

**NATIONAL HUMAN RIGHTS COMMISSION  
SARDAR PATEL BHAVAN  
NEW DELHI**

**NAME OF THE COMPLAINANT :** Suo motu  
**CASE NO. :** 150/6/2001-2002  
**DATE :** 1 May, 2002

**CORAM**  
**Justice Shri J.S. Verma, Chairperson**  
**Dr .Justice K.Ramaswamy, Member**  
**Justice Mrs. Sujata V.Manohar, Member Shri Virendra Dayal, Member**

**PROCEEDINGS**

Pursuant to the notice given by the Commission to the Government of Gujarat and the Ministry of Home Affairs, Govt. of India, as indicated in the proceedings dated 1 April 2002, the Government of Gujarat has sent its reply dated 13 April 2002 and the Ministry of Home Affairs, Govt. of India has sent an interim reply dated 16 April 2002 assuring a detailed reply by 30 April 2002. No further reply has been received from the Ministry of Home Affairs as yet.

The above reply of Government of Gujarat does not respond to the contents of the Confidential Report of the NHRC team referred to. In the proceedings dated 1 April 2002. A specific reply was sought to this Report to enable further consideration of the matter, in view of the allegations, made which are mentioned in that Report. Ordinarily, it would be in order to proceed with the further consideration of this matter with the available reply alone treating the contents of the Confidential Report as unrebutted. However, the Commission deems it fit to give a further opportunity to the Government of Gujarat to reply/comment on the specific matters mentioned in the above Report, confidentiality of which the Commission continues to maintain.

Accordingly, two weeks further time is given to the Government of Gujarat to reply/comment on the contents of the above Confidential Report of the NHRC team to enable further consideration of this matter. In these circumstances, the Ministry of Home Affairs, Govt. of India also is given further two weeks for its detailed replies required earlier, covering inter alia the contents of the said Confidential Report, already sent to it. Intimation to both be given by Fax today.

**Sd/- (Justice J.S.Verma) Chairperson**  
**Sd/- (Dr .Justice K.Ramaswamy) Member**  
**Sd/- {Justice Mrs. Sujata V Manohar) Member**  
**Sd/- (Virendra Dayal) Member**

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**NATIONAL HUMAN RIGHTS COMMISSION  
SARDAR PATEL BHAVAN  
NEW DELHI**

**Name of the complainant** : **Suo motu**  
**Case No.** : **1150/6/2001-2002**  
**Date** : **10 June 2002**

**CORAM**

**Justice Shri J.S. Verma, Chairperson**  
**Justice Shri K. Ramaswamy, Member**  
**Justice Smt. Sujata V. Manohar, Member**  
**Shri Virendra Dayal, Member**

**PROCEEDINGS**

1. In paragraph 6 of its Proceedings of 31 March 2002, the Commission had observed that there had been no response until that date from the Government of Gujarat in respect of the Confidential Report on the visit of the team of the Commission to Gujarat between 19-22 March 2002. The Commission had noted that this was so despite repeated oral reminders by the Commission and assurances by the State Government that a response would soon be forthcoming.

2. In these circumstances, as recorded in paragraph 7(B) of its Proceedings of 1 May 2002, the Commission had stated:

"It will not wait any longer for the response of the Government of Gujarat to the Confidential Report that was sent to it on 1 April 2002, enough time and opportunity having been provided to the State Government to comment on it. Instead, the Commission now considers it to be its duty to release that Confidential Report in totality. It is, accordingly, annexed to these Proceedings as Annexure I. The Commission had earlier withheld release of the Confidential Report because it considered it appropriate to give the State Government a full opportunity to comment on its contents, given the sensitivity of the allegations contained in it that were made to the team of the Commission that visited Gujarat between 19-22 March 2002. As and when the response of the State Government to that Confidential Report is received, the Commission will also make that public, together with the Commission's views thereon."

3. On 31 May 2002, after the Commission had despatched its Proceedings of that date, inter alia to the Chief Secretary, Government of Gujarat, the Secretary-General of the Commission received by fax a letter dated 30 May 2002 from the Chief Secretary, Government of Gujarat to which was attached a "Reply to the Confidential Report of the National Human Rights Commission."

4. The Commission has carefully considered that reply. In accordance with paragraph 7(B) of its Proceedings of 31 May 2002 that reply is being made public, together with the Chief Secretary's letter dated 30 May 2002 (see Annexure I).

5. The Commission does not consider that there is any need, at this stage, to express its views on that reply since it does not add substantially to the earlier reports received from the Government of Gujarat, notably that dated 12 April 2002. The Commission, however, is deeply disturbed by recent press reports stating that the charge-sheets filed thus far in respect of the Gulbarga Society and Naroda Patia

incidents lack credibility in as much as they are reported to depict the victims of violence as the provocateurs.

6. The Commission now awaits a reply from the Government of Gujarat to its Proceedings of 31 May 2002. Upon receiving that reply, which is due by 30 June 2002, the Commission will consider the nature of any further comments that it may wish to make in regard to the situation in Gujarat, including any views that it may need to express in respect of the reply that has been received in response to its Confidential Report.

**(Justice J.S. Verma)**  
**Chairperson**  
**(Justice K. Ramaswamy)**  
**Member**  
**(Justice Sujata V. Manohar)**  
**Member**  
**(Virendra Dayal )**  
**Member**

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**1.7.2002**  
**at 4.00 PM**

**Coram**

**Chairperson**  
**Dr.K.R.S.J, Member**  
**Mrs. S.V.M.J, Member**  
**Shri V.D., Member**

Reply of Gujarat Govt. dated 30 June 2002 and the reply of MHA dated 1 July 2002 are received. These replies will be carefully studied and the Commission will comment upon them, as needed, in the period ahead.

In the meantime, in view of the reported imminent plans to hold a series of Gaurav Yatras from 4 July 2002 and Jagannath Rath Yatras on 12 July 2002 in Gujarat, it has become necessary for the Commission to offer its comments thereon, because of the reported widespread apprehension that this could re-ignite communal violence in the State.

Accordingly, separate proceedings of the Commission are recorded in this respect.

Copy of the Proceedings be sent to the Gujarat Government and the MHA, Government of India by the Secretary General. The Chairperson is requested to send a copy of today's Proceedings to the Hon'ble Prime Minister for his information and necessary action.

**NATIONAL HUMAN RIGHTS COMMISSION  
SARDAR PATEL BHAWAN  
NEW DELHI**

**Name of the complainant** : **Suo motu**  
**Case No.** : **1150/6/2001-2002**  
**Date** : **1 July 2002**

**CORAM**

**Justice Shri J.S. Verma, Chairperson**  
**Dr. Justice K. Ramaswamy, Member**  
**Justice Mrs. Sujata V. Manohar, Member**  
**Shri Virendra Dayal, Member**

**PROCEEDINGS**

1. In paragraph 66 of its Proceedings of 31 May 2002 in respect of the situation in Gujarat, the Commission had indicated that it intended to continue to monitor the situation with care and it called upon the Government of Gujarat to report to it again, by 30 June 2002, on all of the matters covered in the Comments and Recommendations contained in those Proceedings, including the Confidential Report of 1 April 2002 transmitted to it earlier.
2. Subsequently, in paragraph 3 of its Proceedings of 10 June 2002, the Commission noted:  
"On 31 May, after the Commission had despatched its Proceedings of that date, inter alia to the Chief Secretary, Government of Gujarat, the Secretary-General of the Commission received by fax a letter dated 30 May 2002 from the Chief Secretary, Government of Gujarat to which was attached a reply to the Confidential Report of the National Human Rights Commission."
3. That reply was made public by the Commission on 12 June 2002, together with the Chief Secretary's letter dated 30 May 2002.
4. On 30 June 2002, the Commission received by fax a reply of that date from the Government of Gujarat to the Commission's Proceedings of 31 May 2002. That reply will be carefully studied and the Commission will comment upon it, as needed, in the period ahead.
5. On 1 July 2002, the Commission also received a response of that date from the Ministry of Home Affairs, Government of India to its Proceedings of 31 May 2002 and the recommendations made therein, "so far as it concerns the Central Government" (see Annexure I). The Commission has taken note of that response.
6. In the meantime, however, the Commission has learnt both from its Special Rapporteur in Gujarat, Shri P.G.J. Nampoothiri, and from numerous media reports, that there are imminent plans to hold a series of Gaurav Yatras all over Gujarat from 4 July 2002 and that Jagannath Rath Yatras are scheduled to be held on 12 July 2002 in over 70 locations of the State.
7. The reports indicate that there is a widespread apprehension both within sections of the Administration and among members of the public that this could re-ignite communal violence in the State. Of particular concern is the situation in Ahmedabad and Bhavnagar which, in the view of Shri Nampoothiri, Special Rapporteur of the Commission, and a former Director General of Police of Gujarat,

have "a distinct potential for disturbing communal peace." Shri Nampoothiri has recalled that large-scale rioting occurred in Ahmedabad in 1985 and 1992 at the time of the Jagannath Rath Yatra and that such violence had also occurred twice in Bhavnagar. Indeed, in 1985 in Ahmedabad, despite the police having persuaded the organizers to cancel the event in view of the on-going disturbances in the State, on the appointed day, a full procession was held, defying the police ban. Shri Nampoothiri adds that "though the army had been deployed in the city, the procession passed through sensitive areas resulting in large-scale rioting."

8. Given this unfortunate history, of which the authorities in the Centre and State are fully aware, the Commission urges all concerned – including non-State actors in Gujarat – to behave in such a way that the peace is not disturbed and innocent residents of the State are not exposed, yet again, to violence or the threat of violence. Apprehensions have also been expressed that the Gaurav Yatras being planned might be countered by rival rallies and that, as a result, the situation could become volatile for this reason as well. The Commission trusts that this danger, too, will be avoided and contained by the Government and others concerned. The Commission recalls that, when its team visited Gujarat between 19-22 March 2002, an appeal was made by its Chairperson that the 'Asthi-kalash Yatra' planned from 27 March 2002, in the wake of the Godhra tragedy, be not proceeded with. At that time the Chief Minister had personally intervened to have that programme withdrawn. The Commission therefore expects that all due care will be taken by the State Government in the coming days - both at the political and at the administrative levels - to prevent situations arising that have the potential to endanger lives and property and that can lead to the violation of human rights.

9. The Commission would like to recall, in this connection, certain positions that it took in its Proceedings of 1 April 2002, when it held, inter alia, that: "... it is the primary responsibility of the State to protect the right to life, liberty, equality and dignity of all those who constitute it. It is also the responsibility of the State to ensure that such rights are not violated either through overt acts, or through abetment or negligence."

The Commission then added that:

".... it is a clear and emerging principle of human rights jurisprudence that the State is responsible not only for the acts of its own agents, but also for the acts of non-State players acting within its jurisdiction. The State is, in addition, responsible for any inaction that may cause or facilitate the violation of human rights."

10. The Commission would, further, like to draw attention to its Proceedings of 31 May 2002, in which it underlined the unambiguous duty of the police and the magistracy to fulfil their statutory responsibilities under the laws of the land and in accordance with the circulars and guidelines already issued by the Central Government on matters relating to the promotion of communal harmony and the maintenance of law and order. As those responsibilities and the relevant statutory provisions, circulars and guidelines are detailed fully in the Commission's Proceedings of 31 May 2002, they are not being repeated here. Suffice it to say, however, that those laws and directives clearly lay down the manner in which the police and magistracy are expected to function and that any failure to discharge their responsibilities in accordance with those statutory provisions, circulars and guidelines would render the delinquent public servants personally liable and accountable for their conduct.

11. It is opportune here to recall the rulings of the High Court of Madras in two cases having to do with the duty of a magistrate when public peace is threatened, inter alia, by the taking out of processions in public streets. In Sundram Chetti and

Others vs The Queen (1883 ILR 6 Mad. 203 (F.B.)), it was held:

" The first duty of the Government is the preservation of life and property, and, to secure this end, power is conferred on its officer to interfere with even the ordinary rights of members of the community .... In this view, it matters not whether the exercise of the rights of procession is of ancient usage or a novelty; the Government is not bound to deprive some members of the community of the services of the force that is found necessary for the protection of their lives and property to enable others to exercise a right which not only is not indispensable to life or to the security of property, but, in the case assumed, creates an excitement which endangers both..... Where rights are threatened, the persons entitled to them should receive the fullest protection the law affords them and circumstances admit of. It needs no argument to prove that the authority of the Magistrate should be exerted in the defence of rights rather than in their suspension; in the repression of illegal rather than in interference with lawful acts. If the Magistrate is satisfied that the exercise of a right is likely to create a riot, he can hardly be ignorant of the persons from whom disturbance is to be apprehended, and it is his duty to take from them security to keep the peace"

In similar vein, in Muthialu Chetti vs. Bapun Saib (1880 ILR 2 Mad. 142) the High Court of Madras held:

"For the preservation of the public peace he (the Magistrate) has a special authority – an authority limited to certain occasions ....If he apprehends that the lawful exercise of a right may lead to civil tumult, and he doubts whether he has available a sufficient force to suppress such tumult, or to render it innocuous, regard for the public welfare is allowed to override temporarily the private right, and the Magistrate is authorised to interdict its exercise."

12. It is worth emphasizing, in this connection, that these two rulings of the High Court of Madras were quoted with approval by the Supreme Court in the Ayodhya Judgement (M. Ismail Faruqui vs. Union of India, AIR 1995 S.C.605) when it was observed that, even prior to the guarantee of freedom of religion in the Constitution of India, it had been held that all religions were to be treated equally, with the State maintaining neutrality between them having regard to the public welfare. It follows, then, that there is even greater need now, in the light of the Constitutional guarantees that exist, for the State and its agents to act in accordance with that principle.

13. The Commission has had occasion to stress that it is essential to heal the wounds and to look to a future of peace and harmony in Gujarat. The Commission has, however, added that the pursuit of these high objectives must be based on justice and the upholding of the Constitution and the laws of the land.

14. It therefore remains fundamentally important, in such circumstances, that those who are responsible for the promotion of communal harmony and the maintenance of law and order – whether in the political or administrative leadership – should discharge their duties in the present and future in accordance with that Constitution and the relevant statutory provisions, or be answerable for such acts of omission or commission that result in the violation of the law and the rights to life, liberty, equality and dignity of their fellow human beings.

**(Justice J.S. Verma)**  
**Chairperson**

**(Justice K. Ramaswamy)**  
**Member**  
**(Justice Sujata V. Manohar)**  
**Member**  
**(Virendra Dayal)**  
**Member**

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**NATIONAL HUMAN RIGHTS COMMISSION**  
**SARDAR PATEL BAHWAN**  
**NEW DELHI**

**Name of the complainant** : **Suo motu**  
**Case No.** : **1150/6/2001-2002**  
**Date** : **25 September 2002**

**CORAM**

**Justice Shri J.S. Verma, Chairperson**  
**Justice Mrs. Sujata V. Manohar, Member**  
**Shri Virendra Dayal, Member**

**PROCEEDINGS**

The Commission, sharing the nation's shock and grief, strongly condemns the outrageous terrorist attack which occurred against innocent civilians at the Akshardham temple in Gandhinagar on 24 September 2002 and continued into this morning.

The Commission has consistently taken the position that such criminal acts are in any circumstances unjustifiable, whatever reasons may be invoked to justify them. They are violative of every conceivable human right. The full force of the law must be brought to bear in dealing with such acts of terrorism and in bringing to justice those who perpetrate or abet them.

The Commission extends its deepest condolences to the families of those who have lost their lives or been injured in the terrorist attack, including those of the security forces.

The Commission greatly appreciates the prompt statements made by leaders of political parties, as also leaders of various communities, urging that inter-communal harmony be maintained.

The Commission, for its part, urges all elements of civil society to cooperate fully with the authorities in their effort to maintain law and order and to preserve and protect the human rights of all of the people of Gujarat and, indeed, of the country as a whole. Nothing should be done to divert the attention of the authorities from the fulfilment of their responsibilities in this respect, nor should any encouragement be given to any act or statement that could exacerbate the present situation.

**(Justice J.S. Verma)**  
**Chairperson**  
**(Justice Sujata V. Manohar)**  
**Member**

**(Virendra Dayal)**  
**Member**

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**NATIONAL HUMAN RIGHTS COMMISSION  
SARDAR PATEL BHAWAN  
NEW DELHI**

**Name of the complainant :In re. Custodial death of Samirkhan Sarfarazkhan Pathan**

**Case No. :452/6/2002-2003**

**Date :28 October, 2002**

**CORAM**

**Justice Shri J.S.Verma, Chairperson  
Justice Mrs. Sujata V. Manohar, Member  
Shri Virendra Dayal, Member**

**PROCEEDINGS**

Even though intimation of the custodial death of Samirkhan Sarfarazkhan Pathan has been received from the Office of the Joint Commissioner of Police, Ahmedabad City, there are also newspaper reports mentioning some disturbing circumstances in which the killing took place. It is to ensure a fair inquiry into all such killings and to also ensure thereby compliance with the rule of law that the NHRC has issued guidelines requiring the procedure to be followed in such cases before reaching the conclusion that the killing was justified under the law and it was not the result of a fake encounter or death caused by custodial violence. It is, therefore, necessary for the Commission to examine the death so reported in that light.

Issue notice to the Chief Secretary, Gujarat and the Commissioner of Police, Ahmedabad to reply within two weeks giving the details of the procedure followed in the present case and also mentioning clearly whether the procedure adopted is in accordance with the NHRC guidelines issued for the purpose. A copy of this proceedings as well as that of the NHRC guidelines be sent to the noticees for ready reference.

**(Justice J.S.Verma)**  
**Chairperson**

**(Justice Sujata V.Manohar)**  
**Member**

**(Virendra Dayal)**  
**Member**



**NATIONAL HUMAN RIGHTS COMMISSION  
SARDAR PATEL BHAWAN  
NEW DELHI**

**Name of the complainant :Suo motu  
Case No. :1150/6/2001-2002  
Date :16 June, 2003**

**CORAM**

**Dr.Justice A.S. Anand, Chairperson  
Justice Mrs. Sujata V. Manohar, Member**

**PROCEEDINGS**

Through its proceedings of 21 May, 2003, the Commission noticed that some cases arising out of Godhra and post-Godhra violence were under trial in various courts and that the Justice Nanavati Commission of Enquiry was also recording evidence of witnesses as per the terms of its reference. The Commission observed that the right to fair trial is a Constitutional imperative and fairness of a trial includes, proper protection of the rights of the accused as also the capacity of witnesses to come forth to make true and faithful statements in respect of matters within their knowledge, without any fear or favour and further that fair trial envisages a fair deal to the victims also. The Commission, therefore, asked the Director General of Police, Gujarat to respond to the following query:

“Whether any measures have been taken to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses who have to depose either in court or before the Commission of Enquiry and, if so, the nature of that protection to enable them to depose freely and fearlessly.”

The DGP, Gandhinagar, Gujarat has submitted his report dated 3 June, 2003 in which it has been stated that a total of 2037 cases have been charge-sheeted in various criminal courts all over the State. Responding to the query as to what measures have been taken to protect the safety, physical and psychological well being of the victims and witnesses, the DGP has indicated that in the absence of any specific complaint from any witness/victim, it would not be possible for the State Police to accord protection to each and every witness/victim. He has stated that witnesses are free to approach the police officers seeking protection. He has further submitted that prompt action was taken to provide due protection to the witnesses/victims when so requested in the following two cases:

(i) “Ahmedabad City Naroda Police Station CR No. 238/02 and Naroda Police Station CR.No.100/02. In these cases witness Nadeem Mohamad Ali Saiyed, r/o Jubapura, Ahmedabad City, had filed SCA No.488/02 before the Hon. High Court of Gujarat for police protection. Accordingly, he has been provided with a Constable (in 2 shifts), with effect from 5.9.2002.

(ii) During the visit of Hon. Justice Nanavati Commission to Banaskantha district on 30.4.2003, some Muslim victims of village Navasesan, taluka Deodar, had requested for police protection. From that day onwards, 7 Border Wing Police Jawans along with 2 Mounted Policemen had been deployed in that village, which arrangement has continued till date. "

The DGP has then assured this Commission:

"It is submitted that all the Superintendents of Police and Commissioners of Police have been duly instructed to ensure that due protection is given immediately whenever any witness/victim requests for the same or expresses apprehension to his safety".

In view of the above assurance by the DGP (Gujarat) we hope that witnesses/victims will appear before the trial courts or the Commission of Enquiry, as the case may be, and make true and faithful statements in respect of matters within their knowledge without any fear or favour. Should any effort be made to intimidate them or tamper with their evidence by any agency, the witnesses/victims should approach the superintendent of police of the concerned area with a complaint and seek protection.

In view of the assurance by the DGP, as noticed above, appropriate steps will be taken by the Superintendent of Police/Commissioner of Police when so approached by the witnesses/victims. In case of police inaction on their request, the witnesses/victims may bring the matter to the notice of the Special Rapporteur of NHRC, Shri Nampoothiri, who will take up the matter with DGP (Gujarat) and send intimation to this Commission.

A copy of these proceedings be sent to the DGP (Gujarat) as also to the Special Rapporteur, NHRC, Shri P.G.J. Nampoothiri. The Special Rapporteur will apprise the witnesses/victims about the assurance of the DGP, Gujarat personally or through the concerned NGOs.

The Commission hopes that the assurance of the DGP, noted above, would help in having fair trials conducted.

A complaint has been sent by Shri Mufti Shabbir Ahmed Siddiqui dated 5.5.2003. Let a copy of the same be transmitted to the Chief Secretary and the DGP, Gujarat for their comments within four weeks.

**(Justice A.S.Anand )**  
**Chairperson**

**(Justice Sujata V.Manohar)**  
**Member**

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**National Human Rights Commission**  
**Sardar Patel Bhavan**  
**New Delhi**

**Name of the Complaint : Suo Motu**  
**Case No. : 1150/6/2001/2002**  
**Date : 30th June, 2003**

**Coram**

**Dr. Justice A.S. Anand, Chairperson**  
**Justice Smt. Sujata V. Manohar, Member**

**Proceedings**

From the Newspaper reports it appears that all the accused in what came to be known as "Best Bakery Case" have been acquitted. The Chief Secretary, Government of Gujarat be requested to forward to this Commission, within one week, a copy of the judgment of the Trial Court. The Chief Secretary shall also inform the Commission what steps, if any, the Government of Gujarat is proposing to take against the order of acquittal.

**(Justice A.S. Anand)**  
**Chairperson**

**(Justice Sujata V. Manohar)**  
**Member**

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**National Human Rights Commission**  
**Sardar Patel Bhawan**  
**New Delhi**

**Name of the Complainant : Suo Motu**  
**Case No. : 1150/6/2001/2002**  
**Date : 3rd July, 2003**

**Coram**

**Dr. Justice A.S. Anand, Chairperson**  
**Justice Smt. Sujata V. Manohar, Member**

**Proceedings**

Keeping in view the seriousness of the issue involved in the order of acquittal in the "Best Bakery Case", the Commission considers it appropriate to immediately depute a team of the Commission to proceed to Vadodara to inspect the records of the case, examine the judgment and all other relevant materials and submit a report to the Commission. The team shall comprise of:

- i) Shri Ajit Bharihoke, Registrar, NHRC
- ii) Shri Sudhir Chowdhary, DIG (Investigation), NHRC

iii) Shri P.G.J. Nampoothiri, Special Rapporteur, NHRC

The team may associate any local lawyer for its assistance in consultation with the Special Rapporteur.

Hon'ble the Acting Chief Justice of the Gujarat High Court, the Trial Court and the State Government are requested to extend all possible assistance and facilities to the team to carry out the mandate of the Commission.

The report shall be submitted within one week.

**(Justice A.S. Anand)**  
**Chairperson**

**(Justice Sujata V. Manohar)**  
**Member**

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**NATIONAL HUMAN RIGHTS COMMISSION  
SARDAR PATEL BHAVAN  
NEW DELHI**

**Name of the complainant : Suo motu**

**Case No. : 1150/6/2001-2002**

**Date : 11 July 2003**

**CORAM:**

**Dr. Justice A.S. Anand, Chairperson**  
**Justice Smt. Sujata V. Manohar, Member**  
**Shri Virendra Dayal, Member**

**PROCEEDINGS**

1. Given the seriousness of the issues involved in the order of acquittal in the "Best Bakery Case", the Commission, through its Proceedings of 3rd July 2003, instructed a team to proceed to Vadodara to inspect the records of the case, examine the judgement and all other relevant materials and submit a report to the Commission within one week.

2. The team, comprising Shri Ajit Bharihoke, Registrar, NHRC, Shri Sudhir Chowdhury, DIG (Investigation), NHRC and Shri P.G.J. Nampoothiri were in Vadodara on 8 July 2003 and brought back with them the relevant materials pertaining to the Best Bakery Case. As these materials are voluminous in nature and written in Gujarati, the team has, today, submitted an interim report requesting, inter alia, that it be accorded further time in which to translate and examine the materials and to submit its report to the Commission. The Commission has taken note of this request and agrees to it. Let the report be submitted expeditiously.

3. Miss Sheikh Zahirabibi Habibullah approached the Commission and made a statement before it today. Inter alia, she stated that under threat to her life and the life of the remaining members of her family, she had resiled in the Trial Court from the earlier statements made by her. She sought the help of the Commission to reopen the Best Bakery Case. The Statement has been placed on record.

4. List in the week commencing 21 July 2003.

**(Justice A.S. Anand)**  
**Chairperson**

**(Justice Smt. Sujata V. Manohar)**  
**Member**

**(Shri Virendra Dayal)**  
**Member**

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### **NHRC decides to move the Supreme Court in Best Bakery case Transfer application also moved in respect of 4 other serious cases**

In response to repeated requests from representatives of the print and electronic media regarding the action being taken by the Commission in the Best Bakery case, the Commission would like to state the position which is as follows:

Deeply concerned about the damage to the credibility of the criminal justice delivery system and negation of human rights of victims, the National Human Rights Commission, on consideration of the report of its team which was sent to Vadodara, has today filed a Special Leave Petition under Article 136 of the Constitution of India in the Supreme Court with a prayer to set aside the impugned judgement of the Trial Court in the Best Bakery case and sought directions for further investigation by an independent agency and retrial of the case in a competent court located outside the State of Gujarat.

The NHRC has, inter-alia, contended in the SLP that

- The concept of fair trial is a constitutional 'imperative and is explicitly recognized as such in the specific provisions of the Constitution including Articles 14, 19, 21, 22 and 39A of the Constitution as well as the various provisions of the Code of Criminal Procedure 1973 (Cr.P.C).

- The right to fair trial is also explicitly recognized as a human right in terms of Article 14 of the International Covenant on Civil and Political Rights (ICCPR) which has been ratified by India and which now forms part of the statutory legal regime explicitly recognized as such under Section 2(1)(d) of the Protection of Human Rights Act, 1993.

- Violation of a right to fair trial is not only a violation of fundamental right under our Constitution but also violative of the internationally recognized human rights as spelt out in the ICCPR to which India is a party.

- Whenever a criminal goes unpunished, it is the society at large which suffers because the victims become demoralized and criminals encouraged. It therefore, becomes duty of the Court to use all its powers to unearth the truth and render justice so that the crime is punished.

- It is, therefore, imperative in the interests of justice for the Hon'ble Supreme Court, in exercise of its powers under Article 142 of the Constitution, to lay down guidelines and directions in relation to protection of witnesses and victims of crime in criminal trials which can be adhered to both by the prosecuting and law enforcement agencies as well as the subordinate judiciary. This is essential in order to enhance the efficacy of the criminal justice delivery system.

The Commission has also filed a separate application under Section 406 Cr.P.C. before the Supreme Court for transfer of four other serious cases, namely, the Godhra incident, Chamanpura (Gulburga society) incident, Naroda Patiya incident and the Sadarpura case in Mehsana district, for their trial outside the State of Gujarat.