



GOVERNMENT OF BOMBAY

REPORT OF THE COMMISSION OF INQUIRY
(SHRI JUSTICE S. P. KOTVAL) ON THE CASES
OF POLICE FIRING AT AHMEDABAD ON
THE 12TH, 13TH AND 14TH AUGUST 1958

AND

GOVERNMENT'S CONCLUSIONS AND
PROPOSALS FOR ACTION ON
THE REPORT.

Commission of Inquiry.

Findings of the — appointed to inquire into the police firings at Ahmedabad in August 1958;

Government's observations, decisions and proposals for action on the findings.

GOVERNMENT OF BOMBAY.

HOME DEPARTMENT (SPECIAL).

Resolution No. S. B. III/MGM. 2458.

Sachivalaya, Bombay, 1st July 1959.

RESOLUTION.

By a Resolution of the Government of Bombay, No. S. B. I/MGM-2458, dated the 31st October 1958, Shri Justice S. P. Kotval of the Bombay High Court was appointed under the Commissions of Inquiry Act, 1952, to hold an inquiry into the police firings that had taken place in Ahmedabad on the 12th, 13th and 14th August 1958. The terms of reference were as follows :—

(a) to ascertain the circumstances under which the Police resorted to firing on the said dates ;

(b) to report whether there was an attempt, direct or indirect, on the part of any persons or political parties to create, or instigate others to create, disorder and to indulge in acts of violence, incendiarism, looting and destruction of private and public property in the event of the local authorities obstructing the erection of the Memorials or removing them after erection ;

(c) to determine whether the firing on the said dates was justified or not ; and

(d) to report on such other matters as may be germane to the above.

2. The Commission submitted its Report to Government on the 28th April 1959. Government has carefully considered the Report with due regard to the evidence recorded, and, in the light of the observations hereinafter made, accepts the findings of the Commission, with a few exceptions.

3. The findings of the Commission, Government's observations thereon and its proposals for action are as follows :—

*Term (a) :—*The causes which led to the disturbances in Ahmedabad during the 12th, 13th and 14th August 1958 and to the consequent firing on those days and the circumstances under which the police resorted to

firing were :—

(i) The formation of the bilingual State of Bombay, the firing which took place in August 1956, and the refusal to order a judicial enquiry giving rise to a spontaneous feeling among the people of Ahmedabad of hostility to the Congress Party, the State Government and the local authorities.

Government does not accept that any of the factors set forth above could have been or, in fact, was a circumstance, or even a proximate cause, under which the police resorted to firing. The Commission itself has held evidence relating to incidents of 1956 as being outside the terms of reference. No evidence relating to these events was therefore led by Government.

Conclusion. Government is of the view that, under the circumstances, this finding cannot be accepted.

(ii) The speeches delivered between 8th July 1958 and 8th August 1958 by the leaders of the Parishad whereby they whipped up the already existing feelings against the Congress Party, Government and the local authorities and turned them to their own political advantage. In delivering these speeches and undertaking the programme of activities between June 1958 and 12th August 1958 they indirectly attempted to instigate the people of Ahmedabad to create disorder and indulge in acts of violence.

Conclusion. Government accepts this finding.

Findings. (iii) The decision to permit the memorials to be erected, which was an error of judgment ; and

(iv) the decision to remove the memorials. When this decision was taken, the consequences and the depth and extent of public feeling were not correctly gauged and there was a miscalculation.

The correct position is that there was only one composite decision, namely, to suffer the memorials to be placed temporarily and to remove them later. Government fixed the date of removal in order to synchronise it with the removal in other districts where such memorials had been erected about the same time. The District Magistrate, Ahmedabad, decided to suffer the erection of the memorials temporarily in order to avoid a serious clash, but this decision was coupled with the decision to remove them at the earliest opportunity. Government is unable to agree that this decision involved an error of judgment. The wisdom of the decision could be properly assessed only by contrasting the consequences of adopting this alternative with the consequences that were likely to have ensued had the erection been forcibly prevented on the 8th August 1958. Government regrets that the Commission has not taken into account this factor and especially the desirability of averting a clash between the milling crowds in an aggressive mood and the police on the 8th August in order to avoid bloodshed and loss of life. Government is convinced that resort to force on that occasion would have been inevitable and that it would have resulted in tremendous loss of life. The authorities were anxious to avoid this on humane considerations.

It is also incorrect that resort to other preventive measures was not considered prior to the 8th August ; it is clear from the evidence that resort to preventive measures was considered by the local officers and ruled out because it would not only have failed to prevent the very clash which the authorities were desirous of avoiding, but would also have given further ground for agitation and provocation to the agitators. This is not a matter for evidence but for appraisal by those in charge of administration. The Commission does not find that the banning of the procession and the detention of 6 or 7 Parishad leaders would have prevented a clash on the 8th August, nor that it would have helped to avoid the consequences of such a clash. The Commission is even not in a position to say that, in that case, the loss of life and property would not have equalled or exceeded the toll of life and property lost in the disturbances that took place after the memorials were removed.

With regard to the so-called miscalculation, Government is satisfied that while the reaction that followed the removal of the memorials was somewhat underestimated, the damage to life and property that in fact did occur was much less than what would have occurred had the erection of the memorials been prevented by force on the 8th August. Therefore, the underestimation did not affect the overall choice as between the two alternatives.

While the removal of the memorials was made an occasion for the disturbances, such removal could by no means be regarded as a cause of the disturbances, as found by the Commission.

Government is unable to agree that the decision to suffer erection of the memorials temporarily was an error of judgment or that the decision to remove them later involved a miscalculation.

Conclusion.

*Term (b) :—*There was an indirect attempt made by the Maha Gujarat Janata Parishad to instigate the people of Ahmedabad to create disorder and indulge in acts of violence by the speeches made by their leaders between the 8th July 1958 and the 12th August 1958 and by their programme of activities between June 1958 and 12th August 1958. There is no evidence of any such attempt on their part, direct or indirect, prior to June 1958.

Finding.

Conclusion. Government accepts the finding.

Term (c) :—(i) The firing admittedly resorted to by the police on the 12th, 13th and 14th August 1958 was fully justified and there were no excesses except in one case ;

Findings.

(ii) The firing resorted to under orders of the Police Inspector Gohel along the road between the Khadia Cross Roads and Panchkuwa or in that locality on the 13th August 1958 and in which Safru Hussein and Ibrahim were killed amounted to excessive use of force and was not justified.

Government accepts these findings, except that as to the firing by Police Inspector Gohel on the 13th August, Government is ordering a departmental enquiry against him in accordance with the Bombay Police (Punishments and Appeals) Rules, 1956, when he will have an opportunity of being heard in his defence.

Conclusion.

(iii) The evidence relating to two incidents of firing has been suppressed, viz., the firing which took place in the Patasa Pol on the evening of the 13th August 1958 and the firing by an unknown officer wherein Shantilal Kantilal was injured by a revolver shot on the 12th August 1958.

Finding.

Government has decided to order further investigations into the two incidents of firing which, according to the Commission, have been suppressed.

Conclusion.

Government has also decided to order further investigations into the instances of persons having been injured by shot ammunition, which the Commission has found to have remained unexplained.

Finding.

Term (d) :—(i) The manufacture and use of a modified type of ammunition was improper and illegal.

Government is unable to accept the Commission's finding with regard to the motive or reasons underlying the use of modified ammunition, and is satisfied with the *bona fides* of the officer, namely, to cause less grievous harm and minimum injury in the suppression of riots—a motive which is in conformity with the provisions of law and the general policy of Government. Government therefore does not propose to take any further action in this regard. Government is satisfied that, in the circumstances obtaining at that time, the use of modified ammunition obviated loss of life and caused less grievous injury to human beings as the Commission itself has conceded in paragraph 180 of the Report.

Observations and Conclusion.

(ii) In two cases, viz. the arrests of Shri Keshavlal Vadilal Shah and Shri Kakubhai Kanubhai Bhatt, there is evidence of excesses having been committed by unidentified police personnel in the use of their authority and the use of force other than firing.

Finding.

While Government regrets these incidents, they are clearly attributable to the circumstances obtaining on that day when the police had to effect extensive arrests for the enforcement of the curfew order. Since the persons responsible for making the arrests have not been identified, no further enquiry or action is feasible.

Conclusion.

4. Government has noted with regret the observations made by the Commission about a statement not having been filed by it and the consequent handicap to the Commission and prejudice to what is described as the "opposing party." The Commission has not shown in what way the inquiry was delayed nor in what way the Commission was handicapped and the "opposing party" prejudiced. Government placed before the Commission the fullest information and all facts relating to the questions which the Commission had to inquire into and gave its fullest co-operation in producing evidence. The District Magistrate and the Deputy Inspector-General of Police, C.I.D., were the first two witnesses to be examined by the Commission, and they disclosed all material facts in their evidence. No change was introduced into the case at any later stage. Government has not been able to trace any instance of this nature in which Government was called upon to file a statement before a Commission constituted by itself to enquire into the justification of, and the circumstances leading to, a police firing. It was known early in the inquiry that Government had suggested the second alternative. What is even more important is the local officers' implementation of the suggestion and their actual handling of the situation. These were fully set out in the District Magistrate's statement. There could thus be no question of prejudice to anybody.

5. Government does not propose to comment on such of the conclusions and observations in the Report as fall outside the scope of the inquiry as laid down by the terms of reference or on conclusions and observations which are of no material significance.

By order and in the name of the Governor of Bombay,

A. L. DIAS,

Secretary to the Government of Bombay,
Home Department.

To

The Registrar, High Court, Appellate Side, Bombay,
The Prothonotary and Senior Master, High Court, Bombay, } By letter.
The Divisional Commissioner, Ahmedabad,
The Inspector-General of Police, State of Bombay, Bombay,
The Deputy Inspector-General of Police, C.I.D., Bombay,
The Deputy Inspector-General of Police, Ahmedabad Range,
The District Magistrate, Ahmedabad,
The District Superintendent of Police, Ahmedabad,
The Director of Publicity, Bombay,
The Political and Services Department.

REPORT ON THE CASES OF POLICE FIRING
AT AHMEDABAD ON THE 12TH, 13TH
AND 14TH AUGUST 1958

BY

Mr. JUSTICE S. P. KOTVAL

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