contingent of armed police.

11.68 The public witnesses examined, have given graphic accounts as to how the inmates, who were unarmed, were shot down in virtually cold-blood. That some of them jumped over the Chunabhatti Masjid premises and made their escape does not support the theory that they were terrorists or that they were carrying 'deadly firearms'. The police recovered no firearms whatsoever. All that they claim to have recovered was one spent shell of AK-47 rifle. This perhaps came from the AK-47 rifle carried by one of the SOS personnel. In fact, the utter disappointment of Tyagi is seen when he admits that, to the extent the operation failed to apprehend the miscreants firing at the police, he was not satisfied with the implementation of his instructions. Tyagi was also surprised as to how 78 persons could have been flushed out and arrested from the bakery which was so narrow and congested. Though there is a statement that one P.C. 23157 Chander Tukaram Sanmukh has recovered 8 swords from under the water tank on the roof, this recovery is also doubtful as no *panchanama* has been made at all about this recovery.

11.69 The evidence of the students and teachers of the Madrassa-E-Darul-Ulum-Imdadiya appears consistent and leads the Commission to the conclusion that the policemen who barged in the Suleman Bakery and thereafter stormed in the Chunabhatti Masjid and *madrassa*, went on a rampage assaulting the inmates there. It also appears that there was indiscriminate and callous police firing resulting in nine casualties.

11.70 The Commission is not at all satisfied with the version of the police. Even assuming some element of truth in the version of the police that there was private firing the incident, it was not as serious as is sought to be made out. The Commission feels that the police were very much influenced by the floating exaggerated rumours of attacks from sophisticated firearms, and the consequent fear psychosis, which caused them to shoot to kill. The result — deaths of nine innocent persons in the Suleman Bakery and the adjoining premises. The evidence on record in no way bears out the police story that there

were terrorists, much less with deadly arms; nor does the evidence suggest that it was necessary for the police to carry out such extensive firing as they did. This is one incident where the police appeared to be utterly trigger-happy and used force utterly disproportionate to meet the apprehensions of private firing, assuming there was one. The responsibility for this incident must squarely fall on Joint Commissioner of Police, R.D.Tyagi, who was overall in-charge of the operations at the Suleman Bakery, and Assistant Police Inspector Deshmukh and Police Inspector Lahane, who were leading the SOS men.

#### MEMONWADA, BIT CHAWL

#### INCIDENT

11.71 The other incident in which the police did not cover themselves with glory, occurred at the BIT Chawls, Imamwada.

11.72 In the morning of 7th December 1992 the Muslims of Dongri, who were incensed by the demolition of Babri Masjid, went on a rampage. Violent attacks by Muslim mobs at several places became the pattern on the day. J.J. Hospital junction and Bhendi Bazar junctions saw huge mobs causing obstruction to the traffic by placing hurdles on the road. Similar activities were going along Sir J.J. Road and Maulana Shaukat Ali Road. When the police tried to disperse the mob, they were attacked with stones, soda-water bottles and acid bulbs. The mob also set fire to the wooden articles on the street. *Lathi* charge produced little effect and the police fired at the violent mobs resulting in deaths of miscreants. There were also incidents of arson and looting of shops belonging to Hindus in Muslim predominant areas. A .410 musket of Pydhonie constable was snatched away by the mob which assaulted him. The police picket on duty near the Imamwada BIT Chawl was subjected to an attack by soda-water bottles, brick bats and stones. Some of the miscreants set fire to the Laxmi-Narayan Mandir, a tarpaulin workshop and some premises in the BIT chawl. The police resorted to firing, resulting in two deaths.

11.73 Imamwada BIT Chawls mostly houses Muslim families, though some of the Hindu policemen occupy one of the chawls. Their houses were broken and ransacked and an atmosphere of terror was created, causing the Hindu residents to seek shelter elsewhere. Though the violent activities of the Muslims on that day were condemnable, what the police did was equally condemnable. In order to flush out the miscreants, the police started searches, quite justifiably. But the behaviour of police, and especially SRP jawans, during the searches, was blameworthy. Witness after witness from the Memonwada BIT chawls describes the high-handed and brutal behaviour of the police and SRP jawans.

11.74 Zulekha Hassan Sheikh (Witness No.195), an old lady of 65 years, is a resident of Room No.32 of chawl No.6. On 8th December 1992 she was standing near the staircase when the curfew was relaxed from 1200 hours to 1500 hours. She had sent her grandson to bring bread and milk and was standing near the staircase waiting for her grandson to bring the milk and bread. At that time 12/13 SRP men asked her as to why was she standing there and then beat her up on her back, hips and hit her with *lathis* on her hands. They behaved in an obscene manner and, while beating her on the knees, they taunted her that she looks good dancing even at this age. The sense of utter humiliation felt by the witness comes through her evidence and the Commission sees no reason for not accepting her evidence. Suggestion of the police that, because her grandson was an accused in C.R.No.35 of 1993 (Dongri), she was giving false deposition to cover up her grandson, does not jell. The guilt or otherwise of the grandson is to be decided by the Criminal Court, which, in any case, would be uninfluenced by the evidence given by this lady before the Commission.

11.75 Nazneen Abdul Malik Zhakowala (Witness No.198) is a resident of Room No.19, 2nd floor, Ellam Mansion, Dongri. On 9th January 1993 her husband Abdul Malik Abdul Latif returned from Pune and was in bed as he had kidney pain. At about 1920 hours on 10th January 1993 policemen entered the building and started searching the building. They barged into her room and smashed up the household articles with rifle butts under the guise of searching for weapons. When Nazneen protested, saying that her husband was sick and her father was suffering from cancer, and requested the police not to bother them, one of the policemen said to another, "*Hila ghya, Kami yeyeel* (Take her; she would be useful)". Her husband, who protested, was later on shown as accused in TADA Special Case No.32 of 1993.

11.76 Similar is the tale of woe of Salma Aziz Merchant (Witness No.200) who resides in Room No.2, Ground floor, Karim Mistry Building, Tantanpura Street. Her husband was sick because of chronic ulcer, heart ailment and was under continuous treatment from Dr. Moledina. On 10th January 1993, at about 1200 hours, 20–25 policemen entered the house and ransacked the household articles under the excuse of searching for weapons. They took away Salma's 16-year-old boy and sick husband. When she tried to protest, the policemen brandished rifles and threatened to shoot her and her 16-year-old son. Subsequently, Salma learnt that her husband, Aziz Merchant, had died in a police encounter on 11th January 1993. According to Salma, when she went to identify the body at the J.J. morgue, the bullet-ridden body was virtually beyond recognition. Salma was emphatic that her husband was incapable of joining the riot in the state of his health and the police have murdered him. Her evidence is corroborated by Dr. M.J.M. Moledina (Witness No.201), who states in categorical terms that the physical condition in which he had found Aziz, when last examined, was such that he would not be in a position to move about, though Aziz has been accused that he was part of a riotous mob and died in police firing.

11.77 Though a number of Hindus have filed affidavits from this area in order to throw the blame for the riots on Muslims, it appears that their evidence was prompted by activists of Shiv Sena from the local *shakhas* like Ankolekar and Sagwekar, and does not inspire confidence.

## 12. Gamdevi Police Station

12.1 This area consists predominantly of Hindus, though there are some pockets in which Muslims reside and carry on commercial activities.

12.2 There were no incidents worth serious notice during December 1992. Only one incident took place on 16th December 1992 in which some unknown miscreant threw a stone on the glass door of the Ambamata Temple, Chandramohan building, Pandita Ramabai Marg, resulting in the glass being broken (CR No.1143/92). The case registered in this connection has been classified in "A" summary as the police were unable to get any clues.

12.3 The January 1993 phase of the communal riots gave rise to 18 cases of attacks on establishments accompanied by ransacking, looting and arson. Out of these 18 establishments, most belong to Muslims and only one house and one tailoring shop which were burnt down belonged to Hindus, though it appears that the fires which was started in the adjacent Muslim shops spread to these establishments.

12.4 Nine *Mahaartis* were held in this area which were organised by Shiv Sena and Bharatiya Janata Party. The Commission noticed utmost reluctance on the part of Senior Police Inspector Madhukar Ramchandra Ghorpade, to even admit that these *Mahaartis* were organised by Shiv Sena and/or Bharatiya Janata Party. His pretence, that he did not know who the organisers were, indicates either extreme naivete or partisanship. It is only under continued stress of cross-examination, when confronted with the contents of the Mill Diaries, that the officer was prepared to even admit that these *Mahaartis* were organised by the Shiv Sena. Another noteworthy feature is that, according to this officer, all the *Mahaartis* were held during operation of an order Section 144 of Criminal Procedure Code and no action was taken against any of the organisers of the *Mahaartis*. The *Mahaartis* were organised by Ashok Hadkar, *Shakha Pramukh* of Shiv Sena *Shakha* No.23, Amol Musalkar, Chandrakant Padwal, Corporator Arvind Nerkar, Madhukar Dhonde of *Shakha* No.24 and Ashok Sawant and Harishchandra Pote. The excuse for not taking action for committing the offence of breach of an order under Section 144 of Criminal Procedure Code, is that the police was afraid that any action initiated against these persons was likely to cause deterioration in the normalcy of the situation. Hence Deputy Commissioner of Police of Zone II, B.N. Raut, had instructed Senior Police Inspector Ghorpade not to take action. Though the Senior Police Inspector denied that incidents of looting, arson and violence had taken place within close vicinity of the spots where the *Mahaartis* were held, when details of each *Mahaarti* was put to him, he had to admit the said fact. It would appear that the communal incidents took place in close vicinity of the places where *Mahaartis* were held. May be, a case of sheer coincidence! Although there are only 18 cases registered by the police, the actual number of establishments looted and ransacked is in the vicinity of 80–86. Except in two incidents, there was no firing at all by the police. Some of the incidents took place within close

vicinity of the police pickets and the police station itself. Here again, the Senior Police Inspector exhibited his naivete, or partisanship, by blatantly saying that he was not even aware that on 8th January 1993 the victims of the mobs attacks were Muslims or that Muslim houses and shops were attacked selectively, though such a picture which glaringly emerged could not have missed the eyes of any experienced police officer.

12.5 The incident in Jobanputra Compound occurred within 100 feet from the police picket posted at Nana Chowk and the Senior Police Inspector says that the police picket had no notion as to what was going on inside Jobanputra Compound till the incident was over and someone gave information. It would appear that the same group of people was moving around the locality, without let or hindrance, causing damage, ransacking, looting and committing arson of Muslim establishments, which fact too Ghorpade reluctantly admitted under cross-examination.

12.6 The Commission feels that the records maintained by the police station are wholly unbelievable. There is the evidence of an advocate, Shri Girish Desai, residing in Jariwala Mansion, 1st Floor, 60-A Hughes Road, which substantiates this. An establishment by name Royal Cycles and Motors belonging to a Muslim is situated on the ground floor just below the apartment of Shri Desai. At about 0030 hours on 11th January 1993, he heard noises indicating trouble and he ran down to the compound of the building. The building Jariwala Mansion has two entrances, one from Hughes Road and other from K.N. Munshi Road. When he ran down to the compound he noticed a group of young boys in the age range of 20-25 attempting to break open the rear door of Royal Cycles & Motor Works using iron rods and crow-bars. Shri Desai challenged them and started shouting. Two from the group ran away on to K.N. Munshi Marg and the others surrounded Shri Desai, overpowered him and assaulted him on the head with an iron rod, causing bleeding injury. Hearing Shri Desai's shout, residents of the building came running and the miscreants made good their escape. Some of the younger residents of the building chased the miscreants and succeeded in apprehending one of the miscreant boys.

A telephonic message to the Gamdevi Police Station brought forth a jeep full of police officers and men. The miscreant caught by the residents was handed over to the police and Shri Desai along with some of his neighbours travelled in the police jeep to the police station. The police officer took down whatever Shri Desai narrated including his name, occupation, address and telephone number, details of the incident and asked him whether he needed medical attention. Upon Desai declining, since he had been attended to by a qualified medical practitioner, he was sent back in the police jeep. Sometime later during the day, Shri Desai went back to the Gamdevi Police Station, met the Duty Officer and gave a written representation made by all the residents of his building. The police promised security to them. Shri Desai stated that the person who had hit him with an iron rod was a person seen hanging around in the locality sometimes.

12.7 The Senior Police Inspector admitted that on the basis of what was narrated by Shri Desai, a cognizable offence ought to have been registered by the police station. Surprisingly, there is not even a non-cognizable offence registered by the police station. On the other hand, Shantaram Jayram Patole, Inspector, in-charge of law & order, states that he had learnt about the incident of house breaking in Jariwala Mansion and according to the records of the police station, the shop broken open was one by name 'Sophomore'. According to him, he had no knowledge whether Shri Girish Desai had come to the police station or whether any miscreant apprehended by the members of the police had been handed over to the police. Under cross-examination, Patole admitted that the shop known as Sophomore is situated in the building known as Rasik Nivas and not in Jariwala Mansion and that the said incident had nothing to do with the one complained of by Shri Girish Desai. The Duty Officer at the material time was one Police Sub-Inspector Wadhankar and he had not made any inquiries with Police Sub-Inspector Wadhankar, despite coming to know about the incident from Senior Police Inspector Ghorpade.

12.8 The documents on record, however, tell a different story. Pursuant to the complaint made by the residents of Jariwala Mansion on 11.1.1993 [Exh.119(P)], there is a report made by Police Inspector Patole to the Assistant Commissioner of Police [Exh.120(P)], in which he refers to the incident at Jariwala Mansion. In this report, Patole states that Police Sub-Inspector Wadhankar had registered a case vide C.R. No.37/93 in which one person was arrested by the officer on patrol duty in the vicinity of Jariwala Mansion. He also states in this report that the advocate Shri Desai did not turn up at the police station and, if he turns up, his complaint would be recorded. When confronted with the document

in cross-examination, Patole gave the explanation that he had taken the name of Police Sub-Inspector Wadhankar only because he was the Duty Officer and had recorded C.R. No.37/93, that he had no talk with Wadhankar with regard to the incident which is the subject matter of C.R. No.37/93 or with regard to the incident connected with Shri Girish Desai. Admittedly, C.R.No.37/93 was not in respect of the incident of attack on Royal Cycle and Motor Works or the attack on Shri Girish Desai. The Senior Police Inspector when confronted with the said report of Patole, admitted that it was a misleading report and that if the incident had been reported to him, he would have taken action in connection with the complaint of Shri Desai.

12.9 The Commission feels that the police were either hand in glove with the miscreants, or utterly negligent in the performance of their duties. The Commission has no hesitation in accepting the evidence of Shri Girish Desai, advocate, as against the palpably unreliable evidence of the police officers. That a miscreant apprehended in *flagrante delicto* and handed over to the police, managed to vanish without trace, and without any record being made by the police station, speaks volumes about the manner in which riot-related offences were handled by the police.

### 13. Ghatkopar Police Station

13.1 The jurisdictional area of this police station is about 12 sq. k.m. with a population of about 6 to 7 lakhs. The majority of the population of this area consists of Hindus, though there are several identified Muslim pockets.

13.2 The period from July to December 1992 saw the Hindutva parties, as well as Muslims, carrying on propaganda, speeches and activities in support of their respective stands on the Ramjanambhoomi-Babri Masjid dispute.

13.3 According to the Senior Police Inspector, Anil Prabhakar Shrouiti, the personnel attached to the police station was inadequate by about 30% to handle even day-to-day problems. The difficult nature of the terrain and the spread of the hutments made it difficult to deal with situations which arose during the riots. The arms, ammunition and equipment available with the police station were inadequate by about 30% to meet the situations arising during December 1992 and January 1993. The number of vehicles in good condition was also inadequate to effectively patrol during the two riot periods.

13.4 In December 1992 this police station registered 20 cases of communal violence and during January 1993 there were 62 cases of this nature registered. In eight incidents during December 1992 and 11 incidents during January 1993 the police had to open fire to control the situation.

13.5 This area has 68 Hindu temples and 23 Mosques of which 10 Hindu temples and one Mosque were attacked and damaged during December 1992; four Mosques were attacked and damaged during January 1993.

13.6 There was large-scale damage/destruction of property during both the riot periods and about 1,600 establishments suffered such damage. About 1,100 belonged to Muslims and 500 to Hindus. Because of the hilly terrain in which the hutments are situated and the difficulty to have access to them, the police claim that they were unable to control the damage to the property on such large scale. In addition thereto, the miscreants also used to create road-blocks which made impossible for the police or the fire brigade to reach the spots of incidents immediately.

13.7 Though Senior Police Inspector Shrouiti initially asserted that in all the incidents which took place during December 1992 Muslims were the aggressors and Hindus were the victims, under cross-examination he changed his version. He admitted that even during December 1992 Muslims were aggressors in some incidents while Hindus were also aggressors in some others.

13.8 It is the assessment of Senior Police Inspector that the riots in December 1992 and January 1993 appeared to be organized. Though he made bold to say that the December 1992 riots were organized by the Babri Masjid Action Committee, his cross-examination indicates that his conclusion was arrived at only on the basis of newspaper reports and he was not even aware of how the Babri Masjid Action Committee was constituted and what its activities were.

13.9 As far as January 1993 riots were concerned, Shrouti's answer was that he could not say who had organized them. The police, according to him, did not carry out any investigations for identifying organisations responsible for organizing the riots during both periods, despite specific instructions from the office of the Commissioner of Police. The evidence given by this officer on this issue appears to be contradictory and unreliable. He says that no investigations were carried out to identify the organisations responsible for starting the riots during the two periods, but contradicts himself by saying that their investigations showed that the December 1992 riots were organized by Babri Masjid Action Committee and some Muslim organisations and the January 1993 riots were organized by Shiv Sena, Bharatiya Janata Party and VHP and Bajrang Dal. This witness kept changing his version from time to time under cross-examination, giving testimony in favour of whoever was cross-examining him.

13.10 The sentiments of Hindus appear to have been exploited by interested persons by making propaganda with regard to the Radhabai Chawl incident and the Mathadi murders. Though it is admitted by the Senior Police Inspector that during the communally sensitive periods, when passions were running high, it was essential to identify the mischief mongers, inexplicably it was not done.

13.11 There was a *morcha* organized on 11th January 1993 to protest against the actions of Additional Commissioner of Police, A.A. Khan, with the protesters shouting slogans, "*Khan Murdabad*". The *morcha* consisted of Hindus who, according to Senior Police Inspector Shrouti, were under the erroneous impression that A.A. Khan had come to the area and carried out indiscriminate firing, but after the wrong impression was removed, they went away satisfied.

13.12 The first incident occurred on 6th December 1992 at about 2200 hours near the Gaibanshah Dargah (C.R.No.538 of 1992). During this incident a mob of about 150-200 Muslims armed with swords, choppers etc. attacked the houses of Hindus, vehicles and Hindu temples and pelted stones at the intervening police picket. Three police constables were injured. Police firing resulted in the death of one Muslim, Sayyed Ali Johar Ali Kazi. One Ganesh Mandir and one Shriram Mandir was attacked and damaged by the mob.

13.13 The next incident occurred during the night of 6th December 1992 at 2200 hours in Maulana Compound, Gamdevi Road, a locality predominantly inhabited by Muslims. Rival mobs of Hindus and Muslims attacked each other with sticks, stones and other weapons. Three rounds were fired by police to disperse the unlawful assemblies, resulting in injury to one Muslim. One Ismail Kadar Sheikh appeared to be the brain behind the attack mounted by the Muslims.

13.14 Out of the different cases registered in December 1992, in at least six cases (C.R. Nos. 540, 541, 542, 543, 547 and 553 of 1992), admittedly the trouble was started by Hindus who were the aggressors. In two incidents (C.R. Nos. 548 and 551), though initially the Senior Police Inspector claimed that the Muslims were the aggressors, he was forced to admit that he could not be sure of that fact in both cases. In another case C.R. No. 537 of 1992), though there was a clash between two mobs, there was no material to indicate as to who were the aggressors.

13.15 There was an attack on a masjid and some Muslim property around it (C.R. No.114 of 1992), which forced the Senior Police Inspector to admit that Hindus were the aggressors in that case. In C.R. No. 537 of 1992 the victim of the attack was a Muslim, leading at least to the inference that the trouble was not created by Muslims. In C.R. No. 537 of 1992 the victim was a Muslim and three Hindus, including one Manji Bhanushali who had previous criminal record, were arrested. In C.R.No.579 of 1992 the property damage was confined only to the property of Muslims.

13.16 Despite the facts being these, the Senior Police Inspector, his Assistant Commissioner of Police and Deputy Commissioner of Police appear to have shared the perception that during all the incidents in December 1992, Muslims were the aggressors. This propensity for biased views on the part of police in this area comes through in evidence. Instead of objectively admitting that even during December 1992 there were several incidents where both Hindus and Muslims were aggressors, the Senior Police Inspector's obstinate stand that only Muslims were the aggressors, appears to stem from his skewed perception which was apparently shared by his senior officers also.

13.17 During the January 1993 phase of rioting, there were a number of cases in which

Muslims were at the receiving end. In 51 cases (C.R.Nos.16, 17, 19, 20, 22, 23, 24, 25, 27, 28, 29, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 43, 46, 47, 48, 49, 50, 51, 52, 54, 55, 56, 58, 62, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 83, 85 and 86 of 1993), Muslims were either individually victims or extensive damage was caused to their properties. The other 11 cases registered during January 1993 pertain to incidents in which there were clashes between rioting mobs of Hindus and Muslims, or Hindus were individually victims or there was appreciable damage to properties of both Hindus and Muslims. One fact however, stands out, namely, that in a dis-proportionately large number of cases, Muslims were the victims.

13.18 The manner in which the investigations were carried out into the riot-related offences is wholly unsatisfactory. There was unusual alacrity shown in classifying a large number of cases which occurred in January 1993 in "A" summary, despite the complainants having clearly identified the miscreants. Curiously, this appears to have been done in cases where Muslims were the victims and the miscreants identified by the complainants had some connection with Shiv Sena, like Manji Bhanushali, Shivaji Kadam, corporator Mukund Thorat, against whom specific complaints were made by the complainants. The material on record shows that some of the crowds attacking Muslim establishments were shouting "*Shiv Sena Zindabad*" and also shouting that the shops of all the Muslims should be broken open and looted. In C.R.No.42 of 1993, Ibrahim Bhanu Rahimtulla (Ex. 2745-C) identified Shivaji Kadam, local Shiv Sena leader, as accompanying other miscreants Tanaji, Balu and others who broke open his house under the directions of Shivaji Kadam. Despite the fact that Shivaji Kadam was a locally known Shiv Sena leader, no investigation appears to have been carried out and the case was classified in 'A' summary.

13.19 It appears to the Commission that the reluctance of the police to seriously investigate cases registered during January 1993 and the haste with which such cases were classified in "A" summary, did not arise from mere lethargy, but because of the influence of Shiv Sena in the area. The coincidences are too marked to be ignored. No wonder, the police were unable to identify the person, persons or organisations behind the riots of January 1993!!

13.20 There is an incident (C.R.No.25 of 1993) in which an employee of a chicken shop on Netaji Palkar Marg, near Asalfa Fish Market, was stabbed and died due to burn injuries sustained as a result of arson to the chicken shop.

13.21 There is the gruesome case of one Mohd. Ibrahim, whose house was attacked, he was killed and his body was set on fire (C.R.No.36 of 1993). Similar is the case of another Muslim, Abdul Ghani Badru, who was killed with sharp weapons and his body was burnt (C.R.No.37 of 1993).

13.22 An incident of private firing has been alleged by Shiv Sena (C.R.No.30 of 1993). It is alleged that one Gokul Baokar died due to bullet injuries sustained when fired upon by Muslims. It is also alleged that the actual private firing was carried out by one Noor Jehan residing within the jurisdiction of Park Site Police station. Four Muslims Abdul Jabbar, Parvez, Sattar and Safdar were arrested by police, but no fire arms were seized from any one of them. There is only the statement of one witness that he had heard the sound of private firing. The Senior Police Inspector conceded that, because there was no other trace of private firing, and because at the material time there was also police firing at the same time, the witness was perhaps confused and was referring only to the police firing. The arrested accused were arrested for rioting and other offences, but not for private firing. Despite long cross-examination by Shiv Sena, the Senior Police Inspector stood his ground and maintained that the incident was not one of private firing. The Commission, however, noticed that the investigations into this case were not carried out with the seriousness which the incident deserved. There was anonymous information made available to the police that the alleged private firing which occurred in this incident was instigated by a Muslim, Moiddin Javrawalla, residing on Gamdevi Road, behind Damodar Park. The police appear to have ignored this clue on the ground that the information was anonymous and the return address of the informant was not on the post-card.

13.23 There is another alleged case of private firing (C.R.No.44 of 1993) in which one Mehboob Hyder Ali Ansari is said to have been injured in the incident near Fish Market, Chirag Nagar, on 12th January 1993 at about 0730 hours. The police managed to recover pellets lodged in the body of the victim and sent to the ballistic expert. Despite a pointed query from the police to the ballistic expert whether Ex. A (bottle containing the pellet)

was a fire-arm bullet capable of being fired from a revolver, a .410 musket, a .303 rifle or a SLR, the ballistic expert by his report dated 10.8.1993 opined that the bottle contained, "a pellet weighing .5 grams", which fact was hardly unknown to the police!

13.24 The cases of systematic breaking open, looting, ransacking and arson of Muslim properties in Altaf Nagar, Gangawadi and Asalfa indicate that the systematic destruction of the property could not have occurred on the spur of the moment, but must have been going on over a period of time spread over days. The police could not have been unaware of what was happening around there. These incidents took place during the curfew periods and when there was intensive police *bandobast*. The explanation that the patrolling took place only on the main roads and the incidents occurred in the hutments in gullies, is, to say the least, ludicrously naive.

13.25 Despite the availability of a military column in Zone VI in January 1993, there was no operational use of the column by the police and the explanation is that the Senior Police Inspector considered that the men and material available with him were adequate to deal with the situation and 'asking for military help was not my job', it being upto the superiors to take a decision in the matter.

13.26 The evidence of the Muslim witnesses uniformly suggests that the attack on the Muslim houses and on the Muslims were spearheaded by the Shiv Sainiks and intended to drive away the "*landyas*" (a derogatory term denigrating the Muslims). Witnesses have given specific names of the local hoodlums who were in the forefront of the attack. They have also blamed the local leaders of Shiv Sena, like corporator Mukund Thorat, for directing attacks against them and for pressurizing the police not to register cases against local *goondas* connected with Shiv Sena. An analysis of the evidence of the Muslim witnesses would lead to the conclusion that the attack on Muslims, particularly during January 1993, was a well-planned attack mounted by Shiv Sainiks under the active direction of the local Shiv Sena leaders, one of whom was corporator Mukund Thorat.

13.27 There are very few Hindu witnesses from this area. Some Hindu witnesses were the local jewellers owning jewellery shops near about the police station area. All of them appear to be members of the Bombay Central Jewellers Association which took the decision in a meeting held by the association that an affidavit should be filed with regard to problems or absence of problems faced by its members. It was decided that the effective role played by police in the area should be highlighted before this Commission. It would, however, appear that the jewellers were unaware of what was happening in areas other than their own vicinity, though witness Fatehlal Dalchand Mehta (Witness No.450) admitted that, as a businessman, he had to keep good relations with every one including police. Though these witnesses vehemently deny having paid "*hafta*" to police for protecting their jewellery shops, the glowing tributes paid to the police suggest that there was some inducement for them to come forward and highlight the good work done by police with respect to their establishments.

13.28 This police station had a lock-up which was being used by several adjoining police stations like Chembur, Parksite, Deonar and others, for lodging arrested criminals. Central minister, Shri Jaffer Shariff, and the then State Minister, Shri Javed Khan, appear to have actively interfered with police working. They used to make unscheduled visits to the lock-up, browbeat the police officers and rudely threaten them against arresting their henchmen. Senior Police Inspector Shrouti had occasion to complain to the Commissioner of Police against such conduct of the ministers, which appears to have been motivated more by communal motives, than for procuring justice. The complaint made by the Senior Police Inspector appears to have fallen on deaf ears at the political level.

#### 14 Jogeshwari Police Station

14.1 This police station has a jurisdictional area of 6 sq. k.m. with a population of about four lakhs. Vast stretches of the jurisdictional area comprise illegal and unauthorized hutments, built haphazardly, making policing difficult. This area is notoriously prone to communal violence. This police station has a long history of previous communal riots, some of which erupted on petty issues. The crowded hutment colonies house Hindus and Muslims side-by-side, though there are several Hindu residences situated deep within Muslim pockets and vice versa. Society Road, Bandrekarwadi, Franciswadi, Pratap Nagar, Shiv Tekdi, Meghwadi, Majaswadi, Sham Nagar, Indira Nagar, Sarvodaya Nagar and Income Tax colony are dominated by Hindus while Makranipada, Chacha Nagar, Andheri Plot, Bandra Plot, Koliwada, Ramgad, Pascal Colony, Prem Nagar, Colaba Plot, Jhula



Maidan and Idgah Maidan are Muslim dominated pockets. Maharashtra Chowk, Radhabai Chawl, Shivaji Nagar are mixed localities where Hindus reside in a predominantly Muslim pocket. P.P. Dias Compound has mixed residences, but the Muslim residences are situated within a Hindu pocket. The Muslim dominated areas — Pascal Colony, Ramgadh, Prem Nagar, Colaba Plot, Andheri Plot, Goni Nagar and Bandra Plot — are situated on a hilltop while the Hindu dominated areas Harijan Nagar, Shankarwadi, Hari Nagar, Meghwadi and Income Tax colony are situated at lower level. Badruddin Tayyabji Marg runs eastward from the Western Express Highway, near Squatters Colony, towards Meghwadi on the eastern side of the Western Express Highway. The area on the southern side of Tayyabji Marg is Muslim dominated, the area on the northern side being dominated by Hindus.

14.2 Most of the communal incidents during December 1992 and January 1993 occurred in the hutment areas situated on the eastern side of the Western Express Highway. Because this area had seen frequent communal trouble, the police had specially maintained a Chowky on the border line of Hindu–Muslim localities known as Janashakti Police Chowky. A Hindu dominated area known as Shankarwadi is separated by an open ground from Pascalwadi, dominated by Muslims. Periodically, Hindus from Shankarwadi and Muslims from Pascalwadi have violently clashed on this maidan, called Pascal maidan.

14.3 According to Senior Police Inspector Bhausahab Rajaram Deshmukh, this police station was inadequately staffed and was equipped with materials, equipment and means of communication hardly enough to handle even day-to-day problems during normal times. The peculiar location of this police station creates its own problems. It is located in a low lying area adjacent to a nullah which gets flooded during the monsoon. Whenever the nullah gets flooded, the police have to scurry about moving the records and armoury to higher locations to prevent damage. Proposals for relocation of the police station made by successive Senior Police Inspectors evoked no response from the State Government other than that it was being ‘seriously considered’, for about seven to eight years.

14.4 October to December 1992 saw hectic activities on the part of both Hindus and Muslims propagating and exhorting their respective points of view on the vexed Ram Janambhoomi–Babri Masjid dispute. This area also had its quota of *Ram Charan Paduka* processions, corner meetings and appeals to the Hindus to go for *Kar Seva* at Ayodhya. Most of these activities were organized by Bharatiya Janata Party, VHP and Bajrang Dal. There was also a *Ghantanaad* organized on 6th December 1992 coinciding with the *Kar Seva* at Ayodhya.

14.5 Prohibitory orders under Section 37(1) and Section 37(3) of Bombay Police Act, 1951 were operative here from 5th December 1992 and 6th December 1992, respectively, though there was exemption from ban against assembly in case of religious gatherings.

14.6 On 6th December 1992 though there was communal tension throughout the area due to the news of demolition of Babri Masjid, there was no communal violence as such. Trouble in this area started from 7th December 1992 and continued till about 12th December 1992, after which there was a spell of uneasy calm broken by fresh eruption of violence and riots from 7th January 1993 which lasted upto 12th January 1993.

14.7 During December 1992 the first incident of communal violence in this area occurred, predictably, at the border of Shankarwadi and Pascalwadi at about 1530 hours on 7th December 1992 (C.R.No.406 of 1992). By the time police arrived on the scene, Hindu and Muslim mobs armed with stones, sticks and other weapons had gathered in the Pascal maidan and were fighting each other. The police are unable to say who provoked whom. The evidence of the public witnesses suggests that, upon hearing the news of demolition of Babri Masjid, Muslims of Pascalwadi were agitated and collected in groups saying that Hindus who had demolished their mosque had to be taught a lesson. Seeing the Muslims gather in groups and apprehending an attack on Shankarwadi, Hindu boys of Shankarwadi also gathered. It is not clear who threw the first stone, but there was heavy stone throwing by each side against the other. When the police arrived at the scene things were already going out of hand and, caught in the midst of two warring mobs, the police became easy targets for both. The police frantically tried to control the situation and fired about 111 rounds after 16 rounds of tear-gas shells proved ineffective.

The riot left in its wake 11 establishments of Hindus and nine of Muslims damaged; one Hindu died due to stabbing while another was injured by stabbing; two Hindus and two Muslims were injured in stone throwing; five Muslims were killed in police firing and 18 Muslims and one Hindu were injured in police firing. Police Sub–Inspector Janardan

Bhabal died as a result of a bullet injury to his head. Both police and Shiv Sena claim that it was due to private firing. However, this appears doubtful. Contrary to normal practice, the police sent the bullet removed from the body of Bhabal to the ballistic expert, seeking to know from him the type, calibre and make of firearm from which the bullet could have been fired. The report of the Assistant Chemical Analyser to Government (Ballistic), Forensic Science Laboratory, dated 18th January 1993, laconically observes that the exhibit sent was "a fired lead piece of weight approximately 0.37 gms.", a fact which was pretty obvious to the police too! Despite receipt of this useless and immaterial opinion from the ballistic expert, the police did not pursue the matter to get a categorical opinion on the queries raised by them. The only material in support of private firing theory consists of the statements of Shashikant Ganpat Padwal, Chandrakant Mahadev Pavale and Mahesh Balu Suravase, who claim that the bullet which hit Police Sub-Inspector Bhabal came from the side of the Muslim mob. Considering the location of the police, and the number of police personnel firing on violent mobs on both sides simultaneously, the possibility of Police Sub-Inspector Bhabal having been hit by a stray bullet fired by some police personnel cannot be ruled out. In fact, this possibility is also admitted by Senior Police Inspector Deshmukh. Since Bhabal was continuously unconscious till he died, his statement was not recorded and the ballistic expert's opinion is wholly unhelpful.

14.8 Between 1600 to 1700 hours on the same day there was an attack by a mob numbering about 100-200 on Pawaskar colony near Shivaji Nagar Police chowky and adjacent establishments (C.R.No.407 of 1992). Five police personnel sustained injuries in the action and 57 establishments of Hindus and 15 of Muslims were damaged. One Hindu was stabbed by the mob and killed. The firing by the police to control the mob resulted in injuries to three Hindus and two Muslims. Sixteen accused, (two Hindus, 12 Muslims and two Christians) were arrested out of whom one Hindu and 10 Muslims have been charge-sheeted to stand trial. Though according to the police the attack came only from the Muslim mob, the damage sustained by 15 Muslim properties, the fact that one of the arrested accused is a Hindu and that three Hindus were injured in police firing, would suggest presence and involvement of a violent Hindu mob also. The statement of Kantaprasad S. Yadav recorded in this case suggests that at about 1700 hours a mob of about 500-700 persons was roaming about in the vicinity of Hari Nagar, a Hindu dominated area in the vicinity. The mob which attacked the Shivaji Nagar Police Chowky attempted to snatch away a rifle from the hand of one of the constables.

14.9 Between 1700 to 1800 hours on 7th December 1992 a mob of about 200-250 Muslims attacked Zula Maidan Police Chowky and damaged it (C.R.No.408 of 1992).

14.10 Though the police version is that at about 1900 hours on 7th December 1992 a mob of 200 Muslims attacked shops and timber marts of Hindus in Sanjay Nagar, causing damage to four Hindu establishments and setting fire to a timber mart of a Hindu, causing loss to the extent of Rs. 8.5 lakh (C.R.No.409 of 1992), even the Senior Police Inspector was forced to admit under cross-examination that this incident did involve two violent mobs, one of Hindus and the other of Muslims; four of the damaged properties belonged to Muslims and three to Hindus and that no Hindu accused has been arrested.

14.11 In C.R.No.410 of 1992, there is said to have been an attack by a Muslim mob, though the properties damaged were the properties belonged to Muslims. The explanation of the police, that the stones thrown by the Muslim mob might have inadvertently damaged Muslim properties, sounds hollow. Twelve Muslims have been arrested in this offence and charge-sheeted. Damage was also caused to three cars belonging to Hindus and three cars belonging to Muslims.

14.12 In C.R.No.413 of 1992, the incident took place at Maharashtra Chowk, a tiny pocket of Hindus in a predominately Muslim locality, at about 0930 hours on 9th December 1992. Though the police version is that the miscreant mob consisted only of Muslims, it is open to doubt. Apart from 44 Muslims, four Hindus have also been arrested and the four Hindus admitted that they had taken part in riots and thrown stones and soda-water bottles at the police and houses of Muslims. The properties damaged comprise 10 establishments of which six belonged to Muslims and four to Hindus. One *mazaar* near the *kabrastan* was also damaged. The statements of Police Sub-Inspector Machhindra Nivrutti Bodake and Police Sub-Inspector Jalandar Laxman Shitole recorded in this case also suggest the presence of a violent Hindu mob there. The police fired 28 rounds to control the mobs, causing death to two Muslims and injuries to two Muslims. One police officer and a constable were injured in the mob action. Despite the incident occurring in a crowded

locality in broad daylight, the statement of no public witness has been recorded.

14.13 There was an incident of attack on and arson of a lady's tailoring establishment at Pratap Nagar owned by a Muslim on 10th December 1992 at about 1600 hours (C.R.No.414 of 1992). One Hindu accused has been arrested and charge-sheeted.

14.14 On 10th December 1992 a bakery owned by a Muslim situated in Bandrekarwadi was attacked, damaged and looted (C.R.No.415 of 1992). Four Hindus have been arrested and charge-sheeted.

14.15 On 11th December 1992 at about 0730 hours pieces of a slaughtered pig were thrown into the Taj Masjid on Service Road near Natwar Nagar, the intention obviously being to provoke the religious susceptibility of Muslims (C.R.No.416 of 1992). Two Hindus have been arrested and charge-sheeted and their interrogation reveals that this was precisely their intention. The Mill Diary Entry dated 11th December 1992 pertaining to this incident reveals that there was some damage caused to Taj Masjid by way of broken windows and a partly burnt meter-box.

14.16 There were seven incidents of attacks on individual Hindus and Muslims, after ascertaining their identity. One occurred on 14th December 1992 (C.R.No.420 of 1992) in which the victim was a Muslim. One occurred on 21st December 1992 (C.R.No.430 of 1992) in which the victim was a Muslim. These incidents occurred between 14th December 1992 to 29th December 1992, indicating that though major incidents of communal violence had subsided, miscreants were trying to keep the communal cauldron simmering.

14.17 Special mention needs to be made of a case highlighting the wooden-headed approach of the bureaucracy (C.R.No.420 of 1992). The victim of this incident was a Muslim, Mohd. Issak, who had been attacked and killed by unknown persons. His wife claimed compensation by a letter dated 24th December 1992 which was forwarded by police to the Tahsildar's office. The Tahsildar objected to compensation being granted on the ground that there were no actual riots and therefore it was possible that the victim had been killed because of previous enmity. Fortunately, police were more reasonable and took the stand that the murder came in the wake of communal riots and there was no material to show that it was because of previous enmity. It is not clear as to whether compensation has at all been paid to the widow. An interesting facet of this case is that, although the Senior Police Inspector Deshmukh had opined that the available clues were more than adequate to effect an arrest, the investigating officer tarried upto May 1993 and ultimately the case came to be classified in "A" summary.

14.18 The manner in which the investigating officers hurriedly closed the investigations of cases registered during this period by classifying them in "A" summary, despite clear clues, indicates want of seriousness in pursuing them, a fact candidly admitted by the Senior Police Inspector, though he lamented that most of the time of the police was taken up by bandobust duties for VIPs leaving little time for investigations.

14.19 During January 1993, on 2nd and 3rd, there were incidents of attacks on individual Hindus (C.R.Nos.3 & 5 of 1993) and an attack on an auto-rickshaw in which one Hindu and two Muslims were travelling (C.R. No.6 of 1993).

14.20 On 4th January 1993, at about 2030 hours, a gathering of about 3,500-4,000 activists of Shiv Sena wanted to take out a *morcha* from Bandrekarwadi to Jogeshwari Police Station under the leadership of Shri Gajanan Kirtikar, Shri Ramesh More and others to protest against the failure of the police to arrest the assailants in the individual assault cases (C.R.No.8 of 1993). In view of the ban order and the prevalent situation, the police rightly refused permission for the *morcha*. The Deputy Commissioner of Police and Senior Police Inspector personally went to Bandrekarwadi and tried to dissuade the Shiv Sena leaders from taking out the *morcha*. Though the crowd then appeared to disperse, the dispersing crowd pelted stones and caused damage to the houses of Muslims in Chacha Nagar, attacked one Muslim with swords and choppers and also damaged the Chacha Nagar Masjid (C.R.No.8 of 1993). In this case, 17 Hindus and one Christian have been arrested and proceeded against. The leaders of the *morcha* gathered in Bandrekarwadi were requested to give their memorandum to the Deputy Commissioner of Police there itself, but they refused and insisted on presenting it in the police station. The Deputy Commissioner of Police thereafter went to the police station and the leaders, followed by the crowd, went to the police station via Chacha Nagar. Apparently, while the *morcha* was passing through Chacha Nagar the trouble erupted.

The explanation for inability to handle the situation despite advance notice, that there was insufficient manpower, does not ring true. All the more so, since no *post facto* action appears to have been taken against any of the leaders of or participants in the *morcha*, for reasons unexplained. It is also seen that after the leaders were told to desist, they addressed their followers at Bhawani Chowk, Bandrekarwadi. The *panchanama* shows that 15 houses of Muslims and one of Hindu was damaged; seven Muslims and one Hindu received stab injuries and it is not in dispute that in this communal rioting the Muslims suffered most in terms of property loss, personal injury and attack on a place of worship. Doubtless, this was the first major communal incident of violence January 1993 which occurred even before the Radhabai Chawl incident. Nonetheless, the Senior Police Inspector doggedly stuck to his stand that serious trouble began in this area only after the Radhabai Chawl incident. Apparently, there was a dispute between the local leaders of Shiv Sena and Muslims about unauthorised extension of Chacha Nagar Masjid and this opportunity was utilized to settle scores. The memorandum supposed to have been handed over by the processionists to the Deputy Commissioner of Police on that day has not been produced on record despite the Commission calling for the same, claiming that it is not 'available in the records of the police station'. Curiously, the statements of police officers and policemen who accompanied the procession to the police station have not been recorded.

14.21 On 6th January 1993, at about 2035 hours there was a knife assault on a Hindu travelling on a scooter (C.R.No.9 of 1993) and on 7.1.1993 at about 1300 hours a Muslim was assaulted with knife and robbed of his belongings at Shivaji Nagar, after ascertaining his identity (C.R.No.11 of 1993).

14.22 On 7th January 1993 at about 1500 hours three Muslims armed with choppers threatened another Muslim, a member of Peace Committee, with dire consequences and demanded money from him to purchase weapons (C.R.No.12 of 1993). Two Muslim accused were arrested, out of which accused Sallu Sattar was subsequently convicted by the Sessions Court at Bombay in the Radhabai Chawl case. The accused in this case appear to be known local criminals who took advantage of the communal situation to extort money.

14.23 On 7th January 1993 at about 2045 hours a Hindu girl, resident of Shivaji Nagar, was attacked with knife near Pascal Colony (C.R.No.13 of 1993). This incident gave rise to an appreciable increase in communal tension and created panic in the locality.

14.24 On 7th January 1993 at about 2130 hours there was a violent clash between the Hindu mob of Shankarwadi and Muslim mob from Pascal colony, both about 500-strong (C.R.No.14 of 1993). There was extensive property damage and breaking open, ransacking and looting of houses of people who had locked their houses and gone away. Three Hindus and 27 Muslims have been arrested in this connection. On the same day, there was violent clash in Shivaji Nagar and an alleged case of private firing. There was also large scale arson and attacks on the police by both mobs. Police firing resulted in injuries to five Muslims and two Hindus while two Muslims and six Hindus were injured in mob violence. One Hindu was injured in arson and two Muslims were stabbed to death.

14.25 On 8th January 1993 at about 0030 hours a house in a chawl popularly known as Radhabai Chawl (though its actual name is Gandhi Chawl) was attacked by miscreants who locked the door of a Hindu house from outside and set it on fire. Although nine persons from the Hindu family of Bane had been confined inside the room, some of them managed to escape. Six of the family succumbed to burn injuries including a handicapped girl (C.R.No.15 of 1993). This case attracted lot of media attention and was extensively reported in newspapers — even in exaggerated versions. The police applied the provisions of TADA to this case. The case was tried by the Sessions Court at Bombay and some of the accused were convicted while some were acquitted. The learned Judge of the Sessions Court recorded a finding that communal hatred was the motive behind this crime. All the convicted accused in this case are Muslims. This incident was played up by the Hindutva parties, particularly the Shiv Sena, and is stated to be a watershed mark during the January 1993 phase of the communal violence which led to Hindu backlash, according to the Shiv Sena and the Bharatiya Janata Party, which theory has been reiterated by the State and the police.

14.26 On 8th January 1993 at about 0530 hours there was violent clash between rival mobs of Hindus and Muslims numbering about 500 each at Meghwadi (C.R.No.16 of 1993). Police resorted to *lathi* charge followed by firing. In this case 123 establishments of Hindus, 63 of

Muslims and 19 of Christians were damaged. Ten Hindus and 22 Muslims have been charge-sheeted in this case. An interesting facet of this case is that a bakery of a Muslim known as 'A-1 Bakery' situated in Swamy Compound, in which the police station itself is situated, at a distance of 150 feet across open ground, was looted by miscreants. The police appeared wholly unaware or incapable of preventing such mischief, despite its occurrence right under their noses, in their alley.

14.27 On 8th January 1993 trouble erupted in the evening in Meghwadi, Prem Nagar and surrounding areas (C.R.No.18 of 1993). This time there is no doubt that the trouble was started by Hindus from Meghwadi who pelted stones towards Muslims of Prem Nagar. Swords, iron rods and choppers were freely used. The seriousness of the incident can be gauged by the fact that one hundred and thirty rounds of different calibers were fired by police and senior police officers like Additional Commissioner of Police, North Region, A.A.Khan, Deputy Commissioner of Police Zone-VIII, Kurane, and Assistant Commissioner of Police Goregaon Division, Suryawanshi were present to deal with the situation. Two Muslims and two Hindus died in police firing while four Muslims one Hindu were injured. One Hindu and two Muslims were injured in mob violence. Two Hindus and one Muslim have been arrested and charge-sheeted.

14.28 On 8th January 1993 at about 2130 hours there was clash between mobs of Hindus and Muslims and large-scale rioting in Chacha Nagar and Franciswadi (C.R.No.19 of 1993). Mobs armed with swords and choppers attacked persons of rival community. There was also an attack on the police who tried to intervene. The police fired 37 rounds to disperse the mobs. A violent Hindu mob damaged Chacha Nagar Masjid. Police firing resulted in death of three Hindus and one Muslim and injuries to eight Hindus and one Christian. One Hindu and two Muslims were injured in mob violence. Eighteen Hindus and one Christian have been arrested and charge-sheeted.

14.29 On 8th January 1993 at about 2320 hours there was a riot once again in Shankarwadi, Pascal colony, Ramgad and Sitawadi (C.R.No.20 of 1993). Aslam garage, situated on the way to Shankarwadi was set on fire. The police resorted to fire to disperse the clashing mobs. Police firing resulted in two Muslims dying and one Hindu and four Muslims being injured. Two Muslims and one Hindu were injured in mob violence. Several Muslim witnesses state in their statements that they were injured in the police firing, but there is nothing on record to show that the injured or dead persons were taking part in the riots. There is also no effort made by investigating officers to find out the truth otherwise of these versions, forcing the Senior Police Inspector to concede that, in the absence of anything to the contrary, the versions of these witnesses will have to be accepted as correct. One Fatima Begum Yasin Hassan and one Sheikh Mohd. Asgar Gulam Sagbir had identified the local corporator Solanki as one of the miscreants, responsible for attack on and arson of Aslam Garage. Sheikh Mohd. Asgar Gulam Sagbir had clearly indicated that a white Maruti car used for committing the offence was owned by local corporator Solanki. The police appear to have proceeded against Solanki with much reluctance, and after long delay.

14.30 On 9th January 1993 at about 1200 hours a *morcha* of about 10,000-15,000 led by the local Bharatiya Janata Party M.P., Shri Ram Naik, local Shiv Sena M.L.As. Shri Anna Dange, Shri Ramesh More and Shri Gajanan Kirtikar, marched to the police station protesting that the police were taking action only against Hindus and demanding release of Hindu accused arrested in the riots (C.R.No.21 of 1993). While the *morcha* was still stationed outside the police station, Additional Commissioner of Police, North Region, A.A. Khan, arrived at the spot, and finding his way barred by a restive mob, resorted to *lathi* charge to disperse the mob. The dispersing mob indulged in damage and looting of property, arson and stone throwing at police and others. The violent Hindu mob then regrouped at Income Tax colony and burnt alive one Muslim woman and stabbed and burn alive a Muslim boy in P.P. Dias Compound. Large number of Muslim properties were damaged and set on fire. The mob also damaged the Ismail Yusuf College Masjid. The police firing resulted in one Hindu being injured. Three Muslims died and one Muslim was injured in mob violence.

14.31 Four incidents of attacks on individuals took place on 10th January 1993 at different places in which three Muslims and one Hindu were injured and one Muslim died and his body was thrown in a nullah at Gandhi Nagar (C.R.Nos.23, 24, 25 and 26 of 1993). The accused have been arrested in all the three cases and the cases are pending against them.

14.32 On 10th January 1993 at about 1430 hours there were again violent clashes between Hindu and Muslim mobs of 200–300 from Shankarwadi, Kosharwadi and P.P. Dias compound (C.R.No.27 of 1993). The rioters freely indulged in damaging, ransacking, looting and arson of establishments. Police resorted to firing to control the violent mobs by firing twelve rounds. Eight Hindus, 17 Muslims and one Christian have been arrested and proceeded against.

14.33 On 11th January 1993 at about 0200 hours an armed mob, presumably of Hindus, assembled near Tahera Compound, a Muslim locality, and attacked the houses in the vicinity by throwing stones, soda–water bottles, petrol bombs and acid bulbs (C.R.No.28 of 1993). This brought forth violent retaliation from a Muslim mob and the police had to resort to firing which resulted in death of one Hindu. Twenty five Muslim accused have been arrested and charge–sheeted in this case.

14.34 On 11th January 1993 at about 0730 hours one Muslim was assaulted by unknown persons with chopper (C.R.No.29 of 1993). Two Hindus have been arrested and charge–sheeted.

14.35 On 13th January 1993 there was relaxation of curfew from 0600 hours. At about 1000 hours a mob of Hindus armed with weapons gathered near Rajaram Garden and assaulted Muslims with swords, choppers and iron rods. Hindu mobs of this nature played hide–and–seek with police and kept assaulting Muslims and damaging their property in the vicinity. When the mob tried to assault a Muslim passenger in a rickshaw, police fired two rounds to disperse the mob. The mob again regrouped in Bandrekarwadi and continued the violent activity. Three Hindu miscreants have been arrested and charge–sheeted (C.R.No.31 of 1993).

14.36 A report was made on 23rd January 1993 at about 1030 hours that on 19th January 1993 there was an assault on a Muslim with stones near the MHADA building (C.R.No.35 of 1993). This case has been classified in "A" summary.

14.37 On 30th January 1993 there was a report of a Muslim resident of Versova that he had been assaulted at Natwar Nagar after ascertaining his identity (C.R.No.41 of 1993). This case has been classified in "A" summary.

14.38 On 6th February 1993 a *Mahaarti* was organized and held at Hanuman Mandir, Gumpha Road, by the activists of Shiv Sena who held a meeting in front of Hanuman Mandir after the *Mahaarti* and committed breach of prohibitory orders (C.R.No.46 of 1993). Five of the organisers have been arrested and charge–sheeted.

14.39 Though the situation calmed down from 14th January 1993 there were minor/stray incidents. By and large area was heading towards normalcy. Army column was regularly carrying out flag marches within this area, but there does not appear to be any situation which was dealt with by the army. The efforts of police and sane minded citizens slowly helped in establishing peace, if not neighbourly love, in this cauldron of communal hatred.

14.40 Senior Police Inspector states that in none of the riot–related cases registered in December 1992 and January 1993 was any fire–arm or explosive of the type used in the Bombay blasts case used or seized. None of the accused in the bomb–blasts case was resident of or active in this area.

14.41 Senior Police Inspector was subjected to lengthy cross–examination by the learned counsel for Shiv Sena with reference to various news reports, but he did not accept the correctness of the suggestions contained therein except stating that those reports generally supported the stand taken by Hindus with regard to the genesis of the riots.

14.42 In this area also the Commission noticed marked reluctance on the part of police to admit the presence of Hindu mobs during violent clashes and admissions had to be extracted under stress of cross–examination.

14.43 The Muslim public witnesses examined before the Commission squarely blamed the Shiv Sena and Shiv Sainiks for the communal trouble. They asserted that the rampaging mobs were shouting slogans like, "*Har–Har Mahadev*" and consisted of local Shiv Sainiks.

14.44 There is the curious case of one Muslim Mohd. Asgar Gulam Sagbir (Witness No.473), who in his evidence given on the first day clearly identified the Hindu miscreants and also

the police officers who had misbehaved. But on the next day of his cross-examination he appeared to have a change of his heart. In the name of Prophet Mohammad, in whose teachings he professed unflinching faith, he requested permission to withdraw his affidavit as he felt that trading of charges between Hindus and Muslims would only aggravate the tenuous communal relations between Hindus and Muslims. He was permitted to withdraw the affidavit.

14.45 The Muslim witnesses have uniformly blamed the police for inaction and partisan approach. They have also blamed them for their brutal and inhuman conduct like breaking open into houses, dragging suspects out by their hair and repeatedly assaulting them with *lathis* and showing scant regard to human rights. Mehmooda Banu Mukhtar Ahmed (Witness No.478) blames one 'fat, dark complexioned police officer with big nose, named Bhambre' for this type of conduct. An officer by name Assistant Police Inspector Bhambre was attached to the police station at the relevant time. The Commission also noticed that this witness had been detained in custody by police for a period exceeding three days without being produced before the Magistrate. According to the police lock-up records, she was arrested on 8th January 1993 at 0030 hours but the columns pertaining to the date and time of release of the accused, signature of the officer making entries, disposition of the articles recovered during search, and the signature of the person from whom they were recovered, were totally blank. Though the signature of this witness is taken in the Lock-up Register it is undated. There is no corresponding Station Diary entry at all. In the view of the Commission, Lock-up Register No.2 (Ex.3225-C) cannot be relied upon and there is no reason not to believe the witness when she says that she was detained in police lock-up for three days, which is gross violation of her constitutional and legal rights. Despite a direction by the Commission to the police to file the reply of the concerned officers within a period of one week, it has not been done. The Commission is of the view that in this case there was violation of the constitutional rights of Mehmooda Banu Mukhtar Ahmed, an accused arrested in C.R.No.14 of 1993.

14.46 The Muslim witnesses also generally complained that, whenever there was a clash between Hindu and Muslim mobs, the police fired only towards the Muslims and protected the Hindus.

14.47 The Hindu witnesses uniformly stated that their houses were attacked by miscreants with black masks who were wielding swords and shouting that Hindus, 'Kafirs' and their property should be destroyed and burnt. Some of the Hindu witnesses complained of damage to their properties and about non-receipt of compensation. According to Sushila Pandit (Witness No.489), active worker of Mahila Aghadi of Shiv Sena, the attack on her house was engineered by one Moomane, a Muslim lady who was running an illegal liquor joint and with whom she had a dispute with regard to her tenement which led to her tenement being sealed by the authorities. She also complained that when she went to police to complain, Officer Vijay Patil rudely told her that all the trouble was created by Maharashtrians who deserved to be bombed. She appears to have been actively assisted by the Shiv Sena activists to voice her grievance through her affidavit.

14.48 There is the affidavit of Rev. Father Joseph Thomas D'Souza (Witness No.479) which suggests that in the morning of 7th December 1992 a group of people barged into his room demanding closure of the school of which he is the principal. Later on he had seen a number of boys from Shankarwadi (Hindus) rushing towards Koliwada area (Muslim dominated area) throwing stones towards Koliwada. He had also seen an assailant wearing a *lungi* and a turban, who appeared to be a Muslim, madly stabbing people on the Western Express Highway on 14th December 1992. He also says that a group of people who were masked came down from the highway, went towards Ramgadh and attacked Ramgadh, a slum predominantly occupied by Muslims. The first attack on Ramgadh took place between 2200 to 2230 hours on 8th January 1993; second attack took place at 0400 hours on 9th January 1993 and the third at 0600 hours on the same day. He gave shelter to a large number of women and children who were scared because of the attacks. He also complained that his repeated attempts to contact the police station were in vain, as the person at the other end would neither understand what he said, nor put him on to any responsible officer.

14.49 A non-Government Organisation called "Youth for Unity and Voluntary Action" (YUVA) forwarded a publication by it styled, "*Planned Segregation — Riots, Evictions and Dispossession in Jogeshwari (East) Mumbai*", co-authored by Miloon Kothari and Nasreen Contractor. This appears to be a study of the causes for communal riots resulting in

dispossession of people and historical reasons thereof in Jogeshwari (East) over the last 20 years. Minal Vasudev Pimpale (Witness No.491), Executive Director of YUVA, appeared before the Commission and gave evidence to support the conclusions drawn in the report published by them. Despite attempts made by the police, Shiv Sena and the Bharatiya Janata Party, to discount the value of the report by imputing that YUVA was funded by Muslim countries or by Muslims and leftists, the Commission is not satisfied about these alleged discounting factors. The Commission is of the view that the report of YUVA is certainly a valuable document for understanding the historical genesis and the contributory factors which have caused repeated communal riots in Jogeshwari (East). Considering that it was a study of about 158 dishoused families (both Hindus and Muslims), out of which only 78 families responded to the questionnaire circulated by YUVA, the Commission feels that this report does not go too long a way in informing the Commission about the facts and circumstances connected with actual riots of December 1992 and January 1993, though it gives a historical perspective.

### 15 Kalachowky Police Station

15.1 This is also a Hindu majority area with a few Muslim pockets. Shiv Sena has great hold in this area. Apart from Bharatiya Janata Party, Shiv Sena, Kamgar Aghadi and Communist Parties, there are no other political parties active in this area. There is no known Muslim organisation, nor noticeable activity of Muslim activists or sympathizers in this area. Criminal gangs of Arun Gawli and Amar Naik are active in this area, indulging in acts of extortion of money and so on.

15.2 During December 1992 the first incident of communal violence took place on 9th December 1992 which consisted of arson of a motor lorry belonging to a Muslim which was parked within Kalewadi Compound. During January 1993 the first incident of communal violence took place on 8th January 1993 when a Muslim walking towards his residence in Abhyudaya Nagar after his afternoon prayers was attacked by Hindu boys and killed purely because of communal hatred.

15.3 Abhyudaya Nagar is a colony of Housing Board tenements in which the overwhelming residents are Hindus and only a handful are Muslims. Bombay Dock Labour Board (BDLB) colony on Shrikant Hadkar Marg is a colony of Dock workers in which majority of the residents are Muslims and the Hindu residents are only 25 to 30%. This colony has a Shankar temple as well as a Mosque within the premises.

15.4 During December 1992 four incidents took place in which the victims were Muslims. On 9th December 1992 a motor truck belonging to a Muslim was burnt in Kalewadi, G.D. Ambekar Marg. On 10th December 1992 a scooter belonging to a Muslim was burnt in BEST quarters on Dr.S.S. Rao Road. On the same day a decorator's godown belonging to a Muslim was ransacked and set on fire near the Veterinary Hospital on Dr. S.S. Rao Road and a *gala* in Amit Industrial Estate belonging to a Muslim was ransacked and damaged.

15.5 There is a big masjid by name Dhondpada Masjid within this area which was subjected to repeated attacks. That there was serious probability of threat to law and order from the Hindu community, was expected by the police, though they were caught by surprise, since they did not think that Shiv Sena and Bharatiya Janata Party would assume leadership of Hindu community and incite them to violence against Muslims. Senior Police Inspector admitted that the *Shakha Pramukhs* were accompanying violent mobs during different communal incidents and inciting the Hindu mobs.

15.6 Some of the major incidents which occurred in this area clearly bring out the fact that there was a secret meeting of the Shiv Sainiks to go on a rampage to 'teach the Muslims a lesson' for what had happened in other areas. The incidents which happened during December 1992 obviously happened even before the so-called Hindu backlash was unleashed.

15.7 In this jurisdictional area curfew was enforced from 2000 hours on 9th January 1993 and it lasted till 19th January 1993 with fixed hours of relaxation between 0600 to 0800 hours and 1700 to 2000 hours.

15.8 That the *Mahaartis* were adding to communal tension in the area and that the speeches delivered during these *Mahaartis* were not religious in their content had come to the notice of police, but no action in that connection was taken. In fact, Senior Police Inspector Balkrishna Yellappa Bastawadkar admits that the *Mahaartis* were intended for



whipping up Hindu communal passions, though he lamely added that such a result did not come about in his area.

15.9 During the incidents which took place in January 1993 Hindu shops were rarely damaged and there were selective attacks on the Muslim establishments.

15.10 In the incident of attack on Dhondpada Masjid on 9th January 1999 at about 1100 hours (C.R.No.12 of 1993) a large number of Hindus, ranging from 12,000–14,000, went on a rampage and repeatedly attacked the masjid as well as the Muslims residing around the masjid. It is significant that the mobs were led by Bhai Shingre, Ramakant Rahate, Ravi Chavan, Shridhar Kadam and Anil Gaikwad, all local Shiv Sena leaders, who instigated the mobs to violence and were also giving slogans against Muslims. The police had harrowing times dealing with these mobs as the mobs led by them attacked Muslim residents in different localities and the masjid repeatedly, forcing the police to resort to repeated firing which resulted in three deaths and three injuries to Hindus. Another gruesome incident which took place at 1230 hours consisted of attack on Mohd. Vakil Alam. He was assaulted by a mob of Hindus and set ablaze by pouring kerosene, resulting in his death.

15.11 On 9th January 1993 a huge *morcha* of Shiv Sainiks marched to the Kalachowky police station demanding that the miscreants apprehended by police be released unconditionally. This *morcha* was also led by the local leaders of Shiv Sena and the *morcha* turned violent and pelted stones and soda-water bottles at the police station and had to be controlled by police firing. The mob damaged vehicles parked on road and ransacked all Muslim establishments on Shrikant Hadkar Marg, Abhyudaya Nagar and Barrister Nath Pai Marg. The shops of Muslims were broken open, articles were looted and some of the articles were dumped on the road and set on fire. Surprisingly, despite the tense atmosphere, and the near-war conditions which prevailed, the police meekly allowed a *Mahaarti* led by the local *Shakha Pramukh* Deepak Shinde and other local leaders of Shiv Sena and Bharatiya Janata Party at Hanuman Temple at Shravan Yeshwante Chowk at 1900 hours.

15.12 In this area also the Hindus continuously spread rumours to the effect that Muslims were going to launch massive attack on Hindus. These rumours created a sense of insecurity in the minds of Hindus who organized themselves into self-defence groups, armed themselves and maintained vigil throughout nights.

15.13 Although the police have attempted to show that the riots which took place in the premises of BDLB Colony (C.R.No.15 of 1993) were entirely on account of Muslims led by Dilawar Khan, a notorious character from this area, their stand is belied. This colony is enclosed by a high compound and immediately abuts the Abhyudaya Colony. Some of the residents on the north-east side and north side had broken open the compound wall. The masjid/*madrassa* situated at north-west side was damaged, but the Shiv temple standing right in the middle of the BDLB Colony sustained no damage. Sudarshan Prasad, Pujari of the said Shiv temple, says that none of the miscreants had entered the temple, nor did any one cause damage. There was no crowd near the temple. Though the police had come inside the colony and carried out firing, nobody went to him and recorded his statement. According to him, though majority of the residents in BDLB Colony are Muslims, nobody troubled him nor was any damage caused to the temple for the last more than 25 years. Of the 39 properties damaged in C.R.No.15 of 1993, nine *zopdies* near Ghodapdev Junction belonged to Hindus and all the other properties belonged to Muslims of BDLB Colony and its vicinity. The evidence on record suggests that the police saw a large number of Muslims standing near the entrance of BDLB Colony and their enquiries elicited the information that Muslims were apprehending a Hindu attack and were maintaining vigil to repulse the attack. The pattern of damage to properties, the fact that the masjid/*madrassa* inside the BDLB Colony was damaged, and the fact that the Shiv temple in the middle of the BDLB Colony remained intact, suggest that there was an attack by Hindus and the Muslims tried to repulse it. However, out of 56 accused arrested in this case, 50 were Muslims and four were Hindu residents of BDLB Colony, while two others were outsiders. The only statements recorded in C.R.No.15 of 1993 belonged to police personnel. No statement of any Hindu or Muslim resident of BDLB Colony was recorded.

15.14 In this case, although there were 68 accused, only 56 were produced before the Magistrate and their cases have been committed to the Court of Sessions. However, in the case of 12 Hindu accused, they were not arrested and no case was filed. Senior Police Inspector admits that it was a serious mistake on the part of his office in not taking

prompt action.

15.15 Though a photograph and a news item were published in *Saamna* on 27th December 1992 containing a report about the *Mahaarti* at Yeshwante Chowk held on 26th December 1992, in which it was claimed that the traffic had been totally dislocated, Senior Police Inspector maintained that there was absolutely no obstruction to the traffic. He says that *Saamna* might have reported the incident in an exaggerated way in order to show how great the organizers were.

15.16 On a number of occasions boards were displayed at various places by Shiv Sena and Bharatiya Janata Party openly preaching hatred against Muslims. Though these boards *ex-facie* appeared to have been put up by Shiv Sena, no follow-up action seems to have been taken by the police.

15.17 The Deputy Commissioner of Police of the Zone, Krishnalal Bishnoi, was himself attacked on 10th January 1993 by violent Hindu mobs and injured (C.R.No.17 of 1993) near the BEST Colony on Saibaba Road. However, he tried to underplay the role played by Shiv Sainiks in various incidents within the Kalachowky area. He maintained that, though police identified the individuals as persons who indulged in acts of violence, police could not ascertain whether the role played by those persons was in their individual capacity or as constituents of the organisations to which they belonged. A case of astute sophistry. He also attempted to brush away the fact that in a series of cases the accused arrested were Shiv Sainiks, who admitted to have been instigated by local Shiv Sena leaders to commit acts of violence against Muslims. Despite being confronted with the statement of accused (Ex.1758) in C.R.No.16 of 1993 that there was a secret meeting held by the Shiv Sainiks of Kalachowky area for the purpose of teaching a lesson to Muslims and that he was aware of the fact that during several violent incidents leading *Shakha Pramukhs* and local leaders of Shiv Sena were involved, the Deputy Commissioner of Police, Bishnoi, was at pains to say that, despite all this, he did not believe that there was any pattern in the communal violence in his zone, nor any organized attempt to do so. Either Deputy Commissioner of Police Bishnoi is wholly naive, or completely under political pressure, to deny the obvious.

He does not deny that the whole of his zone is a stronghold of Shiv Sena and most Hindus in his zone were supporters of Shiv Sena. The attempt at sanitizing the issue is brought out by his admission that his perception was based on the fact that there was nothing to indicate that Shiv Sena as an organisation had taken any stand, though it was possible that in some incidents of communal violence Shiv Sainiks and local *Shakha Pramukhs* were involved. (Daniel Adams would have been hard put make out a better defence!). He, however, admits that the mobs were from the area and unless the local Shiv Sena *Shakha Pramukhs* led them they were likely to lose credibility in the eyes of Hindu public and therefore they might have been forced to incite Hindus. If this was the perception of a senior trained police officer of the rank of Deputy Commissioner of Police, the Commission finds it difficult to imagine what could have been the perception at lower levels. Perhaps this explains why the communal violence continued unabated in this area for almost 10 days.

15.18 Another significant fact which the Commission cannot but notice is the message from the Commissioner of Police addressed specifically to Deputy Commissioner of Police Zone-III, Bishnoi, on 11th January 1993. (Transcript of Cassette No. 53A, pages 7, 8 and 9). On 11th January 1993 the Control Room gave a message to all police officers that if there were any incidents of rioting, stabbing, stone throwing, looting, arson and if the army columns were present there, they should immediately hand over the situation to the army authorities. There was also a direct message from the Commissioner of Police to Deputy Commissioner of Police Zone III, Bishnoi, repeating the message and reiterating, "there should be no hesitation to hand over to the army. Again and again I am repeating this". This message was received and acknowledged by Deputy Commissioner of Police Zone III, Bishnoi. The Deputy Commissioner of Police of Zone III, Bishnoi, has no explanation to offer as to why this message is particularly addressed to him. His stand was that Commissioner of Police had not given any specific instructions to hand over the situation to army authorities, is patent prevarication. Commissioner's message on the subject is clear enough. The stand that he did not feel the need to hand over the situation to the army authorities at any time, as the situation had been brought under control in his zone, does not hold water.

15.19 There is no doubt that the communal violence, arson, looting and incidents of attacks

on the Muslim properties in this jurisdiction were engineered by Shiv Sena and Shiv Sainiks after their secret meeting in which it was decided to teach a lesson to Muslims. That the police pretend to be unaware of this only suggests that insufferable naivete or patent partisanship.

#### 16 Kherwadi Police Station

16.1 This jurisdictional area extends over 2.5 square k.m. area and the population of this area at the material time was about 1.62 lakhs. Though the majority of residents of this area are Hindus, there are identified Muslim pockets like Bharat Nagar which itself accommodates about 42,000 Muslims. A creek runs north-south in this area, dividing it into two district parts. On the eastern side of the creek are situated Bharat Nagar, a predominantly Muslim area, and Tata Colony and P.M.G. colony, which are mixed localities. Between Bharat Nagar and the creek is situated a colony called Walmiki Nagar which is predominantly a Hindu colony.

16.2 Bharat Nagar houses seven Urdu schools and consists of chawl-type hutments in a congested area criss-crossed by lanes and bye-lanes. On the western side of the creek are located the Government Colony, Maharashtra Housing Board Colony and Middle Income Group Colony, adjoining which there are some hutments. This area also accommodates one Hanuman Mandir, one Saibaba Mandir, one Dnyaneshwar Mandir and one Shrikrishna Mandir which were the sites of *Mahaartis*. The residents in the vicinity of these mandirs are predominantly Hindus. There is also a Gurudwara situated in this area.

16.3 On 7th December 1992 reacting to the news of demolition of Babri Masjid on 6th December 1992 at Ayodhya, Muslim youths went around forcing a bandh in the Bharat Nagar area. Although most of the shopkeepers there are Muslims, a crowd of Muslim youths went around forcing them to close down the shops. What started as a peacefully persuading crowd, soon turned into a violent mob when the youths saw the police. The mob started pelting stones at BEST buses. The police attempting to intervene were also attacked by stones by the unruly mob. All along the Bharat Nagar Road from Walmiki Nagar upto Tata Colony, large number of Muslims collected on the main road as well as in the lanes intersecting the main road. Police jeep of the Senior Police Inspector which was attempting to cross over the bridge and move along the Bharat Nagar Road was also subjected to stone throwing as a result of which its wind shield was shattered though covered with an iron grill. The police chowky in this area was surrounded by a large unruly mob. Attempts of the police to disperse the unruly and violent mob did not succeed and the mob kept up its violent acts, shouting slogans, "*Nara-e-Takbir, Allah-o-Akbar*" and "*Babri Masjid ka badla lenge*". The stone throwing resulted in serious injuries to Sub-Inspector Nanaware, Assistant Sub-Inspector Kamble and one Head Constable-4280. Police resorted to firing and started dispersing the mob. In the meanwhile, another mob attacked the police chowky, smashed the furniture inside and set on fire a BEST bus which had been immobilized and was standing in front of Bharat Nagar Police chowky. Another police officer Sub-Inspector Desai who was riding on his motorcycle and coming to Bharat Nagar police chowky was forced to alight by the violent mob, his motorcycle was set on fire and he was subjected to heavy stone throwing resulting in serious injuries to him. The rioting mob placed obstacles on the road to obstruct the police vehicles going to Bharat Nagar Police Chowky along the Bharat Nagar Road. Some of the taxis, buses and vehicles were also damaged. One motor truck on Bandra-Kurla complex road and a bulldozer parked in the vicinity were also set on fire.

The fury of the mob continued unabated for quite some time and resulted in about 20 police officers and men being injured in the mob action. Police fired in all 128 (46 from revolvers, 65 from .410 muskets and 17 from sten-gun). In addition, police also exploded 17 teargas shells to control the situation. The riotous acts were going on continuously from about 0900 hours to 1230 hours on that day. Six of the Muslim rioters were arrested and charge-sheeted. All the six accused had received bullet injuries. Seven BEST buses were damaged during the incident. A curfew was imposed in this area, which continued upto 31st January 1993. Two Muslims died as a result of police firing in this incident (C.R.No.327 of 1992) and eight Muslims were injured in the police firing. In all, 11 vehicles, including a bulldozer, and the Bharat Nagar Police Chowky, were set on fire. The office of Bastiwala, local corporator, was severely damaged and the total loss was estimated to about Rs.7.66 lakhs.

16.4 Though this area had seen serious rioting followed by police firing on 7th December

1992, trouble seems to have again erupted on 8th December 1992 at about 1100 hours. Large violent Muslim mobs attacked chawls of Hindu residential area, Walmiki Nagar, and went on a rampage. Once again there was a pitched battle between the police and the violent mobs. The mobs were so violent and bent upon destruction, at whatever cost, is evident from their slogan, "*Maro police ko, Islam ke liye shahid ho jao*". Apart from stones, brick-bats, police were also showered with Molotov cocktails and fire balls. It is claimed by police officer Arun Prabhakar (C.R.No.331 of 1992) that he had heard the sound of private firing from the direction of the mob. One wireless van standing on the road was also set on fire. Ten Muslims died in the police firing. Forty nine houses and shops, out of which 47 belonged to Hindus and two belonged to Muslims, were damaged by the riotous mobs causing extensive loss. Twenty four Muslims were injured in the police firing. Surprisingly, in this incident no police personnel was injured. Twelve Muslim accused were arrested, charge-sheeted and are standing trial.

16.5 On the same day, i.e. 8th December 1992, the Hindus went on a rampage in the Hindu dominated localities. Twenty three shops (20 of Muslims and three of Hindus) were subjected to ransacking, looting and arson in the new shopping centre in the Government Colony area. Samrat Bakery and Rajdhani Bakery, both owned by Muslims, were set on fire and completely destroyed. Though most of the Muslim shops, except one or two, carried name plates from which it would have been impossible to deduce the identity of the owners, they were attacked and this indicates that this was a systematic attack on the Muslim shops, perhaps by way of retaliation to what transpired elsewhere. In this case (C.R.No.332 of 1992) seven Hindu accused were arrested and stolen property worth Rs.1.3 lakhs was recovered from them.

16.6 On 9th December 1992 at about 2230 hours a Muslim's grocery shop was looted at Siddharth Nagar, Bandra-east.

16.7 On 11th December 1992 at about 0830 hours one Zakir Khan was assaulted in Bandra east by unknown assailants.

16.8 The army was called for flag-march on 9th December 1992 which it carried out everyday thereafter. It is the perception of Senior Police Inspector Bansi Vishwanath Andhale that the flag-marches during December 1992 did not have any perceptible effect on the people of the area.

16.9 In January 1993 the first communal incident here took place with the murder of an unknown person with multiple stab injuries whose body was thrown in the creek and recovered on 6th January 1993 at about 1130 hours. On 7th January 1993 at about 2230 hours one Hindu, Pokarram Fauramji, was found stabbed to death in his grocery shop at Tata Colony, Bharat Nagar.

16.10 On 9th January 1993 a Muslim student walking along the road in front of Chetana College was stabbed at about 1230 hours.

16.11 On 10th January 1993 at about 1100 hours one Muslim, Salim Sardar Sheikh, was found lying on Ali Yavar Jung Marg with stab injuries and was declared dead before admission to the hospital.

16.12 During the night of 10th/11th January 1993 some of the stalls of Muslims near Kala Nagar junction were set on fire.

16.13 At about 1400 hours on 12th January 1993 a rickshaw driver, Akbar Madar Sheikh, who had gone to ply his trade was found stabbed near Government Colony and his rickshaw was found damaged.

16.14 On 12th January 1993 at about 2300 hours two Muslim women, Smt. Salma Mushtaq Khan and Smt. Hansanabai Mohd. Idris Khan, were stabbed in their house in Subhash Nagar. In another incident, one Muslim Riyaz Khan Ibrahim Bilal was also stabbed.

16.15 During the night of 12th/13th January 1993 some of the Muslim shops in the Government Colony area were set on fire.

16.16 On 13th January 1993 one Abdul Razaq Ismail, who was proceeding in a rickshaw on Western Express Highway, was attacked near Kherwadi junction and was assaulted.

16.17 On 13th January 1993 the Muslim occupants of Chaitali Co-operative Housing

Society, who had locked their houses and ran away, had their houses broken open, looted, and ransacked.

16.18 On 14th January 1993 at about 1000 hours a complaint was lodged that on the night of 12th/13th January 1993 the houses of three Hindus, Jethalal Bechar, Tarabai Mane and Pradeep Naik, in Tata Colony, Bharat Nagar, were broken open and looted and ransacked. One Muslim accused has been arrested and a part of the stolen property is recovered from him.

16.19 On 14th January 1993 at about 1300 hours a rickshaw driven by a Hindu, Chandrakant S.Lanaji, was set ablaze after assaulting the driver on the Bandra-Kurla complex road.

16.20 On 15th January 1993 at about 1145 hours two Hindus, Ravindra G. Pawar and Shivaji L. Pawar, were assaulted by Muslims on the Tata Colony Road.

16.21 On 15th January 1993 at 1750 hours one person was discovered in a gutter with his clothes burning near the BEST route Nos.314 and 315 terminus. Subsequently, another burnt body was found in the close vicinity of the same spot. Both victims were Muslims who were coming by taxi to Bharat Nagar and were attacked by a mob of 20-25 Hindus who pulled out the victims and attacked them and set them on fire.

16.22 On 15th January 1993 another dead body was recovered from the marshy land opposite Building No.316, Government Colony. This was identified to be a body of Barkat Ulla Moti Ulla Khan.

16.23 On 22nd January 1993 at about 1230 hours one Mohd. Ayub Mohd. Abbas Sheikh was stabbed near the Drive-in Theater, Bandra east.

16.24 On 29th January 1993 at 1500 hours a complaint was lodged by the residents of Motorwali Chawl, Siddharth Nagar, Saibaba Nagar, Bandra East, that their locked houses were broken open and looted between 14th January 1993 to 21st January 1993.

16.25 On 13th February 1993 at about 1530 hours a complaint was lodged that between 7th January 1993 to 21st January 1993, five locked houses in Sant Dnyaneshwar Nagar were broken open and valuable household articles were looted.

16.26 On 18th February 1993 at about 1430 hours a complaint was lodged by a Muslim, Abdul Karim Hussain Momin, that his vehicle parked opposite Sadanand Hotel, Subhash Nagar, Bandra east, had been set on fire and damaged.

16.27 When the Muslim shops in the New Shopping complex were set on fire, a message was sent to the Fire Brigade and the Fire Brigade reported that unless they were given complete police protection the personnel were unwilling to come. Samrat Bakery, which was burnt down completely, was situated at about 100-150 feet away from the Kherwadi Police Station. On that day there was a bandobust picket posted near Building No.6 and 7 directly opposite Samrat Bakery. The only alert work done by the bandobust picket was that they noticed the fire after the bakeries were set ablaze only after seeing thick smoke emanating and informed the Fire Brigade.

16.28 Even on 8th December 1992 there was attack on Muslim establishments, particularly in New Shopping complex area, while there was no incident of any attack on any Hindu houses in Bharat Nagar area during the entire month of December 1992.

16.29 The huge fire in the New Shopping complex caused damage to the tune of about Rs.60 lakhs. The police came to the spot while the miscreants carried on their activity, but appeared to have fired only four rounds and the explanation is that there was no need to fire more rounds as the mobs dispersed after firing of four rounds. The records of the FIR show that the police came on the scene, warned the mob which was indulging in breaking open, damaging and looting the shops, the mob did not obey the orders of the police but started throwing stones at the police and it was at that time police decided to fire four rounds. There is no explanation from Senior Police Inspector as to why the instructions of the Commissioner of Police to effect firing whenever the police came across instances of looting and damaging were not obeyed.

16.30 Though this police station had a Peace Committee, Ashok Shinde, *Vibhag Pramukh* of Shiv Sena, who was an accused in a riot-related case registered by Mahim Police

Station, and Shri Madhukar Sarpotdar, MLA, who was an accused in a riot-related case registered by Nirmal Nagar Police Station, were members of this Peace Committee.

16.31 One significant fact is noticed by the Commission in Mill Diary Entry (Ex.256-C Collectively) dated 27th December 1992. On that day, the Hindus led by the local leaders of Shiv Sena, had taken out a procession for reinstallation of a Ganesh Murti in the Mandir on A.K. Marg. This procession passed through the Kherwadi Police Station area carrying placards on which it was written, alia, "*Shiv Senechi Dahashat, hich sarvajanik surakshitata* (Shiv Sena's terror is public safety)". Although the original word "*Dahashat*" (terror) was clearly mentioned in the Mill Diary Entry, the police tried to underplay it by overwriting "*Darshan*" on the word "*Dahashat*". That there is clear attempt to play down the word "*Dahashat*" (terror), and substitute it with the neutral word "*Darshan*" (sight), is obvious from the fact that the qualifying word "*Shivsenechi*" is still in the feminine gender and not in neuter gender which would have been appropriate to qualify the neuter gender noun "*Darshan*".

Since the procession passed through and terminated in the Nirmal Nagar Police Station's jurisdiction, it is also the subject matter of an entry in the Mill Diary Entry maintained by Nirmal Nagar Police Station. A cross reference to the Mill Diary Entry dated 27th December 1992 in the Nirmal Nagar Police Station (Exh.2282-C) clearly bears out that the word used in the placard was "*Dahashat*" and not "*Darshan*". Fortunately, the Nirmal Nagar Police Station's Mill Diary has not been tampered with. It would therefore, appear that the Shiv Sena honestly believed that the only way to assure the citizens of their safety and security was creating its own terror against the Muslims. Despite the crude attempt at watering down the effect of the incendiary material contained in the banner carried by the processionists, the message was clear. If there was doubt, contents of other banners dispel it. They gave calls for a battle by the Hindu *Sena* and declared that if any one dared to cross the path of the raging ocean of Hindus, Hindus should straight come onto the battle field, by invoking the names of several national leaders including Chhatrapati Shivaji Maharaj. That, this has been done in a procession taken out to install *Ganesh Murty* in the mandir on A.K. Marg in the adjacent jurisdictional area, when religious passions of Hindus were already at a high peak, clearly indicates the game plan of the local Shiv Sena leaders.

## 17 Kurla Police Station

17.1 This area is considered as communally hyper-sensitive and has seen Hindu-Muslim communal riots in the past. This area has a population of about five lakhs out of which 30% to 40% are Muslims and the balance belong to other communities of which Hindus are predominant. Indira Nagar, Khadi Masjid area, Gafoor Khan Estate are predominantly lower middle class Muslim areas. Pipe Road, Fitwala Compound are predominantly Muslim localities. Maharashtra Chawl Committee area, Takya Ward, Bail Bazar and New Mill Road area are lower middle class Hindu dominated areas where Hindus of working class reside. Masrani Lane, CST Road, LIG Colony and MIG Colony have mixed population of Hindus and Muslims. The localities of Indira Nagar, Bharatiya Nagar, Fitwala Compound comprise hutments and chawls which do not have access roads.

17.2 The area extends from Sion Railway Station in the south all the way to Mukand Iron and Steel Company compound and lies between the Central Railway main line tracks and Mithi river on the western side. There are 13 masjids and 18 mandirs within this area.

17.3 It is the assessment of Senior Police Inspector Ramakant Vasudev Padwal (Witness No.394) that the manpower, equipment, arms and ammunition available at this police station were inadequate even under normal circumstances. He had addressed several letters to his superior officers asking for improvement on these issues but met with little success. About 30 to 40% out of the manpower available with Kurla police station used to be on continuous bandobust at the Kurla Metropolitan Magistrate's Court, office of the Additional Commissioner of Police, Deputy Commissioner of Police, Assistant Commissioner of Police and the office of the Bombay Municipal Corporation 'L' Ward. It is the assessment of the Senior Police Inspector that the arms and ammunition available with the police station were not adequate, both qualitatively and quantitatively, to handle the riot situations. Several areas do not have street lights. They also do not have motorable roads and policing them is almost an impossible task.

17.4 Padwal deposed that the .410 muskets supplied to the police station were ineffective; it was his experience that bullets fired from the muskets would not hit the targets and the

mobs would continue to rush at police. According to him .303 rifles and SLRs are more effective in controlling violent mobs.

17.5 Though he claims to have obtained information from the members of the public from different areas who had seen communal riots in 1984, surprisingly he says that they had no information about communal organisations who were active during the December 1992 and January 1993 riots.

17.6 Shiv Sena, Bharatiya Janata Party, SIMI, Jamaat-E-Islam-E-Hind, Congress-I, VHP, RPI are active within this area.

17.7 The period from July to December 1992 saw VHP, Bharatiya Janata Party and other *Hindutva* parties organizing several meetings and chowk sabhas to carry on propaganda on the Babri Masjid-Ram Janambhoomi issue. According to Padwal, though he had periodically sent copies of Mill Diary quoting the speeches made by different speakers to the SB-I CID, H & M Branches, he received no directives to take any action.

17.8 The army columns had been requisitioned to carry out flag marching in this area on 8th, 9th and 21st December 1992.

17.9 The first communal incident in December 1992 occurred in this area on 7th December 1992 at about 1130 hours or so near Kurla BEST Bus Depot, Kalpana Cinema Junction and Pipe Road Kurla-west. A mob of about 1000-500 Muslims pelted stones on BEST buses near the Kurla Bus Depot and plying on the LBS Marg. There was also an attack on the Hanuman Mandir in the lane leading to Shivaji Kutir Mandal and the Hanuman Mandir was damaged and demolished. The attempts by the police to disperse the mobs led to pelting of stones at the police and firing by police (C.R.No.949 of 1992). There were also violent clashes between armed Hindu and Muslim mobs which are subject matters of C.R.Nos.950 and 951 of 1992.

17.10 In all, the police registered 64 cases during December 1992 out of which 36 pertained to rioting, 27 to assaults on individuals and one pertained to property damage. Thirty five cases were classified in "A" summary for want of clues to the identity of the miscreants and one case abated due to the death of the accused. In 28 cases the investigation by the police was fruitful and resulted in charge-sheets being filed against the accused.

17.11 During January 1993, 34 cases were registered by the police out of which the investigation in nine cases resulted in charge-sheets being filed against the accused and 25 were classified as "A" summary.

17.12 There were five cases of private firing reported in this area.

17.13 There was violent clash between a Hindu mob from Bhagwati Building and Muslim mobs from Anurag and Rupam Buildings. One Hindu was injured in private firing which was said to have been made from the direction of Rupam Building. One Mohd. Taher Mehboob Alam Khan had resorted to firing from a licensed revolver and his stand was that he had fired in self-defence because of the attack by the Hindu mob (C.R.No.952 of 1992).

17.14 In C.R.No.964 of 1992, while controlling violent confrontation between Hindu and Muslim mobs, police resorted to firing in all 74 rounds. Five Hindus received acid burns as a result of the acid-bulbs apparently thrown by the Muslims. The victims stated that the Muslims from Anurag Building were throwing acid-bulbs at them. One Kailash Madhukar Dhamdhare and a police constable, Ramesh Sakharam Pednekar, both stated that they had 'learnt' that one woman was indulging in private firing from Paswan Building and that she had been shot down by police. There seems to be no other credible material to support the theory of private firing. No combing operations were carried out, nor were fire-arms recovered.

17.15 In C.R.No.956 of 1992, private firing was noticed from the direction of Faiz, Bagwan and Sheetal Chandrika Buildings. The police carried out combing in those buildings as well as in the adjacent Rupam Building but no fire-arms were recovered.

17.16 In C.R.No.969 of 1992, one Hindu is said to have been injured in private firing. This incident occurred at Gafoor Khan Estate, Sambhaji Chowk. The incident was so serious that the police requisitioned the army column for help. Police Inspector Pawar and Assistant Commissioner of Police Karanje noticed private firing from miscreants from a

lonely place located at higher altitude in Gafoor Khan Estate and opened fire to stop the private firing. An Assault Mobile which was present on the spot used long range weapons to fire at the miscreants who were indulging in private firing. Two Muslims died as a result of police firing. The message given by Kurla-I Mobile to the Control Room makes an interesting comment: "There is heavy firing opposite Kurla Apartment. I am taking necessary action. I am firing from the musket but the bullets are not able to reach ahead". This appears to be a case of private firing.

17.17 In C.R.No.983 of 1992, at about 2030 hours on 9th December 1992, there was an attack from the Muslim mobs from Bori Kabrastan area on the Hindu residences of Sandesh Nagar, Bail Bazar and retaliation by the Hindus. Police intervened and managed to push back Hindus but were attacked by the Muslim mobs in the bargain. Here also it is claimed that there was private firing made at the police but the material on record is ambiguous.

17.18 This area has seen its share of individual assaults and stabbing after ascertaining the communal identity. In most of such cases the accused were not identified and the cases were classified in "A" summary.

17.19 A Muslim on his way from Kazi Nagar to Vinoba Bhave Nagar was stabbed on 8th January 1993 at about 1400 hours and this case was classified in "A" summary (C.R.No.14 of 1993). One Ulhas Dhamdhere was arrested on 29th December 1993 in connection with some other offence and on information given by him it was revealed that he and another notorious criminal of the locality, Mukesh Salunkhe, were involved in the attack. Ulhas has been charge-sheeted but Salunkhe is said to be not traceable.

17.20 In C.R.No.15 of 1993, one Hindu was stabbed to death. Surprisingly, in this case six Hindus were identified as miscreants and five of them have been arrested and charge-sheeted. The case diary reveals that Sanjeev Pandit Patil and Kailash Laxman Kamble, two of the accused, were brought to the police station and handed over to the police by the local Shiv Sena activists. The murder of the Hindu victim appears to have resulted from his reluctance to identify himself and the erroneous assumption of the attackers that he was a Muslim.

17.21 In C.R.Nos.1 and 12 of 1993, the assaults on the Muslim victims were made by Hindu miscreants who were dispersing from the *Mahaartis*.

17.22 In C.R.No.1029 of 1992, one Muslim was assaulted on 31st December 1992 at 0905 hours at Baburao More Chowk, Sarveshwar Mandir Marg, near the public toilet. One Mohd. Ijaz Tayyab Ansari, a rickshaw driver, who is an eye-witness has identified the assailant as the local Shiv Sena activist who was always seen hanging around the area. Investigating officer also says that the area in which the offence took place is dominated by Hindus and Shiv Sena has a stronghold and that it is only after he guaranteed personal security that the rickshaw driver identified the assailant who has now been charge-sheeted.

17.23 In another incident of assault (C.R. No.1030 of 1992), the assailants were identified and also admitted the fact of assault during interrogation. Four Hindus have been charge-sheeted in this connection.

17.24 There were two cases where the police raided certain premises and recovered huge stock of soda-water bottles, stones, tubelights, Molotov cocktails. In LAC No.2632 of 1992, they recovered offensive material from the terrace of Bhagwati Building. Police also recovered one gunny bag full of glass bottles, 24 soda-water bottles, two iron bars, 12 tubelights from the W.C. and Electric Meter Box of the chawls known as Sairabanu Dudhwala Chawl, Abul Khan Chawl and Umarbhai Chawl on 30th December 1992 (C.R.No.1026 of 1992).

17.25 A peculiar feature of investigations in this area appears to be that in several cases involving assaults on Muslims and their properties, the investigating officers have directed the investigative inquiries to the local Shiv Sena leaders like Sarate Master and Kisan Baba Madane. Local Shiv Sena MLA Suryakant Mahadik also appears to have been instrumental in bringing a few accused to the police station and making them surrender before the police.

17.26 In C.R.No.971 of 1992, one Kalam Hussain Vaju Alla Ansari was found making communally instigative speeches and has been charged under section 153(A) and 153(B) (2)



of the IPC. In another case, an Urdu pamphlet containing communally inflammatory material was seized from the precincts of a masjid on Pipe Road on 8th January 1993 at 1300 hours (C.R.No.64 of 1993). A poster, communally inciting Hindus against Muslims was seized from Taximen's Colony on LBS Marg on 21st January 1993 (C.R.No.68 of 1993). Interestingly, though no one has been arrested, police made inquiries from Vilas Vasant Bhanushali, Bharat Khavnekar, Yeshwant Atmaram Khambekar, all local Shiv Sena activists, with regard to the poster. Urdu pamphlets containing inflammatory material were seized near the Sonapur Lane Masjid on 18th January 1993 at 1300 hours (C.R.No.71 of 1993).

17.27 There were a number of cases in which the properties of Muslims and Hindus, who had locked their houses and moved away, were broken open, ransacked and subjected arson. Some of the cases have been classified as "A" summary while in some cases miscreants have been identified, arrested and charge-sheeted.

17.28 The office of one Muslim by name Mantri Construction on the ground floor of Mayfair building was subjected to arson. A group of 20-25 boys of Shiv Sena residing in Saidham Apartment, situated opposite the auto garage of one Sukhdeo Singh Gurudev Gill, charged towards the office of Mantri Construction carrying a plastic can and a plastic pipe. The miscreants poured petrol or kerosene or some inflammatory material into the office by using the said pipe and set the office on fire. The fire from the arson of Mantri Construction was so big that it affected the premises of one Crasto residing on the first floor of the said building who complained to the police. The owner of Mantri Construction, Pheroz Z. Mantri, was not present in the premises at the material time and the office was locked (C.R.No.987 of 1992). Though this case was initially classified in 'A' summary by the police, Mantri made repeated representations to the higher police officers, Chief Minister and Home Minister. The fact that he was a local politician helped him in putting pressure on the government and police as a result of which the case was reopened, proper investigations were carried out and the statement of Sukhdev Singh was recorded. Interestingly, on 17th January 1993 the wanted accused were brought to the police station by Shiv Sena MLA Suryakant Mahadik. The accused were arrested and subsequently charge-sheeted. Both, police and Pheroz Mantri, appeared to be agreed that his office was set on fire because of communal reasons and not because of political or business rivalry. In fact, the accused who were arrested stated that because they had learnt that there was private firing from his office they had decided to set fire to his office. As a matter of fact, there is no material on record to indicate any incident of private firing from the office of Mantri Construction. It would appear that someone with vested interests had set afloat strong rumours with a view to incite the communal passions of local Hindus.

17.29 One Haji Abdul Razaq Khan gave evidence before the Commission. He is an educated person formerly employed as Assistant Chief Ticket Inspector in Central Railways, presently practicing as an advocate in the Motor Accidents Claims Tribunals and also was S.E.M. at the material time. He was also a member of the Peace Committee. He was called to attend the meeting of Peace Committee on 29th December 1992 and arrested by police by making out a false case against him. He has described the incident of attack on Aba Gani Chawl on 7th December 1992 at 1100 hours by the Hindu mob which consisted mostly of Shiv Sainiks. He positively identifies the miscreants as Shiv Sainiks because they were giving slogans like, "*Jai Bhavani*", "*Jai Shivaji*" and "*Shiv Sena Zindabad*". Being a long-time resident of the area he knew most of the people at least by face. He has specifically identified the Shiv Sena *Vibhag Pramukh*, Bhau Korgaonkar, ex-Municipal Councillor Vilas Bhanushali and one person by name Sanas, all active Shiv Sainiks, as being in the forefront of the attacking mob.

According to him, the mob was systematically breaking open, looting and ransacking the houses of Muslims as well as Hindus and his appeals to the police picket situated about 200 meters away, elicited the reply that they were under strict instructions not to move from their place. He telephoned to the Control Room and got vague replies. He has also deposed about how he went to Halai Memon Masjid, took shelter there for sometime and when returning home he saw police firing from the Shriram Building, Brahmanwadi towards Muslim *basties* on the Pipe Road. He has named the officer on the terrace of the Shriram building, as Police Inspector Sabe, very well known to him, who waved at him, instructed the constables not to fire at him, came down and talked to him. Witness complains that despite instructions to the contrary, the constables continued to fire and two Muslims were injured. He has named Arifoo Lala and Khopdi as the miscreants in the Muslim mobs while Nandu (Anand), Harya (Harish) and Kulkarni (Kalokali) were the Hindu miscreants.

17.30 From amongst the accused in the Bombay bomb blasts case, the accused by name Sardar Shahwali Khan (at Sr.No.84), Feroz Abdul Rashid (at Sr.No.96), Mansur Ahmed Sayyed Ahmed (at Sr.No.141) and Mohd. Dawood Mohd. Yusuf Khan (at Sr.No.144) were residents of this area.

#### 18 L.T. Marg Police Station

18.1 The jurisdictional area of L.T. Marg police station is a commercial area which has wholesale markets such as Zaveri Bazar, Dava Bazar, electrical goods and about 18 other wholesale markets. The predominant population in this area is of Hindus. About 80 temples and six mosques are situated in this area.

18.2 During December 1992 this area did not see much of rioting and violence as such, although there were eight cases registered by this police station of breaking open, looting and arson of commercial establishments and hand-carts belonging to seven Muslims and one Hindu. In three such cases (C.R.Nos.571, 572 and 578 of 1992), the accused have been arrested and proceeded against.

18.3 This area is a stronghold of Bharatiya Janata Party and Shiv Sena. Bharatiya Janata Party has its offices at Kalbadevi. Shiv Sena has four *shakhas* located at Jambulwadi, Chandanwadi, Bhai Jeevanjee Lane and Bhuleshwar with its main South Regional office located on Jagannath Shankarsheth Road. There are no Muslim organisations active in this area.

18.4 The January 1993 phase of rioting saw serious incidents taking place in this area. In all there were 16 offences registered in January 1993 including one case of murder of a Muslim and one case of injury caused to another Muslim. Rest are cases of looting and arson of shops belonging to Muslims. There was also a case of big arson in an area called Diamond Jubilee Compound.

18.5 Soon after the murder of one Mathadi worker on 26th December 1992 in Dongri jurisdiction, several boards were put up within this area expressing indignation and outrage at the brutal murder of the Mathadi worker. These boards were put up by Mathadi Unions as well as political parties like Bharatiya Janata Party and Shiv Sena. The tension in this area continued to build up from 26th December 1992 to 5th January 1993. On 8th January 1993 one Kadar Badshah was stabbed to death in Tel Gulli, Vithalwadi.

18.6 The first *Mahaarti* was organized at Kalbadevi Mandir, Kalbadevi Road, under the leadership of Bharatiya Janata Party corporator, Bharat Gurjar, and was attended by about 800 persons. After the Radhabai Chawl incident in Jogeshwari, exaggerated and incendiary rumours spread through this area amongst the Hindus, vitiating the atmosphere in this area. From 9th January 1993 onwards, there were repeated incidents of Hindu mobs roaming on the streets, breaking open Muslim shops, looting and ransacking the shops, throwing of the articles on the streets and setting them on fire. It is the case of the police that, despite best efforts, they were unable to prevent such incidents and whenever they attempted to prevent such incidents they were subjected to attacks by soda-water bottles, brick-bats and stones and they had to resort to *lathi* charge and firing. Senior Police Inspector Sankpal admits that the *lathi* charge consisted of only brandishing of *lathis* without physical contact and no one from the rioting mob was injured in the firing resorted to by the police.

18.7 There were 18 *Mahaartis* held from 8th January 1993 to 18th January 1993 during which period, according to police, there was no blocking of traffic, because the traffic itself had been diverted. There were seven cases of stabbing resulting in the deaths of one Hindu and eight Muslims.

18.8 This area saw six major cases of arson and looting resulting in loss of property worth about six crores. The police have been able to recover property worth only rupees five lakhs and in all 108 persons, all Hindus, have been arrested.

18.9 As contrasted with police firing in Muslim predominant areas, the firing carried out by the police in this Hindu area appears to be wholly ineffective and did not deter the rioting mobs from continuing to indulge in incidents like arson, ransacking and looting. The Commission wonders whether the police firing was all in the air, since sometimes the firing was done from a distance of a mere 100-200 feet at a mob of 200-300 people without any casualties.

18.10 The investigation of riot-related cases also appears to be sloppy. There was an anonymous letter addressed to the Commissioner of Police (Exh.776-C) giving specific names of the miscreants who had indulged in looting and arson of some establishments as Anil, Bhupendra, Suryakant, Umesh, Raju Vinodbhai, all from the same lane as the shops in Chira Bazar and Shrikant Palekar Marg which had been looted (C.R.No.19 of 1993). No efforts appear to have been made by the police to locate the miscreants named, who were from the same locality. It is difficult to believe the story of the police that they had looked for these culprits, since there is no reference whatsoever to such efforts made in the case diary. In the same case there is a complaint dated 5th February 1993 made by one Manoj Ranjit Gala, resident of 159/4, Valmiki Niwas, Dr.Vegas Lane, Kalbadevi Road, graphically detailing the looting which took place on 9th January 1993. He also has given specific names of the person indulging in looting of shops in front of his eyes. It seems the looting was done systematically with fine division of labour. One person was breaking open the establishment, the second was bringing out the looted articles and the third was transporting the looted articles. The case papers indicate no efforts made to bring the culprits to book. There is also a statement of one Jayesh Thakkar dated 6th February 1993 who admits that he and his associates Manoj Sawant, Manoj Jain, Prakash and others had ransacked some shops, looted cloth from the shop and set on fire some of the articles. Though Manoj Jain was arrested, the other two accused, by name Manoj Jain and Prakash are still free. There is nothing in the case diaries or interrogatory sheets to show that the accused was interrogated with regard to his motive in setting fire to the cloth, nor with regard to his affiliation with any organisation. As a result of the inability of the police of this area to prevent the increasing number of incidents of looting, breaking open and arson, the Commissioner of Police was exasperated and remarked adversely in the wireless message sent at 1025 hours on 21st January 1993 to the Senior Police Inspector, "The number of looting incidents in your area is increasing. You are not taking action. You will be held responsible." There is no follow-up action even on this.

18.11 There appear to be some cases of private firing by Hindu accused and a crude attempt made by the police to underplay it by scoring out the words "*Golibar kela* (I had fired)" originally recorded in the interrogatory statements of the accused in one case (C.R.No.32 of 1993, Ex.753-C). On the Senior Police Inspector's own showing, there was a case of private firing at the police from the Hindu mob gathered near one building in Kinjara Street. Since it was admitted that the majority of the persons in Kinjara Street are Muslims, presumably, the private firing was done at some Muslims. There is no follow-up action taken, nor is anyone arrested in this connection.

18.12 Though the army column was carrying out flag marches in the area during the entire period, the police did not handover a single situation to the army to be handled. It is admitted that victims of seven stabbing incidents in January 1993 were all Muslims and that the nine deaths which occurred in January 1993 were all on account of mob action. The nine deaths included two partially burnt bodies recovered from a garbage bin in Phanaswadi and a body recovered from Jagannath Shankarsheth Road.

18.13 Out of the 108 persons arrested in connection with different offences, one was Muslim and others were all Hindus. The one arrested Muslim was a 12-year-old boy who had sustained a bullet injury.

18.14 One major incident which needs particular mention is the incident of arson in the Diamond Jubilee Compound at 0045 hours on 10th January 1993. Though it was such a major incident, it appears to have been treated as one of the several incidents in a case registered (C.R.No.25 of 1993) compositely in respect of several incidents.

18.15 About 200-300 miscreants gathered in the bye-lanes of S.K.Patil Marg and indulged in stone throwing and throwing other missiles at the houses and garages located in Diamond Jubilee Compound and set fire to them. This Diamond Jubilee Compound housed a few residential premises and certain open area and premises used as motor garages. One Haroon Rashid, editor of *Urdu Blitz*, resided in this Diamond Jubilee Compound. He made a written complaint of arson and the loss caused to him. No effort at recording his detailed statement was made, nor was the statement of any resident of Diamond Jubilee Compound recorded, though the Senior Police Inspector admitted that it was a serious incident and that he had no explanation for not recording statement of any witness. It appears that the Assistant Commissioner of Police or Deputy Commissioner of Police had never raised any questions about this incident or the serious lapses in investigating the related case. He also did not seek any explanation from Assistant Police Inspector Kamat, the investigating

officer. The end result of this inaction is that no accused has been identified in this serious case and the case stands disposed off in "A" summary.

18.16 According to Haroon Rashid, who has been examined before the Commission, the attack on the Diamond Jubilee Compound was a pre-planned attack carried out at the instance of Shiv Sainiks who were known to the boys living in the Diamond Jubilee Compound. Those boys were scared to identify themselves on account of the atmosphere prevailing then.

18.17 The chawls in Diamond Jubilee Compound housed about 18 tenements which accommodated about 200 Muslim residents. In the night of 8th January 1993 cries of "*Jai Shriram*" were heard from mobs outside the Compound. Haroon made a complaint to the Police Station and sought protection. Two policemen were posted to keep watch in front of the Compound. However, when the attack actually came, the police on duty were nowhere to be seen. The mob came with a handcart loaded with soda-water bottles, brick-bats and stones which were freely used against the Muslim tenements. Frantic attempts to contact Police Control Room No.100 brought the reply that the police were too stretched for resources and could not comply with every such request. Consequently, the mob had a free hand and went around systematically smashing up the vehicles parked on the two sides of road and also inside the compound. When a police jeep arrived, Haroon pointed out to the police that the miscreant mob had taken refuge in Mehta Estate, a building directly opposite their Compound. At about 1000 hours on 9th January 1993 there was a fresh attack by Hindus from the backside of the Diamond Jubilee Compound. After pelting stones and other missiles, the mob threw petrol-soaked cloth balls which were ignited. The policemen on duty in front of the gate under supervision of Police Inspector Kamat did nothing in the matter and stood by as silent spectators, despite the devastation being caused. The mob then moved to the terrace of two buildings, Mehta Estate and Hemraj Wadi, in front of the Diamond Jubilee Compound. Hemraj Wadi houses Vilas Avchat, Corporator of Shiv Sena. Haroon says that his attempt to elicit help of the corporator Avchat in maintaining peace produced no result. The continued attack on the Diamond Jubilee Compound with burning articles, at intervals of 10-15 minutes, forced the Muslim residents to move out of their tenements and shift to the single storied Diamond Manzil Bungalow, also situated in the Diamond Jubilee Compound, at about 1400 hours.

This resulted in an attack on Diamond Manzil. A bomb was thrown on the terrace of the Diamond Manzil and exploded loudly. Women and children were evacuated from Diamond Manzil and shifted to 6th floor of Roghe Apartments. The police and SRP jawans were just silent spectators. Some of the SRP jawans had deliberately removed their name tags. A jeep full of police came there but they were interested in only talking to the Shiv Sainiks; their leaders and were seen joking with them. The mob kept shouting "*Apne Allah Miyan ko Bulavo*" and "*landyabhai aaj hum sab ko mar dalenge*". By about 1800 hours the attacks became unbearable and the residents vacated the Diamond Jubilee Compound as the police said they were helpless and could not do anything. All but only one Muslim, Bassit Baughiza, vacated the tenements. On the next morning at 0600 hours, Haroon learned that search-lights had been focussed on the Diamond Jubilee Compound to facilitate attacks which went on throughout the night as a result of which the entire six room chawl and part of Diamond Manzil were gutted. According to Haroon, the incident witnessed by him led him to believe that the attack was planned by Shiv Sena since the persons leading the mob were known faces who used to play cricket with the boys from the Diamond Jubilee Compound. He also asserts that there was clear collusion by police, who were seen hobnobbing and gossiping with Shiv Sainiks ignoring the cries for help from the residents of Diamond Jubilee Compound.

18.18 In his capacity as a journalist, Haroon had taken interviews of the then Chief Minister, Shri Sudhakar Naik, and the then Commissioner of Police, S.K.Bapat, during which he asked them a point blank question as to whether the police were colluding with the Shiv Sainiks. In reply, Shri Naik said that he admitted the blame to some extent, the fact could not be completely discarded and that there was alliance formed with police for using force, by collecting *hafta*. He also assured Haroon that action would be taken against the erring police personnel after enquiry. He also said that he had a word with Thackeray only once on phone and the reply was absolutely negative. The text of this interview has been produced at Exh.838-C (Colly). The then Chief Minister, Shri Sudhakar Naik in his evidence did not deny that he had given such an interview to *Urdu Blitz* or that in that he had admitted that Shiv Sena and police were colluding with each other. Understandably, Haroon has been cross-examined severely by the Shiv Sena and the

police. Despite the length of cross-examination, in the Commission's view the evidentiary value of Haroon's testimony is in no way diminished. The Commission is inclined to accept the assessment of Haroon Rashid that in this area there was both passive and active collaboration between the police and Shiv Sainiks during the January 1993 phase of riots. The role played by Assistant Police Inspector Kamat is condemnable. It is unfortunate that the Senior Police Inspector was not able to name the two constables who were posted on bandobust duty in front of the Diamond Jubilee Compound who managed to vanish at the nick of time.

18.19 The Muslim shops appeared to have been selectively marked out for attack. There is a complaint of Abdul Aziz Hussain Girach, owner of Girach Paints, in C.R.No.18 of 1993, in which he said that somebody had put a cross mark on the outer door of his shop. But when he went on 16th December 1992 to the police station to lodge his complaint, police simply recorded a NC Complaint No.3081 and did nothing further. His shop was broken open and looted once on 9th January 1993 and again on 10th January 1993. His complaints are at Exh.789-C and Exh.790-C.

18.20 Some of the Muslims from this area who had taken refuge in Musafirkhana had given complaints (Exh. 791-C) to the Commissioner of Police. These complaints were sent to Joint Commissioner of Police under cover dated 8th January 1993 (Exh.792-C). No statements of these complainants were recorded despite their complaints in writing and their referral by the Joint Commissioner of Police. The investigations were closed on 4th June 1993 and the case was classified in "A" summary.

### 19 Mahim Police Station

19.1 This jurisdictional area is considered to be communally sensitive. Twenty one major temples, five mosques, two churches and two gurudwaras are situated in this jurisdiction. Though the majority of population of this jurisdiction is Hindu, there are several Muslim pockets located in it like Kapad Bazar, Dargah Street, Wanje Wadi, Lohar Chawl, Paach Peerwadi, Mori Road Zopadpatti and the vicinity of Chhota Dargah on L.J. Road. Magdoom Baba Dargah, situated at the junction of Veer Savarkar Marg and Dargah Street, is a big Dargah which attracts large numbers of Muslims every year. Three major arterial roads, viz. L.J. Road, Veer Savarkar Marg and Senapati Bapat Marg, run through this area north-south. The police station itself is located in a predominantly Muslim area, in close vicinity of the Magdoom Baba Dargah. Though the residents around that area are predominantly Muslims, there are also some Hindu pockets in that area. On the southern side of Paradise Cinema, Fishermen Colony and Mahim Causeway Zopadpatti are predominantly Hindu areas.

19.2 According to Senior Police Inspector Shashikant Vasudeo Rane, the manpower, weaponry and equipments possessed by the police station at the time of breaking out of the riots in December 1992 were qualitatively and quantitatively inadequate to handle the situation. The communication and transport equipments were also qualitatively and quantitatively inadequate.

19.3 Surprisingly, though the riots broke out in the city on 6th December 1992, Senior Police Inspector Rane was asked to take charge of the police station on 7th December 1992 when the riots were raging all around the city. Despite Deputy Commissioner of Police Ingale being in-charge of the Zone, Deputy Commissioner of Police Jadhav, CID (Intelligence), was specially posted on 8th December 1992 to supervise the area within the jurisdiction of Mahim and Dharavi police stations, which gives an indication of the problem-prone nature of this area.

19.4 Fifty three cases were registered by this police station during December 1992 and January 1993, out of which eleven pertain to cases of rioting.

19.5 In two cases (C.R.Nos.1050 of 1992 and 1060 of 1992), aggressive Muslim mobs attacked the police and the police took action to disperse them. In another case (C.R.No.38 of 1993) a Muslim mob attacked a Hindu mob. In three cases (C.R.Nos.37 of 1993, 1057 of 1992 and 1061 of 1992), Hindus were the aggressors and indulged in violence and had to be dispersed by police action. In five cases (C.R. Nos.1051, 1052, 1055 and 1062 of 1992 and 26 of 1993), there were violent clashes between Hindu and Muslim mobs with police taking action to disperse the mobs.

19.6 During December 1992 the number of properties damaged/looted/subjected to arson

was 748, out of which 413 belonged to Muslims, 268 to Hindus, 48 to Christians, three were government properties and 16 were unidentified. During January 1993, 239 properties were damaged/looted/ subjected to arson, out of which 160 belonged to Muslims, 70 to Hindus and nine Christians.

19.7 During the two riot periods the police resorted to firing of an aggregate of 291 rounds, resulting in nine deaths (three Hindus and six Muslims). During the two riot periods nine persons (four Hindus and five Muslims) died of mob action, 18 (seven Hindus, nine Muslims, one Sikh and one Christian) were injured in police firing and 63 persons (36 Hindus, 24 Muslims and three Christians) were injured in mob action. Fourteen persons are still shown as missing and have not been traced.

19.8 The first incident of communal violence occurred in this area on 7th December 1992 at about 1030 hours. According to the police, when two police personnel, HC Zarande of Crime Branch, CID, and Police Sub-Inspector Salunke of Juhu Police Station, proceeding on a motorcycle were attacked by a Muslim mob of 400-500 with soda-water bottles and stones, resulting in injuries to them. The area around L.J. Road and nearby roads were strewn with shattered glass and stones with riotous Muslim mobs running around shouting "*Allah-o- Akbar*" and indiscriminately throwing stones in Kapad Bazar. To maintain law and order, police resorted to firing which resulted in injuries to two Muslims. Seven police personnel were injured in the riot and the motorcycle was completely damaged. Prominent among the accused arrested in this case (C.R. No.1050 of 1992) are Mohd. Amin Khandwani, ex-corporator of Congress-I, Izaj Noor Mohd. Khandwani, Abdul Rashid Rafiq Khan, Mohd. Yakub Khandwani, Yakub Gulam Mohd. Kablee, Iqbal Gulam Patel, Haroon Ismail Chunawala, Sheikh Maqsud Mohd. Shabeer Sheikh. Five of them including the Khandwanis were arrested on the spot while the others were arrested later on.

19.9 According to the evidence of Mohd. Amin Abbamiya Khandwani (Witness No.278), at about 0830 hours on 7th December 1992, news about violent incidents and communal riots breaking out in other areas charged the atmosphere in this area. By that time the children studying in the three schools in the area, Canossa, St. Michael's and RC School, had already gone to school. This caused a lot of anxiety to the parents. At about 0845 hours Mohd. Amin Khandwani talked to the police officers, including Assistant Commissioner of Police Korde, about the developing problem and requested Korde to come to the Dargah Junction at about 1000 hours. This he did in order to ensure that there was no reaction from the Muslim community which was seething with anger because of the continuous telecast of the demolition of Babri Masjid on the television the previous day. He also talked to some prominent Muslim residents of the area and requested them to come near Dargah junction so that the people gathering in mobs could be pacified and possible untoward incidents avoided. At 0930 hours when Khandwani went to Dargah Junction there was no police there. At about 1000 hours Assistant Commissioner of Police Korde and Senior Police Inspector Rane came there. Seeing them, about 15-20 people gathered around Khandwani. Khandwani requested Korde to maintain patrolling and assured that he and others would ensure that nothing untoward would happen around the Dargah area. Some parents of the students gathered near the Dargah junction. An ambulance was sent to fetch the children from the school, but it was stopped by police near the junction. This enraged the parents and some of them threw a few stones. Khandwani went ahead to persuade police officers Bhagwat and Desai who were present there to allow the ambulance to fetch the school kids so that the incident could be defused. In the meanwhile a couple of stones were thrown at the police, but fell short of the police mobile. This enraged the officers who immediately roughed up Khandwani, arrested him and took him away to the police station. Mohd. Khandwani's brother Mohd. Yakub Khandwani and Yakub Gulam Mohd. Kablee, who went to the police station on hearing the news of the arrest of Mohd. Amin Khandwani, were also put in the lock-up. None of them was informed the charges on which he was being held. At about 2100 hours Mohd. Amin Khandwani was called by Assistant Commissioner of Police Korde and Senior Police Inspector Rane. Upon being asked for the reasons for his arrest, Mohd. Amin Khandwani was told that the reasons would be disclosed later on. It was only when advocate Rizwan Merchant came to the police station at 2300 hours that the police informed him that the three persons were arrested under Section 307 of the IPC for an attempt to murder. According to Mohd. Amin Khandwani he was arrested at about 100 feet away from the Dargah Junction. He asserts that till about 1030 hours, when he was present at the junction, there was neither any communal incident, nor an attack on police personnel.

19.10 That there was tension in the area due to apprehension of violence is supported by the evidence of Vilas Gajanan Phadke (Witness No.281). According to him, after learning about trouble, his neighbour Digambar Satam went to the school to bring his child home. He learnt about an impending attack by Muslims on the Sitaladevi temple and Satam went there. Vilas also went to the said area and was part of the Hindu mob. Seeing the bigger Hindu mob, the Muslim mob started running away. The police resorted to *lathi* charge and firing at both the mobs and Digambar Satam was injured by a bullet. According to Vilas, Hindu and Muslim mobs were confronting each other and possibly 'one or two bottles' might have been thrown. Vilas Gajanan Phadke admits to be an activist of Bharatiya Janata Party and recognised leader of the Hindus in his area.

19.11 It appears to the Commission that, though the police version of the attack on the two police personnel riding a motorcycle may be true, the police seem to have exaggerated the incident which took place near the Dargah Junction to justify their knee-jerk reaction of firing. Incensed with the open attack on police personnel and a very minor incident of throwing a couple of stones, probably none of which hit their targets, the police reacted disproportionately, *lathi* charged and fired. Khandwani, who was pleading with the police to rescue the school children, became their immediate target and was whisked away to the lock-up, soon to be followed by his brother and Yakub Gulam Mohd. Kablee who came there to make enquiries. The charge of attempt to murder under Section 307 of the IPC against Khandwani appears to be ludicrous, as, even according to the police, he is not alleged to have done anything which would warrant a charge under Section 307 of the IPC. It is candidly admitted by Senior Police Inspector Rane that he knew that both Mohd. Khandwani and Yakub Kablee, were connected with Muslim League. To his knowledge, the brothers were concerned in building activities and none of them was a known criminal.

19.12 There was a clash between the Muslim and Hindu mobs near the Kapad Bazar area (C.R.No.1051 of 1992). Some of the BEST buses were also set on fire on L.J. Road. Though, according to the police, the Muslim mobs were shouting "*Allah-O-Akbar*" and "*Has ke liye Pakistan, Chhin ke lenge Hindustan*", as usual, apart from the police witnesses, no one else seems to confirm the latter slogan at least. Though the police maintained that slogan, "*Has ke liye Pakistan, Chhin ke lenge Hindustan*", was being given by a mob confronted by police (C.R.No.1051 of 1992), the record does not indicate as to whether those giving slogan had been identified in this connection, nor does it appear that there was any interrogation of the arrested accused in this connection. That there was open violent confrontation between the Hindu and Muslim mobs needing police action appears to be true.

19.13 On 25th December 1992 a pamphlet in Urdu language (Exh.1808-C Collectively) was distributed around Jama Masjid in Mahim area. This pamphlet, without doubt, is communally provocative and incites Muslims to fight against the atrocities committed on them by Hindus starting with the demolition of Babri Masjid and calls upon the Muslims to resolve that, if the Babri Masjid had to be constructed with blood, they should be prepared to do so. The police have registered a case (C.R.No.12 of 1993) in this connection. Though there was a sizeable Muslim population in this area, the intelligence gathering machinery of police with regard to Muslim activities in this area was totally ineffective. There was only one Muslim police person attached to this police station, even he could not read Urdu and keep tabs on the activities of the Muslims in this area.

19.14 Though the Control Room transmissions (Cassette No. 48A dated 10th January 1993, pages 9 and 10) indicate that Mahim Static gave a message to Control Room, "Slogans are being given from the Masjid that people should come on the roads with swords. People have come on the roads with swords. Immediately send help as requested by the Duty Officer". The message of Control room to Assistant Commissioner of Police Mahim and Senior Police Inspector is, "Go to the place of the incident immediately. Slogans are being shouted that people should come on roads with swords and people have come on roads with swords", and the extension Control Room saying, "send the Assistant Commissioner of Police Mahim and Senior Police Inspector and Zonal Mobile there and if the situation is like that resort to firing disperse them and also disconnect the loudspeakers and shut it down". There is also a message of Control Room to Deputy Commissioner of Police Dharavi, "Slogans are being shouted from the masjid. Some people with arms ... come near the masjid". Senior Police Inspector however states that though he saw people gathered, they were not armed with swords, nor were any slogans being shouted. He was not prepared to assert that message given to the Control Room was incorrect. His explanation is that such fact might have come to the notice of the duty officer as the police station which is just near to Dargah Street and Jama Masjid is situated at about 1000-1500 feet

away from the police station. He claims that he did not disconnect the loud speakers since he felt that had he done so, the feelings of Muslims might further have been hurt. More surprisingly, if the Duty Officer had heard the slogans from the masjid, he ought to have registered a cognizable offence, which has not been done. There appears to be some justification in the criticism of the Shiv Sena that this was an attempt to underplay the role played by the Muslims in the riots in this area. In the face of the circulation of provocative material at and around the masjid, and the inciting slogans given from the masjid calling upon the people to come with swords, Senior Police Inspector's assertion that there was no organised effort at fomenting trouble in the area, can hardly be accepted. Particularly, in view of the fact that he was a seasoned officer who had handled communal riots in his earlier posting at Kherwadi, Pydhonie and Dharavi police stations and had also worked in the Mahim Police Station earlier.

19.15 There were two instances of private firing, one at the Mahim Fort and the other at the Dargah Junction. The Control Room wireless messages bear out this fact. No investigations have been carried out to ascertain whether these private firings were done by Hindus or Muslims, though it is not in dispute that the localities where these two incidents took place were predominantly Muslim localities. No offences have been registered with regard to private firing, nor is the Senior Police Inspector in a position to give any explanation for not doing so despite the fact that it was a cognizable offence and the person who got this information ought to have registered the offence.

19.16 There are instances where the political leaders appear to have interfered with the police machinery. On 13th December 1992 Central Ministers, Shri Gulam Nabi Azad, State Minister Shri Javed Khan, Shri Ahluwalia, MP, and Shri Kripashankar and other politicians went to the police station and behaved in a very rough and rude manner with Police Inspector Jadhav, raising the issue about arresting Khandwani and other connected issues. On 7th January 1993 Sajida Contractor, a local corporator, also behaved impolitely with the officers with regard to the arrest of one Aslam Mohd. On 8th January 1993 Manohar Joshi of Shiv Sena telephoned to the police station to make enquiries about the arrest of Shiv Sena corporator Milind Vaidya (C.R.No.26 of 1993) alleging that he was falsely charged and if he was not released he would declare a fast before the police station. On 8th December 1992 Saleem Zakaria shouted at an officer on phone: "*Police janata ke liye nahin hai. Khali goli marne ke liye hain. Police Station ko tala lagao*".

19.17 Two Hindus, Sakharam Sathe and Gupta, were brutally killed near Paradise cinema and were thrown into a bakery (C.R.No.1054 of 1992). No progress appears to have been made in the investigation of this double murder case till the brother of Sakharam Sathe wrote a letter (Exh. 1819-SS) giving information about names and addresses of the suspects to police. It is only thereafter that some of the accused were arrested. In fact, the manner in which the investigation in such a serious crime was carried out by the investigating officer, Police Inspector Thorat, was adversely commented upon by Assistant Commissioner of Police Korde by his remarks made on 2nd March 1994 in the Case Diary No.21. Though a list of suspects was given by the brother of the deceased, Sakharam Sathe, no worthwhile investigation was done to ascertain whether there was any truth in the information supplied.

19.18 Though it is clear from the material on record that the first mob violence occurred on 7th December 1992 in which the aggressors were Muslims, there is no direct material from which it could be seen as to who the aggressors were in the first communal incident which took place during January 1993. The fact that the shops damaged belonged to Hindus suggests that presumably the violent mob must have been of Muslims.

19.19 Another significant fact which has come on record is that 25 accused in the serial bomb blasts case were residents of this area. Saleem Dandekar, one of the accused in the bomb blasts case, was arrested in a riot-related offence (C.R.No.1054 of 1992).

19.20 The special report made by the police station to the zonal Deputy Commissioner of Police on 11th July 1993 shows that, on 7th January 1993 in the early hours police arrested a number of Hindu accused including Shiv Sena corporator Milind Dattaram Vaidya and a police constable Sanjay Laxman Gawade while they were indulging in riotous acts near Mori Road. According to the statement of Ambadas Babanrao Khote (Exh. 1815-SS), Milind Vaidya was instigating and inciting the mob to loot, burn and set fire to the Muslim shops, while a sword was recovered from Mohan Akre and Sanjay Laxman Gawade, a police constable, who was also part of the violent mob. The accused were arrested on the spot by



the police party led by Additional Commissioner of Police, A.A. Khan. Though the said police constable Gawade was placed under suspension and the sanction of the government was sought for his prosecution, the government appears to have dragged its feet. At least till Senior Police Inspector Rane gave his evidence, there was no sanction received.

19.21 Another significant incident is the torching of the timber godowns on the sands at the Mahim Beach known as Reti Bunder. Though the police are unable to say as to whether the mob which set fire to the timber godowns was a Hindu mob or a Muslim mob, the fact that most of the godowns were owned by Muslims is suggestive that the mob could have been a Hindu mob. Extensive loss was caused because of the fire.

19.22 In this area also the curfew appears to have been for name's sake. In fact a wireless message was given (Cassette No.6A dated 7th January 1993) "curfew inter alia in this area was not enforced properly" and it calls upon the concerned police officer to take note of the action and take strict action. Senior Police Inspector Rane maintained that he was unable to say as to why this police station was singled out for this type of a message.

19.23 Though an army column was given to the police station on 7th January 1993 at 1550 hours and continued to be in the area up to 21st January 1993, on no occasion was the army used effectively. Senior Police Inspector says that perhaps the Assistant Commissioner of Police in-charge of the column did not think any situation was serious enough to take such a step. He points out that the police officer in charge should have announced publicly about the presence of the army column and the fact that the army would take action if the mobs did not disperse. He also says that, if he had been given charge of the army column, he would have used the column more effectively in certain areas where the situations were serious.

19.24 The ineffectiveness of police investigation is amply seen by the fact that the case of looting of a jewellery shop along L.J. Road (C.R.No.26 of 1993), out of the looted property worth about Rs. 48 lakh and more, the police have recovered property worth only about Rs. one lakh.

19.25 Through B.C. Message No.436 dated 9th January 1993, instructions were given by the Commissioner of Police to Senior Police Inspectors of several police stations, including Mahim Police Station, to impose curfew from 2000 hours on 9th January 1993 (Exh.1825-C). However, on the same day, at about 1800 hours, a *Mahaarti* was organised by Shiv Sena at Darya Sagar Zopadpatti. There is no doubt that this *Mahaarti* totally disrupted the traffic on the Mahim Causeway. Assistant Commissioner of Police (Traffic), petulantly queries, "why did you allow it at Mahim Causeway, why did you not inform me. I was at the police station and also on wireless" (Control Room Wireless Message transcript of Cassette No.35A dated 9th January 1993 page 7). The jejune explanation given by the Senior Police Inspector is, "Sorry, I had told them but they did not listen to me." Angry retort by Assistant Commissioner of Police to this is, "it is not proper for you to do so. I am taking a serious view. I must... Everybody frankly...". The police station knew well that Magdumiya Nagar, Janata Sevak Society Zopadpatti and Hari Zandi Zopadpatti had serious communal riots and the incidents of looting and arson occurred in close proximity of Darya Sarang Zopadpatti where the *Mahaarti* was held at the height of communal tension. Despite this *Mahaarti* resulting in total blockage of traffic, no action was taken against the organizers of *Mahaarti*, for which Senior Police Inspector had no explanation. Prakash Ayare, local corporator of Shiv Sena, gave a speech after this *Mahaarti* and said that the programme of *Mahaarti* was being held under the directions of Balasaheb Thackeray and that, because the Government was partial to one particular community, *Mahaartis* would be continued to draw the attention of the Government. Surprisingly, even against the background of acute communal tension prevalent on 9th January 1993, this type of speech making by Prakash Ayare was not considered to be communally provocative by the police.

19.26 On 10th December 1992 the Binny Textile shop was attacked and ransacked on L.J. Road, though situated at about 150 feet away from where the police picket was. Though the constable present there appears to have been armed, he did not take any steps to prevent the incident nor does his statement appear to have been recorded in the concerned case (C.R.No.1061 of 1992) for which there appears to be no explanation.

19.27 One Mohd. Hussain Majidulla, was murdered after ascertaining that he was a Muslim, on L.J. Road near Kalu Bhavan (C.R.No.29 of 1993). The place of this incident was at a distance of 150 feet away from Raja Badhe Chowk where an armed police picket was posted. No one is arrested in this case and the case has been classified as "A" summary.

19.28 Another incident which took place in Raja Bhade Chowk itself was the stabbing of a Muslim cleaner, Rajab Ali, on a tempo. So much, for the effective *bandobast* at that chowk.

19.29 The manner of imposition of curfew can be judged from the fact that though there was curfew from 0800 hours to 2400 hours on 10th January 1993 a large number of Muslim establishments along L.J. Road situated in a Hindu dominated area were systematically ransacked, looted and subjected to arson between 1600 to 1630 hours.

19.30 The Senior Police Inspector states that his superiors and he anticipated that the Mathadi murders in Dongri area might give a backlash, but he had not received any information as to who were to organize such a backlash and when.

19.31 That the ire of the Muslims was directed only against police and not against Hindus as such, till the misguided Hindus jumped into the fray is seen from the fact that Vinayakwadi, a colony of Hindus, situated opposite the Magdoomshah Dargah was totally unharmed during both the phases of riots. Similarly, Avenue and Velkar Buildings, which are occupied by Hindus, were also totally unharmed during December 1992 and January 1993 phases of the riots.

19.32 The brutal manner in which the miscreants went about their job, is seen from the murder of Mehrunnissa Dandekar, whose throat was slit and body thrown in front of Sulabh Niwas Building on Pandit Jagannathbuwa Marg on 11th January 1993.

## 20 M.R.A. Marg Police Station

20.1 During December 1992 two cases of damage caused by stone throwing were registered, (1) at Hotel Fountain Plaza, R. Dadaji Street, where the name board of the hotel belonging to a Muslim was damaged and, (2) an incident of stone throwing on a BEST Bus which was being driven by a Muslim driver. There are no cases registered with respect to these incidents. Only station diary entries have been made.

20.2 This area saw one serious incident of murder at about 2315 hours on 8th December 1992 (C.R.No.579 of 1992). There were 11 cases of looting and arson registered during the January 1993 phase of the riots out of which six (C.R.Nos.24, 27, 29, 35, 42 of 1993) have been classified in "A" summary, on the ground that the accused were not identified. Most of the cases of arson and looting appear to be the cases of Muslim properties.

20.3 On 8th December 1992 at about 2315 hours two groups of youngsters were throwing stones and soda-water bottles at each other. A police party led by Police Inspector Subhash Rajaram Salvi and consisting of Police Inspector Swamy, Police Sub-Inspector More and three constables, attempted to disperse the two mobs. One of the mobs ran towards the Cement Chawl, a chawl predominantly occupied by Hindus. When police saw the group going towards Cement Chawl, the police gave up the chase. The other group of youngsters ran towards the hutments on Sant Tukaram Marg predominantly occupied by Muslims. During the course of investigation the police apprehended one Babu Abdul Sheikh in the act of picking of a stone. He was probably a part of the Muslim mob. Police Inspector Salvi then instructed PC 24242 to take the apprehended person Babu Abdul Sheikh to the police picket at Musafirkhana and went ahead on Sant Tukaram Marg towards the hutments to flush out other miscreants. PC 24242 was escorting the apprehended person Babu Abdul Sheikh along the Carnac Bridge. That was the last that Police Inspector Salvi saw of Babu Abdul Sheikh. After Salvi returned from his futile search in the hutments on Sant Tukaram Marg and came near the Carnac Bridge, he saw a group of Hindus with deadly weapons like swords, *guptis* and knives standing near the stair case leading to the Cement Chawl. He noticed a person lying in a pool of blood between the entrances to the staircases. He was lying on the side of the bridge which falls within the jurisdiction of Pydhonie Police Station. That person was taken to the St.George's hospital, but was declared dead before admission.

Salvi thereafter came back to the police station and made enquiries about PC 24242 who had accompanied Babu Abdul Sheikh. He later discovered the said constable hiding in one corner of the police station. When confronted, the constable stated that while he was escorting Babu Abdul Sheikh, he was set upon by a Hindu mob which attacked them both and stabbed Babu to death. The body of Babu Abdul Sheikh bore no less than seven incise wounds and the cause of death was 'shock and haemorrhage due to stab injuries'. A complaint was made about the suspicious circumstances under which Babu was killed, by

his mother, a deaf and mute lady. An enquiry was held by Senior Police Inspector Vijay Rajaram Pednekar, which appears to be a clear case of white washing. After the enquiry, Pednekar did not even make a report to the Deputy Commissioner of Police on the facile ground that he was to give evidence before the Commission. Even at the time of giving evidence before the Commission, he had not made the report and stated that he would thereafter make the report. PC 24242 (Vidyadhar Raghunath Shelar) gave his statement in the enquiry and denied the allegation of having connived in the murder of Babu. In the enquiry held by Pednekar, he did not examine all the complainants who were the signatories to the complaint dated 2nd January 1993 which made serious allegations against Inspector Salvi and PC 24242 Vidyadhar Raghunath Shelar. Babu Sheikh's mother Fatima was not examined on the ground that she was deaf and mute. Fatima Sheikh's sister's statement is on record. It is in Marathi and bears a thumb impression, indicating that the lady is illiterate. Surprisingly, the statement gives a clean chit to the police of MRA Marg Police Station, although in the original complaint serious allegations are made against all of them.

20.4 The explanation of PC 24242 is that while being escorted along the bridge, Babu Abdul Sheikh freed himself from his grip and ran towards the opposite direction, but he was chased and killed by the Hindu mob. His subsequent conduct of not reporting such a serious matter to his superior officers is highly suspicious. The accused who have been arrested in this case are all active Shiv Sainiks. Dinesh Ramdas Mitbaokar, Umesh Ramdas Mitbaokar, Salim Mohd. Sheikh, Suryakant Sopan Shinde, Madhukar Tatyaba Kadam, Krishna Dagdu Latkar, Sampat Namdeo Godse, Ashok Rajaram Raut have admitted their offence and stated in their interrogatory statements that they had assaulted Babu Abdul Sheikh and killed him on that day. According to Dinesh, the other accused Krishna Latkar was always seen with Hemant Koli, local Shiv Sena *Shakha Pramukh*.

20.5 There is the case of a tempo driver, Prakash Shankar Shinde, complained of private firing upon him by some Muslim youths (C.R.No.22 of 1993). He said that the assailants "looked like Muslims", but would be able to identify them if shown again. No proper investigation appears to have been made in this case which has been classified as "A" summary. C.R.No.29 of 1993 has also been classified as "A" summary though the complainant has said that the assailants could be identified.

20.6 One Suryakant Pawar was caught red-handed while indulging in arson of Sonika Shopping Centre (C.R.No.25 of 1993). He stated in his interrogatory statement that he and his associates Arvind Dnyaneshwar Gawade, Pritam Sampat Misal and Subhash Sitaram Tandlekar were all members of Shiv Sena. Though Subhash Sitaram Tandlekar denied having committed the offence, he did not deny his connection with Shiv Sena. According to the Senior Police Inspector, Shiv Sena is the only political organisation in this area having two *shakhas*, one at Carnac Bunder and the other at Modi Street. Strangely, the trouble seems to be centred around the localities where the *shakha* offices are located.

20.7 In the assessment of Senior Police Inspector, the riots in December 1992 and January 1993 might have been supported by some gangsters operating from some other areas. Under stress of cross-examination, the Senior Police Inspector has admitted that this was just a guess without any material on record.

20.8 All the property damaged in the incidents in January 1993 belonged to Muslims.

20.9 In the view of the Commission, Police Inspector Salvi, Police Sub-Inspector More and PC 24242 Vidyadhar Raghunath Shelar are squarely responsible for virtually handing over Babu Abdul Sheikh to the mob resulting in his being hacked to death.

20.10 The serious offences are committed by persons affiliated with the Shiv Sena or found to be hanging around in the company of local *Shakha Pramukh* Hemant Koli. If it is a coincidence, it strains the credulity of the Commission.

## 21 Nirmal Nagar

21.1 This jurisdictional area is of about 3 sq. k.m., tucked in between the Western Express Highway on the southern side, western railway tracks on the western side, Golibar subway road on the northern side and a nulla running parallel to the Western Express Highway on the eastern side. The Bandra Railway Terminus is at the western extremity of this jurisdiction and three railway foot bridges at Bandra Railway Station, Navpada and Khar Railway Station give access to this jurisdiction across the western railway tracks.

21.2 A large number of Government and semi-Government offices like, I.O.C., Provident Fund Commissioner's office, O.N.G.C. and M.S.E.B., the suburban complex of Small Causes and Metropolitan Magistrate's Courts are located in this area. Being parallel to the Western Express Highway, every movement of VIP and VVIPs along the Western Express Highway has its fallout in this jurisdiction. The area has a population of about four lakhs and a floating population of office workers numbering about thirty-forty thousand.

21.3 Community-wise distribution of the resident population of Nirmal Nagar is 40% Muslims, 60% Hindus, *Nav Bauddhas* and others, though the predominant majority is of Hindus. Indira Nagar, Navpada, Behrampada, Hussain Tekdi, Gausia Compound in Golibar are Muslim predominant localities, while Kherwadi Road, Jaihind Nagar, Fish Market, Sanjay Gandhi Nagar, Davri Colony, Chhatrapati Nagar, Saibaba Road and New MIG Colony are Hindu strongholds. Golibar area comprises Shantilal Compound, Nehru Nagar and Adarsh Apartments. New MIG Colony and Kher Nagar are multi-storied buildings, the former occupied by people from the upper middle class while the latter is occupied by people from the lower middle class and working class.

21.4 Behrampada comprising mostly hutments, with a few pucca structures, is a predominantly Muslim pocket. Zakaria Nagar, which comprises multi-storied buildings, is occupied by upper middle class Muslims and situated adjacent to Behrampada. Behrampada mostly houses those from lower income groups. Only one road within Behrampada is partially motorable as most of the other roads are small lanes. The slums of Behrampada extend from the A.K. Marg on the southern side to Kherwadi Road on the northern side and stretch from the railway tracks on the western side to the New MIG Colony and Kher Nagar areas on the eastern side. Prior to 1st May 1985 this area was part of the jurisdiction of Kherwadi Police Station. During 1984 Hindu-Muslim riots there were a number of violent incidents here and for better policing a new police station called Nirmal Nagar Police station was established on 1st May 1985.

21.5 Senior Police Inspector Mahadev Baburao Zende took charge of this police station sometime in March 1992. He had recommended to the Commissioner of Police that, considering the extremely sensitive nature of the jurisdiction, the manpower attached to the police station was inadequate and that the manpower be increased. In his assessment, though the arms, ammunition and equipment possessed by the police station prior to December 1992, were adequate, qualitatively and quantitatively, for normal working, they were inadequate, both qualitatively and quantitatively, for meeting the extraordinary situation which arose after 6th December 1992.

21.6 There has been continuous friction between the residents of New MIG Colony and Kher Nagar Buildings and the residents of Behrampada. The residents of these two localities felt resentment against the residents of Behrampada since they thought that Behrampada was spoiling the clean surroundings and causing the crime rate of the locality to increase because of the existence of large number of criminal elements within it. One frequent complaint was that pedestrians along A.K. Marg were molested and assaulted by the criminal elements from Behrampada. The residents of Behrampada had the unstinted support of the then M.P., Shri Sunil Dutt, who prevailed upon the Government and prevented the demolition of Behrampada. From the year 1980, Shri Madhukar Sarpotdar was the sitting Shiv Sena MLA representing the Kherwadi constituency which includes jurisdiction of Kherwadi, Nirmal Nagar and Vakola.

21.7 Communal trouble started on 6th December 1992 in this area with the decapitation of a Ganesh idol in the Ganesh Mandir on the A.K. Marg. At about 2345 hours on that day it was noticed by one Bena Parshuram Majithia that the Ganesh idol was missing from the *sanctum sanctorum* and was lying in a corner of the temple in broken condition. She immediately gave information to the Trustees of the Mandir who in turn informed the police at about 0045 hours on 7th December 1992. The police immediately came there and registered an offence (C.R.No.271 of 1992). The Ganesh Mandir is situated directly across the road from the Court Complex where there is continuous *bandobast* of police. A guard on duty there would have had a clear and unobstructed view of the mandir. The adjoining buildings which house MSEB, ONGC and IOC offices also have their own security watchmen. The police do not appear to have bothered at all to make enquiries from the police guards at the court complex or the watchmen from the adjoining buildings. The police were unable to get any clue to the identity of the miscreants and the case was classified in "A" Summary.

21.8 It appears to the Commission that this incident was a deliberate attempt on the part of some mischievous elements to whip up communal passions and stir up communal riots. Unfortunately, the Hindu community in the area appears to have fallen prey to this game-plan, brainwashed by the local leaders of Shiv Sena, including MLA Shri Sarpotdar, who unleashed a barrage of propaganda that Muslims were responsible for the outrage. Though Shri Sarpotdar claimed to have some inside information that the miscreants were Gullu, Ilias and Dilawar, all Muslims, he did not bother to pass on that information to the police, nor did he inform the police as to the source of his information so that the police could carry on effective investigation. Had the local MLA Shri Sarpotdar displayed the same zeal in co-operating with the police, which he showed in making speculative and unfounded allegations, probably the miscreants could have been nailed. For unfathomable reasons, no such efforts were made by Shri Sarpotdar.

21.9 Though the police claim that a violent Muslim mob had attacked Hindus in the area adjacent to Zakaria Nagar (C.R.No.272 of 1992), the story is difficult to accept. Though the police were reluctant to admit the presence of Hindu mob during the incident, continued stress of cross-examination elicited the fact that a Hindu mob had come very close to the Zakaria Nagar. Firing by police, though claimed to have been directed at both the mobs, resulted in deaths of Muslims, without any Hindu casualties. That three establishments of Muslims and two of Hindus were damaged in this incident, also suggests that it was a clash of two mobs.

21.10 In another incident there was clash between a violent mob of Hindus and a mob of Muslims from the Behrampada side (C.R.No.273 of 1992). The police do not appear to have taken any action to disperse the Hindu mob, but concentrated their fire against the Muslim mob. In fact, the Senior Police Inspector was forced to admit that such action against Hindus was also necessary to prevent their advancement towards Behrampada and that, had he been the officer in-charge, he would have taken strong action against both the mobs. Again, Senior Police Inspector admitted that when he went to Bapuji stall on the A.K.Marg he had initially seen only the Hindu mob, though he was unable to say whether it was the Hindu mob which first attacked the Behrampada area. The police version becomes doubtful.

21.11 A masjid situated in Jaihind Nagar was attacked by a Hindu mob which threw fire-balls, stones, brick-bats and damaged the Masjid (C.R.No.274 of 1992).

21.12 In the case registered in C.R.No.275 of 1992, there was a violent clash between the Hindu and Muslim mobs and the police firing resulted in the death of one Muslim and injuries to three Hindus. Eight police persons were injured by mob violence. Forty eight rounds were fired by the police during the firing. The incident was going on for about four hours. In this case, the statements of the injured persons have not been recorded. In the FIR the strength of mob was over-written from "150-200" to "1500-2000". Though the police could arrest three Muslim miscreants, there is no explanation for their inability to arrest any Hindu miscreants. Out of the 74 establishments shown to have been damaged or looted, 29 belonged to Muslims and 40 belonged to Hindus.

21.13 In C.R.No.277 of 1992, according to the police a violent mob of 100-125 Muslims from Navpada emerged shouting "*Mandir Todo*", "*Police ko mar dalo*" and attacked the Hindu establishments and police. It is claimed by the police that some of the miscreants also fired at the hutments on the eastern side of the Bandra Terminus resulting in injuries to six Hindus and one Muslim residing in the hutments on the eastern side of the Terminus. The police firing resulted in the death of two Muslims. The police claimed that this was an incident in which the Muslims were violent aggressors. However, an analysis of the property damage indicates that out of the 13 establishments damaged during the incident, 12 belonged to Muslims and one to Hindu, which is inexplicable unless there was also a violent Hindu mob on rampage. The theory of private firing by the Muslim mob is also doubtful. In the case papers maintained by Railway Police before transferring the case to Nirmal Nagar police station there is no reference to private firing. The explanation offered by the Senior Police Inspector is that the railway police officer who recorded the FIR might not have recorded the firing incident. No fire-arms were recovered. Even the Senior Police Inspector was forced to admit that there was a possibility that what the witness thought as private firing might have been the sound of police firing. All in all, it is extremely doubtful if there was any private firing during the incident, as alleged.

21.14 C.R.Nos. 276, 278, 281 and 284 of 1992 relate to widespread damaging, ransacking and

looting of the properties by the violent mobs, without direct confrontation with opposing mobs. The incidents were spread over from 1030 hours to 1430 hours on 7th, 8th and 10th December 1992. The police had to fire, in all, 32 rounds while dealing with the situation.

21.15 The fury of the Muslims was directed against the Police Chowky at Behrampada Gate No.18, Police Chowky in Navpada and Ambewadi. Further up in the Golibar locality, against the *shakha* of Shiv Sena and the Hindu shops located on the Golibar Road between Ambewadi Chowky and Adarsh Apartments. There was violent confrontation between armed Muslim mobs emerging from the *kabrastan* shouting anti-Hindu slogans and the police.

21.16 In an incident of rioting at Indira Nagar the Muslim mobs attacked the Indira Nagar Police Chowky damaged it and set on fire articles inside the Chowky and a scooter of a police officer. There was also an incident of rioting near the Fish Market, Nehru Nagar, Bharani and Dawari Colony during which one head constable was assaulted and injured by a chopper wielded by the Muslim mob.

21.17 On 9th December 1992 at about 0945 hours, there was a violent disturbance at Saibaba Road, Pipe Line Road and Hussain Tekdi localities. Mobs of Hindus and Muslims, 300-400 strong, were attacking each other and the intervening police picket was also subjected to barrage of stones, soda-water bottles and brick-bats. Here also the material on record does not clearly show that there was private firing from the Muslim mob.

21.18 On 12th December 1992 four dead bodies, all of Hindus, having multiple stab wounds on vital organs and in highly decomposed condition, were recovered from the gutter along A.K. Marg (CR No.291 of 1992). In yet another incident, one Hindu woman by name Shevantabai was found murdered with her throat slit and her body was dumped in the open compound of National Girls' High School adjoining Behrampada (C.R.No.291 of 1992). Two more bodies, one of a male Hindu and another identified as that of a uniformed Muslim police constable attached to the Nasik Rural Police Head Quarters, were recovered from the septic tank of the public latrine in Behrampada on 20th and 21st December 1992 respectively. These bodies also bore multiple stab injuries. It would appear that there was a systematic attempt to stab and murder Hindus and the policeman, though a Muslim, became a victim of the anger of the Muslims directed against the uniform worn by him.

21.19 In January 1993 the first incident of communal disturbance occurred on 1st January 1993, (C.R.No.1 of 1993) during which a mob of violent Hindus attacked Muslims behind Jaihind Nagar and Gausiya Compound on the Service Road adjacent to Western Express Highway and threw stones at the vehicles plying on the Express Highway. An intervening police picket was also attacked with stones and brick-bats which resulted in police firing five rounds and injuring three Hindus. The Senior Police Inspector was unable to ascribe any motive for the attack on the police. However, the spot at which the violent Hindu mob was found, and its conduct, would suggest that probably the immediate target of attack was the Gausiya Masjid and the Muslim residents in close vicinity thereof and the police were attacked because they tried to prevent it. This attack is of some significance as it belies the theory of the Shiv Sena, the State and the police that the Hindus resorted to violence by way of retaliation only after the grisly Radhabai Chawl incident at Jogeshwari.

21.20 The theory further breaks down when two further incidents are examined. About 100-150 Hindu boys from Davri Colony suddenly came on the road armed with choppers, soda-water bottles, stones, etc. in order to attack the Muslim locality and shouted at the police falsely alleging that the Muslims were pelting stones from Davri Colony and that the police should go there to render help (CR No.9 of 1993). One Vilas Kolte alias Bowdya came running armed with a knife and attacked a police constable with it. However, the police constable fired in self-defence injuring Vilas Kolte (CR No.10 of 1993).

21.21 On 6th January 1993 one Hindu was found murdered lying on the road in the vicinity of a Muslim locality (CR No.14 of 1993). Though the case was investigated and classified in "A" summary subsequently, on 6th January 1993 the discovery of the body led to a protest march to the police station by the Hindus residing and carrying on business on Kherwadi Road, it being assumed that, as the body was found near a Muslim locality, some fanatic Muslim must have committed the murder.

21.22 Investigations into the incident in CR No.18 of 1993 in which two Muslims were assaulted produced no results and the case was classified in "A" summary. The

investigations appear to be so unsatisfactory that even the Assistant Commissioner of Police in charge of the division refused to approve of the "A" classification and directed the arrest of one accused Nitin whose address was available on the record.

21.23 Under the leadership of the local Shiv Sena leaders, led by MLA, Shri Sarpotdar, no less than three *morchas* were taken to the police station and on each occasion the grievance made was that the police were not giving protection to the Hindus in spite of murderous attacks on them and that, on the contrary, innocent Hindu boys were being rounded up by the police for no reasons. Such *morchas* were taken to the police station on 6th December 1992, 11th January 1993 and 12th January 1993. Though it is claimed by Shri Sarpotdar that these *morchas* were spontaneous outbursts on the part of the Hindu community which had been subjected to atrocities by the Muslims, it is difficult to swallow this. It is also difficult to accept the suggestion of the Shiv Sena that all the local Shiv Sena leaders coincidentally happened to be present in the *morchas* that came to the police station. That these *morchas* were intended to browbeat and pressurise the police to deter them in the performance of their duties, appears to be clear. Another significant fact is that in one of the *morchas* allegations were made against Additional Commissioner of Police A.A. Khan that he was targeting innocent Hindus and opening fire on them — an attempt at invidious discrimination on communal grounds.

21.24 A combing operation carried out by the police in Maratha Colony, Kher Nagar and Indira Nagar resulted in recovery of a dagger from the rear side of the Hanuman temple in Maratha Colony. Thirty five tube-lights and some cricket stumps were also recovered. Fifteen tube-lights were recovered from the open space adjacent to the Shiv Sena *shakha* No.91 on Kherwadi road.

21.25 The investigation by the police in the offence registered vide C.R.No.27 of 1993 appears to be wholly perfunctory. Though the victim of the assault identified the assailants as Raju Biscuitwalla, the two sons of Nachnekar, Rajesh, Avadesh, Sevak, Sunil Shetty and Anil Shetty, the police appeared to have carried out no worthwhile investigations to apprehend the culprits specifically named by the victim. Though Sevak and Sunil Shetty were specifically shown as wanted accused in the Crime Reports upto 27th September 1993, thereafter they were not even shown as wanted accused when the investigations were closed. Interestingly, the two sons of Nachnekar identified by the victim Sugrabi, were not even shown as wanted accused at any stage of the investigations and there is no explanation whatsoever for this lapse. Though the Senior Police Inspector claims ignorance as to the identity of the Nachanekars, it appears to the Commission that they must be the sons of a local politically influential person.

21.26 In CR No.27 of 1993, there was an attack on Muslim houses by Hindu mobs.

21.27 While the police were prompt in arresting Muslim miscreants at all levels, they showed marked reluctance to arrest any of the miscreants connected with the Shiv Sena. In fact, the assessments made in the Crime Reports suggest that if accused belonging to higher and lower ranks of Shiv Sena were arrested, there was likelihood of flare up in the communal situation and therefore it was decided that no Shiv Sainik should be arrested. This view was taken not only by the lower police echelons, but also had the approval of the Assistant Commissioner of Police and the zonal Deputy Commissioner of Police. Thus, there have been cases where the accused Shiv Sainiks were charge-sheeted even without arrest and interrogations, apparently under the oral orders of Deputy Commissioner of Police, Pande. It appears to the Commission, that repeated *morchas* and flexing of muscles by the Shiv Sena hierarchy and the crowds led by them, affected the police morale and psyche.

21.28 There is another glaring discrimination apparent on the part of the police. Muslims who resorted to a peaceful *Rasta Roko* on A.K. Marg were charged with offences under Section 341 of IPC (C.R.No.302 of 1992). No Hindu appears to have been arrested for blatant breach of the prohibitory orders under Section 37(3) of the Bombay Police Act.

21.29 On occasions the army officers themselves assessed the situation as beyond the control of the section of the police. But, in spite of clear instructions from the Commissioner of Police, the local police were reluctant to hand over the situation to the army. (Vide wireless messages in Cassette No.53/A dated 11th January 1993). Nonetheless, there were three occasions when even the local police were forced to hand over the situation to the army column. On 11th January 1993 in the Golibar Hussain Tekdi area, on 13th January 1993 in Golibar, Adarsh Apartments and the other adjoining areas, and on

15th January 1993 in Kherwadi, on Kherwadi Road and the adjoining areas.

21.30 On 11th January 1993, the army column on patrol intercepted a jeep in which Shri Madhukar Sarpotdar and six other persons, including his son Atul, were travelling. They seized from their possession one Smith and Wesson revolver of .32 calibre, one Astra pistol of .20 calibre and one .99 mm pistol, apart from two choppers, two hockey sticks and two sticks. While the Smith and Wesson revolver was licensed in the name of Shri Sarpotdar, the other two revolvers were unlicensed. It took the police two days to register an offence against Shri Sarpotdar and his companions (vide LAC No.22 of 1993), which was registered only on 14th January 1993. The explanation of Shri Sarpotdar for carrying the hockey sticks, choppers and sticks was that, as the area was disturbed, they were carrying them for self-defence. Further explanation is that Shri Sarpotdar and all his companions were active trade unionists, that they had met in the trade union office for carrying on routine trade union business, though the situation all round the area was communally explosive. The explanation, to say the least, strains one's credulity. Although at the material time the mere possession of unlicensed fire-arm in a "Notified Area" would have attracted penal liability under Section 5 of the TADA act, and the entire city of Bombay had been declared as a "Notified Area", there was neither an attempt to invoke the provisions of the TADA Act, nor to oppose bail to the accused persons on the ground that the provisions of the TADA Act were applicable. The service of the charge-sheet appears to have been inordinately delayed. When Shri Sarpotdar gave his evidence before this Commission, as late as 15th January 1996, he claimed that he had not been served with the charge-sheet !!

21.31 There is a grievance made by the LLAC and JEU that because of Sarpotdar's clout the Shiv Sena had the run of the police station. The Commission finds some substance in this argument in view of all the material brought on record.

21.32 Though Shri Sarpotdar was later on detained twice under the National Security Act, on both occasions his detention orders were quashed on technical grounds. His activity at the time of reinstallation ceremony of the Ganesh idol on 26th December 1992 was communally provocative. The Ganesh idol was taken in procession through the jurisdictional limits of Kherwadi and Nirmal Nagar and terminated at the Ganesh Mandir on A.K. Marg. The slogans shouted, the placards carried and the speeches made on the occasion were, without doubt, communally provocative. Though Shri Sarpotdar claims that this procession was not organised by the Shiv Sena, but by the local Ganesh Mandir Trustees, one can read between the lines. The presence of almost all the local Shiv Sena leaders could not have been fortuitous; the placards carried by the processionists unequivocally said, "*Shiv Senechi dahashat, hich sarvajanic surakshitata* (Shiv Sena's terror is the only guarantee of public safety)". Shri Sarpotdar claims total ignorance of the communal speeches delivered at the reinstallation ceremony at the Ganesh Mandir, so also of the writings on the placards. Though Shri Sarpotdar claims that he had been permitted by the then Additional Commissioner of Police, V.N. Deshmukh and the other police officers to take out this procession, it is denied by Deshmukh and the other police officers. The fact that the police launched prosecution in respect of this incident and had used the contents of the speech made by Shri Sarpotdar on this occasion as one of the grounds for his detention under National Security Act, belies the stand of Shri Sarpotdar.

21.33 During the *morcha* brought to the police station by the local Shiv Sena leaders on 11th January 1993, a rumour was spread that there was firing on the processionists from a building adjacent to Building No.10 diagonally opposite to Nirmal Nagar police station. The police immediately carried out combing operations by responding to the complaint. Nothing objectionable was recovered, nor was any person apprehended. Even the police do not support the theory of private firing on the *morcha*. Once again, it appears to be an attempt on the part of the persons who brought the *morcha* to set up the bogie of private firing to put pressure on the police.

21.34 There is a candid admission made by the Senior Police Inspector that when the army column was doing flag marches, its presence did not instill fear in the riotous mobs, but when the army personnel took up position while handling a situation, their very presence and actions instilled fear in the minds of the miscreants. Otherwise also, the rioters in this area did not appear to be scared of the police.

21.35 Though hue and cry has been made by the Shiv Sena and the police about recoveries of the bodies of Hindus from the Behrampada area, there is another equally gruesome incident (C.R.No.36 of 1993) in which five persons from a family of Muslim hawkers were



burnt to death by the rioters and their bodies were thrown into the fire to destroy the evidence. In fact, the situation in that incident is graphically described by the witness who says, "the Hindu miscreants were running through lanes and bye-lanes with swords and choppers, etc. and attacking houses of the Muslims and looting and burning the articles on the roads. Police were chasing them. However, the miscreants were taking advantage of lanes and bye-lanes and continuing their destructive activities". A sad commentary on the law and order situation!

21.36 The activities of the Muslims, alleged to be mostly criminal elements from Behrampada, was a continuing focal point of dispute. The Shiv Sena kept complaining that Behrampada was a hotbed of criminals and illegal arms and ammunition of sophisticated varieties were stored there. Once a combing operation was attempted by the police during night time. The material on record shows that the top brass in the police and the Government had second thoughts on continuing the raids during night time, in view of the inconvenience it would cause to the innocent citizens. The police were instructed to carry out the raids only during day time and that too in the presence of a senior officer of the rank of Deputy Commissioner of Police. Though it is true that all this was done at the instance of the local M.P. Shri Sunil Dutt, and the then Minister for Housing Shri Javed Khan, it is not possible to say that this per se was an attempt to interfere in police work to shield the culprits and to prevent the seizure of unlawful arms stored within Behrampada area, as alleged by the Shiv Sena. According to the Senior Police Inspector, though they had information that there was a possibility of some country-made guns, crude bombs and similar weapons being stored in Behrampada area, they had no information that sophisticated weapons like AK-47 or hand grenades were stored there. In fact, when the police raided Behrampada area, all that they recovered were 50 tube-lights, 30 empty soda-water bottles, 50 acid bulbs and a few choppers.

21.37 The police once again raided Behrampada area on 18th February 1993 on receiving information that one Hasim Batla and his associates were preparing bomb in a pucca room on first floor near Ganesh Mandir, Malang Galli, Behrampada. The raid resulted in seizure of seven crude bombs, ten *sutli* bombs and other material useful for preparing such crude bombs. The police arrested three Muslims on the spot and registered a case vide LAC No.58 of 1993. The interrogation of the arrested accused indicates that one Gullu, a resident of Behrampada, was taking a leading part in manufacturing of crude bombs in the room belonging to one Sheikh Mohd. Jaffar alias Chacha who was ostensibly carrying on flower business in Mahim. Gullu and his associates were preparing such crude bombs in order to repel attacks from Hindus. Though there is reference in the interrogatory statements that Gullu and some of his associates were Bengalis, there is no material to suggest that the Bengalis were illegal Bangladeshi aliens. In all, five Muslims were arrested in this case and they have been prosecuted under relevant provisions of law. Though the police claim that while the combing operations were going on, a crude bomb exploded near Deputy Commissioner of Police Kalpatri, there appears to be no material to suggest this, nor is there evidence of any injury suffered by anyone as a result thereof.

21.38 The facts in C.R.No.39 of 1993 indicate the manner in which the Hindu mobs set about their business of "retaliation". Large Hindu crowds of about 2,500-3,000, armed with stones, soda-water bottles, swords and choppers, collected in the localities of J.P. Road, Pipeline Road, Teen Bungalow and started systematically attacking shops and houses of Muslims, ransacking their belongings and making a bonfire of articles by throwing them on the street. The police claim to have acted swiftly and resorted to firing, resulting in the death of two Hindus and one Muslim. Most of the property damage suffered in this case was of Muslims.

21.39 The activities of the Hindu mobs gave rise to a feeling of insecurity in the minds of Muslims and by about 12th January 1993 a large number of Muslim families shifted out to safer places with the assistance of police. Instead of reassuring the citizens about their safety and taking vigorous steps to instil confidence, the police readily agreed to this easier way out and shifted the Muslims to Muslim predominant areas. After the Muslim families had shifted, their houses were systematically ransacked, looted and, on occasions, set on fire.

21.40 There is also the incident in which Vivek Maitra, personal assistant of Shri Gopinath Munde, the then Opposition leader, was apprehended near Adarsh Apartments, Golibar Road on 13th January 1993 by the army column. The vehicle in which he was travelling was intercepted near Adarsh Apartments on Golibar Road, and it was found that Vivek

Maitra was carrying a revolver and one empty case and reported that the said fire-arm was licensed to Shri Gopinath Munde. Both Vivek Maitra and Shri Gopinath Munde have been prosecuted vide LAC No.23 of 1993.

21.41 The case in C.R.No.46 of 1993 presents certain peculiar features. According to the police, the Muslims from Behrampada were going for Friday afternoon *namaaz* and all of a sudden they started rioting and attacking the Hindu residences in the adjoining locality. This led to police intervention and firing. The version of the Muslim victims is that Hindu miscreants had gathered on the terrace of the buildings adjacent to Kherwadi Road and they disturbed the *namaazis* by throwing stones and fire-balls at them. When the *namaazis* started running helter-skelter to save themselves, the police fired at them. Considering that not a single Hindu establishment situated within Behrampada or the Ganesh temple within Behrampada, was even slightly damaged during the height of the riots and the fact that the Muslims at *namaaz* time were unlikely to be armed for attack, the story given by the police appears suspect. The version of the Muslims that the *namaazis* were subjected to attack with stones and fire-balls from the miscreants on the adjacent buildings and the police, ham-handedly or otherwise, started firing at the *namaazis* who were running helter-skelter, appears more probable.

21.42 There was an allegation made by Shri Sarpotdar, both inside the Vidhan Sabha and outside, that Behrampada housed a large number of illegal Pakistani and Bangladeshi residents. Apart from a lot of thunder, there appears to be little material in support. When confronted under cross-examination, Shri Sarpotdar was not able to produce any material, nor did he give any material to the police in support of his allegations. On the contrary, he claimed that when a question was raised on the floor of the Assembly, it was considered to be authentic and it was not for the MLA to produce evidence, but for the Government to produce the evidence!

21.43 Perhaps, like all slums, Behrampada is a breeding ground for criminal activities in view of the depressed economic conditions there. Assuming it to be so, what is true of Behrampada is equally true of hundreds of other slums in the city. There does not seem to be any other evidence to support the exaggerated claims of the Shiv Sena.

21.44 The evidence of Ms. Flavia Ignes, (Witness No.391) also supports this conclusion. Though Ms.Flavia has been meticulously cross-examined with regard to her alleged bias against the *Hindutvawaadis*, and particularly the Shiv Sena, the Commission is unable to accept the theory. Her evidence appears to be straight forward and objective. Her writings do not display any prejudice as such, though she might not think along the lines of *Hindutvawaadis*/Shiv Sena. Madhushree Dutta (Witness No.392) had made a film documentary on the subject in which she tried to repel the myth propagated by the Hindus that Behrampada was a den of criminals of the worst variety. Even apart from her thesis, there appears to be no material to support the said allegation.

## 22 Nagpada Police Station

22.1 Nagpada Police Station area is predominantly a Muslim area, though there are certain Hindu pockets in this area. There are also certain areas where there is mixed population of Hindus and Muslims and these are the most communally sensitive areas and have seen frequent communal riots.

22.2 Senior Police Inspector Pawar maintained that during both phases of riots the force at his disposal was inadequate and that this fact was brought to the notice of his superiors like Assistant Commissioner of Police and Deputy Commissioner of Police during regular discussions.

22.3 In the period July-December 1992 there was lot of activity by the Muslim organisations active in this area. Students Islamic Movement of India (SIMI) and Bombay Muslim Committee were quite active during this period. On 24th July 1992 an Urdu black board was displayed by SIMI which contained extremely provocative writing. During the period from 15th to 26th November 1992 the Muslim organisations from this area had organised meetings on the Ayodhya-Babri Masjid dispute.

22.4 On 2nd December 1992, the Bombay Muslim Committee, under the leadership of one Khalid Qureshi and attended by several Muslim workers such as Iqbal Qureshi, Shafi Mohd. Qureshi, Hassan Munshi, Taher Ashrafi, Sajid Qureshi and others, a meeting was held at Garib Nawaz *Madrassa* in Madanpura. This meeting had been specially called by

public notices and for the purpose of deciding the stand of the Muslims, in view of the ensuing *Kar Seva* on 6th December 1992 and the apprehended danger to Babri Masjid. What transpired at this meeting is a matter of controversy. While the Muslims maintain that the only decision taken in this meeting was to fly black flags to protest of the *Kar Seva* on the Muslim establishments in the Muslim dominant areas on 5th December 1992, the police maintain that this was a closed-door meeting and the Mill Special Constable who tried to attend this meeting and obtain intelligence was spotted and asked to leave the meeting. One Mehmood Parvez Ansari, a teacher in the Nagpada jurisdiction, says that this meeting was held under the chairmanship of Abdul Aziz between 2200 hours to 2345 hours, as the Muslims generally had the feeling that despite the undertaking given by the Uttar Pradesh Government to the Supreme Court, the Babri Masjid was likely to be damaged, if not demolished. The meeting was called for determining the course of action for the Muslims if such a contingency arose. There were two decisions taken at this meeting. First, that the Muslims would fly black flags in the areas where they were in majority and second, that a protest telegram should be sent to the Prime Minister requesting him to ensure the safety and security of Babri Masjid by taking it in directly under his charge. Nothing more was discussed but another meeting was scheduled to be held on 7th December 1992 depending on what actually transpired at Ayodhya. A suggestion for calling for a bandh was made, which was ultimately rejected. Police Constable Pawar of Nagpada Police Station was present at the meeting. He was recognised and requested to leave the meeting. According to him, the meeting was not a secret one as the doors and windows were kept open and that the action committee's object was to formulate the protest of the Muslims.

22.5 It would appear that the Nagpada police did not attach much significance to this meeting. Senior Police Inspector says that though he made attempts to obtain intelligence as to what actually transpired in the said meeting, he could not get such intelligence. Senior Police Inspector and Deshmukh, Additional Commissioner of Police, SB-I CID, corroborate the version given by Mehmood Parvez Ansari and say that according to the intelligence made available, a decision was taken in that meeting to fly black flags in the Muslim predominant areas.

22.6 On 11th, 13th and 18th December 1992 boards containing provocative writings were displayed and Urdu pamphlets containing provocative writings were distributed in the vicinity of Badi Masjid, Maulana Azad Road, Madanpura, immediately following the *namaaz*.

22.7 In December 1992, just before the riots commenced on 6th December 1992, the Senior Police Inspector had been cautioned by confidential source report by SB-I CID, about the black flag demonstrations by Muslims and also to be careful and watch the activists of Shiv Sena in view of their history of resorting to violence. The SB-I CID, had issued a confidential alert cautioning the Senior Police Inspector that there was likelihood of a Hindu backlash if the Muslims resorted to riots because of damage to Babri Masjid during *Kar Seva*.

22.8 Hindus, under the leadership of Bharatiya Janata Party and VHP, carried out *Ghantanaad* and symbolic *Kar Sevas* on 6th December 1992 to coincide the *Kar Seva* at Ayodhya. Since this was done in the 8th Kamathipura lane, a predominantly Hindu area, the police did not apprehend any threat to communal peace. There was no immediate reaction in this area on 6th December 1992 and no untoward incident was reported.

22.9 On 7th December 1992 serious incidents started occurring in quick succession. From 0700 hours onwards, groups of Muslim youth started putting obstructions on Maulana Azad Road. The police had to clear the obstacles in order to carry on their patrolling. At 1030 hours the camera of a photographer was snatched at Maulana Azad Road. At about 1100 hours the police chowky at the junction of Maulana Shaukat Ali Road and Undria Road, known as Suleman Chowky, was attacked by a mob of Muslim miscreants. The violent mob ransacked the chowky and physically assaulted one Police Constable, Pandit Malhari Ahire. Some of the officers who were inside the chowky ran across and took shelter with Muslim residents in buildings opposite Suleman Chowky. Ahire was attacked with swords and choppers as a result of which he suffered injuries on his forehead, on his nose, on the left side of his neck and on his right index finger. According to Ahire the frenzied mob was about 500-600 strong and was carrying swords and choppers and the utterings of the people showed that they were bent upon taking revenge for damage to Babri Masjid. The mob appeared to be in a mood to finish off the victim, as the people in

the mob were shouting that he should be killed. Ahire ran inside the chowky and tried to hide himself under the staircase, but the mob pulled him out and attacked him. At about the same time a huge Muslim mob of about 4,000–5,000 collected on Maulana Shaukat Ali Road and in the lanes and bye-lanes of the area. The mob went on damaging and destroying the vehicles and public property and indulged in indiscriminate stone throwing. Ahire's life was saved by prompt action by Senior Police Inspector Pawar along with other officers who carried on firing to restore peace. In the melee one Police Constable, Bhosale, was hit on the head by a stone and got injured. The firing carried out on this occasion resulted in seven deaths and two injuries to Muslims.

22.10 On 7th December 1992 several other violent incidents took place. At 1215 hours there was an attack by Muslims on the Bombay Central Bus Depot as well as arson of to BEST Buses. Here again, a mob of about 400–500 Muslims was on rampage throwing stones and fire-balls at the BEST buses and the bus depot building. The police had to intervene and fire 19 rounds to bring the situation under control. This battle between the police and the miscreants was continuing for about four hours.

22.11 Violent mobs of Muslims indulged in stone throwing at vehicles and BEST buses on Maratha Mandir Road. The police dispersed the mobs by resorting to firing. On this occasion, 90 rounds were fired spread over about four to five hours, resulting in deaths of three Muslims and seven Hindus. Minor injuries were caused to police personnel during the stone throwing.

22.12 The Hindus were not way behind in jumping into the fray. At about 1730 hours a hotel known as Basera Hotel on R.S.Nimkar Road was attacked by a Hindu mob of about 2,000–3,000. This mob was on a rampage and systematically attacked Muslim establishments on this road. Police intervened and fired twenty round to restore normalcy. The mob also attacked Goodluck Restaurant belonging to a Muslim on the same road and set on five/six shops belonging to Muslims in the vicinity. The fire spread to an adjacent bakery resulting in the death of one Gangaram Sitaram Nayee who was burnt in the fire. The vehicles on the road were also smashed. Seventy-nine rounds were fired by police killing one person and injuring seven. Surprisingly, the person who was killed in the police firing was a Muslim, though it is not in dispute that the mob on rampage was a mob of Hindus. What is more surprising, is the low figure of casualties despite the police firing 79 rounds in this incident, some of which were fired from a sten-gun.

22.13 Violent activities like arson and looting were indulged in by a large Muslim mob of 4,000–5,000 on Duncan Road, Madanpura and Clair Road. The police fired about 64 rounds within a span of about eight to ten hours. On the same day there was an attack on a privately owned Vithal Mandir. This Vithal Mandir on 4th Peerkhan Street was attacked, the idols in the mandir were smashed; the residence and property of the Pujari on the premises were ransacked and damaged. Similarly there was an attack on the Kashi-Vishweshwar temple situated near BIT Chawl No.70, Nava Nagpada. A huge mob of Muslims armed with weapons broke open the temple door, trespassed into the temple, damaged the idol of Nandi and Shiv Ling inside the temple. The furniture and the wall clock in the temple was also damaged. The temple was attempted to be set on fire. The adjacent building No.70, occupied by Hindus, was also attempted to be set on fire by setting fire to the wooden electric meter box of the building. There was attack on Chhota Sonapur Chowky on 7th December 1992 at about 1430 hours. This attack resulted in damage to Chota Sonapur Chowky and the mob was dispersed by police by resorting to firing, though no casualties were reported.

22.14 A person, by name Mohd.Ibrahim Mohd.Hussain got killed in police firing, though he who was not a miscreant, but happened to be standing in the balcony watching the riots going on below on the street (C.R. No.774 of 1992). Another victim of the police firing, Naseem Ayub Khan, appears to have been hit by a bullet while standing in the balcony. Even the police do not claim that she was participating in the riots. In another incident which took place in the evening of 7th December 1992, a rampaging Hindu mob emerged from the lanes of Kumbharwada and damaged the cable equipment of Tata Electric Company which were lying on the road.

22.15 According to Police Inspector Dhawale, on 8th December 1992 at about 1400 hours he received a wireless message while he was on duty at Bombay Central Bus Depot about a violent mob near 11th Kamathipura Lane. He immediately proceeded there and saw a mob of 100–120 throwing stones and soda-water bottles on members of public and damaging

public property. The mob did not heed the warnings given by police. Police also noticed a mob of miscreants throwing stones on Bohri Chawl. According to Police Inspector Dhawale, he fired one round from his service revolver in the direction of Bohri Chawl. This resulted in injury to the leg of a child of two years.

22.16 The Commission would have been inclined to pass this off as an unfortunate incident, but a closer examination of the case papers in this case (C.R.No.778 of 1992) (Exh.632-C) disclose peculiar features. In the first place, the proforma of FIR is not even signed by Police Inspector Dhawale. In the proforma against column No.4 "names and addresses of accused if any", the number is shown as "10-12 unknown persons". The statement of Police Inspector Dhawale dated 8th December 1992 is a typewritten statement in which the number of miscreants is typed as "10 to 12 persons" and overwritten in ink to read as "100 to 120". The officer is also unable to say whether the persons in the mob were Hindus or Muslims. In the statement of Police Inspector Dhawale on page 4 there is no correction made and the number of miscreants is shown as "10 to 12". Mr. Solkar, learned counsel appearing for Jamiet-E-Ulema, produced before the Commission a xerox copy of the FIR issued by the police station in which the number of miscreants is shown as "10 to 12 unknown persons". Police Inspector Dhawale, however, maintains that the strength of the miscreant mob was 100-120 and that he had overlooked page 4 of the FIR. In the report submitted to the zonal Deputy Commissioner of Police and Additional Chief Secretary, (Home), Government of Maharashtra, it is mentioned that the unlawful assembly consisted of 'ten to twelve persons' and the reason for firing is mentioned as "stone throwing from the Bohri Chawl and from the stairs of the said and opposite building". A perusal of the Case Diary shows that, for the first time, the number of persons in the mob was shown as "100 to 120 persons". Though the case papers contain a number of statements of witnesses, all of them turn out to be prostitutes carrying on their trade in the red-light area. The nature of their trade does not rule out the possibility of their having been persuaded to give statements in favour of police.

22.17 The Commission is inclined to take the view that stone throwing incident was at the instance of a small mob of 10-12 persons and it was the over-zealous reaction on the part of Police Inspector Dhawale in shooting at the balcony of Bohri building, resulting in injury to a child. In fact, it was urged that the whole story was false since the Police Control Room Log Book shows that an incident of stone throwing at police had taken place in 10th Kamathipura lane and this was confirmed by Nagpada Mobile-I. It was, therefore, urged by the learned counsel for the Muslims that the whole incident is fabricated. The Commission is not inclined to agree. It is possible that an error was made by the wireless operator, at either end, in describing the *gully* in which the stone throwing incident took place.

22.18 During the January 1993 phase of the riots, this police station registered 18 riot-related communal offences. Between 6th to 8th of January 1993 there were seven cases of deaths due to stabbing. In the border areas of Hindu-Muslim localities, pedestrians were accosted and stabbed after ascertaining their identity. All the seven victims were Hindus. 9th, 10th and 11th of January 1993 saw a large number of violent clashes and incidents of damaging, looting, ransacking and arson. There were also two cases of Muslims being stabbed on 11th and 13th January 1993. There was a most unfortunate incident on 13th January 1993 at Dalal Estate in which a Parsi couple was burnt alive to death.

22.19 There was a case of rioting and attempt to murder in the area of Belasis Road Nagpada and adjoining areas (C.R.No.27 of 1993). There were incidents of rioting on Maulana Azad Road, Sophia Zuber Road and Peer Khan Street (C.R.No.29 of 1993). Curfew was imposed in this area from 2000 hours on 7th January 1993.

22.20 On 8th January 1993 at about 1030 hours a big *morcha* of Muslim women was taken to the police station to protest arrests of some Muslims from Stable Street. The *morcha* dispersed after an assurance was given by the Deputy Commissioner of Police.

22.21 At about 1800 hours on 8th January 1993 there was an incident in which Hindu miscreants from Chikhalthpada, Azubhaiwadi were who throwing stones, soda-water bottles and fire-balls at BIT chawl Nos.12, 13 and 14. Police intervened and dispersed the mob. Shuklaji Street, R.A.Nimkar Marg and Kamathipura area saw pitched battles of armed Muslims and Hindus. According to police, both the mobs were carrying '*Kattas*' (country made pistols) from which private firing was made at the police resulting injuries to some police personnel. Police fired 78 rounds to control the mobs which resulted in injuries to

four persons.

22.22 On 9th January 1993 a Muslim mob of 3,000–4,000 was damaging public property in Madanpura and Kamathipura area and was walking towards Behram Junction with a view to attacking Hindus in the Kamathipura. In the meanwhile, a Hindu mob also arrived there and started damaging properties around the area. National Cold Drink House, belonging to a Muslim, was damaged and the workers in the Cold Drink House were also injured by the Hindus. The police had to fire 50 rounds to control the situation. One Muslim was killed in this police firing and one police constable received injuries. On the same day, at about 1900 hours, there was attack on BIT Chawl Nos.12, 13 and 14 by the Hindus which was controlled by firing 19 rounds by the police.

22.23 On 10th January 1993 the most serious incident at Dalal Estate involving a Hindu mob took place. The mob entered the area and threw stones at the building and broke open and ransacked houses of two Muslims in 'G' building. They also threw fire-balls into those houses resulting in 'G' building catching fire. The mob sprinkled petrol on the wooden staircase and set it on fire, at the same time locking the entrance doors of several flats from outside.

22.24 Arvind Prabhudas Solanki, Deputy Manager, Bank of India, who resides in 'D' Block of Dalal Estate, has given a graphic description of the incident. According to him, there is a Muslim resident in the building by name as Anguthiwala whose house was ransacked by the miscreants. Just before the fire was noticed, he smelt strong fumes of petrol because of which he felt there may be arson. When he tried to come out of the flat by opening the door, he found it locked from outside. He forced open the door and then went on opening the latches on doors of flats, warning that the building was set on fire and that everybody should leave their houses and get out. All the residents ran out and down. It was thereafter noticed that a Parsi couple residing on the fourth floor of 'G' building were unable to make their escape in good time. Some of the residents had risked their lives and even jumped out of the balcony. The old couple aged 78 years could not escape from the balcony, was unable to come down the stairs as the staircase was burning and consequently the old couple was burnt in the fire.

22.25 With regard to Dalal Estate incident, the Commission finds that the story of the police is improbable. Assistant Police Inspector Rathod was on duty on D.B.Marg and according to him he even saw a mob carrying stones, petrol cans, lighted torches proceeding towards Dalal Estate. As long as he was there, he did not see any fire. At 1430 hours he saw the fire and it was reported to him that an aged couple had been trapped inside the fire and that the public had been unable to rescue the couple. Surprisingly, Senior Police Inspector Pawar claims that it was not reported to him by the Assistant Police Inspector who was on duty that the mob had set the building on fire. Senior Police Inspector Pawar says that the only report given to him was that Assistant Police Inspector Rathod saw some people carrying lighted torches and going inside the Dalal Estate and that he had chased the mob away by resorting to firing. The Commission feels that the conduct of Assistant Police Inspector Rathod during the incident is not free from suspicion.

22.26 The hand of criminal gangs, underworld elements and builders in the riots has been denied by Senior Police Inspector Pawar. That there was free use of country made pistols, by both Hindu and Muslim mobs, is admitted. The Senior Police Inspector also makes a grievance that the staff from the police station were in the habit of abandoning assigned places of duty and this was reported to the Assistant Commissioner of Police of the division. During the cross-examination by learned counsel for Shiv Sena, the Senior Police Inspector admitted that the entire Madanpura Road along Maulana Azad Road was totally un-policed because the police were afraid of their life. He, however, admitted that he did not think it necessary to bring this fact to the notice of his superiors. According to him, there were no incidents subsequent to 8th January 1993, because all Hindu shops were burnt, ransacked and looted on 7th January 1993 itself.

22.27 Though there were incidents of private firing upon the police on Peerkhan Street and junction of Shuklaji Street and R.S.Nimkar Marg and subsequently combing operations were carried out, the combing operations did not result in recovery of a single firearm. According to the Senior Police Inspector, some of the reports of the fire arms were false alarms. One of the witnesses Vijay Sonu Gule (C.R.No.36 of 1993) made a startling revelation that when he had gone to Vasant Vilas Hotel on DB Marg, he saw a

mob in which Sada More, a person living near his chawl; Kundan Kadam, resident of Shiv Smriti-8, Sudhir Bhosale, another resident of Shiv Smriti-5, and his brother Sanjay Bhosale, a Police Constable also staying in Shiv Smriti-5 were also present. He learnt that all these persons had looted away the articles and the furniture inside the 'Cats Collections'. Though the Senior Police Inspector says that investigations were still on, the shocking fact is that the Case Diary of the concerned case does not make any reference to this vital information given by Gule in which he identifies the persons including one police constable Sanjay Bhosale. Nor was any explanation forthcoming for this serious lapse. In fact, Senior Police Inspector Pawar says that the fact that a police constable was apparently involved along with other miscreants during the looting of that shop was not brought to his attention and that he learnt it only when it was put to him during his cross-examination. Though, according to police practice, the case diary is periodically inspected and initialled by Senior Police Inspector and Assistant Commissioner of Police, neither officer seems to have done this. The explanation given was that the papers were never placed before them!

22.28 The manner in which curfew orders have been enforced also leaves much to be desired. A curfew order is imposed in order to ensure that no member of public comes on the street so that the miscreants are easily identified and prevented from committing an offence. Despite repeated insistence by the Commissioner of Police that the curfew was slackly enforced, Pawar maintained that there was inadequate staff to strictly enforce the curfew order on 8th, 9th and 10th January 1993. The curfew order remained on paper, for the personal satisfaction of the Commissioner of Police, perhaps.

22.29 In this area there was also a case of some unknown miscreants catching hold of a Muslim walking along the Tardeo bridge and throwing him down from the bridge, crippling him victim for life. No one has been arrested in this incident.

22.30 Though the Commissioner of Police had issued B.C. Message No.411 dated 10.12.1992 to arrest "correct type of communal *goondas*", Senior Police Inspector Pawar confessed that he was unable to understand the meaning of the expression "correct type of communal *goondas*". He understood it as one taking advantage of communal situation and that he did not think the message applied to those who instigate or engineer communal riots.

22.31 During December 1992 about 103 establishments were damaged and or looted, out of which 74 belonged to Hindus and 29 to Muslims. During January 1993, 70 establishments of Hindus, 99 of Muslims and seven belonging to Parsis were severely affected.

22.32 The manner in which the FIRs have been written and the statements of police officers have been recorded leaves much to be desired. In at least 12 cases, which were pointedly brought to the notice of Senior Police Inspector Pawar, statements which written in Marathi and recorded by Sub-Inspector Machinder, who was specifically instructed and assigned the job of recording statements during December 1992, appeared to have been written much later and predated. The explanation given was that the officers were continuously in the field and they would convey information on chits of paper and the personnel in the police station would draft out the statements on the basis of the information on the chits. A list of such statements was prepared by the Bombay Bar Association (Exh. 725-BBA) and in all these cases it appears that the statements are typewritten in stereotype and not contemporaneous with the date borne on the statement.

### 23 Pydhonie Police Station

23.1 Pydhonie jurisdictional area is a commercial area wherein several wholesale markets, transport companies, steel, grocery, dry fruits, hardware, grain, sugar, oilseeds merchants carry on their business. Though the predominant population of this area comprises Muslims, there are a few pockets, like Cheeky Street, Narayan Dhruv Street, Narsi Natha Street and Keshavji Naik Road where there are pockets of Hindus clustered together. 60% of the business activity in this area are controlled by Hindus. This area has 28 mosques and 39 temples.

23.2 This area has the peculiarity of being communally hypersensitive in that the fall-out of events happening outside is immediately felt here. The communal situation also appears to be volatile and riots break out on petty issues.

23.3 This area saw extensive demolition of unauthorised constructions in October and

November 1992. Though it is alleged and suggested that most of the illegal constructions in this area belong to notorious criminals, like Dawood Ibrahim and others, there is no tangible material to suggest this. It would, however, be correct to say that most of these illegal constructions which were demolished by the Bombay Municipal Corporation during October/November 1992 belonged to Muslims.

23.4 On 30th November 1992, the zealous Deputy Municipal Commissioner, R.G. Khairnar, carried out demolition of unauthorised stalls on Ibrahim Rahimtulla Road near Bhendibazar junction within Dongri jurisdiction. It was alleged by some of the Muslim stall-owners that they were selling Muslim religious objects and copies of Holy Quran which were thrown about with scant respect by the demolition squad headed by Khairnar. This gave rise to a call for bandh given by the Muslim League. The Municipal Commissioner ordered an inquiry at the end of which he came to the conclusion that the allegation of desecration of Muslim religious objects and Holy Quran was wholly unfounded. To the same effect is the testimony of the then Assistant Commissioner of Police, Madhukar Zende. The Commission is not really concerned with the factual veracity of the allegations. The incident had its repercussions within this jurisdictional area also.

23.5 During the period July to December 1992, the *Hindutvawaadis* parties, like the Bharatiya Janata Party, Vishwa Hindu Parishad (VHP), Bajrang Dal and Shiv Sena stepped up their campaign in support of the construction of a Ram temple at the spot where the Babri Masjid stood. Though the police maintained that peace in the area was very fragile, the police appeared to have moved no muscle to prevent their activities on the facile ground that those were harmless religious activities. In one of such 'religious activities' organised on 23rd October 1992, a *Shri Ram Paduka* procession was taken out by VHP. Dnyaneshwar Thorat of VHP and the local Shiv Sena *Shakha Pramukh* Hemant Koli and others accompanied the procession which wended its way through Madhav Rokade Marg, Saboo Siddique Road, Lokmanya Tilak, Raghunath Street, V.B. Chandan Street and terminated near the Hanuman Mandir on the V.B. Chandan Street. A speech was given there by one Praful Desai during the course of which he emphasised that the procession was not "a *shobha yatra*" but was intended to bring out the Ram which was concealed in the minds of the people and "*Ramdrosis should not be allowed to go alive.*"

The procession then passed through Garibdas Street, Juni Bardan Galli, Kazi Sayyed Street, Janjekar Street, Raghunath Maharaj Street and terminated at Raghunath Maharaj Mandir where there was an *Arti*. No action appears to have been taken by the police in respect of the speech delivered by Praful Desai. There cannot be any doubt that the said speech was communally provocative, the implication being that people who obstructed the construction of a Ram temple at Ayodhya were "*Ramdrosis*" and, therefore, they should not be allowed to live. The police appear to be either naive, gullible or partisan in ignoring the dangerous implications in this kind of speech. That this kind of propaganda was carried out from July to October 1992 is not in dispute. It is obvious that the atmosphere in the Pydhonie area became communally charged on account of the continuous barrage of propagandist processions, meetings, speeches and other activities of the *Hindutvawaadis* parties. This resulted in the atmosphere being so charged that it needed but a spark to ignite and explode.

23.6 According to the police, the first major communal incident occurred in this jurisdiction near Minara Masjid on 6th December 1992. If by the expression "communal incident" is meant only an incident of violence, then the perception of the police may be right.

23.7 At about 2325 hours, a crowd of about 500 Muslims gathered near Minara Masjid shouting slogans, "*Nara-e-Taqbir, Allah-O-Akbar*" and "*Police Ko Daro Mat*". That the anger of the mob was only directed at the police at this point of time is at once apparent. It is admitted by the Senior Police Inspector Kadam that at this point of time the mob was not violent, though restive. The manner in which the crowd was handled by the police displays lack of sensitivity on the part of the police. The entire Muslim community was reeling under a sense of betrayal as a result of the demolition of the Babri Masjid despite categorical assurances given by the Central Government and an undertaking given by the Government of Uttar Pradesh to the Supreme court that no harm would be allowed to fall on Babri Masjid and a similar statement made by the Prime Minister on the Floor of the Lok Sabha. Repeated showing of the news clips on television which clearly portrayed the gleeful dance of the demolishers on the debris of Babri Masjid with the police and paramilitary forces as passive onlookers, must have deeply hurt the psyche of the Muslim



community. It was to give vent to this feeling of hurt and betrayal that a protest march appears to have been organised near Minara Masjid. Two facts are significant : (a) The protest march was within the predominantly Muslim area and that too near a mosque, and (b) the crowd was not carrying any weapons of offence — not even stones or brickbats at that point of time — as admitted by the police. The restive crowd attempted to block the traffic on the Ibrahim Rahimtulla Road. When thwarted, the anger of the crowd was vented on a Municipal van which was passing along Ibrahim Rahimtulla Road. The driver of the van, actually a Muslim, was unhurt, but abandoned the vehicle. The crowd then damaged the van. When police reinforcements came, the mob dispersed into two sections — one section proceeding along Ibrahim Mohamad Merchant Road eastwards to Khadak area and the other proceeding southwards to Mandvi junction. Admittedly, the crowd which proceeded towards Khadak was passive and did not indulge in any violent activity. The crowd which was chased towards south passed along Ibrahim Rahimtulla Road and Chhotani Marg and converged near Nawab Masjid, Masjid Street, a little off of Mandvi Post Office junction. The police chased the crowd here also and according to the police, the crowd became violent here and started throwing stones.

The police also allege that one person fired at the police from a revolver which resulted in the bullet grazing the fibre glass helmet worn by PSI S.S. Rane. This, according to the police, gave them an apprehension that their lives and the lives and properties of other citizens were in imminent danger and, at the direction of Assistant Commissioner of Police Zende, 22 rounds were fired at the mob at Masjid Street. The police produced a helmet supposed to have been worn by Police Sub-Inspector Rane and the ballistic expert's opinion that the dent on the helmet could have been caused by the impact of a lead projectile on the helmet. The police have registered a case (C.R. No.489 of 1992) in this connection. Curiously, the FIR registered by Police Sub-Inspector Shekhar Asharam Tore on 7th December 1992, one of the officers who handled the situation, does not even make reference to the helmet incident. According to the FIR, while the crowd at Nawab Masjid was being dispersed, it became furious and advanced towards the police damaging handcarts and vehicles parked on the street as well as the other public properties. Tore says, "since the mob could not come under control and to avoid any more further damages to the lives of the police personnel, members of public and the public property, Assistant Commissioner of Police Shri M.B. Zende ordered the policemen to open fire at the riotous crowd ....." The incident of private firing directed at the helmet of Police Sub-Inspector Rane is conspicuously absent. More curiously, Police Sub-Inspector Tore gave supplementary statements on 8th December 1992 and 9th December 1992 adding several other facts and justifying the supplementary statement by saying that because of injury sustained by him on 7th December 1992 causing him severe pain on his arm, some of the facts had slipped from his mind. Even in these statements, the incident of bullet grazing pass the helmet of S.S. Rane is conspicuous by its absence. Sadashiv Hari Salunkhe, police constable attached to Pydhonie Police Station, says that he was hit by a stone and fell down and he heard a shot fired from the mob and seeing that the mob was going out of control, the Assistant Commissioner of Police had ordered to open firing. Arjun Laxman Vakchoure, PC No.3813 Girgaon, who also happened to be on duty at the spot, states that there was a mob of about 100-150 persons throwing stones, brickbats and bottles on the road and on the vehicle carrying the police. According to him, there was one person in the mob who had a revolver which was aimed at the police.

The police got down and started pushing back the mob and while they were slowly advancing, he heard some noise like a bullet hitting the helmet worn by Police Sub-Inspector Rane and therefore he and his companion Surendra Appa Sawant (PN No.7903 V.P.Road) opened fire. Surendra Appa Sawant also says that he heard some noise which he thought to be the impact of a bullet on the helmet of S.S.Rane and, therefore, he had fired at the mob.

23.8 In the opinion of the Commission, the version of the police about private firing which grazed past Police Sub-Inspector's Rane's helmet is very much suspect. It is improbable that if in the violent mob someone was carrying a fire-arm aimed at the police party, the police party would have calmly got down from the vehicle and attempted to push back the mob. The story of the police hardly inspires confidence. The Commission feels that this is but an attempt made, *post facto*, to justify the large number of rounds fired towards the mob on Masjid Street near the Nawab Masjid.

23.9 In fact, the Commission is inclined to think that the police have raised the bogey of private firing from violent mobs each time to justify excessive firing done by them.

Strangely, no material has been produced before the Commission to indicate that there was any injury caused to any of the police personnel or to any of the vehicles or structures in or around the area of confrontation. No weapons have been seized by the police, nor was combing operation carried out to seize fire-arms. The Commission feels that the bogey of private firing is either the result of over-worked imagination of the police caused by sustained propaganda or that it was a convenient excuse put forward in hindsight to justify the large number of rounds fired.

23.10 At this stage it would be convenient to notice that though Senior Police Inspector P.S. Kadam referred to 11 cases of private firing deaths in paragraph 73 of his affidavit, he had to back-track in all but two cases and admit that those were really not cases of deaths on account of fire-arm injuries, but were deaths resulting from stabbing incidents. Even in the remaining two cases, it is probable that they were really cases of deaths on account of police firing being passed off as private firing casualties. No bullets were extracted, preserved and sent for ballistic examination. The conduct of the police in this aspect leaves much to be desired.

23.11 The Commission is of course not prepared to dismiss all incidents of private firing as baseless. The Shiv Sena has justifiably pointed out that there were cases like the murder of Constable Vilas Kadam in which the notorious criminal Salim Talwar is the prime suspect and the cases of private firing indulged in by Aslam Koradia and his associates who moved around the locality on motor bikes and fired indiscriminately at people on the streets.

23.12 The Commission is also not inclined to accept the stand of the Muslim parties that all cases of police firing were unjustified. It is true that there might not have been incidents of private firing as put forward by the police, but on several occasions there were attacks by Muslim mobs on the police, clashes between violent mobs of Muslims and Hindus, both of whom turning their ire at the police attacked the police with stones and bottles. Whether in such circumstances the police is justified in resorting to firing is a matter on which it would be very difficult to make a *post facto* judgment. It is not possible for the Commission to accept the general view propounded that all Muslim deaths by police firing in this area were unjustified or were due to use of excessive and disproportionate force by the police.

23.13 During the January 1993 phase, the murder of the Mathadi *kamgars*, one on 26th December 1992 and four others during the night of 5th/6th January 1993, were said to be the causes which ignited the second phase of rioting. The murder of Balu Bhau Bhosale, *mathadi* worker, on 26th December 1992 does not appear to be a communal incident at all and has now been squarely admitted by the police. It was a case of chronic alcoholic going on rampage for little reason. In fact, the accused in that case admitted in his statement to the police that he was under influence of liquor when he committed the crime. He has subsequently been convicted by the Criminal Court, which takes the view that it was a crime committed under the influence of alcohol, without any specific motive.

23.14 As far as the murders of the four *mathadi* workers on 5th/6th January 1993 are concerned, though they occurred within Dongri jurisdiction, it is relevant to refer to them here too. It is admitted by Senior Police Inspector Subhash Kadam that the *mathadi* workers themselves did not consider the murders to be communally motivated and that it was only Vaman Lad, ex-Shiv Sena Corporator and Hemant Koli, Shiv Sena *Shakha Pramukh* of *shakha* No.6 who attributed communal motives to the murders of the *mathadi* workers on 5th/6th January 1993, though he says that he did not consider their speeches as communally provocative. The *mathadi* workers held a meeting on 6th January 1993, the immediate next day of the murder, during the course of which the speeches given by their leaders [Exh.1033(C)] merely to ventilate the sense of insecurity felt by the *mathadi kamgars*. Their only demand was that the Government should ensure their security. There is not a whisper of communal motive for the murder. The blame for turning a case of simple murder into a communally motivated murder must squarely fall on Vaman Lad and Hemant Koli of Shiv Sena. As a result of this propaganda, some of the *mathadi* workers who were sitting on Yusuf Meherali Road in front of the Union office on 6th January 1993 caught hold of one Muslim *Mulla* and dragged him out of the premises of a Transport Company and stabbed him. This was the first incident in January 1993 to be soon followed by others.

23.15 In January 1993, eight persons died of private firing, out of which four were Hindus

and four bodies were not identified. Several cases of stabbing occurred between 6th to 13th January 1993 in which the victims were mostly Hindus.

23.16 Once the riots erupted in January 1993, several known criminals from the area, though undoubtedly Muslims, took advantage of the situation and fanned the fires of communal hatred. Groups led by Salim Rampuri, Abdul Rauf alias Rauf Chacha and others moved around the locality instigating the Muslim youths to come out and help in looting the godowns of Hindus.

23.17 This area saw the circulation of pamphlets containing incendiary communal material urging Muslims to communal violence and also calls given on loudspeakers fixed on masjids urging Muslims to come out in large numbers with arms and attack 'Kafirs'.

23.18 The police has been remiss in not keeping tabs of the activities of known Muslim organisations —Jamait-E-Islam-E-Hind, Muslim League and SIMI (Students Islamic Movement of India), who were known to have participated in some of the previous protests. Similarly, no watch appears to have been kept nor intelligence gathered about the activity of Raza Academy. The slogans shouted by the mobs invariably indicated their anger at the police.

23.19 During the first week of January 1993 there were several cases of stabbing incidents in which Hindus were stabbed after ascertaining their Hindu identity. Most of them have remained unsolved and classified in "A" summary by the police. The Commission is inclined to think that these were deliberate attempts by professional killers with a view to whip up communal passions.

23.20 There has been criticism of the police by the Shiv Sena that the police deliberately refrained from carrying out combing operations, immediately after reported incidents of private firing, under political pressure to avoid annoying the Muslims. The police have of course maintained that the failure to carry out prompt combing operation was on account of the then prevalent situation and the inability to muster sufficient force at several places to carry out combing. There is no material from which political motives can be attributed to the police for their failure. Considering the situation which was prevalent during the riots and the chronic shortage of police manpower, the police, perhaps, were justified in saying that they could not have organised combing or searching parties on each and every complaint.

23.21 The Commission is of the view that there were contradictory instructions given to the police with regard to the handling of communal riots which were responsible for the inadequate responses of the police to the situations confronting them.

23.22 That the fury of the Muslim mobs was mainly directed against the police is also borne out by the vicious attacks on the Null Bazar Police Chowky and the extensive damage caused to it.

23.23 Though, there is no material to justify the conclusion that combing operations commenced by the police were abandoned because of political pressure or interference, there is material on record to show that on occasions large mobs did interfere with attempts of the police to carry out combing. The interference came by way of throwing of stones, fire-balls and other missiles. Another case of interference in police work was the large *morcha* which was brought by several Muslim political leaders to the police station demanding release of Aslam Koradia and his associates who were the accused in one case (C.R. No.25/93). As a result of the pressure brought by the *morcha*, Aslam Khan Koradia and his four associates were released by the police.

23.24 A peculiar feature of the communal riots of December 1992 was that it consisted mostly of violent attacks by Muslims on the police. In contrast, in January 1993, Hindu mobs also were involved in the incidents and there were a number of clashes between Hindu and Muslim mobs. An examination of the transcripts of the Police Control Room Wireless Messages shows that there were frequent calls given by the Control Room, presumably based on the reports made to it, of attacks on Hindu temples and attempted arson of Hindu temples which ultimately turned out to be false. The Senior Police Inspector Kadam has, with reference to the transcripts of wireless messages and other record, convincingly demonstrated that a large number of calls were false calls which only further strained the resources of the police who were already stretched.

23.25 The police admit that they did not come across a single instance of sophisticated weapons like AK-47 being used, despite the repeated cries set up by the Shiv Sena that such weapons were being freely used during the riots.

23.26 There is demonstrable attempts by the police to suppress the role played by the Hindu mobs in the riots, particularly during January 1993. In fact, the relevant facts had to be painfully extracted from Senior Police Inspector Kadam during his cross-examination. Another peculiar feature is that even when mobs of Hindus and Muslims were clashing, all the firing appears to have been directed only at the Muslim mobs, with resulting casualties of only Muslims.

23.27 The police firing resulted in the death of two Muslims in December 1992 incidents and 14 Muslims during the January 1993 incidents. The number of injured in December 1992 in police firing were 12 Muslims and three Hindus. During 1993 riots, the number of injured in police firing were six Hindus, one Christian and 32 Muslims.

23.28 Though Kadam maintained that the January 1993 riots were also started by the Muslims, the evidence on record does not support this stand. As admitted by Kadam, the first incident which occurred in this jurisdiction was on 6th January 1993 when a *Mulla* was dragged out of the office of a Transport Company and stabbed to death by the *mathadi* workers sitting in front of their Union office. The fact that the *mathadi* workers did not initially ascribe communal motives for the murders of four *mathadis* during the night of 5th/6th January 1993, together with the assertion of Kadam that the Shiv Sena local leaders were responsible for giving a communal colour to the death of *mathadi* workers, would belie the stand of the police. The Commission is inclined to think that the murder of the *mathadi* workers probably had nothing to do with communal motives. But a communal colour was given to it by the local leaders of Shiv Sena for whipping up communal frenzy which resulted in the murder of an innocent Muslim, *Mulla*, in January 1993 and snow-balled into large-scale rioting.

#### 24 R.A.K. Marg Police Station

24.1 The jurisdictional territory of this police station is thickly populated. 65% of the population is composed of Hindus, while Muslim population comprises about 30%, the other 5% being the rest. There are distinct Muslim pockets in this area at Sewri Cross Road, Sanman Nagar, Wadala and Zakeria Bunder.

24.2 During December 1992 there were only four incidents of communal violence. On 7th December 1992 at about 2230 hours a violent mob of Muslims had attacked a Hanuman Mandir at Sewri Cross Road and had to be dispersed by police firing. On 8th December 1992 at about 1400 hours there was an attack on Parmanandwadi Dargah by a Hindu mob. The police dispersed the mob by firing and arrested three Hindu accused. There were two deaths, one of a Muslim who died of police firing and one a Hindu who died of stabbing and three other persons were injured. The rest of December 1992 passed off without any serious incidents.

24.3 According to the Senior Police Inspector Dilip Madhukar Tipnis (Witness No.239-P), this police station did not have sufficient manpower to take care of even the day-to-day work load. He had addressed a letter dated 21st July 1989 to Deputy Commissioner of Police Zone II and a letter dated 28th June 1991 to the Commissioner of Police pointing out the shortage of manpower and asking for increase in manpower. Apparently no action was taken by the superiors. The vehicles attached to this police station, communication equipment and even the arms and ammunition given to this police station were qualitatively and quantitatively inadequate to deal with the situations arising during the two phases of riots.

24.4 January 1993 phase of the rioting saw some of the serious incidents taking place in this jurisdiction. Two hundred eighty nine establishments were ransacked looted and subjected to arson during the two riots, out of which 243 belonged to Muslims, 41 to Hindus, four to Christians and the ownership of one was unascertained. The combined casualty toll during December 1992 and January 1993 is 28 deaths out of which 15 died in police firing (nine Muslims and six Hindus), one Muslim died in a private firing incident, eight persons were burnt to death (six Muslims, one Hindu and one unknown person), three deaths occurred due to stabbing (two Muslims and one Hindu) and one Muslim was stoned to death. The community-wise break up of deaths is 19 Muslims, eight Hindus and one unidentified person.

24.5 During the January 1993 phase of the riots, there were 38 cases of injuries. Twenty persons (11 Muslims and nine Hindus) were injured in police firing; seven persons (six Muslims and one Hindu) were injured by stabbing; five persons (one Muslim and four Hindus) were injured in private firing; one Hindu was injured in *lathi-charge* by police, one Hindu was injured in petrol bomb explosion and four Muslims were injured by mob action. Most of the serious incidents of violence during the two riot periods took place in the vicinity of Hari Masjid, Noori Masjid, Parmanandwadi Darga and Hanuman Mandir on Sewri Cross Road.

24.6 B.C. Message No.411 of 1992 (Ex.1004-C) regarding the preventive arrest of "communal *goonda*" appears to have created some confusion, as the Senior Police Inspector admitted that, for want of guidelines as to who were communal *goondas* he assumed that the expression "communal *goonda*" was synonymous with the expression "bad character".

24.7 The tension appears to have been built up in this area right from October to December 1992 as *Ram Paduka* programmes, corner *sabhas*, cycle rally, *bhajan* and *Ghantanaad* programmes were organised by Bharatiya Janata Party and VHP. Even on 6th December 1992 *Ghantanaad* programmes were arranged at three places in which slogans about of building of temple at the disputed site in Ayodhya were shouted.

24.8 There was no trouble in this area on 6th, 7th and 8th of January 1993. All the violent incidents which took place in this area appear to have taken place on 9th and 10th January 1993.

24.9 This area has the dubious distinction of seeing several gruesome cases of persons being burnt alive or murdered and their bodies being burnt surreptitiously. That this area is very much under the influence and control of Shiv Sena is admitted by police. A colony known as Shivaji Nagar diagonally opposite Sakharam Lanjekar Marg appears to be the stronghold of Shiv Sainiks and their supporters. Large number of accused were arrested there and large number of preventive arrests were also made from there.

24.10 The curfew in this area came to be enforced only on 13th January 1993 at the specific request of Senior Police Inspector because every day from 9th January 1993 there was some serious incident or the other taking place in the area.

24.11 There are seven cases of Muslims being accosted by miscreants and stabbed after ascertaining their identity (C.R.Nos.16, 19, 21, 27, 32, 33, 34, 35, 40, 51 and 55 of 1993). This had happened in the December 1992 phase of the riot also in two cases (C.R.Nos.322 and 325 of 1992).

24.12 In seven cases, incidents of ransacking and looting of Muslim properties took place (C.R.Nos.36, 37, 38, 42, 43, 45, 46 and 49 of 1993). There is one case of an establishment of a Hindu who carried on a small business being set on fire (C.R.No.47 of 1993).

24.13 That the major contributing factor for the communal violence in January 1993 was the Shiv Sena or the Shiv Sainiks is evident from the material on record. The police had preventively arrested 30 Hindu boys on 11th January 1993, 33 Hindu boys on 13th January 1993 and another 20 Hindu boys on 14th January 1993. This preventive action gave rise to a *morcha* by about 400-500 women led by Vasant Joglekar and Suresh Kale, local Shiv Sena *Shakha Pramukhs*. This *morcha* was taken to the police demanding that all those preventively arrested should be released unconditionally. Apart from the two local *Shakha Pramukhs*, one MLA and one MP of Shiv Sena had also led the *morcha*.

24.14 According to Senior Police Inspector, even prior to 9th January 1993 it had occurred to the police that the supporters of Shiv Sena were indulging in and were likely to indulge in riot-related offences. There are no known Muslim communal organisations carrying on activities in this area, according to the police.

24.15 There was a case of a private firing from Ismail Building directed towards Shivaji Nagar. Though it was obviously done by some Muslims from the Ismail Building, there is no material to identify the miscreants.

24.16 The communal violence in January 1993 started on 9th January 1993 at 0230 hours by an incident in which a Muslim was stabbed near Mahajani Path.

24.17 There was a serious incident at Hari Masjid on 10th January 1993 (C.R.No.17 of 1993)

in which six persons, all Muslims, died of police firing and one Hindu, Kamlakar Sudhakar Ghadge, died as a result of burns. Though the police claim that one Mukhtar Banoo had died in public firing, the material on record contradicts this assertion and the Senior Police Inspector was forced to admit that there was no material on the basis of which this conclusion could be arrived at. According to police, on 10th January 1993 a large crowd of about 2,000–2,500 Muslims, armed with deadly weapons, collected at Hari Masjid and was seen menacingly advancing on RAK Marg towards Sukkur Panchayat Bhavan and Sahakar Nagar, setting fire to huts and vehicles and that there was private firing from Hari Masjid. A police contingent led by Sub-Inspector Kapse and his men resorted to firing to control the mob. The number of rounds fired in this incident is as high as 64. Fifty miscreants are allegedly arrested on the spot out of which 17 were allegedly found with deadly weapons. This firing resulted in death of seven persons and injuries to six persons.

24.18 The version put forth by the police is open to serious doubt. It is admitted by the Senior Police Inspector that the inclusion of Hindu properties as damaged during the incident of C.R.No.17 of 1993 was erroneous and actually there was no damage to any Hindu property though there are several Hindu properties in the vicinity of Hari Masjid. None of those establishments were harmed. There was also no complaint made by any one from Sukkur Panchayat Bhavan that they apprehended an attack on them. The *panchanama* about the recovery of dead bodies does not correctly describe the exact place where the blood stains were found, but merely describes that it was at about a distance of 20 feet from the footpath in front of Hari Masjid. This recording in the *panchanama* is quite susceptible to the conclusion that the blood stains were on the premises or within the masjid premises, if 20 feet are measured in the westerly direction. The *panchas* also say in the *panchanama* that when they went to the shed used for *namaaz* in the masjid they had seen large patches of dried blood. Though the police mention that one Mukhtar Banoo and one Hindu, Shravan Malhari Killari, were injured in private firing in front of Hari Masjid, it is established that Mukhtar Banoo died in police firing. Apart from Shravan's saying so, there is no corroboration that he was injured in private firing. No statement of any persons, not even of the police personnel who had seen Killari being injured, is recorded. Killari in his statement merely says that the bullet which injured his finger had come from the direction of Hari Masjid and in the meanwhile the police came and got into action. There is no complaint from any member of public that Killari was injured in private firing. The bullet injuring him has not been recovered. Other than the statements of police and Killari's own statement, there is no other material to believe that there was private firing from the premises of Hari Masjid. Soon after the incident the police raided the Hari Masjid, but they recovered no fire-arms.

24.19 Witness after witness has come before the Commission and given evidence as to how the police resorted to unprovoked firing in Hari Masjid. Witnesses categorically assert that the Muslims numbering about 100 had gathered for the afternoon *namaaz* between 1300 to 1330 hours and while they were in the process of *namaaz* suddenly police barged in and started shooting. That the police entered the premises and resorted to shooting is clearly established by the evidence. The case of the police that they had not entered the masjid premises, and that they had not carried out firing in the premises and that all firing was done on the road is difficult to accept in the face of clear acceptable testimony of several witnesses who were present at the time of *namaaz*. The evidence of the witnesses testifies to the manner in which the police resorted to firing and further to the brutal manner in which the *namaazis* were assaulted and some of them were fired at from almost point-blank range.

24.20 The evidence of Ehatram Ali (Witness No.258-CPI) shows that the police entered the masjid from RAK Marg side entrance when he had just finished the *namaaz* and was doing *salaam*. The police then started firing and took away some of the *namaazis*. The police made *namaazis* stand in a line and forced one Adam and another person to pick up dead bodies and put them in the vehicles and after herding them in the vehicle took them away. To similar extent is the evidence of Abdul Rehman Insan Ali (Witness No.250-CPI). He said that when he was in the process of doing *namaaz* he was hit by a bullet. When he looked up he saw the police on his left hand side. The police consisted of one officer and four constables who had already come inside the inner-half of the masjid. Curiously, there is no *panchanama* made by the police showing where the body of any person killed by bullets was found. Although there are Hindu shops immediately adjacent to Hari Masjid, there is no statement recorded of any one of the shopkeepers, though the police say that the mob was chanting slogans, "*Pakistan Zindabad, Allah-O-Akbar, Kafir ko mar do, Hinduonko maro, Police ko maro, Duniya ke Nakshe par se Hindustan ko mita do*". The crime reports

written by the investigating officer do not indicate that any persons were interrogated for information about the incident in the Hari Masjid or to confirm the fact that such slogans were shouted by the mob.

24.21 There is contradictory record of the police. In the Inquest Form (Exh. 2622-JE), in respect of body in ADR No.23 of 1993 sent under the signature of Sub-Inspector Suryawanshi to the Coroner, Bombay, it is stated in columns 7, 8 and 9 that on 10th January 1993 at about 1300 hours there was a clash between Hindus and Muslims on RAK Marg in front of Hilal Masjid (Hari Masjid) by throwing stones and causing damage to public property during which the police intervened and resorted to firing to quell the mobs and that the dead person was injured in the firing while she was passing along the road. Again in ADR No.29 (Exh. 2623-JE) identical circumstances are written.

24.22 Senior Police Inspector himself reached Hari Masjid at about 1330 hours upon receiving information. He admitted that Sub-Inspector Kapse, who was present there, did not tell him that a Hindu mob was there, but merely told him that police had encountered a large mob of about 2,000 Muslims throwing stones, bottles etc. at the police and that there was private firing from Hari Masjid. The entry at 1254 hours on 10th January 1993 in the Control Room Log Book shows that RAK-I-Mobile gave a message, "on the spot. There is trouble going on between Hindus and Muslims, Hari Masjid, firing is going on". When confronted with all these documents, the Senior Police Inspector was unable to say why there is no reference whatsoever in the case papers of C.R.No.17 of 1993 to the presence of a Hindu mob, nor was he able to say who was responsible for this glaring omission. All witnesses whose statements are recorded in this C.R. state that the firing was resorted to under the orders of Police Sub-Inspector Kapse. There is also no *panchanama* indicating seizure of weapons from any of the arrested accused. All these circumstances make it difficult to accept the story put forward by police. For these reasons the Commission had issued a notice under Section 8-B of the Commissions of Inquiry Act to Police Sub-Inspector Kapse on 27th June 1994. Kapse has given no explanation with regard to the allegations made against him. The evidence of the witnesses also suggests that a SRP group was present when the firing took place at Hari Masjid. The witnesses commended the role played by one Sardarji in SRP uniform who rebuked Kapse that he had done enough and helped the *namaazis* to get away from that place. Sheikh Naushad Ali Abdul Shakoor (Witness No.252-CPI) who was present in the dyeing factory adjacent to the Hari Masjid testifies to the presence of a large Hindu mob of 2,000-3,000 spread along Naigaum Cross Road and on the Road on which Talwalkar's gymnasium is located. According to him, this mob was attacking his factory. At this time police came and saw the big mob indulging in stone throwing. They did not stop them, but went straight towards the junction of Naigaum Cross Road and RAK Marg and went to Hari Masjid. Soon thereafter he heard the sound of firing. He also talks of Sardarji SRP jawan who was along with SRP troupe who had accompanied Sub-Inspector Kapse. This witness has suffered a fracture in his left upper arm elbow joint on account of assault by rifle butts. When he applied for compensation on the basis of his medical certificate, one officer by name Shirodkar in the office of the Collector of Bombay told that because he was a government servant he was not entitled to any compensation and destroyed the draft which was kept ready. A clarification by a circular dated 6th July 1994 (Exh.1715-S) has now been issued that the State Government has taken a decision that Government and semi-Government employees were eligible for assistance to persons injured in riots. The Commission hopes that the Government would, in accordance with its revised policy, ensure that Sheikh Naushad Ali Abdul Shakoor is paid the compensation that he is eligible to.

24.23 Upon a review of the material on record of C.R.No.17 of 1993 the Commission is inclined to think that the version of police is wholly unbelievable and has been fabricated to support the unjustified firing of large number of rounds which resulted in killing of six Muslims. Though during the said incident there was a clash between Hindus and Muslims, the police deliberately suppressed the presence of Hindu mob of 2,000-3,000 in order to justify their unjustifiable conduct. The Commission's view is that the role of Sub-Inspector Kapse in the entire incident is condemnable. He not only suppressed the presence of Hindu mob, but also misled the Senior Police Inspector on this count. He also fabricated the record to indicate that all firing took place outside the masjid premises. Since he did not care to offer any explanation despite service of a notice under Section 8B, the Commission has no reason not to accept the testimony of public witnesses and conclude that Sub-Inspector Kapse is not only guilty of unjustified firing, but also of inhuman and brutal behaviour during the incident.

24.24 The attempt of the Deputy Commissioner of Police Bishnoi to give a clean chit to Sub-Inspector Kapse by going to the extent of taking the responsibility of the firing at Hari Masjid on himself, may be bravery beyond the call of duty, but does not inspire confidence. When confronted with the statements of police personnel, Gajanan Shivram Bhor, Bhikaji Sidhu Bugade, Sham Kashinath Dalvi, Ramchandra Krishna Zanjurde and his own Gunner Bhalchandra Kamble, who all uniformly state that the firing was done by Sub-Inspector Kapse on his own before the arrival of Deputy Commissioner of Police Bishnoi, Bishnoi maintained that all of them must have been mistaken. Bishnoi maintained that all the 65 rounds fired at Hari masjid were fired in his presence, under his orders, that he ordered the firing and that Sub-Inspector Kapse obeyed his orders and directed his men to open fire. Loyalty to one's subordinates is undoubtedly an excellent trait. Bishnoi needs to be commended for asserting his loyalty to Sub-Inspector Kapse in the face of all contrary testimony. The Commission, however, is not willing to accept his uncorroborated testimony against the testimony of all the others, who are themselves police personnel, including his own Gunner Kamble. The clinching piece of evidence is the Control Room Message at 1253 hours on 10th January 1993 in which message from RAK-I-Mobile to the Control Room is, "On the spot... there is trouble going on between Hindus and Muslims - At Hari Masjid, firing is going on". The glib explanation of Bishnoi about this message is that the wireless operator might not have seen what exactly was going on and might have given incorrect report without verifying the true facts. In other words, according to Bishnoi, only he is true and every one else was wrong, because only he knew the facts correctly. A tall order, even for a Deputy Commissioner of Police!

24.25 This police station has the dubious distinction of having seen four grisly incidents of victims being hacked and their bodies being burnt or attempted to be burnt.

24.26 On 10th January 1993 in the morning a violent mob of Muslims of about 100-150 persons armed with swords, guptis, *lathis*, choppers etc. went on burning the vehicles on Zakaria Bunder Road. They found a lorry parked there whose driver was a Hindu. After ascertaining that he was a Hindu, the mob tied both his legs by a piece of wire, locked him in the driver's cabin and set the lorry on fire which resulted in his being burnt alive (C.R.No.20 of 1993).

24.27 One young Muslim boy, Javed Ahmed Ismail, had gone for fetching milk from a milk-booth at about 0830 hours on 11th January 1993 and was thereafter unheard of. According to the mother of Javed, Tasleem Mohd. Ismail Sheikh, when her son did not return within a reasonable time she went to RAK Marg Police Station and enquired Sub-Inspector Kapse who was on duty there as to whether her son wearing a black shirt and a black pant, had been picked up by police. She was informed that her son had been caught by Shiv Sena workers and taken away. She continued to seek information from hospital morgues and also from her acquaintances and friends. She also continued to visit the police station regularly, but police recorded a non-cognizable case No.5 of 1993 only on 23th January 1993. Subsequently, she filed Criminal Writ Petition No.238 of 1993 before the High Court at Bombay seeking a writ of habeas corpus against the police and the State. In this Writ Petition, Murlidhar Baburao Ingale, Inspector attached to RAK Marg Police Station, had filed an affidavit dated 2nd March 1993 (Exh.1612-CPI) disclosing that the investigations had shown that Javed and another boy Samu Ahmed were attacked by a mob of 500-800 in Shiv Sena Nagari. The miscreants had taken the two dead bodies and burnt them in Christian cemeteries on 11th January 1993. In view of these circumstances disclosed by police, Criminal Writ Petition No.238 of 1993 was dismissed by the High Court vide its order dated 7th October 1993 (Exh.1613-CPI).

24.28 Shakeela Banoo Nurulla Sheikh Hussain (Witness No. 243-CPI) deposed that on 10th January 1993 at about 1030 hours three truck loads of men had come to Sanman Nagar where she resided. Those men went about systematically damaging the huts and *kucchha* structures in that area. She along with her children and husband Nurulla Hussain Sheikh fled from the area. While they were fleeing they were attacked by five-six people armed with wooden sticks, rods and swords. Her husband was attacked. One of the attackers poured inflammatory liquid on the body of her husband and set him ablaze. Shakeela Banoo and her children ran away from there out of fright and managed to reach Kurla. She says that she knew some of the attackers. She named Vilas, resident of a hut behind her mother's hut in Sanman Nagar; Shiva, her mother's immediate neighbour; Sallan Nandekar, a resident of adjacent gully; Ashok, immediate neighbour of her mother, and one Bandy also residing in the adjacent gully. According to her, the assailants were all Shiv Sainiks as they were shouting slogans, "*Jeetega bhai jeetega Shiv Sena jeetega*" and



"*landya log bahar niklo, tumhare Allah ko aur Rahim ko bulao.*" After this terrifying incident she went to the police station six–seven times to lodge a complaint, but nothing was done. Finally, on 18th January 1993 she was given a slip of paper bearing the words "AMR 18/1993 RAK Marg Police Station" indicative of registration of a missing person complaint. According to Shakeela on 18th January 1993 she had narrated fully the circumstances under which her husband was attacked. She was neither supplied with a copy of her statement, nor was she read out what had been written by the police. She has named one Bhagwat Madhav Koli, Assistant Police Inspector, who was on duty, who had declined to record her complaint on six or seven occasions. Neither her sister Nurunnisa, nor she, had told the police that her husband Nurulla Hussain Sheikh was missing from 2300 hours on 10th January 1993 when he left the house and thereafter had not come back. She asserted that she had told the police that her husband and nephew Naseer Abdul Rauf Sheikh had been mercilessly attacked and set ablaze after throwing petrol on them from a tin *dabba* which the attackers were carrying. She also says that thereafter out of fear she continued to reside in Kasaiwada, Kurla. When Mr. Sharad Pawar, the then Chief Minister of Maharashtra, visited Kasaiwada, she had given an application in writing to him and that after ascertaining facts from her he had said that he would look into the matter. The Station Diary Entry No.3 dated 11th March 1993 (Exh.1722–P) of Nehru Nagar Police Station does indicate that Shri Sharad Pawar had visited Kasaiwada. Despite strenuous efforts by the learned counsel for police to discredit her testimony, the Commission is not inclined to disbelieve her evidence. The Commission *suo motu* had summoned and examined Assistant Police Inspector Bhagwat Madhav Koli.

According to Koli, Nurunnisa had come to the police station on 12th March 1993 for the first time, and on 14th April 1993 Nurunnisa, Shakeela Banoo Ahmed Ibrahim Patel and two others had come to the police station. In answer to a pointed question as to whether any of the complainants had told him the fact that husband of Shakeela was set on fire after sprinkling petrol, Koli claimed that he did not remember it, though he admitted that some of the gentlemen had talked to him in English on 14th April 1993. Strangely, Koli and Sub–Inspector Kapse were the two duty officers on 18th January 1993 in the police station. Though according to Shakeela (Exh.1716–P), she had a chit given in the hand–writing of Koli, he denies it. He also says that he does not know whose hand–writing the said chit is written, but does admit that such a note is normally issued only by the duty officers to enable the relatives to meet those in the police custody. Upon an assessment of the evidence the Commission is inclined to think that both Kapse and Madhav Koli had been not only remiss in the duty, but also that they fabricated the documents in the police station by not entering the actual complaint made by Shakeela. The Commission accepts the evidence of Shakeela that on 18th January 1993 she complained to police giving horrifying details of the circumstances under which her husband was attacked and set ablaze, but the duty officers, recorded only a sanitized version of the complaint. The Commission is inclined to believe that this must have been done by Kapse and Madhav Koli because they were biased against the complainant because she was a Muslim, or because they desired to protect the miscreants.

24.29 According to the evidence of Abdul Aziz Abdulla, resident of Sanman Nagar (Witness No.1650–CPI), on 10th January 1993 there was an attack on their colony by a huge mob of armed Shiv Sainiks who were shouting "*Musalman ko maro–maro*". The huts and *kucchha* structures were ransacked, looted and set on fire. Abdul, his wife and his eldest son Mohd.Javed alias Zahid were trying to escape when they were surrounded by a mob of 400–500 hundred Shiv Sainiks shouting, "*ek landya ko nikalne mat dena, musalmano ko maro, Zahid la sodu naka*", and attacked Abdul and his son with iron rods and swords on the head and all over the body. The son was attacked with swords resulting in serious injuries. When his mother tried to protect her son by covering his body with her's, she was pulled aside and some one in the mob poured petrol on the body of Zahid to set him on fire. However, in the meanwhile, a police van came there and the miscreants ran away. The incident has left indelible stamp on the mind of Zahid who has become psychologically shattered. According to Abdul he had recognised the local *Shakha Pramukh* of Shiv Sena among the miscreants, though he did not recollect his name. Abdul knew him from the time he came to Sanman Nagar as the office of Shiv Sena *shakha* was situated on the road close by. In fact, Abdul asserted that if the police accompanied him, he could identify the person who had led the mob, even today.

24.30 Saleem Kareem Momin, resident of Shravan Rahivasi Sangh, deposed that on 11th January 1993 four Shiv Sainiks had broken open the door of his house shouting names of his brother Rafiq and himself and calling them out. Those were Leeladhar Lakhokar,

Chandya Kadam, Viju Patil and Papa Patil who were all known neighbours. On 12th January 1993 at the instance of the old mother Saleem and rest of his family left for Sangli as they were afraid of the Shiv Sainiks who had threatened them and also because of the fact that the *shakha* of Shiv Sena was right opposite their house. While in Sangli Saleem received a telephone from his relative, Saleem Mehboob Momin, that boys of Shiv Sena had attacked his house, killed his mother on the door steps and burnt her.

This was witnessed by Kausar Sheikh, an employee of BEST who had specifically given the names of the above miscreants to the police, but no action had been taken by the police. Saleem's statement was recorded in C.R.No.28 of 1993 when he came back on 16th January 1993 and visited police station. At the time his statement was being recorded he had no knowledge of the identity of the miscreants. After registering the case he used to go to the police station almost everyday. On one of such visits he met Kausar Sheikh who disclosed the names of the persons who had attacked and killed his mother. Thereafter Saleem took advise of an advocate and addressed a petition to the State Minister for Home Affairs, with copies to Commissioner of Police and other authorities including RAK Marg Police Station. When he went to the RAK Marg Police Station, Police Inspector Chavan said that it was useless writing petitions as ultimately the same would be referred to the police station and the police were already doing whatever was necessary. Saleem told Police Inspector Chavan that the miscreants named by Kausar and himself were still free and roaming in the locality. A constable was deputed to apprehend them. According to Saleem they are still free as they have not been apprehended. Saleem asserted that the persons who had attacked his mother were Shiv Sainiks. Statement of Kausar Sheikh has not been recorded by police. Saleem maintained that Leeladhar Lakhokar, Chandya Kadam, Viju and Papa Patil always used to sit in the Shiv Sena *shakha* Office. Sheikh Kausar Sheikh Hussain (Witness No.255-C) reiterated that he had seen the mother of Saleem Karim Momin, Rehamatbi being assaulted and thereafter being set on fire. He gave names of Balu, Leeladhar and two other persons whose names he was not sure. He also asserts that people who assaulted Rehamatbi were Shiv Sainiks as they were seen hanging about in and near Shiv Sena *shakha* Office. Balu is an activist of Shiv Sena and no police station had recorded complaint in connection with the incident. He maintained that he did not know the names of Lakhokar, Chandya Kadam, Viju Patil and Papa Patil, though he knew them as residents of Shraavan Rahiwasi Sangh. He had described them to the son of Rehamatbi who identified them by their names. Kausar maintained that he did not immediately complain to the police station because of the fear that he might be called to the police station. It is only after Saleem disclosed all the names in his affidavit and he was summoned by the Commission, Kausar decided to appear before the Commission and disclose all the names.

24.31 A peculiar feature of the riots in this area is that there are several cases of missing persons, all of them Muslims, and most of them from Sanman Nagar area. In each of these cases the witnesses have come before the commission and deposed as to the circumstances under which the missing persons were last seen. The circumstances indicate the strongest possibility of missing person having been murdered. However, the victims' family has not been given any compensation on the ground that there is only a missing-person-complaint which is under investigation and unless a death certificate is issued they would not be eligible for compensation. The Commission had made a recommendation dated 20th May 1994 expressing its opinion that in all these cases circumstances placed on record indicate a preponderant possibility of the person/s having been killed and it would be inhuman to except the victims' family to wait for the presumptive period of seven years before getting a death certificate and that such cases should be treated on par with the cases of deaths for compensation purposes. The Commission's recommendation, however, seems to have fallen on deaf ears so far.

24.32 The Commission reiterates that in the circumstances brought before it, which the police by no means have been able to dispel, the Commission is satisfied that there is preponderant probability of the victims having been done to death. The Commission therefore recommends in the following cases that even at this stage the government should treat them on par with the cases of death as far as compensation is concerned :

1 & 2) Mohd. Faruq Qureshi and Saleem Quereshi are missing from Sanman Nagar from 10th January 1993. According to the evidence of his wife Hajirabi Mohd. Qureshi, when the family was having breakfast a mob of 2,500 miscreants suddenly attacked their colony. The family shut the door and windows of the house. Some of the miscreants in the mob jumped on top of the terrace, broke open the windows and door and entered the house. They

caught her husband and son Mohd.Saleem aged 18 and started attacking them with knife, sickles, tube-lights, bottles on the head and cut off the hands of her husband and son right in front of her. Her prayers on bended knees to spare their life fell on deaf ears. The miscreants dragged out Mohd. Faruq and Saleem in an almost dead condition. Hajirabi started yelling and she was thrown down the terrace by the miscreants. She then became unconscious. After regaining consciousness, she started searching for her husband and son in their area. In her area she came across a known boy Vinod and she enquired from him about her husband and son. She was told that she would get information only after about three days. She then went to Palamkote Hall at Five Gardens where a temporary shelter was arranged. Thereafter on 11th January 1993 she went to the relief camp at Mahim along with the military. She subsequently visited all the hospitals and morgues attached to them, but was unable to get any information about her husband and son.

24.33 According to Hajirabi when she had gone to police station, on a date which she does not recollect, one officer had taken down what was narrated but her statement was not read over to her. The learned counsel for police handed over a document purported to be the recorded statement of Hajirabi dated 18th January 1993 (Exh.1633-P). Surprisingly, this contains no reference to the incident except a complaint about the attack on the house and ransacking and looting of household articles. Though Hajirabi stated that what was there is correct, it is not possible to conclude that her statement before Commission on oath is unbelievable. According to her the atrocities were committed on her by the local Shiv Sainiks whom she recognised when they dragged her husband and son away.

3) Ibrahim Khudabaksh Quereshi, resident of Sanman Nagar, is missing from 10th January 1993. His wife Khatunbi gave evidence before the Commission. On 10th January 1993 a mob of 100 people armed with iron bars, swords, choppers and *guptis* attacked their house shouting, "come out of the house, get out all the *landyas*, kill the *landyas*" etc. Some of them were local residents. The miscreants broke open the house, damaged, destroyed and looted the articles in the house and assaulted and killed her husband Ibrahim. Ibrahim was assaulted several times with iron bars, swords and *gupti* all over his body and was dragged him away and thereafter she has not seen the body thereafter. Her son Mohd. Arif was similarly attacked. However, he managed to run away and reached safety. She had on the very day made a complaint to the police station but no action was taken by the police nor was a complaint recorded. An FIR was lodged only on 1st February 1993. There has been no trace of her husband or his body despite enquiries made with the hospitals and attached morgues. Khatunbi deposed before the Commission that she could recognise some of the persons in the mob like Ghasletwala Thakur, Chanawala Bhayya who runs a *chana*-stall at the corner of the street, Inash and Sallan Nandekar. Ghasletwala has a shop on the road where he sells kerosene. There was also one Kalya Patel. Inash is a bootlegger carrying on his business at some distance and Sallan Nandekar runs a taxi. According to her the persons who attacked her husband were Shiv Sainiks as they were wearing saffron coloured head-bands and shouting "Shiv Sena has come". She said that when she first went to the police to make a complaint, Senior Police Inspector Tipnis did not take any action. She also says that when the complaint was actually recorded she had pointed that the miscreants were actually Shiv Sainiks, though she did not disclose the names of the miscreants due to the tension which was existing at that time. The manner in which the concerned C.R.No.14 of 1993 has been investigated and records maintained has been critically commented upon by the Commission in the note made while recording the evidence of this witness. There is also discrepancy between what is stated to be the original statement of this witness and a xerox copy admittedly supplied to her.

4 & 5) Nurulla Sheikh Hussain, resident of Sanman Nagar, is missing from 10th January 1993. The Commission has already discussed the evidence of his wife Shakeela Banoo indicating the circumstances under which her husband Nurulla and nephew Naseer Abdul Rauf Sheikh are missing.

6) Rafiq Ahmed Mulla Sheikh, resident of Wadala Sewri Cross Road, is missing from 10th January 1993. Badruddin Mohd.Ali, a nephew of Rafiq, deposed that on 10th January 1993 their area was surrounded by rampaging mobs armed with deadly arms with which they were attacking all in the area. In order to save their lives, Rafiq and he were going towards Wadala station when they were surrounded by 300 persons armed with swords, choppers, *guptis* etc. The mob attacked Rafiq mercilessly after which he was dragged near a *peepul*-tree and again assaulted with *guptis* and iron bars, as a result of which he fell down. Badruddin ran away and reached safety at Antop Hill from where he went to his native place. He came back to Bombay on 10th February 1993 after learning that the

situation had become normal. He made enquiries with all known persons and also in hospitals and morgues attached to them, but was not able to trace the whereabouts of Rafiq. According to Badruddin there is a Shiv Sena *shakha* near the *peepul*-tree where his uncle was attacked. Badruddin says that while walking towards Wadala Station he was a little ahead of his uncle and that his uncle had a typical beard. Since Badruddin did not have a beard the mob might not have connected him with his uncle as a Muslim and that is how his life was saved.

7) Mohd. Adam Hassan Sayyed, resident of Shahid Nagar Zopdi, is missing from 10th January 1993. Roshanbi Hassan, mother of Mohd. Adam, deposed before the Commission that on 10th January 1993 their area was attacked by a mob of about 5,000 Shiv Sainiks armed with tube-lights, choppers, swords, *guptis* etc. At that time her son along with other menfolk had gone to Hilal (Hari) Masjid for afternoon prayer when the news of the disturbance and attack on the masjid came. The women also were afraid and they stood near the Hilal Masjid. In a short time a police picket headed by Police Sub-Inspector Kapse came there. Though the attacking mob was outside the masjid, they did not deal with that mob but went inside the masjid and fired at people inside the masjid as a result of that some of them died. Her son Mohd. Adam came out of the mosque during the firing and the police caught hold of him. After the firing was stopped he was asked to pick up dead bodies and put them in the van. Thereafter, he was also taken in the van by Kapse and his men. Next day she went to the police station at about 0800 hours and enquired about her son. She was told that her son was not in the lockup. She visited the police station for eight days. She also checked at her home town.

Police refused to disclose what happened to her son. On 15th January 1993, she had gone to the police station when she was told that her son was in the Bhoiwada lock-up. She was given a chit (Exh.No.1663) to enable her to meet her son. When she went to Bhoiwada lock-up she was told that her son was not in that lock-up. Some of the persons in the lock-up also told her that her son was not there. The chit (Exh.1663) produced by Roshanbi is signed by Sub-Inspector Kapse, dated 15th January 1993 and addressed to the officer-in-charge of Bhoiwada lock-up. The chit states, "Hafeeza Mohd. Adam Sayyed may be permitted to meet accused Mohd.Adam Sayyed aged 34 if he was in the lock-up". Roshanbi asserts that the last time she saw her son Mohd. Adam was in front of Hilal Masjid when he was picking up dead bodies and putting them in the police van under the direction of police and that thereafter he was taken away in the police van. That Mohd. Adam was lifting the bodies and putting in the van is also corroborated by Ehtaram Ali (Exh.1714-CPI). Complaint was made to the Commissioner of Police on 20th January 1993 putting the facts on record and her apprehension that police might have murdered him, but she received no reply. Roshanbi also addressed a petition to the then Commissioner of Police Amarjit Singh Samra, ex-Inspector General of Police, D.W.Pradhan, and Babanrao Pachpute, the then Minister for State, Home Affairs. None of them seem to have elicited any reply. She filed Criminal Writ Petition 237 of 1993 before the High Court of Bombay, seeking a writ of habeas corpus. Unfortunately for her, the High Court relied on the affidavit made on behalf of the police that the name of Mohd. Adam Sayyed Hassan was not found on the record of the persons apprehended either on 10th January 1993 or even on 9th or 11th of January 1993. It was also not contained in the lock-up register and, therefore, the police had not taken Mohd. Adam away.

An offer made by the learned advocate for Roshanbi before the High Court for recording her evidence was not acceded to by the High Court on the ground that there was no supporting material to come to the conclusion that Mohd. Adam was taken away by the police and that the police were falsely stating that Mohd. Adam was not taken into custody. In the result, the writ petition came to be dismissed and the rule was discharged with the observation that the learned Judges shared the feelings of the petitioner but were unable to grant any relief in the writ petition. The case of Roshanbi was unfortunate. Had the evidence before the Commission been available to the High Court, perhaps, the High Court might have taken a different view. After assessing the evidence on record, the Commission is inclined to believe that the police had taken Mohd. Adam in the police vehicle and thereafter he is missing and has not been heard of by persons who should have normally heard of him.

24.34 The role played by the Muslim miscreants also needs notice. In the incident on 11th January 1993 at about 1900 hours a Muslim mob threw fire-balls at the huts of the labourers of a construction contractor inside Spring Mills Compound. This invited retaliation. Huts were set on fire and the police had to resort to firing to control the mobs.

In this case it is alleged that somebody from the Muslim mob had fired at the police party. Four Muslims, Zakar Raja Khan, Abdul Rehman Abdul Majid, Rehman Rahimtula Khan and Shaukat Ali Hassan Charne Baksha, had received bullet injuries in the firing. Police have registered a case in this regard (C.R.No.26 of 1993). One of the accused, Zakir Raja Khan, was admitted to the Sion Hospital and three live bullets were found in the pocket of his clothes. Statement of the Nurse, Sobi Baby, confirms this. Surprisingly, there is no action by police to ascertain as to what was the calibre of those bullets was and how Zakir came to be in possession of these live bullets and whether he was in possession of a fire-arm. The follow-up on this is extremely unsatisfactory.

24.35 There is also a case of a Hindu, Narayan Bogaiya Arjun, who was accosted by a Muslim mob near Wadala Gave No.6 opposite a Masjid and was stabbed (C.R.No.25 of 1993).

24.36 Two petrol bombs were recovered on 12th February 1993 and sent to the Bomb Squad for defusing (C.R.No.26 of 1993). However, it is not understood what special expertise is required to defuse a petrol bomb and what was the necessity of sending these petrol bombs to the Bomb Squad for defusing, as pulling out the wicks would have been sufficient to defuse the them. Perhaps, there is some justification in the stand of the Shiv Sena. Shiv Sena claims that this was a cover up on the part of police and what was recovered were regular bombs which had to be sent to the Bomb Squad for defusing them. In fact, the material on record suggests that an organisation known as Tanzeem-Allah-O-Akbar had instigated young Muslims to explode two such crude bombs on the roofs of some huts in the Sewri area and they were actually apprehended in the process.

## 25 Tardeo Police Station

25.1 This police station area has a majority of Hindu residents though there are pockets where there is concentration of Muslims, such as, Tulsiwadi, M.P.Mill Compound.

25.2 From July/August 1992, the Bharatiya Janata Party, Shiv Sena and the *Hindutvawaadi* organisations stepped up there campaign on the issue of Ram Janmabhoomi-Babri Masjid dispute. This resulted in communal tension in the area, though it did not give rise to serious communal incidents.

25.3 The only serious communal incident which took place in December 1992 arose as a result of an attempt by the Bharatiya Janata Party supporters of about 100-150 armed persons from Jijamata Nagar to enforce a bandh in a Muslim dominated area on 9th December 1992. This attempt to enforce a bandh resulted in a clash between the Muslim residents in the locality behind Lotus Cinema known as V.P. Nagar and the activists supporting the bandh. An armed mob attacked the Muslim hutments situated in V.P. Nagar. This gave rise to four cases of arson in which a scooter, a Maruti and a motor taxi were burnt. One Balkrishna Ganpat Kokate, Hindu, died as a result of the clash on 9th December 1992. A video shop of a Parsi was damaged on 13th December 1992 and there was an attempt to damage the Haji Ali Juice Centre owned by a Muslim on 14th December 1992. The police station registered six CRs in connection with these offences. Between 15th December 1992 and 8th January 1993 there were no communal incidents in this area.

25.4 The serious communal riots and violent incidents started in this area only from 9th January 1993. On 9th January 1993, a *Mahaarti* was held at the Hanuman Mandir in Tardeo Circle. This *Mahaarti* was organised by Bharatiya Janata Party and Shiv Sena who were in the forefront, while VHP, Bajrang Dal and other organisations in the background. Though, the police expected a large gathering at the *Mahaarti*, approximately in the region of 2,000-3,000 persons, and it is admitted by all police officers including the Assistant Commissioner of Police Changlani that there was tension in the area, no attempt was made to dissuade the holding of *Mahaarti* on 9th January 1993 despite a Source Report issued by SB-I, CID that the persons returning from the *Mahaarti*, particularly Shiv Sainiks, were likely to damage Muslim establishments and houses while dispersing. There appears to have been scant attention paid to the alert given in the Source Report. Consequently, the large crowd which had gathered during the *Mahaarti*, freely indulged in attack on the Muslim bastis while dispersing. Strangely, the police officers say that none of the persons who were going for the *Mahaarti* was armed, but when the crowd returned and started attacking the Muslim bastis, they were armed with swords, choppers and other dangerous implements. The explanation given by the police for the mysterious sudden appearance of these arms in the hands of the peaceful devotees which had gathered for the *Mahaarti* is hardly convincing. The manner in which the attack was carried out and the extent of damage coupled with the fact that the attackers were armed

with swords, choppers and the like clearly indicates that this attack on the Muslim *basti* was a pre-planned attack. One of the officers suggested that the attackers on their way might have procured the weapons from the Hindu residences which fell on the way.

Perhaps this is possible. But if this explanation is true, it clearly points out to the pre-planned attack. What turned the peaceful congregation at the *Mahaarti* into an attacking murderous mob is indicated by the Special Report 10th March 1993 made by the Senior Police Inspector to the Assistant Commissioner of Police, Special branch, SB-I, CID [Exh. 273(P) (Collectively)]. In this report, the Senior Police Inspector says that during the course of the *Mahaarti* inciting speeches were given by speakers as a result of which the congregation at the *Mahaarti* was incited to violence. While dispersing the crowd indulged in ransacking and looting of shops, arson and stabbing, resulting in death of one person. Despite the attempt of the Assistant Commissioner of Police, Changlani, to play down the effect of this crucial document, the Commission is not convinced that the report was in any way wrong. The report goes on to say that the Muslims in Tulsiwadi became aggressive because of the incident on that day, but on other occasions it was the Hindus who were aggressors. The report states that the murder of the Mathadi workers and the Radhabai Chawl incident which had been played up in *Saamna* and *Navaakal* resulted in the violent incidents which took place in this area.

25.5 The attacks on the Muslim bastis were instigated by Smt. Shanta Baria and one Dhodibai who were activists of the Republican Party of India. Strangely, despite knowing the activities of these two ladies which had aggravated the communal tension leading to attack on Muslim bastis, the police did not promptly arrest them on the facile reasoning that their prompt arrests might have further aggravated the situation.

25.6 The evidence on record shows that the traffic had been completely blocked by about 0735 or 0740 hours as a result of the *Mahaarti* on 9th January 1993 but no action was taken against the organisers of the *Mahaarti*.

25.7 C.R.No.6 of 1993 is an offence registered by the police with regard to a so-called attack by a Muslim mob on the police during the night in Tulsiwadi-Arya Nagar area. Strangely, this is a case registered by the police in which the holding of the *Mahaarti*, the Muslim mob and the 7,000 organisers of the *Mahaarti* were all shown as unknown accused with a common object of unlawful assembly. When questioned, Laxmanrao Baburao Jagdale, Exh. 133(P), admitted that no statements of the organisers of the *Mahaarti* had been recorded by him. He also said that because he saw of mob of Muslims coming from Tulsiwadi *basti* towards the police picket, he got the impression that the mob was attacking the police and carried out the firing. According to him, the common object of the Muslims was to attack the Arya Nagar buildings inhabited by Hindus and the common object of the organisers of the *Mahaarti* was to start the riot.

25.8 During 9th, 10th and 11th January 1993, there was firing from the Arya Nagar building. According to the police, this was the firing resorted by some of the constables who had gone to the terrace of the building. The evidence shows that the Hindu residents of Arya Nagar buildings were throwing, stones, brickbats and fire-balls on the hutments of the Muslim bastis below which gave rise to widespread fire. Though this activity was seen mostly from the terraces of the Arya Nagar Building Nos. 16 and 17, the police did not go to the terraces of those buildings. One PC No.8343 (A.R.Chavan) was posted on the terrace of Building 14 and was found to be doing nothing despite the throwing of bottles, missiles and fire-balls from the terraces of Building Nos.16 and 17. He had, therefore, to be loaded by PSI Kamalchandra Eknath Thakur who opened fire. The firing of course resulted in no casualties.

25.9 The Kathewadi Hindus who reside in the hutments along the Bhanji Rathod Marg under the inspiring leadership of Shantabai Baria and Dhodibai made three attempts to burn down Muslim *zopadpattis* of Tulsiwadi on 10th January 1993 at about 1100 hours, 1230 hours and 1400 hours. Again there was an attack on Muslim *basti* at about 1700 hours by the Hindu mob originating from the German Chawl side. The police firing to control the Hindu mob resulted in the death of Shanta Baria.

25.10 While the Tulsiwadi-Arya Nagar areas saw these incidents, the Hindu mobs were freely moving around the Tardeo Roads slashing up Muslim establishments, looting them and setting them on fire on 9th January 1993 soon after the *Mahaarti*. Number of establishments were thus subjected to ransacking, looting and arson on that day.

25.11 Another area which was badly affected was the M.P. Mill Compound. Surprisingly, the Muslim *bastis* in M.P. Mill Compound are just behind the Tardeo Police Station. This does not appear to have deterred the miscreants from attacking them and setting them on fire. There is also a case of looting of a Muslim house in M.P. Mill Compound in which one of the accused is a police constable.

25.12 According to the evidence of Jaykumar Anandrao Desai, Police Sub-Inspector, [Exh.157(P)], the looting and stone throwing was done by the residents of the buildings on Tardeo Road, there used to be mobs moving along the road indulging in such activities and that those mobs were coming from the direction of Haji Ali circle as well as from the direction of Tardeo circle. The people in the mob were carrying the implements required for breaking open the shops and that he saw about three shops being broken open before him. On that day, Jaykumar A.Desai was on duty at about 2030 hours near Maniyar Building, Dadarkar Compound from which at a distance of about 1,000 feet was the nearest police picket at Haji Ali Circle.

25.13 In January 1993, this police station registered 20 offences with regard to the ransacking, looting and arson of Muslim establishments and residences.

25.14 Though the consolidated offence of C.R. No.6 of 1993 pertained to the attack by the crowd returning from the *Mahaarti* on the Muslim *bastis*, the immediate reaction in firing at a crowd of Muslims emerging from *bastis* resulted in the death of two Muslims and injuries to three Muslims. In C.R.No.7 of 1993, 12 Hindus were injured as a result of police firing. In C.R.No.8 of 1993 one Hindu was killed and two Hindus were injured in police firing. In C.R.No.11 of 1993, one Hindu was killed and two Hindus were injured in police firing and in C.R. No.12 of 1993, two Hindus including Shantabai Baria were killed and 12 Hindus were injured in police firing.

25.15 The analysis of the deaths which occurred during the two riot periods indicates that, eight deaths occurred due to mob violence, out of which one was victim was a Hindu and other seven were Muslims; six deaths resulted from police firing, out of which four victims were Hindus and two were Muslims.

25.16 The evidence of Asraf Ali Basir Ahmed [Exh. 318(BBA)] is quite revealing. This witness resided in Dadarkar Building, Tardeo. One Narendra Sawant, an activist of Shiv Sena also resided on the same floor of the building. Narendra Sawant and three or four other persons along with him damaged the Maruti car of Asraf's brother bearing registration No.MMA 5939 which was parked outside the building by throwing stones at the rear glass and smashing the glass into pieces. Asraf has given a detailed evidence as to how he had to take the help of the police to move his family to safety on 10th January 1993. He also states that on 12th January 1993 he was also informed by Hindu neighbours that his house has been ransacked and looted by somebody in the building as well as by outsiders. On 15th January 1993 he went to his house in the company of Police Sub-Inspector S.M. Desai and surveyed the loss and took photographs of the damage. He also states that after repairing the broken front door of his flat and locking it, while he was getting down he met a group of five to six persons which included Narendra Sawant and one Police Constable, Pathade, who was staying in his building as a sub-tenant, attached to Tardeo Police Station. All those persons had saffron tikkas on their foreheads and after ascertaining from him that his house had been ransacked, Police Constable Pathade told him that "we have not ended this and we are going to proceed further to cause more damage to you Muslims." Asraf says in his evidence that apart from Narendra Sawant and constable Pathade, he could recognise one or two persons because they were moving around in the compound of Dadarkar Building. The full name of the said constable is Shrirang Sahebrao Pathade, PC No.7783. Asraf without hesitation identified the said constable in the court hall during the course of his evidence. This is one more instance of police person being involved in riotous and communal activities.

25.17 The Commission is of the view that this is another instance of the police not acting promptly and resolutely in the face of a situation with potential danger which was developing before the police. The Commission feels that if the police had acted resolutely by declining permission to hold the *Mahaarti* on 9th January 1993 in view of the communal tension which was developed in the area, the consequent loss of property and lives could have been avoided.

## 26 V.P.Road Police Station

26.1 V.P.Road Police Station has a majority of Hindu population with some identified Muslim pockets. The sensitive points in this area appear to be Islampura, Kika Street and J.S.Road. There is also the famous Gol Temple which saw many communal incidents. Maulana Shaukat Ali Road which runs East–West is the border of this jurisdiction. The northern footpath of Maulana Shaukat Ali Road falls within Nagpada jurisdiction while the southern footpath falls within this jurisdiction.

26.2 During December 1992 this police station registered six C.Rs., three on 7th and three on 8th of December 1992. Contrary to the popular theory that the December 1992 riots saw only the violence of Muslim mobs against the police, the evidence shows that in Kumbharwada area there were Hindu mobs which were attacking Muslim mobs gathered across Maulana Shaukat Ali Road, near Ahmed Omar Oil Mills. Hindu mobs also attacked a masjid on 2nd Kumbharwada Lane. The attack by the Muslims on 7th December 1992 appears to have been quite ferocious. At about 1430 hours police party was attacked at 6th Kumbharwada Lane by a Muslim mob with brick–bats, swords, choppers, iron rods etc. resulting in serious injuries to three constables. The mob also snatched away a rifle from a police constable. The mob set fire to Tata Electric Chowky and also to several electric cable rolls which were on Maulana Shaukat Ali Road as cable work was going on at that time.

26.3 C.R.No.599 of 1992 deals with the three serious rioting cases which resulted in injuries to one police officer, one head constable and two constables as well as four members of public by mob violence. Property worth about Rs. two crores was damaged. Police resorted to firing to control the mobs, resulting in deaths of three Muslims and two Hindus. The attacks by the Muslim mobs in this area appear to have been unprovoked. The evidence shows that Hindu mobs had gathered pursuant to attack by the Muslim mobs, in order to retaliate.

26.4 C.R.No.600 of 1992 deals with the rampage caused by Hindu mobs which repeatedly attacked residential areas in Islampura lane inhabited by Muslims with swords, brick–bats, iron bars. etc. When the police attempted to stop them, the police were attacked. Some of the stalls and shops in the vicinity were ransacked and furniture therefrom was thrown on the road and set on fire. Some vehicles were set on fire. A mosque was also attacked with brickbats and swords. In fact, the Hindu mob was so violent that it needed 82 rounds of firing from different calibers of weapons to quell it. Property worth about Rs. 40,000 was damaged; the firing resulted in six Hindus being killed and 30 Hindus being injured.

26.5 C.R. No.602 of 1992 deals with attack by a Hindu mob on Muslim establishments and ransacking and looting and arson of articles inside the establishments. Property worth about 2 to 2.5 lakhs was destroyed by arson. The rioters were quelled by firing.

26.6 C.R. No.604 deals with another Hindu mob indulging in arson and looting at Prabhat Oil Depot, Sadashiv Lane, Girgaum. Firing of six rounds was needed quell the mob. Three Hindus were injured and property worth about seventy five thousand was damaged and/or looted.

26.7 The evidence on record in this jurisdiction belies the stand taken by the State and the police that during the December 1992 phase of the riots it was only the Muslims who were violent and attacking the police. On the contrary, the facts of this police station indicate that Hindus were equally guilty of violence not only against the police, but also against Muslims and their establishments.

26.8 Turning to the January 1993 phase of the riots, Senior Police Inspector Bhaskar Raghunath Satam (Exh.411–P) claimed that he was never given to understand that there would be large–scale of rioting in January 1993. In fact, during the short period from 7th January 1993 to 9th January 1993, there were about 167 incidents of looting, ransacking or arson spread over the area of this jurisdiction. Overwhelming majority of the establishments thus looted, damaged or set on fire belonged to Muslims.

26.9 One of the serious incidents which occurred in this jurisdiction was the attack on a Muslim pocket known as Sayyedwadi on 8th January 1993. During the night of 8th/9th January 1993, taxis parked along Babasaheb Jaykar Marg were smashed and Sayyedwadi was continuously subjected to a barrage of stones and brickbats thrown by the Hindu residents of the adjoining buildings. This resulted in the residents of Sayyedwadi locking their residences and fleeing to Diamond Jubilee Compound, which is across the street, but



falls within the jurisdiction of L.T. Marg police station. On 9th January 1993, Sayyedwadi was attacked resulting in ransacking and looting of all the Muslim houses in Sayyedwadi and damage to a Dargah situated within Sayyedwadi.

26.10 By B.C. Message No.386 dated 8th December 1992 the Commissioner of Police had instructed all police stations to round up at least 15–20 persons belonging to Shiv Sena, Prati-Shiv Sena or VHP. Senior Police Inspector Satam says that he had directed Senior Police Inspector Joshi and Havildar Kadu to carry out the instructions. However, they came back and informed him that there was not a single such person within their area. Consequently, nobody was rounded up. Satam admits that Shiv Sena, VHP and Bajrang Dal were very much active in this area, particularly Girgaum, but at no time had the surveillance squad identified any of the persons belonging to Shiv Sena, VHP or Bajrang Dal. No question was raised either by the Assistant Commissioner of Police or the Deputy Commissioner of Police as to why the surveillance squad could not identify such persons.

26.11 The manner in which the instructions were implemented is seen from the fact that no one was arrested for violating curfew order though there were number of such violations in this area. Satam admitted that large number of looting and arson cases took place even when the curfew orders were operative.

26.12 During January 1993 there were several instances of pedestrians being stopped and attacked after ascertaining their identity. The victims appear to be both Hindus and Muslims. In fact, out of the 20 cases of deaths due to stabbing, violence and private firing, which occurred on 7th January 1993, 17 were of Muslims and three were of Hindus. Out of the three Hindus, one died of a stone injury on his head and two died due to stab injuries. While one Muslim died of firearm injury, another died of stab injuries and firearm injury and 15 died of stab wounds.

26.13 The *Mahaartis* organised by Shiv Sena and VHP, though they generated tension in the area, do not appear to have spawned violent incidents in this area. There was one case of an unknown male body which was identified as that of a Muslim, Sagir Ahmed, who appears to have been shot at from a close range of 4/5 feet. That body was found lying in Sayyedwadi on 9th January 1993. That was not a death by police firing but a case of private firing.

26.14 The total number of deaths in January 1993 was twenty-three — fourteen Muslims and nine Hindus. Seven Hindus were injured in police firing.

26.15 Though a piece of lead was recovered from the body of the victim of the private firing, the investigating officer, Inspector Tawwar (C.R.No.14 of 1992), failed to send it to the ballistic expert for his opinion.

26.16 Satam says that there were standing instructions that, in cases of communal riots, the accused should be interrogated about their affiliations with any political parties. Against this background, the failure of the investigating officers to record the positive or negative replies given by the accused, was a serious lapse.

26.17 It is admitted by Satam that the areas falling within his jurisdiction were identified as areas wherein Hindu communal organisations had a stronghold. According to him, Shiv Sena and Bharatiya Janata Party were active within the jurisdiction, though a small number of sympathizers of VHP were also there in this area. On 14th December 1992, a black board was found in 2nd Kumbharwada lane inciting Hindus to attack Muslims.

26.18 Satam asserts that there was no cause within his jurisdiction for the Hindus to feel that they could not rely on the police for their protection.

26.19 The evidence of the B. Neela Prabha (Exh.437–CPI) shows that Shiv Sena boys were spreading rumours that the Muslims were going to attack Hindus in large number and large number of arms were sent for this purpose, and this resulted in communal tension. The Hindus were agitated and kept vigil throughout the night and arranged for arms. The boys who used to spread such rumours were the boys who used to sit in Shiv Sena office. The persons who used to keep vigil also had links with Shiv Sena. Some of the persons used to go around the establishments and demand money for their protection. She also stated that she had personally seen some Shiv Sena boys going to shops and extorting money. She had not only seen the boys collecting money but she herself was also approached by them demanding for money for protection. She did not openly complain

against them because of fear that she would be attacked. The appointment of the Commission emboldened her to disclose this. She also narrated an incident. When she was travelling in a bus in the area, some of the youngsters entered the bus and attempted to force a Muslim sitting in the bus to apply Gulal-Tikka on his forehead and how their attempts were frustrated by those inside the bus. She says that some of the associates of those boys were standing outside and shouting, '*Babar ki aulad neeche utro*'.

1.1 The following senior police officers were examined by the Commission :

- (1) Shrikant Krishnaji Bapat, the then Commissioner of Police [Witness No.496].
- (2) Ramdeo Tyagi, the then Joint Commissioner of Police (Crime and Administration) [Witness No.493].
- (3) Mahesh Narain Singh, the then Joint Commissioner of Police (Crime) [Witness No.495].
- (4) Vasant Narsingrao Deshmukh, the then Additional Commissioner of Police (SB-I,CID) [Witness No.490].
- (5) Aftab Ahmed Kabir Khan, the then Additional Commissioner of Police (North Region) [Witness No.497].
- (6) Amarjeet Singh Samra, the then Director General of Police (Anti-Corruption Bureau) [Witness No.498].

1.2 The evidence of Amarjeet Singh Samra, Vasant Narsingrao Deshmukh, Mahesh Narain Singh is also relevant to the added terms of inquiry (vi) to (viii). The said officers had filed affidavits in the year 1995 after the terms of Reference of this Commission were expanded by the Notification dated 24th May 1995. In addition to the aforesaid officers, Satish Sahaney, Commissioner of Police, Shivajirao K. Babar, Assistant Commissioner of Police (Crime Branch) CID, Bombay and Rakesh Mishra, Deputy Commissioner of Police (Detection) Crime Branch, CID, Bombay have also filed their affidavits in connection with the Terms of Reference (vi) to (viii), but they were not examined as their evidence would have been repetitious. The evidence of the police officers given in connection with the Terms of Reference (vi) to (viii) would be considered while dealing with the said Terms of Reference. The evidence of A.A. Khan has been referred to while discussing the evidence of different police stations in north region. The evidence of S.K. Bapat, Ramdeo Tyagi and V.N. Deshmukh are discussed here.

## 2. Shrikant Krishnaji Bapat

2.1 His evidence suggests that upto the time of demolition of Babri Masjid, the Bombay police had no information whatsoever as to what was happening in Ayodhya during the *Kar Seva* on 6th December 1992. Apparently, the Government of Maharashtra and the Bombay police had not even considered the possibility of any of damage to or demolition of Babri Masjid in view of the statements made by the Prime Minister, assurances given in Parliament and the undertaking given by the Chief Minister of Uttar Pradesh Government to the Supreme Court. All their contingency plans contemplated the possibility of *Kar Sevaks* being restrained by the use of police force and its repercussions in Bombay. The entire police force in Bombay appears to have been totally caught unaware by the news of demolition of Babri Masjid. The angry reaction of the Muslim community also took them completely unaware. The police had contemplated a remote contingency of the Muslims protesting, but the protest, when it came, surprised the police by its widespread and violent nature.

2.2 The assessment of the Commissioner of Police was that the police force was inadequate to the extent of about 30 to 35 per cent even to handle the work during normal times. The police in Bombay had serious difficulty with regard to mobility and communication. They did not have an impregnable system of communication which lead to some mischievous elements amongst the police intruding unauthorisedly into the police wireless channel and punctuating the wireless channel communications with abuses and communally inciting statements. Two police constables in a remote, less used repeater station were apprehended red-handed while they were unauthorisedly intruding into the police wireless channels. As soon as they were apprehended and action was taken against them, the unauthorised intrusion into the wireless channel ceased. Bapat says that the deficiencies with regard to equipment, transportation, communication were pointed out

by him to the State Government from time to time. The Government appears to have taken no prompt action with regard to it and when the crunch came, the impact of the deficiencies was felt in the city in the inability of the police to contain the communal riots within short time.

2.3 Bapat says he had asked for 40 army columns to handle the situation on 6th January 1993. He continued to impress upon the Government the necessity of getting the required number of army columns, but the Government took a decision only on 10th January 1993 to permit the use of army column and even then 11–12 army columns were made available, though the number of army columns went upto 37 by about the 15th January 1993. The army columns were, however, used only for psychological purposes by carrying out flag marches and the army column had carried out operational duties only on three or four occasions by taking charge of the situation to control the riots.

2.4 Bapat's assessment is that the continuous pressure put upon the criminal gangs and their activities in the south-central areas of Bombay rendered a number of crime-prone unemployed Muslim youths jobless; the criminal gangs were also choked off of their financial supplies because of the action taken against the properties of known smugglers and gangsters. Simultaneously, demolition of unauthorised and illegal structures in the Muslim predominant areas of Bombay had angered the Muslim community. Particularly, the Muslims were incensed because of the zealous demolition of unauthorised stalls on the part of G.R. Khairnar, the then Deputy Municipal Commissioner. All these factors constituted a ready explosive mix which ignited and burst into communal riots with the news of demolition of Babri Masjid providing the grave and sudden igniting factor.

2.5 As to *Mahaartis*, Bapat considered them to be purely religious activities and, therefore, he had consciously decided that they were exempted from the ban orders, despite knowing that the *Mahaartis* were intended to pressurise the Government to make the Muslims give up the practice of calling *Azaan* on loudspeakers and doing *Namaaz* on the streets.

2.6 Reading the affidavit of Bapat as a whole, it appears to the Commission that either he has been misled by his subordinate officers who fed him only information to suit a particular stand, or he was a party to it. It is difficult to believe that the evidence presented to the Commissioner of Police by his subordinate officers did not even indicate a conceivable pattern or the hidden hand behind the riots. When Bapat was pointedly cross-examined with regard to several incidents in which Shiv Sainiks were shown to have indulged in violent activities, he reluctantly conceded that though Shiv Sainiks might have been guilty of such acts, there was no material on record to show that Shiv Sena, as a political party, had indulged in any violent activities or supported them. As far as Muslim organisations are concerned, his answer was the same. There is, however, the curious B.C. Message No.386 dated 8th December 1992 in which the police were specially called upon to take preventive action against the activists and 'communal *goondas*' of BJP, Shiv Sena and other organisations. Bapat's explanation for giving this message is that Bharatiya Janata Party and Shiv Sena had called a bandh on 9th December 1992 and, therefore, he had issued such instructions. The explanation appears to be tepid.

2.7 The Government had issued guidelines for "Dealing with communal disturbances" [Exh.3313(P)] on 30th April 1986. These were intended for the knowledge and guidance of police officers. In Chapter II paragraph 2.4, the guidelines in no uncertain terms identify 13 parties/organisations in Maharashtra as communal. Out of them, the only material which has come on record with regard to any communal party are the activities of RSS and Shiv Sena. There is no material to suggest that activists of any of the other communal organisations named in paragraph 2.4 in this guidelines had indulged in riotous or violent activity. As far as the RSS is concerned, the evidence only suggests that along with its affiliated organisations, like Bharatiya Janata Party, Vishwa Hindu Parishad and Bajrang Dal, it had militantly advocated the building of the Ram Temple at the disputed site in Ayodhya. There is no material that any of the activists of RSS or any other party barring Shiv Sena had indulged in any violent activity during either phase of rioting. In the face of these guidelines, and the material which the police were in possession of, the attempt of Commissioner Bapat to give a sanitised version and a diplomatic answer does not impress the Commission.

2.8 In Chapter III of the 'Guidelines' under the head "Administrative Measures", sub-paragraph (ix), it is provided that each police station should maintain a list of communal-minded persons and *goondas* which should be revised and kept upto date so that it would

be useful in rounding them up under preventive provisions of law when communal riots are apprehended or when they have actually broken out. It is also provided that the list of trouble makers should also include the names of those who 'guide' and finance 'communal activity' and their activities should be kept under close watch. Despite Bapat's tall claim that the police under his guidance had handled the communal situation during December 1992 and January 1993 in Bombay in accordance with the guidelines, police officer after police officer confessed before the Commission that the police stations did not have any list of such 'communal goondas' and some of them even confessed that they did not understand the meaning of the expression "communal goonda" as used in the B.C. Message of the Commissioner No.386 dated 9th December 1992. It appears to the Commission that the "guidelines" were treated like Scriptural injunction, to be revered, but not to be implemented in actual practice. That each Senior Police Inspector asserted before the Commission that preventive action was directed only against persons with previous criminal record, exposes the extent of confusion and ignorance on the part of the police officers about dealing with communal disturbances. The guidelines were presumably issued by the Government after informing itself of the recommendations made by several Commissions on the vexed issue of communal riots. It is unfortunate that these guidelines did not percolate down to the level of the local police stations. Ergo, Commissioner Bapat was able to assert boldly that he was not in possession of any material to indicate that any party or organisation had a hand in the riots. Diplomacy is a quality appreciated in diplomat; not in police officers. In fact, Bapat's argument that he would be unwilling to name the Shiv Sena as a communal party because it has been registered with the Election Commissioner, flies in the face of the 'guidelines' issued by the Government which were binding on him and which he was expected to implement.

2.9 Even with regard to Muslim organisations which were expressly listed as 'communal' under the guidelines, there does not seem to be any serious attempt made to identify them in the context of the two riots. The stand of Bapat that the investigating officer is not concerned with the communal antecedents of an accused, since the quantum of punishment depends only on the seriousness of the offence and not on the affiliation of the accused, is wholly irrelevant and completely ignores the peculiar nature of communal riots, which both the Government and Bapat himself placed in a category different than ordinary crimes. If this be the attitude of the police, there would obviously be no long-term solution to the problem of communal disturbances, since the police are not bothered about investigating the communal antecedents of the accused even in the cases of communal offences.

2.10 Though the hand of ISI in the two riots was suggested, Bapat conceded that there is no direct evidence to suggest that the disturbance which took place on 6th December 1992 was the result of a tactical plan executed by the ISI, nor was there material to show that the ISI was responsible for the disturbances in January 1993. All that Bapat has been able to say, in the true fashion of a trained intelligence officer, is that the destabilising activities of the ISI were going on for quite some time, but there was no material elicited from the interrogation of the accused in the riot-related cases to establish a link between such cases and ISI agents or destabilisers.

2.11 Bapat confirms the fact that there were attempts made by politicians, particularly the then Housing Minister, Shri Javed Khan, to interfere with police work inasmuch as the police was being pressurised to release the accused arrested in connection with riot-related offences.

2.12 In spite of propaganda carried on by the Shiv Sena that there was large-scale smuggling of sophisticated arms and ammunition which were distributed in the Muslim predominant areas for fomenting communal trouble, there is no material to indicate this and even Commissioner Bapat conceded that only one revolver, though he was not sure if it was foreign or country-made, was seized by the police and that no sophisticated weapon had been seized.

2.13 Though Bapat was vocal that the stabbings of a large number of Hindus during 6th, 7th and 8th December 1992, the Mathadi murders of 5th January 1993 and the Radhabai Chawl incident of 7th/8th January 1993 led to a "Hindu backlash", it is not possible to believe that the 'backlash', assuming there was one, manifested itself spontaneously. Bapat has been remarkably reticent on how, by whom and in what manner this backlash was being directed.

2.14 It appears that the State Government and the police were sold on the theory that the Hindu backlash came on account of the said gruesome incidents. Though Bapat has been quick to point out these incidents in his affidavit, he claimed total ignorance with regard to several equally gruesome incidents in which Muslims were victims, which were put to him in his cross-examination by Shri Muchala. For example, he seemed either not to recollect, or be unaware, of the arson of a timber mart in Ghatkopar jurisdiction on 15th December 1992 resulting in four Muslims being burnt alive, an arson in Goregaon jurisdiction on 20th December 1992 in which one of the Muslims was burnt and killed, of the attack on Muslim hutments in M.P. Mill compound on 2nd January 1993 and large-scale arson of Muslim hutments on 4th January 1993 in Mahim jurisdiction and the *morcha* led by Shiv Sena leaders Shri Ramesh More and Shri Gajanan Kirtikar to Jogeshwari police station, en route causing havoc in Chacha Nagar and damaging the Chacha Nagar Masjid, of the arson of a taxi carrying two Muslims which was burnt causing their death on 7th January 1993 in Antop Hill jurisdiction and the Devipada incident in which two Muslim ladies were stripped naked and attacked by a mob and one lady and her uncle were murdered and burnt.

2.15 There is a legitimate grievance made by the Muslims that the memory and information of Shri Bapat is either selective or that he had been selectively fed with only such material to be placed before the Commission as would suit a particular theory being advanced by the State Government and the police. Bapat also claimed not to know that Shiv Sainiks under the leadership of local Shiv Sena leaders Baburao Mane and Ramkrishna Keni had taken out a celebration cycle rally in Dharavi jurisdictional area which went around the Muslim areas shouting abusive and provoking slogans during which a stone was thrown at a local mosque, though he claimed that, if such an incident had happened and reported to him, he would have certainly shown it as the first in the series of incidents referred to in paragraph 42 of his affidavit. Despite the material on record in the concerned case (C.R.No.718 of 1992), showing clearly that the celebration rally/procession had been organised by Shiv Sena, to deny, as Bapat did, the role of Shiv Sena in the riots, is ignoring the obvious.

2.16 There was a grievance made by the learned counsel for the Shiv Sena that because of the adverse criticism levelled in the media against the police handling of the December 1992 riots as excessive and biased, the police were given instructions not to fire to control rioting mobs and this tied down the hands of the police in the initial days of the January 1993 phase of rioting. Of particular interest is B.C. Message No.414 dated 10th December 1992 [Exh.3176(C)], directing all the subordinate officers that under no circumstances should they resort to firing to bring the situation under control and that they should use teargas and *lathi* charge for that purpose. When confronted with this B.C. Message, Bapat denied that he had authorised issuance of the concerned B.C. Message. That this B.C. Message had been broadcast on the wireless is obvious from the reference made to this message in the police station records, like for example, Jogeshwari Police station BC Message Register [Exh.3335(C)], in which this message has been registered at 2340 hours as having been broadcast in the name of Additional Commissioner of Police. Bapat's reasons for denying the authenticity of this document is three-fold : (a) he says that if this was a genuine broadcast, then there would not have been any firing at all during the period after 10th December 1992, (b) the office copy of the message does not bear the initials of one of the authorised officers and, (c) that if this message was given at 2340 hours, there would have been no necessity to issue an earlier message No.406 at 1420 hours (Signed by Assistant Commissioner of Police, Police Control Room) conveying the instructions of Additional Commissioner of Police that firing orders should be issued by officers of the rank of Senior Police Officer and above, properly controlled and below the waist.

2.17 The explanation of Bapat that B.C. Message No.414 dated 10th December 1992 [Exh. 3136(C)] was unauthorised is not acceptable. As to the absence of signatures on the office copy, Bapat was shown B.C. Messages 411, 412, 413 in which case the same deficiency was noticed, which even according to Bapat, were authorised B.C. Messages. About there being an earlier B.C. Message instructing the police to fire, it does not rule out the possibility of a later message not to fire. Finally, the facts that there were police firings even after 10th December 1992, between to 1st to 8th January 1993, could be instances of the police acting contrary to instructions, the likes of which have been galore, in the material produced before the Commission. Bapat asserted that such a message could not have been issued by the Government, directly, without even his being informed. There is substance in the grievance of Shiv Sena that the Commissioner of Police must have been issued

instructions not to resort to firing, which were conveyed to the subordinate police officers. Though Bapat denied as baseless a report in *The Times of India* dated 4th February 1993 under the caption "Bapat's hands were tied" [Exh. 357(C)], the Commission is inclined to believe that there may be substance in the report in view of the material on record.

2.18 Bapat's attempt to equate the problem created during *Namaaz* on public streets to the problems created by *Mahaartis* organised by the *Hindutva* parties, was amusing. It is nobody's case that the practice of *Namaaz* on the streets was started recently or that *Namaaz* on the streets was being carried out deliberately with a view to gain political benefits; with the *Mahaartis*, the avowed and declared object was to pressurize the Government to force the Muslims to stop calling *Azaan* on the loudspeakers and to stop doing *Namaaz* on the public streets. That the *Mahaartis* which started off with such clear political objectives could have been considered to be "per se religious" and exempted from the operation of the ban orders by the Commissioner, strains credulity. Bapat realised that the occasions of *Mahaartis* were being used for making provocative speeches and shouting provocative slogans and appealed to the Government to solve the problem. However, the Government dilly-dallied till it was too late.

2.19 Bapat's reason for not considering the application of the provisions of TADA Act in the case of Shri Sarpotdar, Shiv Sena MLA, from whose possession an unlicensed weapon was recovered during the height of communal riots, in an area notified under Section 3 of the TADA Act, appears difficult to accept. He says that the Senior Police Inspector did not make a proposal and therefore he did not have occasion to apply his mind to it. Similar is his reasoning for non-application of TADA in the case of Vivek Maitra, personal assistant of Shri Gopinath Munde of BJP, who was also found carrying a fire-arm, for which he possessed no valid license, in a communally-disturbed area.

2.20 That Bapat was suddenly removed from the post of Commissioner of Police and transferred as Member, Maharashtra Public Service Commission, with effect from 30th January 1993, elicited the media reaction that he had been shunted out because of his inability to effectively handle the communal riots. *Saamna* carried a report in its issue dated 30th January 1993 under the caption "*Police Ayukta Shrikant Bapat Yanchi tadkafadki badli*" [Exh. 3336(JEU)], a report on 1st February 1993 under the caption "*Lashkari Guptachar Adhikaryanchya Aahavalamule Bapat Gele*" [Exh. 337(JEU)] and *Mumbai Sakal* carried an editorial in its issue dated 31st January 1993 under the caption "*Bapat Balicha bakra*" [Exh. 3185(SS)]. Bapat was quick to deny these as malicious reports and maintain that his present assignment was given to him as the State Government perhaps wanted to utilise his services better in the Maharashtra Public Service Commission. In fairness to him, it must be pointed out that the Commission examined the file pertaining to the order passed transferring Bapat to the present assignment and no specific reasons were given for shifting him to the Maharashtra Public Service Commission.

### 3. Ramdeo Tyagi

3.1 He was Joint Commissioner of Police (Crime and Administration) at the material time, but doing exclusively the work of being overall in-charge of Crime Branch. He also maintains that because the number of incidents taking place were very large and spread over vast areas, with their inadequate manpower available, the police were unable to contain the riots and that is why they had to take help of army columns at places.

3.2 Tyagi's evidence brings out the fact that the Government had consistently ignored the recommendations of the Sathé Committee Report on the staffing pattern of police stations made in 1984-85 and the report of DIG Narawane on staffing pattern after carrying out technical work study. Though the report was accepted by the Home Department, the Finance Department has kept the proposals "under consideration" till today. Even Tyagi maintained that the police in the city is understaffed to the extent of 30 per cent, resulting in extra-ordinary pressure of work on the junior officers and men who have to work almost 12 hours every day. This causes undue strain on them and adversely affects their work efficiency. He suggests that there is urgent necessity for increasing manpower and giving eight hour shift duty to police officers and men. He has also made certain other recommendations which the Commission has taken note of.

3.3 The main evidence of Tyagi revolved around the Suleman Bakery incident [C.R.No.46 of 1993 (Dongri)]. He says that though he had gone to the Suleman Bakery, he did not enter the bakery at all and he was standing outside. His instructions to the Special Operation

Squad (SOS) staff was to enter the bakery and arrest the persons firing therefrom. To the extent they were unable to apprehend (any miscreants), he was not satisfied with the implementation of his instructions. The fact that the casualty toll was nine persons in the police firing comes as a surprise to him as he expected the number of casualties should have been much less. According to him, he did not order firing in Suleman Bakery and it was reported to him that the miscreants wielding fire-arms had managed to escape through the escape route, which report he believed.

3.4 To a pointed question as to whether in his assessment there was any communal bias on the part of the constabulary in handling the riot situation, he also diplomatically replied that in any society, unless people are fully educated, there is bound to be a hidden bias in the minds of every person belonging to one community against the other and that such bias must have surfaced. However, when it came to opening fire, the police had been impartial, though complaints had been made to him by the Muslims that their establishments were attacked and damaged in the very presence of police personnel. He had suggested to the Commissioner of Police that disbursement of huge amounts of compensation to the families of persons killed in police firing while taking part in riots would set a bad precedent. He had also requested the Commissioner of Police to take it up with the State Government and ensure that same amounts were paid to policemen injured or families of policemen killed in riots. The second part of his suggestion appears to have been accepted by the Government.

#### 4. Vasant Narsingrao Deshmukh

4.1 Deshmukh was working as Additional Commissioner of Police, SB-I, CID during the relevant period. He was in charge of the intelligence branch of the Bombay police and it was his duty to brief the Commissioner of Police and the Government of Maharashtra regarding his assessments made on the basis of intelligence inputs gathered by his department. He had not come across any material to indicate that arms, ammunition and other offensive materials were smuggled into the country for being used in the riots of December 1992 and January 1993, nor was he sure that the weapons used in incidents of private firing were of foreign make and/or smuggled.

4.2 Though the DCB-CID had registered a case (C.R. No.5 of 1993) in connection with smuggling of arms and ammunition into the country, that case was classified in "A" summary and he had not come across any material to substantiate the information as to such arms and ammunition being landed, stored and distributed. He also says that the Bombay police had no material to suggest that Pakistani elements were supplying arms and ammunition to Muslims in Bombay to engineer communal riots in December 1992 and January 1993, though a general intelligence input was given by the Ministry of Home Affairs, Government of India, that a band of commandos were likely to infiltrate into India to avenge the demolition of Babri Masjid. He had not come across any information from any of the police stations that they had been able to identify such commandos amongst the accused rounded up preventively or in substantive offences, nor had he come across material suggesting that any of the accused had been motivated by Pakistani elements.

4.3 Deshmukh admitted that from the day *Kar Seva* in Ayodhya was announced, though the police were expecting trouble, they had no idea as to the exact nature of the trouble. From July 1992 there was an undercurrent leading to communal tension on account of several activities being organized to propagate the rival views on the Babri Masjid-Ram Janmabhoomi dispute. In several of the religious activities organized by the Bharatiya Janata Party and Shiv Sena, even much before 6th December 1992, slogans like "*Garva se kaho hum Hindu hai*" and "*Hindustan Hinduonka, nahi kisike baap ka*" were shouted and saffron and green flags were displayed prominently at different places. During the aforesaid period of July to November 1992, some of the speeches made by the leaders of Shiv Sena in public meetings which were well attended, particularly by young people, were abusive towards Muslims and that Shiv Sena continued to be a political party which was best organized with widespread political influence. On the other hand, he says that reports about speeches made by Muslim leaders in the few months before December 1992, did not suggest that they were abusive and aggressive towards any community, but merely pressed on the fact that division amongst of the Muslims was the reason for their sufferings.

4.4 As Additional Commissioner in-charge of SB-I, he had identified Shiv Sena and Dalit Panthers as two political parties with propensity for violence and creation of break down

of law and order. He names the Muslim organisations known as Islamic Seva Sangh as also indulging in violence. Though there was no difficulty in preventively rounding up leaders of known communal parties likely to indulge in communal violence, such issue was not discussed in any of the meetings of the senior officers with the Commissioner of Police or with the Government. In his assessment, arrest of senior leaders of organisations might have further aggravated the situation.

4.5 He is one police officer who seems to have been aware of the Communal Riot Scheme under which each police station had to maintain a list of 'communal *goondas*' which had to be periodically revised and updated, the work of identification of such communal *goondas* being the responsibility of local police stations.

4.6 Deshmukh says that there was no material to suggest that any of the known criminal gangs were behind the riots of December 1992 and January 1993.

4.7 A significant fact admitted by Deshmukh is that an impression was carried by most of the police personnel that Muslim youths were prone to crime, though he was quick to add that there was no such impression amongst the senior officers. Because there was such an unwarranted impression amongst the police, several measures were adopted to remove such impression, like Saturday meetings during which there was free interactions and exchange of ideas with people known for secular thinking or people well-versed with religious matters, followed by questions and answers. However, these measures were introduced only as a result of introspection done after the December 1992 and January 1993 riots. Mr. Deshmukh was fair enough to accept that, possibly, this in-built impression amongst the members of the police force might have affected their handling the riot situations in December 1992 and January 1993. In any event, it was evident from the manner in which the members of the police force used to act and behave towards members of the Muslim community.

4.8 Deshmukh also says that the police were not able to identify persons or organisations who had misguided the Hindu mobs or the Muslim mobs. He also says that the SB-I, CID, has not been able to identify any particular Muslim organisation as responsible for the communal violence in December 1992 or January 1993, though it had come to his notice that there were some instances where people from mosques were carrying on activities of instigating communal violence amongst the Muslims. Though police received information that certain mosques and *madrassas* were used for storage of weapons, upon verification the information was not found to be true. Conversely, he admits that no such instances were noticed in Hindu temples also.

4.9 There were 16 reports made to Press Council against *Saamna* for publishing objectionable and provocative materials in its issues during 1992 and 1993. He produced a statement giving details of cases registered under Section 153A against Shiv Sena *Pramukh* Bal Thackeray, Exh. 3277(P) (Collectively). His evidence does not suggest that illegal aliens of Bangladeshi or Pakistani origin had anything to do with the two riots.

4.10 According to Deshmukh the distribution of large amounts of compensation to the families of notorious criminals created a feeling of demoralization in the police force and also might have created a feeling in the minds of the Muslims leading to the belief that they had been victimized and targeted by police.

4.11 Though the interrogatory statement of one arrested terrorist Mohd. Saquib Nachan alias Ravesh [Exh. 326-P (Confidential)] and statements of Jalees Ansari and his associate Rafiq Ahmed (Exh. 3289-P) were produced before the Commission, upon perusal of these documents, the Commission's view is that these documents generally report about the destabilizing activities carried on with links to foreign agents. But, these documents do not have any material suggesting that either foreign agents or terrorists were in any way responsible for or involved in the riots of December 1992 or January 1993.

4.12 Though the statement (Exh.3291-SS) of Assistant Police Inspector Nagesh S. Lohar and FIR (Exh.3292-SS) in C.R.No.5 of 1993, both registered by DCB-CID, were taken on record, the statements made therein appear to be based on some information which was not verified by police and is unverifiable. Consequently, the case was classified in "A" summary and closed.

4.13 Though Deshmukh said that there were eight cases of private firing, and he was cross-examined about the private firing which took near Mandvi Telephone Exchange, his



evidence does not suggest to the Commission the probability of sophisticated weapons like AK-47 or sten-gun having been used. The private firing incidents have been dealt with in detail while dealing with respective cases.

4.14 Deshmukh has no hesitation in calling Bharatiya Janata Party and Shiv Sena as communal parties as the records show that they have been preaching communal hatred. He also says that some Muslim organisations similarly preaching communal hatred also were identified as communal organisations. He produced the "Guidelines" identifying 13 organisations/parties, both Hindu and Muslim, as communal organisations/parties.

4.15 Deshmukh says that in December 1992 anticipated consequences were a deterring factor in taking preventive actions against the leaders of Shiv Sena, but in January 1993 this was not the situation and a large number of Shiv Sena leaders and activists were preventively arrested. Though he considered the contents of the interview given by Bal Thackeray to *Time* magazine dated 25th January 1993 under the caption "Kick them out" [Exh. 3109A(SS)] as actionable, no action as such had been taken against him. The explanation given appears to be somewhat strange. In fact, by a letter dated 20th May 1993, the Ministry of Home Affairs, Government of India, requested the Government of Maharashtra to initiate action against Thackeray. The Law and Judiciary Department, Government of Maharashtra, was of prima facie opinion that it was actionable under section 153A of IPC. Bal Thackeray however alleged in the issue of *Saamna* dated 23.1.1993 that the *Time* magazine had distorted his interview. The Government directed the Commissioner of Police to hear the audio-cassette in possession of journalist Anita Pratap and see whether the contents tallied with the text of published interview. Anita Pratap, when contacted by police, said that the audio-cassette had been sent to the office of *Time* magazine in New York and therefore it could not be made available. The police appear to have let the matter rest there, without even issuing an official requisition to Ms. Pratap to produce the cassette. In fact, there is not even a letter written by police in this regard to Ms. Pratap, all communication being on telephone. There was no follow-up action taken in this matter at all to compel her to produce the audio-cassette.

4.16 From the list of cases registered against Bal Thackeray by the Government, contained in Exh.3277-P, two cases (Sr. Nos.4 & 5) were offences registered in 1988 in which the matters are still pending with Government for sanction. The papers are neither returned nor is the sanction granted or refused. Two other cases (Sr. Nos.10 & 11) charge-sheet has not been filed as sanction has not been granted by the Government. Thus out of the total 24 cases filed against Bal Thackeray, 16 could not proceed as the Government did not grant sanction for prosecution; in six cases sanctions had been granted and charge-sheets filed, but the Government decided to withdraw the cases and withdrew them on 28th August 1996 and 18th October 1996. Two cases are still pending in Criminal Courts.

4.17 During the riot periods there was thick rumour circulated about water and milk supply being poisoned and about landing and storing of arms and ammunition in mosques and *madrassas*. Investigations into such matters found them to be false, though the police were unable to identify the sources spreading the rumours.

4.18 Deshmukh says that there were representations made by Muslim organisations for greater representation in the police force and steps are being taken to do it. Even Deshmukh admitted most of the serious incidents in which Muslims were victims, which were put to him in cross-examination. He also says that from the factual data he had selected incidents which had 'cascading' effect and he did not remember whether the incidents given to him during the cross-examination were before him.

4.19 Deshmukh denied that Ms. Olga Tellis had verified any fact alleged to have been obtained from a source in the police department while writing her article "ISI role in fomenting January riots" (Exh. 367-HE). He also says that he had not vouched the correctness of the facts alleged in press reports at Exh. 3182-SS and Exh.3303-SS. On the contrary, he says that if the conduct of foreign agency in connection with crime is to be discussed, it can be done only by the Commissioner of Police and by no other police officer.

4.20 Deshmukh accepted from the records that Mohd. Salim alias Salim Talwar, Salim Rahim Shaikh and Gul Mohd. alias Gullu Noor Mohd., Muslim ac 1.1 The Commission had occasion to examine the following media persons who had written news reports and articles in print media and also produced video-films on issues touching the subject matter of the Terms of Reference :

(1) Ramchandra Pandurang Pawar (Witness No.494)

(2) Olga Tellis (Witness No.492)

(3) Rajdeep Sardesai (Witness No.56)

(4) Flavia Agnes (Witness No.391)

(5) Madhushree Dutta (Witness No.392)

(6) Anita Pratap (Witness No.482)

(7) P.K. Ravindranath

(Witness No.58)

(8) Yuvraj Ganesh Mohite (Witness No.502)

(9) Suma Josson (Witness No.57)

## 2 Ramchandra Pandurang Pawar

2.1 This witness was examined by Shiv Sena in regard to an article under the caption, "*Golibar Adeshanche Gaudbangal*" in *Saanj Loksatta* dated 11.1.1993 under his bye-line.

2.2 The thrust of his article is that he had moved around in some of the riot affected areas in January 1993 and he was given to understand by some of the police personnel that they did not fire at miscreants because they had no such orders from their superiors and the instructions were that only *lathi*-charge and teargas should be used to disperse the mobs without firing at them. He had not made any enquiries with any of the senior police or Government officers or cross-checked the information, nor did he raise this issue at any of the press conferences held at Mantralaya. He asserted that he would never publish any article unless he confirms the facts and, in his career of 20 years no person had denied or refuted the facts narrated by him in his articles.

2.3 Despite the purport of the article that there was some 'mystery' with regard to firing orders in January 1993 and that the police were reluctant to carry out firing at the rioting miscreants, his testimony was not challenged by State or police, indicating thereby that they did not controvert his testimony. The only cross-examination came from the representatives of the Muslims during which the attempt made was to demonstrate that the witness had no awareness of several riot-related incidents in which Muslims were victims, a fact wholly irrelevant while considering the point made in the testimony of this witness.

2.4 On the issue of the police being instructed to use only *lathi*-charge and tear-gas for dispersing riotous mobs and being instructed not to resort to firing in January 1993, there is corroboration in the instructions contained in B.C.Message No.414 dated 10th December 1992 (Exh.3176-C). Shri Sudhakar Rao Naik in his evidence denied that he had at any time given such instructions. Commissioner of Police, Bapat, also denied having authorised the broadcasting of such instructions. He went so far as to deny the authenticity of the office copy of this B.C. Message. That such instructions were actually broadcast, is made amply clear from the B.C. Message register of Jogeshwari Police Station.

2.5 The Commission's view that such instructions were given and were actually broadcast is corroborated by the evidence of Ramchandra Pawar who had actually moved in different areas and got this feedback from the police personnel in the field. Neither the evidence of Sudhakar Rao Naik, nor that of Bapat, on this issue can be accepted as reliable. The Commission feels that such instructions were given, perhaps in the face of the adverse criticism in the media and now, conveniently, both Shri Naik and Commissioner Bapat are disclaiming the same. The Shiv Sena's stand on this issue appears justified and acceptable.

## 3 Olga Tellis

3.1 She has been examined by the Shiv Sena with reference to her article in the Bombay edition of *The Weekend Observer* dated 23rd January 1993 [Exh. 3182(SS)], the article in *The Sunday Observer* dated 2nd April 1993 [Exh. 367 (HE)] and the article dated 17th January 1993 in *The Sunday Observer* under the caption "Don't blame the Constable, blame

the system" [Exh.3303(SS)].

3.2 Ms.Tellis says that she has written these three articles on the basis of her discussions with persons connected with the subject matter of the articles, like police, people on the street, Government officials and after analysis of the inputs from them she has projected her views in the matter through the articles and that this was an exercise in investigative journalism carried on by her.

3.3 Her article [Exh.367 (HE)] is titled "ISI role in fomenting riots revealed". She claims to have spoken to some officers in the Bombay police or the officials of the Ministry of Home Affairs, Government of India and the information contained in this article is said to be based on the information given by them. Basically, the article appears to be an analysis of the contents of the interrogatory statements of terrorists Manjit Singh alias Lal Singh and Saquib Nachan, both of which are on the record of the Commission. She did not attend any police press briefings, but had talks with the Additional Commissioner of Police in-charge of SB-I CID, V.N. Deshmukh. Though he was not the source who revealed the facts which formed the basis of the article, she had brought to his notice what she had learnt from her sources which were also from SB-I CID, but she did not remember whether he confirmed or refuted what she brought to his notice. V.N. Deshmukh has categorically denied that any such thing was done by her. She also did not have the benefit of reading the confessional statements of Manjit Singh or Nachan, nor was she aware whether they had subsequently retracted their statements. She was candid enough to admit that whatever was given to her by her sources, she assumed to be true and put them in her article, though she claims to have cross-checked them from unnamed political and other sources. Her conclusion is that the ISI was attempting to inflame the passions of the majority community by a series of stabbing incidents and this conclusion projected by Ms. Tellis was based on the conclusion of the police source who revealed this to her on the ground that there was a discernable pattern behind the stabbing which took place in the Muslim areas.

3.4 Her article at [Exh.3182(SS)] was merely based on her analysis of the reports in the English language media and her interviews with unnamed police personnel and people on the streets, though she did admit that the police did not allow her to visit all places she wanted to. She had visited Bhendi Bazar, Nagpada and Pydhonie areas sometime between 6th December 1992 and 27th January 1993 to make a first-hand assessment, talked to her colleagues and other journalists, and obtained facts and figures from the police and Government.

3.5 The facts imputed to Commissioner Bapat in her article at [Exh. 3303 (SS)] were given to her in a telephonic interview with him.

3.6 Ms.Tellis conceded that it was not possible for her to go around checking and cross-checking the facts revealed to her by her sources since she had a deadline to meet, and therefore she was unable to pinpoint and say which facts were elicited from which source.

3.7 The very material on which Ms. Tellis seems to have relied has been placed before the Commission. The Additional Commissioner of Police, V.N. Deshmukh, who was aware of the facts and circumstances has also been examined before the Commission. In any event, there are no special facts, not already on record or not been noticed, which have been brought forth in the three articles of Ms. Tellis.

3.8 The Commission is not inclined to accept the conclusions drawn by Ms. Tellis and would prefer to draw its own conclusions.

#### 4 Rajdeep Sardesai

4.1 He is the Metropolitan Editor of *The Times of India* ( at the material time) who started off as a Law Graduate and branched off to journalism. He had written and published an article under the caption "*Shiv Sena admits role in Bombay riots*" in *The Times of India* in its issue dated 15th January 1993 [Exh. 354(C)]. He wrote the article as a result of his interaction with the Chief Minister, Government officers, police officers at various levels, and also by gathering inputs while touring the areas which are the strongholds of Shiv Sena, like Parel, Lalbaug, Girgaum and Worli, visiting the *shakhas* in those areas and speaking to the active Shiv Sainiks in those *shakhas* and interacting with the activists of Shiv Sena at local levels. He had also interviewed senior leaders of Shiv Sena like Shri Manohar Joshi and Shri Pramod Navalkar who were willing to go on record and several

others leaders who spoke to him on condition of anonymity.

4.2 In his article he quotes Mr. Pramod Navalkar, then leader of Opposition in the Upper House (Currently a Cabinet Minister in the BJP-Shiv Sena Government), as having admitted that the Shiv Sena boys were involved in the rioting, but that for every Shiv Sainik there were also 20 anti-social elements involved. Mr. Navalkar had also explained his perception of "anti-social elements", but declined to be quoted on record.

4.3 Shri Manohar Joshi seems to have told the witness that the persons indulging in rioting would not be called as Shiv Sainiks by him, but were all anguished Hindus spontaneously reacting to what happened in Jogeshwari.

4.4 According to the article written by Sardesai, following the Jogeshwari's Radhabai Chawl incident, rumours were circulated that similar incidents would be repeated in other areas of the city and resulted in large mobilization of Shiv Sainiks in the different *shakhas*. He estimates a number of about 40,000 Shiv Sainiks spread over about 225 active Shiv Sena *shakhas* in the city, as against the local constabulary strength of about 30,000. The plan of action of Shiv Sainiks was to circulate rumours that Hindu temples would be destroyed and that there would be large scale attacks by Muslims on Hindus for which purpose sophisticated arms were being smuggled into the city everyday. There was also a systematic attempt to identify Muslim residences and commercial establishments in each locality by going through the voters' list which appeared to have been made available to the *shakha pramukhs* immediately after 6th December 1992.

The mobilization of the Shiv Sainiks started from Friday, the 8th January 1993, on a large-scale. On Saturday, the 9th January 1993, the Shiv Sena mouthpiece *Saamna* carried a front-page editorial under the headline, "The Nation must be kept alive", with an ominous message in the last line of the editorial "The next few days would be ours", which was an open invitation to the Shiv Sainiks to retaliate. For the next 72 hours, Shiv Sainiks chanting "*Jai Bhavani*", "*Jai Shivaji*", "*Vande Mataram bolna padega*" went on rampage, selectively targeting shops, houses and lives of minorities. The action started from their own strongholds in Girgaum, Parel, Lalbaug, Worli and Dadar. This in turn invited a backlash from the Muslims and an action-reaction process was established. From Monday, 11th January 1993, the locus of conflict shifted to the suburbs as young Shiv Sainiks in the age bracket of 16-25 years began to spread terror; shops were destroyed, huts were burnt and building residents were threatened day and night. By the time Shiv Sena chief Bal Thackeray issued a statement in *Saamna* calling for peace, he was gloating that "A lesson has been taught". But it was too late to control the forces as, according to his own admission, the rioting had been taken over by anti-social elements, though the majority of them were operating under the Shiv Sena banner. The fact that a senior Sena MLA like Shri Madhukar Sarpotdar was arrested carrying weapons during the height of communal riots from the riot-prone area, shows that the Shiv Sena was not willing to call an early end to the conflict. That the Shiv Sena had to issue a statement dissociating itself from hoodlums going around demanding "protection money" from minorities and "relief money" from majority, showed that the party had lost control over the mobs.

4.5 It is his thesis that the riots in the city had been systematically engineered from Saturday, 9th January 1993. Mr. Pramod Navalkar had written a letter to the editor, *The Times of India* claiming that the report under the caption "Shiv Sena admits the role in Bombay riots" (January 15) was totally baseless and misleading. According to the rejoinder of Shri Navalkar, due to inadequate police protection to protect the Hindus and to retaliate the attacks from the opposite sides, Shiv Sainiks on large-scale were on the streets but they could not accept the responsibility for rioting, looting and arson as anti-social elements in large numbers had entered the fray and took advantage of the situation. Sardesai countered the rejoinder by pointing out that he had faithfully reproduced Shri Navalkar's on-the-record quotes and there was no substance in the response of Shri Navalkar which was merely an attempt to get over the awkward situation created by the statements made to the press without realizing the full implications. He also pointed out in his counter that the fact that Shiv Sainiks were 'on the streets' in large numbers was not disputed by Shri Navalkar and, if so, he asked, what were they doing on the streets? He also asserted that eye-witnesses and Shiv Sena grass root workers admitted that Shiv Sena was very much involved in the acts of rioting. Shri Navalkar's letter to the editor and the rejoinder of Sardesai were both published simultaneously in the issue of *The Times of India* dated 16th January 1993 [Exh.356(C)].

4.6 Sardesai in his evidence admitted that by his visits to Dongri, Umarkhadi, Mohamadali Road he had ascertained that the Muslims in those areas had done precisely the same thing which the Shiv Sainiks started doing in Girgaum, Parel, Lalbaug and Dadar, which is why he had said in his article that there was backlash from the minority community, as a reaction. He also maintained that while moving around in Girgaum, Gamdevi and Worli he had seen black-boards with Shiv Sena symbol on which there were chalk written messages exhorting the public not to pay money to the people who were going around collecting protection money as the Shiv Sena had no connections with such peoples. He says when he visited Vadgadi area on 12th January 1993 and 22nd January 1993, he had actually seen people moving around the area collecting money from the shopkeepers and his enquiry with the shopkeepers who paid money elicited the reply that they were the local *tapories* (vagabonds) collecting money for protection given against attacks from Muslims during the riots and for guaranteeing such protection in future. Sardesai says that his talk with Shri Pramod Navalkar elicited the reply from Shri Navalkar that what had happened was not a good development and that he was unhappy about this, and this happened just on the day on which the article was written or one day before it. He produced the appeal of Bal Thackeray in *Saamna* dated 12th January 1993 [Exh.360(C)].

4.7 According to him, during the second period of riots, it appeared that, till 10th January 1993, the police were reluctant or unwilling to resort to firing even when the situation demanded it, on the ground that they had orders to the contrary. He produced an article written on this issue and published in the issue of *The Times of India* dated 4th February 1993 under the caption "Bapat's hands were tied" [Exh.357(C)]. He was candid enough to admit that he had actually not seen the Shiv Sainiks carrying the list of residences and shops of the Muslims in the local area, but his interaction with the people in the locality had elicited this information. He also admitted that the mobilization of Shiv Sainiks in different *shakhas* was spontaneous as observed on several occasions after 8th January 1993 when he visited different *shakhas*. Though he quoted the remarks made to him by different senior police officers, he declined to name them as they had talked to him on condition of anonymity.

4.8 Sardesai met Chief Minister Shri Sudhakar Rao Naik on two occasions with prior appointments and on some others during meetings. On the basis of the opinion which he had formed from his observations as to the role of the Shiv Sena in the riots of 1993, he had asked a specific question to the Chief Minister for confirmation or repudiation of the opinion formed. Since there was neither confirmation nor repudiation of his opinion, he decided to write an article on the subject to educate the public. That the Muslims were involved in the riots is admitted by him both in his article Exh. 354(C) and even in his evidence. It is his perception that during the December 1992 riots, Muslims were the aggressors which was the view suggested in his article dated 13th December 1992 published in *The Times of India*, Exh.361(C).

4.9 Sardesai had also contributed Chapter IV under the heading "The Great Betrayal" in the book titled, "When Bombay Burnt" [Exh. 67(CPI)]. That the Muslims were responsible for the Mathadi workers' murders and the Radhabai Chawl carnage is admitted by him, though he said that initially he had a lingering doubt about the identity of the miscreants which had now been cleared. He agreed that between the period January 5 to January 8, 1993, the persons who started the incidents which triggered off the subsequent riots were predominantly Muslims. He agreed with the perception of Shri Manohar Joshi which was reproduced in his article Exh.354(C). He was forced to concede that during the period 6th to 9th December 1992, a number of temples were damaged and destroyed in Govandi and Baiganwadi areas and, therefore, the rumour circulated or fear entertained by Shiv Sainiks of repetition of similar incidents elsewhere had some basis. But he maintained that by the time his article was written, there was no basis for the fear expressed by the Shiv Sainiks of large-scale smuggling of sophisticated arms into the city, which according to him, was mere propaganda without any supporting material. He says that even as of September 1993 when he was examined, he was not prepared to agree that there was any substantial basis for the fear of smuggling of sophisticated arms entertained and propagated by Shiv Sainiks in January 1993.

4.10 Sardesai admitted that he disliked Shiv Sena for its non-secular approach and, according to him, no secular-minded politician should associate with it. Though there were aspects of Shiv Sena which were good initially, the good has been obscured in recent years.

4.11 About the editorial in *Saamna* Exh. 355(C), he admitted that the main thrust of the editorial, "*Rashtra Jeevant Theva*" ("*Keep the Nation alive*") was to express anguish at Hindus being subjected to attacks and the inaction of the Government. He pointed out that the distinction made by Bal Thackeray between anti-national Muslims and other Muslims was not clear in his writings and, considering the effect of such writings on the public at large, he should clearly demarcate such a distinction, though it was true that the concerned editorial spoke of Muslims who are disloyal to the country. He was of the view that the editorial advocated violent means against Muslims disloyal to the country and the thought conveyed by the expression "*Shantichi Kabutare Akashat Udvayachi Nahit*" ("*We do not want fly doves of peace in the sky*") was that, "If we are assaulted, we shall not keep quite but shall retaliate". According to him, while Chief Justice Chagla advised the Muslims to join the national mainstream in order to consolidate all citizens of the country and bring in harmony, Thackeray's statements were motivated only with a view of consolidating Hindus by promoting hatred against Muslims.

4.12 He is firm in his view that a person like Dawood Ibrahim is anti-national and anti-Hindu because of his activities and that the call given by Imam Bukhari for boycott of the Republic Day by Muslims hoisting black flags on houses and establishments, was wrong and *The Times of India* had criticized it in an editorial.

4.13 Sardesai says that in his meeting with Shri Sudhakar Rao Naik he had specifically asked him whether he or anyone in the Government had given an order to the Police Commissioner that the police should desist from firing and Shri Naik had categorically denied it. He also says that a police officer of high rank who was present at the meeting between Commissioner S.K.Bapat and the Chief Minister, confirmed that the Chief Minister had directed Bapat to ask his officers to "go easy". He also said that this fact was confirmed by Director General of Police S. Ramamurthi, Commissioner of CID, Intelligence, G.N. Ubale and Additional Commissioner of Police, SB-I CID, V.N. Deshmukh.

4.14 Sardesai says that he had moved around Muslim localities to ascertain the role played by the Muslims in the riots and he wrote two articles dated 17th January 1993 and 24th January 1993 on this subject in *The Times of India* [Exh. 368(HE)]. Though he was of the view that the Muslims had played a role in the riots, he did not become aware of any specific Muslim organisation which had played the role in the riots like the Shiv Sena did. His moving around in the Muslim localities and his investigations elicited information from the local public that professional killers from other areas had come to Muslim predominant areas and engineered the riots, though the professional killers could have been either Hindus or Muslims. The information gathered by him for investigative reporting did not suggest that the Muslim League had anything to do with the riots, though some inciting articles had been written in Urdu press and irresponsible statements made by the Naib Imam during riot periods that the Muslims should take up arms. Although he agreed that provocative hand-bills were distributed in the city, and he had actually seen some of them, his view was that the hand-bills were obviously intended for the purpose of provoking the Muslims to riots and were circulated not only in Muslim areas but also in predominantly Hindu areas like Girgaum and Tardeo. The gist of the hand-bills was to convey that the Muslims were under threat and unless they retaliated, their lives would be in danger. He, therefore, disagreed that they were circulated by Muslims.

4.15 According to Sardesai the contents of the article "Cops identify three Muslim groups role in riots" [Exh.369(HE)] were not true and even the police had denied what was suggested in the report. He accepted the suggestion that the Imams had set terms of getting increased FSI for discontinuation of *Namaaz* on public streets and *Azaans* on loudspeakers.

4.16 Though an attempt was made by the Shiv Sena to discredit this witness on the ground that he was biased against the Hindus and only articulated views in his articles which were pro-Muslim and anti-Hindu, the Commission is not impressed with the suggestion made, nor is the Commission prepared to discard his evidence which appears to be very much relevant.

## 5 Flavia Agnes

5.1 Ms. Agnes is the Secretary to Majlis, a non-Government organisation, whose main activity is providing legal aid to women in distress and producing cultural films. During the riots this organisation was actively involved in rehabilitation work.

5.2 Ms. Flavia Agnes had published a report under the title "Behrampada a besieged Basti" in a magazine *Manushee* in its issue Nos.74 and 75 for January–February and March–April 1993. This article exclusively deals with the communal riots in Behrampada area within the jurisdiction of Nirmal Nagar Police Station. This article was published in order to dispel the myth that Behrampada is a hotbed of criminal elements. Ms. Agnes is a practicing advocate of the Bombay High Court since 1988. Though Christian by birth, she is not a practising Christian.

5.3 Majlis is basically an organisation for upliftment and empowerment of women. It has an office in Bandra (east). After the riots of 6th December 1992 there was a sense of insecurity generated and the women stopped coming to the centre. In a meeting of various social work organisations, held at Nirmala Niketan, it was decided that Majlis should work for rehabilitation of riot-affected women. As her office was located in the concerned area, she was allotted the work of rehabilitation of women in the jurisdiction of Kherwadi and Nirmal Nagar Police Stations. Area-wise surveys were carried out which were intended to assess how far the Government relief work was effective in providing relief to the victims of riots in terms of life, limbs or property. The survey was not restricted to any particular community, but was a general one and carried out by the students of Nirmala Niketan College. The persons conducting survey had obtained signed statements of witnesses after interviewing them in connection with some of the major instances. Though she was not in possession of the originals, which were filed before Indian Peoples' Human Rights Tribunal (an unofficial body of people constituted for enquiring into the riots), she produced carbon copies of such statements.

5.4 In her article this witness has projected the point of view that activities of Shiv Sena under the leadership of local MLA, Shri Sarpotdar, were communal and the bogie of criminality was raised to evict forcibly the depressed class of people residing in the Behrampada slums only because they were Muslims. She has also projected the view point that Shiv Sena had deliberately created the bogie of criminal activities by the residents of Behrampada by itself damaging the *Ganesh Murti* in the Ganesh Mandir on A.K. Marg and engineering the communal riots, the fury of which was unleashed against the Muslims of Behrampada, Kherwadi and adjoining localities. Understandably, she has been extensively cross-examined by the learned counsel for Shiv Sena to demonstrate that the article was a deliberately biased projection of material adverse to Shiv Sena. She has also produced an article in the issue of *Economic and Political Weekly* dated 13th February 1993 under the caption "Two riots and after — a fact finding report on Bandra (east)".

5.5 While the commission is not satisfied that Ms. Agnes was biased against Hindus in general and Shiv Sena and Shiv Sainiks in particular, the Commission finds limited assistance from this report notwithstanding the painstaking manner in which it is prepared. The witness and her organisation would have given better assistance if they had examined some of the riot victims so that the Commission would have had opportunity of first-hand assessment of their evidence. The Commission feels that secondary evidence of this nature would not be of much avail before a legally-constituted Commission of Inquiry required to ascertain the facts and circumstances and make a report.

## 6 Madhushree Dutta

6.1 This witness was also connected with Majlis and was working as a treasurer of Majlis. She is a film maker who produced the film, *I live in Behrampada* to counter the notoriety heaped on the residents of Behrampada, Aslam Colony, in Nirmal Nagar jurisdiction. The commission has had an opportunity of seeing the film produced by this witness and has appreciated the zeal, artistic merit, the social consciousness and selfless service to depressed class of society which are behind it. While it may be possible to appreciate the film produced by this witness as a work of art, the Commission finds it difficult to draw factual support therefrom.

6.2 Another reason the Commission is unable to accept her evidence is that, despite several intimations given to her, the witness did not turn up for cross-examination.

## 7 Anita Pratap

7.1 She is a journalist who was working for *Time* magazine prior to February 1996 and had interviewed Bal Thackeray, Shiv Sena *Pramukh*, in connection with the Bombay riots of December 1992 and January 1993. The interview was published in the *Time* magazine

under the caption "Kick them out — No compromise with Muslims :the rhetoric of hatred from Shiv Sena's Bal Thackeray" (Exh.3109-C). This interview, was done as a part of her professional work. She did the interview with the aid of a tape-recorder since it was the policy of the magazine that the interview, in question-answer form, would not be published unless it was a tape-recorded one.

7.2 She was called upon to produce the original tape-recording of the interview and, by her letter dated 23.12.1996 (Exh.3236-C), Ms.Pratap explained her inability to produce the same by saying that she had changed her job on 1.2.1996 and taken up a job with CNN at which time she had got rid of the old notes, files and tapes since till that time she had not been summoned to give evidence and the Commission had also been disbanded. Hence, she had found no point in preserving the old notes, files and tape recordings.

7.3 Ms. Pratap placed on record the text of the interview as communicated to her on fax by *Time* magazine. She affirmed the contents of the interview in Exh.3109 as correct and maintained that Bal Thackeray had stated to her whatever was attributed to him in the interview, which was conducted in English. She said that the text of the interview in Exh.3109-C is a verbatim text of the interview, though, some portion of the interview had been edited for reason of space limitations. She also produced the full text of the interview on pages 3 and 4 of her letter (Exh.3236-C). She received no communication from Bal Thackeray, personally, or addressed to *Time* magazine, contradicting anything which appeared in the interview in the issue of *Time* dated 25th January 1993. It is the policy of the *Time* magazine that if the interviewee requests, a duplicate copy of the text or the tape would be sent to interviewee, but only after publication of the interview. But they would not entertain any communication with the interviewee prior to the publication of the interview. Even after publication of the interview a copy of the issue in which the interview appears is not sent to the interviewee except in a special case where the interviewee cannot afford a copy of *Time* magazine. Since Bal Thackeray did not fall in the latter category, no copy of the magazine was sent to him. She also said that since it was the experience of the magazine that usually politicians denied the text of their interviews by raising controversies in the press, the magazine would not take cognizance unless the denial was addressed to it. From her experience of working with *India Today*, *Sunday* and *Indian Express*, she maintained that this was the policy followed there also.

7.4 This witness was cross-examined at length on an interview given by her to *Savvy* magazine and with regard to several articles written by her, the ostensible purpose of which was to demonstrate her bias against Shiv Sena and Shiv Sainiks and to elicit her views on several contentious political disputes.

7.5 Having carefully perused the lengthy cross-examination of the witness, it is not possible to agree with the contention that Ms. Pratap was biased or that the interview as recorded in the issue of *Time* magazine dated 25th January 1993 and attributed to Bal Thackeray did not take place. The assertion of Ms. Pratap that there was no denial of the interview to her or to *Time* magazine remains unshaken.

7.6 A notice under Section 8B of the Commissions of Inquiry Act, 1952 was also issued to Bal Thackeray in this context. Though in response to the notice, Shri Adhik Shirodkar, learned counsel who appeared for him and for Shiv Sena, conducted lengthy cross-examination of Ms. Pratap, there was no explanation whatsoever placed on record by Bal Thackeray in this regard for consideration of the Commission.

7.7 In the circumstances, the Commission finds no reason to disbelieve the testimony of Ms. Pratap or that the text of Exh. 3109-C truly represents the interview during which Bal Thackeray had given his answers to pointed questions posed by the interviewer.

## 8 P.K. Ravindranath

8.1 This witness was commissioned by Nehru Centre to make a detailed study of the riots of December 1992 and January 1993 and he was compiling a report at the time of giving evidence. Though he promised to forward a copy of his report to this Commission, he has not done so. According to him the purpose of his affidavit was to draw the attention of this Commission to the report made in connection with Los Angeles riots. The evidence of this witness is of no significance in answering the Terms of Reference.

## 9 Yuvraj Mohite



9.1 He is another journalist working as senior reporter of the Marathi evening paper *Mahanagar* edited by Nikhil Wagle, and an active social worker of Rashtriya Seva Dal.

9.2 As a part of his reporting duty, he is required to cover the affairs in Bombay Municipal Corporation. He used to regularly visit the headquarters of the Bombay Municipal Corporation and get inputs from several senior officers there and was well-acquainted with the then Mayor Shri Chandrakant Handore.

9.3 On 8th January 1993 at about 1900 hours he had visited the office of the Bombay Municipal Corporation. While was in the office of Bombay Municipal Corporation, he learnt about trouble erupting in the city and, therefore, decided to leave early. Before leaving the Bombay Municipal Corporation office, he peeped into the Mayor's cabin and the Mayor, Shri Handore, who was sitting alone, invited him to come in. He started a discussion with the Mayor Shri Handore about the riots and what could be done. Shri Handore appeared to be restless and was unsure of what should be done. He was also pained by the violence seen around him. He mooted the idea that the leaders of all parties like Shiv Sena, Bharatiya Janata Party and the Muslim leaders should issue a joint appeal to the people to exercise restraint and maintain peace. He had discussed this idea with Chief Minister Shri Naik who welcomed it and asked him to go ahead. He expressed a desire that he should meet the leaders of Shiv Sena, Bharatiya Janata Party and the Muslim community and obtain their cooperation in making a joint appeal. Mohite suggested to Shri Handore that instead of making a verbal appeal, it would be better if a memorandum was jointly signed by all the leaders of the different parties and given wide publicity. At the instance of Shri Handore, Mohite prepared one draft in his hand-writing which was finalised with some alterations by Shri Handore. Since it was late in the evening and no typists were available, the final draft of the memorandum was also prepared in hand-writing by Mohite, with a carbon copy. While Mohite was writing out the appeal, Shri Handore telephoned to the offices of different newspapers informing them about what he proposed to do. After the memorandum was completed, Shri Handore took charge of both the original and the carbon copy. He then invited Mohite to accompany him. Mohite thought that it was a good opportunity to get news on sensational matter and agreed to accompany him.

9.4 Handore took his personal assistant and Mohite in his official car and first went to the house of Haji Mastan. After some discussions, the signature of Haji Master was taken on the memorandum of appeal. From there, all of the them went first to the Mayor's Bungalow at Shivaji Park. Shri Handore instructed the telephone operator to contact the residence of Bal Thackeray and give him information about his arrival to meet Bal Thackeray. He went inside, changed his clothes and came out. Thereafter, all three of them went to the residence of Bal Thackeray. While proceeding, Handore cautioned Mohite that, while in the bungalow of Bal Thackeray, he should not reveal his identity as, if he did so, there might be some problem. He also said that if someone asked him who he was, he should keep quiet and Handore would take care of it.

9.5 Because of the official car in which the party was travelling, there was no difficulty in entering the bungalow of Thackeray. Handore, his P.A. and Mohite were ushered into the room in which Thackeray was sitting. Thackeray was dressed in a saffron shirt and *lungi* and greeted them with a *Jai Maharashtra*. All three were made to sit down. The time was around 2130 hours.

9.6 There were discussions between Thackeray and Shri Handore about the riot situation during which Shri Handore was trying to impress upon Thackeray that he should find a way out. In the meanwhile, there were several telephone calls received and answered by Thackeray. From the conversation which could be heard by Mohite, which he has reproduced *in extenso* in his affidavit, it was clear that Thackeray was directing the Shiv Sainiks, *shakha pramukhs* and other activists of Shiv Sena to attack the Muslims, to ensure that they give tit-for-tat and ensure that "not a single *landya* would survive to give oral evidence". He also said that the riots had started from the *bastis* of "*landyas*" and that he would deal with them properly and put an end to their arrogance. While this kind of instructions were being given by Thackeray on telephone, Shri Ramesh More and Shri Sarpotdar also came in and reported the situation in their respective areas. They were also given similar instructions. Thackeray also told the *vibhag pramukh* of Mazgaon, Madhukar Desai, on telephone to ensure that the Bohries residing in Shirin Manzil were not troubled. He also told someone from Jogeshwari to catch hold of A.A. Khan (Additional Commissioner of Police, north region) and send him to "Allah's home" at once and to finish

off "that womanizer" Mundkur, but to take precautions while finishing them off.

9.7 He also told Shri Handore that he should tell the Chief Minister to control all the Muslim *mohallahs* and confiscate their arms, dismiss Shri Javed Khan and transfer the two scoundrels A.A. Khan and Mundkur and then only he would see what could be done. He also called Shri Vijaysinh Mohite Patil (then a Minister of the State Government) and conveyed his view that Shri Sharad Pawar was behind the riots and because of his encouragement the "*landyas*" had become bold. He also said that despite his calling up the Chief Minister once, no cognizance had been taken of it and that he would not meet the Chief Minister, but that the Chief Minister may telephone him if he wants.

9.8 Shri Handore then suggested that a meeting could be called at the Mayor's bungalow where the Chief Minister could be invited and Thackeray could frankly convey what he wanted to say. Shri Thackeray was annoyed with Shri Mohite Patil who was on telephone and told him that he should convey to the Chief Minister that his police were butchering Hindus only, that Khan should be removed from Jogeshwari otherwise he would not be responsible, they could do what they wanted, even put him (Thackeray) behind bars and whatever was to happen, may happen once for all. Thackeray put down the receiver and told Shri Handore that not a single person was in his senses, and criticised the kind of administration those 'rascals' were running. Thackeray said that Shri Pawar had sent military which was moving with white rags on their vehicles and Shri Handore may tell them to take his *dhoti* as well.

9.9 While all this talk was going on, Mohite was clandestinely making notes about what he had heard. Initially, he was making the notes openly, but later when he found that Shri Sarpotdar kept looking at him, he carried on his noting down surreptitiously. In the meanwhile, Uddhav Thackeray came into the room carrying a child, noticed that Mohite was scribbling something and asked him not to write anything. Thackeray asked Mohite his name, which he disclosed. When he asked him whether he was related to Vijaysinh Mohite-Patil, Mohite turned to Shri Handore and Shri Handore hastily replied that Mohite was with him.

9.10 On the appeal of Shri Handore to maintain peace, Thackeray was inclined to sign the memorandum, but when he saw that the memorandum bore the signature of Haji Mastan he got annoyed that Shri Handore had approached Haji Mastan (*landya*) and cautioned him that they had no alternative except the Shiv Sena. Then Thackeray read the memorandum and told Shri Handore point-blank that he would not make any such appeal for peace, but would rather wait and watch the Government policy for the next four or five days after which he would take a decision. He said he would merely sign in token of receiving the memorandum and signed it.

9.11 The memorandum signed by Thackeray was taken by Shri Handore and Shri Handore and Mohite left that place. Thackeray, Shri Sarpotdar and Shri More came to see them off. While travelling in the car, Mohite made hasty notes from memory of what he could not note down after he was told to stop writing. Shri Handore told him to forget whatever he had heard. Shri Mohite insisted that he would tell his editor, Nikhil Wagle, about what he had heard. Shri Handore replied that it would be better for both to forget it, as otherwise both would be in difficulty.

9.12 Shri Handore thereafter dropped Mohite near his office at Mahim at about 2315 hours. The editor, Nikhil Wagle, was not in his office. He came to the office around 0200 hours along with other colleagues. Mohite narrated the entire incident in detail and was advised by Nikhil Wagle and his colleagues that they should approach the Chief Minister at once. Mohite telephoned to Shri Handore and talked to him about the suggestion made by his editor and other colleagues, but Shri Handore was not ready to go to the Chief minister and said that he would not be responsible for whatever might happen. Thereafter Nikhil Wagle talked to Shri Handore on phone, but Shri Handore declined to go by saying that it was his mistake that he took Mohite to the house of Thackeray. Nikhil Wagle then telephoned the Minister of State for Home, Shri Babanrao Pachpute, and apprised him of what he had learnt. Shri Pachpute replied that it was serious and he would take urgent steps.

9.13 Mohite produced at Exh. 3412(C) the first draft he had made of the notes taken down by him, at Exh.3413(C) a second draft when it was tentatively decided that he should file an affidavit before the Commission. The first draft was prepared by the first week of February 1993. He thereafter prepared the second draft and gave the Marathi material

contained in Exh.3413(C) for translation to Prabha Desai, a lecturer in Patkar College, Goregaon, somewhere towards the end of February 1993. She returned the translation to him after about two months. Thereafter he gave the entire matter to advocate Shri M.P. Vashi for preparing an affidavit to be filed before this Commission. The affidavit was prepared only sometime in October 1993, though the papers were lying with Shri Vashi from or about April 1993. By that time, the deadline given by the Commission for filing affidavits had expired and Mohite did nothing in the matter. However, when the Commission extended the time for filing affidavit, he went back to Shri Vashi, obtained the affidavit, and filed it before the Commission.

9.14 Predictably, this witness has been subjected to lengthy and pointed cross-examination to challenge the veracity of his testimony. Though numerous details have been elicited from him with regard to the topography of the Matoshri building (residence of Thackeray), as it stood before renovation and details of Mohite's career as a journalist, there is very little cross-examination with regard to the crucial contents of his affidavit. Apart from a suggestion that Mohite had given false evidence against Thackeray at the instance of his Editor, Nikhil Wagle, because of bad blood between Wagle and Thackeray, there is hardly any material in the cross-examination brought forth to discredit the testimony of this witness.

9.15 That Shri Chandrakant Handore had met Bal Thackeray in his residence at Matoshri bungalow is corroborated by the entry in the Central Zone Police Wireless Log Book at 2127 hours on 8th January 1993. The Senior Police Inspector Kherwadi's mobile gave a message to Control Room "Mayor Handore had come to meet Balasaheb. There is no problem".

9.16 There is further corroboration of the probability of the truth of Mohite's testimony in the documents produced by him. The drafts at Exh.3413(C) and Exh.3414(C) bring out in graphic detail the conversation being carried on by Thackeray with the others on the telephone within the hearing of Mohite. *Mahanagar* had carried an editorial in its issue dated 6th April 1993 in which it was said that the conduct of Shri Handore as Mayor was shameful. It was also said that on 8th January 1993 in the evening Shri Handore had gone to Shiv Sena Pramukh Balasaheb Thackeray's residence for taking his signature on the appeal for peace at which time Thackeray was busy in whipping up the riots; there were telephones from various *Shakhas* and Thackeray was giving instructions for attack on Muslims; all this was being listened to by Shri Handore like an idiot without any attempt to stop Thackeray; on the contrary, Thackeray took Handore to task and that also, Handore accepted with a sheepish grin. All this came to light because Shri Handore did the 'stupidity' (*gadhapana*, a word actually used by Shri Handore) of taking Mohite for the meeting with Thackeray. The editorial also said that the full details of the incident would be published in *Mahanagar* issue at the appropriate time. Apparently, Shri Handore was annoyed with the disclosure of these crucial facts about his activity and because of that he threatened witness Mohite. In a news item published in *Mahanagar* dated 7th April 1993 the fact about threat to Mohite was also published (Exh.3415-C).

9.17 The Commission had issued a notice under section 8B of the Act to Bal Thackeray on 9th December 1996 which was served on him on the same day. No reply to the notice was filed by Bal Thackeray. When the evidence of witness Mohite was taken up on 22nd June 1997 an application vide Exh.3401-SS was made by Shiv Sena objecting to the examination of Mohite, and in the alternative, seeking six weeks' time on the ground that as several allegations had been made against Bal Thackeray and instructions were to be obtained from him. Presumably, after obtaining appropriate instructions, this witness was extensively cross-examined by Shri Adhik Shirodkar on the next date of hearing. There is no contrary evidence adduced by Shiv Sena or Bal Thackeray. The Commission sees no reason for not accepting the testimony of this witness.

## 10 Suma Josson

10.1 This witness is a film maker by profession who was working with PTI-TV at the material time. She has produced several films and documentaries for Doordarshan.

10.2 She has produced a film styled *Bombay's Blood Yatra* about the communal riots in Bombay in December 1992 and January 1993. It is in the nature of documentary which consists basically of interviews. At annexure "A" to her affidavit (Exh.372-C) she has given a list of several persons to whom she had talked at different places on different dates during the period from 16th December 1992 to 19th February 1993. She had shot video-film

of about seven hours' of footage which she edited into a film of about one hour footage. According to her, she utilized the facts derived from news reports in different newspapers, information made available by police from time to time and given by the persons interviewed by her as inputs for the footage. The script and commentary are hers, though 90% of the commentary was prepared by relying on what different people had said. She admits that she did not do cross-checking of facts at the micro-level, but she had only done cross-checking at the macro-level, believing that the people interviewed by her spoke the truth. Her cross-examination by the learned council for Shiv Sena was concentrated upon demonstrating that she being a creative producer had collected and assimilated data to prove her particular point of view and accordingly also edited the data, as a result of which the documentary film was made.

10.3 The Commission has had occasion to view the film several times and it appears to the Commission that the film undoubtedly is an extremely fine piece of creative film-making with a definite message of importance to put across to the viewers, namely, the futility of bloodshed in the name of religion. Without in any way detracting from the artistic or social value of film *Bombay's Blood Yatra*, the Commission is not inclined to attach greater importance to this film than to articles and literature produced on the subject of the two riots. There is substance in the contention of Shiv Sena that it is only an edited version of interviews of select interviewees which was made into a film for putting across the important social message, but it would not be of great value in ascertaining the facts and circumstances connected with the two riots except creating sympathy for the victims of the two vicious riots.

### 1 Sudhakar Rajusing Naik

1.1 The Commission examined Shri Sudhakar Rajusing Naik, who was the Chief Minister during both phases of communal violence. When the trouble broke out on 6th December 1992, Shri Naik was away in Nagpur attending the Legislative Assembly session and learnt about the demolition of Babri Masjid on a T.V. flash. He was not at all expecting the Babri Masjid to be demolished during the *Kar Seva* on 6th December 1992. On the basis of the briefings given to him, his expectation was that if at all there was any trouble as a consequence of the *Kar Seva*, it would arise only if the *Kar Sevaks* were restrained by force from doing the *Kar Seva* and that too after they returned to Bombay. In view of the undertaking given by the Chief Minister of Uttar Pradesh to the Supreme Court, he did not expect any danger to the Babri Masjid during *Kar Seva* on 6th December 1992.

1.2 After learning of the demolition, he got in touch with the Commissioner of Police and the Home Secretary and apprised himself of the situation in Bombay. He could not return to Bombay immediately because of the ongoing Legislative Assembly session at Nagpur and communal riots breaking out in Akola and Nagpur on 7th December 1992 resulting in police firing there. The Assembly session came to an end in the afternoon of 7th December 1992 and he immediately returned to Bombay.

1.3 According to Shri Naik, the reasons for breaking out of trouble in December 1992 were : (a) strict action taken by his Government against the criminal underworld elements in Bombay, (b) the campaign of demolition of unauthorized structures carried out by the Municipal authorities and (c) the demolition of Babri Masjid.

1.4 The Government had immediately requested the army to be on alert. The Government requested for army assistance and the army had deputed some columns for Flag March during December 1992. The army authorities did not send all the army columns as requested, but sent them in twos or threes at a time. On 8th December 1992, two army columns were received, on 9th December 1992 one Column, on 10th December 1992 two columns, on 12th December 1992 seven columns and on 13th December 1992 two columns were received. Between the period 14th December 1992 to 20th December 1992, the Government had at its disposal 14 army columns. After the situation cooled down, between 20th December to 27th December 1992, nine army columns were sent back; two army columns were returned on 30th December 1992, leaving three army columns on 30th December 1992.

1.5 When the riots broke out on 6th January 1993, the Government had, at its disposal, three army columns. On 7th or 8th January 1993, Commissioner Bapat moved the Government to requisition 40 army columns as he felt that because of the widespread measure of the riots it will be difficult for the police to handle the situation. The Defence Minister, Shri Sharad Pawar, was in Bombay on 8th or 9th January 1993 and Shri Naik got

in touch with him and impressed upon him the Government's urgent need for forty army columns. It is the stand of Shri Naik that the army authorities were unwilling to undertake the task of handling communal riots on the ground that it was no part of their job. Even during January 1993, the army columns were received as under :

7th January 1993 — 3 Army Columns

8th January 1993 — 5 Army Columns

9th January 1993 — 6 Army Columns

Thus on 9th January 1993, the Government had at its disposal 17 army columns. These army columns were, however, not used for operational duties (i.e., for dispersal of unlawful assemblies) and were mostly put to use for carrying out Flag Marches. On 10th January 1993, one army column was returned. Since the situation went on deteriorating, further army columns were despatched to the city as under :

11.1.1993 to 13.1.1993 — 14 Army Columns

14.1.1993 to 23.1.1993 — 3 Army Columns

24.1.1993 — 1 Army Column

25.1.1993 to 9.2.1993 — 14 Army Columns

Thus, between 25th January 1993 to 9th February 1993, 48 Army Columns were at the disposal of the Government which were returned on 26th February 1993.

1.6 It is the contention of Shri Sudhakar Rao Naik that mere carrying out of Flag Marches by the army did not have the desired effect of controlling the riots as the rioters resumed their violent activity as soon as the army had marched by. The explanation of Shri Naik for not utilizing the army columns for operational use is that the army authorities had refused to carry out operational duties. He says that it was on account of persuasion by him and the then Defence Minister Shri Sharad Pawar that the army authorities reluctantly agreed on 10th January 1993 to carry out operational duties subject to two conditions, namely, (i) that on each occasion a police officer who was familiar with the local terrain accompanied the army column and (ii) on each occasion the order to take over the situation was given by a civilian officer of the rank of District Magistrate. It is the grievance of Shri Sudhakar Rao Naik that even after these conditions were agreed to and complied with on and from 10th January 1993, the army officers were reluctant to open fire and hardly did so on two to three occasions. To sum up, according to him, the role played by the army in handling the riot situation was not effective and his Government did not get help from the army in effectively controlling the situation.

1.7 Shri Naik considered *Mahaartis* to be a religious affair and, therefore, could not be banned. Subsequently, though he admitted that *Mahaartis* started as religious activities, but as they gathered momentum, the political content went on increasing and the religious content decreased.

1.8 His analysis of the causes for the January 1993 riots were that the December 1992 riots had caused a rift between the Hindus and Muslims which resulted in Hindus attacking Muslims by way of reaction. According to him, because the police had to carry out large-scale firing against the rioting Muslim mobs in December 1992, the Muslims started the January 1993 riots with an intention to take revenge. The Mathadi murders and the Radhabai Chawl incident were contributory and escalating causes of the communal riots in January 1993.

1.9 Shri Naik was all praise for the police in their effective and efficient handling of the two riots under the supervision of Commissioner S.K. Bapat. According to him, there was no specific reason for transferring Bapat from the post of Commissioner of Police to Member, Maharashtra Public Service Commission (MPSC), though such transfer had been done abruptly without even consulting the Director General of Police as per usual practice. He admitted that, after the January 1993 phase of the rioting, he had received a number of delegations of prominent citizens who voiced criticism of the manner in which the police had handled the situation and complained that the police had acted in a partisan manner against the Muslims. He also agreed that some of the persons in the delegations had complained against Shiv Sena and Bal Thackeray's role in the riots and

requested for arresting Bal Thackeray and some of the Shiv Sainiks and taking strict action against them to control the riots. He, however, did not think such action to be appropriate nor did he make any enquiry with them as to why they were blaming Bal Thackeray and Shiv Sena for the trouble. None of the prominent citizens had made a similar grievance or request about any other organisation or its leaders. He did not consider that abruptly transferring Bapat from the post of Commissioner of Police at that juncture would tarnish Bapat's reputation or demoralize the police force. Finally, he admitted that it was an arbitrary or capricious decision on his part and, in retrospect, he regretted it. Though Shri Naik denied that Bapat had been posted as Commissioner of Police superseding his seniors, this appears to be so from the evidence of Amarjeet Singh Samra (Witness No.498). He admits that the decision to transfer Commissioner Bapat to the post of Member, Maharashtra Public Service Commission was an important decision.

1.10 The relief camps for riot victims were organized mainly by the non-Governmental Organisations (NGOs) and the Government had only helped them in their work.

1.11 According to Shri Naik, he had no knowledge that Shiv Sena had a record of being involved in communal violence. His relations with Shiv Sena were good like those with any other political party. He was, however, quick to dispute the claim of the Shiv Sena that the Congress and the Leftist Parties had followed a policy of appeasement of Muslims which resulted in the rift between the Hindus and Muslims in this country.

1.12 According to him, he had never spoken to Thackeray about the communal riots. Various news reports from *Saamna* shown to him were denied by him as incorrect and false. He had taken a conscious political decision that Shiv Sena should not be banned and Thackeray should not be arrested, though wherever an actionable case was made out, his Government had instituted cases against *Saamna* and Thackeray.

1.13 He admitted that during the course of interview given by him to Haroon Rashid, editor of *Urdu Blitz*, when Haroon Rashid asked him the question as to whether the police and Shiv Sainiks were hand-in-glove during January 1993 riots, it was possible that he might have replied that he agreed to some extent with that claim, though he did not recall the full details of the interview. It was also possible that some such cases of Shiv Sainiks and police being hand-in-glove during January 1993 riots might have been brought to his notice and therefore he might have given such a reply to Haroon Rashid.

1.14 After his handling of the riots in December 1992 and January 1993, there was a demand made by some of the members of the Congress Legislative Committee for his resignation and he took the stand that he will resign only if the Prime Minister asked him to do so. Actually, the Prime Minister Shri Rao called him to Delhi, and asked him to resign; he tendered his resignation. Neither was he told of the reasons, nor did he ask for them.

1.15 Surprisingly, for a person who holds the office of Chief Minister of a state, Shri Naik displayed ignorance about the proper authority who could give orders to the army unit called in aid of civil authority and said that it would be some authority in the army itself, though he was not able to say what would be the rank of such authority. According to him, he had been continuously requesting Shri Sharad Pawar, who was then in Bombay, to instruct the army to carry out operational duties to contain the riots. Between 8th to 10th January 1993, there were no such instructions given to the army authorities, and on 10th January 1993 such instructions were given as a result of which the army agreed to carry out operational duties. He says Bapat and Additional Chief Secretary (Home), Jambunathan, were daily in touch with the army authorities and pleading with them to carry out operational duties; the efforts succeeded only on 10th January 1993 and immediately upon the army agreeing to do so, State Government issued necessary instructions to Commissioner Bapat.

1.16 Shri Naik denied that he had ever given instructions for issuing the order conveyed by B.C. Message No.414 dated 10th December 1992 [Exh.3176(C)] by which the police were restrained from firing to control the riots.

1.17 He had received complaints that Shri Pachpute and Shri Javed Khan were interfering in police work. After looking into certain instances, he had requested them not to do so and directed the Commissioner of Police to take appropriate action.

1.18 Though the police had given him information about the role played in the communal

riots by agencies like ISI, SIMI and certain other organisations outside and inside the country, they had not given him any specific information about the role of any organisation in Bombay.

1.19 The decision to pay rupees one lakh as compensation to the family members of a person killed in riots, irrespective of his participation in riots, was a conscious decision taken by the Government since the Government was of the view that the family of the deceased would be put to distress irrespective of why the person had died. This amount was subsequently increased to rupees two lakhs during the visit of the Prime Minister.

1.20 According to Shri Naik, when he assumed charge as Chief Minister he had noticed that several criminal elements like Hitendra Thakur and Pappu Kalani, who had been given tickets by the Congress Election Committee headed by Shri Sharad Pawar, had gained respectability as MLAs. This had an adverse effect on the administration of the Government and affected adversely the morale of the State Government officers dealing with law and order and was responsible for the organized criminal gangs becoming bolder in their operations. When he became the Chief Minister, he tried to break this nexus between politicians and criminals. Demolition of unauthorized structures was part of this strategy.

1.21 There was no discussion between him and the then Governor Shri C. Subramaniam about the two riots and he had merely read in the newspapers the statement imputed to Shri Subramaniam that there was a presence of foreign hands in the communal riots of December 1992 and January 1993. He had neither enquired from him the reasons for his statement, nor was he informed of them.

## 2 Sharad Govind Pawar

2.1 Shri Sharad Pawar was Chief Minister of Maharashtra and in-charge of Home portfolio for considerable length of time till he was inducted into the Union Cabinet as Defence Minister in June 1991. His intimate knowledge of the political and administrative intricacies in Maharashtra cannot be doubted. He was also a Member of the Special Advisory Group appointed by the Prime Minister of India to advise the Prime Minister in connection with the developments arising out of the Ram Janambhoomi-Babri Masjid disputes. His group was daily briefing the Prime Minister on the developments taking place in the country on the days immediately preceding 6th December 1992.

2.2 It is the assessment of Shri Pawar that in view of the large number of *Kar Sevaks* which were expected to gather at Ayodhya on 6th December 1992, if the *Kar Sevaks* took the law into their hands and caused harm to the Babri Masjid, the repercussions would be felt all over the country. Sometime in November 1992 itself, he had alerted the Director General of Military Operations, Defence Secretary and Chief of Army to these possibilities during discussions and gave them instructions that, if there was a request from any State Government for deployment of army units in aid of civil authority, the army units should be kept ready for such deployment. On 20th November 1992, the army headquarters had issued a general alert to all concerned authorities.

2.3 During the first phase of the riots, Shri Pawar came to Bombay on 7th or 8th December 1992 in the night and took a quick tour of Kurla, Govandi and Ghatkopar areas for a first-hand assessment of the situation. He was also briefed about the situation by Commissioner Bapat.

2.4 It was the view of Shri Pawar that for a couple of months prior to 6th December 1992 the atmosphere in the city had been vitiated on account of the continuing programmes of *Ram Paduka poojans* and *Chowk Sabhas* carried out by the *Hindutvawaadi* parties. The demolition of the Babri Masjid, despite the assurance given by the Prime Minister and the undertaking given by the Chief Minister of Uttar Pradesh that no harm would come to it, and the wide T.V. coverage given to this incident were bound to make the Muslims angry and react, possibly even violently, against the establishment and Government. Such actions were not necessarily Hindu-Muslim communal incidents in his opinion. He advised Commissioner Bapat about his views and requested him to keep this background in mind while handling such incidents. He also told him that law and order was a state subject and the Government of India would not interfere in the discretion exercised by the police and the State Government, but would render any assistance if sought.

2.5 He left Bombay for Delhi the next day as his presence was required urgently there.

According to him, the assistance of army during the December 1992 phase of the rioting had not been requested at all, though the army authorities had been alerted. Apart from one telephonic communication, Shri Pawar says he had no discussions with Chief Minister Shri Naik about the riot situation in December 1992.

2.6 Shri Pawar pointed out that the constitutional obligation of maintaining law and order in a state is that of the State Government and, if the law and order situation goes beyond control, it is open to the District Magistrate to request the nearest army authorities to call the army in aid of civil authority and that the Defence Minister does not come into the picture at all. The request, if any, made to the Defence Minister is only for the purpose of impressing upon him the urgency of the situation which could be conveyed to the army authorities.

2.7 In the evening of 7th or morning of 8th January 1993, there was a meeting called by the Prime Minister in which the situation in Bombay was discussed. The Prime Minister instructed Shri Pawar that his presence in Bombay would probably help in faster restoration of law and order. Accordingly, Shri Pawar came to Bombay sometime in the evening of 8th January 1993 and continued to remain in Bombay between 8th January to 13th or 14th January 1993.

2.8 He had asked Commissioner Bapat why he was not making use of the army units and his reply was that for the last three days he had been trying to impress upon the State Government to do so. There was discussion with him and the Chief Minister at the Chief Minister's residence on 8th/9th January 1993. Shri Naik raised two points : (a) that the State Government had already requisitioned the army columns to control the situation and (b) that merely carrying out Flag Marches was of no use and the army must actually take control of the situation. Additional Chief Secretary (Home), Jambunathan, GOC-In-C, General Kalkat and Sub-Area Commander, Major General Shivale, and some other cabinet colleagues of Shri Naik were present. General Kalkat pointed out that under law the army column could take charge of a situation for restoring law and order only if a written instruction to that effect is given by the District Magistrate.

The Chief Minister reiterated his stand that time had come for the army units to take control of the situation. General Kalkat reiterated that army units were willing to do so if : (a) a police officer familiar with the terrain accompanies the army unit and (b) a District Magistrate accompanying the army column gives such written instructions. Both suggestions were accepted by the State Government and appropriate instructions were passed on to the Commissioner of Police. A suggestion was made in the meeting on behalf of the State Government that the entire control of the city or at least of some parts be handed over to army. The army officers pointed out that this was not possible under law; while the army could act in aid of civil authority, the civil authority had to remain in control all the time. As a result of discussions, it was decided that a junior police officer would be invested with the powers of District Magistrate so that he could accompany the army columns for both purposes. The next day, or on 10th January 1993, Bapat informed Shri Pawar that he had received clearance for use of the army for operational duties from the State Government and he had passed on necessary instructions to all police officers.

2.9 Shri Pawar maintained that there was no complaint made to him by Shri Naik that the army was not making available sufficient number of army columns to the State Government. He pointed out that the army had to deploy its army columns from the nearest cantonments and the responsibility of despatching army columns for the territory from Kerala to Rajasthan was that of the GOC and C Southern Command, who was of the view that it would not be possible to deploy all the required number of columns at the same time, as they had to be mobilized from different cantonments depending on logistic convenience.

2.10 Shri Pawar regretted that Shri Naik in his deposition had unfairly criticized the role of the army in giving assistance to the State Government in handling the riots. He placed on record a letter dated 21st December 1992 [Exh. 3406(C)], addressed by Chief Minister Shri Naik to the Prime Minister with a copy to the Defence Minister stating that there was excellent co-operation rendered by the army authorities and the presence of army instilled a sense of confidence in the public and helped the law and order machinery to achieve its goal. Shri Pawar wondered as to why suddenly in January 1993, the role of the army should be criticized. He pointed out that the issue as to how many army units are required to be deployed for effectively handling the law and order situation is entirely



within the discretion of the army authorities and the Defence Minister was nowhere in the picture, though he was briefed about the situation from time to time.

2.11 A number of citizens called on Shri Pawar while camping at Bombay and leaders of both communities, Hindus and Muslims, met him. The general view communicated to him during those visits was that the Muslims were feeling insecure because of the situation existing then.

2.12 Shri Pawar denied that there was any feud between him and Shri Naik which had resulted in non-cooperation and deterioration of the situation.

2.13 As a Defence Minister, who was aware of the national security ramifications, Shri Pawar maintained that in his view there was no foreign hand behind the riots of December 1992 and January 1993, though he was aware that, unfortunately, such a statement has been by Shri Subramaniam, the then Governor of Maharashtra. When he read the news item, he contacted Additional Commissioner, V.N. Deshmukh, then in-charge of SB-I CID, and Deshmukh told him that he had not briefed the Governor on the issue. He had also discussed the issue during the security resume meeting with the Defence Secretary, Foreign Secretary and three Chiefs of Services. He was briefed that there was no evidence about foreign hand and that the riots were on account of reaction to the demolition of Babri Masjid.

2.14 Shri Pawar did not agree that *Mahaartis* were religious programmes, in view of the fact that they were utilized for making communally provocative speeches. His firm view was that the Commissioner of Police should have taken notice of this development and banned the *Mahaartis*. He pointed out that the Commissioner of Police in Nashik had banned the *Mahaartis* during the relevant time. His view was that the *Mahaartis* were held deliberately to tease and annoy the Muslims by raking up the old issue of *Namaaz* on the streets. *Mahaartis* surcharged the atmosphere in the city. Against this background, the Mathadi murders and the Radhabai Chawl incident were dis-proportionately and aggressively reported by news papers like *Saamna* which even went to the extent of giving a call to Hindus to come out on the streets. This definitely contributed to the communal riots during January 1993.

2.15 The adverse criticism of the police for the handling of the December 1992 riots, irrespective of the element of truth in them, was inopportune. When the situation was so volatile, such criticism by the media was bound to erupt in communal violence and demoralize the authorities. The fact that during the December 1992 police action the maximum number of casualties was of Muslims might have given a feeling to the Muslims that, not only was demolition of Babri Masjid not prevented, but the police machinery was also against them, which view might have strengthened because of the media criticism of the police. He was equally critical of the violent and aggressive acts of Muslims on 6th and 7th December 1992. He pointed out that incidents of celebration rallies, *Ghantanaad* programmes and the incident of arson of number of Muslim huts were aggravating factors.

2.16 In the assessment of Shri Pawar, initially, the pent up of anger of Muslims was vented by the Muslims against the Government and Government establishments, due to the feeling of let down by the State and police machinery. At that stage there was nothing anti-Hindu in it. The *Ghantanaad* and celebration rallies must have angered the Muslims and turned that protest into a communal one. He deplored the attempt of Bal Thackeray to take credit for the demolition of the Babri Masjid by saying that he was proud of what had happened. Such statements made by senior leaders of political parties are bound to cause a flare up in the communal situation. He was of the firm view that, whatever merits of the criticism of the police or the action at Babri Masjid, responsible leaders ought not to have made such statements in public nor should the media have played them up, irrespective of their truth. He also deplored the publishing of photographs of arms seized from rioters as adding fuel to the communal fire.

2.17 Shri Sharad Pawar accepted that political leaders do call upon their followers to come on to the streets, but then what is conveyed is a peaceful protest within the framework of law and order. He maintained that the call given by Thackeray in *Saamna* to the Hindus to come on the streets impliedly conveyed that the Hindus should take the law into their own hands in the context.

2.18 It was the view of Shri Pawar that outstanding issues like Ram Janambhoomi or Babri Masjid, or proposed contentious issues like Kashi and Mathura, should be resolved

amicably across the table by the contending sections without the leaders of either section inciting their followers on the issue. If this restraint is not observed by political leaders, then the secular fabric of the country would be seriously eroded.

2.19 He has also made some valuable suggestions to the Commission which the Commission shall have occasion to consider while making its recommendations.

### 3 Manohar Gajanan Joshi

3.1 He is the Chief Minister of the Shiv Sena-Bharatiya Janata Party Government which was installed in March 1995. He is also one of the *Netas* of the Shiv Sena, and a member of its decision making body. He was the signatory of the Statement of Case filed by the Shiv Sena which was finalized by a committee of three persons consisting of himself, Shri Sudhir Joshi and Subhash Desai.

3.2 Shri Manohar Joshi was examined with a view to ascertain the correctness of some assertions which had been made by Shri Sarpotdar in his evidence. Shri Joshi admitted that Shiv Sena had sent volunteers for *Kar Seva* at Ayodhya and he was one of the persons leading the group. He understood *Kar Seva* to mean "service to God". Shiv Sena *Pramukh* Bal Thackeray had given a directive that Shiv Sainiks should volunteer to go for *Kar Seva* at Ayodhya on 6th December 1992. He had given a press interview about this fact.

3.3 He admits that the *Mahaartis* in the city were organized by the Shiv Sena and Bharatiya Janata Party and that he had participated in some of the *Mahaartis*.

3.4 Shri Joshi has explained the expression "retaliation" used in the Statement of Case of Shiv Sena. He says that this word has been used as a synonym for the Marathi word "*pratikriya*" (reaction). According to him, it has been used to denote a spontaneous and natural reaction to the incidents that were taking place. The use of the expression "constructive retaliation" in the Statement of Case denotes that "the retaliation was not intended to be destructive, but was for the purpose of self-defence and, therefore, constructive". He expounded it by saying that Muslims had tried to take revenge by terrorizing and frightening Hindu masses by using the demolition of Babri Masjid as an excuse "merely because the Hindus had picked up the courage to retaliate". He was candid enough to say that while he appreciates the theory of retaliation as far as it concerns self-defence of individuals, beyond that he does not accept this theory. He admitted that retaliation against some innocent persons in Colaba, because some innocent persons in Jogeshwari were killed, would be as improper as the retaliation carried out in the city to the demolition of the so-called Babri Masjid. He had to admit that he would not be able to categorically assert that the "retaliation" which took place in January 1993 was restricted only towards miscreants who had indulged in communal violence following demolition of the Babri Masjid. He also claimed that the retaliation was spontaneous and in self-defence in some places and agreed that it was possible that it was not confined against persons who were themselves guilty of communal violence.

3.5 Shri Joshi agreed that the function of maintaining law and order in a constitutional democracy is that of the State and cannot be arrogated by any individual or organisation. He also agreed that if a person commits a wrong then the citizens in a democracy are expected to bring it to the notice of the State machinery and that person would be appropriately punished by the judiciary. Finally, he agreed that even if retaliation was spontaneous, it must be carried out in a constitutional manner and within the frame-work of law. He accepted that to the extent the retaliation came about in incidents of communal riots and violence, it was not done in a constitutional manner within the frame-work of law. Even the bomb explosions of 12th March 1993 were by way of retaliation which was unconstitutional and outside the frame-work of law.

3.6 Though Shri Joshi admitted that the *Mahaartis* were organized by Shiv Sena, Bharatiya Janata Party and other Hindu organisations, he claimed to be unaware if there were any instances of Shiv Sainiks returning from *Mahaartis* having attacked establishments of Muslims in the adjoining areas. He claims that while it may be true that the police had filed cases for rioting and communal violence against some Shiv Sainiks in some places, these were not carried out by them under the directions of Shiv Sena.

3.7 Shri Joshi accepted that if Muslims are likely to be hurt by calling them "*landya*" when referring to them, then such a term should not be used since they would be likely to be offended by it. He tried to explain the use of the expression "*landya*" used in *Saamna* while

referring to Muslims, as having been possibly done while describing cruel and grisly incidents like Radhabai Chawl and Mathadi murders, which usage had to be understood in the context. It was also accepted by him that no Shiv Sena leader had ever given such clarification in public. Shri Joshi maintained that he did not agree with everything said in the *Saamna*.

3.8 The decision to withdraw the cases filed under Section 153A of the Indian Penal Code against *Saamna* and its Editor Bal Thackeray was taken by the Government under his approval. The cabinet had taken a decision to withdraw all cases filed against Thackeray after review of different individual cases. The Government was of the view that continuation of the prosecutions launched against different persons under Section 153A of IPC for inflammatory and communal writings would amount to reopening of old wounds which had almost healed. It was for this reason that his Government decided to withdraw all such prosecutions launched during riot periods. In doing so they had taken a clue from the judgment of the Division of the Bombay High Court in Criminal Writ Petition No.465 of 1993. An appropriate application was moved before the concerned Magistrate for withdrawal of prosecutions against Bal Thackeray and the learned Magistrate had given such consents.

3.9 Though this witness was examined by the Commission in order to clarify a few points which remained obscure in the light of the evidence given by Shri Madhukar Sarpotdar, this witness was subjected to lengthy cross-examination by all counsel who wanted to project their respective political points of view. The witness turned out to be more than a match for them and succeeded in strongly projecting the Shiv Sena's political point of view. The Commission is not concerned with such political points of view and, therefore, the bulk of his evidence would be of no assistance to the Commission.

#### 4 Madhukar Raghunath Sarpotdar

4.1 Shri Madhukar Raghunath Sarpotdar (Witness No.393) was examined by Shiv Sena. This witness was the sitting MLA representing the Kherwadi constituency which comprised Nirmal Nagar and Kherwadi jurisdictions. According to him Behrampada, a slum located on the Eastern side of Bandra Railway Station, is an unauthorized squatters' colony on railway land which has continued there because of the obstructions caused by previous M.P., Shri Sunil Dutt, to the efforts of the Railways to clear it out. He says that the entire hutment is a den of criminals and houses several illegal Pakistani and Bangladeshi aliens, though their number may not be very large. He had raised this issue on the floor of the Vidhan Sabha, though without giving any particulars. He claims that once the matter was raised on the floor there was no need to give any evidence as it is considered to be authentic. Though he did not have the accurate number of illegal aliens, he had correspondence with the then Chief Minister and Senior Police Inspector Zende of Nirmal Nagar Police Station. During the riot periods he had never come across a single illegal alien carrying out any communal or illegal activity.

4.2 According to Shri Sarpotdar, the residents of Behrampada used to terrorize the Hindu employees working in the Maharashtra State Electricity Board, Indian Oil Corporation, Provident Fund Commissioners office and so on, who commute on Anant Kanekar Marg by assaulting them. He also says that the criminal elements from this area used to terrorize the Hindu residents of the buildings abutting Behrampada. During the period of riots he met Zende and kept complaining about the anti-social elements residing in Behrampada. He also complained that a large number of criminals from Behrampada were responsible for murders and, if combing operations are carried out, all would be flushed out. Here again, apart from making general statements, he did not produce any material on which police could have acted. Though he claimed that several residents had complained to him, he could name only one Mohd. Qureshi and produced a letter dated 19th June 1993 written to him (Ex. 2612-SS). He also produced copies of his correspondence with the then Chief Minister and Senior Police Inspector about the illegal aliens of Behrampada.

4.3 Apart from being an MLA, he is also a *Neta* and member of the policy-making body of the Shiv Sena. He has given the hierarchy in Shiv Sena starting from *Shakha Pramukh* of local *shakhas* to the Shiv Sena *Pramukh* Bal Thackeray. All officials of Shiv Sena, from *neta* to *shakha pramukh*, are appointed by Bal Thackeray on the recommendations of *netas*. Shiv Sena *Pramukh* is not concerned with the day-to-day working of Shiv Sena. Issues are decided locally by *Shakha Pramukhs*, or *Vibhag Pramukhs* etc. and only the important issues are decided by *netas* and Shiv Sena *Pramukh*. According to the

constitution of Shiv Sena, Shiv Sena *Pramukh* has the authority to alter, vary, modify, reverse, affirm or veto any decision taken by lower levels.

4.4 According to this witness the violent incidents occurred during December 1992 only between the rioters and police and therefore they were not communal incidents, but incidents of January 1993 were communal incidents.

4.5 Shiv Sena had no attitude towards the violent incidents of December 1992 though it had taken the stand of 'helping police' by giving them food, shelter and protection. Though the policemen themselves did not specifically ask for help, there were several occasions when Shiv Sainiks felt that the police should be 'helped'.

4.6 According to him, in the areas falling within his constituency, other than Muslim dominated areas like Behrampada, Navpada, Hussain Tekdi and Golibar, the largest property damage was of Muslims.

4.7 According to him, the Ram Janmabhoomi-Babri Masjid dispute was old and the disputed structure was not a masjid, but only a tomb. In his capacity as a individual citizen, as a Hindu, as a Shiv Sainik, and as a *neta* of Shiv Sena, his view was that its demolition was the right thing and could not have caused any distress as it was only a political issue.

4.8 In connection with the breaking of Ganesh idol on Anant Kanekar Marg, he had written a letter to Senior Police Inspector Zende of Nirmal Nagar Police Station giving the names of the suspects as Rais, Gullu and Dilawar. The names were given to him by some residents of Sai Krupa Zopadpatti who had met him on earlier occasion. He said that he would have disclosed the names of his source of information, if the police had asked him about it. But, police did not enquire with him anything about this information. He admits that possibly the breaking of the Ganesh idol might have been the work of some persons who were interested in deliberately provoking communal riots (agents provocateur).

4.9 The witness says that Shiv Sena or Shiv Sainiks had nothing to do with the reinstallation of Ganesh idol and he and his wife were merely the invitees at the function on 27th December 1992. He claimed to have been a part of the procession of carrying Ganesh idol from the Ram Mandir at the northern tip of Khernagar only for a short while. While he admitted that the local leaders of Shiv Sena were present outside the mandir, he claimed ignorance about whether they had given speeches in that gathering. He also said that he had not heard any speeches and slogans outside as he was all along busy with the religious ceremonies inside the mandir. The police claim to have filed a case (vide C.R.No.300 of 1992) in which charge-sheet has been filed, Shri Sarpotdar said that he had absolutely no knowledge of such a case. He admitted the presence of Deputy Commissioner of Police Ingale in the procession. The version of Ingale about what transpired during the procession contradicts Shri Sarpotdar's evidence. Similarly, his claim that Additional Commissioner of Police Deshmukh had telephoned him at his residence granting him permission for the procession on behalf of Commissioner Bapat is also doubtful, as this is denied by Deshmukh in his evidence. Though he admits that it was his responsibility to ensure that no slogans likely to injure or hurt the sentiments of people belonging to other communities were given, he did not hear any such slogans at all, nor did any of the police officers tell him that objectionable slogans were being shouted. He also said that he did not care to read what was written in placards, though the evidence on record suggests that the placards contained inciting material including a declaration that the terror of Shiv Sena was the true guarantee of peoples' safety. When the contents of his speech delivered on 27th December 1992 as recorded in Mill Diary Entry (Ex.2282-C) was put to him, he did not deny the contents, but only made a grievance that true meaning of the speech could not be ascertained unless the context was kept in mind. After being confronted with evidence of filing of charge-sheet in the criminal case against him, he said that FIR must have been filed under political pressure and that its contents were untrue and gave a distorted version of the incident.

4.10 Shri Sarpotdar claimed total ignorance about the death of Hindu miscreants Sanjay Kadam near Vishwakarma building on Saibaba road in police firing; nor was he aware that Anil Sutar was shot down by Police Sub-Inspector Amar Desai when he attacked Police Sub-Inspector Amar Desai with a chopper.

4.11 Though he must have attended the urgent close-door meeting held in Shiv Sena Bhavan on 31st December 1992, his memory lapsed as to what transpired there.

4.12 According to him the Shiv Sena had taken no policy decision regarding holding *Mahaartis*; people started *Mahaartis* spontaneously and that the only support came from Shiv Sena was by participating in the *Mahaartis*.

4.13 With regard to his being apprehended by military on 11th January 1993, while being in possession of an unlicensed fire arm, his stand was that he had a fully licensed weapon, that the military personnel after stopping his car and making him get out made him stand at a distance facing the other side and therefore he was not aware whether any other fire-arms were recovered from the vehicle in which he was travelling. His explanation is that he and all other persons travelling with him were active trade unionists and they had met together in his office for some urgent work and were proceeding ahead. Presence of hockey sticks is explained by him as requested for self-defence.

4.14 As far as the incident of alleged private firing at the time of *morcha* to the Nirmal Nagar Police Station on 11th January 1993 is concerned, Sarpotdar was busy inside the room of Senior Police Inspector having discussions and he only heard about the private firing incident.

4.15 On the issue as to whether Shiv Sena was exhorting people to register themselves as *Kar Sevaks* as directed by Bal Thackeray, his evidence is unreliable and contradicted by the evidence of Shri Manohar Joshi. His evidence that the boards put up at different *shakhas* were put by local *Shakha Pramukhs* without informing any of the higher-ups, also cannot be accepted.

4.16 Shri Sarpotdar propounded an interesting theory of 'retaliation' adopted by Shiv Sena, namely, that because innocent people were attacked in Jogeshwari, other innocent people could be attacked in Colaba by way of retaliation. He conceded that retaliation against any community would not be a democratic way, though it may be a natural reaction and that if people did so it would lead to a situation of taking law into their own hands.

4.17 He accepted that in view of its wide circulation the editorials in *Saamna* were capable of moulding public opinion in Bombay.

4.18 When confronted with the interview given by Bal Thackeray to *Time* magazine, published in its issue dated 25th January 1993, this witness maintained that the views were not the views of Bal Thackeray because Thackeray had issued a denial in that respect and, in any case, he did not subscribe to the views expressed therein.

4.19 The witness was forced to concede that *Mahaarti* started to pressurize the Muslims to give up *Namaaz* on roads would be politically motivated *Mahaarti* because use of loudspeakers on masjids and *Namaaz* on streets was itself a politically motivated activity. Though he agreed that wide-spread looting and damaging of establishments of Muslims by people dispersing after *Mahaarti* was bad, he had no explanation as to why this happened.

4.20 The stand of this witness on whether Shiv Sena had sponsored *Mahaartis* also appears to be unreliable and contradicted by the other evidence on record, including the photographs of Manohar Joshi leading *Mahaarti* in Dadar area (Ex. 3019-JEU), and the photograph from *Saamna* dated 2nd January 1993 (Ex. 3021-JEU) and Shri Joshi's evidence itself.

Mumbai

Dated 16th February 1998

Justice B.N. Srikrishna