

सत्यमेव जयते

REPORT
OF THE
THREE-MEMBER COMMISSION
OF INQUIRY

Headed by

**SHRI JITENDRA NARAIN, FORMER JUDGE
PATNA HIGH COURT**

To enquire into

**THE COMMUNAL DISTURBANCES THAT TOOK
PLACE IN APRIL 1979. IN AND AROUND
JAMSHEDPUR**

August, 1981

P R E F A C E

This Commission was constituted by the Government of Bihar notification no. S.O. 903, dated the 15th of May, 1979 to inquire into the communal disturbances at Jamshedpur in the wake of the Ram Navami festival of the year 1979.

2. The services of Shri Ganesh Prasad Sinha, A.D.M., were placed at the disposal of the Commission for utilisation as Secretary of the Commission. He had previous experience of working of other Commissions of Inquiry and he did his best to ensure smooth working of the Commission.

3. Amongst the members of the staff special mention has to be made of Shri M. P. Sinha, Peshkar and the three P.As. Sarvshri B. P. Singh, S. N. Sahay and S. Mushtaq Ahmad. They rendered excellent service to the Commission and enabled it to keep to the schedule of work. Without their ungrudging help it would not have been possible to complete inquiry of this vast magnitude.

4. The Report of the Commission was drafted after full deliberations amongst the members and the Chairman at their joint meetings. One of the members, Shri S.Q. Rizvi, was to go abroad on the 16th August and so he signed the fair and the two carbon copies on the 12th August, 1981. Every page of the Report has been sealed with the seal of the Commission and the typographical errors have been corrected by me in ink.

5. The Commission is grateful to the State Government for making the Civil Defence Building, P.W.D. Inspection Bungalow and the World Bank Rest House at Jamshedpur available for its sittings and office and for stay of the Chairman and the two members and to the local administration for providing transport facilities, etc. within their limitations.

PATNA :
August 31, 1981.

J. NARAIN,
Chairman.

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LIST OF ABBREVIATIONS

1. Deputy Inspector-General of Police	D.I.G.
2. Deputy Commissioner	D.O.
3. Superintendent of Police	..	..	..	S.P.
4. Subdivisional Officer	..	..	..	S.D.O.
5. Deputy Superintendent of Police	..	..	..	D.S.P.
6. Officer-in-charge	..	..	..	O.C.
7. Police Station	..	..	..	P.-S.
8. Police Information Room	..	..	..	P.I.R.
9. First Information Report	..	..	..	F.I.R.
10. Written Statement	..	..	..	W.S.
11. Central Reserve Police	..	..	..	C.R.P.
12. Bihar Military Police	..	..	..	B.M.P.
13. District Armed Police	..	..	..	D.A.P.
14. Ordinary Reserve	..	..	..	O.R.
15. Tear Gas	..	..	..	T.G.
16. Exhibits	..	..	..	Exts.
17. Govt. exhibits	..	..	..	G. Exts.
18. Commission witnesses	..	..	..	C.W.
19. Samity witness	..	..	..	S.W.
20. Government witness	..	..	..	G.O.W.
21. R.S.S. witness	..	..	..	RSSW

CHAPTER 1

INTRODUCTION

1.1. In exercise of the powers conferred by section 3 of the Commissions of Inquiry Act, 1952 (Act 60 of 1952), the State of Bihar issued the following notification dated 15th May 1979 :—

“NOTIFICATION

Patna, the 15th May, 1979

S.O. 903—Whereas the State Government is of opinion that it is necessary to appoint a Commission of Inquiry for the purpose of making an inquiry into a definite matter of public importance, to wit, the communal disturbances that have occurred in and around Jamshedpur since the 11th day of April, 1979;

Now, therefore, in exercise of the powers conferred by section 3 of the Commissions of Inquiry Act, 1952 (No. LX of 1952), the Governor of Bihar hereby appoints a Commission of Inquiry consisting of the following persons, namely :—

- (1) Shri Jitendra Narain, Retired High Court Judge—*Chairman*.
 - (2) Shri P. P. Agrawal, I.C.S.(Retired), Former Secretary to Government of India—*Member*.
 - (3) Shri S. Q. Rizvi, I.P.S. (Retired), Former Inspector-General of Police, Bihar—*Member*.
2. The terms of reference of the Commission shall be as follows:—
- (a) To enquire into the facts and circumstances including the causes and course of communal disturbances in and around Jamshedpur in April, 1979.
 - (b) To enquire if the aforesaid disturbances were pre-planned, and if so, the elements responsible for the same.
 - (c) To enquire if there was apprehension of disturbances from before and whether administrative measures taken to prevent and deal with the said disturbances were adequate.
 - (d) To consider such other matters relating to these communal disturbances as the Commission may think fit and proper.
 - (e) To recommend measures which may be adopted for preventing recurrence of such disturbances.

3. The Governor of Bihar is further pleased, in exercise of the powers conferred by sub-section (1) of section 5 of the said Act, to direct that all the provisions of sub-sections (2), (3), (4) and (5) of the said section 5 shall apply to the Commission.

4. The Commission shall submit its report by the 30th September, 1979.

5. The headquarters of the Commission shall be at Jamshedpur.

By order of the Governor of Bihar,

N. K. P. SINHA,
Special Secretary to Government.”

1.2. Subsequently by notification no. S.O. 1134, dated the 10th July, 1979, the Governor of Bihar was pleased to appoint Shri Samir Kumar Ghosh, former Chairman of the Tripura Public Service Commission, as a member of the Commission in place of Shri P. P. Agrawal.

1.3. A notice dated the 19th July, 1979 was published in English, Hindi and Urdu papers inviting individuals and persons acquainted with the subject-matter of the Inquiry to furnish a statement of facts by the 18th of August, 1979 and fixing the 21st August, 1979 as the date of the preliminary sitting of the Commission.

1.4. On account of Ramzan and Id-ul-Fitr festivals the Commission had to take the view that the date for the preliminary sitting on the 21st August and for local inspection on the following days should be extended. Accordingly, 29th August, 1979 was fixed for the preliminary sitting and 30th and 31st August and 1st September, 1979 for inspection. This was notified to the general public by means of necessary notice as was done on the previous occasion.

1.5. The preliminary sitting of the Commission was held in the Meeting Hall of the Civil Defence Office, Jamshedpur on the 29th August, 1979. On behalf of the Government officials it was submitted that the venue of the Commission should be shifted to Patna or Ranchi so that the witnesses may be in a position to depose without fear or favour. The proposal was opposed by some of the parties and the Commission observed that it was not necessary to pass any order in that regard and that the matter would be considered as and when the situation arose. A prayer was also made on behalf of Government officials for four weeks' time to file written statement.

1.6. By the 24th September, 1979 a number of parties had filed their written statements but again no written statement was filed on behalf of the Government officials.

1.7. After hearing the parties on the 24th and 25th September, 1979, the Rules of Procedure to be followed by the Commission were settled (vide Annexure A to this Report).

1.8. Since some of the parties, including the Government officials, had not filed their statement of facts and prayed for time and also because Hindu festivals of Dussehra and Diwali etc. intervened, the next sitting of the Commission was fixed for the 7th November, 1979.

1.9. Government notification extending the term of the Commission till the 29th February, 1980, was received on the 20th November, 1979. The next sitting of the Commission from the 10th December, 1979 was then notified to the general public through the medium of the Press.

1.10. After hearing the parties on the 10th December, 1979, it was agreed that the following would be treated as parties before the Commission. For the sake of convenience the symbol shown against each party was adopted :—

1. Shri Dina Nath Pandey, M.L.A.	..	..	..	D.N.P.
2. Jamshedpur Janch Ayog Sahayak Nagrik Samity	..	..	..	Samiti
3. Rashtriya Swyamsewak Sangh	..	..	..	R.S.S.
4. Shri R.P. Sarangi, M.P.	..	..	..	R.P.S.
5. Central Co-ordination Committee for Commission	..	..	..	C.C.C.
6. Jamaet-Ul-Ulema-I-Hind	..	..	..	J.U.H.
7. Anjuman Faizul Ghurba	..	..	..	A.F.G.
8. Government Officials	..	..	..	G.O.
9. C.P.I. Singhbhum	..	..	..	C.P.I.
10. Jamshedpur Citizens Council	..	..	..	J.C.C.

1.11. After hearing the respective cases of the parties the Commission held local inspection of the route of the procession from the Dimna Basti on 13th December, 1979 in the presence of lawyers concerned. The memorandum of inspection and the map of the locality are Annexures B and B-1 of this Report. Some of the parties wanted the Commission to make inspection of selected places even before the commencement of oral evidence. For this purpose 21st January, 1980 was fixed. A long adjournment had to be given because of ensuing Parliamentary elections.

1.12. On the 21st January, 1980, when the question of local inspection was taken up, the Advocate-General wanted the matter to be taken up next day as he had to obtain certain instructions from the local authorities. Certain other preliminary matters were taken up and orders passed.

1.13. On the 22nd January, 1980, the Advocate-General submitted that for administrative reasons local inspection may not be held till the 31st March 1980. The prayer was allowed. The Commission thereafter commenced the examination of witnesses from the 23rd January, 1980.

1.14. On the 24th January, 1980, Youth Congress(I) which had already filed their written statement on 18th August, 1979, prayed that they might also be included in the list of parties as due to their being busy in election work no appearance could be made earlier. Their further prayer was that they might be allowed to file 11 copies of the written statement on 11th February, 1980. The prayer was allowed. Symbol Y.C.(I) was allotted to them. Thus, the total number of recognised parties before the Commission went up to 11.

1.15. The hearing was resumed on 18th February, 1980 which continued up to 23rd February, 1980. On the 23rd February, 1980, the Advocate-General, Bihar, appeared and submitted that in public interest and due to other administrative reasons, the sitting of the Commission may not be held in the month of March, 1980. As such, the hearing was adjourned to the 7th April, 1980.

1.16. After hearing the parties the Commission took the view that the question of local inspection be deferred till the conclusion of oral evidence.

1.17. Due to the Assembly elections and other administrative reasons the sitting of the Commission had to be postponed for some days and the next sitting commenced on the 23rd June, 1980 and continued on subsequent days.

1.18. On the 22nd August, 1980, a letter from Home (Special) Department, Government of Bihar, was received requesting that for administrative reasons the sitting of the Commission be adjourned till the 10th September. Government order extending the term of the Commission beyond the 31st August was received only on the 10th September, 1980 and accordingly the next date of the sitting of the Commission was fixed from the 22nd of September, 1980 and it commenced on that date.

1.19. The Government of Bihar in the Home (Special) Department issued notification no. 2196, dated 21st August, 1980 amending the rules in pursuance of the Commissions of Inquiry Act. According to the amendment, a new rule was inserted after rule 5 which reads as follows:—

“(6) A Commission may sit in public or in private as it thinks fit :
Provided that a Commission shall sit in private on a request being made by the State Government in that behalf.”

1.20. The State Government made the required request and in view of the imperative nature of the proviso to Rule 6, the sittings of the Commission commenced being held in private from the 23rd September, 1980 onwards.

1.21. By letter dated 4th February 1981, the State Government withdrew their request made on the 19th September, 1980 in regard to the holding of the sitting of the Commission in private. On the 23rd February, 1981, the aforesaid letter was considered. The Commission was of the view that since the Government had withdrawn their request, it was now in the discretion of the Commission to hold its sittings in public or in private. Consequently, the Commission after hearing the parties, decided to follow its usual method in regard to holding the sittings in public as was being done prior to 4th October, 1980. Examination of witnesses in public commenced from the 26th February, 1981.

1.22. Commencing from the 23rd January, 1980 and till the 16th of May, 1981, the Commission held 104 sittings for recording of evidence of 40 witnesses on behalf of four parties to the Inquiry running over 953 pages of deposition and admitted 369 documents as exhibits covering 728 pages. The Commission also examined 2 witnesses on its own. The reason why and the circumstances in which three of the parties to the Inquiry did not examine any witness will appear from Chapter 2 on "Limitations in the progress of the Inquiry". So far as the other parties to the Inquiry are concerned, after filing written statements they either dropped out altogether or left after cross-examining some of the witnesses only. All this placed an additional burden and responsibility on the Commission and it had, on its own, to scrutinise 1030 pages of written statements filed on behalf of the parties to the Inquiry. Arguments on behalf of the various parties continued for 18 days and concluded on 22nd June, 1981. The parties did not press for local inspection after the close of the hearing. Accordingly no further local inspection was held. A list of witnesses and other details referred to above, have been set out as Annexures C,C-1 to the Report.

CHAPTER 2

LIMITATIONS IN THE PROGRESS OF THE INQUIRY.

2.1. There cropped up certain factors which contributed to the delay in the progress of the Inquiry. Some of these were general and others peculiar to the conduct of this Inquiry.

2.2. The parties, including Government officials, took an inordinately long time in filing their Written Statements in response to the notice dated 19th July, 1979 calling upon them to do so. Examination of witnesses could commence only on the 23rd January, 1980. It was open to the public.

2.3. Delay in concluding the examination of witnesses was due to circumstances beyond the control of the Commission. The local administration and the State Government felt that an otherwise placid atmosphere of Jamshedpur would get disturbed by the revival of old memories if examination of witnesses was taken up in the proximity of any Hindu or Muslim festivals. Accordingly, it was prayed on behalf of the State Government or the local administration that the sitting of the Commission be not held for the period, say, 15 days before and some days after the festivals. To quote one instance, during 1980 Ram Navami fell on 24th March, 1980. Accordingly, the Advocate-General appeared and submitted on 23rd February 1980 that in public interest and due to other administrative reasons, sittings may not be held in the month of March. The prayer was granted.

2.4. This state of affairs continued throughout the sittings of the Commission and was responsible for sittings being adjourned from time to time.

2.5. Despite great endeavour on the part of the Commission, hearing could not be held *de die in diem* since almost all the Counsels representing the various parties were lawyers practising outside Jamshedpur as indicated below:—

1. Shri A.K. Datta, Shri Jay Narayan and Shri Hari Kishore Thakur, Senior Counsels for the Government officers and their Juniors practise at Patna.
2. Shri Sultan Niazi and Shri Ehsan-ul-Haque, Senior Counsels for the C.C.C. practise at Kanpur (U.P.)
3. Shri Syed Hassan Imam and Shri Nasim Ahmad, representing the Jama'iet-Ul-Uleme-I-Hind practise at Calcutta and Patna respectively.
4. Shri Thakur Prasad representing the R.S.S. along with his junior practises at Patna.
5. Shri V.K. Kanth representing the Samity practises at Patna.
6. Shri Shakil Ahmad Khan representing the C.P.I. practises at Patna.
7. Shri Badruzzaman Khan appointed by the State Government to look after the interests of the minority community practises at Hazaribagh.

2.6. In order that case of no party went by default, request for adjournments made by learned Counsels had to be conceded to at times. Then there were long interruptions in the sittings of the Commission due to the Assembly and the Parliamentary elections.

2.7. The hearing of the Commission entered a new phase as a result of the insertion of Rule 6 in the Rules framed by the Bihar Government in pursuance of the Commissions of Inquiry Act. Notification of the Government of Bihar in the Home (Special) Department is dated 21st August, 1980. The State Government made the required request and the proviso to Rule 6 being imperative sittings of the Commission began to be held in private from the 22nd September, 1980 onwards.

2.8. On 30th September 1980 the C.C.C filed a petition before the Commission to recall the order of holding the sittings in camera. One of the reasons assigned for making the prayer was that the witnesses were not speaking the truth since the public were not there to watch them. After hearing the Counsels of the parties and the Advocate-General, the Commission took the view that there was no substance in the objections raised and in any case the decision of the Commission to continue the sittings in private could not be modified. The order dated 4th October 1980 passed by the Commission is Annexure 'D' to this Report.

2.9. On 5th October, 1980 three petitions one on behalf of the J.U.H., the other on behalf of the C. C. C. and the third on behalf of the C.P.I., were filed. In its petition the J.U.H. prayed that in view of the order rejecting the prayer to withdraw the Commission's order of holding its sittings in private, the cross-examination of witnesses by them be deferred for the day. The C.C.C. stated that they were withdrawing themselves from the Inquiry on account of the exclusion of the public from sittings and would remain out so long as the sittings were held in private. The petition on behalf of the Singhbhum District Council of the C.P.I. was on terms similar to the one filed by the C.C.C. on the situation, so arising, the Commission heard the learned lawyers representing the various parties. On behalf of the Government officers it was submitted that regard being had to the kind of allegations made against the Government officers, who had been examined by the Commission in private, it would not be possible for them to produce further witnesses for their examination. The submission amounted to saying that the thrust of the grievances of the C.C.C. against the Government Officers was that because of the exclusion of the public from the sittings, officers were resiling from the statements filed on their behalf and that such an allegation would be levelled all the more if even the lawyers were not physically present. In view of the abnormal situation the Commission adjourned its sittings on this date and decided to sit after the Puja holidays, that is, from the 28th October, 1980.

2.10. On the 27th October, 1980, a petition on behalf of the C. C. C. was received at Patna, saying that a writ petition under Articles 226 and 227 of the Constitution of India, had been filed before the Patna High Court against the order of the Commission passed on 4th October, 1980 and it was likely to come up for admission after the 3rd November, 1980. A prayer was made that the sitting of the Commission be adjourned till the 4th November, 1980. The Commission, after hearing the parties, took the view that the contention of the C. C. C. was without any substance since, both on considerations of propriety and justice, there was no reason why the sitting should be adjourned.

2.11. On behalf of the J. U. H. a prayer to adjourn the sitting of the Commission till the 4th November, 1980 was made. This also had to be rejected. On the 29th October, 1980, another petition on behalf of the J. U. H. was filed stating that as a result of deliberations amongst the members of the J. U. H. and some important members of the public they had decided that cross-examination of the Government witnesses by J. U. H. be adjourned till the 4th November, 1980. It was, however, made clear on their behalf that they were neither against nor in favor of the Inquiry being held in private or in public. But the Council for the J. U. H. declined to cross-examine the witnesses.

2.12. Thus the Commission was faced with a delicate situation since there was none to represent the minorities before the Commission and consequently none to cross-examine the witnesses on their behalf. The result would have been a one-sided inquiry, what confidence the general public would have reposed on the findings arrived at on an evidence, which had not been tested by cross-examination and where no evidence was produced on behalf of one of the aggrieved parties.

2.13. As far back as on 21st May, 1979, i.e. immediately after the Chairman had taken over charge, he had impressed upon the State Government to appoint a lawyer for the Commission. This would have met a contingency of this kind.

No lawyer on behalf of the Commission was, however, appointed then. Later, on 3rd November 1981 a lawyer for the commission was appointed but his services were not available to the Commission beyond 23rd February, 1980 probably because his appointment was terminated. On 8th May, 1980 Shri Badruzzaman Khan, advocate, was appointed by the State Government to look after the interests of the minority community. For the first time, he appeared before the Commission on 12th May, 1980. Finding no alternative, the Commission called upon Shri B. Z. Khan to render assistance to the Commission in proceeding with the Inquiry. Working under some constraints, he cross-examined some of the witnesses on behalf of the minorities. But, on the 12th January, 1981 when the S. P. was to be cross-examined on behalf of the minorities, Shri B. Z. Khan filed a petition expressing his inability to cross-examine the witnesses from that date onwards. When asked by the Commission to state the reason for his inability to do so, Shri Khan submitted that it was for want of instructions from the minority community.

2.14. Finding no alternative and with the dominant intention to ascertain the true facts which, without the appearance on behalf of the minorities, was difficult to gauge, the Commission conveyed to the State Government by its letter, dated the 17th January, 1981, the developments that had taken place from time to time consequent on the proceedings of the Commission being held in private and also suggesting an alternative arrangement. Much against its wishes the Commission adjourned the hearing on 12th January, 1981 and addressed another letter to Government since its previous letter on the subject had not been replied to. Ultimately, by letter dated 4th February, 1981 the State Government withdrew their request made on the 19th September, 1980 in regard to the holding of the sitting of the Commission in private. The Commission, thereupon, after given notices to the parties, commenced its sittings from the 23rd February, 1981. From that date onwards the sittings continued to be in public.

2.15. Next followed another development which operated to delay further the progress of the Inquiry. The C. C. C. and the J. U. H. prayed that witnesses who had already been cross-examined when the sittings were held in private, be recalled and allowed to be cross-examined by them. Ultimately, they confined their request to the cross-examination of the S. D. O. only. The S. D. O., in fact, had been cross-examined at length by Shri B. Z. Khan for 6 days covering 42 pages. He had covered all the points. Any way, in the interest of justice the Commission took the view that the C. C. C. and the J. U. H. should submit a list of questionnaires to be put to the S. D. O. and the questions should be such as had not been covered in the cross-examination conducted by Shri B. Z. Khan. The Commission itself was to put those questions to the S. D. O. If further made it clear that during the interrogation of the S. D. O. by the Commission, the C. C. C. and the J. U. H. would be free to suggest supplementaries also. In spite of this concession, the C. C. C. withdrew themselves entirely from the proceeding. The J. U. H., however, submitted a list of questions which were put to the S. D. O. and his answers were elicited.

2.16. One more aspect of the inquiry needs to be recorded. Mention has already been made of the fact that the C. C. C. withdrew their participation in the proceedings. This was after cross-examination by them of 28 witnesses on behalf of the Government officers. Thereafter 5 more witnesses on behalf of Government officers and 7 on behalf of other parties, including Shri D. N. Pandey, M. L. A., were examined. Their cross-examination was not done by C. C. C. The J. U. H. began participating and cross-examining the witnesses from 27th February, 1981. Thus, twelve witnesses remained without cross-examination by the C. C. C. There was, however, no witness whose cross-examination was not done on behalf of the minority, may be, through the agency of Shri B. Z. Khan. Even after the hearing was resumed in public the C. P. I. did not make any further appearance.

2.17. The J. U. H. had proposed to examine some witnesses on their behalf. But, on 23rd April, 1981, they filed a petition saying that they did not propose to examine any witness since the witnesses were not agreeing to come to the witness box apprehending dire consequences in case they adduced any evidence before the Commission. The above depicts the limitations under which the Commission had to function,

CHAPTER 3

JAMSHEDPUR.

3.1. Nestled on the foot of the Dimna Hills and washed on two sides by the rivers Swarnrekha and Kharkai, the steel city of Jamshedpur is served by the South-Eastern Railway and National Highway No. 33. It is situated at a distance of 430 K. Ms. from Patna. It has a landing ground also. It is 530 feet above the sea level. The population has now gone up to an estimated figure of 7.53 Lakhs covering an area of 66.82 square miles. Of them about 1.61 Lakhs are Muslims. This modern city of Jamshedpur with its well laid out roads, bungalows, schools, hospitals, parks, markets and other civic amenities owes a lot to the Tata Iron and Steel Co. Ltd.

3.2. Besides the Tata group of companies known as the Associated Companies of Jamshedpur, there is the National Metallurgical Laboratory, the Government Magnesium Plant and well over thirty medium and small factories and plants manufacturing various kinds of commodities. Special mention may be made of Telco, Indian Cable Co., Indian Tube Co., Tata Robins Fraser Ltd., Indian Steel and Wire Products, Agrico etc. All this has contributed to place Jamshedpur at a dominant position in the industrial map of the country and earned for it the name of the Steel City.

3.3. The beautiful Jubilee Park set up to commemorate T. I. S. Co's Golden Jubilee covers an area of 300 acres and has its own lake and a 120 feet tall fountain in its centre, children's garden, rose garden, threeter Moghul garden and many other attractions.

3.4. There are a large number of schools in the town established by the Company as well as by the Government. They meet the demands of the local population. Mention may be made also of two Mission schools—one for the boys (Loyla School) and the other for the girls (Sacred Heart Convent) which are English-medium schools. Then, there are a number of colleges for boys as well as for girls which are duly recognised by the Ranchi University.

3.5. Besides the well established Tata Main Hospital, there is a Government Hospital which caters to the medical needs of the general public. There is also a Medical College known as the Mahatma Gandhi Memorial Medical College. There is also an Engineering College known as R. I. T., Jamshedpur.

3.6. Jamshedpur can really be considered to be a complex of four separate towns—Jugsalai, Mango, Aditypur and in their midst Jamshedpur proper. River Swarnrekha on the north divides Sakchi P. S. from Mango P. S. and is linked with an overbridge. River Kharkai flows on the western side and acts as a dividing line with Aditypur P. S. of Seraikella subdivision. There is an overbridge connecting Aditypur with Jamshedpur.

3.7. As regards Civil administration, this town is the Headquarters of Dhalbhum subdivision with a Subdivisional Officer and forms part of Singhbhum District with Headquarters at Chaibassa. The Police administration of Jamshedpur town is under a Superintendent of Police.

3.8. The maintenance of civic amenities in the city has been the responsibility of the T. I. S. Co. from the beginning and is still being looked after by them. It is to be noted that the history of Jamshedpur is one of steady expansion to keep pace with the expansion of the plant, of ever better organisation, of constantly improved services. The Town Department of T. I. S. Co. looks after the entire municipal administration of the town. There is a Notified Area Committee for Jamshedpur town which was established in the year 1924 with powers under the Municipal Act.

3.9. There are 11 Police Stations in Jamshedpur. Of them Mango, Jugsalai and Persudih Police Stations do not fall within Jamshedpur Notified Area Committee and are, therefore, not looked after by the T. I. S. Co. as far as their civic amenities including lighting, water supplies etc. are concerned. Thus although by Jamshedpur Town we mean all the eleven Police Stations, Mango, Persudih and Jugsalai do not form part of the Jamshedpur Notified Area Committee. There is a separate municipality for Jugsalai and Notified Area Committee for Mango P.-S. Persudih P. S. is the Panchayat area falling under Jamshedpur Block.

3.10. An exclusive feature of the population of this town is the presence of a very sizeable cosmopolitan population in the urban areas. Life and society in Jamshedpur has thus generally been of a cosmopolitan character and a large chunk of the Steel City's population consists of the working classes who live in amity and peace amongst themselves.

3.11. In 1964, however, there was a communal disturbance in Jamshedpur. Riots started from Calcutta and spread throughout the industrial belt of Eastern India going up to Madhya Pradesh. After 1964, the Muslims began to think of living in concentrated habitations instead of remaining scattered all over Jamshedpur in isolated pockets.

3.12. Incidents of communal tension and violence began to appear from time to time after the events of 1964. During the years 1975 to 1978 they occurred on the occasions of Hindu religious festivals. In 1977 a communal tension had arisen because a Muslim had kidnapped a Hindu girl. The incident of 1978 was over the construction of a mosque.

3.13. The area and approximate population thanavise of Jamshedpur Police District at the relevant time were as follows:—

DETAILS OF AREA AND POPULATION THANAWISE OF JAMSHEDPUR POLICE DISTRICT (ESTIMATED).

Serial no.	Name of P. S.	Area in sq. miles.	Population.		Total.
			Hindu.	Muslim.	
1	2	3	4	5	6
1	Mango	6.00	38,295	27,174	65,169
2	Sakchi	2.50	37,232	9,308	46,540
3	Sitaramdera	2.50	32,096	5,663	37,759
4	Sidgora	2.50	37,538	2,823	40,361
5	Golmuri	3.70	54,883	23,520	78,403
6	Teleo	7.48	68,859	15,120	83,979
7	Bistupur	3.80	32,569	13,957	46,526
8	Kadma	2.80	36,465	6,435	42,900
9	Sonari	2.20	28,208	1,485	29,693
10	Jugsalai	7.34	1,53,975	51,325	2,05,300
11	Persudih	26.00	71,733	4,578	76,311
Total		66.82	5,91,853	1,61,388	7,53,241

CHAPTER 4

ADMINISTRATIVE MEASURES TAKEN FOR MAINTENANCE OF LAW AND ORDER DURING RAM NAVAMI FESTIVAL OF 1979.

4.1. Jamshedpur town has 11 Police Stations within its fold. The town has a previous history of communal disturbances which had taken place in the year 1964 and had enveloped most of these Police-Stations. As such, every precaution used to be taken so that festivals like Ram Navami, Holi, Bacrid, Moharram, etc. passed off peacefully.

4.2. In the year 1979, Ram Navami festival fell on the 5th of April and the Ram Navami Jhanda processions in Jamshedpur town were to be taken out on the 6th of April, 1979. Hanuman Jayanti fell on the 11th of April, 1979.

4.3. As per the instructions given by the S. P., Jamshedpur and the D. C., Singhbhum, Thana Level Peace Committee meetings of members of both the communities were held in all the Police-Stations well ahead of the 6th of April, 1979.

4.4. The Thana level Peace Committee meeting of Mango P.-S., held on 30th March 1979, was presided over by the S. P. and attended by the S. D. O. and the D. S. P. The meetings held in the other P.-Ss. were presided over by the respective O.Cs.

4.5. In respect of the Ram Navami festival of 1979 and according to the normal practice, different Thanas sent forecast reports to the S. P. On the basis of these forecasts, the S. P. made his assessment and forwarded his report dated 23rd March 1979 to D. I.-G., Ranchi, with copies to the Divisional Commissioner, I.-G. of Police and others for information. In this forecast report the S. P. had asked for and additional force of 5 companies of B. M. P./C. R. P. and two hundred Urban Home Guards, in addition to the force already available in the district. The D. I. G., Ranchi recommended that the quantum of police force asked for by the S. P. should be made available.

4.6. On the basis of the forecast reports the S. D. O. sent his own assessment in his report dated 24th March 1979 to the D. C., Singhbhum with regard to the requirement of posting of Magistrates for law and order arrangements connected with the Ram Navami festival. Finally, the D. C. issued orders dated 27th March 1979 for the deputation of Magistrates for law and order duties. Similarly, and on the same lines, the S. P. issued separate orders dated 2nd April 1979 for the deputation of Police Officers and armed police for law and order duties. These deputation orders were to take effect from the afternoon of the 3rd of April, 1979.

4.7. On 30th March 1979, the S. P., the S. D. O. and the D. S. P. concerned attended the Thana level Peace Committee meeting of the Mango P.-S., as the dispute over the route for the Dina Basti Akhara procession, raised in the previous year, could again be a sensitive issue that year. As a matter of fact, the demand for the same route was raised but it was decided that a joint inspection of the site would be held by the S. D. O. and the D. S. P. and their recommendation would be accepted by all concerned. The inspection was held on 2nd April 1979 and the S. D. O. and the D. S. P. recommended an alternative route along the Sankhoshahi Relief Road emerging on the Dimna Road and thence to the Mango Chowk and the Swarnrekha Bridge, thereby completely by-passing Road No. 14.

4.8. On 2nd April 1979, a meeting of the Central Peace Committee was held in the premises of the Civil Defence Office. This was attended, amongst others, by the D. C., S. P., S. D. O. and representatives of both the Communities. The route recommended by the S. D. O. and the D. S. P. was announced as the route granted in this meeting, to which no objection was raised.

4.9. On 3rd April 1979, a meeting was called by the S. P., in his office which was attended by the Police Officers. They were asked to be firm and alert during the Ram Navami festival.

4.10. On the 5th of April, some persons of Mango P.-S. area, including some of the licencees met the S. D. O. and informed him that the processions of Mango P.-S. area would not be taken out on the due date unless the Dimna Basti procession was allowed to be taken by the route asked for and they handed over a petition (Ext. G0/210) to him, It reads as follows :-

"A joint meeting of all Akhara Samities falling under the Mango P.-S. area was held on 5th April 1979 at 8 a.m. in Bajrang Mandir in which it was unanimously resolved that unless the Dimna Basti procession is not given a license to proceed through Road No. 14, no Jhanda from Mango area would be taken out nor any festivities celebrated."

The petition bears the signature of Shri Jogendra Kumar Nirala describing himself as the Secretary of the Sanyukt Bajrang Bali Akhara Samity, Mango.

4.11. At the time the petition was handed over to the S. D. O., 8 to 10 persons, including Shri B. K. Trivedi, Janardan Sharma, R. P. Singh and J. C. Murmu, were present. The S. D. O. tried to persuade them not to make an issue of the route and warned them that if law and order is disturbed by their action, strict measures would be taken against them. They promised to reconsider the matter.

4.12. On account of these developments, the S. D. O. alerted all the Police-Stations to ensure that the processions in their jurisdictions were taken out on the due date. The O. Cs. of all the Police-Stations, including Mango, reported back after contacting the licencees that they had been assured that the processions would be taken out on the due date.

4.13. In all only 11 processions of Telco, Persudih and Jugsalai Police-Stations were taken out on 6th April 1979. The other 68 licencees declined to take out their processions unless the Dimna Basti procession was allowed to be taken out through Road No. 14.

4.14. When, due to the grievances of the Hindus over the route granted for the Dimna Basti procession of Sona Ram Manjhi, processions were not taken out on 6th April 1979, a meeting was held in the P. I. R. (Sakshi P.-S. and the P. I. R. are in the same premises) in the evening of 6th April 1979. This meeting was attended by the S. P., S. D. O. and other Officers and public representatives including Md. Ayub Khan, M. L. A., Kartik Kumar, M. L. A. and Dr. M. K. Akhauri, Licencees and organisers of the Jhanda also attended the meeting. Representatives of both the communities including the licencees and the Akharawallas assured the administration that they would try to see that the processions were taken out. In the meeting which was presided over by the D. C., he made it clear that there was no possibility of change of route of any procession and that the demand made in respect of change of the route of the Dimna Basti procession cannot be accepted. He also appealed to them to maintain communal harmony.

4.15. After this meeting was over, the D. C. convened another meeting of officers at the same place in which the S. P., S. D. O., D. S. P. Circle Inspectors, O. Cs. of Police-Stations and others were present. The D. C. explained to them the stand of the administration and the unreasonableness of the demand for the route of Dimna Basti Jhanda procession. He further told them that they must be every firm and strict in handling the law and order situation. He particularly reiterated the instructions to the C. Cs. to take steps for arresting anti-social elements, goondas and rowdy elements and make raids for the recovery of illegal arms and ammunition.

4.16. On the 7th of April at about 9 A.M., the S.D.O., received information that some licences had blocked a road in Jugsalai Police Station by planting their Jhandas thereupon. Necessary steps were taken to disperse the crowd and remove the obstruction.

4.17. On the 8th of April, prohibitory orders U/Ss 144 Cr. P. C. applicable to the entire Jamshedpur Police district was issued and duly promulgated.

4.18. On 8th April 1979, a Joint Signal was sent by the S.P. and the D.C. to Government in the Home Department and others for immediate deputation of 5 Companies of B.M.P./C.R.P. and 25 Police Officers. By 11th April 1979 the following force was available in Jamshedpur :—

5 Companies of B.M.P./C.R.P.
80 men of D.A.P.
135 men of O.R.
260 Home Guards.
4 Sections of T.G. Squad.

The force available till then was short of the total assessed requirement by 2 Companies.

4.19. On 9th April 1979 a meeting of officers was held at about 9 A.M. at the residence of the S.D.O. to review the situation which was attended by the S.P., officers of the district and others. Thanawise review of the situation was made. Previous instructions regarding firm handling and dealing with anti-social elements as also recovery of illegal arms were re-emphasised. It was also decided that even licensed fire-arms of persons from whom trouble was apprehended, should be got deposited with the authorities. After this review fresh deputation orders are issued by the D.C. as well as the S.P. keeping in view the latest situation. At that meeting the problem of the leaflet (Ext. GO/6), which had been in circulation in the town, was discussed.

4.20. There was an attempt to have a Jamshedpur Bund on the 9th of April, 1979. One person was arrested in this connection.

4.21. In the afternoon of the 9th, the Commissioner, Ranchi Division and the D.I.G. of Police, Ranchi arrived. They held a meeting of local officers in the Circuit House. The incidents that had taken place and the administrative action taken so far as also various instructions issued to the local officers were conveyed to the Commissioner. The Commissioner told them that he had talks with the Home Commissioner and Government was of the view that so far as license through Road No. 14 was concerned, the matter was not negotiable, but steps would have to be taken to remove the stalemate. To this effect, the Commissioner wanted the willing co-operation of the people. In pursuance of the above discussions a meeting of the prominent citizens of Jamshedpur of both the communities was held in the evening in the Circuit House. It was made clear to all present that the stand of the administration on licence through Road No. 14 was not negotiable but they were advised to take necessary steps for finding out a solution. The officers were assured of co-operation by the invitees.

4.22. Sona Ram Manjhi could be contacted only in the morning of the 9th of April. He gave an assurance that he would take out the procession on the 10th of April through the licensed route, but he became untraced on the 10th and the procession was not taken out on that date.

4.23. On the 10th of April, a meeting of the members of both the communities was held in the Circuit House. The same day at about 4.30 P.M., the Commissioner and the D.I.G., came to the P.I.R. and after holding discussions gave directions that

strict action should be taken against anti-social elements and for unearthing of illegal arms and weapons. They also gave directions for gearing up the Civil Defence Organisation. After this meeting the Commissioner, D.I.G., D.C., S.P. etc. and others visited Mango P.S. and saw Dimna Basti and all possible routes. During that visit it was brought to their notice that an alternative route was in sight and a compromise acceptable to all was possible. The Commissioner told them that if the agreement on an alternative route was voluntary and acceptable to both the communities, the authorities will have no objection to accept it.

4.24. In the night of the 10th of April, a meeting of members of both the communities of Mango and other areas was held at Mango Police Station and around midnight the S.D.O. was informed that a compromise had been arrived at about the route of the procession. The S.D.O. was accordingly requested to come to Mango Police Station. He came to the P.S. along with the S.P. and the D.C. The S.D.O. is clear that the meeting had been held in a cordial atmosphere. A written agreement was drawn up and signed by the participants present there. A photostat copy of the agreement is Ext. GO/212.

4.25. The agreement, *inter-alia*, states as follows :—

- (1) Route.—The Dimna Basti procession will pass through Road no. 15 and then through Road No. 14 and Pooja will be performed at the house of Mr. Prasad and again after proceeding through Road No. 14 it will reach the New Purulia Road.
- (2) Procession.—The procession will consist of only local residents of Roads No. 14 and 15. Other people will join the procession on the Main Road....
- (3) The present agreement has been drawn up in order to remove mutual distrust.
- (4) ***
- (5) ***
- (6) After 12th April 1979, that is this year's Ram Navami Jhanda processions, neither the Moharram procession nor the Ram Navami Jhanda would be taken out through Road No. 14. In future both the processions will be taken out through Road No. 15.

4.26. The agreement bore the signature of different persons, including that of Shri Sona Ram Manjhi and members of both the communities.

4.27. After this meeting when persons had left the Mango P.S., the officers got down to reinforce the arrangements already made at the Mango P.S. area for the passage of the procession in the light of the agreement.

4.28. Arrangements were also made for screening of people coming to Mango area from Jamshedpur side, by deputing section of armed force at the Mango Bridge under a Magistrate Mr. P. N. Jha and an Inspector of Police.

4.29. The Jhanda of Sonaram Manjhi of Dimna Basti Akhara was taken out at about 8 A. M. on 11th April 1979 and reached the New Purulia Road at about 9.15 A.M. After the procession had moved further up to the Yadava Petrol Pump on the New Purulia Road, it got stalled and a demand was raised for the release of B.K. Trivedi and other persons arrested earlier. The events that followed have been discussed in detail later in Chapter 9 of this Report. In spite of the D.C. making the best possible efforts to get the procession moved and cleared through the New Purulia Road, according to the schedule drawn up earlier, the procession was held up with the result that communal disturbances flared up, which gradually engulfed another Police Stations.

4.30. Faced with the eruption of arson and violence on a massive and extensive scale on the one hand and the inadequacy of available force on the other, and with the apprehension of the trouble escalating, the D.C. and S.P. thought it prudent and necessary to call for the aid of the Army. Accordingly, the D.C., in consultation with the S.P., requested the Divisional Commissioner who was at that time in the P.I.R., at Jamshedpur to contact the local Army Commander for the Army's assistance. At 2 P.M. on 11th April 1979 the Divisional Commissioner contacted the officiating officer Commanding the local Army unit available at Jamshedpur and requested him for the Army's assistance in controlling the situation. The same day at about 2.30 P.M. the Commissioner contacted on telephone the General Officer Commanding at Ranchi. Army was deployed in different troubles areas as the situation demand.

4.31. Curfew was imposed in the entire city from 2 P.M. on 11th April 1979 till 6 P.M. of the 12th. For the first time, on 14th April 1979, curfew was relaxed in Bistupur Police Station area from 9.30 A.M. to 1.30 P.M. Curfew was further relaxed in different Police Stations on the 15th April. 16th April witnessed further improvement in the situation and the curfew was relaxed in different Police Stations for longer periods. Curfew was completely lifted from all the Police Stations some time in the month of June, 1979. The Army was derequisitioned in different stages between the 24th and the 30th of April, 1979.

CHAPTER 5

LAWS RELATING TO RELIGIOUS PROCESSIONS.

5.1. Right of procession is not specifically guaranteed by the Constitution of India. The Indian Law is a corollary from the right of assembly and the individual right of user of a Highway (Public road). The right of assembly, of course, is guaranteed by Article 19(1)(b) of the Constitution of India which says that all citizens shall have the right to assemble peacefully and without arms. The use of a highway is for the purpose of passing and repassing and since an individual has that right, any number of persons may also pass together in a procession so long as the corresponding right of others is not substantially affected, that is, so long as there is not a material obstruction of traffic.

5.2. The Law in England sets out that since every person has the right to pass and repass a highway, a number of persons has the same right collectively in a procession. But a procession may become unlawful not only when it causes a breach of the peace or constitutes an unlawful assembly but also when it causes a public nuisance.

5.3. *Pari passu*, every Indian citizen has also the right to pass and repass a highway. Collectively, in a procession also, persons have the right to pass and repass the highway. This right is available to the general public but a procession becomes unlawful when it suffers from any of the common objects set out in section 141, I.P.C. or it causes an unreasonable obstruction to the traffic.

5.4. In Indian Courts restriction on the movement and conduct of religious processions have been debated for quite a long time. There are judicial pronouncements thereupon including those of the Privy Council and of the Supreme Court. In this connection, reference must be made to the earliest pronouncement of the Privy Council in case *Manzoor Hassan and Others Vrs. Mohammad Zaman and Others* (1925 P. C. page 36). The facts of the case were as follows.

5.5. In the town of Aurangabad there were two sects of Mohammadans i.e. the Shias and the Sunnis. According to their religious customs the Shias take out procession in Moharram and they also perform the ceremony called 'MATAM' which means that they stop for a little while and wail. The Sunnis also take out Moharram processions but they do not do 'MATAM'. In Aurangabad from time immemorial the procession of the Shias passed along a certain public road which passed behind the back of a mosque used by the Sunnis. The Sunnis interfered with the procession and alleged that it disturbed their devotion in mosque. The matter was brought to Court and ultimately it was taken to the Privy Council. The Privy Council posed a question. Is there a right to conduct a religious procession with its appropriate observances along a highway? The reply given was in the affirmative. In doing so they quoted with approval the observation of Turner C. J. of Madras High Court in I. L. R. 5-Madras-304 (*Pathasarathy Aiyenger Vrs. Chinna Krishna Aiyenger* which runs thus :

'persons of whatever sect are entitled to conduct religious processions through public streets so that they do not interfere with the ordinary use of such streets by the public and subject to such directions as the Magistrate may lawfully give to prevent obstructions of the thoroughfare for breaches of the public peace.'

Reference next be made to another case of the Privy Council in *Martin and Co. and another Vrs. Syed Feyaz Hussain and Others* (1944 P.C.—page 33). The following observations made are relevant :—

"The plaintiffs have the right as members of the public to take part in religious processions in the streets; subject of course to the rights of other members of the public to pass and repass along the same streets and subject to the powers of the appropriate authorities of controlling traffic and preventing disturbance."

5.6. Coming nearer home, Supreme Court also in *Sk. Piroo Bux and Others Vrs. Kalandi Pati and Others*, reported in 1969 (2) SCR 563, made a similar pronouncement and quoted with approval the judgment of the Privy Council in the aforesaid case of *Manzoor Hassan Vrs. Mohammad Zaman* (1925-PC-36).

5.7. The facts of this case in short were that the villages Nuagaon and Alkund were contiguous villages and they were entitled to take out religious and non-religious processions with appropriate music. The Muslim villagers of the locality had two mosques one in each village abutting the Highway. Till 1952 the plaintiffs of the case had taken out the religious and social processions with appropriate music without any interference in question but they were prevented by the order of the Magistracy at the instance of the Muslims. The plea of the Muslims was that they had fundamental right to offer their prayers in complete calmness without any interferences and they were entitled to oppose the music near the mosque in order to maintain calmness. Before the Supreme Court the Muslims did not challenge the law as settled by the Privy Council in *Manzoor Hassan Vrs. Mohammad Zaman* but made a prayer that direction be given incorporating reasonable restrictions for preserving their right to say their prayers in peace and calmness in mosque. The Supreme Court held that there was no reason why the aforesaid decision of the Privy Council should not be followed and accordingly granted the prayer of the Hindus in the following terms:—

“That the plaintiffs have a right to take out both religious and non-religious processions with the accompaniment of music on the highways of Alkund and Nuagaon villages (1) subject to the order of the local authorities regulating the traffic and (2) subject to the Magistrate’s direction under any law for the time being in force and the right of the public.”

5.8. Thus the legal position crystallises into this that people have full right to take out religious and non-religious procession through a public thoroughfare. This right, however, is not untrammelled. It is hedged or circumscribed by three conditions. The first is that it is subject to the order of local authorities who are responsible for regulating traffic. Secondly, exercise of right must not violate any order of the Magistrate passed under law. Thirdly, there be no infringement with the right of the public.

5.9. That the local authorities, namely, the Police and the Magistracy are possessed of an authority to impose reasonable restrictions and prescribe the route by which a procession may pass, also flows from the provisions of section 30 of the Indian Police Act, 1861 which is reproduced below:—

“POLICE ACT, 1861.

Section 30—Regulation of public assemblies and processions and licensing of the same

- (1) The District Superintendent or Assistant District Superintendent of Police may, as occasion requires, direct the conduct of all assemblies and processions on the public roads, or in the public streets of thoroughfares, and prescribe the routes by which and the times at which, such processions may pass.
- (2) He may also, on being satisfied that it is intended by any person or class of persons to convene or collect an assembly in any such road, street or thoroughfare, or to form a procession which would, in the judgment of the Magistrate of the District, or of the Subdivision of a district, if uncontrolled, be likely to cause a breach of the peace, require by general or special notice that the persons convening or collecting such assemblies or directing or promoting such processions shall apply for a licence.
- (3) On such application being made, he may issue a licence specifying the names of the licensees and defining the conditions on which alone such assembly or such procession is to be permitted to take place and otherwise, giving effect to this section: provided that no fee shall be charged on the application form, or grant of, any such licence.”

CHAPTER 6

(a) FACTS RELATING TO THE GRANT OF LICENCE TO SONA RAM MANJHI.

6.1. The issue over the route for the Dimna Basti Akhara procession, as asked for in 1978 and again in 1979, has already been touched upon in Chapter 4 of this Report. We should now like to discuss the matter in greater detail, in order to judge the justifiability or otherwise of the order passed by the administration in respect of the 1979 licence.

6.2. The licence granted to Shri Sona Ram Manjhi in the year 1978 is Ext. Samity/39. According to it the route granted was as follows:—Dimna Basti (Jharkhand Tola) to Pardih on N.H.-33 and then to the New Purulia Road reaching up to the Swarnaekha Bridge. The road connecting Dimna Basti to Pardih on N.H.-33 is a kutchha Road 4 K. Ms. long and the distance from Pardih to the Bridge is about 5 K. Ms. By this route the procession from Dimna Basti would have to traverse a distance of about 9 K. Ms.

6.3. The licence granted in 1979 is Ext. Samity/40. It mentions the route of the Akhara as- Mango Akhara (Jharkhand Colony) through Sankhoshahi Relief Road to Dimna Road and then to Mango Chowk.

6.4. Sankhoshahi is a non-Muslim Basti on the eastern side of the Dimna Basti. The portion which is known as Sankhoshahi Relief Road is level and the Dimna Road is tarred metalled road. The distance from Dimna Basti Akhara to the Swarnaekha Bridge via this road would be about 3.5 K.Ms.

6.5. The route that was asked for by Shri Sona Ram Manjhi both in 1978 and 1979 was from Dimna Basti to Road no. 14 and then to the New Purulia Road. The situation of Road no. 14 commencing from the New Purulia Road side is that it runs for about 150 to 175 yards east, then for a distance of 15 yards north and then it goes for about 85 yards wards east where it ends. The portion between the Dimna Basti and the place where Road no. 14 ends towards east is an undulating parti land. The total distance from the Dimna Basti Akhara to the New Purulia Road through Road no. 14, including the parti land would be about 500 yards. The distance from this point up to the Swarnaekha Bridge is about 3 K. Ms.

6.6. Now as to the the agreed route. The route agreed upon was from the Dimna Basti through a portion of Road no. 15 and then southwards, meeting Road no. 14 and skirting the Jhonpra Masjid and then going west through Road no. 14 to the New Purulia Road.

6.7. The Commission had held a local inspection on 13 December 1979 and it found that the portion of the Road no. 15 was through an undulating path with shrubs on one side and small houses on the other at intervals. The portion where it turns southwards is still narrower and had *Tatties* on both sides up to some distance. The route is indicated by marks A to B, B to B-1, B-1 to C and C to D in the map (Ext. Commu/1) appended to the memorandum of inspection.

6.8. There is evidence on record to show to which community the houses situated on Road no. 14 belong. A suggestion was made on behalf of C. C. C. to S. I. (GOW/9) that the lands of Sultan, Suleman and Latif fell in the *parti* land between the end of Road no. 14 and the Dimna Basti. The witness was not, however, in the know of things. On behalf of the Samity, a suggestion was made that the Jhonpra Masjid was an unauthorised construction and appearing as a sort of obstruction on the route asked for by Sona Ram Manjhi, through Road no. 14. S.-I. Mango P.-S. (GOW/9) denied the suggestion. The case of the Samity is that a land encroachment case in respect of the land on which the Jhonpra Masjid stands is pending in the Court of L.R.D.C. and that the land between Road no. 14 and Dimna Basti originally belonged to Adivasis and that a 20-feet wide stretch of land

had been provided between Road no. 14 and Dimna Basti to come to Road no. 14 and that Ravi Manjhi and Chhotu Manjhi had executed a deed of relinquishment in respect of this portion of their land. Such a suggestion was given to GOW/9 but he was not aware of the fact.

6.9. It has been taken out from S.-I. (GOW/9) that there are some Hindu houses on the road where it starts from the New Purulia Road and that the rest of the houses are of Muslims. At the junction of Road no. 14 and the New Purulia Road is the factory of one Khsla. The next house is of a Hindu. On the northern side of the road is some vacant land, then one Hindu house, then the house of Hit Narain Singh, next the house of a Sardarji, then the house of a Christian-Adivasi and thereafter the house of one Punjabi. To the further east is the house of Vishwanath Prasad and Raghunath Prasad. From the point where Road no. 14 takes a turn towards the north begin the houses of Muslims. There may be 10 or 15 such houses.

6.10. In order to adjudge whether the action of the local authorities in granting licence in 1979 by the route as mentioned in the licence was correct or not, it would be necessary to refer to the High Court judgment in Writ Case no. 280 of 1978 which is reproduced as below:—

“Sona Ram Manjhi and Others—*Petitioners*

verses.

The State of Bihar and Others—*Respondents.*

12 July 1978. The petitioners have come to this Court for directing the respondents, namely the Subdivisional Magistrate of Dhalbhum at Jamshedpur, and the Officer-in-charge of Mango Police-Station, Jamshedpur to allow them to take the Ram Navami procession on and through the Link Road no. 14 to the Main Road, Mango up to Mahavir Temple and then to Ram Mandir of Bistupur. It was contended before us on the 30th June 1978 that the petitioners are prepared to take the Jhanda in a most peaceful manner even with less than four persons and its detention on account of the refusal of the licence through the proscribed route on account of some apprehended trouble was causing unrest. We, accordingly, directed the Learned Standing Council to take instructions in the matter from the local authorities.

(2) Learned Standing Council states that the local authorities have got some apprehension of breaking out of a communal riot in case the petitioners are permitted to carry the Mahaviri Jhanda through the desired route as the road is very narrow and is inhabited by the persons of the minority community. Learned Counsel for the petitioners refutes these allegations. It was also contended on their behalf that simply because people of the minority community may take into their heads to stop the procession carrying the Mahaviri Jhanda, it was not desirable for the authorities to refuse the permission to the petitioners, instead of taking appropriate action against the members of the minority community to refrain from indulging in untoward activities in performing the religious rites by the Hindu which is being performed since a large number of years.

(3) In these circumstances, we are afraid it is not desirable for us to make any final order, and, in our opinion, it will be proper to direct the Subdivisional Magistrate, Dhalbhum at Jamshedpur (Respondent no. 2) to consider the desirability of allowing the petitioners to carry the Mahaviri Jhanda accompanied by only 3-4 persons by giving them adequate protection. This observation, however, would not stand in the way of

exercising the proper administrative discretion by the authority and he will pass such order as he thinks fit and proper taking into account the contentions of the petitioners and the conditions prevailing in the locality.

(4) Subject to the above observations, the application is dismissed.

(Sd.) HARI LAL AGRAWAL
(Sd.) SATYESHWAR ROY."

6.11. There are two significant points in the High Court Judgment. The first is the kind of objection that had been taken by the State of Bihar and Others, who were respondents before the High Court. The second is the kind of order that was passed. It would be noticed that the contention of the respondents was that the local authorities had apprehensions of breaking out of communal riot in case Sona Ram Manjhi was permitted to carry the Jhanda through the desired route as it was populated by persons of the minority community. It will also be noticed that Sona Ram Manjhi and others had represented before the High Court that they were prepared to take the Jhanda in a most peaceful manner even with less than four persons and that refusal of the licence by the desired route was causing unrest. Thus, it is abundantly clear that it was in the public interest and in the interest of the maintenance of peace and tranquility that in 1978 the local authorities did not grant licence through the route desired, i.e., through Road no. 14 via Jhonpra Masjid. The Jhanda procession in 1978 was not taken out as a mark of protest against the desired route not having been allowed.

6.12. The licence for 1979 was granted to Sona Ram Manjhi after a joint inspection was held by the S.D.O. and D.S.P. Shri G.P. Yadav. The D.S.P. had been authorised by the S.P. to issue licence for processions. Representatives of both the communities were present at the time of inspection.

6.13. Before starting for the joint inspection the S.D.O. had received a copy of the petition (Ext. GO/209) signed by a number of Muslims. The petition was to the following effect:—

"With due respect we the following undersigned inhabitants of Sabirnagar, Road no. 14, Mango, P.-S. Mango, Jamshedpur beg to submit the following few facts for your kind consideration and necessary action:—

That Dimna Basti is a separate village which has no direct Road link from Sabirnagar. That is why permission of Mahaviri Jhandas of Dimna Basti was allowed through National High Way last year in 1978.

That Sabirnagar is a village of entire Muslim population and there is also a mosque on the way side.

That till now never any Jhanda was allowed to cross through this village.

That till now cases of Article 107 are continued on both groups of people, i.e. Hindus and Muslims in connection with last year's Mahaviri Jhanda of Dimna Basti.

That still there is apprehension of breach of peace in the locality. Bisnath Prasad and Raghunath Prasad play an important role in this concern.

Therefore, we request your honour kindly to maintain last year status and not to allow Ram Navam's Jhanda from Road no. 14, Sabirnagar, Mango, Jamshedpur,

With kind regards"

This petition was also taken into consideration in making the recommendation.

6.14. The D. S. P. and S. D. O. have given out other objections which were raised at the time of the inspection. The evidence of the D. S. P. Shri Yadav is that at the time of the joint inspection representatives of the Muslims raised objection on the ground that from the starting point of the Jhanda procession there is no connecting road to Road no. 14. Representatives of Hindus asserted that there existed a footpath and that the route applied for was the shortest route. Further evidence of this witness is that after the care and consideration the recommendation was that it would not be in the interest of law and order to issue a licence through the footpath asked for by Sona Ram Manjhi.

6.15. Evidence of the S. D. O. is that houses on Road no. 14 are occupied by Hindus and Muslims in equal proportion and that Road no. 14 in Jawaharnagar is a public road but the portion which connects it with Dimna Basti is not a public thoroughfare. According to him when a request is made for permission to take out a procession through a public route, objections raised by persons who reside in the route, are also taken into consideration. The S. D. O. also stated that the objection raised by the Muslims of that area regarding taking out of Dimna Basti procession through Road no. 14 was not the only reason for refusing licence by the route asked for, but however, this was an important reason for refusing permission.

6.16. The Samity witness B. K. Trivedi has said that he was present at the time of the joint inspection of different routes by the S. D. O. on 2nd April 1979. According to him, for not agreeing to grant the licence by the route applied for, the S. D. O. gave the following reasons, viz., (a) there were agricultural lands with a Pagdandi between Dimna Basti and the end of Road no. 14 and the owners of the land might not agree to the lands being used for the passage of the procession, and (b) some 200—300 Muslims of Road no. 14 had filed a petition objecting to the passage of the procession through Road no. 14.

6.17. In order to meet the objections of the S. D. O. a Ladavi Deed Ext. (Samity/47) on a plain paper is claimed to have been shown to the S. D. O. at the time of the joint inspection on 2nd April 1979. This was later given the shape of the present deed drawn upon a stamped paper bearing the signature of the executor Chhotu Manjhi and his three nephews who were owners of the 20-foot wide land which was proposed to be given for the passage of the procession.

6.18. An interesting story has been given out by one of the owners of the land, Chhotu Manjhi, who has been examined as a witness on behalf of the Samity. On the question as to what he purported to surrender for the purpose of the procession, he has miserably failed. He said that all the lands through which Road no. 14 passes, as also the intervening land between Road no. 14 and the Dimna Basti belonged to him. Some 10 years back he sold the site of Road no. 14 from the New Purulia Road to the Jhonpra Masjid and that in 1979, he executed a document on a stamped paper with respect to the portion of the land from the Jhonpra Masjid to the Dimna Basti, for the purpose of being used for the general public. His evidence is in conflict with the contents of the Ladavi Deed (Ext. Samity/46), which purports to transfer "the road" 20 ft. wide and about 2,000 ft. long "beginning from Purulia Road Jawaharnagar area up to Dimna Road".

6.19. There are other reasons also why no credence can be given to the above story of showing the Ladavi Deed to the S. D. O. What B. K. Trivedi (S. W./1) first spoke of is that the stamped paper (Ext. Samity/47) with signature of the executants was shown to the S. D. O. but on the next day he tried to explain by saying that when the S. D. O. pointed out that it does not bear the signature of the executant, he got them signed subsequently. This shows the hollowness of the story. Secondly, no suggestion of the kind was given to the S. D. O. when he was in the witness box. He was the appropriate person to throw light on the matter. D. S. P. who had accompanied the S. D. O. at the time of the joint inspection, has denied the suggestion that any document was shown to them. Thirdly, the Ladavi Deed is

a deed of surrender disclaiming and relinquishing all the rights, titles and interests of any kind on the intervening land in favour of the general public for the purposes of road. The dimension of the land is 2,000 ft. long and 20 ft. wide. No doubt, the money value of the land is not on record but even then, it was important that such a document be signed by executants at the time of the execution and got registered and not be signed later.

6.20. According to the observation made by the High Court in the writ petition of 1978, the local authorities, taking into consideration the prevalent situation in the locality, were fully empowered to exercise their proper administrative discretion on the point of the route, as they thought fit and proper. This is what the local authorities actually did. It would be beyond the Commission to investigate into the considerations which prompted the local authorities to do a particular act because what they did was an act which fell squarely within their jurisdiction. They, in fact, have assigned reasons in their evidence as to why they had refused the licence by a particular route. The action of the local authorities in refusing the licence by the route asked for and granting it by another route calls for no comment by us.

6.21. The contention that the refusal to grant licence by the route asked for was done to placate the minority community, cannot be upheld. The local authorities cannot be accused of being actuated by any consideration other than that of public interest, peace and tranquility.

6.22. The matter can be judged from the legal point of view also. We have already examined the constitutional position on the subject of Law relating to religious processions. Judged in that light and after taking into consideration all the circumstances, the Commission holds that the authorities were fully empowered to grant the licence by the particular route.

(b) THE AGREEMENT REGARDING THE MODIFIED ROUTE—WHETHER VOLUNTARY.

6.23. A reading of the agreement, Ext. GO/212, dated 10th April 1979, *prima facie*, presents a picture of its being a voluntary document. It has been signed by a number of persons belonging to both the communities, some of whom belong to places near about Road no. 14. It was given a formal shape in presence of the S.D.O., S.P. and the D.C. and their testimony tends to indicate that no pressure was exercised for its execution. It is on record that when a proposal for a compromise over the route of Dimna Basti Jhanda procession was brought to the notice of the Divisional Commissioner in the evening of 10th April 1979, he made it clear that it must be voluntary.

6.24. Investigation into the mind of the majority community presents no difficulty since the agreement provided substantially what they so assiduously and tenaciously strived for since 1978. Except for by-passing the eastern part of Road no. 14 where it ends, they obtained almost the whole of Road no. 14 for the passage of the procession, which went skirting the Jhonpra Masjid after emerging on that road at that point. Therefore, so far as the majority community was concerned, the agreement was not only voluntary but the successful culmination and achievement of their desire and aim strived for since 1978. The pertinent question, however, is as to what was the state of mind of the representatives of the minority community who appended their signatures to this document. This takes us back to the events that had taken place on days prior to 10th April 1979.

6.25. At the Mango Thana Peace Committee meeting held on 30th March 1979, members of both the communities were present, besides the S.P., the S.D.O. and other officers. At this meeting Sarvas Shri B.K. Trivedi and Janardan Sharma raised the question that the procession of the Dimna Basti Akhara should be allowed to be taken

through Road no. 14. The S.P. explained to them that it would not be desirable to grant licence by that route as it was congested and partly passed through private land and that there was Muslim population who had objected to the procession passing through that area. Ultimately, as it has been stated earlier, it was decided that a joint inspection would be held by the D.S.P. and the S.D.O. on 2nd April 1979 and their recommendation in the matter would be acceptable to both the communities.

6.26. Before the S.D.O. left for the joint inspection which has already been referred to, he had received the petition (Ext. GO/209). The portion of the petition relevant for the present purpose, is again being reproduced :—

“T.)

The Superintendent of Police, Jamshedpur.

Sir,

That Dimna Basti is a separate village which had no direct link from Sabirnagar. That is why permission of Mahaviri Jhanda of Dimna Basti was allowed through National Highway last year in 1978.

That Sabirnagar is a village of entire Muslim population and there is also a mosque on the way side.

That till now never any Jhanda was allowed to cross through this village.

That till now cases of Article 107 are continued on both groups of people, i.e., Hindus and Muslims in connection with last year's Mahaviri Jhanda of Dimna Basti.

That still there is apprehension of breach of peace in the locality. Bishwanath Prasad and Raghunath Prasad play an important role in this concern.

Therefore, we request your honour kindly to maintain last year's *status quo* and not to allow Ram Navami Jhanda from Road no. 14, Sabirnagar, Mango, Jamshedpur.”

6.27. As a result of the joint inspection, the route recommended was by the Sankhoshahi Relief Road and not through Road no. 14. The same day, i.e., on 2nd April 1979 a meeting of the Central Peace Committee was held in the Civil Defence Office in the afternoon which was presided over by the S.P. The S.D.O. was also present besides other officers and members of the Central Peace Committee. In the meeting the S.P. announced the decision that the licence would be granted by the route recommended as a result of the joint inspection. No objection was raised by anybody when this decision was announced.

6.28. On the 5th of April, 1979, some persons, including some licencees, of the Mango area met the S.D.O. and informed him that the Jhanda processions of Mango P.-S. area would not be taken out on the due date unless the Dimna Basti Jhanda was allowed to be taken out through Road no. 14. They also handed over a petition to that effect. Jogendra Kumar Nirala, B.K. Trivedi, Janardan Sharma, R. P. Singh, and J. C. Murmu were amongst the persons who had met the S.D.O. in this connection. The S.D.O. tried to persuade them not to make an issue of the matter and warned them that if law and order was disturbed by their attitude of strict action would be taken. They went away saying that they would reconsider the matter.

6.29. When it was noticed that most of the licencees had not taken out their Jhanda processions on the 6th as they should have done under the licences issued, meeting of the licencees and other important citizens of the town was held in the

P.I.R. under the presidentship of the D.C. The D.C. made the stand of the administration clear to them and asked them not to make an issue of the route for the Dimna Basti Jhanda procession and should take out the processions according to the licences granted to them. Among the persons present in the meeting were S/Shri Ayub Khan, M.L.A., Kartik Kumar, M.L.A., Dr. M. K. Akhaury, Dr. Shamim and others. Persons present gave an assurance that they were going to try so that the Dimna Basti Jhanda is taken out according to the licence granted.

6.30. Then we come to the 9th of April, 1979. On that day, in the morning, Sona Ram Manjhi could be contacted. He was requested not to make the route of the Dimna Jhanda an issue and to take out the Jhanda by the route granted. He gave an assurance that he would take out the procession on the 10th. The administration made arrangements for the peaceful taking out of the Jhanda on the 10th. Significantly enough, Sonaram Manjhi became traceless on the 10th morning and so the Dimna Basti procession could not be taken out on that date.

6.31. The Divisional Commissioner and the D.I.-G. arrived at Jamshedpur at about 3 P.M. on 9th April 1979. The Divisional Commissioner had talks with the Home Commissioner on the 7th of April when the latter told him that the Akharawallas should be persuaded to bring out the Jhandas so that tension in Jamshedpur may be defused. Again he had a discussion with the Home Commissioner over the telephone in the morning of the 9th regarding the Jamshedpur situation. The Home Commissioner informed him that Government had ordered that the Divisional Commissioner and the D.I.-G. should visit Jamshedpur and Government was of the view that Road no. 14 was not negotiable and that the licencees should be persuaded to take out the Jhandas according to the licences granted to defuse the situation. Accordingly, the Divisional Commissioner and the D.I.-G. arrived at Jamshedpur on the 9th. Immediately they went into a meeting with the local officers and asked the local authorities to persuade the Akharawallas, particularly the Advaisis, to take out the procession on the 10th of April. In the morning of the 10th of April, a meeting of the representatives of a cross-section of the people was held in the Circuit House. The Commissioner asked the local authority to persuade the Akharawallas to take out the processions on the 10th but in the afternoon he was informed that the Akharawallas were not in a mood to take out their processions. As stated earlier, in the evening of the 10th the Commissioner, along with the D.I.-G., D.C., S.-P., S.D.O. and some local officers visited Mango P.-S. area and on the way back he was told at the Mango P.-S. that there was a possibility of some compromise over the route. Later an agreement was drawn up and signed in the presence of the D.C., S.P. and the S.D.O. in the early hours of the 11th of April, 1979.

6.32. What does the above chain of events signify? They unmistakably reveal the working of the mind of the Akharawallas and the rigidity of the communally-minded Hindus. By the afternoon of the 10th of April it became crystal clear that they were in no mood to agree to any route other than the one through Road no. 14. Despite assurances to the local authorities to reconsider their decision about this matter, they did not yield a bit. Their assurances proved all fake and were mere pretensions.

6.33. Above was the attitude of the majority community. Against such a background there appeared a chance to defuse the situation by agreeing to some sort of compromise. This, in the natural sequence, takes us to the question as to what truly was the attitude of the minority community.

6.34. Can it be said with any justification that they were a party to the agreement out of free volition? No doubt, no witness on behalf of the minority community has come forward to throw any light in the matter. For reasons already stated earlier the C.C.C., after a certain stage, withdrew themselves from the proceedings. So far as the other party, i.e., the J.U.H. is concerned, they filed a petition saying that they were not in a position to examine any witness because

the witnesses were afraid "to come in the witness box apprehending dire consequences of giving evidence" Therefore, to understand their points of view reference has to be made to the averments made in their written statements.

6.35. The relevant portion of the written statement of the C.C.C. is as follows :—

"The Deputy Commissioner started having talks with people including the Muslims from the 9th of April. He sent for many Muslims on the 10th and a series of talks were held with them, the main idea being to find out a way to agree to the demands of the Akhara Samity. The fact of the matter is that the matter was entirely between the district administration and the Akhara Samity which was working under the influence of the R.S.S. Still the Muslims were anxious to see that the whole thing passed peacefully. At the instance of and at the invitation of the Deputy Commissioner negotiations were carried on to make possible the passage of the Jhanda through Path no. 14. Ultimately the Muslims invited by the Deputy Commissioner agreed to the proposal of the Jhanda to pass through Path no. 14 in the interest of *communal amity*."

Do not these averments suggest that the members of the minority community were terribly afraid of the consequences of the intransigence of the Akhara Samities who were said to be working under the influence of the R.S.S.? Judged from the facts and circumstances narrated above, and the incidents that had already occurred, which we will mention hereinafter and, in detail in a later Chapter, the answer must clearly be in the affirmative. It was the anxiety of the Muslims to see that the whole affair passed off peacefully and the route through Road no. 14 be allowed substantially to the Dimna Basti procession to avoid the calamity of a communal clash or disturbance. They took care, however, to incorporate a condition in the agreement to the effect that an exception was being made for that particular year only. Can such agreement, executed in this context, be considered as one out of free volition?

6.36. Now as to the J.U.H. It is contended by them that—

"the incidents that occurred prior to the 11th of April, 1979 had made Muslims of certain areas so nervous that they had started moving out of their areas to such areas which they considered safe. Even camps were set up in some places to give them shelter."

6.37. It may be mentioned that prior to 11th April 1979 the following incidents had occurred :—

On 5th April 1979 an idol of Mahavirji was planted in the Radio Maidan, Dhatkidih, within the area of Bistupur Police Station although no such idol used to be installed there. On the 7th morning the Hindus in a menacing attitude had raised anti-Muslim slogans and threatened that they will take out the Dimna Basti Jhanda procession through Road no. 14. This took place between the open space between Road no. 14 and Dimna Basti. On the same day, i.e., 7th morning, road blocking of Jugsalai Station Road and of Gol Chukkur on the Jugsalai-Bistupur Road was done in protest against the refusal of Dimna Basti Jhanda to be taken through Road no. 14. The same day some people tried to get the Bazar in Sakchi Jhanda procession. In Sonari P.S. area on the 9th of April, attempts were made to observe Jamshedpur Bund. The same day in Sitaramdera P.S. attempts were made to obstruct vehicular traffic at Bhalubasa Chowk. On the 8th there was another road block in the Sonari Block area and later the women folk gheraoed the Sonari Thana, demanding that Dimna Basti

Jhanda should be allowed to be taken through Road no. 14. The leaflet (Ext. GO/6) was also found in circulation on the 9th of April proclaiming that notwithstanding the prohibition, the Dimna Basti procession would be taken out through Road no. 14.

6.38. The above narration indicates the mood and intentions of the extremists of the majority community and the deterioration in the law and order situation. Do they not support the contention of the J.U.H. that the Muslims had become nervous? The reply must unequivocally be in the affirmative. It was in such a backdrop that the agreement was signed. Was such an agreement executed out of free volition? For the reasons stated above, the Commission holds that the agreement had not been arrived at out of free will of the minority community and, therefore, it was not voluntary. The minority community had thus brought peace by putting their signature on the agreement.

CHAPTER 7

LAWS AND GOVERNMENT INSTRUCTIONS ON POLICE FIRING

7.1. The Commission thinks necessary to deal, in short, with laws, rules and Government instructions on the subject of firing since there were a number of occasions on which, under orders of Magistrates firing had to be opened. The point for consideration is whether those firings were in accordance with rules and instructions on this behalf.

7.2: In order to ascertain the dominant considerations in opening fire, reference, in the first instance, has to be made to some of the rules of the Bihar Police Manual, 1976, Vol. I. They have been issued with the authority of the State Government under sections 7 and 12 of the Police Act (Act V of 1861). The rules etc. set out in the Bihar Police Manual are binding on all Police officers, and are authentic guide to other concerned officers of Government.

7.3. Government of Bihar in the Home Department (Special Section) re-circulated the relevant laws, rules and instructions in 1979. Rule 621 (as amended up to 1978) of the Bihar Police Manual has been reproduced there. It would be relevant to refer to the following portion of the rule :—

621. (h) *Dispersal by force.*—(1) If upon so being demanded, any such assembly does not disperse or if, upon being so commanded it conducts itself in such a way as to show a determination not to disperse, the Magistrate, or if no Magistrate is present, the Police officer incharge shall proceed to disperse the unlawful assembly by force.

(2) Both the Magistrate and the officer-in-command of the Police party are, or if no Magistrate is present the Police Officer-in-charge, is responsible for seeing that the force used is the minimum necessary to disperse the unlawful assembly, protect life and property and secure the safety of the police party.

(j) *Firing to be effective.*—(1) When firing is necessary it shall be effective. Firing shall not commence till it is sure to be effective nor shall be deferred for such time that the rioters reach so close that there is risk of the police party being overwhelmed. In no circumstances should blank ammunition or buckshot be used. Fire may be opened between the limits of 50 to 100 metres. Firing in the air or over the head of a riotous mob is forbidden as it might lead to injury to innocent persons.

The points to be noticed are that (1) firing, when opened, must be effective and that (2) it should result in dispersal of the unlawful assembly, protection of life and property and in securing the safety of the police party.

7.4. Government instructions for Magistrates after referring to the aforesaid Rule 621 of the Bihar Police Manual, give the following guidelines :—

“If, however, it is found that despite all precautions, and use of lathi force and tear smoke where such use is practicable, the mob refused to disperse and the Magistrate, or in his absence the Police Officer empowered to act, considers that there is imminent danger of serious damage to property like loot, destruction and arson or of grievous injury to person, and the situation cannot otherwise be controlled there should be no hesitation in opening fire, causing minimum injury to disperse the mob, even if it is not armed with lethal weapons and to protect life and property including those of the public servants engaged in this duty.”

7.5. Thus, Government instructions lay down that in a compelling situation there should be no hesitation in opening fire but care should be taken that force used

should be the minimum necessary to disperse the unlawful assembly, to protect life and property and to secure the safety of the public servants and the emphasis is on the point that once fire is opened it must be effective.

Rule 621(g) of the Bihar Police Manual refers to section 129 of the Cr.P.C. The section that if, upon being so commanded, any unlawful assembly does not disperse, any Executive Magistrate or Police Officer incharge may proceed to disperse such assembly by force.

7.6. On an examination of the situations in which a large number of firings were ordered, the Commission has come to the conclusion that the firings were not only not effective but they were often erratic and misdirected. Otherwise there would have been no necessity of opening so many rounds of fire before the unlawful assembly dispersed.

7.7. A few illustrations are given below. For the present purpose, without going into their truth or otherwise, facts as disclosed in the F.I.Rs and in oral evidence are being referred to.

7.8. We have already discussed elaborately the incidents of Bhalubasa Muslim area in Sitaramdera P.-S. and reached the conclusion that the firings resorted to by the Police under the orders of the Magistrate Shri P. Lakra were not only ineffective but they were also erratic and misdirected.

7.9. The next incident to which the Commission would like to refer is what happened in Kharangajhar area within the Telco Police Station. According to the F.I.R. (Ext. GO/33) the occurrence took place from 9.30 P.M. to 2 A.M. in the night between the 12th and 13th of April, 1979. Spread over this period 11 rounds of fire had to be opened on the Hindu mob and more than 100 rounds in eight instalments on the Muslim mob. The Magistrate concerned was Shri M. A. Topno.

7.10. The occurrence began with the attack by the Hindu mob on the Muslim Basti near a mosque. About 500 Hindus, variously armed, were found advancing towards the mosque and were throwing brickbats. They were asked to stop this and not to advance towards the mosque but they did not listen and continued advancing. As such, 11 rounds of fire had to be opened on them after which the rioters fled away. Simultaneously, cries of women and children and shouting of slogans by Muslims were heard coming from the nearby Madrasi Colony. It was found that 400-500 excited Muslim rioters were advancing towards the Madrasi Colony and were throwing brickbats, arrows and bombs. Even after administration of warning, they intensified their attack in the course of which Constable Imamuddin Khan was injured. They also indulged in arson. Ten rounds of fire were opened on which those who were on the eastern side receded. But by being incited by the rioters who were on the southern side they again attacked the Madrasi Colony. After administering due warning 15 rounds of fire were opened. At this, those who were in the front, concealed themselves in houses and behind the walls of the continuous Muslim Basti. Being further instigated, they again mounted an attack on the Madrasi Colony shouting slogans and Lance Naik Madan Singh was injured. Then 15 rounds of fire were opened, In this manner, the miscreants were continuing their attacks and, so to say, a ding-dong battle continued and in course of this S.I. Shri Deo Jha and Constables Mani Singh and Mahendra Jha were injured. Again 15 rounds of fire were opened. The F.I.R. says, that at this stage some amongst the rioters appeared to have been injured but they were taken away by their comrades towards the Muslim Basti. Again, there was an attack in which Constables Ram Surat Singh and Joseph Topno were injured. This process continued and A.S.-I. Gangadhar Pathak was also injured. The S.D.O., D.S.P., D.C. and S.P. arrived and ultimately the situation was brought under control and towards the end it was found that 3 Muslims were killed and 17 persons were injured, which included some Hindus also.

It will be noticed that even on the first occasion when 10 rounds of fire were opened on the Muslim mob, Constable Imamuddin Khan had already been injured and, therefore, on the second occasion at least, when unds of fire were opened

they should have been effective. Even on the second occasion, when Lance Naik Madan Singh was injured, the firing was not effective: The F. I. R. says that there was continuous attack and 15 rounds were fired which also were ineffective and S.-I. Sri Deo Jha was injured. In this way not less than 100 rounds were fired on the rioters in the Madrasi Colony. The irresistible conclusion is that neither the firing was effective nor was it properly directed.

7.11. Repeated attacks were made at about 9.30 A. M. on 12th April 1979 near Jhonpra Masjid within Kadma P.-S. Houses of poor Muslims on the banks of Kharkai river had been set on fire by a Hindu mob. five rounds of fire were opened to disperse them. The Magistrate Shri J. Ekka noticed more than 1000 Hindu rioters assembled near Block no. 3 in the Cinema Maidan. five rounds of fire dispersed them. For the third time, after ten minutes, 200 Hindu rioters armed with lethal weapons assembled and began to throw brickbats on the Police party and 2 rounds of fire had to be opened (vide Ext. GO/144). Had the firing been effective either on the first or the second occasion, further rioting and the attack on the Police party could have been averted.

7.12. At 9 A.M. on 13th April 1979 a Hindu mob armed with swords, Barchhas and Pharsas numbering about 500 to 600 were proceeding to attack the Mohammadan Line within Sakchi P.-S. area. As a result of warning by the Magistrate Shri Sukra Oraon, the mob stopped for a while but later continued advancing. After 8 rounds of fire the mob concealed themselves in lanes and re-assembled after 5 minutes. Then 6 rounds of fire had to be opened. Had the fire been effective on the first occasion, the situation would not have developed further.

7.13. There have been other instances of firing done in quelling the riots and the total number of rounds of firing reached the high figure of more than 900. Without multiplying instances, the details of most of which are covered in the Chapter on the 'Course of Events', we sum up our conclusion that the instructions on the subject have not been observed properly, and, in the result, the Police firings have in many cases been ineffective, erratic and misdirected.

CHAPTER 8

R.S.S.—ITS ORGANISATION, MEMBERS AND SYMPATHISERS

8.1. The R.S.S. was founded by Dr. Hedgewar with Headquarters at Nagpur. The present President is Shri Balasaheb Deoras who is also called the Sar Sangh Chalak. It has a branch in Bihar with its headquarters at Patna. A branch of it operates in Jamshedpur as well, of which the President is Dr. Mukund Pradhan of the Tata Main Hospital and the Secretary (Karyvah) is Shri Umeshwar Prasad.

8.2. There was a ban on the R.S.S. near about 1948-49. The first Constitution of the Sangh was drawn up in 1949. The necessity for having a written Constitution arose when the question of lifting the ban imposed on it was taken up. The then Union Home Minister, Shri Sardar Vallabh Bhai Patel, wanted the R.S.S. to place a written constitution before the Government. It was against this backdrop that the Constitution of 1949 was written. The Secretary, Shri Umeshwar Prasad, who spoke about the Constitution, however, could not say if the Constitution of the R.S.S. was written in 1949 with the intension of getting the ban lifted. Two or three years back the Constitution was amended but the witness could not say the kind of amendment that has been made. The witness is also not in a position to say about the manner in which the previous Constitution was different from the one that was reduced into writing. The preamble to the Constitution, if produced, would have revealed what the R.S.S. stands for.

8.3. At the closing stage of the inquiry, i.e., when the District Secretary of the R.S.S. was under cross-examination, an attempt was made to bring out the philosophy or the ideology of the R.S.S. His evidence throws light in this regard. After all the parties had concluded their arguments, Shri A. K. Datta, on behalf of Government Officers addressed his arguments. On the conclusion of his argument, Shri K.K. Thakur, another Senior Counsel appointed on behalf of the Government officers, placed before the Commission the philosophy and communal attitude of the R.S.S. He referred to the extracts from Golwalkar's 'Bunch of Thoughts' to understand the depth of the anti-Muslim feeling entertained by the R.S.S. He also referred to extracts from Subhadra Joshi's booklet "Is R.S.S. behind communal riot" and views of Kuldeep Nayar in his book "India—The critical Years" and that of Cra Baxter on "Jan Sangh and its connection with the R.S.S.". All these materials find mention at pages 86 to 88 in the Report of the Commission of Inquiry on Tellichery Disturbances of 1971 by Mr. Joseph Vithyathil, a retired Judge of the Kerala High Court. Mr. Thakur Pd., on behalf of the R.S.S. urged that if the Commission be so disposed, he may be afforded an opportunity to place certain materials to throw light on the matter. He also contended that so far as Shri Golwalkar is concerned, he was a renegade from the R.S.S. party and that the views of Subhadra Joshi should carry no credence since she is anti-R.S.S. The Commission feels that it is not necessary to enter into these controversies as materials and circumstances on record are sufficient to indicate what role the R.S.S. played in the present disturbances. Before we proceed further, we would like to clear one point. It is stated in para 4 of the written statement dated 22nd September 1979 filed on behalf of the R.S.S. that "no where in India, by any Judicial Commission, the R.S.S. has been found guilty or responsible for the outbreak of any communal riot". This is, however, not correct. There is a definite finding in the report of the Commission of Inquiry on Tellichery Disturbances of 1971 that "the R.S.S. had taken an active part in raising anti-Muslim feeling amongst the Hindus of Tellichery and in preparing the background for the disturbances".

8.4. Now as to the facts of the present Inquiry. In this connection, a reference may, in the first instance, be made to the kind of oath that a member of the Sangh, who is termed as "Swayamsewak" takes. The oath runs as follows :—

"Sarva Shaktiman Shri Parmeshwar tatha apne-apne poorvajon ka smaran kar. main pratigya karta hun ki apne pavitra Hindu Dharma, Sanskriti tatha Hindu Samaj ka Sanrakshan tatha Hindu Rashtra ki sarvangeen unnati karne ke liye main Rashtriya Swayamsewak Sangh ka ghatak bana hun.

Sangh ka karya Pramanikta, nisswarth budhi तथा tan, man dhan poorwak karunga aur is vrat ka ajanm palan karunga.”

8.5. Members of the Sangh have also to do Prarthana (prayers). The Prarthana is in Sanskrit. Translated in free Hindi, it would run as follows :—

“Vatsala matribhume, tumhen sadar namaskar. Hey Hindubhoomi, tumhare lwara main sukh-poorvak vardhit huwa hun. Hey maha-mangal-karini punya-bhume, yeh sharir tumhare hi karya ke liye gire arthat samapt ho. Tumhara bar bar namaskar hai. Hey Sarbshaktiman Prabhu, ham Hindu Rashtra ke anbhoot tujhe sadar namaskar karte hain. Tumhare hi karya ke liye yeh kamar kasi hui hai. Uski poorti ke liye ashirvad do. Hamen aisi shakti do ki vishwa ki koi shakti hamen jeet na sake. Aisa sheel do jis se jagat namra ho jaye. Aisa gyan do jisse hamne jo kantakacern marg apnaya hai (kanti se bhara huwa marg apnaya hai) use saral kar saken. Laukik aur parlaukik sukh ki prapti ke liye veervrat nam ka ek matra ugra sadhan hai vah hridaya men sfurit ho. Aksheya dhyeya nishtha hridaya men aharnish jagrat rahe. Vihayshalini sangathit shakti ke dwara dharma ka sanrakshan karen. Apne rashtra ko param vaibhav par le jane men tumare ashirvad se atyant samarth hon. Bharat Mata Ki Jay.”

The Secretary tried to emphasise that the word “Hindu Rashtra” used in the ‘prarthana’ stands for Bharatvarsha. He has admitted that the Sangh has a dream of setting up a Hindu Rashtra but tries to clarify it by saying that it does not mean Hindu Raj. If the words used in the oath taken and prayer analysed, it will be noticed that resolve is made to protect “Apne Pavitra Hindu Dharma” (our Sacred Hindu Religion) and Sanskriti (culture) and “Hindu Samaj” (Hindu Society); there is salutation to Hindu Rashtra. The words and language used both in the oath and in the Prarthana unmistakably contemplate orthodoxy and purism. In no manner do they postulate or reflect a concept of composite culture ; rather they partake of the character of fundamentalism.

8.6. R.S.S. seems to have a strong base in Jamshedpur. It has 400 to 500 regular members (Swayamsewaks) and hold Shakhas (place of assemblage) at fifteen places namely :—

- (1) Near the workers' flat in Uliyan.
- (2) Another at a short distance from above.
- (3) In-front of the maidan of Bistupur Community Centre.
- (4) Sidgora Dairy Farm area.
- (5) Old Baridih.
- (6) Tube Baridih.
- (7) Mody Centre near the Supervisors Club, Telco Colony.
- (8) Govindpur, probably in Telco P.S.
- (9) Barigoda.
- (10) Baharagoda.
- (11) Baghbera Colony in Jugsalai P.S.
- (12) Ramedih, probably in Persudih P.S.
- (13) Kitadih.
- (14) Sundernagar outside Jamshedpur Police District.
- (15) Adityapur.

In the Shakhas the Swayamsewaks do some exercise e.g., drill, Asans, Surya Namaskar etc. Training in playing of lathis is also a part of physical training which is imparted to the Swayamsewaks. The pattern of administration of oath and the manner of enlistment etc. and other materials on the record indicate the militant character of the R.S.S.

8.7. Designedly an attempt was made to conceal the existence of the Register of members of the R.S.S. The purpose was to withhold a document which would establish connection of certain persons with this communal organisation. In this connection, the

evidence of the Secretary of the district Branch of R.S.S., who alone has been examined as a witness on behalf of the R.S.S., makes an interesting reading. He has admitted that at Jamshedpur the Sangh has 400 to 500 members. The witness is categorical that no register is maintained of members and claims to recall the names of all these persons—a remarkable feat of memory indeed. He has also admitted that there is no ban on maintaining a Register but assigns no reason why such a register is not maintained at Jamshedpur and when he is unable to deny that at other branches membership register is not maintained. Regarding information of meetings, etc. he has stated that it is done through a messenger. It is difficult to believe him that information would be sent to the members through a messenger instead of sending a written notice to them by post. A letter cannot issue unless names and addresses of members are maintained and that is why the witness offered an unbelievable explanation saying that no written notice is sent to the members by post.

8.8. It is important to observe that the Divisional Conference of the R.S.S. was held in Jamshedpur in the campus of the Co-operative College on the 31st of March and the 1st of April, 1979 i.e. only 5 days before the Ram Navami festival. Permission to hold the camp there was accorded by the Vice Chancellor of the Ranchi University despite strong objection on the part of the students and staff of the College. So vehement was the opposition of the student community to the holding of the conference in the College campus, that special precaution had to be taken in the public meeting addressed by Shri Deoras. The report of the Intelligence Branch (Ext. RSS/12) mentions that there was apprehension that the student community would voice such a protest in the public meeting. In fact, leaflets etc. were distributed but no untoward incident, however, occurred on this account. The Commission feels that permission to hold the conference in the campus of an educational institution should never have been accorded. Shakhas, which also means drills conducted by the R.S.S., were held on 31st of March and 1st of April. Shri Balasaheb Deoras, the Sar Sangh Chalak, attended the function and addressed a huge public meeting in Regal Maidan at 4.30 P.M. on the 1st of April, 1979. Before the meeting started, 1,000 Swayamsewaks stood in formation, several rows deep and gave a display of lathi exercises and drill accompanied by music.

8.9. In order to show what Shri Balasaheb Deoras spoke in the meeting a printed copy of Shri Balasaheb's speech was produced on behalf of the R.S.S. and is marked 'X' for identification. For reasons mentioned in Commission's order dated 15th May 1981, (Appendix—E) it was not taken in evidence. It is not necessary to reproduce those reasons here. There are, however, other materials on record to indicate what Shri Balasaheb spoke in the meeting. The evidence of the S.P. is that men of the Intelligence Branch (I.B.) record verbatim speech delivered in public meetings of a political nature and a gist of the speech delivered by Shri Deoras was submitted to him. [According to the S. P., Shri Deoras spoke in the meeting that it was said that Hindus in their own country are not allowed to take out religious processions freely and that the number of mosques are increasing day by day and in the Arabian countries Hindus are not allowed to construct temples. Shri Deoras also referred to the controversy regarding Road No. 14.] Umeshwar Prasad, the District Secretary, claims to have been present in the meeting and had heard the speech from the beginning to the end. According to him, Shri Deoras did not make reference to all the different points made out by the S. P. except saying that if a Hindu wanted to construct a temple or a Sikh wanted to construct a Gurudwara in Arab countries, it could not be done. The gist of the speech delivered by Shri Deoras was called for on behalf of the R.S.S. and has been marked Ext. RSS/12. It says that there are thousands of Hindus in Arab countries but they are not permitted to construct temples but in India, where Hindus are in majority, Muslims and Christians are not only permitted to construct mosques and churches, they also have full freedom to propagate their religion.

8.10. The point for consideration is the kind of effect the above speech produced on the large gathering that had collected to hear Shri Balasaheb Deoras. [It may be recalled that the communal atmosphere of Jamshedpur was already disturbed on the

day Shri Balasaheb made the above speech. The communal issue centred round the controversy regarding Road No. 14 which passed through a Muslim residential area and a mosque, known as the Jhonpra Masjid. The speech, in the opinion of the Commission, must have made the stand of the extremists amongst the Hindus all the more rigid in respect of their previous stand regarding Road No. 14 and the Commission has found that the proximate cause of the disturbances was the controversy regarding Road No. 14.

8.11 Communal propaganda is a powerful weapon in the armoury of the communalists. Mr. Justice D. P. Madan in his Report on Communal disturbances at Bhiwandi, Jalgaon and Mahad has listed 27 items as important items of communal propaganda. One of them is "The decrying of the religious customs and traditions of the other community." This is exactly what was done in the public address of Shri Balasaheb five days before the day on which the Ram Navami procession was to be taken out. Extolling tolerance amongst the Hindus and highlighting the absence of it amongst the Muslims, manifestly amounts to communal propaganda. The basic cause of all communal disturbances is the communal atmosphere pervading and the communal tension built up between the two communities. The analytical mind is hardly brought to bear on the communal tension and accordingly stories connected with it are :—

Not weighed or winow'd by the multitude,
But swallowed by the mass, unchewed and crude."

This is the kind of situation that the administration had to reckon with at the time the communal tension prevails in a locality. In the first instance, the speech of Shri Balasaheb tended to encourage the Hindu extremists to be unyielding in their demands regarding Road No. 14. Secondly, his speech amounted to communal propaganda. Thirdly, the Shakhas and the camps that were held during the Divisional Conference presented a militant atmosphere to the Hindu public. In the circumstances, the Commission cannot but hold the R.S.S. responsible for creating a climate for the disturbances that took place on the 11th of April, 1979 and thereafter.

8.12. Regarding communal riot of 1979 in Jamshedpur, some newspapers had published a report that the R.S.S. had a hand behind the riots. Umeshwar Prasad has stated that no contradiction was issued in the Press since the R.S.S. did not have the time and energy to do so and considered it to be useless (BEKAR). But he admits, that the R.S.S. enjoys a certain standing and prestige in the country and that in case of necessity, it will protect itself against such reflections on itself. It is difficult for the Commission to appreciate how and why it was considered 'BEKAR' to counteract a direct allegation made against the R.S.S. regarding its involvement in communal disturbances, specially if those allegations were unfounded. Human conduct being what it is, there should have been an immediate contradiction of such an insinuation or reflection on the entire organisation.

8.13. During the course of evidence, amongst other names, those of Shri Dina Nath Pandey and S. K. Prabhakar have appeared prominently. The Commission has found as will appear from Chapter 9 that the conduct of Shri Dina Nath Pandey had directly contributed to the outbreak of the riot at Jamshedpur on the occasion of the Ram Navami festival of 1979. The same Chapter deals with the allegation whether Shri Pandey had links with the R.S.S. The Commission found no reason to disbelieve the statement of the S. P. when he stated that his name occurs in the list of the members of the R.S.S. which is maintained by the Intelligence Bureau of Jamshedpur. S. K. Prabhakar has been named as an accused in Jugsalai P.S. Case No. 3, dated 7th April 1979 (Ext. GO/91). According to the O. C. of Jugsalai P.S., he is known to be a member of the R. S. S. The Case Diary in connection with the inquiry into the contents of the leaflet (Ext. GO/6) mentions that S. K. Prabhakar and other communal-minded persons were circulating this leaflet in the Bata Chowk area of Jugsalai P.S. on 10th April 1979. The Commission thinks that had the Membership Register been produced by the District Secretary, a conclusion from the document of the R. S. S. itself would have been established that Shri D. N. Pandey and

S.K. Prabhakar are members of the R.S.S. and that it was to withhold this valuable piece of evidence that the Secretary Umeshwar Prasad evaded the issue by saying that no such register is maintained in the district of Jamshedpur.]

8.14. There are a few other names of persons who have taken part in different occurrences during the course of the Inquiry. Puran Singh was arrested in Sonari P. S. case no. 3 dated 8th April 1979. The O. C. of Sonari P.S. (GOW/5) stated categorically in his cross-examination that he had heard that Puran Singh is a member of the Jan Sangh and had contested election on the Jan Sangh ticket and that he knows that Puran Singh is a member of the R.S.S. Names of Ratan Lal, J.D. Patel and Banwari Lal Agrawal occur as accused in Bistupur, P.S. Case No. 8, dated the 7th April 1979 and the allegation is that in the night between 6th and 7th of April, 1979 they had collected in the Radio Maidan and were spreading disaffection against the Muslim religion (Ext. GO/4). According to the O.C. Bistupur P.S., these persons are known to be connected with the Jan Sangh. In the Chapter dealing with the role of Shri D.N. Pandey the Commission has found the link between the Jan Sangh or the re-formed Bharatiya Janta Party and the R.S.S. clearly established.

8.15. The evidence on record also reveals a close connection between the R.S.S. and the Bharatiya Majdoor Sangh. According to the D.C., the Bharatiya Majdoor Sangh is the labour wing of the Jan Sangh. The S.P. is also clear that the Bharatiya Majdoor Sangh was quite active in Jamshedpur during the relevant period.

8.16. The D.C. was asked if any Trade Union of workers had taken part in the riot. His reply was that the workers took part in the riot and it can be reasonably inferred that the Union was also involved in it. A glaring example of the kind of brutality that the workers committed is what happened in the General Office of the Tinsplate Company. While dealing with the Chapter on "Course of Events", details have been given of the tragic incident that took place there. Suffice it to say at this stage, that six Muslim workers along with Father Calvo had gone to the General Office of the Tinsplate Company for a vehicle so that the people who had taken shelter in the Relief Camp, could be transported to the Church for safety. At that time some 500 workers of the Company armed with lethal weapons, rushed towards the General Office, hunted these six Muslims and Killed two of them and injured the rest. It is not necessary to multiply instances.

8.17. After giving careful and serious consideration to all the materials that are on record, the Commission is of the view that the R.S.S., with its extensive organisation in Jamshedpur and which had close links with the Jan Sangh and the Bharatiya Majdoor Sangh, had a positive hand in creating a climate which was most propitious for the outbreak of the communal disturbances.]

CHAPTER 9

SHRI DINA NATH PANDEY, M.L.A.

9.1 At the relevant time Shri Dina Nath Pandey was a member of the Bihar Legislative Assembly representing the Jamshedpur (East) constituency, having contested the election in 1977 as a member of the Janta Party. He was originally a member of the Bharatiya Jan Sangh which had merged with the newly formed Janta Party. In the last elections to the State Assembly of May, 1980, he was again elected from the same constituency. But, this time he had contested the election as a member of the Bharatiya Janta Party, which was one of the parties formed in the wake of the disintegration of the Janta Party.

9.2. Shri Pandey has been a key figure in regard to events which are germane to some of the terms of reference in this Inquiry. In the written statement filed on behalf of some of the parties in this Inquiry such as Government Officers, the District Branch of the Communist Party of India, the J. U. H. and the C. C. C, allegations of various degrees of seriousness have been made in regard to his specific role in stalling the progress of the Ram Navami Jhanda processions of the Dimna Basti Akhara. According to them, he had, thereby, deliberately created a situation for the outbreak of the riot. The C.C.C has further alleged in their written statement that a plan for destroying the Muslim-predominated Azad Basti and the Muslims of Jamshedpur generally had been hatched in meetings held between 5th to 10th of April, 1979 in which Shri Pandey had participated. The C.P.I. also have alleged that Shri Pandey was instigating the Hindus to arouse communal feelings through his men. There are also allegations of his link with the R.S.S. which according to their case, had planned in advance a communal riot and that Shri Pandey's actions were directed towards bringing that plan to fruition.

9.3. On his part, Shri D.N. Pandey has made some allegations in his written statement which suggest that the riot was the outcome of the Communists hatching a plot to mislead the Muslims and defeating every attempt for a peaceful solution of the dispute over the route for taking out the procession of the Dimna Basti Akhara. He had gone to the extent of mentioning that some persons had seen the ex- M.L.A. of the C.P.I., Shri Ram Awtar Singh, setting fire to houses. Having said so, he had added that it was to be ascertained as to how far this allegation was true, but proceeded to make a general insinuation that "throughout this period the conduct of Shri Ram Awtar Singh was doubtful".

9.4. Apart, however, from the allegation he had levelled against his principal political adversaries namely the C.P.I., who used to be returned from the principal constituency which he now represents, he has given his version of the causes of the riot which was, in substance, the same as that of the R.S.S. This version states that the Muslims of Jamshedpur were "determined to create communal disturbances", as a reaction to the death of Anwar in a Police encounter. It is evident from his written statement and also from his evidence before the Commission where his sympathies lie but we would come to that question at the appropriate stage.

9.5. It is necessary to discuss in some detail the activities of Shri Pandey till the outbreak of the riot in the Mango P.S. area at about 11.45 A.M. on the 11th of April, 1979. He had, according to his deposition, reached Jamshedpur from Patna at 1 P.M. on 6th April, 1979. That was the day on which the Jhandas of Ram Navami Puja were to be taken out for immersion at Jamshedpur. But, except for a few of them, numbering 11 in all, the remaining 68 Jhandas were not immersed on that day. This was a serious matter and it should have caused some anxiety even to a common man not to speak of a member of the Legislative Assembly. Yet, Shri Pandey swears in his examination-in-chief that he had no knowledge of such a serious development, apparently intending to suggest that he was taking no interest in the matter. He proceeds to say that in the evening of the 6th, he was in the office of the Bharatiya Majdoor Sangh, of which he was the Vice-President,

when he learnt that he had been asked by the D.C. to meet him at the Sakchi Police Station. He then met the D.C., saw the S.P. and the S.D.O. there and asked them "what was the reason for which the Jhandas had not been taken out". His statement, therefore, amounts not only to an avowal of complete ignorance of the issue over which the D.C. had asked him to meet him but also an averment to the effect that he heard from these officers for the first time about the objection raised by the Muslims of Mango P.S. on the question of the passage of the Dimna Basti Akhara procession through Road no. 14 of Mango p.s. area. But, he says, when he asked to see the petition filed by the Muslims, the S.D.O. did not show it to him.

9.6. According to his deposition, Shri Pandey worked in the Mango p.s. area till late in the night of the 6th April, 1979 in an attempt to find out a solution to the impasse. A proposal was evolved after consulting the persons interested in taking out the Dimna Basti Akhara Jhanda through the disputed route that the flag would be taken through the disputed Road no. 14, but by three M.L.A.'s only, other persons wishing to participate joining it after it had emerged out of the disputed portion of the route. He met the D.C. with his proposal in the midnight of 6/7th April 1979. According to Shri Pandey the D.C. was agreeable but the S.P. "rejected the suggestion outright" and the S.D.O. "sided with the S.P.". Shri Pandey as a member of the Legislative Assembly, would no doubt be aware of the fact that the D.C. is not overruled by the S.P. far less by his own subdivisional officer. The D.C. had received the proposal and called in the S.P. and the S.D.O., and, obviously, after deliberating over its implications, declined to accept the proposal. But Shri Pandey, puts the entire blame for failure of what he contends to be a constructive and fair suggestion, on the S.P. and the S.D.O.

9.7. In the morning of the 7th of April he, along with another M.L.A., Shri Kartik Kumar Paswan, set out for the residence of Shri Ayub Khan, M. L. A. According to his deposition, he took the route through Jugsalai Basti. Reaching Jugsalai at 11 A.M. he saw 10 to 15 Mahabiri Jhandas on the road near the local Mahavir Mandir. Several persons met him there and told him in great anger that there had been a lathi charge only sometime before on the order of the S.P. himself. They had also complained to Shri Pandey that the S.P. had committed many wanton acts such as throwing the drums of drinking water of the processionists and kicking the Jhandas. Just then, some other persons came to tell him that the Police were bursting Tear Gas shells on the crowd near the Railway crossing. Without either waiting for further enquiries to ascertain the facts or proceeding to the scene of trouble, to help in the restoration of law and order, the first thing he did was to rush up to send a telegram addressed to the Governor containing serious allegations against the conduct of the S.P.

9.8. After despatching this telegram, he came to the place where the trouble had been going on. According to him, he saw from a distance that some Policemen "were in a firing position" and when he raised his hands, asking them to control themselves, "they stood up from their positions". Shri Pandey, has obviously exaggerated the fact of firing of T.G. shells by the Police in this incident.

9.9. The incident of blocking the road in Bata Chowk in Jugsalai p.s. by placing drums on the road is the subject matter of an F.I.R. (Jugsalai p.s case no. 2, dated the 7th April 1979) which has been marked as Ext. Go/90. This incident was closely followed by the incident of blocking of Gol Chukkur on the Bistupur-Jugsalari road, near a Railway crossing, by the placing of boulders on the road, which is the subject matter of Jugsalai p.s. case no. 3, dated the 7th April 1979, vide Ext. Go/91. These incidents have been detailed at the appropriate place. They reveal the various provocative acts committed by violent mobs, numbering more than 2,000 in the second incident, to buttress the demand for the grant of licence for the Dimna Basti Jhanda procession through the disputed Road no. 14 of Mango p.s. and shouting of communal slogans against the Muslims. In the second incident, the Magistrate had to order bursting of Tear Gas shells. The presentation of these incidents in the deposition of Shri Pandey not only shows his one-sided and partisan attitude but also

how, instead of controlling the violence of the mob and helping the administration, he was trying to complicate the situation and freely levelling accusations against the police and particularly the S.P. of the district.

9.10. Shri Pandey then mentions about a telephonic call that he received from Shri R.P. Sarangi, M.P. Shri Sarangi was the President of the Bharatiya Majdoor Sangh of which Shri Pandey was the vice-President and he was representing the newly-formed Bharatiya Janta Party in the Parliament. Shri Sarangi instructed Shri Pandey on telephone not to move from Jugsalai as he (Sarangi) was proceeding to Mango to look into the matter of the passage of the procession of Dimna Basti Akhara and that he would contact him again when the procession had passed off and thereafter help in the passage of the procession in Jugsalai p.s. area. After a long wait for further information from Shri Sarangi, Shri Pandey came finally to the Sakchi P.S. where he learnt that Shri Sarangi had left for Adityapur where there was some labour dispute to be settled. On meeting Shri Sarangi at Adityapur, he learnt from him that the S.P. had been contacted about the release of B.K. Trivedi because the Jhandawalas of Trivedi Akhara were not ready to take out their Jhandas unless Trivedi was released and that the S.P. had first refused but later agreed that he would send Trivedi and his arrested colleagues in the company of Shri Ayub Khan in the temple of Bajrang Bali in Mango, but Shri Trivedi was not brought there at which the men who had collected had become restive. Shri Sarangi had thereafter met the S.D.O. and told him that "since assurance given to a member of the Parliament can not be fulfilled" he could not do anything in the matter.

9.11. It is necessary to pause here to consider the implication of the statements made in the foregoing paragraph. This is for the first time that the question of release of Shri B.K. Trivedi and others had been introduced. But the process is extremely circuitous. Shri Sarangi has not been examined as a witness. What is more important is that though the S.P. and the S.D.O. were cross-examined at great length, no question remotely suggesting these facts was put to them even by way of a suggestion. As we shall see later, Shri Pandey had himself raised the question when he met the Commissioner at the Circuit House in the evening of the 10th of April, after he had heard that a compromise over the disputed route was in sight, and this was evidently the first time that such a question was raised.

9.12 On the 8th of April, according to his deposition, Shri Pandey set out to contact the Muslims and seek their co-operation for a solution to the problem. Shri Pandey complains that he felt that the local administration was not keen to take his help or that of his colleagues, in solving the dispute. Later, when he met the S.P. and the S.D.O. at the Circuit House at about 10 P.M., he was confronted with the S.P. crying aloud that "1964 will be repeated". In short, he did not contact the Muslims to find out what they had to say. The explanation which he gives later in his cross-examination that the officers put obstacles in his way, does not carry conviction. If a genuine attempt was made by an M.L.A. to meet the Muslims and assess their feelings, the officers could not have foiled it. The offensive statement attributed to the S.P. that the communal riots 1964 would be repeated is also left untouched in the cross-examination of the S.P., on behalf of Shri Pandey, and must be dismissed as a baseless insinuation.

9.13. The 9th of April also passed without any tangible action on the part of Shri Pandey for meeting the Muslims. In course of the day, however, he sent a message to the Chief Minister asking him to come to Jamshedpur as the situation was very grave and the message that he left for him complained of Police excesses in the incidents of Jugsalai Police Station and later of the Sonari P. S. area. His failure to meet the Muslims on that day is attributed again to the lack of co-operation from the local administration. It is difficult to believe that a member of the Legislative Assembly could not meet the residents of a particular area in the

town over days together because he was not given assistance and co-operation in the matter by officers of the local administration. The statement he had made to the effect "that the local administration and the Police took steps to see that we M. L. A's could not meet our Mulim brothers of Road no. 14 to sort out the differences", is not worthy of credence and it only shows that Shri Pandey was not interested in meeting them and hearing their point of view.

9.14. Shri D. N. Pandey further says that he did not stir out of his residence on the 10th of April, 1979 and it was only in the morning of 11th April, 1979 at 9 A. M. that he came to the Circuit House to find out whether there was any information about the Chief Minister, when he met the Commissioner. In his cross-examination on behalf of the Government officers by Shri A. K. Datta, he admits that he had information on the 10th of April that the members of the Hindu and Muslim communities were trying to settle the dispute over the passage of the procession and he also knew the persons who were working on behalf of the Hindus. We have elsewhere in the evidence of the Commissioner, the D. C., the S. D. O. and others that the prospects of a settlement had become visible around 6 P. M. on 10th April, 1979 and, as the course of events reveal, a compromise was thrashed out in the night of 10/11th April, 1979. Shri Pandey, however, maintains in his cross-examination on behalf of Government officers, that he had no information either as to where the representatives of the two communities were sitting to thrash out a solution or that a settlement had been arrived at. In short, he again pleads complete ignorance of a momentous development that had taken place during the night of 10/11th April, 1979 completely changing the complexion of the situation. Shri Pandey goes on to assert in his cross-examination that he learnt about the compromise "for the first time at 9 A. M. on 11th April, 1979 from the Divisional Commissioner when I met him at the Circuit House". To say the least, it was an extremely unusual conduct for an M. L. A., who had been actively taking interest in the matter of the dispute, to shut himself out completely from any information regarding the outcome of such a crucial event, as the deliberations on the compromise manifestly was. One has to read here Shri Pandey's statement regarding his activity of the 10th of April, 1979 with the statement made in the deposition of the Commissioner. According to Dr. Kumar Suresh Singh who was then the Commissioner of Chhotanagpur Division, Shri Pandey came to see him at the Circuit House at about 9 P. M. on the 10th of April, 1979. Not only that, at this meeting he told him about the resentment that the people were nursing against the administration over its refusal of the route asked for. It was then that "he also asked for the release of certain persons arrested earlier". Not only that there was no reason for the Commissioner to make an incorrect statement of such serious import, the statement was not even remotely challenged in his cross-examination on behalf of Shri Pandey. The only conclusion is that Shri Pandey was suppressing the fact and he must have some important reason to do so. The reason was evidently that he was for the first time introducing a new complication into the situation, when he sensed that the dispute over the route was going to be resolved. It is in this background that his subsequent conduct in pressing the issue of the release of Shri Trivedi and others, when the procession, after peacefully crossing the disputed area had reached the Main Road, has to be viewed and explained.

9.15. In the morning of 11th April, 1979 Shri Pandey met the Commissioner in the Circuit House at about 9 A. M. According to the deposition of the Commissioner, Shri Pandey first complimented the local administration for their efforts to ease the situation and "then asked for the release of the arrested persons". He repeated this demand for the third time before the Commissioner, when he rang him up at about 10 or 10.30 A. M. from the Mungo area and told him that people were demanding the release of Shri Trivedi. The Commissioner says that he told Shri Pandey that being a public man he should not raise such questions at this juncture and "should co-operate with the D. C. and the S. P. who were at the spot." Shri Pandey's version of what transpired between him and the Commissioner on the telephone conveys a distorted impression when he merely says that the Commissioner in reply told him that "he would talk to the D. C." Immediately after his talking

with the Commissioner at the Circuit House. Shri D. N. Pandey felt urged to appear on the scene personally and he came on the pillion of a Motor Cycle to the Yadav Petrol Pump where the procession had then reached and halted.

9.16. On the events that started happening immediately after his arrival, there are four eye-witnesses, namely, Sub-Inspector Victor Anthony (GOW/9), Magistrate Shri K. N. Das (GOW/12), Magistrate Shri R. D. Ojha (GOW/14) and D. S. P. Shri G. P. Yadav (GOW/26). Except for Shri K. N. Das, the other three have stated that a demand had already been made by members of the procession that B. K. Trivedi and others should be released before the procession moved further. Shri K. N. Das (GOW/12), however, states his examination-in-chief that "Shri Pandey asked the processionists to stop and mean while he would see that Shri Trivedi was released" This witness also says that when Shri Pandey returned after seeing the D. C. he "talked in whisper with some of the processionists". In the cross-examination of this witness by the Counsel for Shri Pandey, he is, however, unable to affirm this statement categorically when he says that "he did not know" if the demand for the release of B. K. Trivedi had been raised before Shri Pandey arrived at the Yadav Petrol Pump. Information about the progress of the procession was also being received in the Control Room which had been set up at the Mango P. S. The D. C., the S. P. and the S. D. O. were keeping themselves in touch with the progress of the procession from the P. S. According to the S. P. (GOW/30), the message received in the P. S. was to the effect that the members of the procession had made the demand for the release of Trivedi when it had reached the Yadav Petrol Pump. The D. C. (GOW/31) however, gives a slightly different version when he says that the procession had arrived at the Yadav Petrol Pump when Shri D. N. Pandey arrived and asked them not to move until he had secured the release of Trivedi. In his cross-examination on behalf of Shri Pandey, the D. C., however, confirmed that according to the written statement filed on behalf of the Government officers, the demand had been raised before the arrival of Shri Pandey and he went on to clarify that Shri Pandey had given respectability to that demand. Taking all the evidence together, it can be accepted that, according to the sequence of events, the demand for the release of Trivedi had been raised by some persons in the procession and this had happened before the arrival of Shri Pandey. Two of the four eye-witnesses namely, GOWs 9 and 12 speak about Shri Pandey talking to some members of the procession "in whispers" and all the four eye-witnesses are agreed on the point that it was Shri Pandey who had exhorted the processionists not to move till he had secured the release of Shri Trivedi and others.

9.17. The question whether the demand for the release of the arrested persons was raised only after the processionists had been prompted to do so by Shri Pandey at the point where they had reached and halted is not so material, judged in the totality of the facts and circumstances. As we have noticed earlier, this was a new demand which had cropped up only after the settlement of the dispute over the route was in sight and, sensing this fact, Shri Pandey had initiated this demand by raising the matter before the Commissioner in the evening of the 10th of April, 1979. The fact that Shri Pandey had his associates in the procession cannot be disputed even though Shri Pandey had said at one place that persons who had raised this demand were hostile to him. He had earlier confabulated with them when the solution for taking the Jhanda along the disputed route through three M. L. A's had been evolved. His aggressive endeavour in taking up the demand and exhorting the processionists not to move till he had secured the release of Shri Trivedi and others, and his earlier contact with the persons who were agitating over the question of route applied for, are sufficient materials to indicate a link between him and the processionists who raised such a demand. The very fact of Shri Pandey denying his meeting with the Commissioner in the evening of 10th April, 1979 and raising before him the fresh demand for release of arrested persons shows that he had some thing important to conceal. We are, therefore, led to the conclusion that Shri Pandey was the real author behind this demand and that he was acting according to a plan which was to delay the smooth passage of the procession. Also, as a public man and an M. L. A., he could not have been unaware of the fact that the demand

was impossible of acceptance, particularly at that juncture. The Commissioner had already told him so. When he met the D. C. the latter told him plainly that Shri Trivedi and others being in judicial custody, it was not possible to secure their release right then. He had told him further that it was not possible even to bring Shri Trivedi in custody to his akhara, as Shri Pandey had demanded as a concession to his earlier demand for the wholesale release of arrested persons.

9.18. [We have already observed about the call given out in the leaflet (Ext GO/ (6) circulated in the town asking the lovers of religion to assert their religious right by defying the ban on the taking out of the procession through Road no. 14. According to this call, they were to assemble at Mango P. S. area at 11 A. M. on 11th April, 1979, take out the Dimna Basti Jhanda procession through the route as asked for and then perform their immersion ceremony to their respective Akharas later in the afternoon. Shri D. N. Pandey had heard the Commissioner to say that the Dimna Basti Jhanda procession had already started at 8 A. M. in the morning and would reach the Swarnrekha Bridge by 10 A. M. The authorities had thus defeated the plan announced by Hindu communalists in the name of vindication of their religious rights, by succeeding in getting a compromise reached and scheduling the passage of the procession in a manner so that it would be well clear of the sensitive area before the announced hour of 11 A.M.]

9.19. [The case of the Government Officers, as presented in the cross-examination of Shri Pandey, is that but for the hold up of the procession it would have passed off peacefully, if it reached the Swarnrekha Bridge before 10 A. M. Their case completely fits in with the events that developed after the procession had been held up and delayed by Shri Pandey taking up the impossible demand for the release of B. K. Trivedi and others.]

9.20. According to the evidence of the D. C., the S. P., the S. D. O. and also some of the officers, who were on duty in conducting the procession, soon after Shri Pandey returned after placing the demand before the D. C., a rush of persons was seen converging towards it. This crowd was seen coming from the direction of the Mango Bridge i.e. from the south and the D. C., S. P. and the S. D. O. immediately went in that direction to see what was happening. When the procession had first reached the Yadav Petrol Pump the number of persons in it was about 200 but after this on rush it had swelled to 2,000 or more. It is evident that the officers saw that the situation was taking a serious turn and immediately rushed out to check what was happening. When they learnt after returning to the P. S. that the procession had not still moved, the D. C., the S. P. and the S. D. O. drove up to the Yadav Petrol Pump where the procession had remained stalled. The D. C. now used his authority to command the procession to move and he also asked Shri Pandey to co-operate by coming to the mike and ask the processionists to do likewise.

9.21. It is, no doubt, an admitted fact that Shri Pandey addressed the processionists asking them to move. All this was, however, after Shri Pandey had already made an issue of the matter of release of persons arrested earlier and told the processionists not to move till he had "secured" their release. [It does not need much arguing to come to the conclusion that what Mr. Pandey said in public was not meant to be taken seriously by the processionists. [The procession proceeded for some 50 yards under the pressure of the D. C.'s stern warning, but it again halted near the Akhara of Trivedi on the New Puralia Road. The demand was also raised again for the release of Trivedi on the ground that the Jhanda of Trivedi Akhara could not accompany the Dimna Basti Jhanda procession for immersion as Trivedi had originally done the "Sankalp" and he alone could do the necessary rites before the Jhanda could be taken out for immersion. The D. C. had to intervene again to make the procession move but the Akharawalas of the Trivedi Jhanda disassociated themselves from going with the procession.]

9.22. [By that time the Zero hour of 11 A. M. had already passed, large crowds had converged on the procession armed with lathies, bhalas and other weapons, swelling its number beyond 2,000 and the plan announced in the leaflet had been success-

fully executed. The provocation started with throwing of brick-bats on the procession and by the time it was 11.45 A. M., a riot had broken out. The conclusion, therefore, is unavoidable that Shri Pandey's action in raising an impossible demand—resulting in precious time being lost in the passage of the procession through the New Purlia Road was directly responsible for escalating the already tense situation to such an extent that any minor incident was sufficient to cause an outbreak of riot.]

9.23. As stated earlier, there are allegations that Shri Pandey had links with the R. S. S. It has also been mentioned earlier that the stand that he had taken before the Commission of Inquiry, in substance, is the same as that of the R. S. S. In the written statement filed by Shri Pandey he had brought up the theory about the Muslims being determined to create a communal disturbance on the occasion of the Ram Navami, in retaliation of the death of Anwar in a Police encounter. He had also made a complaint of the fact that the arrests made by the administration were confined to the Hindus. And, he had also narrated at considerable length the atrocities committed on the members of the Hindu community. He had, no doubt, made a passing reference to the killing of the Muslims who were being evacuated from Bhalubasa to an Ambulance, but he recounts in detail the recovery of illicit weapons from the houses of Muslims and the use of mosques by the Muslim communalists to mount their attacks on the Hindus. He had also voiced the theory of pre-planning by the Muslims by stating, as the R. S. S. had done, that the Muslims had stayed back from the factories from two days before the outbreak of the riot. Shri D. N. Pandey claims to represent his constituency consisting of both Hindus and Muslims but in the written statement filed by him he has hardly given any thought to the damage and casualties suffered by the Muslims in this riot though, as factually presented in the official statement (vide Annexure D-18 of the written statement filed on behalf the Government officers) out of 108 persons killed in the riot, 79 were Muslims, 25 were Hindus, one was a Christian and three were such whose community was not known. It is thus evident that both in the matter of approach to the tragic occurrence of the riot and in the assessment of the cause leading to it, he has a complete similarity of views and thinking with the R. S. S. and in this respect at least the link is evident. At the direction of the Commissioner, the S. P. consulted the confidential records maintained by the Intelligence Branch of Jamshedpur. After consulting the available record, he deposed that he could find only the name of Shri Dina Nath Pandey and not the other names, which the Commission had put to him. We have no reason to disbelieve this statement of the S. P. which, as we shall see later, finds support from other facts and materials on the record.

9.24. It is Shri Pandey's own admission that he was a member of the Bharatiya Jan Sangh before it merged with the Janta Party on the eve of the 1977 elections. He also admits that after the disintegration of the Janta Party he became a member of the Bharatiya Janta Party. Shri Pandey is, however, anxious to evade the direct suggestion put him that the Bharatiya Janta Party is nothing different from the old Bharatiya Jan Sangh. To this suggestion in his cross-examination by the J. U. H. his reply is that "it is not fact that all the members of the erstwhile Jan Sangh were the members of the Bharatiya Janta Party. Since I have not done the calculation I cannot say if more than 90 per cent Jan Sanghies are members of the Bharatiya Janta Party." The simple inference from this answer is that, in the main, the Bharatiya Janta Party is a reconstituted form of the original Bharatiya Jan Sangh, though all the members of the Jan Sangh may not have become members of the party, as re-formed. Shri Pandey has also admitted that Shri Atal Bihari Vajpayee is the President of the Bharatiya Janta Party and Shri Lal Krishna Advani is its General Secretary and that formerly both were members of the erstwhile Jan Sangh. We can also take judicial notice of the fact that they were important members of the Jan Sangh as, after its merger in the Janta Party, both of them were Cabinet Ministers in the Union Government. Faced with the question of dual membership of the erstwhile Jan Sangh and the R. S. S. put to him by the counsel on behalf of the minorities, his answer is that "since the membership of the Janta Party

had not been regularised, one who was a member of the R. S. S. could also be a member of the Janta Party but not its office-bearer." This is a virtual admission, for all practical purposes, that a common membership runs between the R. S. S. and the erstwhile Jan Sangh and now the Bharatiya Janta Party. Looking at the totality of the materials placed before us, we have no hesitation in concluding that Shri Pandey has links with the R. S. S. and he cannot also dissociate himself from the membership of this organisation.

9.25. It has been stated in the written statement filed by the Government Officers that the Trade Union movement at Jamshedpur had undergone a change in character with the emergence of the Bharatiya Majdoor Sangh. The D. C. has categorically stated in the cross-examination and stood up to it firmly, that the Bharatiya Majdoor Sangh is the labour wing of the Jan Sangh. He has asserted that he had stated this fact from his knowledge of affairs in the industrial city of Jamshedpur as the D. C. of the district. He has further asserted that in 1979 the Bharatiya Majdoor Sangh was, according to his assessment, still affiliated to the erstwhile Jan Sangh and has refuted the suggestion that the Bharatiya Majdoor Sangh had always been an independent organisation and that it had nothing to do with the Jan Sangh.

9.26. Shri Pandey admits in his cross-examination by the counsel for the minorities that Shri R. P. Sarangi, M. P. is the President of the Bihar Branch of the Bharatiya Majdoor Sangh of which he was the vice-President. He also admits that Shri Sarangi was a member of the Bharatiya Janta Party and earlier a member of the erstwhile Jan Sangh. He goes on to say that "every political party had got a labour wing. C. P. I. has one such. So also the Congress (I)." But when it comes to the question of the Bharatiya Janta Party he makes bold to assert that it had "UPTIL NOW" no labour wing and goes on to say that even the erstwhile Jan Sangh did not have a labour wing. From the evidence discussed above, this statement on his part has to be rejected outright

9.27. Finally, we come to the question of his reaction to the accusations made immediately after the Jamshedpur riots, holding him as responsible for causing the riot. In his cross-examination by the counsel for the J. U. H. he admits that he has a political image and yet he did not issue a contradiction when an article was published in the "Sunday" in which Shri M. J. Akbar had accused him of causing the riot. The explanation offered by him is indeed astounding. He says that he had not read that portion of the article in which there were allegations against him. When cross-examined by the counsel for the R. S. S. he, however, finds a new explanation when he says that "because a Commission had been constituted under the Commissions of Inquiry Act, my contradiction would have been irresponsible and prejudicial to the functioning of the Commission." he did not issue any contradictions to those allegations. It does not occur to Shri Pandey that not having read about the allegations against him, such a question did not arise at all.

9.28. The Commission, therefore, concludes that Shri Dina Nath Pandey was a member of the R. S. S., his actions followed a line which was in fulfilment of the general scheme of the Hindu Communalists of Jamshedpur and that they were also aimed at achieving the plan announced in the leaflet circulated by them. His conduct had, thus, directly contributed to the outbreak of the riot at Jamshedpur, on the occasion of the Ram Navami festival of 1979.

CHAPTER 10.

ANWAR MIAN.

10.1. Anwar was a notorious criminal of the Jamshedpur Police District. It seems he was a convert Muslim since his brother is a Hindu. He had a large followers among anti-socials belonging to the Muslim community but there were also Hindus among his followers. He was a resident of Bawngora in Azad Basti which is almost wholly a locality of Muslim residents. Some Muslim anti-socials also lived in this area.

10.2. Anwar was wanted in several criminal cases of murder, dacoity etc. but the Police could not apprehend him. He was, eventually, killed in a Police encounter on 26th February 1979.

10.3. A large number of Muslims assembled at the morgue at the time of the post-mortem examination on his dead body. A crowd tried forcibly to enter the Hospital demanding that the body of Anwar should be handed over to them. The Magistrate had to order bursting of T. G. shells to deal with the situation. The written report dated 26th February 1979 made by the Magistrate Shri Q. S. Ahmad, on the basis of which the relevant F. I. R. was drawn up (Ext. RSS/3) gives an account of those incidents. It is stated therein that as result of heavy brick-battling by the hostile crowd that had assembled, two of the Constables and the Magistrate himself were injured. Thereupon the Magistrate had to order bursting of Tear Gas shells. Even then the crowd surged forward raising slogans and Tear Gas shells had to be burst again and the crowd chased away, so that they may not be able to form a procession with the dead body to incite people to violence and rioting. Although the dead body of Anwar was given to his relatives the same day after the post-mortem examination, the burial took place on the following day. A demand was also made for judicial inquiry over the death of Anwar. The S. D. O. (GOW/29) had to talk to the brother of Anwar and to other people and to explain to them that it was not within his powers to order for a judicial inquiry after which the demand was not pressed further. The evidence of the S. D. O. is that over the death of Anwar certain persons had complained to him that he was killed because he was a Muslim. Although no witness has come forward to give even the gist of the speech which Chhabban Mian is alleged to have made on the occasion of the burial of Anwar, in the opinion of the S. D. O., Chhabban Mian was one of the persons who was trying to give a communal colour to the death of Anwar.

10.4. Some 4,000 to 5,000 Muslims attended Anwar's funeral procession on the day following the incident at the morgue. Shri R. C. P. Sinha, Magistrate (GOW/22) who had witnessed the incidents connected with the taking out of the funeral procession had, in course of his cross-examination, agreed that he had inferred that the persons in the procession consisted of Muslims from the fact that they were wearing scarves on their heads. He is not, however, clear on the point of any speech having been made by Chhabban Mian on the occasion of the funeral of Anwar. The Officer-in-Charge of the Police Station (GOW/4) had mentioned that a speech was delivered by Chhabban Mian on this occasion but he admits that he did not note the contents of the speech nor institute a case over the subject-matter of the speech.

10.5. The incident following the death of Anwar had given cause for anxiety to the administration and there was also a Station Diary Entry which indicated that Muslim communalists were trying to give a communal twist to the incident. The overt acts, which followed the incidents over Anwar's death did not, however, directly partake of a communal character, though some Muslims had been found engaged in disorderly acts like getting shops closed in Dhatkidih and also getting vehicular traffic stopped or holding up vehicles on National Highway-33 and pelting stones and generally creating a law and order situation. Some policemen had sustained injuries in controlling these incidents.

10.6. It is necessary to look now more closely into the assessment of the situation arising out of the death of Anwar in the Police encounter. The Station Diary Entry

dated 26th February 1979 (Ext. Samity/1) is the earliest recorded document reflecting the view that some Muslim communalists were trying to give this incident a communal twist. The Ram Navami orders dated 27th March 1979 issued by the D. C. (vide Annexure 3 of the written statement sworn on affidavit by the D. C.) and, the one dated 2nd April 1979 issued by the S. P. (vide Annexure 4 thereof), both mentioned about the delicate situation that had arisen in the wake of the death of Anwar in a Police encounter. These two orders first call for a close look.

10.7. The Ram Navami order of the D. C. specifically mentions about this incident in para. 2 thereof in the following terms :—

“DINANK 25/26TH FARWARY 1979 KI RATRI MEN JAMSHEDPUR KE EK APRADHKARMI ANWAR KE POLICE KE SATH MUTHBHED MEN MAREJANE KO LEKAR STHITI BARI HI BHAVPRAVAN EWAM NAJUK HO GAYI THI (.) ABHI BHI IS GHATNA KO LEKAR KATIPAYA VYAKTION KE DILON MEN BADLE KI BHAWNA VYAPT BATLAI JATI HAI. UPROKT GHATNAON KE PARIPREKSHYA MEN YEH AVASHYAK PRATEET HOTA HAI KI JAMSHEDPUR SHAHAR MEN STHITI PAR BARA HI KADA NIYANTRAN RAKHA JAYE.”

10.8. The S. P.'s. Ram Navami order dated 2nd April 1979 in Annexure 4 refers to the same event and his assessment thereof in para. 3 of this order is recorded in the following words :—

“DINANK 25TH/26TH FEBRUARY 1979 KI RATRI MEN EK KUKHYAT APRADHKARMI EWAM GOONDA ANWAR JO POLICE KE SATH APRADH KARTE SAMAY MUTHBHED MEN MARA GAYA THA, US GHATNA KO LEKAR KATIPAYA VYAKTION KE MAN MEN BADLE KI BHAWNA VYAPT BATLAI JATI HAI. ATAH IN BATON KO DHYAN MEN RAKHTE HUWE SATARKTA BARATNE KI AVASHYAKTA HAI.”

10.9. In both these assessments, therefore, the emphasis is on the harbouring of a feeling of revenge (Badle-Ki-Bhawna) by some persons.

10.10. However, in an earlier report which the S. P. had addressed to the D. I.-G. of Police, South Chotanagpur Range in his letter dated 23rd March 1979 (Annexure 8 of the written statement filed on behalf of the Government officers), which precedes the Ram Navami order by ten days, he had mentioned that there was a possibility of a communal tension arising out of the incident of the death of Anwar. This report, though a forecast, was essentially a requisition for the deputation of additional force and in the nature of making out a case for it. Even so, it simultaneously admits that from the information available till then (AB TAK PRAPT SOOCHNAON) the forecast is that the situation would remain peaceful during the Ram Navami festival of that year (IS VARSH STHITI SHANTIPOORNA RAHEGI). The later documents namely, the Ram Navami orders issued by the D. C. and the S. P., which were intended to acquaint the officers concerned with the situation do not mention about any 'communal impact' of the sentiments aroused over the death of Anwar.

10.11. The S. D. O. had, from his end, sent his forecast report to the D. C., on the eve of the Ram Navami festival. This was on the basis of reports received from the Officers-in-Charge of Police-Stations which were also the source for the S. P.'s forecast. According to his assessment "the forecast report did not contain anything about apprehension of communal disturbances, there was none existing at that time."

10.12. It would, therefore, be correct to hold that the impact of the incident which had occurred following the death of Anwar in a police encounter did not loom before the concerned heads of the administration as influencing the communal situation

on the eve of Ram Navami. But as a matter of abundant precaution, they did not lose sight of the event and cautioned the officers concerned to remain alert (STHITI PAR BARA HI KARA NIYANTRAN RAKHNE EWM SATARKTA BARATNE KI AVASHYAKTA HAI). The heads of administration had, by this time, and in the light of what had happened since Anwar's death and its sequel, taken the view that it was no longer a communally sensitive issue.

10.13. Coming to the evidence on record, it has already been mentioned that the followers of Anwar were not confined to Muslims alone and that there were also Hindus amongst them. The target of his criminal activities was also not Hindus alone. There is also the admitted fact that Anwar came from a family of converts, one branch of which belonged to the Hindu community. The S. P., when confronted with his observations about the possibility of a communal tension, in his report to the D. I.-G. dated 23rd March 1979 (Annexure 8 of the written statement) clarifies in his cross-examination by the Samity that after the death of Anwar there was a sense of protest and resentment amongst a section of Muslims and that he had apprehended that some of them might become active in creating communal tension on the occasion of the Ram Navami. The S. D. O. (GOW/29) says in his cross-examination by the R. S. S. that he agreed with the S. P. that some anti-social elements were trying to give communal colour to the event of Anwar's death and that those anti-social elements belonged to the Muslim community. He had, however, made this statement in context of the observation made by the S. P. in his memo. dated 25th March 1979 addressed to his subordinate officers (Annexure D-16 of the written statement filed by the Government officers) in which he refers to some anti-social elements in the Muslim community being active in diverting the attention of peace-loving citizens on communal lines "just after" the death of Anwar. When his attention was drawn to the relevant observation in the S. Ps.' report to the D. I.-G. (Annexure 4 of the W. S. filed by Government officers) he qualifies his earlier statement and also clarifies it by saying that he "agrees with the statement that there was dissatisfaction over Anwar's death and this called for special precautionary measures during the Ram Navami Festival." Reading the two statements which closely follow one after the other, it is apparent that the S. D. O. does not agree that the communal character of the event had persisted. But the D. C. is more categorical in his statement on the apprehension expressed by the S. P. about communal colour being given to the agitation over the death of Anwar, when he states that he "does not agree with the assessment of the S. P." that a communal tension would arise over the incident. In his cross-examination by the J. U. H. on the taking out of the procession with the dead body of Anwar, he specifically affirms that it is not a fact that there were apprehensions of communal disharmony at their hands" "There was resentment amongst the 5,000 or so persons who accompanied the funeral procession of Anwar over Anwar's death in Police encounter" and that "the resentment was primarily against the administration over the killing of Anwar in an encounter." He goes on to say that he "had not received any report of any attack on the Hindus following the taking out of this funeral procession during the period up to the 10th of April 1979. His reply to the cross-examination by the Samity is another categorical statement denying the persistence of any communal tension over Anwar's death, when he says that he got a report of the incidents following in the wake of Anwar's death about 10 days after the occurrence and "by that time the tension had subsided."

10.14. The S. D. O., in his cross-examination, by Mr. B. Z. Khan, Counsel appearing on behalf of the minorities, says that he does not remember if there was any action of a communal nature on the part of the Muslims after Anwar's death till 11th April 1979. When recalled for further examination on the petitions filed in this behalf by the J. U. H., the S. D. O. categorically states, in reply to the question asked by the Commission, that he can neither recollect any case having been instituted in his Court by any citizen apprehending trouble due to Anwar's death nor did he receive any complaint from any member of the public, either verbally or in writing, that they were apprehending any assault or attack upon them owing to Anwar's death. All that he had received was a petition from the

mother of Anwar saying that Anwar was killed because [he was a Muslim and praying for the institution of a judicial inquiry.

10.15. The case of the R. S. S. is that the cause of the riot during the Ram Navami festival has to be traced back to the reaction of the Muslim community in general and the anti-social elements amongst them in particular, to the death of Anwar in a Police encounter. According to them Anwar was looked upon as a protector of Muslims and his death was viewed as a threat to the safety of the Muslim community. There was thus a determination to avenge Anwar's death. Shri Thakur Prasad, Counsel appearing for the R. S. S., has argued that the anti-social elements amongst the Muslims were waiting for a suitable opportunity and the Ram Navami festival was just the occasion for it for, by that time, they had prepared themselves to perpetrate a communal riot. Mr. Thakur Prasad went on to say that the dispute over the grant of the route was a secondary event and that whether there was any such dispute or not, whether the procession was to come out on the 6th, 7th, 8th, 9th, 10th or 11th or whether Shri Dina Nath Pandey raised the question of release of Shri B. K. Trivedi or not, the anti-social elements amongst the Muslims would have perpetrated the riot.

10.16. We shall have occasion to revert to these questions when dealing with the events leading to the riot and its cause. But, at this stage, we cannot help expressing our inability to accept the idea that the feeling of revenge or resentment over Anwar's death, which was obviously directed against the administration, should lead the Muslim anti-socials to plan, prepare and perpetrate a communal riot, causing death and suffering to the Hindus as a community. Mr. Thakur Prasad has relied on the incidents of the communal riot of Jamshedpur of 1964 to explain this. No evidence has been adduced, except in very general terms, regarding what happened during the communal riot of 1964 but Mr. Thakur Prasad's argument was that the Muslims had nursed a grievance against the Hindu community over what they had allegedly suffered during that riot. To say that the incidents of the communal riot of 1964 had been stored in the memory of the Muslims as a community, assuming that they had suffered at the hands of Hindus in that riot, over a period of 15 years, by which time a whole generation had passed, would be stretching the case beyond the limits of reasonable human conduct.

10.17. As we shall have occasion to notice later when dealing with the course of events, the Muslims of Azad Basti in Mango P.-S., which is situated to the west of the New Purulia Road, had acted in an aggressive manner in confronting the Ram Navami procession on the New Purulia Road. The facts and circumstances leading up to the commission of provocative acts by the Muslims, have been discussed later in this report. In a nutshell, a series of acts committed by the Hindu communalists had preceded it, leading to the situation in which the riot had finally broken out. But, the manner in which the Muslims of Azadnagar in Mango P.-S. area reacted to the situation, suggests that they were being led by some extremist elements who were oblivious of the consequences of their action and the sufferings that may befall the Muslim minority, once a riot had started.

10.18. In this context, the fact that some of the notorious Muslim associates of Anwar resided in Azad Basti of Mango P.-S., which was wholly a Muslim locality, is of material significance. Whether a convert or not, Anwar was a Muslim and, a leader of the under world, his followers largely consisted of anti-socials belonging to the Muslim community. The death of Anwar was an alarm signal for such associates of his and their natural reaction would be to bring themselves in a state of readiness to meet any eventuality that they may affect their survival. As members of the under world they would also be always on the look-out for opportunities to pursue their career of violence, loot and the like. The chain of events beginning with the holding of the Divisional Conference of the R. S. S. the dispute over the route passing through a Muslim locality, the call given to the Hindus to force the procession through this route defying the administration and, finally the onrush of men joining the Dimna Basti Akhara procession on the New Purulia Road, in response to this call, provided the occasion for the anti-socials amongst the Muslims

to assert themselves and assume the leadership of the Muslim community. Having thus seized the leadership in this manner, in the general condition of panic and tension prevailing amongst the Muslims at that time, they acted in a reckless and desperate manner appearing to protect the Muslims from the attack of the Hindu community. The anti-socials had everything to gain and nothing to lose from a communal riot, as a breakdown of law and order is the ideal situation in which they prosper and thrive. The death of Anwar added this factor to the complex situation that had developed over the dispute regarding the route which finally led to the outbreak of the riot.

CHAPTER II.

FACTS AND CIRCUMSTANCES OF THE COMMUNAL DISTURBANCES.

11.1. On the term of reference relating to the "Facts and Circumstances including the causes and course of communal disturbances", we have considered it necessary to deal separately with the facts and circumstances preceding the outbreak of the riots and those that occurred after it being treated in dealing with the course of events.

11.2. The district administration had, as a part of the usual exercise for the maintenance of law and order during important festivals, started taking stock of the situation from the month of March itself. The Ram Navami Pooja was to be held on the 5th of April 1979 but, according to the practice prevalent in the city of Jamshedpur, the processions carrying the flag of Mahavirji were to be taken out and the Jhanda immersed on the following day i. e. the 6th of April, 1979.

11.3. The written statement submitted on behalf of the Government Officers affirms that after the communal riots of 1964, the Ram Navami festival, like some other major Hindu and Muslim festivals, came to be regarded as an occasion for vigilance and alertness for the law and order authorities. Simultaneously, the number of Ram Navami processions had kept on increasing from year to year, till it had risen to 79 in the year 1979. As further stated therein, along with the increase in the number of licences, related dispute as to routes etc., also came on the surface at times and that in the year 1975, communal violence had taken place in Jamshedpur on the eve of the Ram Navami festival.

11.4. According to the assessment made by the concerned local authorities, they had to take precautionary measures consistent with the demands of the situation prevailing in a particular year. The first report that they got during the year 1979 was the intelligence report dated 23rd March received from the Intelligence Branch, Jamshedpur. It recounted the various communal incidents that had occurred in the recent past, including the incidents following in the wake of the death of Anwar in a Police encounter. It also drew attention to the Divisional Conference of the R. S. S. which was going to be held on the 31st of March and the 1st of April, 1979 in which, besides others, Shri Balesahab Deoras, the Sar Sangh Chalak of R. S. S. was also to participate. Based further on forecasts obtained from the O. C.'s of Police Stations, the D. C. and the S. P. prepared their assessment of the requirement of force, which had to be on a larger scale than in the previous years. The details of the various administrative measures that were taken have already been recounted in Chapter 4 of this report.

11.45. At this stage it is necessary to mention about the dispute that had arisen over the passage of the procession of the Ram Navami Jhanda of the Dimna Basti Akhara. The location of the Dimna Basti is shown in the sketch map of the Mango P.-S. appended in Chapter 12(a)(i) of this report. This Akhara for celebrating the Ram Navami in the Dimna Basti of Mango P.-S. had been set up for the first time in the year 1978. The concerned local authorities had refused to grant permission for the passage of the procession through Road No. 14 of Mango P.-S. in 1978, after considering the objection that had been raised in the matter by the Muslims residing in that area and also other relevant matters. The Ram Navami Jhanda procession of Dimna Basti Akhara was thereafter not taken out in that year. The parties concerned, however, moved the Ranchi Bench of the Patna High Court in a writ application which was dismissed by the Court with the following observations :

'In these circumstances, we are afraid it is not desirable for us to make any final order, and in our opinion it will be proper to direct the Sub-divisional Magistrate, Dhalbhum at Jamshedpur Respondent No. (2) to consider the desirability of allowing the petitioners to carry the Mahaviri Jhanda accompanied by 3-4 persons by giving them adequate protection. This observation however would not stand in the way of exercising the proper

administrative discretion by the authority and he will pass such order as he thinks fit and proper taking into account the contention of the petitioners and the conditions prevailing in the locality."

11.6. A meeting of the Peace Committee of representative persons of Mango P.-S. area was held on 30th March 1979. This meeting was presided over by the S. P., Jamshedpur and was also attended, besides others, by the S. D. O., Dhalbhum and D. S. P. (East). Shri Sonaram Manjhi of Dimna Basti had filed an application, again in 1979, for taking out the Dimna Basti Jhanda procession through the same disputed route. The presence of the top officers of the administration in the meeting of the Thana Peace Committee is a clear evidence of their awareness of the delicate nature of the disputes that had arisen already in the previous year over the question of the route for the passage of the Dimna Basti Akhara procession. The local Thana Peace Committee meetings elsewhere were convened and presided over by respective O. C.'s of Police Stations. As anticipated by them, the question regarding the passage of the procession, through the disputed route was raised in that meeting which finally decided that the S. D. O. and D. S. P. would jointly inspect the site on the 2nd of April in the presence of the members of both the communities. It was also agreed that the route recommended after the inspection would be acceptable to both the parties, vide proceedings of the meeting in Annexure 6 of the W. S. filed on behalf of Government officers. The inspection was held accordingly and the recommendation of these two officers was placed at the meeting of the Central Peace Committee held in the Civil Defence Hall on the 2nd of April, 1979 under the presidentship of S. P., Jamshedpur. According to this recommendation, the procession was to avoid the disputed route by taking a southerly direction from the Dimna Basti through what is called the Sankoshahi Relief Road, to meet the Dimna Road at some distance to the south of the Dimna Basti. Emerging on the Dimna Road, the procession would take another swing to the south to reach and cross the Swarnrekha Bridge. This recommendation was placed before the Central Peace Committee and the route recommended was announced as the route granted. According to the S. P., Jamshedpur and record of the proceedings of this meeting "nobody raised any objection to the recommendation made."

11.7. The first open protest against the denial of the route applied for by Sona Ram Manjhi, was made on the 5th of April, then some persons of Mango area, including some of the licensees, met the S. D. O. and told him that no procession of Mango P.-S. area would be taken out on the due date unless the Dimna Basti Akhara procession was allowed to be taken through the route asked for. They submitted a petition signed by one Jogendra Kumar Nirala who described himself as the Secretary of the Sanyukt Bajrang Bali Akhara Samity, Mango. Besides Shri Nirala there were some 8 to 10 persons who met the S. D. O. with this petition and amongst them were S/Shri B. K. Trivedi, Janardan Sharma, R. P. Singh and J. C. Murmu. The S. D. O. (GOW/29) has stated that he tried to persuade them not to make an issue of the matter and warned them that if law and order was disturbed by their actions stern measures would be taken against them. They promised to go back and reconsidered the issue. The S. D. on his part reported the matter to the D. C.

11.8. As we have already seen, in the Central Peace Committee Meeting of the 2nd of April, no issue was made challenging the recommendations made by the S.D.O. and the D.S.P. (East) about the route to be followed by the Dimna Basti Akhara procession. As stated by the S.D.O. in his deposition, in the Thana Peace Committee Meeting of Mango P.S. held on 30th March 1979 the persons who had raised the question of the route for the Dimna Basti Jhanda procession had given out that "they will accept whatever the route decided upon after the inspection", and this is confirmed by the recorded proceedings of the meeting. This version of the S.D.O. was also not challenged in his cross-examination. The incident of 5th April 1979 mentioned above also ended with a kind of promise on the part of the Akharawalas of Mango P.S. area to go back and reconsider the issue. The administration had, no doubt, a recorded protest before them but it appeared that they were kept in some vagueness about the ultimate intentions of the Akharawalas.

11.9. After meeting Jogendra Kumar Nirala and others on the 5th of April, 1979, the S.D.O. sent out an alert to all the Police Stations, and the respective O.C's of the P.S.'s reported back by the 6th of April, after contacting the licencees of their respective areas, that the Ram Navami processions would be taken out on the scheduled date, Mango P.S. not excepted.

11.10. Events in the nature of overt acts likely to arouse religious sentiments now started occurring. One such incident was the placing of an earthen idol of Mahavirji by some unknown persons in the Radio Maidan in Bistupur Police Station where no such idol used to be exist. The Constable reporting this incident, who noticed it at about 1 P.M. of 5th April, 1979, has further mentioned in the F.I.R. (Ext. GO/3) that he also noticed that religious sentiments between Hindus and Muslims were getting provoked over this incident. And, when the day of immersion arrived, it was found that except for 11 Jhandas, the remaining 68 Jhandas were not taken out for immersion on the scheduled date. In view of the complex and sensitive situation that had arisen due to the Akharawalas having boycotted the immersion ceremony, the D.C. called a meeting of the licencees and important citizens of the town which was held in the P.I.R. attached to the Sakchi P.S. The view taken about the seriousness of the situation, and that it was likely to deteriorate, "as a result of not taking out Ram Navami procession", is reflected in the joint report sent by the D.C. and the S.P. in their Wireless Message, dated 8th April 1979, vide Annexure 11 of the W.S. of Government officers. In this meeting the D.C. made the stand of the administration clear and asked the licencees not to make an issue of the route of Dimna Basti Akhara procession. Among others, the meeting was attended by S/Sri Ayub Khan, M.L.A., Kartik Kumar Paswan, M.L.A., Sukhdeo Singh, Ranbir Singh, Dr. M. K. Akhaury and Dr. Shamim. According to the deposition of the S.D.O. they gave an assurance that "they were going to try and see that the Dimna Basti Akhara procession was taken out according to the route granted and all other processions were taken out." The S.D.O. later clarified in reply to the question put by the Commission that the assurance was to the effect that the procession would be taken out on the next day.

11.11. It is necessary to mention here that how that administration was being kept in dark about the true intentions of the Akharawalas by the manner in which they or their representatives had been repeatedly giving them assurances, explicit or implied, that they would abide by their decision, as we have noticed earlier, in the course of what had transpired in the Thana Peace Committee Meeting of Mango P.S. on 30th March 1979 and the Central Peace Committee Meeting on 2nd April 1979. Even after Jogendra Kumar Nirala had seen the S.D.O. and threatened to boycott the processions of Mango P.S. area, the Akharawalas in all the Police Stations had assured the O.C's that the processions would be taken out on the due date, that is the 6th of April. The assurance held out in the meeting of the 6th of April proved equally deceptive and processions were not taken out on the 7th of April, 1979 either. Far from any move towards resolving the impasse, the situation was further provoked by an incident which is the subject matter of Mango P.S. case no. 4, dated 7th April 1979 marked as Ext.CCC/19. A mob of about 100 persons armed with deadly weapons collected on the PARTI land between the Dimna Basti and the place where Road no. 14 ends towards the east. The mob included Shri Jogendra Kumar Nirala, B.K. Trivedi, Janardan Sharma and R. P. Singh, who had earlier met the S.D.O. on the 5th of April with the petition in which they had given out that they would not take out the processions of Mango P.S. area unless the route applied for by the Dimna Basti Akhara was granted. Shri B. K. Trivodi, Rajendra Singh, Janardan Sharma, Jogendra Kumar and two others were arrested on the spot and others fled away. According to the relevant F.I.R. the mob was raising the following slogans :-

"Sale Musalmanon ko ujar kar Pakistan bhej kar rahenge. Road no. 14 se Ram Navami juloos le ja kar hi rahenge. Koi shakti ham logon ko rok nahin sakti hai. Yeh ham logon ke dharma aur pratishtha ka prashn hai. Is ke liye mur kar rahenge. Police Musalmanon men shamil hai aur ham logon ko daba rahi hai. Musalmanon ka mun barh gaya hai."

11.12. The Samity has examined Shri B. K. Trivedi to prove that this was a concocted case in which he had been implicated. His version is that the O.C. of Mango P.-S. called at his house at the dead of night of 6/7th April 1979 and, on coming out he found the S.P. and the S.D.O. waiting in a Jeep in front of his house. He was then asked to come to the P.-S. for a discussion and as soon as he reached there the S.P. told him that he was under arrest. The very version of the appearance of the S.P. and the S.D.O. at the house of Shri Trivedi, as if this was a major operation to decoy him, makes it wholly unbelievable. Within a couple of hours of this incident in the Mango P.-S. area, another incident occurred in the Jugsalai P.-S. at one far end. It is necessary to mention here that on the 6th of April itself the Police had taken some initiative in the taking out of the processions in Jugsalai P.-S. area as a result of which 8 out of 10 licenced processions with their Jhandas had been taken out but only two were actually immersed. The Akharawalas of Jugsalai P.-S. thus seemed to nurse a grudge against the administration which found expression in the first incident that occurred in Jugsalai P.-S. at about 9 A.M. of the 7th of April. This incident is the subject matter of Jugsalai P.-S. case no. 2, dated 7th April 1979 which is Ext. GO/90. According to this F.I.R. some persons put up drums on the Bata Chowk blocking the road besides placing a Jeep at the centre of the road. This jeep was being used for relaying information on behalf of an Akhara. The O. C., who is the informant of the F.I.R., got the road cleared by removing the drums, at which the mob began to raise slogans demanding that atrocities of the Police should stop. After clearing the blockade in this portion, the O.C. advanced on the Station Road where he found that a truck had blocked it and the Jhanda of Dukhu Khatik's Akhara had been pitched on the road. The Magistrate Shri J. Baitha, in the meanwhile, arrived on the scene and called upon the licencees to clear the road but they replied back saying that they would not remove the blockade till the matter regarding the route of Dimna Basti Akhara in Mango P.-S. area had been settled, as this was an onslaught on their religion—**"KYONKI UNKE HINDU DHARM PAR DHAKKA LAG RAHA THA"**. Dukhu Khatik, Ram Prasad Khatik and others formed an unlawful assembly and began to shout slogans like **"Bajrang Bali Ki Jay"**. One person named Bhola Prasad jumped out shouting and raising slogans, with a Bhalra in his hand. Another incident of blocking of road soon followed at about 12 noon in Jugsalai P. S. area, which is the subject matter of Jugsalai P.-S. case no. 3, dated 7th April 1979, marked Ext. GO/91. In this incident, the Gol Chukkur on Bistupur-Jugsalai Road was blocked by placing boulders. The relevant F.I.R. has been recorded on the statement of Shri J. Baitha, Executive Magistrate, who has stated that the unlawful assembly was armed with lathies and bhalas and on the intervention by the Police and the Magistrate they started brick-batting and the situation had to be controlled by bursting of T.G. shells. This unlawful assembly was also shouting slogans to the effect that **"POLICE NEN HINDUON KO MANGO BASTI KE ROAD NO. 14 SE MAHAVIRI JHANDA KA JULOS NIKALNE KA LICENCE NAHIN DIYA AUR POLICE KATUON (the circumcised ones, meaning Muslims) KE HATH KI KATHPUTLI HAI. HAM SALE MIAN LOGON KO PAKISTAN BHEJ KAR MANGO AUR 14 NUMBER ROAD SE HINDUON KA JHANDA NIKALWA KAR RAHENGE, RAHENGE"**. There has been some cross-examination on behalf of the Samity and the R.S.S. to describe these incidents as essentially protests against the administration in which there was no ill-will against the Muslims not any communal overtone. The fact that these unlawful actions were centred around the demand for performance of a religious function of the Hindus in a particular manner and that the Muslims had raised objection to this demand, taken along with the kind of slogans that had been raised while committing these unlawful acts, leave not the faintest doubt that their actions were of a communal nature and they could not but fail to arouse religious sentiments of the Hindus and fear of their consequences amongst the Muslims.

11.14. The administration promulgated orders under section 144 Cr. P.C. throughout the town of Jamshedpur on 8th April 1979. An incident occurred on that day in the Sonari P.-S. area, again over the initiative taken by the Police in getting some Jhandas taken out for immersion, which is the subject matter of Sonari P.-S.

case no.3, dated 8th April 1979, marked as Ext. GO/73. The informant in this case is Shri J.P. Narain, O.C. of the Sonari P.-S. Shri R.C. P. Sinha, Executive Magistrate (GOW/22) has deposed to the effect that when he was on duty at the P.I.R. he got information that the Ram Navami procession of Sonari P.-S. had blocked the road by pitching Ram Navami Jhandas in the middle of the road with the result that vehicular traffic had come to a standstill. Shri Sinha rushed to the place of occurrence with an armed force at about 4 P. M. and got the blockade removed. Altogether 36 persons were arrested by the Police in this incident. In his cross-examination on behalf of the Samity it was suggested to him that the incident had occurred when these Jhandas were being taken for 'VISARJAN' forcibly at the instance of the Police which were again forcibly brought back by women and children protesting against this action. According to the F.I.R. (Ext. G.O/73) the procession of Budhram Mohulla with the idol had been taken to Kapali Ghat for immersion but there was resistance from other persons as a result of which the idol had to be taken back to its place of installation in the Akhara. In reaction to this incident, a large number of persons pitched Jhandas on the Kapali Road and also placed boulders therein, thereby blocking movement on the road. It is, therefore, admitted from the suggestion made in this behalf by the Samity that this incident had occurred over the taking out of the Ram Navami procession, though the latter may have been at the instance of the police in essence the cause of the incident and the reactions, were similar to the events of the Jugsalai P.-S. area even though both the areas were far apart. The unlawful assembly which had assembled around the Jhandas pitched on the road began to raise slogans on seeing the Police party. The nature of slogans were also essentially the same, namely, "POLICE PARTY WAPAS JAWO. HAM LOG SADAK JAM KARENGE JAB TAK MANGO ROAD NO. 14 SE RAM NAVAMI KA JULOOS PASS KARNE KA ADESH PRASHASHAN NAHIN DETI, POLICE MUSALMANON SE MILI HUI HAI, AUR HINDU DHARM KI MARYADA TATHA PRATISHTHA KO NASH KAR RAHIHAIAHR MUSALMANON KO PROTSAHAN DE RAHI HAI. HAM LOG MANGO 14 NUMBER ROAD SE JULOOS NIKALENGEHI".

11.15. The second incident of the day is the subject matter of Sonari P.-S. case no. 4, dated 8th April 1979 which is marked as Ext. GO/94. Shri R.C.P. Sinha (GOW/22) who had earlier taken action for getting the blockade removed on the Kapali Ghat road, got another information later in the evening of the same day that women and children numbering about 400 had surrounded the Sonari P.-S. and were demanding the release of persons arrested in the earlier incident. Shri K.N. Das, Executive Magistrate, has rushed to the Police Station with a Police Party at about 9 P.M. When Shri Sinha reached Sonari P.-S. he found it in a state of siege and all persuasions made by him failed to produce results. There was also brickbating on the Police Party from the mob, the women and children having been joined by about 500 persons who had formed a ringround them. These persons were not only throwing brickbats but they were also raising slogans to loot the Police Station to get the arrested persons released. Finding no other alternative, Shri Sinha ordered bursting 15 rounds of T.G. Shells after which the mob dispersed. According to Shri J.P. Narain, the O.C. of Sonari P.-S., who recorded the F.I.R., anti-social elements had moved up within the thana compound and slogans were being raised as follows:—

"MUDDALAH CHOOS DO POLICE ZULUM BAND KARO. SADAK JAM KARENGE JAB TAK MANGO ROAD NO. 14 SE JHANDA PASS NAHIN KIYA JAYE"

They were also, from time to time, raising slogans calling for looting the P.-S. THANA LOOT LO—

11.16. Some further incidents kept on cropping up, which appeared in F.I. Rs. lodged on 9th April 1979. One of them was a report from Abdul Samad regarding burning of his house by some Hindus. Another was a report by Kanhai Sharma of Bistupur P.-S. about forcible closure of his shop and still another by a bus-owner

regarding stone-throwing in Bistupur area. There was also an attempt to stage a Jamshedpur Bund by Hindus on that day over which an arrest was made in Sakchi P.-S. area and a similar plan to get shops closed and vehicular traffic stopped had led to arrests of Hindu activists under preventive sections in the Sidgora P.-S. on 7/8 April. Some of them tried to get the Sakchi Bazar closed on 7th April 1979 and on 9th April 1979, they were seen trying to stop vehicular traffic and getting shops closed near Bhalubasa Chowk in Sitaramdera P.-S. area. All these incidents were a concerted action to enforce the demand for grant of the route asked for for the Dimna Basti Akhara procession.

11.17. From the facts narrated in the foregoing paragraphs it would be evident that there was an extensive planned organisation of incidents in demand for permission to take out the Dimna Akhara procession through Road No. 14, and; there were also violent reactions when the Police, on their initiative, got some of the Jhandas taken out or immersed. The incidents also followed a set pattern, calling upon the Hindus in the name of their religion to resist the action of Police and assert their religions right to take out the procession through the route asked for. Simultaneously with the accusation to the Police for giving undue encouragement to the Muslims, there was an avowal to pack the Muslims off to Pakistan.

11.18. 9th of April, 1979 was the day on which a leaflet issued on behalf of the Shri Ram Navami Kendriya Akhara Samity, Jamshedpur, first came into the hands of the Officer-in-charge, Bistupur P.-S. (GOW/1). Shri P. N. Singh, S.-I. had given this leaflet to him. The witness had said that he did not make any investigation in the matter connected with the leaflet as he had come to know that the Jugsalai Police was making the necessary investigation. According to the evidence in the cross-examination of the Officer-in-charge, Jugsalai P.-S. Shri Ram Bilas Singh (GOW/6), the investigation on this leaflet had been tagged on to Case No. 3, dated 7th April 1979 of Jugsalai P.-S. (GO/91) which related to the incident of blockading of the Gol Chukkur on Bistupur-Jugsalai Road. The case was investigated by S.-I. Madan Prasad Sinha and that, according to the Case Diary, the leaflet had been found in the Bata Chowk on 10th April 1979. The Case Diary further mentioned that Shri Swadesh Kumar Prabhakar, accused in Case No. 3, dated 7th April 1979 and some of the communal-minded persons were circulating the leaflet. It is necessary to reproduce here this leaflet in extenso :

“Dharm ki Jay Ho Adharm ka Nash Ho
Jamshedpur ke dharmpremi janta se appeal.

Sajjanon,

Jamshedpur nagar men yahan ke S. P. dwara jo “danga karane ki sajish ki gayi” aur us sajish ko safal banane ke liye jagah jagah par lathi charge, ashru Gas aur giraftari ka jo silsila yahan ke prashashan nen chalaya hai, woh ab ap sabhi ke samne a gaya hai. Ab tak yahan ki janta nen shantipoorna dhang se her Zulum ko bardasht kiya hai lekin shanti ki ad men yahan ke Hinduon ko kuchla ja raha hai. Unka daman kiya ja raha hai. Dhatidih men Hanuman ji ki moorti ko Police dwara tora gaya, Jugsalai men lathi charge aur ashru gas ki varsha ki gayi, Mango men Hinduon ko alpsankhyak bana diya gaya. In sab ke piche yeh spast ho chuka hai ki S. P. aur unke chamechagiri karne wale kuchh adhikariyon ka hath hai. Sarvekshhan se yeh bhi saf ho gaya hai ki, sabhi Sipahi, Havildar, Home Guard adi di se hamara sath देने ko tariyar hain.

Atah ap sabhi se nivedan hai ki ap apna Akhara jin karanon se Dashmi ko nahin utha sake we karan abhi bane huwe hain aur jab tak yeh bhrasht aur Hindudrohi S. P. yahan rahega tab tak moortian tootti rahengi. Lekin is sangharsh men hamen apni sanskriti aur maryada ka bhi dhyan rakhna hai. Ise dhyan men rakhte huwe Jamshedpur ki Shri Ramnavami Akhara Kendriya Samity nen yeh faisla kiya hai ki sabhi Akhara Budhwar Hanuman Jayanti dinank 11th April 1979 ko dopahar 2 baje nikalen. Kewal Mango ka Jhanda 14 number road se din 11 baje nikalega, usmen faisle ke anusar, sabhi akhade ka sadasya pahile Mango ka Jhanda nikatwa kar bad men apne apne Akhade men pahunch jayenge.

Ham Bihar ke Rajypal, Mukhya Mantri ewam Zila ke sabhi police ewam prashashan adhikarion ko bata dena chahte hain ki *agar nagar men shantipoorna dhang se nikalne wale jhandon par kisi bhi prakar ki apriya ghatna ghati to uski poori jimmedari sthaniya prashashan par hogi.*

Atah prashashan nispaksh dhang se suraksha ki vyavastha karen.

Nivedak,

Shri Ram Navami Kendriya Akhara
Samity, Jamshedpur.

Dinank 7th April 1979

11.19. We have *underlined* some portions of the contents of this leaflet as reproduced above. We also append below a free English rendering of its contents :—

An appeal to lovers of religion of Jamshedpur

Gentlemen,

The plan hatched by the S. P. to create a riot in the city of Jamshedpur and the series of acts of lathi charge, bursting of Tear Gas shells, arrests at different places which had been perpetrated by the administration in fulfilment of that plan have all appeared before you. The public have till now borne all these atrocities in a peaceful manner but on the plea of maintenance of peace the Hindus are being crushed. They are being suppressed. The idol of Hanumanji in Dhatkidih was damaged by the Police. Lathies and Tear Gas Shells were showered in Jugsalai. In Mango the Hindus have been converted into a minority. The hand of the S. P. and his sychophants is clearly visible behind all this. A survey had also clearly shown that all Policemen, Havildars, Home Guard, etc. are, in their hearts, ready to give us support.

We, therefore, submit to you that the causes which have led to your Akharas not being lifted on the day of the Dashmi persist and so long as this degenerate and anti-Hindu S. P. remains here, idols will continue to be damaged. But in this confrontation we have to keep in mind our culture and our honour. Keeping this in view the Central Committee of Shri Ram Navami Akharas of Jamshedpur have decided that they should take out their respective Akharas on Wednesday, 11th April 1979 at 2 P.M. on the day of Hanuman Jayanti. Only the Jhanda of Mango shall be taken out through Road No. 14 at 11 A.M. According to this decision all members of Akharas shall first get the Mango Jhanda taken out after which they would come to their own Akharas.

We like to tell the Governor, the Chief Minister and the officers of the Police and of the administration of the district that if any untoward incidents occur in peacefully taking out the Akharas in the City, the responsibility will be entirely of the local administration.

The administration must, therefore, provide arrangements for protection and safety in an impartial manner.

Shri Ramnavami Kendriya Akhara
Samity, Jamshedpur.

Dated 7th April 1979

[11.20. The significance of this leaflet, in the context of the events that had already occurred and the subsequent developments, leading up to the outbreak of the riot, cannot be over-emphasised. The main ingredients of the evocations contained in this leaflet to which we must draw pointed attention, from the aspect of their bearing on the final incident of the outbreak of the riot, are as follows :—

- (a) The leaflet is addressed to the lovers of religion of Jamshedpur—JAMSHEDPUR KI DHARMPRIYA JANTA. They are none but the Hindus and the appeal is directly made to their religious sentiments.
- (b) There is a direct mention in this leaflet and, for the first time, about a *conspiracy to perpetrate a riot*, which, of course, it attributes to the S.P.—S. P. DWARA DANGA KARANE KI SAJISH KI GAYI.
- (c) The incidents that have happened so far such as the removal of the Mahabir idol from the Radio Maidan and the dispersal of the unlawful assemblies in Jugsalai P.-S., by lathi charge and later bursting of Tear Gas shells, have been distorted and shown up as *acts of attack on and suppression of Hindus*. There is thus a link between the perpetrators of these incidents and the persons behind the leaflet. The incidents themselves appear as part of a design.
- (d) A survey had already established—*SAKVEKSHAN SE YEH SAF HO GAYA HAI*—that all Policemen, Havildars, Home Guards, etc., were at heart ready to give support to them. This not only shows the extent of the planning that had been going on, but also how the people in general were being assured of protection from punitive action by the Police, due to the alleged attitude of its subordinate formations.
- (e) The Jhanda of Dimna Basti Akhara shall be taken out through Road No. 14 at 11 A. M. on 11th April 1979 and all members of the various Akharas should join in taking out the Mango Jhanda after which they would take out their respective Jhandas at 2 P. M. This was an open call to defy the authority of the administration and violate the law and, at the same time, it was a warning to the Muslim minority that notwithstanding their objection, the Hindus would assert their 'right' in defiance of the authorities.
- (f) If any unpleasant incident occurred over the Akharas of the City being peacefully taken out, according to this plan, the entire responsibility will be of the administration.]

[11.21. This analysis will leave no scope for doubt that the religious sentiments of the Hindus were being aroused to a high pitch, that an organisational link had been well-established and a plan had been carefully evolved according to which not only some incidents had occurred but the future course of action had been laid down. And, a call for the defiance of the authority of the Administration, sweeping aside the objections raised by the Muslims, by forcibly taking out the procession of the Dimna Basti Akhara through the disputed route had been sounded, whatever the consequences that may follow. So, the authorities were held to blame in advance for any unpleasant incident that may occur from the execution of the plan announced by this leaflet.

[11.22. In the Chapter dealing with the role of Shri Dina Nath Pandey, M.L.A., we have detailed how things developed thereafter. We have seen how, despite a compromise over the route having been arrived at through the efforts of peace-loving citizens belonging to both the communities, the harmony was disturbed and the situation fouled so that the scheme outlined in this leaflet would be fructified. The procession which should, ordinarily, have crossed the Swarnrekha Bridge by 10 in the morning was stalled at only some distance beyond the point where it had emerged on the New Purulia Road after passing through Road No. 14, a new and impossible demand for the release of persons in judicial custody was raised, a rush of persons converged on the procession which was armed with deadly weapons and the hour announced for the assemblage of the Akharawalas was reached. It needed only the slightest provocation for a riot to break out.]

CHAPTER 12

(a) COURSE OF EVENTS.

There are 11 Police Stations in the town of Jamshedpur. Evidence has been led as to the course of events in respect of each of the Police Stations.

(1) Mango Police-Station

12(a) 1.1 Since the holocaust and orgy that enveloped the Steel City of Jamshedpur owe their origin to the dispute over route of Mahabiri Jhanda of Dimna Basti situate within the jurisdiction of Mango Police Station and because of the excesses committed there, it would be pertinent first to refer to the topography of Dimna Basti and to the areas falling within the Mango Police Station. It was here that the ripples of disharmony and the canker of communalism, in its worst form, first surfaced themselves.

12(a) 1.2. Broadly speaking, National Highway no. 33 towards north, Swarnarekha river towards south, Dimna Road towards east and the Old Purulia Road towards west form the perimeter of this area. From a place called pardih on the National Highway, a road runs south through this territory and goes across the Swarnrekha Bridge towards the main Jamshedpur City. This road is known as New Purulia Road. The Old Purulia Road and the Dimna Road meet the New Purulia Road at a crossing known as Mango Chowk which is 100 yards north of the bridge on the Swarnrekha river.

12(a) 1.3. On either side of the New Purulia Road there are practically parallel roads running from east to west. On the eastern side, to begin with, is Road no. 14 on the north and then Road nos. 13, 11, 10, 9, 8, 6 and 4 to its south. Their lengths vary from 75 yards to 300 yards and they end towards east in a village which is called Jawaharnagar. To the south of Road no. 4 is the Police Station and then an open space known as Gandhi Maidan. To the south-east of Gandhi Maidan is a School and then there is the locality known as Chuna Shah Colony. To the south-east of the Dimna Road is Munshi Mohulla.

12(a) 1.4. On the western side of the New Purulia Road a little to the south of Road no. 14 is a Petrol Pump known as the Yadav Petrol Pump, then the site of Trivedi Akhara and then Road no. 12. Road no. 12 on the west and Road no. 13 on the east are practically in the same line. About 200 yards south of Road no. 12 is Road no. 7 and further south of it lie Road nos. 5, 3, 2 and 1. Between Road no. 3 and Road no. 2 is a mosque which stands on the New Purulia Road. To the south of Road no. 1 is the Daiguttu Road on which is the Hanuman Mandir.

12(a) 1.5. Jawaharnagar is the portion which runs both towards east of the New Purulia Road near about Road no. 13 as also towards west of that road near Road no. 12. To the south of Jawaharnagar on the west are places which are known as Baganshahi, Bawangora, Azagnagar (Azad Bustee), Zakirnagar and Daiguttu. Towards the east of the New Purulia Road and to the south of Jawaharnagar lie Ulidih, Attar Line and Chuna Shah Colony. Muslims reside in Azad Bustee and Bawangora in an overwhelming number. Only Muslims reside in Attar Line and Chuna Shah Colony.

12(a) 1.6. Towards the north-east of the Mango Police Station is situate the Dimna Bustee. This Village is mostly inhabited by Adivasis. The Dimna Bustee is connected to the New Purulia Road by Road no. 14 which runs for about 200—250 yards. There is an undulating ground in between the eastern end of Road no. 14 and the Dimna Bustee. After running for about 150—175 yards from the New Purulia Road, Road no. 14 takes a turn towards the north and running for about 15 yards it again takes a turn towards the east. On the eastern side of the bend going towards north, there is what is known as the Jhonpra Masjid. It is a thatched structure with a tiled roof enclosed by thatched walls on three sides with an opening towards

the east. From the Jhonpra Masjid up to the eastern end of Road no. 14, the houses are mostly of Muslims. The Dimna Basti is connected with the Dimna Road by the Sankhosai Relief Road.

12(a) 1.7. To complete the topography, mention must also be made of Road no. 15 which connects Dimna Basti with the New Purulia Road. It is towards north of Road no. 14 and is on forest land. Road no. 15 runs from the New Purulia Road towards Dimna Basti for a distance of about 250 yards and thereafter through a forest path. There is also a *Pagdandi* (foot-path) over the Parti land. Along the *Pagdandi* there is a beaten track.

12(a) 1.8. Sona Ram Manjhi is an Adivasi and a resident of Dimna Basti. For the first time in 1978 he applied for a licence to take out Mahaviri Jhanda procession on the occasion of the Ram Navami festival. In this application he asked for the route from the Akhara via the Parti land to Road no. 14 and then to the New Purulia Road and from there to Mango Bridge.

12(a) 1.9. The licence granted in 1978 laid down the route as one from Dimna Basti to N.H. 33 *via* Pardih and then to the New Purulia Road and Mango Chowk. The route asked for not having been granted, Sona Ram Manjhi did not take out the procession through the route allowed and instead moved the Ranchi Bench of the Patna High Court. The High Court, on hearing both the parties, did not think it desirable to make any final order and thought it proper to direct the Sub-divisional Magistrate to consider the desirability of allowing the licence to carry the Mahabiri Jhanda accompanied by only 3 or 4 persons by giving them adequate protection. It was, however, also made clear that the High Court's observation was not calculated to fetter the administrative discretion of the authority concerned and that he was free to pass such order as he thought fit and proper taking into account the contentions of the licence and the conditions prevailing in the locality. The order was passed on 12th July 1978.

12(a) 1.10. In one year 1979, Ram Navami fell on 5th April 1979. The Mahabiri Jhanda processions in Jamshedpur were to be taken out on 6th April 1979. This time, again, Sona Ram Manjhi applied for the route that he had asked for in the previous year. The route that was granted by the concerned authority after careful examination and consideration of all factors was from the Akhara to the Sankhosahi Relief Road and then through the Dimna Road to Mango Chowk.

12(a) 1.11. The Akhara in Dimna Basti from where the Jhanda was taken out is a small tatched roof standing on poles on all sides.

12(a) 1.12. From the 4th of April, 1979 there was a deputation of a static force under Shri K.N. Sahay, Magistrate. This force under Mr. Sahay was located about 100 yards west of the area where Road no. 14 meets the Parti land towards east. On 9th April 1979 the Thana officers of Mango P.S. learnt about the leaflet (Ext. GO/6) dated 7th April 1979. The recitals made in that leaflet, which has been referred to earlier, had created some apprehensions in the mind of the authorities.

12(a) 1.13. On having learnt about the assemblage of some persons in the open land in Sabirnagar towards the east of Road no. 14, the O. C. of Mango P.S., accompanied by force, went there at 8 A.M. on 7 April 1979 and found that a mob of 100 or 125 Hindus, variously armed, were advancing towards Road no. 14. The mob was raising slogans like—

“SALE MUSALMANON KO UJAR KAR PAKISTAN BHEJ KAR RAHENGE. ROAD NO. 14 SE RAMNAVAMI JULOOS LE JA KAR HI RAHENGE. KOI SHAKTI HAM LOGON KO NAHIN ROK SAKTI HAI. YEH HAM LOGON KE DHARAM AUR PRATISHTHA KA PRASHNA HAI. ISKE LIYE HAM MAR KAR RAHENGE. POLICE MUSALMANON MEN SHAMIL HAI AUR HAM LOGON KO DABA RAHI HAI. MUSALMANON KA MAN BARH GAYA HAI”.

12(a) 1.14. The following persons were arrested at the spot:—

- (1) B.K. Trivedi.
- (2) Rajeshwar Singh.
- (3) Janardan Sharma.
- (4) Damodar.
- (5) Chandraketu Singh.
- (6) Yogendra Prasad Singh.

After arrest the crowd dispersed. Others in the mob who were identified were Kalika Singh, Hit Narain Singh and others.

12(a) 1.15. The Magistrate, Shri K. M. Sahay, Commission witness no. 2, who was posted on Road no. 14, could not witness this occurrence. He, along with a force of 1:4, used to do foot patrolling every day between 7 A.M. and 9 A.M. on Road nos. 14, 13, 13A and different lanes and bye-lanes of the area. When he with his force returned at about 9 A.M. he learnt that certain persons had been arrested.

12(a) 1.16. It is the case of the R.S.S. that the above incident did not take place at all and the circumstances in which B.K. Trivedi, Janardan Sharma and Yogendra Prasad Singh came to be arrested were different and that the whole incident is a camouflage to give colour of law to the illegal arrests. According to them, in the night between 6th and 7th April these three persons were called at the Mango Police Station where the D.C., S.P. and the S.D.O. were present to discuss about the route of the Ram Navami procession and that it was on that occasion that these three persons were arrested. The above suggestion was given to S.I. Victor Anthony (GOW/9) which he denied. The S.D.O. (GOW/29) has also denied the suggestion. B.K. Trivedi was examined to say that never any occurrence of the kind as stated above (vide F.I.R. Ext. CCC/19) took place. He has given out a story how he was arrested. According to him Inspector Pathak knocked at his door at about 2.30 A.M. in the night of 6/7 April 1979. He opened the door and the Inspector asked him that he was wanted by the S.P. and S.D.O., who were in the Jeep on the road about 15 to 20 feet away from his house, for some discussion. Four Jeeps were also there and he was asked to occupy one of them and along with the Inspector he was taken to the Mango Police Station, where the S.P. told him that he was under arrest and that he had to go to Golmuri P.S. He was produced before a Magistrate in the afternoon of Sunday, the 8th of April, 1979. It is difficult to uphold the *ipse dixit* of this witness. He admitted that up till the date of his deposition he had not made any complaint in writing against such an 'illegal arrest'. He also did not make any complaint before the Magistrate when he was first produced before him on 8th April 1979. Having observed the demeanour and level of intelligence of this witness, when he was in the witness box, the Commission thinks it highly improbable that had his arrest been as claimed by him, he would have taken it so lying down. It would be noticed that it because of this arrest that his Jhanda could not be taken out and immersion had to be done some weeks later. When one of the local M.L.A.'s repeatedly made efforts for his release even for the purpose of 'Visarjan' of his Jhanda, it cannot be believed that no complaint would be made had the arrest been illegal and not in accordance with what is contained in the F.I.R. (Ext. CCC/19).

12(a) 1.17. There is one circumstance which is relied upon to cast doubt on the truth of the F.I.R. (Ext. CCC/19). Amongst the accused persons occurs the name of Kalika Singh, who has been examined as a witness on behalf of the Samity. He corroborated the evidence of Shri Trivedi by saying that no incident of the kind had taken place at all. His name also occurs on the document of compromise regarding the agreed route (Ext. GO/212). It may sound improbable that a person who figured as an accused and had escaped when others were arrested, would be called in the meeting and sign the agreement. As it was argued that being an accused in a cognizable and non-bailable offence, Kalika Singh should have been arrested instead of

allowing him to participate in this meeting. There, however, seems to be a definite reason why his name occurred on the agreement and why he had not been arrested by the police. Kalika Singh has deposed that after the agreement was signed the S.P. asked him to assist the administration in the peaceful taking out of the procession and a jeep was placed at his disposal. In other words, what he admits is that the administration sought his active co-operation in getting the Dimna Basti procession taken out. The suggestion on behalf of Government officers is that the Police did not arrest him on the understanding that he would assist the administration in taking out the Dimna Basti Jhanda. The suggestion given on behalf of the J.U.H. is also to the same effect. The witness did not accept the suggestion made to him but it appears that there is truth in the suggestion made. This finds corroboration from the fact that according to his own testimony he had been provided with a Jeep for the purpose of taking out the Dimna Basti Jhanda. Concession shown to this witness by not arresting him on the understanding that he would co-operate with the administration in getting the Dimna Basti Jhanda taken out, is an exercise and a feature not uncommon in dealing with problems of law and order. The above explains how the signature of Kalika Singh came to be on the agreement (Ext. GO/212) and that this fact, in no way, reflects on the truth of the occurrence of the 7th morning. F.I.R. (Ext. CCC/19) shows that Hit Narain Singh was another accused who had fled away. His name also occurs on the agreement (Ext. GO/212). He had also not been arrested for the simple reason that he would assist the administration in its effort for taking out the Dimna Basti Jhanda and which he, in fact, did by appending his signature to the agreement (Ext. GO/212). Therefore, his signature on the agreement does not throw any doubt on the occurrence.

12(a) 1.18. Prohibitory Order U/S 144 Cr.P.C. was promulgated at Jamshedpur on 8th April 1979. At a meeting of Police officers held on 9th April 1979 the situation was reviewed and thana officers were directed to search for and seize unlicensed arms and ammunition and to get them deposited.

12(a) 1.19. On 9th April, 1979 Sona Ram Manjhi was contacted and he agreed to take out the procession on 10th April, 1979 through the allowed route. No procession, however, was taken out on 10th April, 1979 and despite best efforts Sona Ram Manjhi could not be contacted on that date. At about 4.30 P.M. on 10th April, 1979 the Divisional Commissioner and the D. I. G. came to the P. I. R. and after holding discussions gave direction that strict action should be taken against anti-social elements and for unearthing of illicit arms and weapons. They also gave directions for gearing up the Civil Defence Organisation. After this meeting the Commissioner, the D. I. G., S. D. O. and others visited Mango P.S. and saw Dimna Basti and all possible routes. During that visit it was brought to their notice that an alternative route was in sight and a compromise acceptable to all was possible. The Commissioner instructed them that if the alternative route was voluntary and acceptable to both the Communities, the authorities would have no objection in accepting it. Accordingly, a meeting was held in the night of the 10th of April at the Mango Police Station to devise a *mudus vivendi*. It was attended by members of both the communities of Mango and of other areas. Around mid-night the authorities were informed that a compromise over the route had been arrived at and they were requested to come to the P.S. Accordingly, the D. C., S. P. and S. D. O. came to the P.S. Sona Ram Manjhi was also present. An agreement was drawn up regarding the route to which Sona Ram Manjhi affixed his signature. The agreed route was from the Akhara in Dimna Basti going west through Road no. 15 for some distance and then it was to take turn towards south and come to Road no. 14 by the side of the Jhonpra Masjid and then turn towards west on the New Purulia Road. The portion of the route in Road no. 15 which ran towards west, was through undulating ground and it was just a footpath with shrubs on one side and some houses on the other at intervals. The southern portion of the route was a still narrower footpath. It has *tattie* on either side. The procession was to be taken out next morning i. e. on the 11th of April, 1979.

12(a) 1.20. Elaborate arrangements for deployment of Police force and Magistrates were made for the peaceful conduct of the procession all through including its passage

on the New Purulia Road. As per agreement the procession started at about 8 from the Dimna Basti Akhara and reached the New Purulia Road around 9 A.M. The Jhanda was being carried by both Hindus and Muslims. Some of the prominent persons, who has accompanied the procession, were Dr. Masih, Bandi Das, T. Khan, Dr. Shamim, Ram Awtar Singh, Dr. Akhauri and T. K. Singh. Sona Ram Manjhi was also present. On reaching the New Purulia Road the procession proceeded towards south along that road. Near Yadav Petrol Pump a whisper went round that the procession would not move further unless Trivedi and others, who had been arrested earlier, were released. At this stage there was the appearance of Shri Dina Nath Pandey, M. L. A., who asked the processionists not to move further till he had secured the releases of Trivedi and others. The subsequent development and the part played by Shri Dina Nath Pandey in getting the movement of the procession virtually arrested, has been discussed in detail in Chapter 9 of this Report. The result was that the strength of the procession had swelled beyond 2000 by the time it was at the Trivedi Akhara.

12(a) 1.21. Next followed a series of incidents which flung Mango area including Daiguttu, Chuna Shah Colony, Ulidih and Munshi Mohalla areas into the abyss of loot, arson, killings an police firing and later plunged the entire town of Jamshedpur into the bottomless pit of destruction and miseries.

12(a) 1.22. According to S. I. Victor Anthony (GOW/9), who was accompanying the procession, there was no incident till the time the procession reached the point where Road no. 7 meets the New Purulia Road. This would be at about 11 A.M. He had found a crowd of 40 to 50 Muslims inside the road and brick-batting started from this point. When the procession reached a point further south of the junction of Road no. 3, brick-bats, bottle-bombs, and other explosive substances were thrown upon the procession from the direction of Road nos. 5 and 3. The processionists had also started returning the brick-bats. Finding the situation tense, Shri R.D. Ojha, Magistrate (GOW/14) finally ordered the opening of fire to control it. In this incident Circle Inspector R. S. Gupta had got injuries and some houses on the western flank of the New Purulia Road had been set on fire. The riot broke out in full fury when the procession reached in front of the mosque. Bottle-bombs, bombs and firings were directed towards the processionists from the direction of the mosque. There were repeated firings by Magistrates S. Shri Rama Shankar Singh and Surendra Prasad Singh. Finding the situation rather serious, the S. D. O. rushed to the spot and noticing that a mob was attacking the processionists from the east also, he ordered opening of fire on this mob which had come from the side of Attar Line and Chuna Shah Colony which were wholly Muslim residential areas. Magistrate Shri Uma Shankar Prasad also ordered opening of several rounds of fire. The riot spread to the Hanuman Mandir area also. Magistrate Shri S. Saran ordered firing and later Magistrate Shri R. C. P. Sinha rushed to the spot with reinforcement. There were several rounds of firing by other Magistrates to control the situation.

12(a) 1.23. The origin of the outbreak of riots on the New Purulia Road, therefore, can be traced to the events that occurred from the point between Road no. 7 and Road no. 3. The violence thereafter escalated as the procession passed beyond the mosque and reached up to the point of Hanuman Mandir on the New Purulia Road. The attack which came from the western flank of the New Purulia Road were evidently from the Muslims residing in that area. The evidence is, however, not clear on the point as to who were responsible for the arson committed on houses and shops. It is, however, on record that the majority of shops on the western flank of the New Purulia Road were of Muslims and arson had occurred on a large scale in that area. There is also evidence to the effect that attempt to extinguish the fire by using the Fire Brigade was interferred with. The throwing of bombs from the top of houses when the Fire Brigades were on attack is also another piece of evidence touching upon this aspect of the matter. Our conclusion is that the arson on the western flank of the New Purulia Road was, indulged in mainly by the Hindu processionists and they were the persons who were also trying to obstruct the Fire Brigade from extinguishing the fire. The throwing of bottle-bombs from the top of houses on the western side should be seen as the action on the part of the Muslims for deterring the Hindus from holding up the operation of the Fire Brigade.

12(a) 1.24. The situation on the New Purulia Road was controlled around 2 P.M. But the riot had by now shifted to the Daiguttu area. The details of the incidents which had occurred in Daiguttu area are covered mainly by two F. I. R.'s recorded by two Magistrates which are exhibits GO/178 and GO/180. One of the major incidents in which the Muslims of Azad Basti and neighbouring areas had taken part in large numbers is subject matter of Ext. GO/178 in which the informant of the relevant F. I. R. is Magistrate Viswa Nath Gope (GOW/25). Shri Gope was deputed in the area with an armed force and he had taken his position on the bank of the Nala at a point where Azad Basti, Daiguttu and Bawangora localities meet. He noticed that at about 12-45 P.M. a mob of about 10,000 persons shouting slogans like 'Allah-O-Akbar', 'Daiguttu Gher Lo', 'Jehad Bol Do', advanced from the north and the west i.e. from the direction of Azad Basti and Bawangora. The mob was armed with bows and arrows, guns and bombs, besides other weapons. When the Magistrate ordered opening of fire (2 rounds) on the mob, on its failure to disperse, it broke into three parts, one of which attached the adjoining Kuhartoli and began setting fire to the houses there and looting them. Similar incidents took place in Goalpara and Mochipara areas which are adjacent south of Daiguttu and which resulted in opening of fire. As the situation grows grave Shri Gope sent words for reinforcements which arrived with Magistrate Shri R. C. P. Sinha and with the help of reinforcement the situation was brought under control by 4 P.M. Shri R. C. P. Sinha, Magistrate (GOW/22) also witnessed a gruesome incident which took place in his presence at about 2.45 P.M. Having heard a cry coming from the western side he had rushed to the Nala at a point where Daiguttu ends and saw a mob of 200-250 strong Muslims throwing arrows and hand-bombs upon the residents of houses nearabout. There he saw a man burning and it appeared to him that fire had been set on his body after sprinkling petrol on it. Later, he learnt that this was the dead body of Anil Kumar Shrivastava. These incidents are covered by Ext. GO/178 in which the informant of the relevant F. I. R. is the Magistrate Shri Vishwa Nath Gope. The killing of Anil Kumar Shrivastava also finds mention in F. I. R. Ext. GO/182 of which the informant is one Paras Nath Prasad, the father of the deceased Anil Kumar Shrivastava. On the information that had reached him through one Nathun Yadav, this informant has also referred to another incident of killing of one Ram Krit Yadav (13 years). From the facts mentioned above we hold that the Muslims of Azad Basti and the neighbouring areas had acted in a highly aggressive manner against the Hindus in the Daiguttu area.

12(a) 1.25. Another gruesome incident which occurred in Daiguttu area is the subject-matter of Ext. GO/196. The relevant F. I. R. was recorded on 15th April, 1979. According to the materials placed before us, this incident related to the events occurring in Daiguttu area on 11th April, 1979 at about the time when the other incidents in Daiguttu area were taking place. One Professor Zaki Anwar used to live in Daiguttu Mohalla. He was highly respected as a secular-minded person and was held in high esteem both by the Hindus and Muslims. Two or three days before the riot started, he had undertaken a fast aiming to promote feeling of goodwill and amity between the two communities. On the 15th of April, 1979, an information was received that some dead bodies were lying in Sofia House of Daiguttu. In course of the search the dead body of Professor Zaki Anwar was found floating in a well in the courtyard of his house. It has been argued on behalf of the R. S. S. that this incident can not be held to have taken place on the 11th, because of the mention of the date in the memo of evidence placed before the Court at the stage of moving the bail petition. We do not, however, have on record any incident in Daiguttu area on any date subsequent to 11th April, 1979. The conclusion would appear to be that while the Muslims were acting in an aggressive manner in Daiguttu area, the Hindus had also retaliated in some form and the death of Professor Zaki Anwar had resulted from some of these incidents.

12(a) 1.26. Another area in which the riot had spread at about 2 P.M. on 11th April, 1979 was the Munki Mohalla on the Dimna Road. This occurrence is the subject-matter of Ext. GO/177 of which the informant is Shri V. N. Mishra, Magistrate (GOW/15). According to the facts of the F. I. R. and the evidence of Shri Mishra,

it is clear beyond doubt that the Hindus were aggressive in this area and they had indulged in arson on the houses of the Muslims and other violent activities which were finally controlled by opening fire. In the incident that occurred in Chuna Shah Colony, which is the subject matter of Ext. GO/188, the Hindus attacked houses of Muslims and out of 40 houses belonging to Muslims, 32 had been burnt damaged or looted.

12(a) 1.27. One major incident that occurred in Mango P.-S. on 12th April, 1979 was the communal clash in the Munshi Mohalla area which is the subject-matter of Ext. GO/192 which is an F. I. R. in which the informant is Magistrate Shri C. P. Shahi (GOW/20). When he reached the Munshi Mohalla, a locality of Muslim residents, in course of his patrolling, at about 11-30 A.M. on 12th April, 1979, he found a collection of men near the mosque and a Hindu mob facing it which was on the opposite side of the road. The Hindus were evidently attacking the Muslims in their residential areas and the Muslims were resisting the attack by throwing brick-bats, arrows and firing guns. Some of the shops near the Masjid, which mostly belonged to Muslims, were also set on fire. The police force opened fire to control the situation and finally the Army reached the spot with Magistrate Shri K. N. Das (GOW/12). The army was engaged in controlling the situation for nearly one and a half hour and after the situation was quelled, a large number of Muslims of the Munshi Mohalla, numbering about 2,700 came and surrendered before the Army, along with fire-arms. It has been argued on behalf of the R. S. S. that the Muslims were the aggressors, and they were not only resisting the Police force but even the Army and it took hours before they could be made to surrender. The picture that emerges from a close study of the facts and circumstances is completely different and we conclude that the Muslims were being attacked in their own locality. And, it was only after the Hindu rioters were controlled that they left the shelter of their Mohalla and sought shelter with the Army. The evidence confirms this fact amply in that these people were kept in protective custody and not taken under arrest.

12(a) 1.28. Ulidih Basti is towards east of the New Purulia Road and to the north-west of the Dimna Road. The Muslim population is very much less than that of the Hindus in the Basti. After the riot it was noticed that 10 or 15 houses of Muslims had been burnt or damaged. There is a Tiraha (tri-junction) towards the east of Road no. 4 in Jawaharnagar. Some houses of Muslims are situate near this Tiraha. Most of these also had been burnt. Information was given at the Police Station that 7 Muslims had been killed in that area. Between the 13th and 15th of April, some bones and skulls were recovered from inside a well and these were sent for medical examination.

12(a) 1.29. Some further incidents occurred in the Mango P.-S. area on subsequent dates but we do not consider it necessary to go into the details of these incidents, except to observe that they were not of a serious character.

(2) Sitaramdera Police-Station

12(a) 2.1. This is one of those police-stations which witnessed some ghastly incidents in protracted rioting beginning from about 1-15 P.M. on 11th April, 1979 and ending on 12th April, 1979 at 1-30 P.M. in which nine Muslims were killed inside their house. Later on when the Muslims of this area were being evacuated to safer zones, one of the vehicles in which they were being carried was set upon by Hindu rioters and eventually set on fire which resulted in the death of most of them with only a few survivors.

12(a) 2.2. The tragedy of the burning of the Ambulance with women, children and old men inside it, will be dealt with separately. Here the incidents of rioting and attack on the Muslim Basti beginning from 11th April, 1979 at 1-30 P.M. till 1-30 P.M. the next day, i. e., 12th April, 1979 will be dealt with.

12(a) 2.3. This police-station was created out of the Sakchi P.-S. as a subsidiary police-station on 3rd October, 1978. S.-I. Shri B. N. Dwivedi had been officer-in-charge of this police-station since then and remained as such during the communal riots. He is GOW/10. He had sworn an affidavit on 9th February, 1980 which has been treated as his examination-in-chief. This affidavit is a narration of facts and events which took place in Sitaramdera area beginning from 31st March, 1979 to 13th April, 1979. He was also cross-examined by the counsels for the various parties. He is the only GOW who has been examined by the administration to throw light on the course of events in this P.-S. He is an eye witness to all that happened from 1.15 P.M. on 11th April, 1979 to 1-30 P.M. on 12th April, 1979. The other eye witness Magistrate Shri P. Lakra who is as important as GOW/10, has not been examined although his affidavit was filed by the counsel for the Government officers.

12(a) 2.4. In this police-station only four Ram Navami procession licences had been asked for and issued by authorities which had been duly received by the licencees on 5th April, 1979. These licencees had arranged to take out their Jhanda processions on 6th April, 1979. But later, as in other areas of Jamshedpur, the licencees having made a common cause with the controversy over the route for the Dimna Akhara procession, refused to take out their processions on 6th April, 1979. The stalemate which developed after 6th April, 1979 continued and tensions developed consequently. In the afternoon of 9th April, 1979 some communally-minded anti-social elements, in order to demonstrate their anger arising out of sympathy for the Dimna Basti procession, started interfering with the vehicular traffic on the public streets and also attempted to get some shops near Bhalubasa closed. Local police arrested seven of the miscreants. No specific case was, however, instituted against them although they had committed cognizable offence. According to the statement of Shri Dwivedi (GOW/10) four Muslims had also been arrested by him under preventive sections for being anti-social and communal elements.

12(a) 2.5. Information regarding the outbreak of violent trouble reached this police-station at 12 noon of 11th April, 1979 when Alarm Bell was rung in the Police Lines, which is near the P.-S. building. GOW/10 Shri Dwivedi learnt that communal disturbances had broken out in the Mango P.-S. area. Soon afterwards the Bhalubasa area of this P.-S. was engulfed in communal riots of an unprecedented nature and witnessed some ghastly incidents for over 24 hours as described by S.-I. Dwivedi in his affidavit.

12(a) 2.6. A little description of the area where the incidents from 11th April, 1979 to 12th April, 1979 took place would help understanding of the problem. The Bhalubasa Muslim Line, inhabited almost wholly by Muslims, is surrounded on three sides by Hindu population. Only on the eastern side there is a mixed population as stated by GOW/10. The incidents in this P.-S. arising from the outbreak of the riots, had centred around the Bhalubasa Muslim Line. He has also stated that there

are 69 Muslim houses in the Muslim Line and that some Muslims also reside in a few quarters in New Sitaramdera close to the Muslim Line of Bhalubasa, on the other side of the Straight Mile Road, running in front of the Muslim Line and in a row of houses west of Road no. 3 in Agrico area, adjacent east of the Bhalubasa Muslim Line where there are 17 or 18 houses of Muslims. In New Sitaramdera there is a set of 17 houses, out of which nos. 7, 18, 720, 721, 722 and 723 are occupied by Muslims. The Straight Mile Road runs from west to east near the Bhalubasa Muslim Line. The Muslim Basti is to the north of the Straight Mile Road and New Sitaramdera to its south. There is a traffic island (Gol Chukkur) at a little distance further east of the Muslim Line. The Karimia Madarsa is in the heart of the Muslim Basti, surrounded by high walls, the main gate of which is about 50 yards to the north of the Straight Mile Road.

12(a) 2.7. On the aforesaid Alarm Bell being sounded on 11th April, 1979 in the Police Lines, GOW/10 along with Shri P. Lakra, Magistrate, who was on duty at the P.-S. since 3rd April, 1979 together with an armed force consisting of B. M.P. and Urban Home Guards started moving in the area. According to the S.-I. (GOW/10) at about 1-15 P.M. on 11th April, 1979 information was received regarding disturbances in Bhalubasa area and a Police party headed by Shri Lakra and him proceeded to the Muslim Line. Here they saw mobs of Hindus and Muslims, facing each other and shouting slogans and throwing *Mashals* on each other. The Police under the orders of the Magistrate opened fire on both sides.

12(a) 2.8. According to para. 17 of the affidavit of GOW/10, there was confrontation between the Hindus and Muslims mobs in Bhalubasa area. GOW/10, who is the only witness produced by the administration to throw light on the incidents in this P.-S., has stated that he remained there from 1-30 P.M. on 11th April, 1979 to 2-30 P.M. on 12th April, 1979 along with the Magistrate Shri Lakra and the armed forces and was an eye witness to the entire incident. The confrontation took the form of the Muslims throwing bombs and *Lukaries* from their houses on the Hindu mobs who were throwing brickbats and *Lukaries* on the Muslims, shouting slogans and hurling abuses. Some Muslims were firing guns, and the O. C. GOW/10 seized a gun from one Latif Mian from the verandah of house no. 723 in New Sitaramdera. From about 3 P.M. to 11 P.M. on 11th April, 1979 the Magistrate Shri P. Lakra had ordered firing on both the Hindu and the Muslim sides and a total of 56 rounds had been fired by the armed Police. According to the evidence of this witness and also the statement of Shri P. Lakra in the F. I. R. (Ext. GO/200), some Hindus were injured but they were carried away by the Hindu rioters. It is further said that at 9 P.M. Shri Ayub Khan, M. L. A. along with the then Ministers Sarvas-Shri Jabir Hussain and Shankar Prasad Tekribal had come and witnessed the situation. A contingent of Army also arrived at about 11 P.M. According to the S.-I. (GOW/10) with the arrival of the army contingent the situation quietened down and the attacking Hindu rioters fled away. F. I. R. was instituted on 12th April, 1979 at 5 P.M. at the P.-S. regarding the incident of 11th April, 1979 on the statement of Shri P. Lakra, vide Sitaramdera P.-S. Case no. 21(4)79 (Ext. GO/200).

12(a) 2.9. According to para. 19 of the affidavit of GOW/10, while things remained quiet from 11 P.M. on 11th April, 1979 trouble again started in the morning of 12th April, 1979 at 7-30 A.M. when a large mob of Hindus from Sidgora, Bhuiandih, of the houses of Muslims were set on fire. The Muslim Basti of Bhalubasa. Most were throwing *Mashals* and bombs from their houses. The Muslims in defending themselves occasions. As a result of a bomb being thrown from the house of one Sayeed Akhtar Pandey was injured. He later succumbed to his injuries. The S. D. O. now arrived on the scene having dispersed earlier a mob which was coming to this area from the south. An Army unit had also arrived in the Bhalubasa area, accompanied by a Magistrate which tackled the rioters. The Commandant, B. M. P. XII, Shri Achari reached here at about this time and also another unit of the Army. They went into action,

and the situation was brought under control in about an hour's time. Thereafter, Shri G. Achari, the S. D. O. (GOW/29) and some Military Officers and Magistrate Shri P. Lakra went to the Muslim Basti and brought the Muslims of that area to the Karimia Madarsa for safety. There were already a large number of people who had taken shelter there. On a search being made in the Muslim Line, 9 (nine) bodies, all of Muslims, were recovered from inside the houses or on verandahs. Strangely enough, the Hindu areas were not searched at least there is no mention of it anywhere. The incidents of 12th April, 1979 were recorded in Sitaramdera P.-S. Case no. 22(4)79, dated 12th April, 1979 (GO/201), also on the statement of Shri P. Lakra at 7-30 P.M. Altogether 95 Muslim houses were burnt in this area.

12(a) 2.10. The Commissioner accompanied by the S. D. O. and Shri Achari arrived at Bhalubasa Muslim Line at 1.30 P.M. and started evacuating the Muslims to relief camp in Karim City College near the P. I. R. in the premises of the Sakchi P.-S. for safety, in accordance with the policy decision that had been taken after discussion with the Chief Secretary and I.G. of Police. These persons were put into vehicles and were shifted in batches. In the course of the movement the Ambulance van carrying women and children from the Muslim Line was attacked and set on fire with its passengers inside, resulting in the death of many of them. The Ambulance Tragedy is being dealt with separately.

12(a) 2.11. The above is an outline of the incidents in Bhalubasa Muslim Area beginning from 1.15 P.M. on 11-4-1979 to 11.30 A.M. on 12-4-1979. Both the F. I.Rs. connected with the rioting in the Bhalubasa Muslim Line were instituted on the statement of Shri P. Lakra, Magistrate, one for the incidents on 11-4-1979 (Ext GO/200) and the other for the incidents on 12-4-1979 (Ext. GO/201) as mentioned earlier.

12(a) 2.12. When the situation had been brought under control after the Hindu mobs had been driven away on 12-4-1979 at 11.30 A.M., GOW/10 along with the Magistrate P. Lakra, an armed force entered the Bhalubasa Muslim area at about 12.30 P.M. and found the 9 (nine) dead bodies of Muslims including those of two girls in the houses. In his cross-examination, GOW/10 stated—

“I found 9 dead bodies all of Muslims. The dead bodies of two Muslim girls were recovered from Madarsa but not inside the room—on the veranda. The Madarsa is in the heart of Mohammadan Line. The main gate of the Madarsa is about 50 yards to the north of Straight Mile Road and it is surrounded by high walls. The dead body of Ehsan was found in front of house no. 360-A, that of Shaukat Ali from the verandah of Karimia School, i.e., Madarsa. The dead body of Shabbir Hashmi was found inside house no. 723 in New Sitaramdera. The dead body of Md. Ibrahim was found in front of the house of Athar Abdi. One burnt skull was found from a room of house no. 384 of Mohammadan Line along with charred bones. Some persons later claimed that this was the skull of Anis Khan who lived there. Shoaib Ahmad died in Tata Main Hospital. The dead body of Rahim Bux was found in front of quarter no. L/4-30. The dead body of Elahi Bux was found in the lane behind Quarter no. L-4-30.”

GOW 10 had prepared Inquest Reports on the 9 (nine) dead bodies and sent the corpses for post-mortem examination to the Hospital along with the Inquest Reports. Although in the beginning two of the nine had been treated as of “unknown” persons, all the dead bodies had been later identified as of 1. Ibrahim, 2. Elahi Bux, 3. Shabbir Hashmi, 4. Rahman Bux, 5. Daughter of Salahuddin, 6. Shaukat Ali, 7. Daughter of Mansoor, 8. Md. Ehsan and 9. Quamrur Rahman. During the cross-examination of GOW/10 by the counsel for C. C. C. it appeared, however, that all the 9 (nine) dead bodies were treated as of “unknown” persons by Dr. Kale who performed the post-mortem examination, on another set of 9 Inquest Reports of “unknown” persons prepared by S.-I. Gorakh Nath Singh at the Hospital. It has been claimed that this new set of Inquest Reports pertain to the nine persons on whose dead bodies the O.C. (GOW/10) has performed the Inquest and prepared the

first set of Inquest reports. There is great confusion between the original Inquest Reports prepared by GOW/10 and the second set of Inquest Reports prepared at the Hospital on the basis of which Post-mortem was done by Dr. Kale. There is discrepancy in the nature of injuries recorded by GOW/10 in the original Inquest Reports and the second set prepared at the Hospital by S. I. Gorakh Nath Singh and the later P. M. report which throws into doubt the very identity of the bodies which were subjected to the second Inquest and the post-mortem examination, with those in the original Inquest done by the O. C. (GOW/10). A most glaring example may be cited. In the first Inquest Report prepared by GOW/10 over the dead body of Md. Ibrahim, produced by the C. C. C. and marked Ext. CCC/23, to begin with, in column 2 of the person has been shown "Agyat or unknown". Later, the Inquest Report has been fixed as being that of Md. Ibrahim s/o Ghani of Road No. 3, in Agrico area. In Column 6 the O. C. had recorded "MALOOM HOTA HAI KE FIRING AUR GOLI LAGNE SE MARA HAI". Translated this will read as "it appears that he died as a result of firing and bullet wound." In the second Inquest Report and the post-mortem report, no mention has been made about bullet wound. There are also other discrepancies in the description of the injuries in the three documents. It is now difficult to fix or establish that the post-mortem report of the 9 (nine) persons which had been exhibited by CCC as Exts. CCC/24, 25, 28, 29, 32, 33, 36, 38 and 40 are of the same 9 persons whose bodies had been picked up by the O. C. (GOW/10) in the Muslim Line of Bhalubasa.

12(a) 2.13. Beginning from the recovery of the 9 bodies in the Muslim Basti to the preparation of the second Inquest Report of 9 "unknown" persons as described above, there have been gross irregularity and lapses on the part of the Police raising grave doubt about the veracity of the witness (GOW/10) on this issue and the identity of the bodies subjected to the post-mortem examination. The suspicion is further heightened by the fact that although all the 9 bodies has been recovered from the Muslim Basti, from either inside or the verandahs of the houses of the inhabitants of that area, no relation of the dead persons was taken to the Hospital along with the dead bodies nor were these bodies made over to their relations. No explanation has been rendered anywhere or during the cross-examination of GOW/10 about the discrepancy between the injuries recorded by him in original Inquest Report prepared by him—the second Inquest Report prepared on plain paper at the Hospital and the injuries recorded in the post-mortem report. The Commission cannot help observing that there has been gross irregularity which leads to suspicion against the conduct of GOW/10. The reason for the preparation of the second set of Inquest Reports, as later elicited from Magistrate on duty for the conduct of post-mortem examination is that these 9 bodies had been left in the Hospital without the accompanying Inquest Reports, and the Constable who was supposed to have taken the dead bodies to the Hospital was not available. To say the least, this was a gross dereliction of duty on the part of this Constable even if it is accepted that these were the bodies of the persons on whose bodies the first inquest had been done. The Commission is of the view that Government may investigate this matter thoroughly and fix responsibility for these lapses which have virtually amounted to suppression of facts or misleading an enquiry into them.

12(a) 2.14. Towards the fag end of the cross-examination of GOW/10 by the Counsel for the R. S. S. a new facet was introduced into the series of incidents on 11-4-1979. At this stage, Counsels for other parties did not have any opportunity of seeking further information as, according to the agreed sequence, the Counsel for R. S. S. was the last to cross-examine the witness. It was stated by GOW/10 at this stage that on 11-4-1979 when Johan Akhara people of Bhalubasa started making preparations to take out the Jhanda, they were attacked by 20—25 persons from the Muslim Basti who pelted stones, broke open some doors and windows, threw stones and burning tyres on the Jhanda and thus aroused the anger and ire of the Hindus and there was stampede. GOW/10's statement in his cross-examination is as follows :—

"No untoward incident had taken place in my jurisdiction before attack on the Jhanda on 11-4-1979. This was the first incident of communal nature in

my jurisdiction on 11-4-1979.. No other Hindu-Muslim clash had taken place in my jurisdiction prior to this incident. The incident of rioting took place in my elaka after the Jhanda was attacked."

This incident is not even remotely mentioned, not to say of being averred, in the Affidavit sworn by the O. C. (GOW/10) nor was any F. I. R. drawn up for the offences allegedly committed on this distinct and separate transaction.

12(a) 2.15. Further regarding the incident of 12-4-1979 G. O. W. 10 says—

"The following were arrested in connection with Case No. 22(4)1979 (Ext. GO/201) for rioting in Bhalubasa—1. Izhar Alam, 2. Abdur Razaq, 3. Ali Nawab Azhar, 4. Sharfuddin, 5. Jamil Akhtar, 6. Abdul Shahid, and 7. Alimuddin".

It is not been explained by GIW/10 why only Muslims were arrested when it was clear that they were victims of aggression.

12(a) 2.16. These two incidents require a further examination and scrutiny. Firstly, about the Johan Akhara—it is found that the Johan Akhara incident has not been mentioned anywhere by GOW/10 in his affidavit or in his examination-in-chief. It was only towards the tail end of his cross-examination and on the suggestion of the Counsel of the R. S. S. that GOW/10 came out with this story. Strangely enough, no F. I. R. was instituted over the alleged incident although it disclosed a cognizable offence which constituted a distinct and separate transaction. At the stage of argument, the Counsel for the R. S. S. made out the point that the Johan Akhara incident of 11-4-1979 was the main cause of all the trouble and rioting in Bhalubasa area. According to him the Johan Akhara incident was ascertained on 14-4-1979 and hence it could not be mentioned in the F. I. R. (GO/200) relating to the Bhalubasa incident of 11-4-1979. To say the least, the introduction of Johan Akhara incident as the cause of all the trouble in that area is clearly an after-thought of a late stage and a fabrication, which is evident from the fact that this important incident found no mention in the Affidavit sworn by the witness GOW/10 or in that sworn by Shri P. Lakra, Magistrate on duty in the area. If Johan Akhara incident was the cause of the gruesome and disturbing incidents of the 11th or 12th of April, 1979, as has been made out, why was it not brought out earlier. The very fact that no separate F. I. R. was instituted by the S. I., as should have been done, when he learnt about the incident four days later makes it not only unacceptable but presents it as an after-thought and a got-up story to create a defence for all that happened on the 11th and 12th of April, 1979 in the Muslim Basti. To sum up, therefore, the Commission is not only unable to accept the Johan Akhara incident at all, much less as its being the cause of the attack by the Hindus on the Muslims of Bhalubasa Basti, but they also hold that this witness the officer-in-charge of Sitaramdera P.-S. (GOW/10) has been party to the presentation of a concocted story before the Commission.

12(a) 2.17. Examining the evidence of these incidents it is obvious that both on 11-4-1979 and 12-4-1979 the Muslims were confined to their houses and were defending themselves against the attack by the Hindus who had surrounded them from all three sides. They could not possibly launch "a massive attack" from their houses. The Police Force was ineffective in checking the attacking mob of Hindus. It is apparent from the answer given by GOW/10 that the attacking mob used to reassemble. These mobs were of Hindus who were intent on attacking the Muslims. Even when the mob had withdrawn the Muslims kept throwing missiles from inside their houses as a defensive measure. The defensive action resulted in the injury and death of Sepoy Jamuna Pandey.

12(a) 2.18. The most surprising aspect of the incident in the Bhalubasa area is that on 12-4-1979 while 9 dead bodies of Muslims with various injuries were recovered from the Muslim houses no satisfactory explanation has been rendered by GOW/10 or in the statement of Magistrate Shri P. Lakra in his two F. I. Rs. of 11-4-1979 (GO/200) and of 12-4-1979 (GO/201) as to how was it that Police having fired as many as 108 rounds between 11-4-1979 and 12-4-1979, no Hindu was killed

or injured. It is clear and undisputed that both on 11-4-1979 and 12-4-1979, Muslim Basti was under attack by Hindu mobs and nine Muslims had been killed in their houses. Although the Police directed fire on this mob no one was found injured or killed, whereas 9 (nine) Muslims were killed inside their houses and in the Madarsa where they had taken refuge. In spite of all this, the Police arrested seven Muslims who were inside the houses in Muslim Basti seeking protection from attacking Hindu mobs. How casually and callously the dead bodies were dealt with beginning from the Inquest Report to the post-mortem report of 9 "unknown" bodies has already been dealt with earlier. Suffice it to say here that there is no mention in the evidence that the Hindu areas from which the mob was attacking the Muslim area had been visited or entered into by the Magistrate or the Police force after the mob had disappeared, to deal effectively with the attacking and aggressive Hindu rioters.

12(a) 2.19 Another incident calls for attention. This is the seizure of the gun and arrest of Latif Mian on 11-4-1979 by GOW/10. In this connection the statement of GOW/10 is to the following effect:—

"The houses of Yunus Mistry and Latif are adjacent. On 11-4-1979 at about 3 p.m. Latif Mian was in the house of Yunus Mistry. I did not know if Latif is an employee of TISCO. I cannot say if he was on leave on 11-4-1979. It is a fact that Latif was firing a gun but I cannot say if it was on the Hindus. He was firing in the direction of the mob. The gun seized from Latif belonged to Yunus. The gun had been given to Latif by Yunus Mistry."

It is not clear why the gun was seized when it appears from the above statement of GOW/10 that Latif was firing in the direction of the mob. The mob attacking the Muslim Basti was obviously of Hindus. If Latif was using the gun, it was in self defence as it is admitted all round that the Hindu mob was attacking the Muslim Basti. Latif was arrested from the verandah of the house. It has also been stated by GOW/10 that he had taken 2 live cartridges and had not found any empty cartridge to indicate that the gun had been fired.

12(a) 2.20. There is another fact which deserves attention. Magistrate Shri P. Lakra and GOW/10 failed to provide protection to the minority communities who were more or less under a seize from three sides from 1.30 P.M. on 11-4-1979 to 11.30 A.M. on 12-4-1979 and were being repeatedly attacked by the Hindu rioters under the very nose of the armed Police party headed by a Magistrate. This is further confirmed by the fact that according to GOW/10, whenever the Army or Shri Gopal Achari, Commandant, N. M. P., or the S. D. O. appeared on the scene, the attacking Hindu mob used to retreat and disappear. They used to regroup as soon as the Army or Shri G. Achari moved away from the scene. Apparently, the presence of the Police force head by P. Lakra and GOW/10 had no deterring effect on the attacking Hindu mob in spite of the fact that as many as 108 rounds of rifle fire has been resorted to under the orders of Shri Lakra. In his cross-examination by the Counsel for J. U. H. GOW/10 stated—"No Hindu rioters were killed as a result of many rounds of firing done in Bhalubasa on 11-4-1979". In the Police firing relating to the incident of the 11th of April (Ext. GO/200) only one Hindu male was injured. It has been established that as many as 56 rounds had been fired on the 11th of April by the Police. To a suggestion during the cross-examination by the Counsel for J. U. H., GOW/10 had stated—"It is not a fact that Police personnel were firing in a manner as to give cover to Hindu rioters". "It is not a fact that Police bullet had hit Muslim houses and there were bullet marks." On the 12th of April as many as 52 rounds had been fired under orders of Shri Lakra. GOW/10 had stated in his deposition—"On the morning of 12-4-1979 Police force and Magistrate also were present at Bhalubasa. The force included Urban Home Guards, B. M. P. and D. A. P. The Magistrate concerned was Mr. Lakra. Attack by the Hindus again started at 7.30 A.M. on 12-4-1979 in the Bhalubasa area. The Police force had to open 52 rounds of fire to control the rioters. Besides, the S. D. O. had also ordered the opening of fire. Firing continued from 8.30 A.M. till 10.20 A.M. During this period despite the firing attack by the Hindu rioters did

not abate. I did not hear any request being shouted over the mike on behalf of the Muslims seeking protection by the Police. I did not find the dead body of any Hindu from Police firing in these incidents of 11th and 12th April."

12(a) 2.20. It is evident, therefore, that the Police firing was wholly ineffective and the suggestion by J. U. H. that the Police were firing in a manner as would provide protection to the Hindu rioters is supported by the manner in which the firing was being directed, even against the defending Muslims, and the fact that as many as 9 (nine) Muslims were killed within the Muslim Line in their own houses.

12(a) 2.21. Another example of an incompatible and distorted statement of GOW/10 may be cited. It is well established from the evidence on record that on 12-4-1979 from 7.30 A.M. Bhalubasa Muslim area was attacked from all the three sides and the Muslims were in a state of seige. On this incident, GOW/10 has stated—

"Police had opened 52 rounds of fire altogether in six sorties on both Hindus and Muslims. I cannot distinguish as to how many rounds were fired on Hindus and how many on the Muslims. In ext. GO/201 it has been clearly stated as to how many rounds have been fired on Hindus and as to how many on the Muslim side. It is not a fact that when we entered the Muslim Basti firing was done on us. We did not make any attempt to disarm the Muslims....."

Once again no explanation has been rendered anywhere as to why the Police fired on the Muslims when they were under attack by the Hindu mobs from three sides. The S. D. O. (GOW/29) has also confirmed this state of siege and he was able to drive away the attacking Hindu mob coming from the south towards Bhalubasa by firing only 3 (three rounds). And yet in the presence of GOW/10 and the Magistrate, P. Lakra, there were as many as 52 rounds of firing, some on the Muslims who were inside their houses without any tangible effect on the attacking mob.

12(a) 2.22. In his F. I.Rs. (GO/200 and GO/201) dated 12-4-1979 and his subsequent affidavit dated 16-4-1980, Shri Lakra, the Magistrate, who was an eye witness to all that happened in this P.-S. area on 11-5-1979 and 12-4-1979 but who was not examined on behalf of the Government Officers, has concealed more than what he has revealed. Between him and GOW/10 there has been a concerted move to conceal facts and thereby confuse issues. It is not difficult to discern their motives. Their continued failure, beginning from 11-4-1979 to 12-4-1979, motivated or otherwise, had to be covered up and they have done their best to do it. Between them they have presented a distorted and false picture before the Commission. The greater pity of it is that senior officers of the Police and the District Administration have not only failed to detect their failures and distortions, but have more or less accepted their incompatible and some false statements.

12(a) 2.23. Summing up, the Commission is clearly of the opinion that the administration and the Police having failed to provide protection to the minority community, have allowed the two officers—GOW/10 and Magistrate P. Lakra—to distort and confuse the issue with their false and misleading statements. Government should examine their conduct and take suitable action. Such dereliction of duty, left unpunished, will result in the loss of confidence in the integrity and sense of justice of the administrative machinery.

CHAPTER 12(a)

(3) BISTUPUR POLICE STATION

12(a)3.1. There were 12 applications for taking out Ramnavami processions in this area and licences for the same were granted.

12(a)3.2. The place has a history of some communal discord. In 1979, however, there was no apprehension and accordingly the O.C., Inspector Nageshwar Prasad Sinha sent a forecast report on 19-3-1979, indicating this aspect. On 30-3-1979 he sent another report in which there is mention of the fact that Peace Committee meetings had been held on 29-3-1979 and 30-3-1979. In this report it was indicated that there was no apprehension of any communal tension. Still as precautionary measure, deputation of armed forces in Dhatkidih area were asked for and this was made.

12(a)3.3. On 5-4-1979 Constable Ek Nath Singh made a report to the Police Station that the Radio Maidan, which is a predominantly Muslim locality, an idol of Mahavir Ji was placed by some unknown persons. Since no such idol used to be installed there and it was noticed that religious sentiments between Hindus and Muslims were getting provoked, the idol was removed from the public ground and a case instituted (Ext. GO/3).

12(a)3.4. On 6-4-1979 the O.C. received information that some processions of Ramnavami Jhanda would not be taken out in accordance with the licence granted and he contacted the licencees and requested them to take out their processions. The reason for not taking out their processions was that the procession of Dimna Basti Akhara had not been taken out. They had made a common cause.

12(a)3.5. On the 7th of April, however, two processions were taken out and they were peaceful. Immersion took place in one but not in the other.

12(a)3.6. On the same day information was received about a meeting in the radio Maidan. In respect of this a case was registered U/S153A I.P.C. It is mentioned in the F.I.R. (Ext. GO/4) that at about 2 A.M. on the night of 6/7-4-1979 some persons who had returned from a meeting in Mango, held a meeting in the Radio Maidan and were instigating the Hindus openly to put obstruction on the route by which the Muslims go in for Namaz and in performing other religious rites since they had not allowed the Hindus to take out their Jhanda through Road no. 14. Amongst the persons who were in the meeting were Ratal Lal, J. C. Patel of Bistupur Ram Mandir, Dineshwar Mishra, Banwari Lal and others. On the previous day three persons had gone on a scooter instigating the licencees not to take out the Ram Navami processions. To this effect A.S.I. R. P. Singh lodged the F.I.R. on 7-4-1979. Some people were arrested under preventive sections.

12(a)3.7. On 9-4-1979 a leaflet (Ext. GO/6) was found in circulation in Bistupur market and one of the Police officers produced it before the Officer-in-charge. The leaflet purported to be on behalf of the Shri Ramnavami Kendriya Akhara Samity. It was stated therein that Hindus were being oppressed; the idol of Mahavirji was broken in Dhatkidih; there was lathi charge in Jugsalai and Hindus were being rendered a minority in Mango and soon and so forth, and, accordingly, a request was made to maintain the Hindu culture and that the procession should be taken out at 2 P.M. on 11-4-1979 and that the Jhanda of Mango only would be taken out at 11 A.M. by Road no. 14. Members of all Akharas were requested to get the Mango Jhanda taken out first and then go to their own Akharas.

12(a)2.8. At 10 A.M. on 11-4-1979 information was received that the procession from Dimna Basti had been taken out peacefully and had reached the New Purulia Road. At 12 NOON, however, information was received regarding breaking out of riot in the Mango area. Accordingly, all resources were mobilised and officers were

alerted. They were asked to be vigilant. At 3 P.M. information was received from P.I.R. that curfew had been clamped throughout the town of Jamshedpur.

12(a)3.9. Within the graveyard of the Muslims near Ghasipara there is a mosque. To the north of the mosque there is a row of four to six shops. Lal Mohammad, Treasurer of the Idgah Committee, lodged an F.I.R. on 28-4-1979 saying that between 11 P.M. and 12 MIDNIGHT of 11/12-4-1979 the inhabitants of Harijan Basti and other Hindus set fire to those six shops. They also burnt, looted and destroyed the motor garage of Ishaque and the house of Zohra Bibi.

12(a)3.10. Dhatkidih Mahalla was considered to be a sensitive area by the Inspector In-charge, Bistupur Police Station and he had taken special precautionary measures for Ghasipara and Dhatkidih which Mahallas lie within the jurisdiction of Bistupur P.-S. Straight Mile Road runs from east to west in this area. From the evidence of Magistrate Shri Ganga Dayal Das (GOW/17) it appears that there is a group of houses known as 'workers' flats to the south of the Straight Mile Road. 50 yards east of the flats a road runs south which goes to Ghasipara. Opposite to these flats and on the other side of the Straight Mile Road, that is towards the north of the road, is the Community Centre. To the east and south of the Community Centre is Dhatkidih Mahalla. Dhatkidih is inhabited mostly by Muslims who are fairly rich and Ghasipara is inhabited by Harijans who are comparatively poor. West of the Community Centre is the Thakkar Bapa School and to the north is a club and in between there is a Maidan. To the west of Thakkar Bapa School are M-2 type quarters which are inhabited mostly by Muslims. There would be some 100 houses of Harijans in the Harijan Colony.

12(a)3.11. Magistrate Shri Ganga Dayal Das (GOW/17) was in-charge of law and order at Dhatkidih from the 3rd to the 30th of April, 1979 and he had become conversant with the area. He, with a force of 1:4 D.A.P., 1:4 B.M.P. and 6 Lathi Constables was posted near the petrol pump there. This force used to stay in a room that was attached to the petrol pump.

12(a)3.12. At about 11.30 P.M. on 11-4-1979, the Magistrate (GOW/17) saw a mob of 500-600 Muslims from Dhatkidih side going south of the Straight Mile Road towards Ghasipara. The mob was armed with deadly weapons and was determined to attack the Ghasipara Harijan Basti. The noise that he had heard coming from Ghasipara side was 'BACHAO BACHAO'. The mob from the Dhatkidih side was crossing the road at a point east of Dhatkidih Community Centre. The Magistrate asked the mob to disperse but they did not do so. He administered them due warning but they appeared to be determined and continued to move and were violating the order of curfew. Accordingly, the witness had to order opening of 2 rounds of fire. The mob dispersed and the rioters concealed themselves in lanes and by-lanes. Later, they regrouped themselves and mounted another attack.

12(a)3.13. Meanwhile Magistrate Shri R. N. Pandit (GOW/16) arrived. He was on duty in the P.I.R. There he was asked by the A.D.M. to ascertain the whereabouts of Shri Sitaram Singh, Executive Magistrate, who was on patrolling duty and to ask him to talk to the D.C. on telephone. He had been out for this purpose. He was accompanied by 14 Jawans of the armed police. When he reached Dhatkidih he noticed a mob of 1,000 persons raising slogan of Allah-O-Akbar, crossing the Straight Mile Road and going towards the Harijan Basti to the south. The mob was armed with lethal weapons such as lathies, bhalas, talwars, etc. He heard an explosion of bomb also. He tried to prevent them from going towards the Harijan Basti by crossing the road. After administering due warning he asked the Jamadar of the B.M.P. to open fire. 5 rounds were fired. The mob looked determined and violent. He has stated that after opening of fire some of the crowd dispersed while others collected at various points and junctions at the roads which meet the Straight Mile Road. There were three or four such junctions. He had ordered opening of fire on 3 or 4 junctions and at each place there were some fifty persons. He was at a distance of 125-150 yards west of the point where the crowd was,

12(a)3.14. Magistrate Shri P. N. Jha (GOW/13) was posted at Bistupur Police Station to maintain law and order. At about 12 o'clock in the night of 11/12-4-1979 information was received at the Police Station that the situation at Dhatkidih had become tense and a few cases of arson had taken place. On receiving information he rushed to Dhatkidih along with A.S.-I. G. D. Singh and a contingent of army jawans available at the P.-S. On reaching Dhatkidih he stopped for a while on the Straight Mile Road near the Harijan colony where he heard slogan of Allah-O-Akbar and cries of 'BACHAO BACHAO'. He proceeded towards the Harijan colony from where plaintive cries were coming and noticed that a mob of 400 to 500 was proceeding towards the Harijan colony shouting Allah-O-Akbar and pelting stones. He declared the assembly unlawful and asked them to disperse. This had no effect on the mob rather they started pelting stones towards him and the armed force. The mob also used firearms as a result of which one army jawan named Leela Ram was injured and he was sent to the Tata Main Hospital for treatment. To save the lives of the Harijans and for his own safety he had to order firing. 13 rounds were fired as a result of which the mob dispersed. Some persons were arrested. The persons who had been arrested had lethal weapons like bows, arrows, lathies, barchhas, etc. They were taken to the P.-S. the next morning on a truck.

12(a) 3.15. Total number of arrests made between 11/12-4-1979 and 13/14-4-1979 was 399 out of which 398 were Muslims and one was a Hindu.

12(a)3.16. There were several other cases of arson, loot, attacks and assaults, etc., on the night of 11/12-4-1979 in Harijan Tola. For these F.I.Rs. were lodged. While returning from Harijan Basti, Muslims set fire to the shop of Mali Ram and the house and car of Sheo Bachan Sharma. Attempt was made to extinguish the fire which had been raging. Hotel of Bhagwan Singh was set on fire at about midn'ght. The fire engulfed the attached garage of Idris also and it was burnt. The houses and quarters of Mola Mukhi, Ravi Mukhi, Yudhisthir Mukhi, Niraj Mukhi and others were burnt. The Ramnavami Jhanda and the idol of Shri Mahavir Ji were also burnt. Thereafter the rioters set fire to the tea shop of Sanatan Mukhi.

12(a)3.17. In Dhatkidih godown areas the scooter and belongings of Laxmi Mukhi were burnt. S. A. Bux complained that on 12-4-1979 some stones were thrown on quarter no. 214-L4. A complaint was handed over to the IO. by M/s. G. Mallik alleging loot and arson of their shop on the 11th of April. Belongings of Khalilur Rahman had been looted which he discovered when he opened his shop on 13-4-1979. Shop of Islam Koyal was also looted and belongings worth Rs. 5,000 were taken away on 12-4-1979. On 15-4-1979 at about 8 P.M. stones were thrown on quarter no. 6L4, Road no. 9. No incident took place subsequent to 15-4-1979.

12(a)3.18. It appears that there was great resentment amongst the Hindus of the town on 6-4-1979 since the authorities had refused grant of licence of Dimna Basti Akhara procession to pass through Road no. 14. There was an attempt to fan the flame when on the 6th some persons moved about on a scooter exhorting the processionists not to take out their Jhandas. The leaflet found in circulation on the 9th unmistakably tended to spread dissatisfaction between the two communities and was an exhortation to the police force to side with the Hindus.

12(a)3.19. The situation exploded when the Harijans and caste Hindus, at about midnight on 11/12-4-1979, set fire to the shops within the graveyard of the Muslims and motor garage of one Ishaque and the house of Zohra Bibi. It seems that thereafter the Muslims from Dhatkidih side set about to attack the Harijans of Ghasipara and their persistent attacks were prevented by the Police and the Magistrates. It also appears that the Muslims in their aggressive retaliatory action defied the presence of the Police and the Army resulting in injury to an army jawan. However, the arrest of as many as 398 Muslims (against one Hindu) appears to be excessive and rather one-sided. This does not reflect impartiality of the Magistrates and the Police Officers who operated in this area on the night of 11th and 12th April 1979.

(4) SAKCHI POLICE STATION

12(a)4.1. During the communal disturbances of 1964, areas within this Police Station had been badly affected. Again, in the year 1973, on the occasion of Ram Navami festival there was communal tension and some incidents took place. Details of those in April, 1979 are given below.

12(a)4.2. On the 5th of April, 1979 the licencees gave an assurance that they would take out the processions according to the terms of the licences granted to them. On the 6th of April, 1979, however, like other police areas, no procession was taken out by the licencees.

12(a)4.3. On the 6th of April, 1979 prohibitory order under section 144 Cr.P.C. was issued. Four persons were arrested under preventive sections.

12(a)4.4. On the 8th of April, 1979 some people tried to get the Sakchi market closed as a mark of protest against the refusal of the Ram Navami Jhanda procession of Dimna Basti being given the desired route. But the bazar remained open and four persons were arrested under preventive sections.

12(a)4.5. At 12 NOON on the 11th of April, 1979 information was received from P.I.R. that communal riot had broken out at Mango. Consequently, officers and men moved in the area and alerted all the static guards and patrolling parties to be vigilant. Imposition of Curfew in the afternoon of the 11th of April was given wide publicity in the area.

12(a)4.6. The first incident of this Police Station took place at about 2 P.M. on the 11th of April, 1979 when some Hindus attacked the house of Abdul Mannan and destroyed the belongings of the house. At 5 P.M. some unknown persons set fire to the huts situated near Sheetla Mandir in which one Muslim was burnt to death (Exts. GOs 44 and 45).

12(a)4.7. There will be about one thousand shops in the Sabzi Mandi and Sakchi Bazar. These shops belonged both to the Hindus and Muslims. At 8 P.M. on 11-4-1979 Sakchi Bazar was set on fire in which the Sabzi market was completely burnt (Ext. GO/46). The properties were looted by anti-social elements. Seven persons were arrested in this connection. There is evidence that fire had started from the side of the Mohammanan Line which has a mixed population of Hindus and Muslims. At the same time houses of Muslims near the Congress Office were set on fire by the rioters. Under the orders of a Magistrate three rounds of fire were opened which brought the situation under control. At about the same time one Surendra Singh was attacked by five or six unknown persons near Sheetla Mandir crossing. He was injured and admitted in the Tata Main Hospital.

12(a)4.8. At about 7 A.M. on the 12th of April, 1979 slogans like 'JAY BAJRANG BALI' were heard near the Police Hospital. The rioters went into the quarters of the Compounder Bashir Ahmad which was in the same compound, removed the articles and burnt them. At that time one Shri Ahmad of Chenab Road entered into the compound. The rioters killed him. At about 11 A.M. on the same date a patrol party was on its round in the area. Near Sheetla Mandir adjacent to the Police Hospital compound, they found one dead body which was identified to be that of Syed Mohiuddin Ahmad.

12(a)4.9. On the 13th of April, 1979 at 3 A.M. rioters made an attack on the Birupa Road. There was explosion of a bomb and firing of gunshots. When the Police force arrived, the rioters fled away. Dead bodies of Alim and Alimuddin were found there. Ten days later, i.e., on the 23rd of April, 1979, widows of Alim and Alimuddin filed petitions before the S.P. alleging death of their husbands at the hands of the rioters with the aid and help of B.M.P. people (Exts. GO/60, CPI/30 and 31 and GOW/4). On enquiry, allegations against B.M.P. were not established.

12(a)4.10. On the 14th of April, 1979 at 10 P.M. the patrolling party found dead body of Mohammad Yasin by the side of a road near T.B. Hospital. He had incised injuries.

12(a)4.11. On the 15th of April, 1979 at 4.45 P.M. somebody informed the Police that one dead body was lying towards the back of the Police Hospital. The dead body was of Rashid. He had been admitted in the T.B. Hospital. He had died as a result of gun-shot injury.

12(a)4.12. Incidents took place in different parts of this area. These were Mohamadan Line, Kasidih, Tanga Line, Kalimati Road, Gandak Road, Hume Pipe Road, Sand Line Road, Birupa Road, Amanat Road and Baradwari area. Important incidents concerning those areas are given below :—

Quarters of Muslims on the Old Gandak Road had been looted and burnt. In Gurudwara Basti flower-sellers (Malis), who were all Muslims, lived in Jhonpries. Their number would be 40 or 50. All these Jhonpries were burnt and looted. No house of a Hindu was burnt and looted in these two areas.

Some gunties were also set on fire by a mob at the Bus Stand. At 8 A.M. on 12th April 1979 a strong Hindu mob armed with deadly weapons attacked "Abdullah Mansions" and Tanga Line as a result of which one Muslim was killed. The mob also burnt some abandoned houses of the Muslims. Firing was ordered.

In Kalimati at noon rioters broke open the shops of some Muslims, took away their properties and burnt some articles. Some of the abandoned houses were damaged and properties of Muslims of Bhima Road near Jain Bhawan were taken away. At 9 P.M. on the 12th of April, 1979 rioters set fire to abandoned houses of Muslims on the Kalimati Road, Gandak Road, Hume Pipe Road and Sand Line Road. At about 4 A.M. the same night on hearing some sounds armed force was rushed to the Birupa Road. Two Muslims were found killed and one quarter of a Muslim was found burnt.

On the 13th of April, 1979 one Bishun Sahu received gun-shot injuries on his elbow and a Hindu was killed and others injured near Birupa Road. At about 9 A.M. the same day a Hindu mob tried to attack Mohamadan Line and fire had to be opened as a result of which the mob dispersed. 23 persons were arrested. At 12 noon the same day abandoned quarters of Muslims of the Amanat Road were set on fire by Hindus and sixteen of them were arrested in this connection (Exts. GOs/62, 63 and 64). Dr. Mohammad Ahmad who was coming in a car was attacked by some miscreants near the Kalimati Road crossing and he sustained some injuries. At 3 P.M. one abandoned quarter of a Muslim of the Old Baradwari area was found burning. At 10 P.M. on 14th April 1979 the dead body of a Muslim, whose name was Mohammad Yasin, was found near the T.B. Clinic. One abandoned quarter of a Muslim was found burning at 4 A. on the 15th of April, 1979.

12(a)4.13. Evidence of Magistrate Shri Indu Shekhar Prasad Singh (GOW/18) in respect of the incident connected with Kasidih is as follows :—

He was incharge of law and order and his deputation was at the Kasidih Club. He had with him a force of 1 : 4 B.M.P. In this area there is a school known as Kasidih Middle School and its compound would be 300 to 400 yards long and 200 yards wide. The building of the School is on the Southern portion of the compound. The School has two gates—one on the South and the other on the North of the compound. There is a row of 8 rooms towards the North-East corner within the compound. The Northern gate is adjacent West of the row of rooms and is 9 to 10 feet wide. The compound wall on the Northern side would be between 4 and 4½ feet in height from the ground level. The head of a man can be seen from either side of the compound wall. Immediately North of the compound of the School premises, there were houses which were mostly inhabited by Muslims. They were empty at the relevant time. This area is known as Tanga Line.

12(a)4.14. At about 8.30 A.M. on 12th April 1979 the Magistrate heard the slogan of Bajrang Bali Ki Jay. It was coming from the compound of Kasidih M.E. School and he went there. He saw a mob of 900 to 1,000 Hindus armed with Talwars, Bhalas, Barchhas, etc. He asked them to disperse. Thereupon 300 to 400 persons

moved through the Northern gate of the compound towards the Tanga Line. Simultaneously with their going that side houses in Tanga Line were seen on fire and the remainder of the mob inside the compound was trying to join those who went earlier out of the compound. The Magistrate warned them and thereafter 9 rounds of fire were ordered to be opened. The remainder of the mob fled away after scaling over the compound wall of the School on the North, East and the West.

12(a)4.15. In cross-examination it has been taken out from him that he did not see anybody in particular setting fire to the houses. It has also been taken out from him that he did not notice any LUKARIS or Petrol or Kerosene oil cans and burning materials in the hand of the members of the riotous mob. This, however, cannot exclude the possibility of the Hindu mob indulging in arson. The witness is clear that simultaneously with the arrival of the mob near the houses he saw flames coming out. The conclusion is obvious.

12(a)4.16. In this connection it is also important to notice that in the F.I.R. (Ext. GO/53) mention has been made of the fact that the congregation in the School was the result of communal flare up in Mango area. This also supports the inference of the Magistrate that it was a portion of this mob which had committed the mischief.

12(a)4.17. Magistrate Shri Sukra Oraon (GOW/19) was in charge of patrolling duty to the North of the Straight Mile Road. Armed force was with him. His duty was from 8.30 P.M. to 8.30 A.M. next morning. Magistrate Shri B. R. Sahay was in the other shift. Shri Oraon has spoken about two incidents in which he had to order opening of fire on Hindu mobs. The first was in the night of the 11th of April and the second in the morning of the 13th of April. During the course of patrolling on 11th April 1979 near the corner of Ram Lila Maidan, he saw a crowd of 400 to 500 strong coming from Kasidib side and raising slogans of Bajrang Bali Ki Jay. The mob was armed with Talwars, Barchhas and Farsas. Despite administration of warning the mob did not listen and they began raising slogans more loudly. Again they were warned but the mob began to pelt stones on the Magistrate and the force. The Magistrate heard one or two gun-shots also. Then he ordered opening of fire and accordingly 7 rounds were fired. The crowd slightly receded but again began to raise slogans and attempted to advance further. As such he had to order opening of another 5 rounds of fire. Simultaneously he saw smoke and fire towards the back side of the mob. After the second round of fire, the mob dispersed and while retreating it damaged some of the houses. He lodged the F.I.R. (Ext. GO/49).

12(a)4.18. At about 9 A.M. on 13th April 1979 when Shri Oraon was going to make over charge he noticed a Hindu crowd on the Baradwari Road near the Urdu Library. The number was about 500 to 600. They were armed with Talwars, Barchhas and Farsas and were meant for the Mohammadan Line. By looking at their gesture he gathered that the mob, which was at a distance of about 500 yards from the Mohammadan Line, would attack the area. He gave a warning to them to return back otherwise fire will have to be opened. This warning stopped the mob but sometime later, they again continued advancing. Ultimately, he ordered 8 rounds of fire. Members of the mob concealed themselves in lanes. After 5 minutes they collected on the road. Again, they were warned but they did not stop and continued advancing. Then 8 rounds of fire had to be opened. This had salutary effect and the mob fled towards New Baradwari and Kasidib side. The jawans tried to arrest some of the persons in the mob but this could not be effected. He lodged the F.I.R.

12(a)4.19. The total number of persons killed in this area during the communal riot was eight. Of them seven were Muslims and one Hindu. In all 223 persons had been arrested (*vide* GOW/4).

12(a)4.20. In the opinion of the Commission the atmosphere in the area had become soiled even prior to the 11th of April and refusal to take out processions on the 6th and attempt to get the Sakchi market closed on the 7th are clear pointers of the fact that the Hindus of this area were very much agitated over the refusal of the route, as prayed for by Sonu Ram Manjhi. The pent up feelings and the bitterness against the Muslims found a fertile medium amongst the extremist Hindus and they, after the outbreak of riot in Mango area, in their frenzy, set about committing depredations and other despicable crimes as narrated above.

CHAPTER 12(a)

(5) TELCO POLICE STATION

12(a) 5.1. The area within the jurisdiction of the present Telco Police Station was formerly under the Golmuri Police Station which was badly affected during the communal riots of 1964. Consequently in the re-organisation of Police Stations in Jamshedpur that followed the present Telco Police Station came to be carved out.

12(a) 5.2. There was no law and order problem of communal nature after 1964 in this area till the Ram Navami festival of 1979. Licences were issued for Ram Navami festival, the processions of which were to be taken out on the 6th of April. A Thana level Peace Committee meeting was held at the Police Station in the afternoon of the 3rd of April, 1979 and the same day armed force under Magistrates were deployed in this area. All the four processions were taken out and Jhandas immersed peacefully on the 6th of April, 1979.

12(a) 5.3. The first incident of the area took place around midnight of 11th/12th of April, 1979 when a case of arson in the house of a Muslim of Laxminagar area was reported. Fire Brigade was despatched there. Musket party was also deployed there.

12(a) 5.4. There is an area known as Kharangajhar within this Police Station where in stands a mosque. Fifty yards east of the mosque is the Kharangajhar Muslim Basti. It consists of about 100 houses of Muslims. The population is about 1,000 and during the period of riots, out of fear some 300 to 400 persons has come from outside and collected there. To the contiguous north of Kharangajhar Muslim Basti and divided by a narrow lane is the Madrasi Colony. The population of this colony is 200 to 300.

12(a) 5.5 On receiving information at about 9.30 P.M. on 12 April 1979 that slogans were being raised by members of both the communities, the Officer-in-charge along with a reserve force went to that area. They found that a Hindu mob was coming to attack the mosque. Despite warning the mob persisted in throwing brickbats. After 11 rounds of firing the mob dispersed. Thereafter there was no attack on the mosque. Next it was found that there was an attack on the Madrasi Colony by the Muslim rioters. Attempts were made to break open doors and windows of houses standing in the front row of the Colony. They were damaged and fire was set to some of these houses. As one group of Muslim rioters attacked the houses in the Madrasi Colony, setting fire to a few of them, another stood on the roofs of the adjoining houses of the Muslim Basti, or hid in the rooms, shouting to the first group to persist in the attack. The second group also threw missiles both at the Madrasi Colony and at the Police party, injuring some policemen. Fire was opened on the Muslim rioters as a result of which three Muslims were killed and nine injured. The persons hit by the firing were removed by the rioters. The dead body of Mohd. Hassan was recovered from the house of Syed Ahmad and that of another Muslim from the open latrine by the side of the house of Daud Khan. Three Police jawans and the officer-in-charge of the Police Station had also received injuries while controlling the situation. The officer-in-charge was hit by an arrow.

12(a) 5.6 The Investigating Officer (GOW/3) while speaking on the occurrence in the Madrasi Colony has deposed that the Muslim rioters were using bows and arrows, firearms, bombs and also bottles filled with petrol. Despite warning they did not desist but attacked the members of the Police party instead, resulting in injury to some of them. In fact despite warning a dingdong battle between Muslim rioters and the Police continued for 4 hours. Attack by the Muslim mob, according to the witness, was so organised that while a section of the mob receded, others continued assault on the Madrasi Colony and still others incited the rest of the mob to continue the attack. In this process fire was set to houses of 3 Hindus. It was only after a total of 100 rounds of firing that rioters finally dispersed.

12(a) 5.7. The above facts find corroboration from the evidence of Shri R. N. Pandit, Magistrate (GOW/16) who had gone to control the situation along with G. Achari, Commandant, B. M. P. and who had ordered opening of fire. There is also evidence of D. S. P., G. P. Yadav (GOW/26) who had gone to the scene of occurrence with the S. D. O. He had said that the road had been obstructed with boulders and the Police Jeep with the Magistrate and the Police had been surrounded by a crowd of about 200 from both the sides. The crowd was of Muslims.

12(a) 5.8. According to the S. D. O. (GOW/29) who had arrived at the scene of occurrence along with the S. P. and others, the sequence of events was that at first the Hindu mob attacked the Muslims which was repulsed by the Police. Thereafter Muslims attacked the Hindus and when the Police intervened the Muslim mob attacked the Police also.

12(a) 5.9. In connection with this incident which is the subject matter of Ext. GO/33, the houses of Syed Mohd., Yasin, Abdul Hakim and Daud Khan which were adjacent to the place of occurrence, were searched and huge quantities of bows arrows, firearms and lethal weapons were recovered and seized by the officer-in-charge. The seized articles were the following:—

- 2 country-made rifles
- 2 country-made guns
- 18 live cartridges
- 3 empty cartridges

1 live bomb and a large number of arrows, bombs, Bhalas, Swords. Remnants of bomb were recovered from the place where the Muslim mob was attacking the Madrasi Colony (GOW/3—Page 76).

12(a) 5.10. Thus it appears that although the beginning was made by the Hindus, it was the Muslims who mounted massive attack on the Madrasi Colony and engaged the Police Party also in a determined encounter with the result that some of their members were killed and others injured.

(6) GOLMURI POLICE STATION

12(a) 6.1. In March, 1964, there had been some incidents of communal nature in this area. But till 1979 there was no such incident. In the Peace Committee Meeting at the Police Station held on 28 March 1979, persons attending it assured the Police that peace would be maintained and that the Ram Navami procession would pass off peacefully. On the 8th of April, the O. C. of the Police Station met the licencees of the Ram Navami processions and they told him that the processions would be taken out in due course on the 6th of April. The processions, however, were not taken out on that date due to the controversy over the Dimna Basti Jhanda procession. In the evening a meeting was held in the P. I. R. presided over by the D. C. in which non-officials gave the assurance that they would ensure that processions would be taken out. After that the non-officials left the place and the officials stayed back. It was decided to keep a strict watch on the anti-social elements and, if necessary to arrest them.

12(a) 6.2. On the 8th of April, 1979, three persons were arrested under preventive sections of the Cr. P. C. The same day prohibitory order u/s 144 Cr. P. C. was proclaimed covering the whole town. On the 9th and 10th no incident of violence took place. On the 11th at 10 A.M. information was received that the procession of Dimna Basti had been taken out and had reached the Main Road peacefully. But at 12 noon a message was received by wireless that communal riot had broken out in the Mango Police Station area. At 2 P.M. information was received from P. I. R. that curfew had been imposed in the whole town of Jamshedpur.

12(a) 6.3. There is an area known as Amda Basti within this P.-S. There are about 26 houses in this Basti. Almost-all the Muslim houses of this Basti had been burnt, although Hindu houses contiguous to them except one or two, were not affected. A large number of Muslim inhabitants of this area namely, Shamim Ahmad, Ali Akbar, Jabbar Mustafa, Mujivullah Khan, Ainul Haq and others filed petitions (Exts. CPI/1 to CPI/10) which were received by Shri Mohiuddin Khan, the writer constable of the P.-S. on 2nd May 1979 alleging that about 100 persons variously armed and carrying petrol cans came at about 2 P.M. on 11th April 1979 and looted their houses and shops and set fire to them. Names of some of the miscreants mentioned in the petition are Jitendra Singh, Dharendra Singh, Bhutali and Gopal Pathak.

12(a)6.4. As a result of the disturbances with respect to Dimna Basti Jhand procession, great commotion took place in Amda Basti and people began to run helter skelter. When Havildar Barmeshwar Singh was moving about asking people to maintain peace and went inside Amda Basti, he learnt that two Muslims had been stabbed to death by Hindus, one of them was Quamruddin (Ext. GO/31).

12(a) 6.5. At 2 A.M. on 13th April 1979 it was noticed by the patrolling party that some persons were raising slogans near the Masjid in Burma Mines. They were armed with lathies, Bhulas, swords, bows, arrows and bottles full of kerosene oil. Eleven people were arrested. Their names are (1) Mohd. Hussain, (2) Mohd. Rajan, (3) Sharafat Hussain, (4) Taj Mohammad, (5) S. K. Kalia, (6) Maqsood Mian, (7) Shaukat Ali, (8) Mohd. Quasim, (9) Mohd. Hanif, (10) Zahir Mohammad, and (11) Nazimuddin (Ext. GO/20).

12(a)6.6. Devendra Prakash, Security Officer of the Indian Cable Company Ltd. lodged an F.I.R. saying that at about 8.45 A.M. on 12th April 1979, the miscreants were pelting stones and guns were fired upon workers who were coming to the Company and one of the workers, namely, Sheo Kumar Sharma, received a gunshot injury and was killed near Golmuri Workers' Flats.

12(a)6.7. A great confrontation between the two communities took place in Amda Basti and this continued from 9 A.M. till 2 P.M. on 13th April 1979. Members of both the communities, variously armed and having with them Lukeries were noticed setting houses of other communities on fire and pelting stones. They were also raising slogans. Looting was also being done. On information having been received, Police with armed force rushed there but the rioters began to throw stones on them also. Ultimately fire had to be opened as a result of which the rioters receded. But again from the other side they used to assemble. Some of the rioters were injured as a result of gunfire. Magistrate Dinesh Pathak and Police Officers arrived and they too ordered opening of fire. After the situation was brought under control, about 500 Muslims were escorted to a safer place in Sakchi camp. About 30 rounds were fired (Ext. GO/21).

12(a)6.8. At about 12 noon on 12th April 1979 information was received that members of both the communities were indulging in rioting and arson near the Golmuri Masjid. The Muslims from behind the mosque armed with lethal weapons were shouting slogans and coming towards the market. From the bazar side the Hindus also armed with lethal weapons were shouting slogans. Army was rushed and slogans and counter-slogans were heard. In the very presence of the army, shops were set on fire. At this the army had to open 11 rounds of fire which had a salutary effect and the situation was brought to normalcy.

12(a)6.9. At about 8.30 P.M. information was received from P.I.R. that Muslims had taken shelter in Muslim Club in Timpla Company area and rioters were coming to attack them. On information having been received, the S.D.O., along with the S.P., Jamshedpur, City D.S.P. and Commandant, B.M.P. XII started for the place. On reaching there they heard a great *hulla* from the side of the Muslim Club near the Timpla Company. Some 1,500 Muslims had taken shelter there and were shouting for help. There was an armed mob of 1,000 Hindus and despite warning by the Police they were not prepared to disperse. On the other hand, they set houses of Muslims on fire. When the rioters defied all attempts to check them, the S.D.O.,

ordered firing. After five rounds of fire the Hindu rioters retreated. Meanwhile, the *hulla* heard earlier was intensified. The mob started abusing the Police party and advanced towards it shouting 'Maro, Maro'. Stones and arrows were also being hurled at the Police party. Stern warning by the Police party had no effect and the danger to the Police increased. Finding no other way, the S.D.O. again ordered ten rounds of fire after which the rioters fled away.

12(a)6.10. On 13th April 1979 two major incidents took place. One was at 2 A.M. near Burma Mines and the more ghastly one was at about 8.30 A.M. in the General Office of the Tinsplate Company. In Burma Mines the confrontation was between both the communities and they retreated only after four rounds of fire. The incident in the General Office of the Tinsplate Company took place between 8.30 and 9. A.M. on 13th April 1979. Evidence on record is that six Muslims workers came to the General Office of the Tinsplate Company accompanied by Father Calco, the priest of the St. John's Church, Golmuri. They had taken shelter in the Muslim Club. They had come for a vehicle so that the people who had taken shelter in the relief camp could be taken to the Church. All of a sudden, a lot of noise was heard and many workers of the factory armed with lethal weapons were seen rushing towards the General Office area. There were 300 such workers. They hunted out these Muslims and killed two of them and injured the remaining four. The O.C. on reaching there found that there were six persons in a room who had been subjected to violence. Two were already dead and the four injured were sent to Hospital (Ext GO/25).

12(a)6.11. At about 6 A.M. on 13th April 1979, O.C. Jogendra Prasad Singh having received an information that in Golmuri area some people were preparing to create trouble with the help of unauthorised arms. Accordingly he went there along with the City D.S.P. and found a meeting being held by anti-socials in the house of Dr. Syed Mahmood Akhtar. 17 Muslims, including Dr. Akhtar, were arrested and this finds mention in F.I.R. (Ext. GO/26). Recovery from the house was made of a country-made gun, 3 live cartridges, 1 bow and arrows, 1 sword, 1 Barchhi, 1 Bhala, 1 Bhujali, 1 Farsa, 1 Gupti and 1 Airgun.

12(a)6.12. At 9.30 A.M. on the 15th April 1979, two Hindus who were passing by the Kalimati Road were killed. In this connection, twenty persons were arrested. A Muslim who was an umbrella repairer and was passing through Koiladungri area, was killed.

12(a)6.13. At about 10 A. on 15th April 1979, Havildar Ram Bilas Parthi, who was present in Koiladungri T.O.P., heard some *hulla*. Along with other constables he went to that side and found a large number of stones on the road and dead bodies of two persons. They had injuries on their persons and one of them appeared to be a Hindu as he was wearing 'Yagyopavit'.

12(a)6.14. As a result of communal trouble in Mango area on the 11th of April, the Hindus of this area became aggressive and a mob went to Amda Basti and burnt almost all the Muslim houses of the place. This seems to have provoked the Muslims and the same night Muslims began raising slogans near the Masjid in Burma Mines and in the early morning of the 12th they attacked the workers, who were coming to the Indian Cable Co. and one of whom was killed.

12(a)6.15. From the facts outlined above, it is clear that considerable disorderliness prevailed in this area. What is sad is that the security and the administrative machinery of a major industry like the Tinsplate Company, failed to give protection to six Muslims who had gone to the General Office of the Company asking for a transport.

(7) JUGSALAI POLICE-STATION

12(a)7.1. Licences had been granted in 1979 to ten persons in the locality to take out Mahaviri Jhanda on the occasion of Ram Navami. Two of the Jhandas were taken out on the 6th of April 1979 itself and immersion done the same day. Six

more Jhandas were taken out on the 6th after 2 P.M. and when they reached near Mahavir Mandir 200 to 300 yards from Bata Chowk they stopped. They were joined by Akharas of the Mahavir Mandir and at this point a demand was made that unless controversy regarding Road no. 14 of Dimna Basti was resolved, they would not move any further. On the 7th of April at about 9 A.M. information was received that road near the Bata Chowk had been blocked by placing drums. This had been done by the members of the Hindu community. The blockade was removed by the Police which was objected to by certain persons of the Hindu community. At the time of the removal of the drums by the Police, some persons started shouting slogans like "Police Zulum Band Karo". While shouting slogans a man by the name of Bhola was brandishing a bhala near the Mahavir Mandir. On his arrest the crowd melted away.

12(a) 7.2. Another instance of blocking of the road the same day took place at 12 noon on the Jugsalai Station Road. Some boulders had been placed on the road. Some 2,000 to 2,500 persons had assembled there with Lathis and Bhalas. There was no Jhanda. As soon as the blockade was cleared by the Police, the mob started pelting brickbats and some of them shouted that the Police jeep should be set on fire and that the Police party be assaulted. They also made a demand regarding passing of the Mahaviri Jhanda of Mango P.S. through Road no. 14. The rioters proceeded towards the Police force with a view to overawing them and even attempted to snatch rifles from them and to set the Police vehicles on fire. Despite warning they did not disperse. On the contrary, they threw brickbats as a result of which constables Bishwanath Singh and Janak Tewary, Havildar Driver Prabhunath Ojha and S.I. D.K. Konar were injured. Nine rounds of T.G. shells were fired on which the mob dispersed. Ten persons from the mob were identified and a case was registered. The blockade was removed by the Police for regular movement of traffic (Ext. GO/91).

12(a) 7.3. On 8th April 1979 order under section 144, Cr. P.C. was promulgated. A report was received that the railway gateman nearby was threatened by some anti-social elements to keep the gate always closed. Accordingly, a section of the armed Police was deputed there.

12(a) 7.4. On 10th April 1979 some more arrests were made and the firearms of Jagjit Singh and Rudra Mohan Pandey were got deposited.

12(a) 7.5. On 11th April 1979 information was received at 10-30 A.M. from the P.I.R. that Ram Navami procession of Dimna Basti had arrived at the Main Road peacefully. By 15.45 hrs. all the Ram Navami Jhandas of Jugsalai area were immersed in the river Kharkai of Adityapur. The minority community had also joined in these processions. At 4 P.M. information was received regarding enforcement of curfew in the city in the wake of outbreak of communal disturbances in other parts of the city.

12(a) 7.6. The first case of a communal nature in this *elaka* took place at 2.30 hrs. on 12th April 1979. It was a case of arson reported from the Gudri Bazar. The victims were Muslims.

There is a Mazaar known as Pir Baba Mazar (grave) in Baghbera colony of this P.S. It was noticed at 8.30 A.M. on 12th April 1979 that fire was set to the houses of the Muslims in the colony by the rioters. Even on the intervention of Police the rioters who were Hindus, did not disperse. On the contrary, they began throwing bombs upon them. They also set the neighbouring thatched shops of Muslims on fire and resorted to brickbatting. When the situation was found grave three rounds of tear gas shells were fired but this did not have the desired effect. From the north side another mob of rioters armed with Lathis and Bhalas arrived. They also set the thatched shops on fire and began to advance menacingly. Ultimately, five rounds of fire had to be opened and then the mob dispersed (Ext. GO/93).

12(a) 7.7. According to Magistrate Shri J. Baitha, on 12th April 1979 at about the same time near Mahitopara shouts of 'Jay Bajrang Bali were heard from the south and Allah-O-Akbar' from the north. Both the groups of rioters were throwing

brickbats and arrows at each other and appeared to be determined for a confrontation. They were armed with lethal weapons. The Police party gave them due warning. They informed them about enforcement of curfew. Even after twelve rounds of T.G. shelling the mob did not disperse and the situation became grave. Ultimately, eight rounds of fire were opened and then the mobs dispersed. Nobody was killed or murdered.

12(a)7.8. On 12th April 1979 besides the case of arson was reported from Gudri Bazar, another case of arson was reported from M.E. School road. Yet another case of arson was reported from Darubhatthi Road. Necessary action was taken in respect of all these cases. In the case of Darubhatthi the rioters were found violent. After due warning the Magistrate ordered firing and thereafter the mob dispersed.

In the night of 12th April 1979 the house of one Salim and shop of one Md. Kalim were found burning. Six persons in the first case and fifteen persons in the other case were arrested and brought to the Police-Station.

12(a) 7.9. On information having been received at 8 A.M. on 13th April 1979, Police force rushed to Purani Basti and found the house/shop of Kanhaiyalal Puria and of three or four others burning and 200 to 300 Muslims shouting "Allah-O-Akbar". The Muslim rioters were throwing arrows and bombs on the houses of Hindus and were raising slogans against the Hindus. Ultimately, five (5) rounds of fire had to be opened and then the mob dispersed. One of the rioters was hit on the leg but he escaped limping.

12(a) 7.10. At 10 A.M. on 13th April 1979 information was received about the confrontation between the Adivasis and the Muslim mob. Both of them were armed with lethal weapons. Despite warnings they did not disperse. Then the Army Lieutenant was asked to open fire. When the Army Jawans began taking up positions, the mob slowly dispersed and fire was not opened.

12(a)7.11. At about 11.30 A.M. on 13th April 1979, the patrolling party found one dead body near the Kali Mandir. At 2 P.M. on 14th April 1979 an armed Hindu mob in Goalpatti was raising slogans to burn the houses of Muslims. They could be dispersed only after opening of fire.

12(a) 7.12. A van (station wagon) bearing no. BRR 8098 belonging to Laddu Ram Jugal Kishore was given for repairs in the garage of Sabir Mistry. The van was found missing. A case was registered at 7 P.M. on 14th April 1979 against unknown. On secret information received on 15th April 1979 that a bomb was being carried in this station wagon, the Police party chased it. As the station wagon went towards the Jugsalai Railway Crossing and entered Gauri Shanker Road and then Purani Basti, fire was opened upon it and as the Police party proceeded towards the van some escaped and four persons by name Mumtaz Ali, Mahfuz, Amanullah and Wali were arrested. While escaping with a Jhola from the Station wagon they threw a bomb at the Police party. Two persons were killed as result of firing by the Police. Their names are Sikander and Ghafar. The arrested persons gave out that the bomb has been brought from Dhatkidih area.

12(a) 7.13. Houses of both the Hindus and Muslims had been burnt. The incident of burning of houses and shops in the entire Jugsalai area was verified by a Magistrate and the O.C. They found that twenty-two houses and shops of Hindus and twenty-seven shops of Muslims had been burnt and looted. The number of persons killed in communal disturbances was five. Of these four were Muslims and one Hindu. The following recovery of illegal arms and ammunitions were made from the house of Mansoor Alam — (1) 103 nos. .22 bullets of rifle, (2) 33 cartridges of gun and (3) 3 cartridges of revolver.

12(a) 7.14. The total number of arrests in the Thana was 183. Of them 144 were Hindus and 39 Muslims. Out of 144 Hindus arrested 32 had been arrested prior to 11th April 1979.

12(a) 7.15. Although immersion of two out of ten Jhandas had taken place on the 6th of April, the situation deteriorated and tension developed as outlined above due to the licencees making a common cause with the Mango issue regarding Road no. 14 and their refusal to take out their Jhandas. The common cause found expression in the disturbances and disorderliness as narrated above. The Police was even threatened and attacked.

12(a) 7.16. A rather uncommon and redeeming feature of the celebrations in this P.-S. area was that members of the minority community also participated and joined the processions when these were eventually taken out for immersion on the 11th of April 1979. However, the cordial atmosphere became vitiated soon after the news of communal disturbances of Mango P.-S. area reached this locality. The Hindus thereafter became aggressive and indulged in various acts of arson and loot on the 12th. The next day, i.e. the 13th Muslims also retaliated.

(8) SONARI POLICE STATION.

12 (a) 8.1. There were ten applications for licence of procession on the occasion of the Ram Navami in the year 1979 and all these were granted. The immersion did not take place on the 6th of April, 1979 for reasons already indicated elsewhere.

12(a) 8.2. At about 15 hours on 8th of April, 1979 a secret information was received that one procession of Budhram Mohulla had been taken out for immersion at Kapali Ghat but on protest by certain persons immersion could not be done and the Jhanda and the idol that had accompanied it were brought back to the place of origin. Thereafter a mob was reported to be fixing Jhanda on the Kapali Road and putting boulders on the road. The Police force reached there and found that big and mini Jhandas were fixed on the road. This was done by digging holes or with the help of boulders. The mob raised slogans and wanted the police party to withdraw and complained that the Police was siding with the Muslims by not allowing the Jhanda to pass through Road No. 14 of Mango, that they were injuring the Hindu sentiments and encouraging the Muslims. They further affirmed that they would see that the procession was taken out through Road No. 14 of Mango and raised slogan "Bajarang Bali Ki Jay" and began throwing brick bats upon the Police party. Police chased them away and succeeded in arresting 38 persons in all.

12(a) 8.3. As a result of arrest of 38 persons, a large number of women and children came at 4 P.M. the same day and surrounded the gate of the Police Station and demanded release of the arrested persons and wanted the Police action to be stopped. They were asked to disperse but they declined to do so and they were joined by a large number of anti-social elements and the crowd swelled up to about 700. All of them demanded release of the arrested persons and shouted that if the Mango Jhanda was not allowed to pass through Road No. 14, Thana will be looted. The women folk were hurling abused against the S.P. who had arrived there meanwhile. At intervals brickbats were thrown at the Thana. The Police party asked them to disperse. They were, however, not prepared to do so and the situation became tense. As a result of brickbating Constables Kunj Bihari and M. George were injured. Ultimately 15 rounds of T.G. shells had to be burst and then the mob dispersed. Amongst the mob Shanker Singh, Basisth Narayan Tewari, Kamal Das Sharma and Birendra Kumar were identified. Mohardas was arrested. A case was registered.

12(a) 8.4. Above is the version of the occurrence according to the F.I.R. (Ext. G O/73) and the officers examined on behalf of Government officers. As against this the Samity has examined one witness by name Jagannath who lives in Sonari p.s. area. He has given a different version of the occurrence. Jagannath is a School teacher in the R.D. Tata High School and was in his house on 8-4-1979 which was a Sunday. Budhram Mohulla Akhara is at a distance of 200 yards from his house. At about 1 or 1.30 P.M., on hearing voices of some women and children, he came out and saw a truck Standing in the Akhara and some policemen assembled there,

The policemen were trying to remove the idol of Hanumanji which was being objected to by women and children. Ignoring the objection, the policemen removed the idol of Hanumanji on a truck and took it towards Kapali Ghat. The females followed the truck to the Ghat and the witness also went there. There were just a few males there as most of them had on their duties. The women were successful in getting the idol back to Budhram Mohulla Akhara. Between 4 and 5 P.M., when the male members had just returned from their duties, they were arrested by the police. After that the women gheraoed the police station.

12(a) 8.5. There are certain infirmities in his evidence. Firstly, the witness does not give a complete picture of the occurrence. He does not speak about Mahaviri Jhanda. He only says about the idol of Hanumanji. Secondly, although he went along with the womenfolk, he never raised any objection or protest despite high-handedness committed by the Police. Thirdly, he does not throw any light as to how and when the Gherao by the womenfolk at the Police Station, which continued for three to four hours, was lifted. Again, he could not say which officers were present at the Police Station. He did not say whether Tear Gas shells were fired though he says that he had heard about the bursting of T.G. shells. As such, it is difficult to believe the version of the occurrence as presented on behalf of the Samity.

12(a) 8.6. In course of raid the following arms were got deposited.—Pistol-1, Revolver-1, Rifles-4, D.B.B.L. Gun-1.

12(a) 8.7. At 10.30 P.M. Havildar Mohan Singh, who was on duty near Khuntadih Mosque, saw 100—150 rioters armed with deadly weapons attacking the mosque with country-made bombs and setting fire to some houses. For the safety of the lives and properties of the affected Muslims the Havildar fired two rounds and succeeded in dispersing them and apprehending two of them. The arrested persons were Ram Lal and Karia Bagti.

12(a) 8.8. On the 12th April, 1979, on receipt of a telephonic information, the O.C. visited a spot near the north-western end of the airport boundary and found the dead body of Shahabuddin of Sonari.

On the 13th, April, 1979 three persons were arrested after a hot chase. They were seen setting fire to a tailor's shop. The names of the arrested persons are Dinkar Singh, Sawato Kumar Sanval and Sheo Kumar Matha.

On the 14th April, 1979 the dead body of a Hindu female by name Saro Bhunjij was found for which a case was registered.

From the 19th April, 1979 till the 5th May, 1979 complaints were received from a large number of Muslims regarding burning and looting of their houses. (Exts. GOS/80, 81 and 83).

Amina Bibi lodged an F.I.R. on the 5th May, 1979 saying that on the 14th of April, while she with her husband was coming towards her house, a gang of rioters made a sudden attack upon them. She could escape but her husband fell a victim and since then he had become traceless. Despite frantic search he could not be traced.

One Harun Rashid lodged an F.I.R. on the 19th May, 1979 saying that he at Jamshedpur was residing in a house which had been purchased by his father and on the 8th April, 1979 he had been to his house in Madhya Pradesh to negotiate for the marriage of his daughter and had locked the house which contained his belongings. While he was away to his village home in Bilaspur, he learnt about the communal riot at Jamshedpur and accordingly he overstayed there for some time and returned to Jamshedpur on the 8th May, 1979. On arrival he found that his house had been illegally occupied by Banarasi Sharma. His belongings were also not there and they all had been taken away.

On the 12th May, 1979, Rahmat Ali lodged an F.I.R. saying that at the insistence of Barakatullah, he, with his other family members, shifted to Dhatkidih on the 11th of April leaving his son Barakatullah in charge of his house. When normalcy was restored and he returned, he did not find his son Barakatullah there. He made enquiries but no whereabouts of Barakatullah was found and it was apprehended that he had been killed in the communal riot (Ext. GO/89).

12(a) 8.9. It will be noticed from the above narration that except for killing of one Hindu female the sufferers were all Muslims; they were killed and their houses subjected to arson and their properties looted at the hands of the Hindus.

(9) KADMA POLICE STATION.

12(a) 9.1. Kadma Police Station was created out of Sonari P.-S. but since Government Notification had not been issued at the relevant time, F. I. R.'s used to be registered at Sonari P.-S.

12(a) 9.2. This Police Station had been affected during the communal riot in the year 1964. One mosque was erected in Ranikudar area of this Police Station and because of this, Ranikudar and Shastrinagar areas had some tension in 1978 also. After assessing the situation the officer-in-charge found no apprehension of any incident in connection with the Ram Navami festival of 1979. There were 10 licences who got licences for Mahaviri Jhanda within this Police Station.

12(a) 9.3. On 6-4-1979, A. S. I. Sarju Singh reported that the Mahaviri Jhanda processions of the Police Station would not be taken out till the Jhanda of Dimna Basti had been taken out. Accordingly, patrolling parties and static guards were alerted to keep watch over the situation. On the 8th and 9th raids were conducted for arresting criminal and anti-social elements but none was arrested.

12(a) 9.4. On 9-4-1979, one Abdus Samad lodged an F. I. R. saying that on the previous day he had locked his house in Ranikudar area and had been living with his sister at another place. At 10.30 P. M. on 9-4-1979 he came to his house and was informed by one Suleman that his house was on fire. He ran to the place and found that the back door of his house was open and the room and the inner verandah were on fire. In this connection, on suspicion, the O. C. went to the house of Ratan Ghosh in the night of 9/10-4-1979 and searched for him. He was not found. Then the officer-in-charge arrested Shyam Lal Ghosh, father of Ratan Ghosh and four of his brothers viz. Kartik Ghosh, Rabi Ghosh, Dilip Ghosh and Samar Ghosh. Some more suspects were arrested on 10-4-1979 and forwarded to jail custody.

12(a) 9.5. At 8.30 A.M. on 11-4-1979, Jadunath Singh was going to Mahavir Mandir in new Ranikudar area. At that time he received a gun-shot injury on his left leg. When he turned back he found some Muslims behind him (GO/156).

12(a) 9.6. At 11.30 A.M. on 11-4-1979 the O. C. was patrolling in his area. When he was near Mahavir Mandir in Ranikudar, Ratan Ghosh suddenly appeared and knocked him at his nose. He fell down from his Motor Cycle and as Ratan Ghosh was attempting to assault him further the armed guards chased him but Ratan Ghosh fled away. The nose bone of the O. C. was broken and he was hospitalised in Tata Main Hospital for treatment. During his absence S. I. Madan Prasad Sinha took over charge of the Police Station.

12(a) 9.7. At about 1 A.M. on 11-4-1979, eleven persons of both communities (9 Muslims and 2 Hindus) were found, amongst the crowd, which was committing arson. They were arrested and brought to the P.-S. (Ext GO/123).

12(a) 9.8. Curfew had been clamped since 2 P.M. on 11-4-1979. The situation was tense and explosion of bombs and firing were heard.

12(a) 9.9. At 11 P.M. on 11-4-1979, Magistrate Shri Sitaram Singh, while patrolling, found that in Shastrinagar about 100 Muslims, variously armed, were raising slogans of Allah-O-Akbar. They were exhorting the rioters to set Hindu houses on fire and to kill the Hindus (Ext GO/124) He found many houses of Hindus in Shastrinagar on fire. The rioters were trying to set fire to the grain shop of Daya Shankar Pandey. Even after they were warned to disperse they continued throwing bombs and bottle-bombs on the houses of Hindus and on the Police. When Tear Gas and lathi charge proved ineffective the Magistrate had to order opening of 4 rounds of fire and then the mob dispersed. As a result of Police investigation F. R. True was submitted suspecting 11 persons of which 9 were Muslims and 2 Hindus.

12(a) 9.10. At about 6 A.M. on 12-4-1979, the patrolling party found great uproar in Harijan Basti. 500 strong rioters armed with lethal weapons were raising slogans. They seemed determined to set Harijan Basti on fire. On warning they shot a few arrows and threw brickbats on the Police. Ultimately the Army had to open fire and 66 persons were arrested and brought to the P.-S. Of the 66 persons so brought under arrest 12 were Harijans and 54 were Muslims. The charge against the Harijans was that although they did not commit arson they were members of an unlawful assembly.

Complaints were made at the Police Station regarding the looting and burning of the shops and houses of Hari Krishna, Md. Murtaza, Gopal Sahu and Samsuddin Rizvi. This happened on the 11th and 12th of April.

12(a) 9.11. At about 9 A.M. on 12-4-1979, Md. Asghar was with his family members in his house when some Hindus came there and began to administer threats. He with his family fled from behind the house to the house of a Hindu where they remained for sometime. Thereafter the Hindu neighbour advised them to escape through the back door which they did. As they were going out they were brutally assaulted, which resulted in the death of his father.

At 3.45 P.M. on 12-4-1979 Shamshuddin Rizvi of Kadma Slope area filed a report (Ext. GO/129) saying that his residence had been burnt down by miscreants and all the belongings looted. One Tapan Dutta was arrested on 16-4-1979 in connection with this case.

12(a) 9.12. At about 9.30 P.M., a Hindu mob was raising slogans of 'Jay Bajrang Bali' on one side of the river Kharkai and was also hurling abuses. On the other side of the river the Muslim mob began setting fire to the Hindu houses and slogans began to be raised from both the sides. It was only after 6 rounds of fire that the rioters melted away and the situation was brought under control.

12(a) 9.13. There were further reports of arson on the 12th Hindus from the other side of the Kharkai river had come and set fire to the Jhonpris of the Muslims. They could disperse only after 14 rounds of fire. At about 12-30 P.M. near N-1 type quarters of Shastrinagar rioters of both the Communities, variously armed, had come out for a confrontation and for creating riot. To disperse them 11 rounds of fire had to be opened (Ext GO/145).

12(a) 9.14. At 11 P.M. on the night between 12/13-4-1979 the Magistrate Shri S. Chowdhry found rioters setting fire to the houses of Block No. 3 of Shastrinagar. They were commanded to disperse but they did not do so and it was only after opening of 4 rounds of fire that they receded. On investigation this case was found to be true but no clue (Ext. GO/131).

12(a) 9.15. Magistrate Shri J. Ekka found on 12-4-1979 at 9.30 P.M. the Block No. 3 Karimia School in Shastrinagar was on fire. There was a mob of 2,000 persons there. The Magistrate came to the police station and took armed force with him. Near Cinema Maidan he found mob of both the communities indulging in riot. He declared the mob unlawful and it was only after opening of fire that they dispersed. On reaching near Jhonpri Masjid he noticed that houses of poor Muslims on the banks

of Kharkai river were on fire and thousands of Hindus, variously armed, were proceeding towards Shastrinagar. It was only after opening of 5 rounds of fire that the mob dispersed. He again noticed that more than 1,000 rioters had assembled near Block No. 2, Cinema Maidan. Here also 5 rounds of fire had to be opened before the mob dispersed. Again, after 10 minutes 200 persons armed with lethal weapons arrived in the Maidan and began to throw brick-bats on the Police party. Ultimately 5 rounds of fire had to be opened and the crowd melted away (Ext. GO/144).

12(a) 9.16. In the morning of the 13th some occurrence took place as a result of which two dead bodies were found killed in the quarters of G. P. Slope. One of them was of Chandu Bhai Patel. According to the Doctor his death was due to a bullet injury. The name of the other person was Sultan. The post mortem examination revealed that his death was due to incised and lacerated wounds.

There were further reports of arson in the elaka.

12(a) 9.17. At 5.30 P.M. on 13-4-1979 one Hamid Hassan complained that he had been surrounded by 15-16 Hindu rioters when he, with his belongings, was going to B. H. Area for shelter. Of them, some struck him on the thigh and head and shoulder (Ext. GO/133). At 10 P.M. the dead body of an old Muslim was found in a hut near the Kharkai river. He had been burnt to death on 12-4-1979 (Ext. GO/134). Numerous complaints of house-breaking, removal of articles and arson were made.

12(a) 9.18. On 13-4-1979 dead body of a female was found at the junction of Inner Circular Road and Munshi Road. She was said to have been killed in the communal riot on the night of 11-4-1979. On 13-4-1979 a dead body was found lying in a drain near Munshi Road. He seemed to have been killed on 11-4-1979. His name was Shanker Lall.

A dead body was found at about 9 A.M. on 14-4-1979 in the compound of the Metal Workers' Union College (Ext. GO/147). On the same day at 11.45 P.M. one male, one female and one child were found in an injured condition. They were all senseless and unable to speak. It appeared that they had received grivous iniuries by a sharp-cutting weapon (Ext. GO/143).

12(a) 9.19. At about 11.20 A.M. on 15-4-1979, Nawal Chakravarty, Shambhu Nath Mullick and Ganesh Ghosh were going on a Motor Cycle. They were stopped and on search one country-made pistol and 4 certridges were recovered from them (Ext. GO/148). Abdul Hakim made a complaint about the theft of his articles from his quarters (Ext. GO/149). At 6 P.M. on 15-4-1979, Girija Shanker Yadav lodged an F. I. R. saying that at about 8 A.M. on 13-4-1979 he was having a wash in his bathroom when he was struck by a bullet in his chest. He suspected that the Muslims of his locality had fired at him (Ext. GO/150). On 15-4-1979 one Mehboob complained of having been struck by an arrow in his stomach (Ext. GO/153).

12(a) 9.20. At 6 P.M. on 16-4-1979 it was reported that around 11.15 P.M. on 14-4-1979 about 100 Muslims armed with lethal weapons had assembled near Quarter No. 7 of B. H. Area and were shouting Allah-O-Akbar and inciting the rioters to set fire and loot the articles from the quarters of Hindus of Road No. 5 from where they had gone away elsewhere for shelter. Despite warnings the rioters did not disperse rather they pelted stones on the Police and, as such, two rounds of fire had to be opened and the said quarter was saved. (Ext. GO/151).

S. M. A. Nazmi complained about setting fire to his house on 16-4-1979 (Ext. GO/152). Report of arson was received in the Chaprasi quarters of the Kadma Girls' School (Ext. GO/154). At 10 A.M. on 17-4-1979 dead bodies of two males were found lying in the Putus Jungle. They were stinking and it seemed the men had been killed 3 or 4 days back (Ext. GO/155). Murtaza Hussain complained on 18-4-1979 about his valuable property and cash having been looted during the riot (Ext. GO/157). Similar was the complaint by one Sayeed Ahmad (Ext. GO/159). Soma Devi

complained on 10-5-1979 that her son aged 20 years had been missing since 12-4-1979. It was learnt that he had been killed during the communal riot on 12-4-1979 and that the dead body had been thrown near the river (Ext. GO/160).

12(a) 9.21. There were major incidents of riot in the Farm Area and B. H. area. In the Farm Area 2 Muslims of the same family had been killed. In B. H. area the population is mixed. The portion where the Muslims were in majority had incidents of communal nature.

12(a) 9.22. During the course of riot 3 Hindus were killed by Police firings and 5 or 6 Hindus and Muslims were killed during the course of the riot. 14 Hindus and 6 Muslims were injured during the course of the riot. In all 50 Hindus and 103 Muslims have been charge-sheeted in various cases of riot, etc. There were about 40 Jhonpries in Shastrinagar, they all belonged to Muslims, on 12-4-1979 almost all of them except 2 or 3, were burnt by a mob of Hindus who had come from Adityapur side. Adityapur is on the other side of the Kharkai river and is about 1,000 ft. south of Shastrinagar.

12(a) 9.23. It appears that even before the outbreak of the communal riot in Mango P.-S. on 11-4-1979, the situation had begun deteriorating in this area. The situation in this Police-Station remained disturbed and the Hindus and Muslims kept attacking each other as they got an opportunity.

(10) SIDGORA POLICE STATION.

12(a) 10.1. Sidgora Police Station formally was a part of Golmuri Police Station, It started functioning as a subsidiary police station with effect from 2-10-1978. There were incidents of communal nature in this Police Station during the year 1964.

12(a) 10.2. On 7-4-1979 Probationary S. I. Uday Singh along with Magistrate Shri Lalanji Sahay who were patrolling the area with an armed force, came and reported at the Police Station that some anti-social elements were trying to persuade the licensees not to take out processions and were also planning to get shops closed and to prevent the movement of vehicles. On this information a raid was organized on the night of 7/8-4-1979 and 10 persons were arrested u/s 107/151 Cr. P. C.

12(a) 10.3. At 10 A.M. on 11-4-1979 a telephonic message was received from the P. I. R. that the procession from Dimna Basti had been taken out and had come peacefully on the Tata-Purulia Road and latter a telphonic message was received that communal trouble had broken out there.

12(a) 10.4. At 2 P.M. on 11-4-1979 an information was received from Agrico Colony that tension had developed between the two communities. It was found that there was confrontation between members of both the communities on Road no. 3, Road no. 2 and Road no. 1 and cross-roads of Agrico Colony. The rioters were indulging in brick-batting, arson and loot. Of the 125 Muslim houses, 115 had been burnt. The Police party along with a Magistrate and armed force arrived there. Under the orders of the Magistrate Shri Jiwan Kujar four rounds were fired in which one Hindu male named Jang Bahadur Singh sustained bullet injuries. He was sent to T. M. H. but he died on the way. Both the Hindu and Muslim mobs appeared determined and did not disperse. Accordingly under orders of Magistrate Shri Lallanji Sahay and B. K. Jayaswal seven rounds were fired and it was only then that the mob dispersed from various parts of Agrico Colony. In this manner the situation was brought under control (Exts. Gos 161 and 164).

12(a) 10.5. On 13-4-1979 at about 10 P.M. raids were conducted in Basti no. 10 and 45 persons were arrested under suspicion. It was in connection with the above case which had been registered at the Police Station.

12(a) 10.6. On the night of 11/12-4-1979 about 150 Muslims, men, women, and children took shelter at the Police Station. At about 1.30 A.M. in the night on 12-4-1979 a large Hindu mob armed with deadly weapons attempted to attack the Muslims who had taken shelter at the P.-S. In order to save the lives of the Muslims the Magistrate Shri Jiwan Kujur ordered firing and thereafter the mob dispersed.

12(a) 10.7. In the forenoon of 12-4-1979 an unruly Hindu mob was indulging in violence, loot and arson in the quarters of Agrico Muslim Colony. Under orders of Magistrate Shri Lallanji Sahay fire was opened and as a result of firing two persons, namely, Ram Nandan Sharma and Ram Kumar Mohanty sustained injuries and died in the hospital.

12(a) 10.8. On 12-4-1979 dead bodies of Sk. Abdul Ghafoor and Saliman Bibi were detected by P. S. I. Uday Singh who was on patrolling duty with armed force. Dead body of a male Muslim was found by the same S. I. on Road no. 3, Agrico Colony on 14-4-1979. It was the body of Alimuddin.

12(a) 10.9. For sometime past Mauje Lal Singh, an employee of T. I. S. Co. was residing in a flat of Baridih which had been allotted to his brother. He came there at about 3 P.M. on 15-4-1979 and was informed that between 9 and 10 A.M. that morning one Muslim had entered inside the house from behind and had concealed himself in the latrine. Meanwhile 40 or 50 Hindus variously armed arrived and took out the Muslim from there and burnt him to death (Ext. GO/167).

12(a) 10.10. Deaths of Sakina Bibi and Basu Momin were reported. Their dead bodies were not recovered instead some pieces of burnt bones were recovered. Abdul Sattar complained about the burning of his wine shop on 12-4-1979. Sheikh Hakim reported about the looting away of his entire property and burning of his house. Dead bodies of Habibur Rahman and his wife Israrunnisa were found. In this connection Ganga Sagar, Lal Babu and Umesh Singh were made accused in the case.

12(a) 10.11. No dead body of any non-Muslim was found during the riot nor any information was received that a non-Muslim has been injured or killed as a result of mob violence.

12(a) 10.12. In this Police Station firing was resorted to on three occasions. On the first occasion 11 rounds were fired, on the second 13 rounds and on the third 15 rounds. Number of persons killed and injured both in the riot and by Police firing within this Police Station was as follows :—

Hindus killed	..	3
Hindus injured	..	7
Muslims killed	..	12
Muslims injured	..	13

All the Hindus were killed and one Hindu injured due to Police firing whereas no Muslim was either killed or injured by Police firing.

12(a) 10.13. Complaints were made by some Muslims about the looting of their properties. Mohammad Hussain gave a written report (Ext. CCC/14) at the Thana at 2 P.M. on 11-4-1979 that rioters armed with Gandasas, Talwars, Bhalas, bows and arrows attacked their houses. On resistance they went away but again they appeared next day and began to remove the properties from inside the house and attacked the Muslims. The Muslims fled away for safety to Bhalubassa Middle School. Jawans of B. M. P. XI and Home Guards attacked his house, entered inside it and looted away his property and burnt his house. Of the jawans of Home Guards he recognised Shankar Raj and Santosh Singh. A similar complaint (Ext. CCC/15) against the Jawans of Home Guards and B. M. P. was made by Khurshid Alam to the Thana officers. The looting continued from 8.30 A.M. to 11.30 A.M. on the 11th of April, 1979 and they stopped looting when people of B. S. F. came there. Khurshid also spoke about

the burning of the ambulance in which his father was being carried and his non-appearance, thereafter Shamsul Zoha made a written complaint (Ext. CCC/16) to the Thana Officer that his wife Noor Jahan Begum, his daughter Kaiser Jahan and a son Aftab Alam, daughters Roobi and Roohi and one baby 22 days old were in the ambulance and their whereabouts were not known. The ambulance was taking them to a secure place but they had become traceless. Later, he learnt that the ambulance has been set on fire. Reazuddin Khan also filed a written complaint (Ext. CCC/17) to the Thana officer about the burning of his wife Salma Khatoon, daughter Israt Jahan, sons Nasim Akhtar, Khalil Akhtar and Salim Akhtar. He also complained about the looting of all his properties from the house.

12(a) 10.14. Within this Police Station 30 houses of Muslims and one of Hindu were burnt.

After 23-4-1979 no incident of communal nature was reported from the jurisdiction of this Police Station.

12(a) 10.15. It appears that anti-social elements in the Hindu community had become active in this area even as early as on 7-4-1979 in that they were dissuading persons from taking out processions and were planning to get shops closed and stop the vehicular traffic.

Within this P.-S. immediately after the disturbances broke out in Mango there was a confrontation between the two communities as a result of which the Muslims were great sufferers. The same night the Hindus assumed a more threatening attitude when they tried to attack the Police Station where a number of Muslims—men, women and children—had taken shelter. Again, there was a clash in the forenoon of the 1st of April between the two communities and it was only after opening of fire that the situation was brought under control. In Police firing three Hindus succumbed to their injuries. Then there were a number of cases where the Muslims, both males and females were killed and houses burnt by Hindu rioters. Complaints were made that the Jawans of B. M. P. XI and Home Guards had joined in the attack and of the Home Guards Shankar Rai and Santosh Singh were named.

11. ADITYPUR POLICE STATION.

12(a) 11.1. Aditypur Police Station does not fall within the subdivision of Dhalbhum but is situate in Seraikella subdivision under a separate S. D. O. The Dhalbhum subdivision where in lies the Jamshedpur Town is separated from Aditypur Police Station on the west by the River Kharkai. Aditypur is big industrial complex. There is a road bridge and a rail bridge over the river Kharkai connecting Jamshedpur and Aditypur. Kharkai river remains practically dry in summer and it can be crossed on foot. Regional Institute of Technology is also located there. Due to proximity and identity of interests, happenings in Jamshedpur have quick repercussions in Aditypur. Naturally, therefore communal disturbances in Jamshedpur area had effect in Aditypur.

The total number of population of Aditypur would be 38,000 to 40,000 of them about 1,000 are Muslims. There is a Basti known as Aditypur Muslim Basti which is inhabited mainly by Muslims and is surrounded on three sides by the Hindu Bastis.

12(a) 11.2. On the night of 11/12-4-1979 an incident of communal nature took place in the area known as Khanbari where 20—25 Muslims reside. On getting information of a disturbance there the O. C. S. I. Bachhu Singh (GOW/21) rushed to the place with his force and found some GENDRAS and thatches on fire. One Muslim was found killed. He stationed a force for the protection of the Muslims and brought 57 Muslims of the area to the P.-S.

12(a) 11.3. The O. C., S. I. Bachu Singh, who testified to the above fact, has no personal knowledge about the occurrence. It has been taken out from him in cross

examination that the investigation ended in F. R. Truc, No Cluc. Although there is no clear mention either in the evidence or in the F. I. R. that the rioters were Hindus, the conclusion, however, is irresistible that he must have been killed by Hindus.

After this incident at 8.30 A.M. on 12-4-1979, order u/s 144 Cr. P.C. was promulgated and 36 Hindus were arrested for violating the order.

12(a) 11.4. The second incident took place on 15-4-1979 near the Kharkai Railway bridge. An armed force with a Magistrate Shri B. B. Buxi was posted there, opposite to this place is Gauri Shanker Road under Jugsalai Police Station of Jamshedpur. At about 6.30 A.M. some Muslims armed with deadly weapons *e.g.* lathies, Gandasas, Bhalas, bows and arrows came towards the Aditypur side and were raising slogans against the Hindus. They were asked to disperse as the assembly was unlawful and curfew was in force. The mob began throwing brickbats on the armed force and began shouting "Hathiyar Chheen Lo" and to assault them. When warning had no effect and some Jawans were hit and the mob came within 40-50 yards of the police force, three rounds of fire had to be opened. After this the mob dispersed.

12(a) 11.5. O. C. Bachu Singh (GOW 21) has spoken about 5 or 6 more incidents connected with the communal disturbances and has proved the relevant F. I. Rs. Of these in three F. I. Rs. which were lodged on 13th, 14th and 15th respectively, the allegations were against the Hindus and the number of Muslims killed as a result of rioting was 7 or 8. In the fourth one, which was under section 307 I. P. C. and other sections, the informant was a Hindu. The other two cases were instituted by the P.C. himself and in one of them the dead body was one of Khalique and in the other also the dead body appeared to be of a Muslim.

12(a) 11.6. The evidence discussed above leaves no manner of doubt that the communal disturbances in Mango on 11-4-1979 had its repercussions also in Aditypur. The Hindus mounted an attack the same night on the Muslims and that was followed in the morning of the 15th by the Muslim rioters trying to cross the river Kharkai raising slogans against the Hindus and had to be dispersed before they could succeed in their attempt. Then, there were attacks and counter-attack. The Muslims suffered grievously both in life and property.

CHAPTER 12(b)

THE AMBULANCE TRAGEDY:

12(b) 1. Details of incidents that took place in Bhalubasa on the 11th and 12th of April, 1979, have already been set out in Chapter 12(a) under the heading 'Sitaramdera P.S.'. The grim situation that had developed was discussed on the 12th of April at the Circuit House by Shri Achari, Commandant, B.M.P.XII with the Commissioner. It was decided to shift the inmates of the Bhalubasa Mohammadan Line, who had gathered in Karimia School (Madarsa), to a relief camp set up in Karimia College in Sakchi at a distance of about 3 K.Ms.

12(b) 2. The number of Muslims who had collected in Karimia School (Madarsa), Bhalubasa, was something between 5,000 to 6,000. These included also those who had come there from outside the jurisdiction of Bhalubasa are *viz.* Agrico, Golmuri and Am Bagan of Sakchi area. The S.D.O. has narrated the incident which led to the lodging of families in Karimia Madarsa.

12(b) 3. On receiving message between 9.45 to 10 A.M. on the 12th of April at the P.I.R. about some communal disturbances in Bhalubasa area, the S.D.O. rushed to the place. While proceeding to the Mohammadan Line which is to the north of the Straight Mile Road, he saw a 500 strong mob coming from the southern side armed with *lukaris* and weapons. It was only after opening of fire that they dispersed. In the Mohammadan Line he found a large number of houses on fire. The inmates of the houses were under attack from the Hindu miscreants from the north and the east. The inmates of the houses of the Mohammadan Line also were throwing missiles on the attacking crowd. As a result of bomb thrown from the house of a Muslim inside the Mohammadan Line, one B.M.P. Jawan was injured. To control the situation an army unit arrived. It was only after an hour's time that the situation was controlled. Meanwhile, Commandant B.M.P.XII arrived there, at about 11.30 A.M. When the situation was brought under control the inmates of the houses of Mohammadan Line were removed to the Madarsa. The number so shifted would be about 3,000 to 4,000. The two places *viz.* Karimia School in Bhalubasa and Karimia College (Karim City College) in Sakchi, are connected by two routes which are practically equi-distant. One is *via* the Straight Mile Road and the other *via* Darubhatthi Road.

12(b) 4. There were different reasons why the shifting was decided upon. A general decision to shift the families to a safer place had already been taken in consultation with the Chief Secretary. Policemen and Army officials and Magistrates informed the Commissioner that it would be difficult to provide adequate protection to the families lodged in Karimia Madarsa since taking advantage of darkness of the previous night a large number of miscreants had mounted attack from the southern side. Then again, there was paucity of space in the Karimia Madarsa. On enquiries the families also agreed to be evacuated. The Commissioner gave instructions to officers that the families should be removed to the Karim City College. A decision was also taken that evacuation of families should be completed before it got dark since all power lines had been disrupted in that area.

12(b) 5. Accordingly, arrangements were made for sending vehicles to the Karimia School at Bhalubasa. The Commissioner and Commandant, B.M.P. XII, Shri G. Achari and the S.D.O. left for Bhalubasa at 2 P.M. with a number of vehicles which were then available at the P.I.R. Some of the vehicles came from the P.I.R. to the Karimia Madarsa by the Darubhatthi Road and some by the Straight Mile Road. Since Karimia Madarsa in the Muslim Line was about 50 yards inside from the main road, the vehicles had to stop on the main road. Those which came from the Darubhatthi Road faced west and those *via* straight Mile Road faced east. There were two lanes on the main road divided by small pillars. The southern end of the Straight Mile Road, which runs east to west at the place, was littered with stones and it was difficult for the vehicles to take a turn and face the same side. After having been occupied by the evacuees, vehicles took the particular route which proved

convenient to them. In other words, those which faced west took the Straight Mile Road and those which faced east, the Darubhatthi Road, running through Sitaramdera and Kasidih areas.

12(b) 6 Evacuation operation started at about 2.30 P.M. and was completed around 6.30 P.M. For the purpose; trucks, buses and an ambulance van were commissioned. Their total number would be about 15 to 20. The operation started with five or six trucks to which five more trucks and the ambulance van were added in the next stage of the movement.

12(b) 7. The first batch of two or three trucks was escorted by Shri G. Achari, Commandant, B.M.P. XII. He had taken the Straight Mile Road. The second batch of three trucks was escorted by the S.D.O., Jamshedpur who was following them in a jeep accompanied by a Police party consisting of 1 ASI and 6 armed constables.

12(b) 8. The S.D.O. found the trucks lined up on either side of the Straight Mile Road and he took them through the Darubhatthi Road. Besides the reason set out above, he has assigned other reasons why he took a decision to follow the Darubhatthi Road. They were—

- (a) an ambulance had passed along that road about half an hour earlier and in complete safety;
- (b) no incident of a communal nature had occurred along this road during the riot; and
- (c) there were sufficient number of static posts and patrolling parties on this road.

12(b) 9. After these two batches had left, the third batch was sent out in 5 trucks and one ambulance. The trucks were sent out one after the another. Ten minutes after the last truck had left, the ambulance bearing no. BRX 6112 moved out. The Supervision Note of the D.S.P. in this case, which is Ext. GO/211, indicates that the ambulance had a sitting capacity of 21 seats. It also indicated that the last vehicle which was the ambulance, left ten minutes after the "Jeep" had left and that armed force had been placed in three out of the aforesaid 5 trucks. This ambulance took the Darubhatthi Road.

12(a) 10. The ambulance was accompanied by two Urban Home Guards whose names are Shobha Kant Jha and Kanita Prasad Singh. Two armed Constables also wanted to board the vehicle but they were prevented from doing so by the women occupants. Such was the paucity of space within the ambulance that one of the Home Guards sat on the bonnet of the engine, which was inside the vehicle, and another sat near the rear gate of the ambulance. They were armed with lathies only. This vehicle started at about 2.30 P.M. and took the route *via* the Darubhatthi Road. When it reached near the building of Ashok Finance, a mob of 200 persons were found assembled on the road. It has been strongly suggested that many anti social elements reside in this area. The Supervision Note has elaborated that as a result of heavy brick-battling by the mob the driver was struck in the eye and he began to bleed and that another brickbat struck him on the mouth and the glass pane of the vehicle was broken to pieces. The driver, in order to save his life, jumped out and fled away. Home Guard Shobha Kant Jha also received injuries on his back by brickbats and was struck with an arrow on his right thumb. The other Home Guard also sustained injuries. As such, they also jumped from the vehicle. The rioters were armed with Bhalas, Lathies, ballams, bows and arrows and had also bottles of petrol and they sprinkled it on the vehicle and set it on fire. This they did despite requests to the contrary by the Home Guards. The two Home Guards were chased away. Urban Home Guard Shobha Kant Jha ran to the Sakchi P.S. and lodged information there.

12(b) 11. The complainant Home Guard Shobha Kant Jha stated in the F.I.R. (Ext. GO/202) that he recognised some of the rioters, namely, Golmuti, Kalyan Rao, Kebu, Ranjan Panjabi, Tulsu, Sapan Mukherji, Rameshwar Yadav and Umesh Yadav.

They were armed with deadly weapons. He also stated that he would identify some more persons if they were shown to him. Amongst the rioters were Punjabis, Biharis Bengalis and Madrasi.

12(b) 12. During investigation it was found by the D.S.P. that the ambulance was burnt by the Hindus mob with the help of petrol. Injuries on the persons of the bodies recovered were due to burns and sharp cutting weapons (*vide* Supervision Note-Ext GO/211).

12(b) 13. The D.S.P. (GOW/27) has assigned reasons as to why this vehicle was not accompanied by any force. He has stated that the third batch of five trucks which preceded it had with them an armed force of 1:6 and as such it was not considered necessary to escort the ambulance. This is hardly any reason to treat the ambulance as a part of properly escorted convoy. Moreover, when this vehicle was carrying women and children, it passes one's comprehension as to why it should have been allowed to move out without adequate protection. No doubt, as the evidence has shown, the vehicle was packed to suffocation, but the least that could have been done was to replace the unarmed Home Guards with armed Constables. But with all that neither the five trucks nor the ambulance at the rear could be said to have been 'escorted' as was necessary in the circumstances, there being no vehicle at the tail end carrying an armed force. All these lapses on the part of the administration, as will appear from the evidence to be discussed presently, were due to the fact that nobody was guiding the details of the whole operation.

12(b) 14. The D.S.P. has given reasons why it was considered safe to take the ambulance through the Darubhatthi Road. The reasons according to him were

- (1) There were four static posts along the route (a) in Kasidih, (b) near the Cinema House, Basant Talkies, (c) at the turning of the bazar and (d) near the bridge on the western end of which the incident took place.
- (2) There were two units of Lahti force posted near the temple which was about 1,000 yards from the Sitaramdera P.S. The distance between the place of occurrence on the bridge and the place where the static force was stationed on the western side was 500 to 700 feet.
- (3) There were four speed-breakers on the Straight Mile Road whereas there was none on the Darubhatthi Road.

12(b) 15. As against this, the suggestion on behalf of the minorities is that it was with deliberate intention that the ambulance was not taken by the Straight Mile Road where the number of Muslims was more but was taken by a road which had no Muslim population and as a result of which the atrocity was perpetrated on its occupants. This suggestion, however, does not bear scrutiny. It will be noticed that the attack on the Muslim in the Bhalubasa Muslim Line was also from the side of the Straight Mile Road.

12(b) 16. The S.D.O. (GOW/29), generally confirming the view of the D.S.P. about the favourable factors, gives one more reason why the ambulance took the Darubhatthi Road. According to him, since the vehicle near the Madarsa, where the occupants boarded it, faced east, it came through that route without taking a turn which was difficult to do at the point.

12(b) 17. On the Darubhatthi Road there is a bridge, the length of which is about 500 feet. The D.S.P. has pointed out that the burning of the ambulance took place at point A of the Site Plan (Ext. Commn/4) which is about 60-70 yards east of the bridge and a static force was posted across it on the western side of the bridge at a distance of 500 to 700 feet from the place of occurrence. The road runs from west to east at that point. The ill-fated ambulance was about 10 feet high. Evidence is clear that as a result of burning of the ambulance, smoke could be easily visible

from where the static force was stationed. The failure of the static force to rush to the scene of occurrence either to apprehend the culprits or to save the lives of the occupants, to say the least, was most callous and inhuman.

12(b) 18. The D.S.P. was cross-examined on behalf of R.S.S. to show that the occupants of the ambulance carried explosive materials or inflammable articles and it was because of this that the fire erupted and resulted in the tragedy. There is no substance in this line of thinking. There can be no reason why the families who were being shifted from one camp to another and who were earnestly yearning for safety of their lives, would take it into their head to carry within their *motries* and *gathries* explosives or inflammable articles.

12(b) 19. From the evidence on record there is no escape from the conclusion that it was the hand of Hindu miscreants which perpetrated this ghastly crime on helpless women and children and some old persons.

12(b) 20. As to the number of occupants in the ambulance, evidence is not consistent. According to D.S.P.(GOW/27) the total number was 50 or 60, most of them being women and children. There were also 4 or 5 old men amongst them. The occupants carried their personal belongings like *gathries*, boxes etc. Thirteen dead bodies were recovered along with pieces of bones and ashes and 15 living persons were taken out from ambulance and sent to the hospital. According to the written statement filed on behalf of the Government officers, there is no indication of the total number of occupants but it sets out that 14 persons were rescued with serious burn injuries and taken to the hospital out of whom 3 succumbed to their injuries. 11 dead bodies were picked up from the place of occurrence. When the O. C. (GOW/10) was in the witness box, he was confronted with the list (Ext CCC/45) which had been handed over to him by Shri Rahmat Khan, Secretary of the Bhalubasa Madarsa. It contains details of 105 persons who were killed and of 11 persons who survived.

12(b) 21. At about 1.30 P.M. on 12.4.1979, Commissioner says he was in the midst of discussion with the Chief Secretary and Inspector-General of Police in the Circuit House. There he was informed by the Commandant Shri G. Achari the circumstances in which the Muslim families had taken shelter in Karimia Madarsa. D.C. and S.P. and other officers were not present in the Circuit House then. He did not know where they were nor did he try to ascertain their whereabouts since he presumed that they must be busy in connection with some incidents as the day was the worst day of the riot.

12(b) 22. Regarding the arrangement made to supervise the evacuee operation, his evidence is of the kind that no particular officer was entrusted to be in its sole charge. After G. Achari and the S.D.O. and others left with the convoys, the remaining officers guided the evacuation operation and that nobody was specifically asked to supervise it. Since the families had to be evacuated before sunset, it was not possible to record the registration number of buses and names of persons who were boarding the buses. So far as security aspect was concerned, he had instructed officers to give security cover to each vehicle and convoy. It was not possible for him to spell out in detail all this and had left it to the senior officers themselves. He says he could not even say whether Home Guards were placed in charge of the ambulance in question since he had been carried back to the Mohammadan Line in Dhaluvasa by the crowd. He had also not seen the movement of the ambulance in question. The reason why he was not present at the point from where the ambulance started was that he had been taken near the Karimia Madarsa by the families who placed before him their problems, such as, transport of their belongings even chicken and goats. On being questioned by the Commission, he said that Armed B.M.P. men could not be placed inside the ambulance since there was resentment on the part of local Muslims against B.M.P. as in an incident a B.M.P. Jawan had sustained injuries resulting in his death.

12(b) 23. The D.C. has set out a slightly different reason why he was not present at the Karimia Madarsa when the families were being evacuated. It was in the following circumstances that he could take no part in the operation. The Chief Secretary, I.-G., Home Commissioner and the Divisional Commissioner were having discussions with local officers at the P.I.R. on 12.4.1979 regarding the situation. The discussions took place between 10 and 11 A.M. A general decision to shift the evacuees was taken in that meeting. As desired by the Chief Secretary and when the meeting was over he and S.P. followed him to the Circuit House. He could not recollect whether the Commissioner also came along with the Chief Secretary or stayed back in the P.I.R. He remained engaged with the Chief Secretary and other officers in the Circuit House till 3 P.M. He did not think it necessary to take charge of shifting operation since he had not been asked to do so and also because the area fell within the sectoral charge of a very senior Police Officer, Mr. G. Achari who had already been S.P. in the city of Jamshedpur. On receiving information he went to the place of occurrence sometime after 4 P.M. He did not visit the Karimia Madarsa thereafter.

12(b). 24. Evidence of the S.D.O. indicates that the Divisional Commissioner was present at the place from where the families were shifted, namely, the Karimia Madarsa and he was supervising the arrangements and the D.C. and S.P. were not present there. Along with the Commissioner some officers, e.g., officers of the Police, Army and Magistracy were also present at the place. The S.D.O. is not in a position to say whether any record was being maintained of the number of persons boarding a particular vehicle and of the officers or armed force which were accompanying the vehicle. So far as he was concerned, he was busy in escorting the families and he had done it once *via* Darubhatthi Road and that when he was returning for the second time at about 3.30 P.M. he met Mr. Achari near the Bhalubasa Bridge when he was informed about this tragic incident.

12(b) 25. The Commission feels very much distressed over the manner in which the entire operation of evacuation of families from Karimia Madarsa to Karim City College was conducted. D.C., the topmost officer of the District and the Divisional Commissioner, head of the Division, are not candid enough to let the Commission know as to why the Divisional Commissioner alone came to be in charge of the evacuation operation. According to the statement of the D.C., he along with the S.P. was closeted with the Chief Secretary and I.-G. of Police in a discussion in the Circuit House till 3.00 P.M. He is not certain that the Divisional Commissioner was also there. The Commissioner, however, does not speak about the presence of D.C. and S.P. in the Circuit House. According to him they were busy somewhere in connection with some other incidents.

12(b) 26. According to the instructions given by the Commissioner and the arrangements worked out by him, the complex and sensitive operation really amounted to nobody's responsibility. There was no record to show which officer carried which convoy. This presents difficulty in fixing responsibility whether the security cover provided was adequate or not and if not, the reason for the same. The Commissioner should not have allowed himself to be involved in the most insignificant question of transport of the belongings, even chicken and goats of the evacuees, in preference to overseeing the compelling and important matter of providing absolute safety in conducting them. His remaining preoccupied with such trivialities resulted, as he says, in his being absent when the ill-fated ambulance, occupied almost entirely by women and children, set out unprotected. Above is the kind of administrative talent exhibited by him in guiding the whole operation.

12(b) 27. The D.C. has stated that he took no part in the shifting operation since he had not been asked to do so and because the area fell within the sectoral charge of Mr. G. Achari who had already been the S.P. in Jamshedpur. In the context of the gravity of the situation and specially when persistent attacks had been made on the refugees the previous night, it is but proper to expect that the D.C. and the Commissioner should have put their heads together, evolved a scheme

and made the evacuation operation a fool-proof arrangement. Wherever the D.C. might have been after 3 P.M. he, through wireless could have been contacted in no time and asked to rush to Karimia Madarsa. The reason why all this was not done has remained unexplained. The upshot of all this is that the administrative action taken in the shifting operation cannot but be described as distressing. Considering the magnitude of the administrative failure in this matter, we have discussed it again in the later Chapter on the adequacy of administrative measure, where we have fixed the responsibility for it.

12(b) 28. Before closing this Chapter we would like to draw attention to another aspect of administrative failure. This concerns the failure to take follow-up action after this tragic incident, which was a fall-out of the gruesome occurrences of Bhalubasa Muslim Lines, already dealt with in the relevant portion of this Chapter. We are surprised to notice that the D.I.G. was nowhere visible during the entire occurrences in the Bhalubasa Muslim Line spreading over two days nor in the operation for the evacuation of the Muslims from the Bhalubasa Madarsa where the Commissioner had already appeared. We also note with concern that the supervision of an incident like the Ambulance Tragedy was left to be conducted by an officer no higher in rank than a D.S.P. The least that we expected was that the D.I.G. would direct the S.P. to do the supervision of the case himself and without any loss of time and it would also have been guided by the D.I.G. himself.

CHAPTER 13.

CAUSES.

13.1. In Chapter 11 of this report on the "Facts and circumstances of the communal disturbances", we have dealt in detail with all the relevant materials which contributed to bring about the situation in which riots finally broke out at about 11.45 A.M. on the 11th of April, 1979. In Chapter 9 of this report dealing with the role of Shri Dinanath Pandey, M.L.A. we have discussed at length how he had acted throughout acted in a manner as to defeat all genuine efforts at a settlement of the issue over the demand for the passage of the Dimna Basti Akhara procession through the disputed route. We have also observed how, after this knotty problem was resolved, he had posed a challenge to the authorities by raising, at a critical moment, 'the impossible demand for the release of B.K. Trivedi and others who had been taken in judicial custody and, thereby, arrested the progress of the procession. We have also concluded how the holding up of the procession by the determined action of Shri Dinanath Pandey, had resulted in the influx of thousands of persons joining the procession at the appointed hour; in keeping with the plan announced earlier through the leaflet (Ext. GO/6) for forcibly taking out of the Dimna Basti Akhara procession through the disputed Road No. 14, thereby creating an explosive situation. In Chapter 10 of this report on Anwar Mian, we have also referred to the stand taken by the R.S.S. that the riot was the culmination of the preparations made by the communal-minded Muslims, in the wake of the death of the notorious Muslim Goonda of that name and dismissed the proposition as untenable. For identifying the causes of the riot, we would here look closely at all the facts, circumstances and events which ultimately brought it about.

13.2. In the series of incidents which constitute the facts and circumstances leading up to the outbreak of the riots, the one fact that stands out pivotal is the demand for the passage of the Dimna Basti Akhara procession through the disputed Road No. 14. Other facts are in the nature of either a preparation for or a fall out from this crucial fact. At the risk of repeating what we have already stated in the earlier Chapters, we would like to recapitulate them herein a compact sequence, for a clear appreciation of what we have stated above.

13.3. A Ramnavami Akhara was set up in the Dimna Basti of Mango P.-S., inhabited by the Adivasis, in the year 1978. This is, by itself, a significant development, indicative of some design, considering that the Adivasis, not being Hindus, did not perform Hindu religious worship, even if some of them did participate in the festivities associated with important Hindu 'Pujahs'. A suggestion was made on behalf of the R.S.S. to a few witnesses, including the Sub-Inspector of Police of Mango P.-S. (GOW/9), that the Adivasis of Chhotanagpur celebrate the Ramnavami. But the answer solicited were either a virtual rejection of the suggestion or a vague non-committal acquiescence with it. In this particular case all the talking for the Dimna Basti Akhara was being done mostly by militant communalist Hindus, some of whom were arrested for the commission of overt acts constituting, amongst others, offences under section 153-A of the Indian Penal Code, in demand for the route for the Dimna Basti Akhara procession. When Sonaram Manjhi was individually tackled by the authorities, he agreed to take out the procession on the 10th of April but, at the appointed hour, he became traceless. Indeed, he had become untraced even earlier, as the dispute was being worked up by stages by these elements. His conduct throughout was such as to support the assertion made by the J.U.H. in their written Statement that the Adivasi Sonaram Manjhi was a mere 'name-lender'.

13.4. Next, a demand was raised that the procession carrying the Dimna Basti Jhanda should be allowed to be taken through an area which was a narrow road inhabited largely by Muslims along its sides with a mosque thrown in on the way. This is what has been called Road No. 14. The authorities concerned rejected the request, after making an assessment of the situation in the light of the objections raised by the Muslims. A protest was registered by the Hindus by not taking out the procession during that year. Instead, a writ petition was filed in the High Court,

which left the final decision in the matter completely to the discretion of the concerned administrative authorities. While doing so, however, the High Court made some observations, in the light of the submissions made before it, to the effect that the authorities may consider the question whether the procession may be taken through the disputed portion by only 3 or 4 persons.

13.5. An application for taking out the procession of the Dimna Basti Akhara was filed again in 1979 and, seizing upon the observations of the High Court, the communal leaders among the Hindus again demanded the same route and pressed for it when the matter came up before the Peace Committee meeting of the Mango P.-S. on 30-3-1979. Finally, they agreed unconditionally to accept the route which the S.D.O. and the D.S.P. would recommend after holding a joint inspection. This inspection was held on 2-4-1979 in the presence of the representatives on both the communities and the recommendation was to the effect that the procession should pass through the Sankhoshahi Relief Road running in a Southernly direction from the Dimna Basti, emerging on the main Dimna Road and thence proceed further South across the Swarnrekha Bridge, thereby completely by-passing Road No. 14. This route was almost equi-distant with the route demanded and should have well served the purpose. In any case, the decision of the local authorities in the matter was final, as had been observed by the High Court and, it was also wholly in consonance with the law on the subject of regulation of religious processions. The decision granting this alternative route was announced at the Central Peace Committee meeting held on 2-4-1979. According to the S.P., and the record of the proceedings, "nobody raised any objection to the recommendation made".

13.6. A series of events started occurring within a few days thereafter. A joint petition on behalf of the Akharawallas of Mango P.-S. was filed before the S.D.O. on 5th April 1979 by a delegation consisting of 8 to 10 persons including S/Shri Jogendra Kumar Nirala, B. K. Trivedi, Janardan Sharma and some others. The S.D.O. warned them against complicating the matter by raising such an issue and the delegation retired assuring the S.D.O. that they would reconsider the matter. On checking up with all the Police Stations, the S.D.O. was informed by the respective O.Cs, that the licencees, including those of the Mango P.-S., had assured them that the procession would be taken out according to the schedule i.e. on 6th April 1979.

13.7. The Ramnavami processions were, however, completely boycotted on that day, except for 11 out of 79 processions taken out only in three Police Stations, largely due to the initiative taken by the Police. Concerned at the turn of events, the D.C. convened a meeting of the licencees, the Akharawallas and the representatives of both the communities in the evening of that day and, after he had made the stand of the administration clear, he was again given an assurance by some of the leading representatives of both the communities that "they were going to try and see that the Dimna Basti Akhara procession was taken out according to the route granted and all other processions were taken out".

13.8. Instead of the processions being taken out on the following day, open acts of violation of law were perpetrated from early in the morning of 7-4-1979. We have dealt in detail in Chapter 11 with the incidents that occurred in Mango P.-S. and the Jugsalai P.S. areas on 7-4-1979 and in the Sonari P.S. area on 8-4-1979., besides referring to other incidents in other areas of the city of Jamshedpur. We have also concluded that all these incidents, followed a common central plan and their manifestations were basically similar.

13.9. [We need not repeat the details of the several incidents which occurred during the period, except to draw attention to the incident of the circulation of a leaflet in the name of Shri Ramnavami Kendriya Akhara Samity, which is Ext. Go/6 of this report. We have analysed the contents of this leaflet with considerable deliberations in Chapter 11 where we have concluded that it constituted not only a challenge to the authorities a threat to the minorities, and an incitement to the Hindus, but it was also a call, in the name of religion, to force the procession through the prohibited route, whatever the consequence. In fact, this leaflet, for the first time, made a reference to a conspiracy for perpetrating a communal riot attributing it, however, to the S.P.]

13.10. The part played by Shri Dinanath Pandey, M.L.A. in the fulfilment of the plan announced through this leaflet, by bringing about a stalemate at the last moment by raising the impossible demand for the release of persons taken into judicial custody, has been dealt at length in Chapter 9 of this report. The Commission had concluded that the actions of Shri Dinanath Pandey, M.L.A. followed a line which aimed at the fulfilment of the plan of the Hindu communalists of Jamshedpur, as announced in the leaflet circulated by them. The panic that had built up over the last few days among the Muslim minority thus reached the flash point when any minor incident was sufficient to provoke a riot.

13.11. According to the case of the R.S.S., the cause of the riot has to be traced to the death of Anwar Mian in a Police encounter on 25/26th February 1979 and the events following in the wake of it. We have considered the nature of the incidents that had occurred following the death of Anwar and agreed with the assessment of the situation as made by the District Administration that, as in the words of the D.C., "it is not a fact that there was apprehension of communal disharmony at their hands", that "the resentment was primarily against the administration over the killing of Anwar in an encounter" and that there was "no report of any attack on any Hindu following the taking out of this funeral procession during the period upto the 10th April 1979". From what we have stated earlier, we have no hesitation in holding that, whatever the resentment against the administration over the killing of Anwar (which had led to the filing of a petition demanding a judicial inquiry), such Muslims who may have believed Anwar to be their protector, did not have the reason or the provocation to turn their resentment against the administration into one against the Hindu community at large, by perpetrating a communal riot. The theory that this was by way of avenging what the Muslims are alleged to have suffered in the riots of 1964, apart from being a shifting of the ground, has also no legs to stand upon. As we have said earlier, such a theory, which would pre-suppose that the incidents of the communal riots of 1964 had been stored in the memory of the Muslims as a community, assuming that they had suffered at the hands of the Hindus then, over a period of 15 years, by which time almost a whole generation has passed, would be stretching the case beyond the limits of reasonable human conduct and the norms of societal behaviour. Shri Thakur Prasad further argued that from the number of Muslim participating in the riots, it would be evident that the entire body of Muslims had been involved in them. He did not, however, elaborate this point in a manner as to establish it. We need not, therefore, go further into this allegation except to observe that in most cases we have found the Muslims being victims of aggression. We must also reject outright an allegation of the nature that an entire community, whether of Hindus or Muslims, had turned into rioters.

13.12. The case as presented by Shri A. K. Datta, Senior Counsel appearing for the Government Officers, is that the dispute over the passage of the Dimna Basti Akhara procession through Road No. 14 could no longer be the cause of the riot, after it had been settled in the night of 10/11th April 1979. And, whatever the feelings that may have lingered over this dispute, they disappeared after the procession reached the New Purulia Road, having peacefully passed through a portion of Road No. 14, in terms of the agreement. He proceeded to argue that the only factor that remained to operate as a cause was the reaction of the Muslims on the death of Anwar Mian in the Police encounter of 25/26th February 1979. In substance, therefore, the stand taken by Shri Datta was basically the same as that taken by the R. S. S. For reasons that we have stated in the foregoing paragraph, in reply to the case of the R.S.S., the theory that the followers of Anwar wanted to avenge his death by perpetrating a riot on the Hindu community must be rejected as unfounded. As regards the argument that the dispute over the route having been settled, it ceased to be a cause of the riots, we must observe, while rejecting it, that it ignored, all the incidents that had occurred in the agitation over the demand for the route and the communal passions aroused thereby. The ill effects arising from such a build-up could not have been dissipated by the last-minute compromise over the route. It was indeed the communally-surcharged atmosphere that Shri Dinanath Pandey exploited

in raising the demand for the release of B. K. Trivedi and others, and bringing about an explosive situation.

13.13. From what we have said above, the plain conclusion is that the one single cause of the communal disturbance was the demand for the route for the Dimna Basti Akhara procession through a Muslim residential area which the Hindu communalists were determined to gain. We must, however, pause here to ask the question whether there is more to it in this demand than merely the aroused religious sentiments of some trusting Hindus or the perverted zeal of some fanatics. In other words, was this merely by way of the vindication of the rights of the majority community, as understood by them, against what they believed to be an unreasonable interference in the way of their life and the observance of their religion, by a pampered intro-sigent minority?

13.14. In seeking an answer to the question, we may begin by looking back to the case of the J.U.H., as asserted in the Written Statement filed by them, the relevant portions of which we quote below :—

“(4) In 1978 one Ganesh Sao S/o Hari Sao, a resident of Daiguttu, P.-S. Mango, and one Ajit Kumar describing himself as a resident of Dimna Basti or Jharkhand colony being backed by Shri Vishwanath Prasad and his brother Raghunath Prasad, of Road No. 14, Shri Binod Kumar Trivedi of Tata-Purulia Highway and Shri Dinanath Pandey, M.L.A., set up one Sonaram Manjhi (an Adivasi) of Dimna Basti to apply for permission of the Sub-divisional Magistrate, Dhalbhumto take out Ramnavami Jhanda from Dimna Basti via Road No. 14”. (Pages 9-10 of W.S.).

“(9) The authorities saw through the communal politics in the absurd demand for the route through the so-called Road No. 14. Shri Karpoori Thakur as Chief Minister of Bihar was in an invincible position then. The District Administration could withstand the pressure being convinced that the Chief Minister would not allow communal politics to cow them down. Shri Dinanath Pandey retreated but he and his friends saw to it that the Dimna Basti Akhara procession was not taken out as a mark of protest” (Pages 11-12 of W.S.).

“(1) The process of change with the 1977 elections in the State of Bihar also brought men like Dinanath Pandey, M.L.A., a Rashtriya Swayamsewak Sangh stalwart and Jan Sangh leader In 1974 he became a campaigner for Shri Jay Prakash Narayan's 'Total Revolution' and hoisted a black flag over the court building of the Subdivisional Magistrate at Jamshedpur. He was arrested and put in jail In the State Assembly Elections Shri Pandey became a Janta M.L.A. from Jamshedpur”. (Pages 13-14 of W.S.)

(2) Throughout the year 1978 till April, 1979 the R.S.S. under the leadership of Shri Dinanath Pandey grew from strength to strength. His rabid communalism made him resent the fact that the Muslims of Jamshedpur were economically making steady progress and had come to be considered as one of the richest Muslim communities in the country. He began to organise Hindus and militant groups to smash the economic resurgence of the Muslims in Jamshedpur. He could not forget his defeat over the issue of route for the Dimna Basti Ramnavami Akhara and carefully planned to teach a good lesson to the administration..... (Pages 14 and 15 of W.S.).

“(3) In March, 1979, the issue regarding the route of the aforesaid Dimna Basti Akhara was again revived with vehemence and a spirit of vengeance.

Having been defeated in the High Court, they were this time determined to defy the law for which they were silently making preparations for months together. The political situation of Patna was fast-changing. The political strength of Shri Karpoori Thakur in the Janta Legislative Party had suffered erosion and the Chief Minister was finding himself in a vulnerable position. The Jan Sangh faction of M.Ps. and M.L.As at the Centre and at the State level were up in arms against Shri Karpoori Thakur They decided to kill two birds with one stone, namely, removal of the ministry of Karpoori Thakur and the transfer of the officers from the district and the town. A plan was carefully laid and it was announced that the R.S.S. camp for the Chota Nagpur area would be held at Jamshedpur from 29th March, 1979 till 1st April, 1979 (Pages 15 and 16 of the W.S.).

“(5) The stay of Shri Deoras in Jamshedpur gave a boost to the communal elements in his speeches at the Regal Maidan..... he also pointed out that though the number of mosques were increasing in India, no Muslim country allowed a Hindu temple to be constructed (Pages 16 and 17 of W.S.).

13.15. We have reproduced a somewhat lengthy extract from the Written Statement filed by the J.U.H., with a view to focussing attention on the aspect of ‘communal politics’ which, according to them, had motivated the entire strategy.

13.16. In order to assess the validity of the substance of this allegation, it would be necessary to examine the materials which have come before us and also of some others of which we can take judicial notice. We may introduce the issue for consideration with the opening paragraph of the Written Statement filed on behalf of the Government Officers where it has been stated as follows :—

“.....Life and society in Jamshedpur has generally been of a cosmopolitan character and a large chunk of the Steel City's population consists of the working class who have lived in amity and peace among themselves in regard to matters involving religion, region, caste or creed. In this sense, the year 1964 proved to be a turning point in as far as the Steel City was in the grip of one of the worst types of communal carnage. This, amongst other things, may signify a change in the attitude of a section of working class population in the City due, perhaps, to the changing complexion and character of the trade union movement here in course of time.”

13.17. As we have already observed in Chapter 9 of this report dealing with the role of Shri Dinanath Pandey, M.L.A., the erstwhile Bharatiya Jan Sangh had re-emerged as the Bharatiya Janta Party after the disintegration of the Janta Party. We have also held that the Bharatiya Majdoor Sangh was the labour wing of the Bharatiya Jan Sangh, which had since emerged as the Bharatiya Janta Party. In his cross-examination by the R.S.S., the D.C. not only confirms the fact of this link but also asserts that the workers and their Trade Union had been involved in the riots. One of the most ghastly incidents of the riots was the attack by the workers on some half a dozen Muslims who had come to the General Office of the Tinsplate Company, in Golmuri P.-S., to seek assistance from the Management of the Company for transporting the Muslims sheltering in the local Muslim Club premises to a Relief Camp. We have also held that there was a common membership between the R.S.S. and the erstwhile Jan Sangh which had been virtually re-christened as the Bharatiya Janta Party. We have also dealt with the militant and communal character of the R.S.S. in the Chapter on the R.S.S., its organisation, members and sympathisers. The communal character of the R.S.S. and, as we may say now, its political extension, the Jan Sangh and later the Bharatiya Janta Party, has been forcefully asserted in the Written Statement filed by the J.U.H., the C.C.C. and the C.P.I. Shri H. K. Thakur, Senior Counsel appearing on behalf of the Government Officers, has also argued on the communal doctrines preached by this organisation.

We have also had occasion to refer to the findings of the Vithyathil Commission in which it had held the R.S.S. as having been responsible for the communal disturbances in Tellichery, in Kerala, into which that Commission was inquiring. Even without going into a discussion of the doctrine propagated by the R.S.S., we can say that it has challenged the secular concept of life as enshrined in our Constitution. This is typically illustrated by the point Shri Balasaheb Deoras made in the public speech he addressed at the Regal Maidan on 1-4-1979, the gist of which has been proved by the R.S.S. vide Ext. RSS/12. In his speech he drew the attention of the audience to the fact that though there were a good number of Hindus in Arab countries, they were not permitted to erect temples there, but here, in India, where the Hindus were in great majority, the Muslims and Christians were not only free to raise mosques and churches but they were also free to propagate their religion. The anti-Muslim slogans raised in the various incidents which we have narrated in Chapter 11 can be seen as conforming to the basic idea behind such a statement. In his cross-examination the District Secretary (Karyvah) of the R.S.S. organisation of Jamshedpur admits that "the Sangh has the dream of setting up a Hindu Rashtra" which, he had volunteered to clarify, was not "Hindu Raj". The concept cannot, obviously, be the same as that of the Rights to Freedom of Religion, as spelt out in Articles 25, 26 and 28 of the Constitution.]

13.18. Shri Dinanath Pandey was returned from the Jamshedpur (East) Assembly Constituency as a candidate of the Janta Party, in the general election held in the year 1977. Both the Jamshedpur (East) and the Jamshedpur (West) constituencies were held by the C.P.I. in the two preceding elections of 1969 and 1972, a fact of which we can take judicial notice. Having wrested the seat from a constituency which had been the strong-hold of the C.P.I., the Jan Sangh constituent of the Janta Party, under the leadership of Shri Dinanath Pandey and his colleagues of the erstwhile Jan Sangh, were under the political compulsion to work for consolidating their position according to the dictates of their mandate. The state of flux that had arisen after the election of 1977 and the events that had followed it in quick succession, as it appeared to the Jana Sangh elements in the Janta Party, can be discerned from the very statements Shri Dinanath Pandey made in reply to his cross-examination by the learned counsel appearing on behalf of the minorities. We should like to reproduce here the relevant extracts of these statements in paragraphs 37 and 38 of his deposition :—

"There had been general elections to the Bihar Legislative Assembly in the year 1977. It may be said that that was the period of Janta wave. For the Lok Sabha no member was elected from the State of Bihar on Congress ticket. There was no such wave at the time of elections to the State Assembly. The Congress had won about 50 seats in the Bihar Assembly election. Janta Party had secured about 218 seats. The election to the Bihar Legislative Assembly was held in June. For the Lok Sabha the elections had taken place in March, 1977. The majority of Muslims had voted for the Janta Party both for the Lok Sabha and Bihar Vidhan Sabha elections. The next general election for the Lok Sabha took place in the year 1980 and for the Bihar Vidhan Sabha in May, 1980. The majority of the Muslims voted for the Congress (I) candidates. The results of the 1980 elections were somewhat different from what had been in 1977 elections. I do not remember the number of seats secured by the Janta Party candidates in 1980 Assembly elections. In 1980 Assembly elections I was a candidate from Bharatiya Janta Party. In the Assembly elections the B.J.P. got 19 seats. I do not know the number of Hindu and Muslim votes polled in Jamshedpur East constituency. I cannot give even a rough idea of percentage of Hindu and Muslim voters. While moving around a constituency it would appear that Hindu are overwhelmingly large. I secured 115 votes more than my nearest rival who was a Congress(I) candidate. I cannot say how many of the candidates of Janta Party who had won in the 1977 general elections belonged to the Jan Sangh before the merger. I cannot say whether the Jan Sangh, out of all the constituent

of the Janta Party, was in majority. (Volunteers so far as I am concerned, I considered myself to be a candidate of Janta Party). Shri Kailash Pati Mishra was the Finance Minister during the relevant period. He was a member of the Janta Party. Shri Shanker Prasad Tekriwal was also a Minister in the Government at the relevant time. Mr. Thakur Prasad was also a member of the Cabinet during those days, so long as the Government headed by Shri Karpoori Thakur lasted. I cannot say if the ministry headed by Shri Karpoori Thakur lasted so long as the Jan Sanghis wanted it to last.

Question.—Is it a fact that ministry of Shri Thakur lasted so long as the constituent of the Jan Sangh had lent their support to him ?

Answer.—My answer is that the ministry did not last because the majority of the legislators of the Janta Party voted against Shri Karpoori Thakur.”

Before we proceed further to analyse the import of the statement made by Shri Dinanath Pandey, as mentioned above, we would like to mention the fact, of which we have taken judicial notice, that Shri Dinanath Pandey won the elections in 1977, on the Janta platform, by a majority of more than 13,000 votes, which had been reduced to 115 in the 1980 elections, which he contested as a candidate of the Bharatiya Janta Party.

13.19. Shri Pandey's statements reproduced above brings out the following significant facts :—

- (a) The Janta wave, which had risen during the Parliamentary elections of 1977, had subsided by the time of the Assembly elections held within a few months thereafter ;
- (b) The majority of the Muslims had voted for the Janta Party in the Assembly elections of 1977;
- (c) The Muslims were in an overwhelming majority in his constituency;
- (d) In the 1980 Assembly elections, the majority of the Muslims had voted for the Congress (I);
- (e) In 1980, Shri Pandey had won by the narrow margin of 115 votes over his nearest rival.

13.20. We have here the key to the true intentions behind the action programme of the Jan Sangh, which later emerged as the Bharatiya Janta Party via the Janta Party. The Janta wave had shown signs of rapid subsidence. At the same time, the inner party conflict in the Janta Party was such that having swept the polls in the 1977 elections, it disintegrated before the year 1979 was over. As a constituent of the Janta Party, the Jan Sangh had never lost its identity which is evident from the mere fact that immediately after disintegration of that party, it regrouped itself under a new banner, namely, the Bharatiya Janta Party, with the top leadership remaining practically unchanged. So, the Bharatiya Jan Sangh, even remaining as a constituent of the Janta Party, had to work for retaining the political power that they had secured and to consolidate it on the basis of their own political aims and ideology, in consonance with the fundamentally communal content of their mandate. The implementation of this policy found expression in the whipping up of the communal sentiments of the Hindus of Jamshedpur, who constituted the largest vote bank, by raising the dispute over the passage of the procession for a newly set up Akhara. The occasion was also highly favourable as Shri Karpoori Thakur, heading the Janta Government, was dependent for every single vote to survive the confidence motion hanging over him. The Ministers in Shri Karpoori Thakur's cabinet belonging to the Bharatiya Jan Sangh, from their position of strength, made their presence

felt either by making telephone calls to the Commissioner, as Shri Kailash Pati Mishra had done, or by visiting the city. Shri Tekriwal's visit was planned for an earlier date but he could not turn up on that day, and reached after the riot had broken out. The Commissioner has admitted in his cross-examination that Shri Kailash Pati Mishra had spoken to him over the telephone and, even dismissing the allegation that he had sought to influence the local administration for securing the demand over the route, we can say that by his very act he had shown his concern over and interest in the issue that had been raised by his partymen. Such was the influence exercised by the Jana Sangh faction in the Janta Party of Bihar that despite protests of the students, the teachers and the Principal of the Co-operative College, its premises were made available to them for holding the conference of the R.S.S., resulting in the violation of the secular and non-partisan character of a public educational institution. In the pursuit of their ultimate objective of retaining and gaining political power for their political wing, the R.S.S. had raised an evocative religious issue there by rousing communal passion, releasing their force of activists, some of whom have been identified in the earlier Chapter on the R.S.S. and used all their political influence and strength to cow down the Muslim minority and simultaneously, overstay the local administration.]

[13.21. The Commission, therefore, concludes with the observation that the communal passion aroused amongst the Hindus by the intractable and domineering attitude of the Hindu communalists over the question of the route for the Dimna Basti Akhara procession which expressed itself in various overt acts, was the proximate cause of the riot that broke out in Jamshedpur during the Ram Navami Festival of 1979. And, the R.S.S. played their role in this matter, motivated by the long-term political objective of gaining strength for their political wing, simultaneously with propagating their doctrine, by arousing the communal sentiments of the large majority of Hindus.]

CHAPTER 14(a)

WHETHER DISTURBANCES WERE PRE-PLANNED

14.(a)1. Pre-planning, as a rule, manifests itself in acts of preparation which, again are related to the requirements of a situation as assessed by the affected parties. The needs and physical dimensions or even the nature of the preparations by a community which is in over-whelming majority would, necessarily, be different from those of a minority community. Even their reactions to the situation would be different.

14.(a)2. The Muslims of Jamshedpur represent a minority of less than twenty in a hundred, the Hindus constituting almost the whole of the balance of the population. In a situation where such an overwhelming majority of Hindus is called upon to assert a demand in exercise of what is declared to be their religious right, against which the Muslim minority had voiced a protest, and an open challenge is thrown to the administration threatening to defy it to vindicate this right, the Muslims would undoubtedly get into a state of panic and prepare themselves to face the worst. As we have held already, the outbreak of the riots had been preceded by a series of aggressive acts committed by the Hindu communalists, led by the R.S.S. which had created an explosive situation. In this situation the Muslims had been seized by panic and prepared themselves against an attack on them along the route of the Dimna Akhara procession in the Mango area. They had thus conducted themselves under the influence of a psychosis of fear.

14.(a)3. But, as we have observed in the concluding portion of Chapter 10 of this report, dealing with Anwar Mian and the situation arising in the wake of his death in a Police encounter, there was the added complicating factor of the anti-socials amongst the Muslims becoming active and seizing the leadership of the community at this critical hour. The preparations for meeting an apprehended attack were turned into a strategy of aggressive action, in the acts of rioting and violence committed by the Muslims on the New Purulia Road and Daiguttu areas in Mango P.S. and, once the riots had broken out, a cycle of reprisals and aggressions was set in motion, in the series of incidents that followed.

4.(a)4. Reference has already been made to the kind of attack that was made on the procession on the New Purulia Road from Road Nos. 7.5, 3 and to the throwing of brickbats, bombs, bottle-bombs, explosives etc. from the western side of New Purulia Road from the house tops and the mosque. According to Magistrate Shri R. D. Ojha (GOW/14), the number of bombs thrown would be about 100 and that to manufacture or prepare the kind of bombs that had been hurled at the procession, sufficient time must have been taken. Magistrate Shri V. N. Mishra had noticed 300 to 400 bombs exploding. Magistrate Shri R. C. P. Sinha was for about half an hour near the Hanuman Mandir and he saw 40 to 50 bombs and inflammable materials and bottle-bombs being thrown continuously on the procession (Ext. GO/174). According to F.I.R. (Ext. GO/174) 30 or 35 bombs were found on the road and taken charge of by a Police Officer. It also mentions that the Police had taken charge of 4 bombs containing wicks. The Magistrates have given out the number of bombs and bottle-bombs thrown on the procession. The number, in its very nature, cannot be accurate but the existence of such a large number of missiles in a particular locality indicate pre-planning.

14.(a)5. Persistent attack by the Muslims on the New Purulia Road and the simultaneous attack that they made in Deaiguttu area also indicate pre-planning and preparation. Organised attacks on the procession, according to the Magistrate Shri V. N. Mishra, was pre-planned and, according to Shri R.C.P. Sinha, another Magistrate, preparations should have preceded the massive attacks.

14.(a)6. Incidents that took place near Hanuman Mandir and in Daiguttu areas were almost contemporaneous with the events that were happening on the New Purulia Road. Details about them have been already dealt with in the Chapter on 'Course

of Events' In Daiguttu a very large mob of Muslims shouting slogans and armed with bows and arrows, guns, bombs, etc. belonging to Azad Basti and Bawangora localities mounted the attack. The time was 12.45 P.M. on 11th April 1979. Evidence is that when fire was opened on the mob, it broke into three parts, and attacked the Hindu residents of Kumhartoli and looted their houses. The situation had become so grave that reinforcement had to be requisitioned and the Magistrate Shri R. C. P. Sinha and D.S.P. Umesh Kumar Singh had to rush with an additional force. Thereafter the situation was brought under control. Finding the situation grave in Daiguttu, Kumhartoli and Mochitola, the S.D.O. had to rush to the place and effect some alteration in the posting of police force and Magistrates. This kind of intensity and the manner of attack is clearly indicative of pre-planning and preparation.

14.(a)7 Recoveries made from the houses of Muslims and Hindus have also been relied upon to show pre-planning. From the evidence of Shri Deo Jha, S.I. and the D.S.P. G. P. Yadav it appears that in the night between the 12th and the 13th of April, 1979, recovery from the house of Muslims of Kharangajhar area was made of illicit weapons, such as, 2 countrymade rifles, 2 country-made guns, 12 live cartridges, 2 empty cartridges, a live bomb and a large number of arrows, bows, bhalas, words etc. In Annexure D-23, filed with the written statement of Government Officers, there is no mention of the recovery of arms on 13th April 1979 but there is mention of such recoveries on 14th April, 1979. It is nobody's case that any recovery was made on 14th April, 1979 and because of the slight discrepancy in the date, the factum of recovery cannot be doubted. The point, however, is that the recovery was in the night between the 12th and the 13th which would be quite some time after the incidents on the New Purulia Road on the 11th of April, 1979. Such recoveries do not necessarily suggest pre-planning but they indicate preparations made to meet any eventuality in a situation of mounting communal frenzy and, more so, in a situation where a riot had already broken out.

14.(a)8. Reference has been made to the recovery made on 7th April, 1979 in Amda Basti within Golmuri P.S. On receiving information, S.I. Yogendra Prasad Singh made a search of the house of Mohammad Ali and recovered a bomb (Ext. GO/17). This solitary recovery can utmost indicate apprehension in the mind of a member of the minority community but not pre-planning.

14.(a)9. F.I.R. (Ext. GO/26), dated 13th April 1979 speaks of search made in the house of Dr. Syed Mohammad Akhtar of Muslim Basti within Golmuri Police Station, resulting in the recovery of arms, ammunicions and weapons from his house. The Informator Report further states that some anti-social elements had assembled in the house of Dr. Syed Mohammad Akhtar and of them fourteen (14) persons, whose names have been disclosed therein, were arrested. S. I. Ram Bilas Singh of Jugsalai P.S. had deposed that as a result of the combing operation for illegal firearms conducted on the 18th of September 1979 in Gauri Shankar Road and Purani Basti Road, a recovery of illegal arms was made from the house of Mansoor Alam. There are two F. I. Rs. which speak of recoveries made from some Hindus. On the 21st of April 1979, one loaded country-made revolver of five chambers was recovered from the pocket of one Raj Kumar of Khatik Mohulla in Jugsalai Police Station (Ext. GO/108). Similar recovery of cartridgdes and other articles and country-made pistol was made from Shambhu Nath Mullick of Uliyan within the Kadma P.S. Recoveries set out above and other recoveries, the details of which need not be given were made subsequent to the 11th of April and as such were not contemporaneous with the incidents on the New Purulia Road and accordingly, cannot be relied upon to throw any light on the question of pre-planning.

14.(a)10. On the facts set out above, the conclusion is irresistible that some preparation had been made both by the Hindus and Muslims. The point for consideration is whether such a pre-planning and preparation on the part of the two communities was with a view to mount an attack on the other community.

14.(a)11. After a close look into the evidence on record, pre-planning and preparation for an attack by one community on the other is not discernible. On the part of the Hindus the pre-planning was to get the Dimna Akhara Jhanda taken out through Road No. 14, at any cost whatsoever. Indubitably, such a move portended a serious problem of law and order and, in all probability, outbreak of disturbance on a large scale. Regard being had to the sensitive nature of the issue, and the historical background this disturbance was likely to assume a communal character. So far as the minority community is concerned, they have not been found to be aggressors subsequent to the disturbance on the New Purulia Road, except in Daiguttu of Mango P.S. and in Kadma P.S. area. In Sidgora area, there was a confrontation between the two communities immediately after the disturbance on the New Purulia Road. Sidgora P.S. is close to Mango P.S. area and news of the disturbances must have travelled swiftly to that place. In a few other places also the riot started by way of confrontation between the two communities.

14.(a)12. The contention on behalf of R.S.S. is that the Muslim goondas were fully prepared to start the riot and the controversy regarding the route of Dimna Basti Jhanda was a secondary question and whether or not Shri D. N. Pandey had insisted on the release of B. K. Trivedi and others, the communal riot was a certainty and the Ram Navami Jhanda procession was just an occasion and it was seized upon by the Muslim communalists for the purpose of perpetrating a riot. No doubt, on the New Purulia Road and Daiguttu areas, Muslims have been found to be the aggressors. The question, however, is whether such conduct on their part can mean that the goonda elements and extremists amongst the Muslims residing throughout the town of Jamshedpur were determined to start a riot. There is nothing on record to substantiate this contention. The Commission feels convinced that had the controversy regarding Road No. 14 been resolved earlier i.e. before the tension mounted, there would have been no riot. While dealing with the facts and circumstances and the causes of the disturbance, enough light has been thrown on the forces that had been working to culminate in the flare up and it is not necessary to reproduce them here. Judged in that light, the aforementioned contention advanced on behalf of R.S.S. cannot be sustained.

14.(a)13. Now, as to the kind of assertion made on behalf of J.U.H. in their written statement, namely, that there was a pre-planning for attack by the Hindus for the reason that by their extensive economic progress the Muslims of Jamshedpur had become an eye-sore to the Hindu communalists who, therefore, wanted to exterminate them, there is nothing on record to substantiate such a theory. Therefore, the contention that the pre-planning and preparation on the part of the Hindus was to exterminate the Muslims must be repelled.

14.(a)14. Our conclusion, therefore, is that acting under panic, for which there was sufficient cause, the Muslims minority had planned to the extent of preparing themselves against an attack by the Hindu communalists. The anti-socials amongst them turned this preparation into aggressive action. The riot at Mango broke out in full fury after some provocative acts had been committed by the Muslims when an armed procession of Hindus, swelling in number with an influx coming on towards it pitched itself at the very approach to their residential areas. The Hindu communalists, certain of their strength in sheer number, prepared the Hindus psychologically, by evocative appeals and actions and the call given out was that they must assert religious rights, come what may. We do not, however, consider that the materials on record warrant a conclusion that, by such actions, the Hindu communalists were planning for a riot. They cannot, however, escape the liability for having created with full awareness the condition in which a riot could break out.

CHAPTER 14(b)

ELEMENTS RESPONSIBLE FOR THE DISTURBANCES

14 (b) 1. Communal disturbances do not spring up overnight. These are preceded by communal tension which is built over a period of time, suckled on communal propaganda, nursed on communal incidents and fed on rumours. All this leads to hatred of one community against the other and then turns into violence.

14(b) 2. We have already noticed how the controversy regarding Road No. 14 planted the seeds of communal feeling in 1978 and how the Divisional Conference of the R.S.S. held on the 31st March and 1st of April, 1979 i.e. only four days before the Ram Navami festival and the speech delivered by Shri Balasaheb Deoras contributed their full share in fomenting these communal feelings.

14(b) 3. The Conference of the R.S.S. was closely followed by the issue and circulation of the leaflet (Ext. GO/6), dated 7th April 1979. The leaflet is an appeal to the lovers of religion in Jamshedpur on behalf of Shri Ram Navami Kendriya Akhara Samity, Jamshedpur. Details about the contents of the leaflet have already been referred to earlier. It is not necessary to reproduce them here. Mention, however, must be made of two of its contents. The first is the decision taken by the Central Committee of the Kendriya Ram Navami Akhara Samity of Jamshedpur to the effect that only the Jhanda of Mango shall be taken out through Road No. 14 at 11 A.M. and that other Akharas should be taken out at 2 P.M. on 11th April 1979 and that all members of Akharas should first get the Mango Jhanda taken out and thereafter they should come to their own Akharas. It will be noticed that by 7th April 1979, the date which the leaflet bears, or 9th April 1979 on which date it was first found in circulation in Bistupur market and in Kadma and on 10th April 1979 when it was found in circulation in the Bata Chowk, no agreement between the representatives announcement that the Jhanda of Mango will be taken out through Road No. 14 at 11 A.M. was an open defiance of law and order, which was resolved to be carried out irrespective of consequences that may follow. The leaflet also impressed upon the people that the entire police force, namely, the Havildars, Home Guards etc., in their hearts, were ready to give support to them. The second fact to be noticed is that it contained a warning to the Governor and the Chief Minister and others that any untoward incident occurred in peacefully taking out Akharas in the City, the responsibility for this will be entirely of the local administration.

14(b) 4. We have noticed how there was a deliberate attempt to delay the passage of the Dimna Basti Jhanda procession on the New Purulia Road so that exhortation made to the religious-minded persons of Jamshedpur and to Akharawalas conveyed through this leaflet was implemented. We have already held that had delay not occurred and the movement of the procession been not stalled, there would have been no disturbances at all. Therefore, the responsibility for the disturbance must also fall on the originators and promoters of this leaflet.

14(b) 5. Nothing, however, could be ascertained as to what the Shri Ramnavami Kendriya Akhara Samity was. The Commission feels that it was not difficult to ascertain the hand of the organisation or group of persons who were connected with the overt acts mentioned in this leaflet, such as, the damaging of the idol of Mahavirji in Regal Maidan and the incidents of Jugsalai P.S., which had led to lathi charge and bursting of Tear Gas shells by the Police. There were 79 Akharas in the town and unless an organisation was working behind the leaflet it could not have been put in circulation with the direction given in it to all the Akharawalas and the course of action envisaged by it carried out.

14(b) 6. During the course of evidence the name of S. K. Prabhakar transpired as one of those responsible for the circulation of the leaflet and that he had the reputation of being a member of the R.S.S. This aspect of the matter has already

been dealt with in the Chapter on R.S.S. and the Commission feels satisfied with his complicity in the matter of circulation of the leaflet and his being a member of the R.S.S.

14(b) 7. It was argued on behalf of the R.S.S. that S.K. Prabhakar had already been arrested on 7th April 1979 in connection with Jugsalai P.S. Case No. 3(4)79 and so he could not have been found circulating the leaflet on the 10th of April, 1979. This argument does not bear scrutiny. The F.I.R. of case no. 3(4)79 (Ext. GO/91) does not say that S. K. Prabhakar was arrested at the spot. It says that certain persons, who were in front of the mob, could be recognised and S. K. Prabhakar was one of them. The matter is set at rest by the evidence of the Magistrate Shri J. Baitha who had lodged the F. I. R. (Ext. GO/91). The occurrence in case no. 3(4)79 (Ext. GO/91) took place at 12 noon on 7th April 1979. Evidence of the Magistrate, Shri J. Baitha, is that an information was received in the morning of 9th April 1979 that some persons were planning to commit mischief in Jugsalai Bazar, a raid was organised and persons including S. K. Prabhakar were arrested. The evidence, however, is not clear on the point that S.K. Prabhakar had been arrested even on 9th April 1979. There is thus no substance in the contention of the R.S.S. that S. K. Prabhakar was arrested on 7th April 1979.

14(b) 8. The leaflet makes mention of one incident of Jugsalai. The F.I.R. of that occurrence is Ext. GO/91. It deals with the blocking of the Gol Chukkur with boulders by the following persons :—

- (1) Mohan Lall
- (2) Ratan Lall
- (3) Sheo Kumar
- (4) Swadesh Kumar Prabhakar.
- (5) Dukhu Khatik
- (6) Ram Prasad Khatik
- (7) Suresh Pandet
- (8) Kamal Kishore Agrawal
- (9) Ramparikh
- (10) Sitaram Parikh

Allegation against these persons is that they belong to the R.S.S. S.I. Jugsalai P.S. (GOW/6) was questioned in this regard. All that he said was that he had no knowledge if they belonged to R.S.S.

14(b) 9. An argument was advanced on behalf of the Samity that the leaflet (Ext. GO/6) was not admissible in evidence since, the Kendriya Akhara Samity, over the name of which it was issued, has not been found out nor the whereabouts of persons who were at the root of it. Is it true that the Police witnesses have said that they could not find out Kendriya Akhara Samity nor the persons responsible for issuance of the leaflet. Still, on this ground the document does not become inadmissible. There are some documents which are admissible by themselves. That the leaflet is a document follows from the definition of 'document' contained in section 3 of the Indian Evidence Act. According to this definition—

“document means any matter expressed or described in substance by means of letters, figures or marks, or by more than one of those means intended to be used or which may be used for the purposes of recording that matter.”

Under section 5 of the Indian Evidence Act, evidence may be given in any suit or proceeding of the existence or non-existence of a fact in issue or which is relevant. That the leaflet, which is a document, is relevant follows from its contents

themselves. That being so, evidence may be given about it and as such, the objection raised that the document is not admissible in evidence, cannot be sustained.

14(b) 10. In the Chapter on the R.S.S., the Commission has already referred to the names of Shri D. N. Pandey, S. K. Prabhakar, Puran Singh, Ratan Lal, J.D. Patel and Banwari Lal Agrawal and the different incidents in which they were involved and have found that the hand of the R.S.S. and Jan Sangh which is the political wing of the R.S.S., is discernible behind the riot. Elsewhere the Commission has also held that the Bharatiya Majdoor Sangh is the labour wing of the erstwhile Jan Sangh. The evidence established that members of these organisations had taken active part in incidents which eventually erupted into the communal flare up. And in the nature of things, an organisation can work only through its agencies and members.

CHAPTER 15

APPREHENSION OF DISTURBANCES WHETHER FROM BEFORE

15.1. While dealing with facts and circumstances of the communal disturbances in Chapter 11, Ram Navami orders issued by the D. C. and the S. P. and various incidents which occurred from time to time, have been referred to in detail. It is not necessary to reproduce them. In the present Chapter a passing reference is being made to them to investigate whether or not there was apprehension of disturbances from before.

15.2. On 27th March 1979 the D. C. issued his deputation order for Ram Navami. S. P's Ram Navami order is dated 2nd April 1979. Both of them after referring to the background of the situation, speak of keeping a vigil and exercising control on the situation during the Ram Navami festival of 1979. From the 5th of April sporadic incidents began surfacing themselves reflecting unmistakably foreboding signs

15.3. In the first instance, mention may be made of installation of an idol of Mahavirji in Radio Maidan, Dhatkidih on the 5th of April. Formerly no such idol used to be installed there and as a result of departure from the previous practice, communal tension was found developing between both the communities (Ext. GO/3).

15.4. The same day an open protest against the denial of the route applied for by Sona Ram Manjhi, was made when some persons of the Mango area including some of the licencees, met the S.D.O. and told him that no Procession of Mango area will be taken out on the due date unless the Dimna Basti Akhara procession was allowed to be taken through the route asked for.

15.5. On the 5th, as a result of contact with the licencees, the Officers-in-charge of different Police Stations got the impression that the Ram Navami procession would be taken out on the 6th. On the 6th, however, except for 11 Jhandas, the remaining 68 Jhandas of the town were not taken out for immersion.

15.6. In view of the complex and sensitive situation that had arisen due to the Akharawalas having boycotted the immersion ceremony, the D. C. held a meeting of the licencees and important citizens of the town in the P.I.R. at about 8 P.M. on 6th April 1979. In the meeting the authorities were given an assurance that the Dimna Basti Akhara procession would be taken out according to the route granted and that all other processions will also be taken out. This, however, was not done.

15.7. On the 7th itself three incidents took place the first was on the *parti* land towards the eastern end of Road No. 14 near Dimna Basti when in the morning a mob of about 100 persons, variously armed, were advancing towards Road No. 14 and were raising communal slogans in which B. K. Trivedi and others were arrested (Ext. CCC/19). The other two incidents by blocking roads took place at 9 P.M. and 12 noon respectively within Jugsalai P.S. area (Ext. GOs. 91 and 90).

15.8. Two incidents occurred on the 8th. The first was in the Sonari P.-S. area over the initiative taken by the Police in getting some Jhandas taken out for immersion (GO/73). The second was when women and children numbering about 400 surrounded the Sonari P.S. demanding release of persons arrested in the earlier incident (Ext. GO/94). In fact, finding no alternative, the Magistrate had to order bursting of 10 rounds of T.G. shells and it was then that the mob dispersed.

15.9. In a joint wireless message sent on the 8th of April, 1979 the D.C. and the S.P. reported to Government that "as a result of not taking out Ramnavami procession, the situation in the Steel City continued to be tense. As reports go, the situation is likely to further deteriorate from tomorrow." The same day the administration promulgated order under section 144, Cr. P.C. throughout the town of Jamshedpur.

15.10. On the 9th of April the leaflet (Ext. GO/6) came in the hands of O. C., Bistupur P. S. The significance of this leaflet and the exhortation that it made for the defiance of the authority of the administration by taking out the procession of the Dimna Basti Akhara through the disputed route, has already been dealt with and need not be referred to again here.

15.11. The Home Commissioner was being apprised of the situation from time to time and on the 7th of April, he spoke to the Divisional Commissioner to see that Akharawalas should be persuaded to bring out their Akharas so that tension might be defused. On the 9th of April the Commissioner discussed the situation with the Home Commissioner over the telephone. The Home Commissioner told him that Government had ordered him and the D.I.G. of Police to visit Jamshedpur. Accordingly, the Commissioner and the D.I.G. came to Jamshedpur at 5 P.M. on the 9th of April.

15.12. In the opinion of the Commission, the above incidents and circumstances leave no manner of doubt that there existed apprehension of disturbances from before i.e. prior to the 11th of April, 1979.

CHAPTER 16

WHETHER ADMINISTRATIVE MEASURES TAKEN TO PREVENT AND DEAL WITH THE DISTURBANCES WERE ADEQUATE

16.1. In Chapter 4 of this report we have given a narrative account of the administrative measures taken for the maintenance of law and order during the Ram Navami festival of 1979. In the preceding Chapter we have also dealt with the question whether there was apprehension of disturbances from before. The facts and circumstances preceding and leading to the outbreak of the communal riot and its causes and course have also been discussed in Chapters 11 to 13 of this report. An inquiry into the specific issue whether the administrative measures taken to prevent and deal with the disturbances were adequate would draw upon the facts and circumstances we have already discussed in dealing with the related questions, particularly those in the aforementioned Chapters.

16.2. In this Chapter we propose to consider at length the measures taken by the administration, beginning with the assessment of the situation as made by them on the eve of the Ram Navami festival of 1979, and proceed to examine how they reacted at the several crucial stages of the developing situation, till the disturbances actually broke out. The measures and the actions that were taken by the administration after the riot had broken out are not being specifically discussed here as they are largely covered in Chapter 12 dealing with the course of events. In view, however, of the special features of the incident of the Ambulance tragedy, we have considered it necessary to deal in this Chapter with the question of the responsibility for this incident.

16.3. In dealing with the subject matter covered by this Chapter, it would be convenient to consider it in the following broad sub-heads :—

- (i) Assessment of the situation including the requirement and availability of force.
- (ii) Approach of the administration in dealing with the situation from time to time.
- (iii) Arrest of anti-social elements and search for illegal arms.
- (iv) Circulation of the leaflet and after.
- (v) Responsibility for the Ambulance tragedy.

16.4. (i) *Assessment of the situation including the requirement and availability for force.*—The written statement filed on behalf of the Government Officers has narrated how the celebration of Ram Navami festival, like other major festivals of Hindus and Muslims “came to be regarded as an occasion for vigilance and alertness for the law and order authorities.” According to the usual drill for making law and order arrangements for such occasions, the district authorities had duly called for and obtained reports from the O. Cs. of all the Police Stations regarding their assessment of the situation obtaining in that year, in their respective areas. Based on these reports and, obviously, on an overall assessment of the situation, a requisition for additional Police force required for maintenance of law and order during the Ram Navami festival of 1979 was sent in the S. P’s letter, dated 23rd March 1979 addressed to the Range D.I.G., a copy of which is appended in Annexure 8 of the written statement filed on behalf of Government officers. According to this assessment, in addition to one Company each of the B.M.P. and the C.R.P. forces, which had already been deputed earlier for meeting the special law and order requirements of the Police district of Jamshedpur, an additional deployment of 5 Companies of force would be required for dealing with the special situation as obtaining on the eve of the Ram Navami festival of 1979. Besides the 5 Companies, the district authorities also sought permission to call up 200 Home Guards which would be equivalent to 2 more Companies of force.

The assessment of the requirement was made in great detail and the Range D.I.G. of Police fully supported the requisition in moving the State headquarters for the provision of the additional force asked for, and we find no reason to question the correctness of this assessment. There was, however, some delay in the deployment of the force according to the requirement. In his Wireless Message, dated 3rd April 1979 addressed to the Police Headquarters and the D.I.G., the S. P. referred to his requisition and pointed out that only 1 additional Company of B.M.P. had been deputed till then and although the call up of 300 Home Guards had been sanctioned, against permission sought to call up 200 of them, adequate number of Home Guards was not available. The S. P. concluded the Wireless Message with the following words :—

“in view of the communal tension prevailing in town and heavy deputations at least two more coys. of B.M.P. may kindly be deputed.”

The demand for the deployment of force to the full extent of 5 additional Companies was, however, reiterated in the Joint Wireless Message, dated 8th April 1979 sent by the D.C. and the S. P. to the Home Department, Patna and the Police Headquarters, besides the Commissioner and the Range D.I.G. at Ranchi, vide Ann. 11 of the W. S. filed by the Government officers. In this Wireless Message it was stated that—

“As a result of not taking out Ram Navami processions, the situation in the Steel City continues to be tense. As reports go, the situation is likely to further deteriorate from tomorrow onwards.”

16.5. The two Wireless Messages not only highlight the fact that a communal tension was prevailing and that the situation was likely to deteriorate, but also the fact that there was delay at the State Headquarters to respond fully to the requisition and in time. We would, however, like to observe that the situation assumed gravity after the Akharawalas boycotted the taking out of their Jhanda processions on the due date i. e. 6th of April, 1979. By the 11th of April, 1979 when the riot broke out, the total strength of the force available at Jamshedpur, including the additional force sent from outside, was :—

- 4 Companies of B. M. P.
- 1 Company of C. R. P.
- 260 Home Guards.
- 35 men of Ordinary Reserve.
- 80 men of the D. A. P.
- 1 section of T. G. Squad.

As on that date, therefore, the force available was 2 Companies short of the total requirement as assessed by the district administration. Once the riot had broken out, however, 2 Columns of the Army arrived around 6 P.M. and 2 more columns reached by the midnight of 11th/12th April, 1979. Reinforcements began to be rushed in and by the 14th of April the district administration had with them 8 columns of the Army, 11 Companies of the B. M. P., 2 Companies of C. R. P., 4 Companies of B. S. F., 260 Homeguards, 80 men of the D. A. P., besides 140 Assistant Sub-Inspectors and 190 trainees from the Constables Training School and also 3 full section of T. G. Squad. The Additional number of officers made available from outside the district was 4 of the rank of S. P., 9 of the rank of A. D. M., 50 Magistrates and 27 D. S. Ps. The district administration was in a position to divide the operational area into three sectors on the 12th of April itself placing each sector under an officer of the rank of S. P.

16.6. Though it would appear that there was some delay in the full requirement of force being deployed before the 11th of April, 1979 it has never been the claim of the administration nor can we hold, for what we have observed later in this Chapter and elsewhere in this report, that the outbreak of the riot could not be prevented because the entire force as asked for had not been reached the district administration well in time.

16.7. (ii) *Approach of the administration in dealing with the situation from time to time.*—In making the aforesaid observation we have kept in view the nature of the situation, the manner in which it was developing and the approach of the administration in dealing with them at various stages. From the facts that we have already noticed, it is clear beyond doubt that the central issue which influenced the situation during the Ram Navami festival of 1979 was the dispute over the route of the Dimna Basti Akhara procession through Road no. 14 of Mango P.-S., in one portion of which there was a fair concentration of Muslims and a mosque and the objection raised by them to the procession being taken out through that area. The issue that arose on the question of the route on the eve of the Ram Navami festival of 1979 was exactly the same as it was in the preceding year. Some incidents of a communal nature had occurred in July and August, 1978 over the issue of the construction of a mosque on a piece of public land. There were also some incidents of lawlessness following in the wake of the death of Anwar Mian in a Police encounter on 26th February, 1979 which appeared at that time to partake of a communal character. But, as we have observed in Chapter 10 of this report, the situation arising over the death of Anwar Mian was not a live issue nor was it any longer a cause for communal tension, on the eve of the Ram Navami festival of 1979.

16.8. The district administration was, no doubt, aware of the sensitive nature of the dispute arising out of the demand for the route. This explains the presence of the S. P., the S. D. O. and the D. S. P. in the Thana level meeting of the Mango P.-S. where, in fact, the demand for the grant of licence for the Dimna Basti Jhanda procession through the disputed route was raised. The dispute over this issue being directly connected with the observance of a religious festival was obviously a sensitive issue, which, if not properly handled, could assume communal feelings.

16.9. One important event which should have been seen as adding further complication to this issue was the holding of the Divisional Conference of the R. S. S., a militant Hindu organisation, just on the eve of the Ram Navami festival of 1979. The consistent stand of the administration has been that this event did not pose or pressage any complication which might assume a communal character. The D. C. and the S. P. have made no mention of this Conference in their respective Ram Navami orders and the W. S. filed on behalf of the Government Officers makes only a passing reference to this event in para. 11 thereof, where it mentions about the intelligence report, dated 23rd March, 1979. Questioned about the intelligence report in which the ensuing conference of the R. S. S. had been mentioned as one of the special features to be taken into consideration, in assessing the situation on the eve of the Ram Navami festival, the S. D. O. (GOW/29) maintained in his cross-examination by the counsel for the minorities that "there was no suspicion or apprehension of any communal disturbance" arising from this event. The officers of the district administration headed by the D. C. and the S. P. had, in fact, taken the stand throughout that there was no communal disharmony prior to the outbreak of the riot. Starting with such an approach, it is no wonder that the officers concerned failed to comprehend the depth of the feelings that had been aroused over the dispute on the question of the route and the determination of the Hindu communalists to assert their demand and secure its fulfilment as their religious right. By the assertion of this right the Hindu communalists also intended to proclaim that the Muslim minority cannot dictate its will and stand in the way of the observance of a religious festival by the Hindus in the manner in which they desired to do so. This stand was directly in conformity with and derived strength from the point made in the speech Shri Balasaheb Deoras had delivered at the public meeting attended by about 8,000 persons in the Regal Maidan, on the 1st of April, 1979. A summary of the speech was recorded by the

intelligence branch of Jamshedpur, an authenticated copy of which was obtained from the S. P., Jamshedpur, on a prayer made by the R. S. S., which has been proved as an exhibit on their behalf vide Ext. R. S. S./12. According to this summary, among other things, Shri Balasaheb Deoras called upon the audience to realise the fact that though there was a good number of Hindu in Arab countries, they were not permitted to erect temples there. But, though India was a country where the Hindu were in a majority, the Muslims and Christians were not only permitted to raise mosques and churches but they were free to propagate their religion. This was the dominant spirit behind the demand for the passage of the Dimna Basti Jhanda procession through the controversial route. In the various meetings in which the question of the route was raised, whether in the Place Committee Meeting of the Mango P.-S. on 30th March, 1979, the Central Peace Committee meeting of 2nd April, 1979 or even in the meeting of 6th April, 1979, after the taking out of the processions for the immersion of Mahabiri Jhandas had actually been boycotted, the Akharawalas or their spokesmen kept on assuring the administration that they would abide by the directions given by them and take out the processions by the licensed route. But, the fact that this was only a deceptive ruse does not appear to have been clearly discerned by the heads of the local administration, because they had failed to comprehend their determined resolve to secure the fulfilment of their demand, due to an inadequate assessment of the background and the circumstances pertaining to that demand.

16.10. In Chapter 11 of this report dealing with the facts and circumstances of the communal disturbances, we have discussed at length the incidents that occurred by way of assertion of the demand for the passage of the procession through the disputed route and concluded how they were unmistakably in the nature of whipping up of the religious sentiments of the Hindu community. Yet, the D. C., the S. P. and the S. D. O. refused to admit that the situation was being communally surcharged, even the Commissioner had taken the view, after he had assessed the situation in a meeting with the officers immediately on his arrival at Jamshedpur on 9th April, 1979 that "there was no communal overtone to the incidents that had occurred between the 4th and 8th of April, 1979". Without repeating what we have already said in our analysis of the situation in Chapter 11 of this report, we would conclude by saying that the entire approach of the administration suffered from their failure to appreciate or, what appears to be more correct, to react adequately to the communally tense situation that had been created by the entire chain of events, including the various acts committed by communal activists of the Hindu community.

16.11. (iii) *Arrest of anti-social elements and search for illegal arms.*—As early as on 27th March, 1979, the D. C., had, in his Ram Navami order, directed that selected communalists and anti-socials should be arrested in advance or else they may play a vicious role at the critical moment : 'PAHILE SE HI KATIPAYA CHUNE HUWE SAMPRADAYIK TATWON KO GIRAFAR KARENE KI JAROORAT HAI ANYATHA STHITI KO AIN MAUKE PAR BIGADNE MEN YEH BADI GANDI BHUMIKA ADA KAR SAKTE HAIN'. The S. P. also issued instructions on similar lines.

16.12. When the processions were not taken out on the 6th of April and the situation arising therefrom was reviewed, instructions about arrest of anti-social elements were reiterated and also those for the unearthing of illegal arms and ammunition. In the review of the general law and order situation made on the 9th of April, 1979, the Officers-in-charge were again exhorted to unearth illegal arms and also to get licenses arms deposited from such persons from whom there was apprehension of breach of the peace. In this review the shortage of force was also taken note of and it has been admitted in evidence that the operation for unearthing illegal weapons could not be taken up due to the inadequacy of force. We appreciate that a proper combing operation for unearthing illegal arms and ammunitions would require deployment of a large force and the local administration was handicapped in taking suitable action in this matter. But, the limitation in the matter of availability of force should not have stood in the way of implementing the decision to arrest the anti-social

Names of several anti-socials, who had Police records, have appeared in evidence but, as admitted by the S. D. O. in his cross-examination by the R. S. S., up to the 10th of April, 1979, only one Muslim 'Goonda' had been arrested despite full efforts to round up anti-social elements. Thus, though a total of 139 Hindus and 1 Muslim was arrested till the 10th of April, 1979, according to the statement contained in Annexure D-17 appended to the W. S. filed in behalf of Government Officers, the operation was neither successful nor effective as it had failed to meet the real trouble-makers who were the anti-socials belonging to the Hindu and Muslim communities. The D. C. had gone on record to say that he was "satisfied" with the efforts made in implementing the orders regarding the arrest of anti-socials but he admits that the results were not encouraging. We must observe that the reviews made from time to time by the heads of administration regarding the action taken in the implementation of their directives in this behalf had failed to yield concrete results and there was no reason for them to feel satisfied that the best that was possible was being done. If the anti-social "Goondas" had gone into hiding, it was not enough for the Police to admit helplessness. And, in the admittedly deteriorating situation, some more determined action was called for stretching all forms of administrative action to the extreme. We hold that the S. P. failed to provide the proper leadership in this operation and the D. C. remained "satisfied" with all that was being done, without justification for such complacence. In the result, the fears expressed by the D. C. in his Ram Navami order (Annexure 3 of the W. S.) that at a critical moment these anti-socials may play a vicious role, came to be painfully true.

16.13. (iv) *Circulation of the leaflet and after.*—The failure of the administration in comprehending the gravity of the situation and acting adequately to meet it is illustrated typically by the manner in which they dealt with the question of circulation of the leaflet issued by the Jamshedpur Kendriya Ram Navami Akhara Samity. The contents of the leaflet issued by the Kendriya Akhara Samity have been analysed at great length in Chapter 11 of this report. We have held that there was no scope for doubt that the religious sentiments of the Hindus were being aroused to a high pitch, that an organisational link had been established and a plan had been carefully evolved according to which not only some incidents had occurred but the future course of action had been laid down. We have also held that this leaflet was a call for defiance of the authority of the administration and a proclamation of the resolve to sweep aside the objections raised by the Muslims, by forcibly taking out the procession of the Dimna Basti Akhara through the disputed route, whatever the consequences that may follow. Shri A. K. Datta, learned counsel for the Government Officers has argued that there was nothing serious about the leaflet and there was hardly any circulation of it because only a few copies of the leaflet had fallen in the hands of the Police. We need not comment any further on the appreciation of the contents of the leaflet but we would like to add that we are amazed at the argument that the leaflet had not been widely circulated because only a few copies of it had reached the hands of the Police. The simple fact is that it was a printed leaflet which must have been produced in substantial numbers. And, it had been found in circulation at least in three different police stations. In his cross-examination on behalf of the minorities the S. P. (GOW/30) has agreed that this leaflet "is highly provocative and inflammatory. It makes out an offence under section 153-A., I. P. C." But, all the same, he admits that no separate case was instituted regarding the circulation of the leaflet and that the enquiry into the matter had been tagged on to a case of Jugsalai P.-S. He maintains, however, that he had taken serious notice of the leaflet and had asked the officer-in-charge of Bistupur P.-S. to make an enquiry into the matter and that the latter had informed him that the matter had been taken up by the Jugsalai P.-S. The Officer-in-charge of Jugsalai P.-S. (GOW/5) has stated in his cross-examination by the C. C. C. that the I. O. who was investigating Jugsalai P.-S. Case no. 3, dated 7th April, 1979 had found the leaflet in Bata Chowk on 10th April, 1979, according to the entry in the Case Diary. He states further that the record of the Diary also showed that Shri S. K. Prabhakar, accused in the aforesaid case no. 3, dated the 7th April, 1979 and some other communal-minded persons, were circulating the leaflet. The S. P. apparently remained content with

issuing instructions that an enquiry should be held into the matter of the leaflet but, beyond that, he ceased to take further interest in the matter. He admits that he did not give any special instruction to Jugsalai P.-S. to make a separate investigation of the offence relating to the circulation of the leaflet though it was evident that the incident connected with the circulation of the leaflet was a distinctly separate and a subsequent transaction from the incident which was the subject matter of Jugsalai P.-S. Case no. 3, dated 7th April, 1979 relating to an incident which had occurred three days before the circulation of the leaflet was noticed.

16.14. The D. C. was equally content with learning from the S. P. about the circulation of the leaflet. Even after he was told by the latter that the case relating to the leaflet has been tagged on with another case, he did not feel called upon to direct the S. P. to take some specific and effective action in this matter. We have already seen how events upon events had occurred by the 9th of April, resulting in the communal tension rising to a high pitch. And, yet, the S. P. and the D. C. allowed the incident of the circulation of this inflammatory leaflet to be handled in an extremely casual manner. In the situation as obtaining then, the least that the heads of administration should have done was to take demonstrable action in the nature of arrests, searches, seizures and the like, to bring home to the communal activists the determination of the administration to act ruthlessly against the persons who were fomenting communal feelings and throwing an open challenge to the administration. Even the assistance of the Intelligence Branch was not sought in unearthing the source of the leaflet, its authors, printers and publishers. Had the district administration acted in a manner as they were required to do in the circumstances, it would not have been difficult to get at these particulars, however inadequate they may have been for "proving" a case in the court of law. The only thing which the heads of the administration seem to have done was to review the situation and make some modifications in the deputation orders on 9th April, 1979, taking into consideration the fact about the contents of the leaflet along with other facts that had appeared by them. We can only conclude that the heads of the district administration had failed to act with the sense of urgency and firmness that the occasion demanded. The control of the investigation of cases being primarily the responsibility of the S. P., he must take the blame for allowing this incident of the circulation of the leaflet to be treated in a casual and haphazard manner. The D. C. as the head of the law and order administration of the district, also failed to direct the S. P. to ensure that the administration acted in an effective and determined manner. The D. C. and the S. P. must take the blame for this failure.

16.15. Before we leave this topic we would like to observe that such was the extent of the failure of the district administration to assess the dangerous portends of this leaflet in circulation that in the meeting which was held in the afternoon of the 9th of April, 1979, in which the Commissioner took stock of the situation, this matter was not even brought up before him. This is evident from the statement by the Commissioner (GOW/32) in his cross-examination on behalf of the J.U.H. to the effect that "on the 10th I had been informed about the leaflet in question. The leaflet (Ext. GO/6) was not shown to me, but I was told about its contents". Shri A. K. Datta, learned counsel on behalf of the Government Officers, when specifically questioned about this omission, explained it as being due to the fact that the matter was in the process of being inquired into and it was not yet the stage to bring it up in the meeting held by the Commissioner for assessing the situation. This explanation, far from justifying the omission, in fact brings out the very failure in the matter of dealing with the circulation of a highly inflammatory leaflet, for which we have held the district administration as responsible.

16.16. (v) *Responsibility for the Ambulance Tragedy.*—The grimmest event of the riot in Jamshedpur was the tragic manner in which innocent women and children of the Muslim community, who were being carried to safety under the protection of the administration in an Ambulance Van, was waylaid and killed by a riotous mob. The details of the incident and the facts and the circumstances which had led up to it have been discussed in Chapter 12 of this report.

16.17. Men, women and children of the Bhalubasa Muslim Line had taken shelter in the Karimia Madarsa which is situated in the heart of that Muslim residential area. Commandant of the B. M. P., Shri G. Achari and the S. D. O. found that it was unsafe in the prevailing situation to leave them inside the Madarsa. Accordingly, Shri Achari went and met the Commissioner at the Circuit House at about 1-30 P.M. on 12th April, 1979 with the proposal that these persons should be shifted to a safe relief camp. The Commissioner was at that time in the midst of discussions with the Chief Secretary and the I.-G. of Police in the Circuit House. They had already taken a policy decision about shifting of the affected population to relief camps. The Commissioner immediately agreed with the proposal to shift the persons collected in the Karimia Madarsa to the Karim City College near the Police Information Room attached to the Sakchi P.-S. Some 5,000 persons were to be evacuated in safety, over a distance of about 3 K. Ms. passing through areas populated by Hindus who had already participated in the communal riot on an intensive scale and with persistence. The operation for the evacuation of these persons involved not only mobilising adequate number of vehicles and ensuring the safety of their passage through that area, but also completing it before the day ended. The Commissioner immediately took the lead in the operation, went to the P. I. R., arranged vehicles there and then proceeded to the Bhalubasa area himself. And, he stayed on there till the operation was over around 6-30 P.M., the last convey being led by the Commissioner himself. But for the Ambulance Tragedy, the administration could well take credit for completing an operation of this magnitude within a period of about three and a half hours.

16.18. Unfortunately, the credit for this achievement, has been marred by a tragedy of the gravest magnitude which was rendered deeply poignant by the fact that the victims had placed themselves in the hands of the administration for the safety of their lives. The first question to which we would like to seek an answer is why the D. C. and the S. P. of Jamshedpur were not associated with this operation. We questioned the officers concerned closely to ascertain in what circumstances this could have happened. The D. C. has stated in reply to questions asked by the Commission that the Chief Secretary, the I.-G. Police and the Home Commissioner were having discussions with the Divisional Commissioner at the P. I. R. in which he and other officers were present. He has further stated that after the meeting at the P. I. R. he followed them to the Circuit House as desired by the Chief Secretary; and he remained engaged with the Chief Secretary and other officers till beyond 3 P.M. Strangely, however, he could not "recollect clearly whether the Commissioner also came along or stayed back in the P. I. R." In reply to the Commission's question, the Commissioner, however, says that he was in the midst of discussion with the Chief Secretary, Home Commissioner and the I.-G. of Police in the Circuit House when Mr. G. Achari arrived there at about 1-30 P.M. and proposed that the Muslim families which had taken shelter in the Karimia Madarsa should be shifted to a safe place. So, the Deputy Commissioner was also present there at that time. But, the Commissioner says that when he set out for the Karimia Madarsa, he did not know where the D. C. and S. P. were and he had presumed that they would be busy in connection with some incidents as the day was full of incidents, being the worst day of the riots. It appears that neither the Commissioner nor the D. C. can remember whether they and the S. P. were present at the same place when the news was brought by Shri Achari regarding the situation in the Bhalubasa Muslim Line and the need for shifting the Muslims from the Madarsa to a safe relief camp. The statements of the Commissioner and the D. C. read together cannot but raise doubt about the correctness of the picture as presented by them. It is, however, clear that the Commissioner did not think it necessary to bring in the D. C. and the S. P. into this operation and place them in direct charge of it which was, to say the least, a highly strange attitude. As the executive head of the district the D. C. was the person who should have been placed directly in control of the operation in association with the S. P. who was in charge of the Police administration and the Police force. The reason advanced by the Commissioner that he did not know where the D. C. and S. P. were and had presumed that they were busy elsewhere, does not explain why he did not send instruction to them to take charge of this important

operation. We regret to say that we cannot accept the version of the Commissioner that the D. C. and the S. P. were nowhere within his view when he started on the undertaking to evacuate the Muslims from the Karimia Madarsa. There is still less reason to accept the reason he has given for not calling the D. C. and the S. P., even if they were not present at the particular moment when the decision to shift the Muslims from Bhalubasa was taken. We cannot but conclude that, for some reason which has been held back from the Commission, the Commissioner had decided to bypass the heads of the district administration in an operation of such a magnitude and had chosen to conduct the operation under his direct supervision.

16.19. The unavoidable consequence that followed from this deliberate action on the part of the Commissioner was that, as he himself admits, for such a big and complex operation "no particular officer was made the sole in-charge.....". There was, no doubt, a collection of officers both junior and senior and both of the Police, the Army and the Magistracy, who were engaged in this operation. The Commissioner says that Mr. G. Achari and the S. D. O. who led the first and the second convoys respectively, were specifically told by him to provide proper escort and to take the families to the Karim City College. He further says that the Army and also other officers present there were assisting the families to board the buses for the purpose of transportation and "these operations were being supervised by senior officers like Mr. G. Achari, the S. D. O. and the Magistrate Mr. Ahmad." He continues to say, however, that as there was shortage of officers, these officers also had to lead the convoys and that after Shri Achari, the S. D. O. and the officers left with the convoys, the remaining officers and the army guided the operation of the evacuation. The picture that emerges is that the same officers who were expected to supervise the entire operation were being sent out of the place for the limited act of escorting the vehicles with the evacuees. The Commissioner, in fact, admits that "nobody was specifically asked to supervise the operation" and explains this statement further by saying that a "group of officers were asked to supervise the operation but no particular officer was asked to be put in charge to supervise the operation". The resultant picture was indeed so confused that the Commissioner could not even identify who was responsible for the tragic lapse in allowing the ambulance to leave without an armed escort, and avoided the direct question put to him by the Commission on this point by saying that it was not possible for him to answer it" as the matter is sub-judice.

No witness has been examined before the Commission who had seen the operation of putting the women and children in the ill-fated ambulance and the manner in which this vehicle was sent out to form part of a duly escorted convoy. The D. S. P. Shri M. P. Sinha (GOW/27) who was examined on this point had only supervised the case, after some 10 days of the occurrence. We, therefore, found it necessary to look into his Supervision Note (Ext. GO/211), to check up if there has been any omission of a substantive nature. Having done so, we are fully satisfied that the Ambulance van not only went without any armed men inside it, but it was not escorted, there being no escort vehicle with armed force following it.

16.20. It needs hardly any insight into administrative procedure to appreciate that a task which involved co-ordination of action of different elements of a big operation had, of necessity, to be handled by a clearly defined supervising authority with a defined line of command and control following from that authority. The heads of the district administration, namely the district officer and the S.P., represent the established authority in control of an operation which is executed within their jurisdictional charge. For some reason, the Commissioner had decided to act without the assistance of this established authority. As the head of the Division, the Commissioner's role is one of the exercise of general powers of superintendence over the heads of the district administration. In the instant case, the Commissioner having bypassed the established line of control and command by his own action, it should have been his first and immediate concern to induct an alternative and specific line of command, when he undertook the evacuation operation. Having failed to do so, he had taken upon himself the role of the Chief Executive incharge of the operation. In such a capacity, he should have seen first and foremost that the arrangements for

the safe conduct of the evacuees were clearly worked out, with responsibilities specifically defined. Issuing of general instructions and guidance alone, without setting up such an arrangement, after having taken command of the operation was tantamount to failure to discharge the responsibility which he had taken upon himself.

16.21. As we said in the beginning of this Chapter, the measures and actions that were taken by the administration after the riots had broken out are largely covered in Chapter 12 in which we have discussed the course of events. Once the riot had started at about 11.45 A.M. on 11th April, 1979 on the New Purulia Road of Mango P-S. it spread in the different Police-Stations of the City of Jamshedpur. The two major incidents outside the Mango area, on that day, were the communal clashes in the Bhalubasa Muslim Line in Sitaramdera P-S. area and in the Dhatki-dih area of Bistupur P-S. Incidents of communal clashes, arson and violence also occurred in the Agrico colony of Sidgora P-S., in the market and in the Mohammadan Line of Sakchi P-S., in the Golmuri mosque of Golmuri P-S. and also in areas of Kadma P-S. The next day, the 12th of April, 1979 was the worst day of communal disturbances, with the conflagration engulfing the entire city. The day was full of violent clashes leading to opening of hundreds of rounds of fire by the Police and the Army to quell the riots. This was also the day on which the grimmest event of the riots, namely, the Ambulance Tragedy, also occurred. There was, however, a noticeable improvement in the situation on the 13th of April, 1979; and, by the 14th of April, the administration was in a position to relax the hours of curfew for the first time in the Bistupur P-S. area. The curfew was further relaxed on the 15th when it was lifted for a limited period in all the Police-Stations. The peak of the riots having been reached on the 12th of April, 1979, the improvement from the following day as steadily maintained enabling the administration to relax the curfew hours progressively, so that from the 27th of April the curfew hours were limited to the period from 10 P.M. to 5 A.M.

16.22. On an overall view, therefore, the administration succeeded in controlling the riot and in dissipating its intensity from the 13th of April, 1979. They had also succeeded in preventing the riots from spreading beyond the boundaries of the Steel City, except for the contiguous area of Adityapur P-S. which is practically a suburb of the City of Jamshedpur. The work of rescue and relief was taken up by the administration on an intensive scale from the 12th of April itself in the thick of the disturbances and such action, no doubt helped in the restoration of normalcy. Without going, in this Chapter, into the question of how the Police and the Magistracy acted in specific instances in dealing with the communal clashes, we would conclude here by observing that the measures taken by the administration had succeeded in quelling the disturbances less than three days from its outbreak and preventing its spread beyond the urban areas of Jamshedpur and its immediate neighbourhood.

CHAPTER 17

ALLEGATIONS AGAINST THE B.M.P.

17.1. During the course of inquiry by the Commission there were wide ranging complaints by the C.C.C., J.U.H. and C.P.I. regarding the anti-Muslim behaviour of the B.M.P. The allegations were, however, limited to some suggestions during cross-examination of Government officials and some specific complaints presented in the shape of petitions by some aggrieved persons. As no witness was examined on behalf of the Minority Community, no concrete evidence or further elucidation was available to the Commission. However, some facts have come on record which are clear pointers to trends and fairly reasonable inferences are possible.

17.2. B.M.P. stands for Bihar Military Police. It is one of the armed wings of the Civil Police. It is formed and organised under the Bengal Military Police Act of 1892 under which special powers are vested in the Commandant to enforce greater discipline and control. This force acts as the Armed Reserve of the Inspector-General of Police and when deputed to districts it works under the operational control of the Superintendent of Police concerned. Formation of the B.M.P. is in Battalions, headed by a Commandant of the rank of Superintendent of Police. It is divided into Companies, Platoons and Sections. The total strength of a battalion is about 800. B.M.P. is deputed to districts only under the orders of the Inspector-General of Police. There are about 15 battalions located in different parts of the State. B.M.P. II has its headquarters at Jamshedpur.

17.3. The S.P., in his cross-examination had admitted that the number of Muslims in the B.M.P. is eligible and that during the riots B.M.P. Jawans were posted in most of the areas of the Jamshedpur town. But the S.P. has also added that he personally did not find the conduct of the B.M.P. unsatisfactory and further states, "I did not verify why the Muslims had a grievance against the B.M.P. I did not try to ascertain the reasons for that. There appeared no justification for the Muslims to nurse a grievance against the B.M.P." The S.P.'s reply is vague if not contradictory as he admits that he did not ascertain or verify the reasons for the grievances of the Muslims against the B.M.P. There were some specific written complaints which were also filed before the Commission.

17.4. The evidence by the Commissioner on this point is some what different. In the form of question and answers it is as follows:—

Question—It has come on record that the evacuees who had been shifted by ambulance in question had objected to armed guards being placed inside and the vehicle left with two unarmed Home Guards in the vehicle ?

Looking back do you not consider that there was a serious lapse on the part of someone at the spot in allowing the vehicles to go without armed escort.

Answer—There was resentment on the part of the local Muslims against the armed B.M.P. men and an incident had occurred in which a B.M.P. Jawan had sustained serious injuries resulting in his death. It is not possible for me to reply to the second part as the question is sub-judice."

17.5. In Sitaramdera P.S. when attack by the Hindu mob continued unabated for nearly 24 hours in the Muslim Colony of Bhalubasa where one B.M.P. Jawan sustained injuries and died as mentioned above, allegations in the form of suggestions by J.U.H. were made that the Police were firing in a manner that provided cover to the attacking Hindu mob. Prima facie this may not appear plausible. But a little closer examination of the facts and circumstances of the attack on the Muslim Basti which has already been dealt with under Chapter 12—Course of Events—did give rise to the suspicion that, deliberate or otherwise, firing by the Police on the Hindus had no effect. Not a single Hindu could be identified as having been injured or killed as a result of 108 rounds that were fired by the Police (B.M.P.

personnel) in this area from 2.30 P.M. on 11th April 1979 to 12.30 P.M. on 12th April 1979. This, coupled with the fact that when the Hindu attacking mob had been driven away from the area, 9 Muslims were found dead in their own houses, with no explanation from GOW/10(O.C. Sitaramdera P.S.) or the Magistrate P. Lakra who were present on the spot without break for nearly 24 hours, give some clue and credence to the allegation of connivance. Commission feels that Government may examine this aspect more closely and carefully than what has been brought before us by the local administration.

17.6. Some petitions have been brought on record specific allegations had been made against the B.M.P. Jawans. These are of the following kinds:—

- (a) Mohammad Hussain of Agrico area gave a written report at Sidgora P.S. at 2 P.M. on 11th April, 1979 alleging that Hindu rioters armed with Gandasas, Talwars, Bhalas, bows and arrows attacked his house and the neighbouring houses. After challenge by the Muslims they fled away. Next day again in large number the mob appeared and began to commit loot and damage the houses and strike the occupants. To save their lives the occupants fled away to the neighbouring Bhalubasa Muslim Middle School. Jawans of B.M.P. and Home Guards attacked the house and along with anti-social elements looted the belongings and burnt the house. Of the jawans of Home Guards Shanker Rai and Santosh Singh were the ring leaders (Ext. CCC/14).
- (b) A complaint against Jawans of Home Guards and B.M.P. in general terms was made by Khurshaid Alam to the O.C. Sidgora P.S. It is alleged therein that attack was made by Hindu rioters from 5 P.M. to 11 P.M. on the 11th and at 8 A.M. on the 12th of April, 1979 and Jawans of Home Guard and B.M.P. participated with them.

There is nothing on record to suggest as to what happened to these two complaints.

17.7. There are two more petitions in this connection. They are EXTS. CP.I. /30 and C.P.I/31. Ext CPI/30 is the petition by Sayeeda Khatoon. Her allegation is that her husband had gone to quarter no. 28 in Sakchi which was attacked by the Hindu rioters on 13th April 1979 with the help and aid of B.M.P. Jawans who were driving Jeep No. BHT 2728 and from the Jeep bullets were fired by which her husband and the owner of the quarter were killed. The Hindu rioters were being led by certain persons who were on the Jeep and were being encouraged by B.M.P. men. Ext CPI/31 is by Rasima Begum. Her contention is that at about 3 A.M. on 13th April 1979 Hindu rioters broke open the doors of her quarters and dragged away her husband. The B.M.P. force severely beat her husband and shot him. Her husband fell down on the ground and the Hindu rioters whose names have been mentioned therein attacked him with lethal weapons as a result of which he succumbed to his injury.

17.8. These petitions were brought to the notice of Kameshwar Prasad Singh, Officer-in-charge, Sakchi P.S. (GOW/4). He stated that he did not institute any separate case on the basis of these petitions because they had been included in Sakchi P.S. Case No. 26, dated 13th April 1979. The manner of disposal of such specific allegations appears rather preemptory if not improper. The Commission feels that this should have been looked into by senior officers and investigated in depth in view of the gravity of the allegations.

17.9. In Telco P.S. area also allegations had been made in the form of suggestions that the B.M.P. fired recklessly and killed Muslims in their houses although they were supposed to be shooting on attacking mobs.

17.10. During the cross-examination of O.C., Telco P.S., (GOW/3) there was also the suggestion that B.M.P. indulged in reckless firing. At one stage of cross-examination

he stated—"B.M.P. had opened fire from inside Kharangjhar Basti. Most of the firing was done by the B.M.P. Burning of houses and opening of fire in the Madrasi Colony on the rioters who were setting on fire do not find mention in my affidavit. In the F.I.R. also there is no such mention. In the F.I.R. there is mention of firing on rioters setting fire in Madrasi Colony". Further on GOW/3 states—"It is not a fact that one Jeep of B.M.P. came from the Madrasi Colony side and the B.M.P. started reckless firing inside the Muslim Basti. It is not a fact that the B.M.P. party which was towards the mosque mistook the firing as if by the rioters and consequently they also started firing towards the B.M.P. and there was cross-firing between the two parties of the B.M.P. Dead body of Md. Hassan was recovered from the house of Said Ahmad and the other dead body of another Muslim rioter was recovered from the open latrine by the side of the house of Daud Khan. The map did not indicate that the dead bodies were recovered from a particular place. It is not a fact that person had been shot at by the B.M.P. While he was easing himself in the latrine. It is not a fact that the other man was hit by the B.M.P. while he was inside the house. Some signs of bullet marks were noticed on the walls. They were spread over the height of 5 to 9 feet. These houses were in the Kharangjhar Muslim Basti. The walls may be about eleven feet in height. Doors and windows in Muslim Basti were found broken by the rioters". According to the evidence on record, it appears that as many as 100 rounds had been fired by the Police within a short time. After all this firing which was directed on the Muslim mob attacking the Madrasi Colony, two Muslims were found dead with bullet wounds one in the house of Said Ahmad and another one in a latrine. Here again Commission feels that there has been excessive and ineffective firing by the B.M.P.

17.11. (a) It will be recalled that a leaflet dated 7th April, 1979 was circulated by the Shri Ramnavami Kendriya Akhara Samity inciting the Hindus to defy the authorities. The leaflet was marked Ext. GO/6 and has been dealt with in detail in paras. 17 to 21 of chapter 11—Facts and circumstances of the communal disturbances. One of the sentence in GO/6 gives a clue to some tendencies which can only be gleaned from the events and happenings. It reads—"*Sarvekhshan se yeh bhi saf ho gaya hai ki sabhi Sipahi, Havildar, Home Guard adi dil se hamara sath dene ko taiyar hai.*"

(b) During the course of hearing and recording of evidence, the Commission had the opportunity to hear and record the hour to hour if not minute to minute developments and the incidents of rioting which broke out in Jamshedpur at 11.45 A.M. on 11th April, 1979 and about each firing done by the Police during that period. Most of the firing was done by the B.M.P. Judging by the manner of firings and looking at the totality, which we had occasion to scrutinise, Commission has no hesitation in observing that a noticeable link is discernible between the claim made in Ext. GO/6 as reproduced above and the subsequent conduct exhibited by the B.M.P. Sepoys.

17.12. Commission has taken notice of materials and some important facts that have come on record and thrown some light on the subject. In sum, Commission feels that the composition, training, discipline and leadership in the B.M.P. leaves much to be desired. Composition and training are matters of great importance for an organisation like the B.M.P. Government would be well advised in reviewing the composition and on laying greater stress on discipline in a para-military force like the Bihar Military Police.

CHAPTER 18

RELIEF AND REHABILITATION

18.1. After the communal disturbances broke out on 11th April, 1979 on a large scale in various parts of the town, a large number of persons took shelter in Mohallas where they felt secure. Besides taking measures to control the situation, the administration under took relief and rescue operations. In this matter, they were assisted by the local Companies like T.I.S. Co. and T.E.L. Co., and other voluntary agencies like Bharat Sewashram Sangh, R.K. Mission etc. In relief and rehabilitation work, including repair of damaged houses in certain areas, the administration was assisted by the Tata Relief Committee, Maharashtra Citizens Relief Committee, Bharat Sewashram Sangh, R. K. Mission, Imarate Sharia, Phulwarisharif, and Jama'iet-I-Islami Hind.

18.2. The relief camps were opened in such areas and Mohallas where people from other areas had taken shelter or the local people had collected together for safety. Initially there were 15 such camps providing shelter to 56,615 persons. Of them, 40,215 were Muslims and 16,400 Hindus. They were provided with free food and medicines.

18.3. As the law and order situation in the town showed improvement, people started returning to their houses and by 23rd April, 1979 the number of camps had come down to only five with a population of 10,500 persons. These began to be run direct under the Government control. With the overall improvement in the situation, the number of camps further decreased to only two on 28th April, 1979 one in the Kfrim City College and the other in the Madarsa at Dhatkidih. On 30/31st May 1979 these two camps also with a population of 1,466, were closed and inmates were provided with free ration for three weeks at the prescribed scale.

18.4. Besides providing relief in camps, a survey was conducted to ascertain the extent of damage and number of families affected during the riot. Administrative arrangement was made to render relief and ensure speedy repair of damaged houses. Every affected family, whose house or property had been damaged, was given a sum of Rs. 250 by way of relief and rehabilitation grant. Every affected tenant and shopkeeper was paid at the rate of Rs. 100 each. An ex-gratia grant of Rs. 42,000 was made to 84 families besides payment of Rs. 5,000 as special grant to the widow of Prof. Zaki Anwar. The total expenditure on relief and rehabilitation programme was Rs. 12.17 lakhs approximately.

The number of relief camps/places where affected population took shelter and was provided with relief, is shown in Annexure F of the Report.

CHAPTER 19

RECOMMENDATIONS

19.1. In the Book of Ecclesiastes, Solomon has said—"To everything there is a season, and a time for every purpose under the heaven." There could not have been another 'season' nor another 'time' than now for repairing to damage done and the trepidations caused by the communal frenzy that has been shaking the country.

19.2. The founding fathers of our Constitution have made adequate provision for members of all religious communities to live as honourable citizens in this country. Article 25 entitles members of all the communities to the freedom of conscience and the right freely to profess, practise and propagate religion. This is, of course, subject amongst other constraints, to public order, morality and health. Under Article 26, subject to the above three conditions, every religious denomination has the freedom to manage its religious affairs. Even cultural and educational rights have been protected under Article 29. It is not necessary to refer to other provisions of the Constitution. The frequent and recent communal riots in the country, however, have generated and left such a trail of misery and distrust that "noble worded provisions" in the Constitution are not by themselves enough. Something more and concrete is needed to weed out the communal virus from the body politic. As has been aptly said, these riots have constituted "a stigma on our national life" and have made a mockery of the provisions of the Constitution seeking the establishment of a secular State.

19.3. The Commission has given serious consideration to the enormity and baffling nature of the problems created by divisive forces operating in the country and enumerate below its recommendations, some of which may be reiteration of those made by previous Commissions. But in view of their importance, they bear repetition.

19.4. The first and foremost of them is the practice and propagation of religious toleration, emphasised in the edicts of Ashoka, of which reference has been made by Dr. Radha Kumud Mukherji in his book "A New Approach To Communal Problems" and who has described Emperor Ashoka as a pioneer of religious toleration. He states as follows:—

"In one of famous edicts, Ashoka lays down as the basis of religious toleration the preliminary recognition of the fundamental fact that there is an essence (sara) in every religion as the central truth round which accumulate its external features, its forms and ceremonies, which are no part of its essence, and that all religions have in common this upon which must be built up the common religion of mankind. An attitude of religious toleration starting from this fundamental fact of the unity of all religions in their essential doctrines is to be cultivated on the basis of the following virtues viz. (1) restraint of speech or of thoughtless criticisms (vacha-gupti), (2) a comparative study of different religions by which one may become a Bahushruta, and (3) meetings of the exponents of different religions at Parliaments of Religions in which they should participate in a spirit concord (Samavaya). These principles which Ashoka laid down about 2,000 years back hold good even today. Ashoka's system was the precursor of Akbar's Din-Ilahi".

19.5. The kind of religious toleration referred to above is more relevant today than it was at any other time, when the country is torn by communal strifes. Some of the riots in the country could well have been averted had both the Hindus and the Muslims shown toleration in the face of mild provocation and thus, big conflagrations, starting from a minor controversy, could have been nipped in the bud.

19.6. After the outbreak of a communal riot, there is a lot of talk as to its causes and its far-reaching consequences to the Nation, both political and social. The

remedy, however, does not lie only in loud thinking but some positive steps have to be taken to deal with the occasional outbreak of communal frenzy. The situation has to be dealt with on social, psychological, educational, economic and administrative planes.

19.7. The attitude of the people has to be changed and the approach to human relation should be based on understanding. A change of heart is a *sine qua non* for a change of attitude. Social atmosphere and conditions have to be created so that it may be possible for the people of both the communities to live in peace. There is no doubt that in the matter of day-to-day social intercourse, there is hardly any difference between a Hindu and a Muslim but it is only when communal frenzy is whipped up that difference is noticed, leading to carnage and bloodshed. The idea of a change of heart is to be inculcated through organisations and individuals from time to time, whether there is any communal disturbance or not. In the matter of attitude towards each other, the communal elements in both the Hindu and the Muslim communities have equally to share the blame.

19.8. Although Pakistan was created more than three decades back, the wound that it caused has not been completely healed as yet and feeling of mistrust that it had generated has not been obliterated. This has been superimposed by the two recent wars with Pakistan. To this is added occasional pro-Pakistan feelings and extra-territorial religious affinities, exhibited by some Muslims at times. The conduct and bearings of the elements guilty of the above should be condemned by the right-thinking majority of the Muslim community, so as completely to dispel the shadow of mistrust or extra-territorial loyalty or leanings that may otherwise cling to the entire community.

19.9. The extremists among the Hindus also become oblivious of the fact that the entire Muslim population of India cannot be driven and wiped out of the country and that they must be allowed to live as honourable citizens of the country and enjoy all the rights and privileges conferred by the Indian Constitution. The two recent wars have borne no fruit to Pakistan; and the emergence of Bangla Desh has established that the Muslims of this country have their ultimate salvation and future in India and in their unflinching loyalty towards this country. This aspect of the matter is often lost sight of by the extremists amongst the Hindus.

19.10. In this context the following words of Mahatma Gandhi, the father of the Nation, should be the guide line:

“The so-called majority community has no right to impose itself on others. Might of numbers or of the sword shall not be right. Right is the only true might, appearances to the contrary notwithstanding. The minorities must be made to realise that they are as much valued citizens of the State they live in as the majority.”

19.11. The functionaries for creating and preserving a proper climate can be no other than the leaders of the two communities and the politicians. They must scrupulously avoid all actions and speeches calculated to embitter relationship between the different communities and disturb further an already disturbed atmosphere. Rather, they should propagate the feeling that every branch of Indian life bears the imprint of the joint effort of members of different communities of the country.

19.12.(a) The Press and the broadcasting media have also to play a vital role in the matter. Press reports should not be tendentious or oriented to incite communal passions and any infringement of this rule should be resisted by stringent legal action. At the same time, the administration must provide free access to the Press to materials which can help objective reporting, so that the forces behind and the immediate causes of the riot can be exposed.

(b) Full advantage should be taken of the audio-visual media also. Since the film is the most powerful media of direct communication with the masses, its audiovisual

content transcending the barrier of illiteracy, it has acquired great significance as an apparatus of social action in the present-day world. Screening of suitable themes depicting communal harmony like Balraj Sabni's "Garam Hawa", can have more lasting and impressive effect upon the masses than forceful speeches delivered from a platform and should be encouraged by institution of special awards.

(c) It is the weight of public opinion and the awareness of the public on these matters that ultimately count. For this purpose, the foundation has to be laid from the very childhood. Children at school can easily imbibe the virtues of good neighbourliness and harmonious living, while it may be difficult to inculcate these in grown-up people. The right type of text books must, therefore, be prepared and introduced and the right conduct practically inculcated, so that a child attending the school may have the grounding from the very beginning and grow up as a member of a multi-religious society, as ours is. The preparation of such text books has to be done both at Government level as well as by private publishers. The central integration so that our whole nation comprising people of different faiths, religions and languages may be welded into one. This task will be greatly facilitated if there is a national consensus asserting the basic fact that national integration is the goal and therein lies the salvation of the nation. While we do not recommend that history should be made to order, we do advocate a dispassionate and scientific outlook in the presentation of history. A national consensus on this vital issue must be reached so that we may not have to witness the banning of text books of history, as we did in the recent past, because of a change of Government.

(d) Cheap pictorial story books going by the name of 'comics' may cause incalculable harm, as they often present pictorial representations of events for young readers, which are often in conflict with what we have said in the foregoing paragraphs. Suitable administrative and legal action should be taken to prevent the publication and circulation of such offending 'comics' and other literature.

19.13. For maintaining communal harmony, Peace Committees should be formed at District level as well as the Panchayat or Block levels on a standing basis. It should comprise of people who command the confidence of both the communities and its composition should not be only on the basis of political affiliations. In towns such Committees should be formed even in Mohallas or defined localities. Such Committees should meet as often as possible to review the position as obtaining from time to time, and not merely on the eve of important community festivals. When a riot breaks out, the Committee should be necessarily active but even during the time of peace it should not lie wholly dormant. Imparting of regular education to the people to live in peace and harmony and to adopt an attitude of tolerance through programmes undertaken by such Committees is as essential for averting a communal riot as administrative measures taken when a riot is threatened.

19.14. Most of our people are ignorant of each other's religion, the real philosophy underlying these religions and the basic teachings of one's own religion. There is also a tendency of aversion or indifference to understand and appreciate the sentiments and feelings of other communities. An attempt should be made to educate people on the right lines so that these weaknesses do not cloud their vision. The Peace Committees should, therefore, arrange for joint celebration of important Hindu and Muslim festivals and arrange for discourses on the essential unity of all religions.

19.15. There should be special Peace-keeping or Anti-riot force to deal exclusively with situations of communal riot. This force must have substantial representation of different minority communities including members of the Scheduled Castes and the Scheduled Tribes, to inspire confidence amongst the people. Its organisation and outlook should be so oriented as to prevent its contamination from communal preachings and influences. It should be immediately deployed whenever there be the slightest apprehension of disharmony but not for ordinary law and order duties. To begin with, the core of the Anti-riot force may be formed by drafting tried ex-Army men, with the Army's tradition of common brotherhood transcending religions and castes.

19.16. With the least apprehension of communal tension, listed criminals should be arrested and illegal arms seized. Any Police Officer failing in this task without sufficient cause should be suitably punished.

19.17. The Intelligence Branch in each district should keep a special eye on the activities of communal organisations and maintain complete and up-to-date records of persons connected with communal organisations. Such lists should also be maintained in each Police Station and the two lists should be periodically exchanged. This list should be in the nature of a dossier, to facilitate action for apprehension of such persons at critical times.

19.18. Holding of meetings or conferences of communal organisations, such as the R.S.S. or the Jama'at-I-Islami in all educational institutions, whether public or private, should be prohibited.

19.19. Police force should be posted around strategically situated mosques and temples and in their vicinity on the route of a religious procession well before it starts and action taken to prevent the possibility of these places being used as centres for creating troubles.

19.20. Rumour-mongering is an important vehicle on which communal frenzy travels fast. If rumour is scotched at the very beginning panic will not grip the mind of the people. The nervous condition caused by panic can lead persons to act blindly, and thereby give rise to disturbances even without any apparent cause. The administration has to undertake operations in this behalf to scotch rumours as a priority item of preventive action.

19.21. The victims of communal riots, whether they are Hindus or Muslims, sustain severe loss and are often uprooted from their houses. This provokes further feeling of bitterness in one community against the other. Adequate monetary compensation to the victims or rehabilitation or repair of their damaged property will provide a psychological healing balm to the otherwise embittered and outraged feelings.

19.22. After a communal holocaust rehabilitation of persons affected becomes imperative and presents financial constraints. Banks, specially the nationalised ones, should be encouraged by Government to finance loan to affected persons on easy terms.

19.23. Armed Constabulary, even when asked to open effective firing, resort to aimless firing—a measure hardly conducive to controlling a really dangerous mob. This may be due to either seeking refuge from departmental or judicial enquiry or to communal bias. Both the reasons are condemnable. The Government instructions regarding the use of force specifically prohibit firings in the air and direct the manner in which firing should be done to make it effective. The Police officer-in-charge of the armed force should be made to answer any failure in this regard and the Magistrate should be responsible for giving clear instructions when issuing orders for opening of fire, about how it should be directed. Government should reiterate their instructions in these terms and take firm action against the defaulters.

19.24. Besides the above general suggestions, some specific recommendations are called for in respect of the Steel City of Jamshedpur, in view of its special features. These are given below :—

- (i) Jamshedpur suffers from several administrative handicaps. It is a complex of four separate towns, viz., Jugsalai, Mango, Adityapur and Jamshedpur proper. The two rivers—Swarnrekha and Kharkai—divide the town into 3 units—Mango to the east of the river Swarnrekha and Kharkai and Adityapur, across the river Kharkai. Jamshedpur, Mango and Jugsalai are within the administrative control of the S.D.O., Dhalbhum with headquarters at Jamshedpur but the Adityapur township is under the jurisdictional

charge of the S.D.O., Seraikella, whose headquarters is some 50 miles away. The S.P., Jamshedpur has jurisdiction over all the 11 Police Stations while the S.P., Chaibassa has jurisdiction over Adityapur P.S. The head of the district administration, the Deputy Commissioner of Singhbhum, has his headquarters at Chaibassa which is some 40 miles away. This division of jurisdiction between different functionaries provides an opportunity both to the wrong-doers as well as to the erring officials to escape liability, apart from causing confusion and looseness of control. It is, therefore, essential that an officer of the rank of Deputy Commissioner should be stationed at Jamshedpur to co-ordinate the work of both the subdivisions, especially in the matter of law and order.

- (ii) The carving out of a separate district, with the industrial complex of Jamshedpur and the areas around it, with headquarters at Jamshedpur, is now an administrative imperative. There are some districts in the State comprising an area which used to be covered earlier by one Subdivision. Such districts have no doubt been created to tackle adequately the increasing problems in those areas and for better administrative control. There is no reason why Jamshedpur with its large labour population and its proneness to communal trouble and other kinds of violence should not be the headquarters of a district.
- (iii) For co-ordinating the activities of the Officials in dealing with the problems of a vast industrial complex, a permanent Control Room at Jamshedpur is also essential. The population of Jamshedpur has gone up to more than 7 lakhs extending over an area of more than 66 sq. miles. Also, the incidence of crime and violence at Jamshedpur has increased manifold. Patna having almost the same population has a Control Room functioning round the clock throughout the year, while Jamshedpur has no such organisation. It is necessary that Jamshedpur should have a well-equipped permanent Control Room which should function throughout the year and round the clock.
- (iv) In the different forecast reports, the D.C. and S.P. have identified some communally sensitive areas e.g. Kasidih, Bhalubasa, Dhatkidih, Shastrinagar, Ramdas Bhattha and Mohammadan Line of Sakchi. Since these places are sensitive and have a communal history, they require surveillance. There is thus an immediate need for creation of more Police Stations or Out-posts.
- (v) The Intelligence Branch at Jamshedpur should be suitably strengthened to be able to deal adequately with the problems of this industrial city.
- (vi) Allotment of flats by private companies to their workers was found to be on communal lines. The Muslim workers have been allotted quarters at one place and the Hindu workers at another. In fact, a collection of flats is known as Mohammadan Lines and another collection as Hindu Lines. This practice should be discontinued and the allotment of quarters should be suitably rationalised and made on a non-sectarian basis.
- (vii) Jamshedpur, with its vast industrial population and cosmopolitan character needs, as far as communal disturbances are concerned, a different and special approach and treatment. Communal disturbances here are not just law and order problems but they are rooted in socio-economic causes. For paucity of time the Commission could not itself undertake the necessary study but it would strongly recommend the setting up of a multidisciplinary working group to undertake in-depth studies of the social, educational and economic condition of Jamshedpur. They should be asked to investigate whether, and if so, what historical background or social and economic problems contribute to the creation of communal tension and disturbances and to suggest measures for their remedy.

19.25. We should like to conclude our recommendations regarding the specific measures for preventing the recurrence of communal disturbance in a city like Jamshedpur, by saying with emphasis that the heads of administration in charge of an area like Jamshedpur should be hand-picked officers, who have not only had earlier experience of the administration of law and order at the field level, but have also proved themselves. The prevention of a communal riot depends largely on the quality and the administrative ability of the heads of administration; and that, even if an out-break of the riot cannot be always prevented, it can be smothered with the minimum damage to society, by effective action, both imaginative and anticipatory, taken by the heads of the district administration.

19.26(i) No doubt, in the event of any communal riot, the administration and the officials concerned are tested to determine whether there have been any laxity or lapse on their part to control or quell the disturbances and in case of any failing they are suitably commented upon or punished. But it is to be noticed that the administrative authorities alone cannot always prevent the out-break of communal riots unless people in general, especially the thinking and the educated people, co-operate with them in maintaining communal harmony and in removing any misunderstanding between the communities that might lead to a communal flare up. This aspect of the matter has been well emphasised by Lindsay and Adam Adil in the book "The Essentials of Democracy". Adam Adil has said that "none realises that it is also the basic responsibility of the people, specially of thinking and educated people, to discountenance communal elements in the society. No Government can function successfully unless it has the co-operation of the people. Therefore, in order to curb communal elements in our midst, it is imperative that the people must co-operate in the effective implementation of secularist policies."

(ii) Viewing the question from the above angle, collective fines should be imposed on localities badly affected during the communal riots. No doubt, peace-loving persons may also have to suffer but then there is the collective responsibility of the entire society to remain peaceful and the failure on their part to discharge their responsibility justifies this measure. Lindsay has said that "Most people usually desire to obey the law, that everybody has to obey the law and that the force of the State is necessary to fill up the margin between most people and everybody. But if the gap between 'most people' and 'everybody' and between 'unusually' and 'always' becomes unduly large, it becomes difficult to maintain law and order". This provides the rationale for the measure of imposing collective fines on the communities.

19.27. The list of recommendations will not be complete without a reference to the attitude of the political parties, in relation to matters connected with communalism. They have always regarded the communities as "Vote Banks" and directed their programmes and plan of action accordingly, Vote means power and, to the politicians' heart, power is dearer than any other consideration. This attitude must change. This is entirely a matter of political will and the Commission can do no more than invite attention to this malady and the imperative need of finding an appropriate remedy for it.

Patna, the 31st August 1981.

J. NARAIN,
Chairman.

S. K. GOSH,
Member.

S. J. RIZVI,
Member.

ANNEXURE A.

RULES OF PROCEDURE TO BE FOLLOWED BY THE COMMISSION.

1. Any party who does not file the necessary affidavit or statement within the time allowed will not be permitted to participate, except in special circumstances.

2. Evidence, as far as possible, shall be in the form of an affidavit with proper verification. When a deponent is called as a witness before the Commission, his affidavits will be treated as his examination-in-chief. His further examination-in-chief shall not be barred and will be allowed at the Commission's direction. A party wishing to cross-examine the deponent will be given an opportunity to do so. Five copies of affidavits may be filed before the Commission. Save in exceptional circumstances, affidavits of all witnesses to be examined must be filed during the sitting next before the one in which the witnesses will be examined.

3. Additions and amplifications which the parties might desire to make in the affidavits submitted by them will be permitted if the Commission is satisfied that it is necessary to do so.

Oral Evidence/Examination of witnesses

4. The Commission shall admit only those witnesses whose evidence might be relevant and material. Undue repetition of evidence will not be encouraged.

5. Oral evidence may be given either in English or in Hindi or in Urdu. If it is in Hindi or Urdu it will be translated into English by the Commission or otherwise and the oral evidence will be recorded by a Stenographer.

6. If the oral evidence in exceptional cases is in any other Indian language, it will be translated into English through the medium of an interpreter on oath.

7. The Commission, may, at its discretion, refuse to call any person for oral examination or cross-examination.

8. Examination on Commission will be done in accordance with the provisions of the Code of Civil Procedure.

9. Examination of witnesses shall be done in public but on request and depending on the circumstances a witness may be examined in *camera* subject to the approval of the Commission. During 'in camera' proceedings, parties will not be permitted, nor any members of the public or Press. Only Advocates and a party who is not represented by a lawyer will be allowed and such a party should be present on oath of secrecy.

10. No oral evidence will be laid on the details of occurrence except to the extent required by the terms of reference.

Principles of Natural Justice

11. Principles of natural justice will be observed in the Commission's proceedings. Where there is no specific rule existing, the rules of natural justice shall prevail.

List of Witnesses

12. The Commission, if necessary shall ask the parties and Counsel to prune the list of witnesses as far as possible.

Documents and their inspection

13. The various documents files in the Commission's office shall be open for inspection by parties and their Counsels only in the presence of the Secretary of the Commission.

14. Registered documents or their certified copies issued by the Registration, Department, official records and records of statutory bodies, including office notings, orders etc. and other documents which all the parties agree, will not be required to be proved formally.

15. A party shall be entitled to inspect the documents filed by any other party only after filing his own written statement.

16. Parties are required to exchange among themselves copies of the statement of facts and affidavits and documents or their extracts. To facilitate such an exchange the Commission's office is directed to prepare a list of parties and their Counsels with the address of the parties and give the same to all concerned.

Service of copies

17. Before any papers are filed, copies must be served on parties concerned or their Counsels failing which they may be filed in the Commission's office.

Summoning of witnesses

18. The Commission may summon any person to make a statement or give evidence before the Commission, but the Commission shall not be bound to summon any person merely because the Commission is asked by any party to do so.

Copies of Deposition

19. Copies of deposition shall be supplied to the parties on proper payment.

Rules of Procedure

20. The Commission reserves to itself the right to amplify the rules of procedure as it deems fit and to change the Rules themselves if not violative of the principles of natural justice.

21. Books considered authorities on technical matters as well as experts in technical fields, may be produced and examined by the Commission.

22. Opening of the cases of parties will be, as far as practicable, in the sequence in which the terms of references are. As far as practicable the sequence in which the Commission will take up the examination of witnesses as well as the hearing of arguments thereafter will be in the order in which terms of reference of the Commission are set out in the Notification dated the 15th May, 1979.

ANNEXURE B.

MEMORANDUM OF LOCAL INSPECTION HELD ON 13TH DECEMBER 1979.

At 10 A. M. on the 13th December, 1979 the Commission inspected the place from where the procession started and the route which it took from the Dimna Basti. It was in presence of the Counsels of the parties.

The place from where the Jhanda was taken out was a small 'Jhopri' open on all four sides with a thatched roof over it.

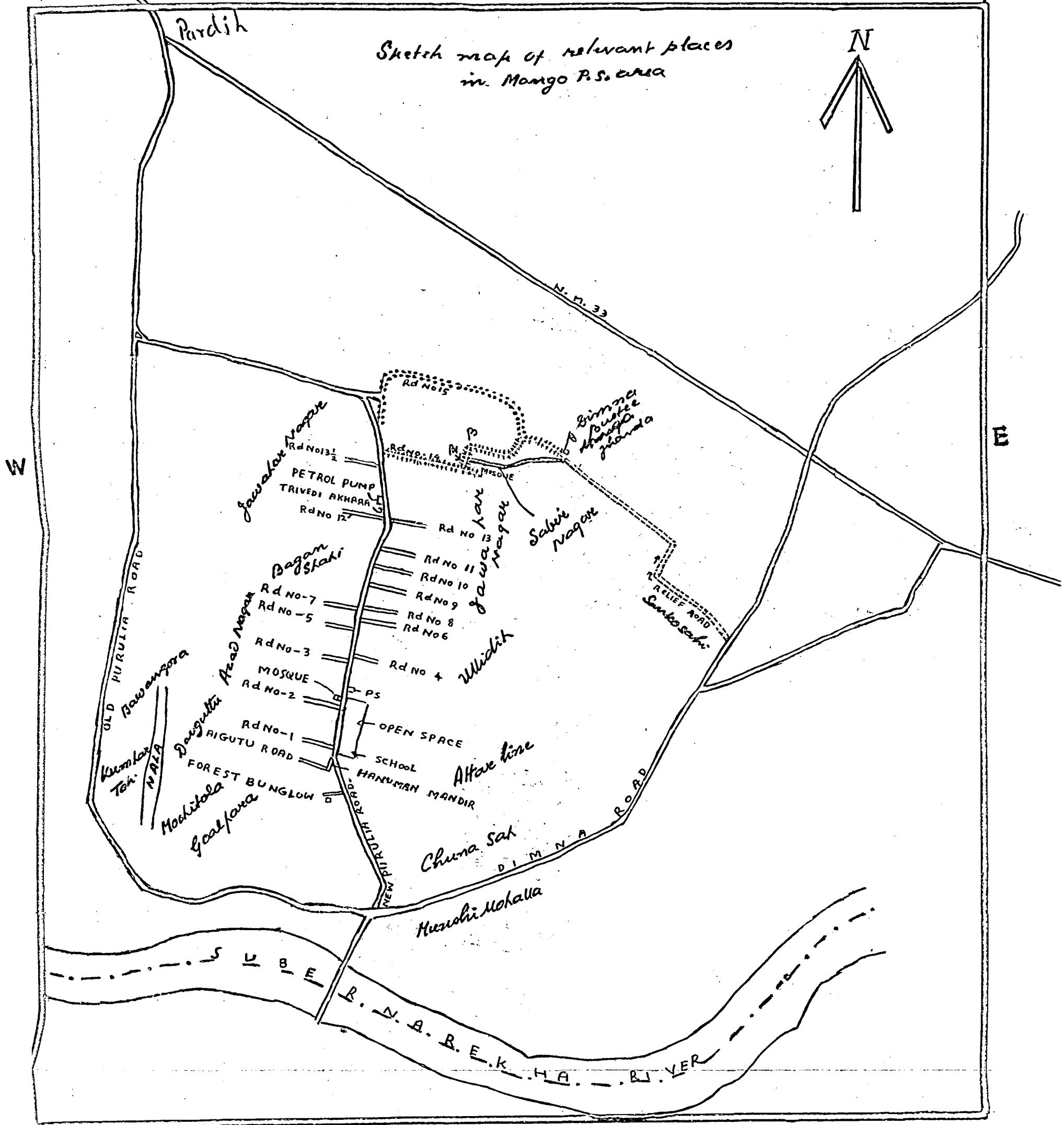
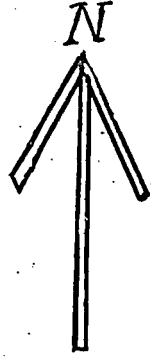
The exact position is indicated by letter A on the map (Ext. commn. 1) enclosed.

The agreed route is indicated on the map by letters A to B, B to B¹, B¹ to C and C to D at which point it meets the Main Road known as New Purulia Road. The portion from A to B lay through undulating ground and it was just a footpath with shrubs on one side and small houses on the other at intervals.

The portion B to C was a still narrower footpath. It had 'tatties' on either side up to point B¹. The mosque indicated by letter M on the map is towards the east of the portion from B¹ to C. It is a thatched structure with a tiled roof bound by thatched walls on three sides with an opening towards the east.

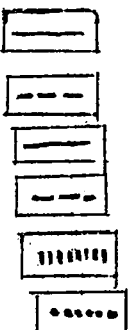
N

Sketch map of relevant places
in Mango P.S. area



S

1. ROUTE ASKED FOR 1978
2. ROUTE ALLOWED IN 1978
3. ROUTE ASKED IN 1979
4. ROUTE ALLOWED IN 1979
5. ROUTE AGREED IN 1979
6. ROUTE PROPOSED FOR AGREEMENT VIA ROAD NO-15



ANNEXURE C

LIST OF WITNESSES EXAMINED

No. of witness.	Name of witness	Designation.
1	2	3
Examined on behalf of Government officers.		
GOW 1	Shri N.P. Singh ..	.. Inspector of Police, Bistupur.
GOW 2	Shri Yogendra Prasad Singh ..	.. S-I., Golmuri P-S.
GOW 3	Shri Deo Jha ..	.. S-I., Telco P-S.
GOW 4	Shri Kameshwar Pd. Singh ..	.. Inspector of Police, Sakchi.
GOW 5	Shri Jay Prakash Narayan ..	.. S-I. Sonari P-S.
GOW 6	Shri Ram Bilas Singh ..	.. S-I., Jugsalai P-S.
GOW 7	Shri Madan Prasad Sinha ..	.. S-I., Kadma P-S.
GOW 8	Shri Bindeshwari Singh ..	.. S-I., Sidgora P-S.
GOW 9	Shri Victor Anthony ..	.. S I., Mango P-S.
GOW 10	Shri B.N. Dwivedy ..	.. S-I., Sitaramdera P-S.
GOW 11	Shri Awadhesh Kumar Singh ..	.. S-I., Kadma P-S.
GOW 12	Shri K.N. Das ..	.. Magistrate.
GOW 13	Shri P.N. Jha ..	.. Magistrate.
GOW 14	Shri R.D. Ojha ..	.. Magistrate.
GOW 15	Shri V.N. Mishra ..	.. Magistrate.
GOW 16	Shri R.N. Pandit ..	.. Magistrate.
GOW 17	Shri G.D. Dass ..	.. Magistrate.
GOW 18	Shri Indu Shekhar Pd. Singh ..	.. Magistrate.
GOW 19	Shri Sukra Oraon ..	.. Magistrate.
GOW 20	Shri C.P. Shahi ..	.. Magistrate.
GOW 21	Shri Bachho Singh ..	.. S-I., Aditapur P.S.
GOW 22	Shri R.C.P. Sinha ..	.. Magistrate.
GOW 23	Shri J. Baitha ..	.. Magistrate.
GOW 24	Shri Umesh Kumar Singh ..	.. Dy. Supdt. of Police.

No. of witness	Name of witness	Designation.
1	2	3
GOW 25	Shri B.N. Gope	Magistrate.
GOW 26	Shri G.P. Yadav	Dv. Supdt. of Police.
GOW 27	Shri M.P. Sinha	Dy. Supdt. of Polico.
GOW 28	Shri R.P. Birnway	Magistrate.
GOW 29	Shri R.P. Birnway	Magistrate.
GOW 30	Shri Ram Swaroop	Supdt. of Police.
GOW 31	Shri B.K. Singh	Deputy Commissioner.
GOW 32	Dr. Kumar Suresh Singh	Commissioner.
GOW 33	Shri Satypal Sharma	D.I.G. of Police.

Examined by the Samity.

SW 1	Shri B.K. Trivedy	Businessman.
SW 2	Shri Jagannath	Teacher.
SW 3	Shri Diputy Singh	Service.
SW 4	Shri Chhotu Manjhi	Cultivator.
SW 5	Shri Kalika Singh	Service.

Examined by R.S.S.

RSS 1	Shri Umeshwar Prasad	Service, Secretary JSR Branch of RSS
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Independent Witness.

INP 1	Shri Dinanath Pandey	M.L.A.
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Commission Witness.

CW 1	Shri Gorakh Nath Singh.. ..	S.I., Sakchi P.S.
CW 2	Shri Krishna Mahon Sahay	Deputy Collector.

ANNEXURE C-1.

1. Number of sittings held	104
2. Number of witnesses examined	42
3. No. of pages of deposition	953
4. No. of documents admitted into evidence	369
5. No. of pages of exhibited documents	728
6. No. of pages of W. Ss.	1,030

ANNEXURE 'D'

ORDER SHEET NO. 102 DATED 4TH OCTOBER 1980

Heard learned Counsels on the petition dated 30th September 1980 filed by the Central Co-ordination Committee praying to recall the Commission's Order of holding its sessions *in camera*.

The principles on which the sittings of Courts and Commissions of Inquiry should ordinarily be held in public including the weighty and lofty observations made on the point by learned judges from time to time were very much in the mind of the Commission while framing its Rules of Procedure and accordingly it included therein the following Rule, namely:—

“9. Examination of witnesses shall be in public but on the request and depending on the circumstances a witness may be examined *in camera* subject to the approval of the Commission. During ‘in camera’ proceedings parties will not be permitted nor any member of the public or the Press. Only Advocates and a party who is not represented by a lawyer will be allowed and such a party should be present on oath of Secrecy”

Now a letter dated 19th September 1980 has been received from the Government of Bihar enclosing a copy of Rule No. 6 of the Rules framed under the Commissions of Inquiry Act. It appears that this is a new Rule which has been inserted in the Rules. The new Rule runs as follows:—

“(6) A Commission may sit in public or in private as it thinks fit: Provided that a Commission shall sit in private on a request being made by the State Government in that behalf.”

The aforesaid letter contained a request by the State Government that Commission may, henceforth, hold its sittings in private. On receipt of this request and the new Rule the Commission commenced sitting in private from the present session which commenced on 22th September 1980.

Argument had been advanced to say that the word used in the Rule is ‘may’ and not ‘shall’ and, as such, it is still open to the Commission to revise its present procedure and to hold its sittings in public. Attention has been invited by Shri Sultan Niazi on behalf of the Central Co-ordination Committee to the letter dated the 19th September, 1980 forwarding the inserted Rule and an argument advanced that the word ‘may’ has been used in this letter also, and therefore, it is in the discretion of the Commission to hold its sittings in private or in public.

We have heard the learned Advocate-General, Bihar in this respect. He has rightly pointed out that while making a request the only proper word to be used can be ‘may’ and that it cannot be ‘shall’ since ‘shall’ and ‘request’ are self-defeating.

Again the use of the word ‘may’ in the first part of the new Rule cannot override what is contained in the proviso. The proviso says that the Commission ‘shall’ sit in private if the State Government makes a request in this regard. This being the position, there is no option before the Commission but to hold its sittings in private.

It is next argued by Shri Niazi that in Government's letter of request no reason has been assigned as to why Government is making such a request. There is no substance in this argument since the new Rule does not make it obligatory on the part of the State Government to disclose its reasons.

The learned Advocate-General has contended that in making this request the State Government has not been actuated by any *malafide* motive. They have inserted the new Rule on terms of Rule made on the point by the Central Government. He has

spent out thinking of the State Govt as to why such a request came from them. He referred to the speech made by our Prime Minister where she deplored the disturbed commmunal atmosphere in the country and he has urged that the State Government has taken the present action to forestall any future happenings.

Some comment was made by Shri Niazi that the present action of the State Government is actuated by *malafide* intention and it is to shield its high officers who are to come to depose before the Commission. According to him, they will not dare stating falsehood before the gazing public. He has also contended that since after the sitting of the Commission started to be in camera, the officers examined have not been sticking to the kind of case that has been made out in the written statement filed on behalf of the Government officers. It is true that in an open proceeding the public gaze is there but even in *camera* proceeding a witness cannot escape the gaze of the Commission and the searching cross-examination of the lawyers. If the motive actuating the State Government to be to shield their officers, there is no dearth of power in the armoury of the Government to do so. Even in a case of adverse finding against an officer, Government can decline to take any action against him.

For the above reasons there is no merit in the objections raised and the decision of the Commission to continue its sittings in private cannot be disturbed.

ANNEXURE 'E'

ORDER SHEET NO. 148, DATED 15TH MAY 1981.

The booklet (marked X/29 for identification) contains the printed speech of Shri Balasaheb Deoras delivered at a public meeting in Regal Maidan on the 1st of April, 1979. It has been debated whether it should be taken in evidence or not. On behalf of the R.S.S. it has strongly been urged that it should be taken in evidence since contents thereof are corroborated by Shri Umeshwar Prasad, Secretary of the local R.S.S. who was present at the meeting. It has been argued that technical rules of the Indian Evidence Act should not be allowed to stand in its way since it is not necessary to do so in an enquiry under the Commissions of Inquiry Act. In support of this contention, reliance is placed upon the leaflet (Ext. GO/6) which without the names of the printer, publisher or the Press which had printed it was taken in evidence and marked as Ext. GO/6. Learned Counsel on behalf of the Government officers and JUH have strong objections to the document being taken in evidence.

Shri Thakur Prasad, learned Counsel for the R.S.S. is, of course, correct when he says that technicalities of the Indian Evidence Act should not be invoked in the present proceeding and that the Commission has not insisted upon the same so long. The point, however, to be noticed is that this booklet stands on a different footing. There was no controversy amongst the parties as to the identity of the leaflet marked Ext. GO/6. It is in evidence that this particular leaflet was found in circulation. That being so, the leaflet was taken in evidence.

Now as to the present booklet. This is in evidence that the speech of Shri Balasaheb Deoras was tape-recorded and after five or seven days the tape record was despatched to the Patna office and later on its basis the present booklet was printed and published. The witness (RSSS/1) has come to prove this booklet but he has no knowledge as to what happened to the tape record between the time when it was sent to the Patna office and the time when the booklet was printed and published. The booklet does not bear the date of publication. The witness is can did that erasure can be effected in tape recording. In the circumstances it cannot be said that the booklet is a faithful recording of the speech of Shri Deoras. Curiously enough, the tape record has not been produced before the Commission nor its non-production explained.

Even as to the tape record, the Supreme Court has indicated certain precautions to be taken which will appear from the observation made in *Yusug Ali Esmaili Nagree V. The State of Maharashtra* (1968, S.C. 147).

“The time and place and accuracy of the recording must be proved by a competent witness and the voices must be properly identified. One of the features of magnetic tape recording is the ability to erase and re-use the recording medium. Because of this facility of erasure and reuse, the evidence must be received with caution. The Court must be satisfied beyond reasonable doubt that the record has not been tampered with.”

The contention that contents of the booklet are corroborated by Shri Umeshwar Prasad cannot avail the R.S.S. Presence of Umeshwar Prasad at the meeting makes his evidence direct evidence but it cannot be pressed into service to make the document admissible in evidence. It will be noticed that Shri Umeshwar Prasad has not vouchsafed the accuracy or correctness of each and every sentence that occurs in the booklet.

In view of the circumstances enveloping the printed booklet bristling with so many infirmities the same cannot be taken in evidence.

ANNEXURE F.

NUMBER OF RELIEF CAMPS/PLACES WHERE AFFECTED POPULATION TOOK SHELTER AND PROVIDED WITH RELIEF.

Serial no.	Name of camp	Population covered		
		Hindu	Muslim	Total
1	2	3	4	5
1	Dhatkidih Madarsa	..	5,000	5,000
2	Karim City College	..	4,000	4,000
3	Homeopathic College	..	1,000	1,000
4	Graduate College Camp	..	2,000	2,000
5	Sakhi Mosque	..	215	215
6	Muslim Baste Camp	..	7,000	7,000
7	Harijan Baste, Dhatkidih	..	2,300	2,300
8	Aruna Samity, Dhatkidih	..	2,100	2,100
9	Daiguttu Mango	..	8,000	8,000
10	Adibasi Baste Road 14, Mango	..	4,000	4,000
11	Munshi Mohulla, Mango	..	3,000	3,000
12	Golmuri	..	11,000	11,000
13	Telco	..	2,000	2,000
14	Azad Nagar, Mango	..	4,000	4,000
15	Jawaharnagar, Mango	..	1,000	1,000
	Total	..	16,400	40,215
				56,615

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