

TIME RECEIVED  
September 23, 2015 4:11:52 PM GMT+0  
23/09/2015 15:35 permanent mission of India

REMOTE CSID  
0041229068696

DURATION PAGES  
228 9  
(FAX)0041229068696

STATUS  
Received  
P.001/009



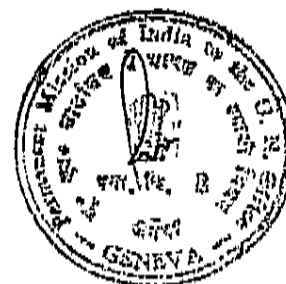
**PERMANENT MISSION OF INDIA  
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NV.58/2015

23 September 2015

The Permanent Mission of India to the Office of the United Nations and other International Organisations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and, with reference to Joint Communication No. AL IND 6/2015 dated 4<sup>th</sup> August 2015 from the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders, has the honour to enclose herewith a response to the points raised in the above-mentioned joint communication.

The Permanent Mission of India to the Office of the United Nations and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



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**Permanent Mission of India**  
**Geneva**

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With reference to the Joint Communication AL IND 6/2015 dated 4<sup>th</sup> August 2015 from the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, and the Special Rapporteur on the situation of human rights defenders, a consolidated response of the Government of India to the '*allegations of unfounded investigations and charges against Ms. Teesta Setalvad and Mr. Javed Anand in relation to their legitimate and peaceful human rights work, as well as measures allegedly restricting access to their organizations*' raised by the Special Procedures mandate holders in their joint communication is placed below:

The Office of the Commissioner of Police, Ahmedabad City had received a written complaint against Ms. Teesta Setalvad and others. An offence was lodged against Ms. Setalvad and others vide DCB Police Station Cr No. 01/2014 under Sections 406, 420, 468, 120(b) of Indian Penal Code (IPC) and under Section 72(a) of the IT Act. The facts of the case filed against Ms. Setalvad are as under:

1. On 12.3.2013, a complaint made by 11 members/residents of the Gulbarg Co-Operative Housing Society, Chamanpura, Ahmedabad, was given to the Joint Commissioner of Police, Crime Branch, Ahmedabad City, alleging that every year, since the unfortunate riots in 2002, members of the NGOs had been organizing a function in the memory of those who had lost their lives in the unfortunate riots, particularly in the Gulbarg Society incident. During such functions, various schemes for rehabilitation of the riot victims, financial support and support for the reconstruction of the victims' houses etc. were announced by Ms. Setalvad, under the banner of her NGO, "Citizen for Justice & Peace"(CJP) and "Sabrang Trust".
2. Over a period of time, Ms. Setalvad established close ties with the riot victims. In December 2007, she floated the idea to purchase all the damaged houses of the Gulbarg Society at the prevalent market price to

convert the houses into "Gulbarg Society Museum of Resistance", promising to pay the money within one month, if the members of the society consented not to sell the property elsewhere and cooperated with her in raising funds through publications, interviews, programs etc. Formal proposal was given in January 2008 by the Sabrang Trust, a Mumbai based organisation in which Ms. Setalvad and Mr. Javed Anand are main trustees. Society members were also assured a full reimbursement of the rent expenses born over the years. Written consent of all the members of the society was taken in the year June 2008 by the Chairman and the Secretary of the Society and accordingly a resolution dated 29.06.2008 was passed by the Society in favour of Sabrang Trust authorizing its trustees to negotiate the sale of properties and raising funds for the development of the Museum of Resistance in the society.

3. However, even after a lapse of four years, no financial support for the reconstruction of the houses of the inhabitants of Gulbarg Society was disbursed by the Sabrang Trust headed by Ms. Setalvad. Moreover, no rent, as promised by Ms. Setalvad, was ever reimbursed to the members/residents of the society, nor the society was converted into a Museum as repeatedly promised by Ms. Setalvad and Mr. Anand. All of a sudden, Ms. Setalvad and Mr. Anand, in connivance with the Chairman and the Secretary of the society, passed a resolution on 10.11.2012 stating that the Sabrang Trust was no longer interested in purchasing the houses for the development of the Museum and the society members were free to sell off their property. During this period, Ms. Setalvad and Mr. Anand had collected crores of rupees from national and international donors to help riot victims and developing the Gulbarg Society Museum.

4. Members of the society addressed a letter dated 21.02.2013 to Ms. Setalvad requesting her to furnish the details of the funds collected as donations for the reconstruction of their houses and the conversion of society into a Museum. Ms. Setalvad did not respond to the letter.

5. Tired by such annual functions, wherein the riot victims were projected as showpieces in front of the media by Ms. Setalvad through her NGOs, CJP and Sabrang Trust, a memorandum was submitted on 18.02.2013 by 15 members/residents of the society to the Commissioner of Police, Ahmedabad, requesting him to prohibit outsiders from entering the Gulbarg Society on 28 February 2013, the anniversary of the

fateful incident that took place in Gulbarg Society, for organizing any function.

6. The members/residents of the Gulbarg Society alleged that the CJP and Sabrang Trust, run by Ms. Setalvad and Mr. Anand, were involved in collecting huge foreign funds as donations from national and international organisations ostensibly to provide financial assistance, legal assistance etc. to the 2002 Gujarat riot victims. The applicants referred to details furnished by the Ministry of Home Affairs, Government of India, stating that according to the FC Form-3 submitted by the CJP, during the period between 2009 to 2011, foreign donations to the tune of Rs. 63 lacs (approximately USD 96,495 at current exchange rate) were received in the IDBI Bank Account No. 014104000204204736 of CJP and during the period from 2008 to 2011, foreign donations to the tune of Rs. 88 lacs (approximately USD 132,569 at current exchange rate) were received in the Union Bank of India Account No.369102010802885 of Sabrang Trust. Based on these allegations, a complaint dated 12.03.2013 addressed to the Joint Commissioner of Police, Crime Branch, Ahmedabad City, duly signed by the 11 members/residents of the society, was submitted with a request to register a First Information Report against Ms. Setalvad, Mr. Anand and others.

7. On receipt of the complaint dated 12.02.2013, made by the residents of Gulbarg Society, the Crime Branch carried out a preliminary inquiry into the matter. Statements of several witnesses were recorded. Website details of the CJP/Sabrang Trust had been recovered by drawing panchnamas (Mediators report).

8. The Investigating officer (IO) addressed a communication dated 18.03.2013 to Ms. Setalvad and Mr. Anand, seeking copies of audited accounts statements and balance sheet, of CJP and Sabrang Trust, for the past ten years apart from other information regarding foreign donations received from national and international institutions for providing financial and legal assistance to riot victims and the utilization of the above mentioned funds. Specific queries were raised with regard to the receipt and utilization of donations received from the national and international bodies and private individuals for providing legal, financial assistance to the riot victims and for donation received for development

of the Museum of Resistance in the account of CJP and Sabrang Trust. Ms. Setalvad and Mr. Anand, vide a letter dated 26.03.2013, while declining to furnish any specific details that were sought for, instead indulged in maligning of the constitutional functionaries of the State government.

9. The concerned IO sent a second communication on 08.05.2013 to Ms. Setalvad and Mr. Anand seeking information as sought for earlier, calling upon them to cooperate with the investigation and furnish necessary details. Mr. Setalvad and Mr. Anand, vide letter dated 20.05.2013, informed the IO that they had received Rs. 4,60,000/- (approximately USD 6920 at current exchange rate) for the proposed Museum. They added that their accounts were audited and submitted to the relevant authorities and investigation into the matter reflected the vindictive attitude of the forces trying to subvert the process of justice. However, they did not furnish the details sought for by the IO.

10. The IO made a request by letter to the Ministry of Home Affairs (MHA), Government of India, seeking details of the permission granted to CJP and Sabrang Trust, enabling receipt of foreign donations under Foreign Contribution (Regulation) Act (FCRA). MHA intimated the IO that CJP and Sabrang Trust obtained FCRA registration on 21.11.2007 bearing registration No.083781099 and No.083781100 under the category of "Educational, Social and Economic Educational" respectively.

of CJP and Sabrang Trust, the IO addressed a communication to the Charity Commissioner, Mumbai for providing the above-mentioned documents. The Office of the Charity Commissioner, Mumbai, initially furnished a few years' audit reports of Sabrang Trust and CJP which were clearly at variance with the bank statements received.

14. Satisfied with the preliminary investigation conducted during 11 months and after verifying the allegations, it was found that the alleged offense was committed by the accused persons and therefore on 04.01.2014, an FIR was registered against Ms. Setalvad and others vide Ahmedabad City, DCB Police Station I CR No.01/2014 under sections 406, 468, 120(b) of IPC and under section 72(a) of IT Act. Apprehending the police action, Ms. Setalvad and Mr. Anand approached the courts for anticipatory bail and other legal remedy. Details of the petitions preferred by Ms. Setalvad and Mr. Anand are as under:

**Cases preferred by Ms. Teesta Setalvad and Mr. Javed Anand**

- (a) Filed an application for anticipatory bail on 07.01.2014 before the Hon'ble Bombay High Court bearing ABA No.14 of 2014. Transit bail was granted to enable the petitioner to approach the appropriate court and same was disposed of on 31.01.2014.
- (b) Filed a Criminal Writ Petition No.173 of 2014 for quashing of FIR No. Ahmedabad City DCB P.Stn I CR No.01/2014 before the Hon'ble Bombay High Court. The same was dismissed on 04.04.2014 on the ground of territorial jurisdiction.
- (c) Filed an SLP (Criminal) 1770/2014 in the Hon'ble Supreme Court on 20.02.2014 against the order dated 31.01.2014 passed by the Hon'ble Bombay High Court in ABA No. 14/2014. The Hon'ble Supreme Court declined to interfere with the impugned order and disposed off the said SLP on 24.02.2014 directing the accused to approach the appropriate Courts in Gujarat.

It is noteworthy that prior to 24.02.2014, when the matter came up for hearing before the Hon'ble Supreme Court, the accused had already acquiesced to the orders passed by the Hon'ble Bombay High Court and approached the Sessions Court in Ahmedabad on 21.02.2014 through MCA No.761/2014 seeking anticipatory bail under section 438 of Cr. P.C.

On 24.02.2014, having heard the counsels for the petitioners, the Hon'ble Supreme Court passed the following order:

*"The matter relates to grant of Anticipatory Bail under Section 438 of the Code of Criminal Procedure. The Bombay High Court vide impugned order dated 31<sup>st</sup> January, 2014 allowed the petitioners to move before the appropriate Court in Gujarat for said relief and granted Transit Bail for four weeks so as to enable the petitioner to approach before the appropriate Court in Gujarat. Having heard the learned Counsel for the petitioners, we are not inclined to interfere with the impugned order.*

*However, taking into consideration the nature of the case and submission made on behalf of the petitioners, we extend the Transit Bail in favour of petitioners upto 31<sup>st</sup> March, 2014 so as to enable the petitioners to approach the appropriate Court in Gujarat. If such petition is filed, the appropriate Court in Gujarat will consider the same independently without being influenced by any observation made by the Bombay High Court".*

On 24.02.2014, when the matter was taken up for hearing before the Hon'ble Supreme Court, the accused had already accepted the judgment and order passed by the Hon'ble Bombay High Court and on 21.02.2014 had approached the Sessions Court in Ahmedabad seeking Anticipatory Bail. When the matter was being argued, it was the duty of the accused to disclose the true and correct facts before the Hon'ble Supreme Court which they intentionally did not do to secure favourable orders.

- (d) Filed a Criminal Misc. Application No. 761/2014 on 21.02.2014 for anticipatory bail before the Ld City Civil & Sessions Courts, Ahmedabad. The learned Sessions Judge vide order dated 25.03.2014 declined to enlarge the accused on anticipatory bail on the ground that upon examination of documents and evidence, there was a strong prima facie case establishing misappropriation of huge funds received in the accounts of "Citizens for Justice & Peace (CJP) and "Sabrang Trust", the two NGOs where the accused are managing trustees. The learned City Sessions Judge also took note on the suppression of material facts from the Hon'ble Supreme Court in the applications preferred by the accused.
- (e) Ms. Setalvad filed a Criminal Misc. Application No. 4677 of 2014 on 27.03.2014 before the Hon'ble Gujarat High Court, Ahmedabad

against the order dated 25.03.2014 of the Ld City Civil & Sessions Courts for anticipatory bail. At the initial stage of the hearing, Ld. Additional Advocate General made statements before the Hon'ble High Court that the accused persons will not be arrested till the next date of hearing. This interim relief was extended from time to time by the Hon'ble High Court. Finally the matter was heard at length by the Hon'ble Gujarat High Court. CAV judgment was pronounced by the Hon'ble High Court (Quorum: Justice J.B. Paradiwala) on 11.02.2015. The Hon'ble High Court dismissed the petition on the merits of the case vide CAV judgement R/CR.MA/4677/2014 of 11.02.2015.

- (f) Ms. Setalvad and others filed SLP (Crl) No.1512/2015 before the Hon'ble Supreme Court. Subsequently, this was converted into Criminal Appeal No.338/2015. The Hon'ble Supreme Court (Quorum: Justice Dipak Mishra & Justice Adarsh Kumar Goel) passed the following order on 19.03.2015:

*As we are referring the matter to a larger bench, the interim orders passed on 19.02.2015 shall remain in force till the larger bench takes up the matter.*

- (g) Ms. Setalvad and others filed Special Criminal Application No.2710 of 2014 on 07.07.2014 before the Hon'ble Gujarat High Court, Ahmedabad for de-freezing of the accounts of their trusts/NGO. The matter is pending before the Hon'ble Court.

15. The investigation has revealed that prior to 2007, there was a negligible receipt in the accounts of the CJP and Sabrang Trust and it was only after the accused through their websites, newsletters, interviews, CDs, etc., had expressed an urgent need for funds to save and rehabilitate the riot victims and set up a "Museum of Resistance" that donations from all over the world started pouring into these accounts.

16. During the course of a preliminary inquiry and the subsequent investigation, statements of various witnesses had been recorded under Sections 161 and 164 of the Criminal Procedure Code before the Learned Metropolitan Magistrate. The investigation in connection with the offense in question is at a very crucial stage.

17. The investigation is being conducted impartially, fairly and judiciously. For the purpose of above preliminary inquiry and investigation, several opportunities were given to the accused to furnish the desired details which they failed to do and choose not to cooperate with the investigation. It is not true that DCB, Crime Branch Ahmedabad has filed any false and frivolous FIR against the accused persons with malafide intentions. The statement of accounts proves beyond doubt that a substantial amount of donation received for the welfare of the riot victims was actually siphoned by Ms. Setalvad and Mr. Anand in their personal accounts as well as in the accounts of their privately owned company which is a very serious offense.

18. It becomes amply clear from the above facts that the allegations/ averments contained in the Joint Communication 6/2015 dated 4<sup>th</sup> August 2015 are vague, biased and baseless and have no substance. In no way the State Government of Gujarat is vindictive against the accused persons. A complaint was presented by affected persons, who were once upon a time with the accused persons, for misappropriation of their money and to play with their emotions. A thorough preliminary investigation was carried out by the Gujarat State police and after getting the substantial and corroborative evidences in the representation, after thoughtful consideration, an FIR was lodged against the accused persons by the Gujarat State police.

**September 17, 2015**