

REPORT
OF THE
COMMISSION OF UJJAIN (1963) INQUIRY

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REPORT

In exercise of the powers conferred by section 3 of the Commission of Inquiry Act, 1962 (LX of 1952), the Government of Madhya Pradesh, *vide* Home Department ('X' Section), Notification No. 949-1549-I-X-63, dated, Bhopal, the 29th March 1963, were pleased to appoint a Commission of Inquiry with me as a single member to-

"enquire into and report on the causes of the death of Govindsingh son of Bhimsingh Chandravat of Ujjain."

The order was received by me on the 31st March 1963.

2. Procedure.—Accordingly, I issued a communique, dated the 17th April 1963 calling upon the persons or bodies of persons interested in the enquiry to file their written statements containing facts relevant to the enquiry with affidavits in support thereof and list of documents, witnesses, etc., in the manner prescribed within two weeks of the publication of the same in the "Madhya Pradesh Rajpatra". People desirous of giving evidence were also directed thereby to submit a brief memorandum of the facts on which they desired to give evidence in the prescribed manner. The District Authorities, i.e., the District Magistrate and the Superintendent of Police, Ujjain, were also required to file such written statements, etc. The communique was published in the "Madhya Pradesh Rajpatra" (Extraordinary), dated the 18th April 1963 and also in the local newspapers. Throughout the City wide publicity was given to it.

3. Parties.—In pursuance of this communique, the following persons filed their written statements, etc., on the 2nd May 1963, which was the last day for filing them :—

- (1) District Authorities (District Magistrate and Superintendent of Police, Ujjain).
- (2) Shri G. V. Naik, Advocate, President, Bhartiya Jan Sangh, Ujjain.
- (3) Doctor Hariram Chaubey, President, Nagrik Samiti, Ujjain.

4. No list of witnesses as required by the communique was, however, filed by Doctor Hariram Chaubey of the Nagrik Samiti. He, however, filed affidavits of Mansingh Rahi and Mangalsingh alleging intimidation of the witnesses by the police. Shri Narendra Kumar Jain of the Vidyarthi Samiti, Ujjain filed an objection to the procedure of the Commission as stated in the communique without filing a written statement.

5. The District Authorities in terms of clauses 7 of the communique sought permission to be represented by Shris K. A. Chitale and Balwantsingh Johar, Advocates of Indore. Dr. Hariram Chaubey applied for permission to be represented by Shri Devi Prasad Bhargava, an Advocate of Indore and three local Advocates Shris Kailash Prasad Bhargava, Mahendra Bhatnagar and Rajendra Kumar Jain.

6. On this very day (2-5-63), these persons who had filed the written statements, were informed that the preliminary hearing of the Commission will begin at 12 noon on the 4th May 1963 in hall No. 49 (first floor) of the Polytechnic College, Ujjain. This was considered to be an ideal place with a spacious hall and situated close to the Kothi Palace where all the courts and most of the offices are located.

7. **Background.**—To help appreciate the circumstances leading to the appointment of this commission, it is necessary to state in brief the background and the events which preceded the unfortunate event of the death of this young boy Govindsingh, on the 26th March 1963 (corresponding to Gudi-Padwa or Hindu New Year's Day

8. The City of Ujjain is a very old city. Ever since the dawn of history, it is sanctified because of the presence of Lord Mahakal. Its glory was known to the world over. The great poet Kalidasa sang of it as a portion of heaven on earth:

पुरा श्रीविशाला विशालाम्
स्वल्पीमूर्ते सुचरित्तफलै स्वर्गिणां गां गतानां
शेवे पुण्यहृतं मित्र दिवः कातिमत्त्वण्डमेकम्
मेघदूत (पूर्वमेघः)

9 With the passage of time, however, much or perhaps all of its ancient glory vanished. But the ancient traditions of festivals and revelries associated with them still linger. The city tenaciously preserves them. The festivals are celebrated with great pomp and show.

10. The 'Spring festival' or 'Holi' is celebrated here with more than the usual spirit of merriment. The revelries begin from the day next on which 'Holi' is burnt and continue for about two weeks. Each night, a huge procession locally known as 'Gair' is taken out from a ward of the city with groups of Akhadās brandishing their arms and displaying their skill in their use, leading it through the various parts of the City, exhibiting different scenes (*Jhankis*) on the way. The processionists are in high spirits as they move about and there is every likelihood of breach of peace on the slightest pretext which compels the police to take adequate precautions. Such a procession usually goes to the centre of the city known as Chhatri Chauk and it is only late at night that it disperses.

11. The 'Gair' of Abdalpura Ward, a locality in the jurisdiction of Jiwajiganj Police Station, was taken out in the night of the 24th March 1963. The Station Officer Munshilal Shrivastava was with it with a small posse of constables to see that it passed peacefully. Late at night at about 1, when he came back to the Station House after the dispersal of the 'Gair' procession he apprehended that Mangalsingh and his associates of whom the deceased was one, and who had earlier that night assaulted some persons and had attempted to kill Kamal Pan-wala, might commit some serious offence. So, he decided to arrest them to prevent further mischief.

12. Accordingly, he went to the house of Mangalsingh, who is also called Mangal, in Urdupura, Ujjain. Mangal was traced inside but he did not open

the doors. So attempts were made to secure his arrest by approaching the house from the backside. Two constables posted there saw the door open and Mangalsingh peep out of it. But just then, seeing the police constables, he closed the door and hid himself inside. The deceased Govindsingh who happened to be with him, however, ran out and hid himself to the latrine. He was caught there and persuaded to call out Mangalsingh. He also came out and both of them were marched to the Jiwajiganj Police Station where their formal arrest-memos were drawn and they were locked.

13. The next morning, the deceased Govindsingh, who was then appearing privately in the final High School Examination as a private candidate, was enlarged on bail furnished by him with Ganpatlal as surety. Mangal was produced before a magistrate and taken in judicial custody and sent to jail.

14. In the afternoon of 26th March 1963, Raghuvirsingh Patwari, the brother of the deceased with whom he was living in Nayapura, Ujjain lodged a report with the Station Officer, Jiwajiganj that the deceased had committed suicide by hanging. The Station Officer went to the house, saw the body and after taking its photographs through a photographer held an inquest in which no marks of violence except the ligature on the neck were found. A letter (Ex. D) purporting to be in the hand of the deceased stating that he was committing suicide of his own free-will found in the same room on the upper storey of the house was taken by the police in their possession. The body was then sent to doctor Bobra of the Civil Hospital for postmortem examination. After autopsy, he returned it to the relatives of the deceased. The brother brought it back to his house and preparations for his funeral were made.

15. But in the meanwhile, a rumour spread in the city that Govindsingh died on account of severe beatings given to him by the police. Some of the leaders namely Shri K. P. Bhargava, Advocate, Mahendra Bhatnagar, Advocate, Doctor Hariram Chaubey, and others collected at his house with a group of their followers and inflamed the popular passions by charging the police with severe beatings to the boy resulting in his death. The situation soon showed signs of deterioration and the District Authorities rushed to the spot to restore calm. To pacify the leaders of the mob which had by then swelled considerably, the District Magistrate suggested a re-examination of the dead body by the Civil Surgeon and one doctor to be named by them. They suggested the name of Doctor Kelkar who was accordingly called. The Civil Surgeon and doctor Kelkar both examined the dead body in the presence of these leaders and they found on it the ligature mark and 2 small contusions. After this was done, the body was handed over to the relations and cremated.

16. The matter, however, was not allowed to rest there. It appears to have been raised in the Legislative Assembly then in session and the Government appointed this Commission for the above enquiry.

17. *Preliminary Hearing.*—A brief resume of the preliminary hearings of the commission becomes necessary at this stage.

(i) *4th May 1963.*—The sitting was held in the hall of Polytechnic College. Besides, the persons who had filed written statements on the 2nd May 1963 and their counsel, a large number of Advocates, representatives of the press and the public were also present. The learned Advocate General Shri M. Adhikari, who had been requested to assist the Commission, was also there. After the aims and objects of the commission were explained by me, Shri M. Bhatnagar

filed an application on behalf of Dr. Chaubey of the Nagrik Samiti for starting the sitting at 5 p.m. to enable Shri Deviprashad Bhargava, Advocate of Indore to attend the hearing. This prayer was rejected. A question arose about permission being granted to Shris K. P. Bhargava and M. Bhatnagar, Advocates, to represent Dr. Hariram Chaubey of the Nagrik Samiti when they were cited as witnesses by Shri G. V. Naik. These Advocates gave an undertaking that they would not use personal knowledge regarding the matter under enquiry for cross-examination of witnesses. So the finding given against them earlier was revised and permission as prayed accorded. Applications were made by the Jansangh and the Nagrik Samiti for change of venue on the ground that it was not accessible to all being rather distant from the City. The consideration of these prayers was reserved till the places suggested by them were inspected. They also made applications alleging intimidation of witnesses by the police. But since the allegations were vague and wanting in particulars they were asked to give affidavits with necessary particulars which they did not give at all. The affidavits filed by the Superintendent, Police, Doctor Chaubey and Shri Naik were not properly verified. They were, therefore, asked to file properly verified affidavits for which time was given. Narendra Kumar of the Vidyarthi Samiti was heard on his application objecting to the procedure of the Commission and the objection was over-ruled. He did not file a written statement within the stipulated time. So his prayer for permitting certain lawyers to represent him was rejected summarily.

(ii) 9th May 1963.—(a) This sitting was also largely attended by the public and the press besides of course the parties who had filed written statements and their lawyers. An application was made by Shri Gadgil, Secretary of the Socialist Party for permitting certain Advocates to appear for him. But it was rejected as the written statement was not filed within the prescribed time. The District Authorities made an application to hold the sittings in camera and further to give certain directions to the Advocates of the Nagrik Samiti to make a declaration that they were not in possession of any material as witnesses. An application was filed by Shri Bhatnagar for Doctor Chaubey of the Nagrik Samiti to change the venue and further to stop waste of public money by permitting the Government Advocate Shri Balwantsingh Johar to appear for the Authorities. On the same ground exception was taken to the Commission requiring the help of the Advocate General. Other matters such as intimidation of the witnesses by the police, etc., were also pressed in it. A grievance was also made of not starting the sitting at 5 p.m. on the 4th May 1963, to accommodate Shri Deviprashad Bhargava. All these objections were decided after hearing the parties. The consideration of venue was left open till the halls suggested by them were seen.

(b) It may be pointed out here that on this date only the Superintendent, Police filed a properly verified affidavit. The other parties, viz., Dr. Chaubey of the Nagrik Samiti and Shri Naik of the Jan Sangh did not file them.

(c) A prayer was made for inspection of documents of the other parties. This was allowed subject to the condition that they file proper affidavits. Dr. Chaubey did not file list of witnesses although time was given to him earlier. The sitting was, therefore, adjourned without transacting much business to the 14th May 1963.

(iii) 14th May 1963.—(a) As agreed, I inspected the halls of the Madhav College, Gujarati Samaj, Municipality and Maharajwada High School in the evening of the 10th May 1963, with the Superintendent of Police, Shri Bhatnagar and Shri Naik. I found that none of those halls was convenient and ideally suited for the sittings of the Commission. They were in the heart of the City

where in the atmosphere then prevailing it would have been difficult to hold the sittings in calm and peaceful atmosphere. So when the hearing started on the 14th May 1963, I announced my decision of not changing the venue. At this Shri Bhatnagar rose and began to behave in a very obstructive and improper manner. He wanted me to give reasons forthwith for this decision and made this demand in a very threatening manner. He was several times asked to quieten himself and speak slowly but he paid no heed. I felt that he might create more trouble and so I called the City Superintendent, Police to stand near him. Seeing him, Shri Bhatnagar took his seat. The City Superintendent, Police was, therefore, directed to take his seat. It may be mentioned here that in his utterances Shri Bhatnagar charged this Commission with partisanship and even threatened me that I should apologise to him. However, thereafter he, Doctor Chaubey and Mansingh Rahi staged a walk-out after presenting an application charging this Commission with misbehaving and insulting Shri Bhatnagar.

(b) The behaviour of the Nagrik Samiti and its counsel Shri Bhatnagar on this hearing and the walk-out staged by them left me with no other option except to terminate the permission given to Shri Bhatnagar to represent it and also to terminate the right of the Samiti to take further part in the proceedings as of right.

(c) Thereafter, only the District Authorities and the Jan Sangh remained before the Commission. These parties were heard in the order in which the witnesses were to be examined and considering their written statements, it was ordered that Shri Naik, who had charged the police with beating the boy as a result of which he committed suicide, should lead evidence. He gave a tentative order in which the witnesses were to be examined. On this day the applications of Shri Gadgil and Shri Ramprakash for being made parties were considered and rejected because they had not filed their written statements within the prescribed time. The matter of holding the sittings in camera was kept under consideration. The next date was fixed for evidence on the 22nd May 1963.

18. In the meanwhile, the Nagrik Samiti and its leaders, *viz.*, Shri K. P. Bhargava, Mahendra Bhatnagar and Dr. Hariram Chaubey and others raised an agitation. They held public meetings in which all sorts of falsehoods were said and even threats were given to me. A sample of the speech of Shri Kailash-prashad Bhargava an Advocate is to be found in the file of speeches which is enclosed herewith. He gave an open threat of violence, not only that it was reported in the press that they were to stage a black-flag demonstration against the Commission and also to burn my effigy. I naturally felt that a public sitting of the Commission may lead to breach of peace. Therefore, by an order passed in the morning of the 22nd May 1963, I decided to hold the sittings in private in exercise of the powers given by section 8 of the Commission of Inquiry Act.

19. It was in these circumstances that the first sitting for recording of evidence took place on the 22nd May 1963 in private in the same hall. Adequate publicity was given to this order. On this date while proceeding from the Kothi Palace to the venue of the sitting, I noticed some persons holding a black-flag demonstration and crying slogans against me.

20. Recording of evidence.—The first hearing for recording of evidence was fixed for 22nd May 1963. On this date, only the District Authorities and the Jan Sangh put in appearances. But Shri Naik of the Jan Sangh filed an application (I.L.A. 22) for review of certain orders made by me earlier regarding order

of witnesses to be examined, venue, making of the District Authorities as parties, etc. He also prayed in it that Sub-Inspector M. L. Shrivastava, alleged to be responsible for the beating of the deceased, be made a party and the District Authorities be deemed to be representing the State in the proceedings. It was also reiterated in it that the venue be changed and the intimidation of witnesses by police be stopped. All these matters were earlier decided and so the application was rejected. It was, however, observed that the making of the police officials M. L. Shrivastava and others as parties would be considered if at any stage of the enquiry evidence is received requiring an enquiry into their conduct. The reasons are stated at length in the order-sheet, dated the 22nd May 1963. He also made a prayer to permit Nagrik Samiti to take part in the proceedings. This was also rejected. A demand for public enquiry was again made which could not be granted in the circumstances. Shri Naik there upon walked-out after presenting a typed application (I.L.A. 26). The Press Reports indicated that this decision of a walk-out by the Jan Sangh was known much earlier (Dainik Bhaskar, dated the 21st May 1963). After that in the absence of any other party except the authorities, the work of recording of evidence began.

21. The actual recording of evidence was done on the following dates:—
work, the gaps became inevitable.

22-5-63, 23-5-63, 24-5-63, 25-5-63, 27-5-63, 28-5-63, 29-5-63, 30-5-63, 31-5-63,
15-6-63, 16-7-63, 17-7-63, 18-7-63, 19-7-63, 20-7-63, 22-7-63, 23-7-63,
25-7-63, 26-7-63, 27-7-63 and 1-8-63. On account of other pressing

22. In the absence of the other parties, the Commission in discharge of its duty to find the truth had itself to examine a large number of witnesses totalling 34 as Commission witnesses. The District Authorities examined in all 49 witnesses. None from the public volunteered to give evidence. Their witnesses are described with the abbreviation (A.W.). The witnesses examined by the Commission are called (C.W.).

23. Written statements.—Before proceeding to the discussion of evidence, it is necessary to state in brief the case of each party in relation to the matter under enquiry. According to the Jan Sangh and the Nagrik Samiti, Govind Singh was an innocent student having no associations with Mangal and without any bad antecedents. The police arrested him without any cause. Both at the time of the arrest and while being marched to the police station that night of the 24th March 1963, he was severely beaten. Even during detention he was beaten by the police. When released the next morning he was again called by the police. So on account of the fear of the police and further beatings by them, he committed suicide. The Nagrik Samiti further added that there was no justification even for the arrest of Mangalsingh. But Shri Ekbote, then City Superintendent of Police, bore a deep grudge against him and so he caused his arrest in his presence. Govindsingh was arrested along with him and both were severely beaten at the time of the arrest and also while they were taken to the Police station. The beating was also given in the station house during their detention in lock-up. The boy Govindsingh was terribly frightened as a result of the beating and when the next day he was again called, he took the extreme step of ending his life on account of that fright.

24. The District Authorities on the other hand stated that the deceased was a close associate of a notorious *Gunda* of the City, *viz.*, Mangalsingh. He had that night in company of the deceased and others of like character indulged in acts of rowdism during the procession of the 'Gair'. They had even

threatened Kamal Pan-wala and Mangalsingh even aimed a *Pharsa* blow at him. These reports reached the station officer M. L. Shrivastava. So he considered it necessary as a precautionary measure to arrest Mangalsingh and Govindsingh under section 151 of the Code of Criminal Procedure. After the incident at the shop of Kamal, for which he had lodged a report immediately, both Mangalsingh and Govindsingh ran away and hid themselves in the house of the former in Urdupura. The Station officer M. L. Shrivastava went there with a few constables and after arresting them brought them to the station house Jiwajiganj where they were kept in the lock-up. They were not beaten at any time, either at the time of arrest or when they were brought to the station house or in the lock-up. The next morning one Ganpatlal came and secured the release of Govindsingh on furnishing bail. Thereafter Govindsingh was never called to the Police. According to them, it appears that after his release, when his brother Raghuvirsingh came to know of the arrest at a time when he was giving his examination, he appears to have beaten and scolded him for the disgrace brought upon himself and the family by his association with the notorious bad character Mangalsingh. The boy was then appearing in his Matriculation Examination as a private candidate for the second time and had not done well in some of the papers. So it appears that on account of the morbid feelings and a sense of frustration, he committed suicide.

25. **Points for decision.**—In view of the allegations in the written statements filed before the Commission, the following points arise for decision:—

- (1) Whether Govindsingh, was severely beaten by the police at the time of his arrest, at the time when he was marched to the police station and in the lock-up so that he took fright and on account of the fear of further beating by the police or harassment, he committed suicide.

Or

- (2) Whether it was on account of some other cause other than the alleged beating by the police or fear of beating or harassment by the police may be a sense of frustration, etc., that the boy may have committed suicide?

REASONS FOR THE FINDINGS

26. **On point No. 1.**—The Jan Sangh and the Nagrik Samiti both joined in the allegations of atrocities against the police and in particular against M. L. Shrivastava, Station Officer, Jiwajiganj. They alleged that he had no justification whatsoever, for arresting Mangalsingh and Govindsingh that night. But having done that, he beat Govind singh so severely that the boy was frightened and when he was again called to the Police, out of sheer fright of further visitations of harassment and beatings, he brought about his own end by hanging. The Nagrik Samiti has gone a step further and has implicated Shri Ekbote, then City Superintendent, Police, also in being present at the time of the arrest and being instrumental in beating Mangalsingh and arresting him.

27. But after having made this charge, both kept away from the Commission on the very minor issue of venue. Perhaps it was their desire to have the sittings of the Commission in some place in the city where they could

catch more of public attention by their exhibitions which they gave before the commission. The selection of the venue is primarily the concern of the Commission. The place must be such where the sacred task of finding the truth is carried on in an atmosphere of absolute calm and peace. A place in a crowded locality is hardly suited for such work. The reason is such events usually arouse public feelings when they are, as it usually happens, exploited by people with little or no sense of responsibility. The place was after all not more distant from the city than the Kothi Palace the seat of all principal courts and offices. Arrangements were made with the Madhya Bharat Roadways to ply their city buses through this place on the days of the Commission's sittings. That should normally have satisfied people who were really anxious in helping the Commission to unravel the truth. But it did not satisfy the leaders of Nagrik Samiti. The significant thing is that not one man of the public in general ever complained of the unsuitability of the venue on grounds of convenience, etc. Even so, the matter under enquiry was of far greater importance than the matter of venue and one would normally, therefore, expect that people really and in truth anxious to help in finding truth out would not have so unceremoniously walked-out as the Nagrik Samiti did. The first prayer of the Nagrik Samiti made on the first day of the sittings of the Commission by its Advocate and member Shri M. Bhatnagar gives a clue to their attitude. A prayer so unreasonable as that of holding the sittings at 5 o'clock in the evening is unheard of in the halls of any tribunal. Not only that, this prayer being disallowed, it was further made as a sort of accusation against the commission in another application filed by the same Advocate on the 9th May 1963.

28. The Jan Sangh also quietly walked-out in circumstances already mentioned in paragraph 20 and detailed in order-sheet, dated the 22nd May 1963. The result was that in this manner both these principal parties, the only two bodies filing written statements from this big city with a population of nearly 2 lakhs and various political and social groups, contrived to keep away.

29. Not only that, the leaders of the Nagrik Samiti who appear to have championed this cause, besides publicly maligning me, and threatening me with violence, did not respond to the summonses to appear before the Commission and state the truth which they had to say. Shri Bhatnagar, Advocate repudiated all knowledge of material facts in his telegram, dated the 23rd May 1963, when he was served with a summons by admitting openly "*Sales (Self) not material witness to any incident*". And Doctor Chaubey and Rajendra Kumar Jain another Advocate, declined to give evidence voluntarily protesting amongst others against the form of summonses which is generally used in civil courts (I. L. A. 25 and 26). I need not comment more at this stage at the conduct of these two persons alleged to be connected with a body called 'citizens' committee or Nagrik Samiti. It speaks for itself.

30. In this state of affairs and in these circumstances the Commission itself had to summon a large number of persons alleged to be acquainted with the facts or who might be in the know of relevant facts to come and give evidence before it.

31. The justification for the arrest of the deceased was made an issue and, therefore, it is necessary to consider evidence bearing upon it because the subsequent happenings are in a way connected with it. At the relevant time the boy Govindsingh was living with his brother Raghuvirsingh (C. W. 12), who is a Patwari of the Ujjain City and lives in his own house in Namdarnura. He

was preparing privately for his Matriculation but had unfortunately developed a great friendship with Mangalsingh (C. W. 22).

32. Mangalsingh on his own admission is a notorious bad character of the city. He was concerned with very serious offence such as murder and attempt to commit murder. Witnesses after witnesses have testified to his dangerous proclivities which have compelled the police to keep a strict watch on him. Bapulal (A. W. 3), Shankarlal (A. W. 13), Badrilal (A. W. 14), Sherkhan (A. W. 20), Govind (A. W. 24), Ahmadnoor (A. W. 25), Ramsingh (A. W. 26), Haji Ibrahimkhan (A. W. 27), Nageshwar (A. W. 35), Pratapsingh (A. W. 36), Shivnathsingh (A. W. 37), and Kamal (A. W. 12), all know Mangalsingh as a dangerous bad character or *Gunda* of the City whose only source of livelihood has been moving about in the city and extracting money from others by force or show of force. The police had entered his name in the *Gunda* register (Ex. 1). Mst. Chunnibai (C. W. 15), who is a close neighbour of Mangalsingh, has also stated that the Police is always visiting Mangalsingh. Other witnesses Parashram (C. W. 18) and Nathugir (C. W. 19), close neighbours for obvious reasons declined to say anything against Mangalsingh on the pretext that they do not know anything about him. It is apparent that on account of the fear of Mangalsingh they do not want to disclose the truth. But Nathugir (C. W. 19), Mangilal (C. W. 20) and Laxmanrao (C. W. 21), other neighbours do say that his character is bad. Thus they give ample support to the evidence of Narsinghrao Jadhav (A. W. 30) Shankarrao Roman (A. W. 31), Brajrajsingh (A. W. 38), Circle Inspector Wakde (A. W. 39), Munshilal Shrivastava (A. W. 41) and City Superintendent Narayanrao Ekbote (C. W. 34). Police Officers who know a great deal about this bad character Mangalsingh.

33. The associations of this boy Govindsingh with Mangalsingh were long and strong also. Both always moved about in the city usually drunk and troubled people. According to Kamla (A. W. 12), besides Govindsingh, Chatar Vidrohi, son of doctor Hariram Chaubey, President of the Nagrik Samiti, Hari, Trambak, Ramesh and others all boys within their teens were the constant companions of Mangalsingh. Shankarlal (A. W. 13), Rajendrakumar Jain (A. W. 19), Sherkhan (A. W. 20), Govind (A. W. 24), Ramsingh (A. W. 26), Haji Ibrahimkhan (A. W. 27), all have testified to the long and thick association of this boy with Mangalsingh. So does Pratapsingh (A. W. 36), a student who knew the deceased very well. Shivnathsingh (A. W. 37), a relation of the deceased always saw the two together, and even complained to his mother about this unholy friendship. This evidence sufficiently supports the evidence of police constable Brajrajsingh (A. W. 38) and Sub-Inspector Jankilal (A. W. 29), who was formerly Station Officer of Jiwajiganj. I may here say that all the witnesses except police officers were questioned in the very beginning whether they were under any influence and all of them have pledged their oath to say that no influence of any sort was brought to bear upon them by any one. Therefore there is no reason to disbelieve them.

34. It is true that Raghuvirsingh (A. W. 12) and Abhaysingh (A. W. 5), the brother and the uncle, respectively, of the deceased, have denied any knowledge of the deceased being in the company of Mangalsingh and Mangalsingh being a bad character. But Raghuvirsingh had to admit that once in 1961 his brother and Mangalsingh were jointly prosecuted for some assault on a police constable on duty (paras. 35 and 36). He says that it was in respect of an offence of two persons riding a bicycle. But this is not true as the certified true copy of the challan would show.

35. The fact is clinched by the fact admitted by Mangalsingh as well as Raghuvirsingh that in the night of the 24th March 1963 the deceased slept in

the house of Mangalsingh although he had to appear in an examination on these days. Unless there is great friendship between the two, this would not happen. This is enough to show that there was great friendship between Mangalsingh and the deceased and as the witnesses have stated they were always found moving together.

36. It is in the background of this history of Mangalsingh and his friendship with the deceased that the evidence of circumstances that led to his arrest have to be examined. According to the evidence on record, both Mangalsingh and Govindsingh along with other associates of the former, indulged in many incidents that night of the 24th March 1963. Shankarlal (A. W. 13) and Badrilal (A. W. 14) have deposed about an incident of that very night. They say that at about 8.30 p.m. or so when the 'Gair' of Abdulpura reached the Khajurwali Masjid, Mangalsingh dealt a blow of his Dhariya on Badrilal. Govindsingh was with him. Fortunately, it did not strike Badrilal from the sharp end. But Badrilal adequately punished him and then lodged a report in station house, Jiwajiganj.

37. Further, Mangal is also alleged to have picked up a fight with Mohan Cycle-wala as Rajendrakumar Jain deposed. Earlier that very evening he picked up a quarrel with Nageshwar (A. W. 35) as deposed by Nageshwar and Sher Khan (A. W. 20). Not only that at about 8 or 9 p.m. these persons came to the liquor shop of Kraparam (A. W. 21) and picked up a quarrel with him as stated by him and Ahmadnoor (A. W. 35). Govindsingh was with Mangalsingh at that time.

38. The last incident is that of an attack by Mangalsingh on Kamal (A. W. 12), by a *Pharsa* in respect of which he lodged a report (Ex. Y). In the report, however, there is no mention of the name of Govindsingh but Kamal has deposed on oath that Govindsingh was also with Mangalsingh at the time of incident. Sub-Inspector, Shankarrao Roman (A. W. 31), whom the matter was reported at once while he was on duty near the scene in Chatri Chauk, says that he had seen Govindsingh along with others with Mangalsingh. So the fact is that at the relevant time that these incidents were committed by Mangalsingh, Govindsingh was present with him.

39. It has come in the evidence of these witnesses as also of the Police constable on duty, viz., Arjunsingh (A.W. 11), Shankarrao Roman (A.W. 31), Nageshwar (A. W. 35), Brajrajsingh (A. W. 38) and Sub-Inspector Munshilal Shrivastava (A.W. 41) that in that procession of 'Gair' Mangalsingh and his associates such as Govindsingh and others carried formidable weapons like *Pharsa*, *Lohangi*, etc. They were all drunk and must naturally be so when they had purchased liquor from the shop of Kraparam (A.W. 21). It is not unusual to see such people moving about drunk in a crowd.

40. Therefore, when in that very night Mangalsingh had in the company of his associates indulged in such acts of rowdyism threatened or actual there was every reason to apprehend further mischief from this gang. It is significant to note here that they even came and threatened Shankarlal that night at about 11 for the only reason it seems that he witnessed Mangal's attack on Badrilal (A.W. 14). There is also the evidence of Munshilal Shrivastava (A.W. 41) to the effect that these people were creating disturbance in the *Akhadas* by intruding in them without the permission of the *Ustad*. All these events in the background of the previous history of Mangalsingh and his associations with Govindsingh and others led Sub-Inspector Munshilal Shrivastava to apprehend that if

they are not arrested, they would commit further mischief. And that appears to be the reason as stated in Rojnamcha Sana No. 1259, dated 24-3-63/25-3-63 (Ex. K. 2) for this officer to arrest these two persons. It appears that on account of the urgency the officer at once started for the arrest without first mentioning his departure and its reasons in the general diary. The reasons should have been given in the arrival report.

41. In the circumstances mentioned above, such an apprehension was justified. And, therefore, his action in arresting them cannot be criticised as being without any justification. He was after all made aware of all these incidents and knowing as he did the bad character of Mangalsingh and the activities of this and his associates, there was sufficient ground for him to apprehend that these people may commit a cognizable offence if allowed to remain at large. It is to be noted that a few days before Holi, Mangalsingh was ordered to give security for his good behaviour, a fact which he himself admits (C. W. 22—para. 23).

42. It was in these circumstances that this Police Officer along with constables Gulabrao (A.W. 9), Brajrajsingh (A.W. 38), Arjunsingh (A.W. 12) came to arrest Mangalsingh. This fact is noted in the Rojnamcha Sana No. 1259 (Ex. X. 2). The constables above-named support each other on this point.

43. They have also deposed how, when they reached in front of Mangal's house that night at about 12.30 or so, Mangalsingh was called and he did not open the door. So two of them went to the backside to keep a watch because it was noticed that the lamp burning inside had been extinguished which suggested the presence of Mangalsingh in the house. They have also stated that Arjunsingh and Gulabrao who were on the backside noticed Mangalsingh opening the door on the backside perhaps in an attempt to make good his escape. But just then these two constables held the door with the result that Mangalsingh ran inside and shut the door of the other room inside which he occupied. In the meanwhile Brajrajsingh and Munshilal came on the backside. They saw this boy Govindsingh hiding himself in the latrine which is to the south of the room occupied by Mangalsingh as the plan (Ex. U-1) shows. They caught him and then he was asked to call out Mangalsingh because there was now no escape for him. Mangalsingh accordingly came out and they caught him. The four police officers all agree on these points. Even Mangalsingh admits these circumstances to be true though he says that the door was pushed by the police (C. W. 22—paras. 5 and 6). The plan itself would show that it is the third room from the south which was in occupation of Mangalsingh.

44. The question now is whether the deceased Govindsingh was beaten at that time alongwith Mangalsingh. Only Mangalsingh says that at the time of his arrest, the Police beat him and Govindsingh with their feet and fists (A. W. 22—para. 7). Parashram alias Pirsumal (C. W. 18), a close neighbour living in the same house in which Mangal lives, was in Ujjain in his house on that night of 24th March 1963. He does not say of any incident of beating. If there was beating, surely Mangalsingh and Govindsingh, would have cried. Their cries would naturally have been heard by him. Laxmanrao Jagtap (C.W. 21) whose house is just opposite to the house of Mangalsingh and who woke up on hearing the noise says that he did not hear any noise of beating or crying coming from the house of Mangalsingh. If there was such beating or crying he should have heard it. Chunnibai (C.W. 15) also says nothing about it, though she is also a neighbour. Another neighbour Mangilal did not hear any such noise of *marpit*.

Chandarsingh (C.W. 25) is another neighbour of Mangalsingh who actually supplied the lock put on the house after he and Govindsingh were marched to the police station. He says that he did not see either Govindsingh or Mangalsingh crying after the arrest and they did not complain to him that they were beaten. All these witnesses are close neighbours and Chandarsingh seems to be rather more obliging to Mangalsingh for he has given him a certificate of good conduct. But none of them says of hearing any beating or any cries or complaints of beating.

45. Mangalsingh, however, complained that when after the arrest they were brought on the crossing (Chauraha) in front of his house he was beaten by the police (para. 7). But none of these witnesses mentioned above says about any such beating being seen by them. Gangaram (C.W. 16) and Laxmanrao (C.W. 21) did not see any such beating. In fact this witness actually came down on the road. Chandarsingh (C.W. 25) says that no complaint of any beating was made to him either by Mangalsingh or Govindsingh.

46. It is Mangalsingh's own admission that neither he nor Govindsingh were beaten while they were being taken to the Police station (C.W. 22—para. 8). So the point of beating during the way need not be laboured. I may state here, however, that the evidence of these persons who actually saw them being taken disproves the allegations made by the Jan Sangh and the Nagrik Samiti that they were beaten on the way also.

47. A suggestion was made by the Nagrik Samiti that Shri Ekbote was also present when Mangalsingh was arrested and beaten. In fact quite contrary to what the Jan Sangh stated Nagrik Samiti charged Mr. Ekbote with his active complicity in the arrest and beating of Mangalsingh. Mangalsingh has stated that one other officer, appearing to be a superior officer of the Police, was present when M. L. Shrivastava and the constables came to arrest him. The suggestion has its roots in the allegations made by the Nagrik Samiti in their written statements implicating Shri Ekbote. Ordinarily Mangalsingh would know Shri Ekbote because to a notorious *Gunda*, the name and the face of an important police officer would not be unknown. But he does not remember his name. Shri Ekbote (A.W. 34) has pledged his oath to say that he was not at all present at the time of his arrest. The reason for implicating him is, according to him the grudge that these two leaders of the Nagrik Samiti, *viz.*, Shri Bhatnagar and Dr. Hariram Chaubey bear against him. He had started some criminal cases against Shri Bhatnagar. Advocate and a great pressure was brought upon him to drop them. He said that even a member of the Legislative Assembly Shri Malhotra approached him with this request. The son of Hariram Chaubey is also deeply involved. He also approached him to save his son. It is, therefore, not unlikely that these two leaders found it a convenient method of implicating him. None of the witnesses present at the time when these two persons, *viz.*, Govindsingh and Mangalsingh were taken to the police after their arrest, say, about the presence of Shri Ekbote.

48. It is true that Shri Ekbote was moving in the police jeep in the night as Gulabrao (A. W. 9) deposes but he too is definite that Shri Ekbote was not present at the time of the arrest and he did not come to the police station also.

49. However, when the formal memo of arrest (Ex. P), was made at 1.30 in that night, no injuries on the body of the deceased were noticed. This fact is deposed by Bapulal (A. W. 3) and Piru (C. W. 17), panch witnesses. Similarly no injury was found on the body of Mangalsingh also. This was so when

their clothes were removed as is done in Jama Talashi. This arrest memo bears the signature of the deceased and it cannot be that it was manufactured afterwards.

50. Another place where beating is alleged is the lock-up. But Mangalsingh himself stated that he was not beaten when he was locked in the lock-up with another prisoner (C.W. 22—para. 8). Noor Mohammad (A.W. 15), was then already in that lock-up in which Govindsingh was lodged and he has stated that no police officer beat or tortured Govindsingh during the night. Kalla (A. W. 16) was the cell-mate with Mangalsingh and he also says that Mangalsingh was also not beaten. Of the two, Mangalsingh was a greater criminal and if at all beating would be given it would be given to him. If Govindsingh were beaten that night then his cries would certainly have been heard by Mangalsingh because that lock-up in which Govindsingh was lodged was barely 7 or 8 cubits away from the cell, in which Mangalsingh was. But Mangalsingh did not hear any cries (C. W. 22—para 9). Constable Ramavtarsingh was then on guard duty and he swears that no such beating was given. Kalla (A. W. 16) also did not hear any such beating.

51. I have also examined Dhulji (C. W. 26), Shrinivas (C. W. 28), Devji (C. W. 27), Ratanlal (C. W. 29), Babulal (C. W. 30), Shankarrao (C. W. 31), Rameshchandra (C. W. 32), living in close proximity to Jiwajiganj Police Station. If there was any beating given to either Mangal or Govindsingh that night, certainly these people would have heard the cries. So there is no evidence of any beating in the Thana.

52. The star witness Mangalsingh on whom the Nagrik Samiti banked so much, compelled by more than one bailable warrants of arrest to appear and depose only says of one beating and that too at the time of arrest. About other beatings at other times and at other places such as the Chauraha or the way or the Thana, even this witness says not a word. But although he says that he was beaten by the police with kicks and fists, the Jail Doctor Tiwari (A. W. 33), did not find any marks of injury on his body when he was examined by him in compliance of the ritual to which every offender-entrant to the jail is subjected. The relevant entry from the register of under-trial prisoners is Ex. 2. So this gives a lie even to the evidence of Mangalsingh that he was beaten in the night of 24th March 1963.

53. However, there is still the evidence of the brother and the uncle of the deceased which has to be examined in this connection. Raghuvirsingh (C. W. 12) is the brother of the deceased. He stated that in the morning of 25th March 1963, Ganpatlal Patel informed him that in the night his brother and Mangal were surrounded by the Police as they surround the dacoits and beaten very severely. So beating, they took them to the Police Station. So Ganpatlal informed him and then went away. Ganpatlal (C. W. 14) did not see the actual beating and he heard of the incident in the market place from Chunnibai, Gangaram and others. Both these witnesses were examined by the Commission. What Chunnibai (C. W. 15) says gives a complete lie to Ganpatlal's version (C.W. 15—para. 4). Gangaram (C.W. 16) also completely repudiates him. (para. last of his deposition). So the story of Ganpatlal does not seem to be true.

54. To revert back to the evidence of the brother one very significant thing that emerges from his evidence is that although he was informed by Ganpatlal of the alleged beating and arrest of his brother and the brother also is alleged to have told him after his release that he was terribly beaten by a baton, he did not care to examine the body by asking him to take out his

clothes. He is a Patwari and is a Matriculate. Such an assault on his brother if true should ordinarily provoke him to make an immediate complaint to the Superior Officers of the police. But nothing like that seems to be done. On the other hand on his own evidence he appears to have just tried to pacify the deceased and engage himself in his daily chores. He does not seem to have paid any serious attention to it. This piece of conduct of Raghuvirsingh is very significant in judging his testimony.

55. He stated that after Ganpatlal informed him of the incident he went to the Police Station to secure his brother's release. According to him, he was informed there that the Station Officer could not be disturbed in his sleep and so he came back. This is all that the brother did that morning.

56. But we find that Ganpatlal took all the trouble to go to secure the release of this boy on bail and this obligation was done in spite of the absence of any request from Raghuvirsingh (C. W. 12—para. 24). This is rather unusual. A man would not ordinarily pledge his property to secure the release of some one not closely related to him and not even of his caste unless he was interested in him very deeply or was requested by some relation to do the favour. Ganpatlal would say that the Sub-Inspector M. L. Shrivastava told him that he had set the boy free after taking his personal bond and that if he desired he could sign the security bond. When the boy was released already, there was no necessity for Ganpatlal to hypothecate his property. He does not seem to be such a simple villager. In the past he never saw any such incident of an arrested person being released before the Muchalka and the security bond were taken (C.W. 14—para. 4). He was not under any influence of the Sub-Inspector. He did not know him from before (C.W. 14—para. 2). Therefore, it is absolutely false to say that he would append his signature to the security bond (Ex. a) at the mere asking of the Station Officer when the purpose of the bond had been long carried out. This is highly improbable. The evidence of M. L. Shrivastava and Noor-Mohammad (A. W. 15), a cell-mate of the deceased establishes Ganpatlal's presence at a time when Govindsingh was in the lock-up. It is also important to note that this witness who met Govindsingh later that day did not care to examine his body for the injuries when the boy complained to him that he was severely beaten for which he consoled him [paras. (3) and (9)]. The conduct of Ganpatlal discredits him.

57. Even so, the entire testimony of Raghuvirsingh shows clearly that he is not a truthful witness. He has been denying the antecedents of Mangal a close associate of his brother in spite of such over-whelming evidence of his reputation and misdeeds. He has been even denying the signatures of his brother on the application for admission to Maharajwada High School though the boy was admittedly in that school and he himself signed it at B-B as guardian. It was only after great reluctance that he admitted the signature of his deceased brother at A-A. He has been also admitting and in the next breath denying his brother's signature on another application [(Ex. M) paras—81 and 83].

58. He further stated that when in the morning of the 25th March 1963, he reached Kothi Palace for his work and also to secure the release of his brother on bail, he met Sub-Inspector M. L. Shrivastava and he told him voluntarily and it appears without his asking, that he had freed his brother because he was an innocent student and had not kept any record of his release. This is simply preposterous for a Police Officer who had arrested the boy after making an arrest memo and had made the required entries in the Rojnamchas, would not be so stupid as to enlarge the boy without necessary formalities of bail, etc. At least this could not be possible in a City like Ujjain where the public mind is so very alert. But still this Patwari says so.

59. Another lie told by the witness is his easy submission to the wishes of the Sub-Inspector in antedating the report (Ex. E) which according to him was in fact signed on the 27th March 1963 and not on 26th March 1963, as it purports to show. It is important to note that in the evening of 26th March 1963, the leaders such as Shri Mahendra Bhatnagar, K. P. Bhargava, Dr. Hariram Chaubey, Mansingh Rabi and several others had raised a storm over the death of the boy, while the dead body lay there ready for the funeral procession. The Nagrik Samiti was born there with these leaders. They had even nominated Dr. Hariram Chaubey as its convener. This has come out from the evidence of no less a man than Shri G. V. Naik, an Advocate and the President of the Jan Sangh (C. W. 9—para. 16). This committee had also examined the body and noted the injuries on a paper. The paper which appears to have listed the injuries has been either destroyed or conveniently taken back as the evidence of an advocate leader Shri K. P. Bhargava (C. W. 3) shows. It was not with the District Magistrate as he deposed (A. W. 49). One does not know why it was destroyed or kept back.

60. When this has all happened and these leaders had intimated the mob by proclaiming that the boy had received hundreds of wounds as another leader Thakurlal Jethwani stated (C. W. 2—para. 2), and a big fury was let loose against the police, it is unthinkable that Raghuvirsingh would be submitting to the wishes of the Sub-Inspector who was the main target of this agitation into antedating such an important document as the report (Ex. F) relating to the death of his own brother. His version that he was called there and persuaded into doing this in the presence of his uncle Abhaysingh cannot, therefore, be believed.

61. Abhaysingh (C. W. 5) is the uncle of the boy. Though he lives in Ujjain and in Nayapura, he pretends ignorance about the antecedents of Mangal and of his association with the deceased. He did not himself see more than 3 injuries on the body. Sub-Inspector Shrivastava had prosecuted him under section 107 and 145, Cr. P. C., when he was in Ghatiya. He is a Patwari since long and it is, therefore, difficult to believe that he would go to this Sub-Inspector on the 27th March 1963 after all this storm over the dead body of his nephew and would silently observe his other nephew brother of the deceased antedating a document (Ex. F) in relation to the factum of the death of his brother. Patwaris everywhere are intelligent people on whom rests a measure of the burden of revenue administration. Such stupidity as these two Patwaris feign and such simplicity or submissiveness as they pretend is foreign to the class to which they belong. It appears clear from the evidence of this Patwari itself that Shri Mahendra Bhatnagar approached Raghuvirsingh on the 28th March 1963 (para. 30). Though he and Raghuvirsingh both deny the birth of the Nagrik Samiti having taken place on the *otla* of the house of Raghuvirsingh where the dead body lay the fact is proved by no less a man than Shri G. V. Naik an important public leader. In that background, the visit of the leaders of the Nagrik Samiti at the house of Raghuvirsingh and the meeting with Abhaysingh gives a clue to the above tendencies of these witnesses as disclosed in their evidence.

62. Therefore, in these circumstances no value can be attached to the evidence of Raghuvirsingh that his brother complained to him of beating by the Police. The witness has gone back upon his statement of beating by the Sub-Inspector in Ex. J at several places. The Sub-Inspector Shrivastava

has no bad relations with him or his uncle as he admits (C. W. 12—para. 60). There is no reason for this officer, therefore, to record a statement which he did not make. But there is reason for Raghuvirsingh to go back upon it.

63. The next place of evidence requiring consideration is the dying declaration of the boy in Ex. D. The uncle and the brother have both denied this letter to be in the handwriting of the deceased or under his signature. But the expert Shri Sarvate (A.W. 32) examined it and compared it with several standard writings such as the answer books, the applications for admission, the application for return of certificate, etc. (Ex. R. 5, M, L, K), which were sufficient for the comparison and his opinion is unequivocal to say that the writer of the comparative material is also the writer of Ex. D and the signature on Ex. K, L and M are also of the same person. Even to the naked eye would appear a striking similarity between the disputed and the proved signatures and also the various letters used in Ex. D and the standard material. It may be recalled here that although Abhaysingh, real uncle of the deceased pretended being conversant with the writing of the deceased he denied Ex. D to be in his handwriting. The brother Raghuvirsingh admitted that the signatures at A-A in Ex. I were of his brother only to turn back upon this admission in the next breath. He admitted his signature in Ex. M.

64. The deceased for his Matriculation Examination in which he was appearing at the time of his death was given the Roll No: 4434 (Ex. K) and the answer-books Ex. R1 to R6 produced by Shri Mumtazuddin (A.W. 4), Secretary of the Board bear this Roll No. So there can be no doubt that Ex. R5 which is used as the main material for comparison of writings is of the deceased in his writing. The opinion of the expert (Ex. D. 7) used as a guide confirms my finding that Ex. D is in the handwriting of the deceased and bears his signature.

65. The panch Jogendrasingh (A.W. 1) quite friendly with the Patwari Raghuvirsingh and who went to his house as soon as he came to know of his brother's death swears that this letter was found near the place where the boy was found hanging when he and the Sub-Inspector Shrivastava and Raghuvir Singh went into that room. The fact is also mentioned in the inquest report Ex. C which is signed by Raghuvirsingh and Abhaysingh also and that too without any protest. Therefore, their evidence in the commission that the letter was at the relevant time in the hand of the Sub-Inspector and he planted it on the book cannot be accepted (See C. W. 5—para. 5). If such was the case they would never have put their signatures on this inquest-report. These two are simply lying.

66. This dying declaration does not make any allegations of beating or torture or harassment by the police. The boy was quite intelligent. He had once faced a prosecution with his associate Mangal. Therefore, if in truth he was beaten, tortured or harassed by the police, he would not have failed to mention it in it. For after his death the police would not have him for further harassment and by his letter, on account of the sanctity attaching to the last expression of a dying man, the police, his torturers, would be liable to blackmail which they would find difficult to counteract. Therefore, the absence of any such allegation in this document, the last written by the deceased is very significant. It gives a lie to the vicious agitation launched by the Nagrik Samiti as if on his dead body.

67. In the inquest report (Ex. C) also there is a clear mention of the absence of any other injuries on the body of the deceased except the ligature.

And this is subscribed by the brother and the uncle. If what is stated in it were not true, then these two Patwaris would not ordinarily put their signatures on it.

68. In the autopsy made by Dr. Bobra (A.W. 2) also he did not find any injuries except the ligature. A charge was made by Raghuvirsingh and Abhay Singh that the postmortem examination of the boy's body was got made by the Sub-Inspector through this doctor with unusual haste suggesting thereby that what the doctor did was only in name an autopsy. But this wild suggestion is countered by the oath of the Doctor himself, a responsible officer. Therefore, if injuries other than the ligature caused by suicidal hanging did exist, they would have been found recorded in the postmortem report (Ex. o). This is also a circumstance discrediting the story of "hundreds of wounds", a bogey raised by the leaders of the Nagrik Samiti before that mob in front of the house of the deceased while the body lay there awaiting final disposal, consignment to the flames on the banks of the Holy *Kshipra*.

69. But before this post-mortem report came, news of the death of the boy spread and it reached as it seems people who without exercising the caution of verifying the truth of the allegation that the boy died on account of beatings by the police as it would behove a responsible citizen, collected at the house of the deceased. Shri K. P. Bhargava (C.W. 3) an Advocate of the City deposed that a crowd of a thousand or so came to his house and took him there. He readily consented because he claims to be a political worker of that locality who has fought many an election to the Municipal Committee from it. He at first declined though under oath to give the names of those persons who called him on the pretext that if their names were disclosed the Police would harass them. But on a clear assurance from the Commission that it will not be permitted to be so, he gave the names of some though reluctantly. I am not to comment on this conduct of his. But the fact is that he did go there leading this crowd without taking care as a responsible man to ascertain the truth. It was not a simple going because in the way as these people passed they raised slogans alleging police atrocities as the cause of boy's death. His own clerk exhorted people to close the shops and make a strike (A.W. 41—para. 44). The fact was recorded in the *Rojnamcha* (Ex. X8 No. 1336; dated 26-3-63). I want to stress this point because all this was done before reaching the place where the boy's body lay and without ascertaining the truth.

70. Other people also collected. They included Shri Mahendra Bhatnagar, Advocate, Mansingh Rahi, Dr. Hariram Chaubey and others. They too raised the cries that the boy had received hundreds of injuries as a result of police beating. I am not to investigate the causes why these people raised this apparently false cry although a suggestion is made in the evidence of Shri Ekbote (C.W. 34) that it was just exploited to blackmail the police who were about to prosecute Shri Bhatnagar for cheating a man by receiving from him about 100 rupees or so in the name of a police officer and for assaulting a public servant, and Dr. Chaubey's sons for some other offences, which they fruitlessly tried to get dropped through intervention of others. These reports are on record (Ex. X13, 14, 15, 16, 17). Circle Inspector Wakde (A.W. 39) has deposed that the relevant diaries relating to the offences against Shri Bhatnagar are with the superior officers in Bhopal with the result that the cases are not started against him. Be that what it may, the fact remains that the leaders did not take a more responsible view of the situation.

71. When the mob got excited by the utterances of these leaders, the Collector Shri Verma (A.W. 49) and the Superintendent, Police Shri Dharkar (A.W. 44) came to the spot. Shri Verma suggested a re-examination of the body by the Civil Surgeon and one Doctor to be nominated by these leaders. Dr. Kelkar was the man. He was called and he and the Civil Surgeon Dr. Mitra summoned for the purpose examined the body, according to Dr. Mitra, under strong light. They found besides the ligature a contusion over the right scapular region, transversely placed $2" \times \frac{1}{2}"$ parallel margin and another contusion over the right popliteal region in its lower part, $1\frac{1}{2}" \times \frac{3}{4}"$ with margin regular and straight. The injuries were recorded in the presence of the leaders who watched the examination done after careful wash of the body then smeared with vermilion in preparation for the funeral. It showed only these two marks although the leaders were crying that there were hundreds (Ex. A).

72. Dr. Kelkar has no experience of post-mortem examinations. But Dr. Mitra is an experienced man in that branch. He too says that the skin was not cut to definitely determine whether the injury was antemortem or post-mortem. There is no sure evidence of Dr. Kelkar to disprove the suggestion that they were simply postmortem staining.

73. Dr. Mitra is definite that all the three injuries, i.e., the ligature and these two contusions were of the same duration. At its worst it would show that these two injuries if they are held to be antemortem were inflicted on the boy on the 26th March 1963 when he hanged himself causing the ligature mark. He was then certainly not in police custody having been released on the previous day. There is absolutely no suggestion of any type that the boy was beaten by the police on the 26th March 1963. The brother might have as well beaten him with a cane to chastise him for his conduct in associating with Mangal which again lodged him in police custody and brought disgrace to all.

74. On the point of harassment, Raghuvirsingh said that in the afternoon of 26th March 1963 he saw two constables standing in front of the *otla* of his house suggesting thereby that they had come to call Govindsingh to the Station House. He also stated that earlier that day at about 10 or 10.30 when he was preparing to come to the Kothi for his official work, the deceased Govindsingh said to him that he had to go to the police station because he was called there (paras. 8 and 11). This is stated to show that the boy was harassed by the police. But the evidence of Durgashankar (A.W. 46), Head Constable, Moharrir attached to this station house proves that at no time on either of the days 25th or 26th of March 1963, was any constable sent to call this boy. The relevant Sanas are produced to support him. Bheroprashad (A.W. 47) a Head Constable left the Police station at 1.50 a.m. on 26-3-63 for patrol duty and he has sworn that he did not go to call Govindsingh. On the previous day also he was on patrol duty from 11.30 in the morning till 5.35 p.m. in the evening and he has sworn that he did not go to call Govindsingh. No direction to call him was given and there is no mention of any such direction in the Rojnamcha.

75. When Govindsingh was already released on bail, there should have been no point in requiring his presence in the Thana again. Mangalsingh was then behind the bars, his bail application being already refused on the 25th March 1963. The mischief of a very serious nature could be expected from him and not from this boy who was according to the evidence adduced just a follower. So there is no evidence to show that Govindsingh was called or frequently pestered by the Police after his release. It is surprising that Raghuvirsingh would

make no enquiries from these constables when he saw them standing in front of his own house. He does not know their names.

76. Raghuvirsingh does not appear to be a witness of truth and, therefore, his evidence cannot be believed to say that the boy was harassed by the Police. The evidence of Police constables adduced by the authorities discussed above disproves the suggestion that the boy was called to the police either on 25th or 26th of March 1963 after his release on bail.

77. It will thus be seen that the charge that the Police beat the deceased very severely at the time of his arrest or when he was marched to the Police station or at the Police station or that he was harassed is baseless. It has no foundation in truth. The charge was levelled as it appears now distinctly by interested persons using *inter alia* Raghuvirsingh and Abhaysingh as their tools just to malign the police for their own ends.

78. It is also to be observed that Raghuvirsingh deposed that Sub-Inspector M. L. Shrivastava when he met him in the Kothi told him that he had given a sound warning to his brother and let him off without any documents from him. On the face of it this is highly improbable as I have shown above. After all this officer would have no interest in the boy and would not administer any warning on one who was for all purposes incorrigible and whose associations with Mangal Singh had been too deep and strong to be severed so soon. Law would have taken its own course and, therefore, there would be no occasion or necessity for such a gratuitous advice.

79. So considering all the evidence adduced by the authorities and collected by the Commission, one comes to the conclusion that is irresistible in the circumstances that the allegations made by these public agitators regarding police beating, torture or harassment as the cause of the boy's suicide are absolutely false.

80. I took care to examine most of the witnesses named by Shri Naik in the list. No list of witnesses was filed by the Nagrik Samiti. The witnesses named by the Nagrik Samiti include Advocate Shri K. P. Bhargava, and Shri Eklakh-Husain. Shri Eklakh-Husain has admitted with candidness that no relation of the deceased complained to him about the death of Govindsingh (C. W. 8—para. 4). Shri Ramprakash Malhotra and Shri Hari Moreshwar Joshi (C. W. 7) both members of the Legislative Assembly were not told any thing by any near relation of the deceased about the causes of his death. Even the evidence of Shri K. P. Bhargava is silent on the point although he did not hesitate to charge the police, in the meeting addressed by him in front of the house that evening, while the dead body lay awaiting funeral, that the boy committed suicide soon after release from Police custody because the Police had mercilessly beaten him (C. W. 3—para. 6). Shri Naik hazarded the charge in the written statement filed by him only on the basis of information supplied by Shris K. P. Bhargava, Mahendra Bhatnagar, Eklakh Husain, Dr. Kelkar, Thakurlal Jethwani and Mangalsingh without it appears, verifying the truth thereof.

81. It is thus clear that the charge that the Police beat this boy severely or harassed him and, therefore, on account of the fear of further beatings the boy committed suicide has no substance. My answer, therefore, to the first point raised above is an emphatic No.

82. **Point No. 2.**—With the above finding alone the task of the Commission does not come to an end. In terms of the reference it has still to enquire into the causes of the death of Govindsingh. The task is not an easy one for it is very very difficult to investigate about the workings of the mind of the deceased. The Commission in this situation cannot give a definite finding on this point. It can at the best indicate only the probable causes with some degree of certainty of course.

83. The deceased belonged to a family of Rajputs originally residing in Kaluheda a village about 12 miles distant from Ujjain. But the boy's father came over to Ujjain where he worked as a Patwari. After his death which took place about 4 or 5 years back, the responsibility of bringing up this boy fell on the shoulders of his brother Raghuvirsingh. But the family had its roots in Kaluheda and the boy visited that place very often. Shivrathsingh, the panch of Gram Panchayat, Kaluheda and a close relation of the boy and also his neighbour in Ujjain testifies that the boy was very hot by temperament though silent. This is what his brother also says. Pratapsingh (A. W. 36) knew him well because of his interest in watching Football matches and he says that the deceased was a hot-tempered boy.

84. But unfortunately, the boy came into contact with Mnagalsingh who had it appears a fancy for teen-agers. The fact is though the brother and the uncle may deny it that his associations with Mangalsingh were too thick to be easily broken. Pratapsingh knew of this association. Naturally Raghuvirsingh would also know of it when as a result of this association the boy had to face a criminal charge in 1961. He even warned him not to keep his company. (C. W. 12—para. 39). But in spite of this as the evidence discussed above shows the boy always kept company with Mangalsingh and they were almost inseparable. That accounts for the fact that the boy slept in the night of the 24th March 1963 at the house of Mangalsingh. After all his house was not far away and when he had to prepare for his examination we would naturally expect that he would come back to his house and sleep till the morning so that he may be fresh to begin his studies. This was not the solitary occasion for the boy to sleep there as Chaunnibai (C. W. 15) a neighbour of Mangal deposed. Mangal is a bachelor and his old mother who lived for sometime with him is also now gone. In these circumstances the fact of the association of this boy with Mangal is of some importance in analysing or rather in attempting to analyse the probable causes of his suicide.

85. The boy had failed in the previous year's examination and in the earlier classes also he took time to get through. This shows that the boy was not paying any serious attention to his studies and was wasting not only his time but also the precious little earnings of his brother spent on his education and up-bringing.

86. Association of a member of the family with a known bad character in the context of the known fancy of the latter for teen-agers is bound to reflect upon the reputation of the family as a whole and would naturally cause resentment amongst them. Unwittingly, Raghuvirsingh has admitted that he did not like his brother's association with Mangalsingh and though he does not say so specifically, one can read in his deposition (para. 39) that he must have even scolded him for it. After all that would be the natural reaction of a man who is compelled to defend a brother fallen in trouble because of bad company

Adolescence is a period in life when advice always does not bear the cherished fruit of correction. It, therefore, compels the use of rebuke to that end.

87. Advice and persuasion appear to have failed to help wean this boy from the company of Mangalsingh. For even after the first advice when he was put to trouble in 1961 and had to face a trial along with Mangalsingh, the boy continued to be in his company. Therefore, when he brought about a second misfortune upon him of his arrest that night during the examination like any sensible guardian anxious for the welfare of his ward, Raghuvirsingh would not but have scolded and even beaten him. He was not only a guardian but also a real elder brother. He has in his statement to the police (Ex. J) clearly admitted: "मैंने मेरे भाई गोविन्दसिंह को डांटा व एक दो चाटे भी मारे." Of course he denies having done so or even the fact of making such a statement. But his denial cannot be accepted when in all probability this would be the natural act of a brother guardian. The statement is natural in the circumstances.

88. The deceased was well aware of the fact that his uncle and brother, as would be natural with them, resented his association with Mangalsingh. He conveyed this to Pratapsingh (C. W. 36), and also to Noormohammad (A. W. 15) with whom he was forced to spend the night in that cell in the police station. The brother did not fail to express his resentment more than once. For according to Ramsingh (A. W. 26) about a month before his death, Raghuvirsingh rebuked him when he saw him and Mangal together drinking tea in his hotel. Once in the presence of Haji Ibrahimkhan (A. W. 27) also the boy was rebuked by his brother for his evil company. This would be natural and, therefore, there is no reason to disbelieve these witnesses.

89. Govindsingh himself was as it appears from the testimony of Gulabsingh (A. W. 34) fed up with the company of Mangalsingh, and expressed it to the witness. But he was probably afraid to leave the company of his bully-friend who threatened him with dire consequences if he parted. The boy was thus in a dilemma. It may, therefore, be that when faced with the scoldings and rebukes of his brother and other relations on the one hand and the threat of Mangalsingh on the other, this inexperienced youth found death to be the only way out of his predicament. He was also then apprehending failure in the examination once again as he communicated it to Pratapsingh a day previous to the day on which he died.

90. The mental condition of a young boy 18 years old in such a situation as this can well be imagined. On all sides he faced frustration and being silent by nature he could not give an outlet to his feelings. Therefore, it is not improbable in the circumstances that the boy put an end to his life on account of the above reasons. On the material that was produced and that was obtained by the Commission itself this seems to be a probable cause of his death in the circumstances in which it took place and not the beatings or harassment by the police or the fear thereof. My answer, therefore, to point No. 2 is that it may be so in all probability.

91. **Findings.**—In view of the reasons recorded in the foregoing paragraphs, I hold that the cause of death of Govindsingh son of Bhimsingh Chandravat of Ujjain is otherwise than beating or harassment by the police or fear thereof. It appears that a sense of frustration caused by the resentment of his brother and uncle on account of his association with Mangal and the tenacity with which Mangal intended to keep his hold on him were vexing the boy's mind very much. The apprehension of failure in the examination exercised it

further. And the immediate cause for such a drastic step appears to have been provided by the scoldings and beatings by his brother on his return from the police custody. An indication of it is also to be found in the last letter (Ex. D) of the deceased in which he expresses his solicitude for members of his family.

“मे अपनी इच्छा से आत्महत्या कर रहा हूँ इसमें मेरे घरवालों को किसी प्रकार से कुछ तकलीफ नहीं दी जावे.”
Perhaps the boy thought that on his death the police would question his brother and may even trouble him if they came to know that because of his scoldings and beating, he committed suicide.

92. **General**—A complaint was made before me by Abhaysingh that he was intimidated by Shri Balbirsingh, Deputy Superintendent of Police into giving evidence favourable to the Police. Similar charge was made by him and Raghuvirsingh against Sub-Inspector M. L. Shrivastava. Both these officers have come and deposed to rebut the accusation. Balbirsingh admitted that Abhaysingh came to him but he denies having given any threat to him. It must be said that in the circumstances then obtaining Shri Balbirsingh should have avoided meeting Abhaysingh who could be an important witness at his house and should not have talked about any matter how-so-ever remotely connected with the enquiry.

93. But for the wide charge that Police intimidated witnesses there is no evidence. Witness after witness examined by the Commission has sworn that no pressure of any kind was used against him by the Police. I have no reason to disbelieve their oath. Some of the witnesses, however, complained of intimidation, etc., by Mangalsingh and others (Chunnibai, C. W. 15 and Sherkan, A. W. 20). This should not happen, when a public inquiry is in progress.

94. Another grievance was made of the presence of a large number of police officers formerly posted in Jiwajiganj Thanā and acquainted with people there during the time of the progress of the commission. Shri Dharkar (A. W. 44), stated that it was because their help was considered necessary to collect matter for the cross-examination of witnesses of the other party residing in that locality and some of them were even considered necessary to be examined as witnesses. While there could be no objection to seeking all such help from the police officers in a better position to supply material required, their postings in Ujjain at the time of the commission may not be considered very appropriate. It is always necessary that no circumstances should exist which may create the slightest doubt about the workings of the concerned parties at the time of the Commission. There is, however, no evidence to show that they influenced or tried to influence witnesses.

95. A large contingent of Police was admittedly kept in the Jiwajiganj Police station. The best judge of the situation to justify their presence would be the Superintendent of Police. He stated that this was necessary in view of the then prevailing atmosphere created before the Commission was appointed and during its work. This Police Station controls a large area and it is admittedly nearly 3 to 4 miles away from the Police lines. When feelings are high, the slightest provocation may result in breach of public peace. Therefore, there should be no exception taken to the presence of a large number of policemen there in the interest of security and public peace, when the local staff stationed there was not adequate to meet such a contingency.

96. **General.**—The Commission is constrained to say here a few words about the circumstances in which it had to work in completing this enquiry. From the very beginning, the Nagrik Samiti gave an inkling of what subsequently transpired. Their prominent spokesman, *viz.*, Shri Bhatnagar and Shri K. P. Bhargava who were also their Advocates deliberately adopted a very insulting attitude towards the Commission and behaved in a manner unworthy of citizens who also happen to be members of the honourable profession of Advocates. In particular, Shri Bhatnagar transgressed the limits of decent behaviour.

97. Subsequent to that they held public meetings almost daily in the heart of the city where they criticised not only the Commission but also the member comprising it. Personal aspersions were made against me criticizing my judicial capacity also. This went on for several days. Threats of personal violence to me were also given. All this appears to have been a deliberate attempt to bring about a situation in which I should have myself resigned from the Commission. It is they, who it appears made a demand for a judicial probe. When it was conceded they came with a demand for the appointment of an Honourable Judge of the High Court as the Member of the Commission. This was not conceded. So they left the Commission on a very insignificant issue of venue only to agitate wildly in the public.

98. One of their meetings was addressed by Shri Chandra Pratap Tiwari, a Member of the State Legislature and alleged to be once a leader or deputy leader of the Socialist opposition in the House. Earlier he had begged permission of the Commission then sitting in private to watch the proceedings and it was given. But he rewarded the indulgence shown by the Commission by openly in a public meeting inciting the masses to arrest me and to forcibly remove the records of the proceedings from my custody. Not only that the learned Advocate General an integral constituent of the Government and the aged and distinguished member of the legal profession was also not spared. A ridiculous threat of stoppage of his retirement pension was held out to him, if he persisted in responding to the invitation of the Commission to assist it by his counsel. The local daily papers and the police reports kept with the record make a sorry exhibition of these antics of these leaders (?) of the people.

99. Much has come in the evidence of the police officers which throws a great light on the causes which may have led these leaders of the Nagrik Samiti to malign the police and then the Commission when it did not yield to their pressure tactics and their subsequent behaviour. I do not think it necessary to catalogue them here. I expected good behaviour.

100. The Commission is not a court and, therefore, the Contempt of Courts Act does not apply to it. It would certainly be a very unfair procedure for the Commission to lodge a complaint every time that it is mal-treated or insulted. It would, therefore, be in public interest for the Government to do something in the matter and further to seek some legislative measure to grant protection against such things to a Commission appointed under the Commission of Inquiry Act, 1952. The Government may also consider the desirability of making it very clear to all concerned before appointing such commission that in cases of misbehaviour before it the Commission shall cease to function and no further public inquiry would then be conceded. In

all such matters public feelings run high and if there is no adequate measure for keeping restraints on expressions made before it, judicial officers called upon to act on such commissions will find it a difficult duty to discharge.

101. **Thanks**—In the end I would like to place on record my appreciation of the Press who all along took a very objective view and reported the matter about the commission in a very fair manner. The general public of Ujjain also deserves my compliments for the remarkable restraint that they observed in spite of attempts at incitement. My thanks are also due to the learned Advocate General who readily obliged me with his valuable advice whenever requested. Shris Chitale and Balwantsingh Johar who represented the Authorities lent all their co-operation to me for which I am deeply beholden. The District Authorities who readily placed all relevant material and made all arrangements at the venue including those of security in those troubled days must also deserve my thanks.

✓ S. V. H. PAGARE.

Commission of Inquiry,
Ujjain (M. P.)

✓ Dated the 21st August 1963—Sravana 30, 1885.