

**REPORT
OF
GUMNAMI BABA
@ BHAGWANJI**

INQUIRY COMMISSION
BY
JUSTICE VISHNU SAHAI

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Preface

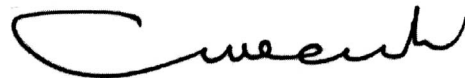
In reference to the orders of the Hon'ble High Court, Allahabad the Government of Uttar Pradesh had constituted a one-member Hon'ble Justice Shri Vishnu Sahai Commission for ascertaining the actual identity of Gumnami Baba Upakhya Bhagwanji and inquiring the facts associated with him. The Commission was constituted *vide* Home Department notification number-1720kha/chhah-pu-4-16-20(Writ)/2002 dated 28th June, 2016.

Using the power granted under Section 3 of the Commission of Inquiry Act, 1952, the Hon'ble Justice Shri Vishnu Sahai Commission constituted by the Hon'ble Governor presented its inquiry report to the State Government. While accepting the inquiry report, the Hon'ble Council of Ministers approved its presentation before the State Legislature.

The copies of the report are submitted in the State Legislature in both Hindi and English. The original report of Hon'ble Justice Shri Vishnu Sahai Commission is in English. Thus, the inquiry report has been translated into Hindi. For the Hindi version, we are thankful to the Principal Secretary, Language Department Shri Jitendra Kumar and his team.

The people have always been curious to know about the actual identity of Gumnami Baba Upakhya Bhagwanji. I had myself sensed the curiosity of the residents during my posting as the District Magistrate of the then district Faizabad (now Ayodhya). Along with the people, even I was also curious to know about the identity of Gumnami Baba Upakhya Bhagwanji.

Keeping in view the above mentioned facts, the inquiry report of Hon'ble Justice Shri Vishnu Sahai Commission is being submitted to be presented before the State Legislature.



(Awanish Kumar Awasthi)

Additional Chief Secretary,
Deptt. Of Home, Gopan, Passport, Visa,
Vigilance, Jail, Information & Religious Affairs,
Government of Uttar Pradesh.

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CONTENTS

1	Part I – Introduction.....	1-7
2	Part II–Judgment of Allahabad High Court in Writ Petition Nos. Misc. Bench 929 of 1986 and 10877 of 2010.....	8-18
3	Part III– Evidence of Witnesses.....	19-128
4	Part IV–Classification of Evidence of Witnesses for determining the identity of Gumnami Baba @ Bhagwanji.....	129-131
5	Part V–Evidence of Recovery of Articles from that portion of the premises of Ram Bhawan, Civil Lines, Faizabad in which Gumnami Baba @ Bhagwanji lived from about December, 1982 till his death i.e. on 16.9.1985.....	132-141
6	Part VI–Conclusion.....	142-144
7	Acknowledgements.....	145

**REPORT OF GUMNAMI BABA @ BHAGWANJI INQUIRY
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Part-I

Introduction

(1) A writ petition (Writ Petition No.Misc.Bench No.929of 1986:Miss Lalita Bose and others v.State of U.P.and others) was filed by Miss Lalita Bose and others in the Lucknow Bench of the Allahabad High Court in 1986 praying,*inter alia*, that appropriate inquiry be conducted with regard to Gumnami Baba@ Bhagwanji,who resided in Ram Bhawan, Faizabad and was cremated at Guptar Ghat,Ayodhya on 18th September,1985. It was further prayed that an inventory be prepared by an Advocate Commissioner of the goods of Gumnami Baba lying in Ram Bhawan, Faizabad and they should not be auctioned. It was claimed in the writ petition that Gumnami Baba @ Bhagwanji was in fact Netaji Subhash Chandra Bose. Miss Lalita Bose is daughter of late Suresh Chandra Bose, who happened to be the brother of late Netaji Subhash Chandra Bose.

Another Writ Petition was filed in the year 2010 being MISC.BENCH NO.10877 OF 2010:Subhash Chandra Bose Rashtriya Vichar Kendra v. State of U.P.and others with the prayer that articles/goods left by Gumnami Baba at Ram Bhawan, Faizabad which are locked in Treasury of Faizabad be photographed and certain articles taken by the Mukherjee Commission should be brought back to State of U.P.and the entire goods may be kept in National Museum or be handed over to the petitioner Society, which was registered in the year 1984.

Both the aforesaid writ petitions were connected and decided together by the Lucknow Bench of the Allahabad High Court on 31st January,2013 with the following order:

"Subject to the aforesaid observation, both the writ petitions deserve to be allowed and are hereby allowed.

(A) A writ in the nature of mandamus is issued to the respondent State of U.P. to consider for establishment of museum at Faizabad /Ayodhya managed by curator wherein the articles of late Gumnami Baba alias

Bhagwan Ji as well as other ancient items may be kept scientifically, under the supervision of a qualified person(curator).

(B) A further writ in the nature of mandamus is issued to the State Government as well as Government of India to repossess all the items of Gumnami Baba alias Bhagwan Ji taken by Mukherjee Commission (supra) and submit it to the Treasury of Faizabad, who in turn, transfer the items in the museum established at appropriate place notified by the State Government. Let a decision be taken by the Government, keeping in view the observation made hereinabove, expeditiously, say within a period of three months with regard to creation of museum at appropriate place.

(C) The Government of U.P. is further directed to consider for appointment of a committee consisting of a team of experts and higher officers, headed by a Retired Judge of High Court, to hold an enquiry with regard to the identity of late Gumnami Baba alias Bhagwan Ji who resided in Ram Bhawan, Faizabad and cremated on 18.09.1985 (supra). Let a decision be taken expeditiously, say within a period of three months.

The records of both the writ petitions which contains reports and other materials shall be kept in sealed cover and shall be opened only on the order of the court by the Registry. The photographs and video recording shall be returned back to the Treasury officer, Faizabad which shall be kept by him in sealed cover for transfer to museum(supra).

The respondents shall submit a compliance report, i.e. the decision taken in pursuance to the present judgment within four months and the Registry shall list the petition after four months for perusal of the decision taken by the Government.

Registry shall send a copy of the present judgment to the Chief Secretary, Government of U.P. for compliance within two weeks.

The writ petitions are allowed accordingly. No order as to costs."

(2) Keeping in view the claim of the petitioners in the aforesaid two writ petitions and the direction of the Hon'ble High Court, Hon'ble the Governor of Uttar Pradesh was of the opinion that it was necessary to hold an inquiry in the matter of public importance, that is, identity of Gumnami Baba @ Bhagwanji, who resided in Ram Bhawan, Faizabad, and

was cremated on 18.09.1985 and *vide* notification dated 28th June,2016, constituted a Single Member Judicial Commission of Inquiry, under the Commission of Inquiry Act,1952 comprising of me [Justice Vishnu Sahai (Retd.), Judge, Allahabad High Court] to make an inquiry about the identity of late Gumnami Baba @ Bhagwanji.

A perusal of the notification shows that the Headquarters of the Commission were to be in Lucknow and the Camp Office at Faizabad.

I, Justice Vishnu Sahai (Retd.) took charge as the One Man Inquiry Commission on 4th July,2016.

On my recommendation, the Government of Uttar Pradesh, appointed Mr.Dileep Kumar, HJS (Retired District Judge,Chandauli) as Secretary of the Commission, *vide* its order dated 11th July,2016 and Mr.Dileep Kumar took charge as Secretary of the Commission on 13th July,2016.

(3) REGULATIONS FRAMED BY THE COMMISSION

In exercise of the powers conferred under sub-rule (5) of Rule 8 of the Commission of Inquiry State Rules,1985 the Commission framed regulations to regulate its procedure to conduct the inquiry. The said regulations read as under:

3.1. The proceedings will be conducted in Hindi/English.

3.2. The Headquarters of the Commission shall be at Bungalow No. C-104, Nirala Nagar, Lucknow.

3.3. The office of the Commission shall be open from 9.30 a.m. to 5.30 p.m. with a recess between 1.30 p.m. to 2.00 p.m. on all week days, except Saturday, Sunday and Government holidays.

3.4. The Commission will ordinarily hold its sitting at Bungalow No. C-104, Nirala Nagar, Lucknow but depending upon the number and nature of witnesses and with a view to avoid inconvenience to the witnesses and other associated persons, its sitting may be held at Camp Office at Faizabad or at any other place, as the Commission may think necessary. The dates, timings and venue of the sittings of the Commission will be notified from time to time.

3.5. The hearings of the Commission will be open to the public except when the Commission thinks fit to direct that the proceedings in respect of a particular person/persons shall be held in camera.

3.6. The Commission may require persons, who in its opinion have knowledge of facts relevant to matters under inquiry to file before the Commission statement of facts or affidavits. An affidavit filed before the Commission shall be sworn before an authority legally empowered to administer oath. Such statement of facts or affidavits may be sent to the Secretary of the Commission by registered post acknowledgement due or handed over at the office of the Commission during office hours to an officer duly authorized to receive them and grant a receipt.

3.7. The authority before whom the affidavit is sworn, shall make the following endorsement thereon:

"Sworn before me by the deponent, who has been identified to my satisfaction by or is personally known to me. The affidavit has been read out in full to the deponent who has signed it in my presence after admitting it to be correct this day of, at"

Signature of the Authority"

3.8. Every affidavit shall be drawn up in the first person and shall be divided into paragraphs numbered consecutively; each material statement of fact being made the subject matter of a separate paragraph. The affidavit shall state the description, occupation, if any, and the ordinary place of residence of the deponent.

3.9. (a) The affidavit, at the end, shall be verified in the following manner:

"I declare that the statement/averment made in paragraphs..... of this affidavit are true to my personal knowledge and those in paragraphs..... are from information received and believed by me to be true."

(b) If information is derived from any document or record, the deponent shall indicate the nature and particulars of such document and the person in control and custody thereof.

(c) If any part of the affidavit is verified from information received by the deponent, he shall disclose the source of such information in the affidavit.

(d) The deponent shall indicate briefly, the facts, which the witness is expected to speak about if examined before the Commission.

3.10. If the deponent/witness relies on the whole or any part of his version of any document, such document in original, or a duly certified copy thereof, shall be filed alongwith the affidavit. If the original document is not in his/her possession, power or control, he/she shall disclose the identity of the person who has custody thereof. If the document is part of an official record, the witness shall indicate the department of the Government or the officer having custody or control of such document.

3.11. The Commission may, if it considers necessary in the interest of justice, call upon any person filing an affidavit or a statement of fact to give oral evidence before the Commission. In such cases, the affidavit or the statement of facts already filed by the person or a part thereof may, at the discretion of the Commission, be treated as his examination-in-chief.

3.12. If the Commission decides to record oral evidence of any particular person, the procedure outlined in sub-clause (a) of clause (5) of Rule 5, Commission of Inquiry State Rules,1985 shall be followed. No person will, however, have a right to insist on oral examination of any person or deponent of an affidavit. It will be in the discretion of the Commission to examine *viva voce* any person or deponent to an affidavit.

3.13. Cross examination of all witnesses, whose evidence is recorded orally on oath, will be allowed to all parties and persons.

3.14. The Commission may summon any person to make a statement or give evidence before the Commission. But the Commission shall not be bound to summon any person merely because Commission is asked by any person to do so.

3.15. The Commission may in its discretion refuse to call any person for oral examination or cross-examination and instead allow him to be examined on affidavit through interrogatories delivered to him.

3.16. Official records of Government department or Government controlled institution, statutory bodies, State Undertakings, Banks and Cooperative Societies including the office notings, orders etc. may, subject to any valid claim of privilege be admitted without any formal proof, unless the Commission in any particular case requires it to be proved in any of the ways laid down in the Indian Evidence Act.

3.17. Although the technical provisions of the Indian Evidence Act will not govern or restrict the recording of evidence before the Commission, the fundamental principles of natural justice underlying the primary provisions of the Indian Evidence Act shall be followed as a guide.

3.18. Instead of the Commission recording a statement, it may appoint a person or persons before whom such statement shall be recorded.

3.19. The Secretary to the Commission has been authorised under Rules 4 (2) and 6 of the Commission of Inquiry State Rules, 1985 to sign summons and every other process issued by the Commission.

3.20. Further regulations, process consistent with the Act and the Rules framed thereunder, as may be appropriate, will be adopted as and when occasion for the same arises.

3.21. The Commission may either on its own discretion, or on the application made by any person or party delete or expunge any matter from any petition, affidavit, or other document or return any document presented to the Commission, which in the opinion of the Commission, is irrelevant, scurrilous or scandalous.

3.22. The Commission reserves its right to alter, modify, delete or add to, these regulations or procedure at any time during the enquiry as and when it considers necessary.

3.23. The Rules which are adopted are in conformity with the principles spelt out by Sir Richard Scott that the "Golden rule is that there should be procedure flexibility, the procedure to achieve fairness, tailored to suit the circumstances of each *inquiry*".

4. The Commission proceeded in accordance with the aforesaid regulations and notifications were published in Hindi and English in local

and national newspapers and also in the newspapers published in Bangla language having circulation in the State of West Bengal, especially in and around Kolkata, requesting the general public that any person who has personal or special knowledge about the identity of Gumnami Baba *alias* Bhagwanji, who resided in Ram Bhawan, Faizabad and was cremated at Guptar Ghat, Faizabad on 18th September, 1985 and desired that facts known to him should come to the notice of the Commission, may appear before the Commission in person or send his/her statement on affidavit or may submit any material in writing or photographs or video clippings to the Commission at the office/camp office of the Commission within thirty days. In case he/she is required to be examined on oath, necessary expenses will be borne by the Commission. The concerned person may also personally contact the office of the Commission or the Secretary of the Commission.

PART II

Judgment of Allahabad High Court in Writ Petition Nos. Misc. Bench 929 of 1986 and 10877 of 2010

(1) Since Hon'ble Governor in constituting the Commission was prompted by the Division Bench judgment of the Allahabad High Court in the aforesaid writ petitions, it would be appropriate, in short, to deal with it.

I feel it pertinent to point out that the details and facts mentioned in this part of the Report (set out hereinafter) have been extracted from the aforesaid judgment of the Allahabad High Court.

The claim of the petitioners in the said writ petitions was that late Gumnami Baba *alias* Bhagwanji, who resided in Ram Bhawan, Faizabad and was cremated at Guptar Ghat, Ayodhya on 18th September, 1985 was Netaji Subhash Chandra Bose. It is said that during his stay at Ram Bhawan, Faizabad several prominent persons and some relatives of Netaji Subhash Chandra Bose used to visit him.

After the death of Gumnami Baba @ Bhagwanji a controversy arose in Faizabad when a local daily "**Nai Log**" published a story that the person known as 'Bhagwanji' who died on 16.09.1985 was, in fact, none other than Netaji Subhash Chandra Bose. This controversy continued for long in the newspapers and some politicians and social organizations approached the District Magistrate, Faizabad requesting him that circumstances of the death of Gumnami Baba and all the items which he left behind should be thoroughly scrutinized so that the controversy about Gumnami Baba @ Bhagwanji being Netaji Subhash Chandra Bose could be settled.

In the meantime, a Writ Petition being Writ Petition No.929(MB) of 1986 was filed by Miss Lalita Bose, real niece of Netaji Subhash Chandra Bose (daughter of late Suresh Chandra Bose, who happened to be brother of late Netaji Subhash Chandra Bose), Dr.M.A.Haleem, Vice President, All India Socialist Party and Shri Vishwa Bandhav Tewari, Vice President, All India Subhash Mukti Vahini, praying therein that appropriate inquiry may be conducted with regard to Gumnami Baba and inventory of the items/goods left behind by him, which were lying in Ram Bhawan, Faizabad, be prepared by an Advocate Commissioner and the said items may not be auctioned.

Miss Lalita Bose, petitioner No.1 in the aforesaid writ petition, claimed that she has the right to property of late Bhagwanji, in case after due inquiry, it is found that late Gumnami Baba@ Bhagwanji was Netaji Subhash Chandra Bose.

On 10.02.1986 an interim order was passed by a Division Bench of the Allahabad High Court directing the District Magistrate, Faizabad that an inventory of the articles left by the nameless saint at Ram Bhawan Faizabad shall be got prepared through an Advocate Commissioner, who may be appointed by the District Magistrate himself or he may get such an Advocate Commissioner appointed by the District Judge, Faizabad. It was further directed that after the inventory has been prepared the articles shall be shifted from Ram Bhawan, Faizabad to the Treasury to be kept in safe custody under the lock and seal of District Magistrate.

A counter affidavit was filed in the aforesaid writ petition on behalf of State of U.P.in which the claim of the petitioners that Gumnami Baba @ Bhagwanji, who resided in Ram Bhawan Faizabad was in fact Netaji Subhash Chandra Bose was denied.

However, it was stated in the counter affidavit that on 16.09.1985 at about 9.40 pm death occurred of a person who was known to his followers as 'Bhagwanji'. He had been living in Faizabad City in a house called 'Ram Bhawan'. It was stated that an inquiry conducted into the background of this person revealed that he had come from district Basti to Ayodhya in the year 1974 and lived in Ayodhya in a building known as 'Lakhnauwa Hata' for many years and thereafter he shifted to the house of one Sardar Gur Bux Singh Sondhi at Brahma Kund, Ayodhya. After sometime, Bhagwanji was brought by Dr. Raghunath Prasad Misra, a retired Surgeon of District Hospital, Faizabad and was accommodated in a outhouse at Ram Bhawan, Faizabad.

It was also stated in the counter affidavit that the said Gumnami Baba @ Bhagwanji never appeared before any person and always kept himself behind a curtain. In the said enquiry it was also revealed that Gumnami Baba @ Bhagwanji was close to three persons and they were Dr. Pabitra Mohan Roy, who was resident of 517 Dum Dum Park, Calcutta, Dr. Raghunath Prasad Misra and Dr. P. Banerjee, both of Faizabad. It was further stated in the counter affidavit that in compliance of the order passed

by the Hon'ble High Court, District Judge, Faizabad appointed Sri S.N. Singh, Advocate, Faizabad as Advocate Commissioner for preparing an inventory of all the articles which were kept in the house of Gumnami Baba @ Bhagwanji. The Advocate Commissioner after giving notice to all the interested parties prepared an inventory of articles which were found in the house and kept in sealed boxes. These sealed boxes were kept in double lock of District Treasury, Faizabad.

It is stated that during search of the house of Gumnami Baba a large number of belongings and literature associated with 'Indian National Army' in general and late Netaji Subhash Chandra Bose in particular came to light which included a large number of family photographs, reports of Inquiry Commission relating to the death of Netaji. On inquiry it was also revealed that a special ceremony used to be held in the room of Gumnami Baba @ Bhagwanji on 23rd January every year, which incidentally is the birthday of Netaji Subhash Chandra Bose and on this day no person of Faizabad was allowed to visit Bhagwanji and some persons from Calcutta used to come and spend the day with him.

(2) The aforesaid judgment of the Allahabad High Court, in short, has also dealt with mysterious disappearance of Netaji Subhash Chandra Bose, theory of his death in air crash and the findings recorded by the three Commissions, namely, Shahnawaz Commission, Khosla Commission and Mukherjee Commission relating to the death of Netaji Subhash Chandra Bose.

I now advert, in short, to the political journey of Netaji, his mysterious disappearance and the theory of his death in air crash, as discussed in the aforesaid judgment.

Netaji Subhash Chandra Bose passed the I.C.S. Examination in September, 1920 and joined the I.C.S. but his ardent patriotic spirit forced him to resign from I.C.S. for the cause of nation and he accordingly resigned in April, 1921. Subhash Chandra Bose thereafter joined Indian National Congress.

In 1928 Subhash Chandra Bose firmly stressed for complete independence of India as a goal. In January 1938 when Subhash Chandra Bose was away in Britain for treatment, he was informed of his election (in

absentia) as the President of Indian National Congress. In 1939 he contested the election for the post of Congress President against Gandhiji's wishes and won but on account of ideological differences with Gandhiji he resigned as President of the Congress and created a new block within the Congress, namely, Forward Block and later on resigned from the said Block. In 1940, during agitation Subhash Chandra Bose was arrested and went on hunger strike. He declared voluntary fast on 29.11.1940 and communicated his decision through a letter dated 26.11.1940. While addressing the countrymen, Subhash Chandra Bose said:

“To my countrymen I say, Forget not that the greatest curse for a man is to remain a slave. Forget not that the grossest crime is to compromise with injustice and wrong. Remember the eternal law: You must give life, if you want to get it. And remember that the highest virtue is to battle against inequality, no matter what the cost may be.”

Every word and line of Subhash Chandra Bose united the whole nation compelling the then Government to release him on 05.12.1940. During House arrest in his own house at Elgin Road, Calcutta, he absconded on 17.01.1941 and reached Germany *via* Gomoh, Kabul (Afghanistan). In Kabul he stayed for 46 days and made arrangement to escape for Berlin. He reached Berlin on 3rd April, 1941 via Moscow. His broadcast from Germany during World War-II made him an international freedom fighter. He left Germany in a submarine on the invitation of Indian Independence League and took its charge and constituted the Indian National Army. He liberated island of Andaman and Nicobar as Commander-in-Chief of Indian National Army. He also liberated Manipur area of India from colonial rule.

The provincial Government of Subhash Chandra Bose was recognized by Japan in October, 1945 along with Germany, Italy, Burma, Philippines, Nanking, Croatia, Manchukuo and Siam. Germany surrendered on 07.05.1945, Japan officially surrendered on 15.08.1945 after Russia declared war against Japan on 08.08.1945 in April, 1945 Subhash Chandra Bose left Rangoon and reached Bangkok on 14.05.1945 and from there he left for Singapore. At Singapore, he came to know that Japan had surrendered. On 15th August, 1945 Subhash Chandra Bose left Singapore by

a plane for Saigon accompanied by Colonel Habib-ur-Rahman, Pritam Singh, Gulzara Singh, Maj. Abid Hasan, S.A. Ayer and Debnath Das and arrived at Bangkok. With the help of Field Marshal Terauchi Subhash Chandra Bose, along with his party, proceeded from Bangkok to Saigon by the same plane and met Terauchi who made special arrangement for the flight of Netaji to Shinkyō, Manchuria together with Lt. Gen. Tsunamasa Shidei, Chief of Staff of Burma Command on a heavy bomber belonging to Japanese Third Air Force. The team including Subhash Chandra Bose took off on 17.08.1945. For lack of space in the plane only Habib-ur-Rahman accompanied Netaji. Others stayed back waiting for the next flight. The plane stopped at Tourane and they stayed overnight at the Morim Hotel. The plane took off from Tourane at 5.00 am the next day i.e. 18.08.1945 and arrived at Taipeh at about noon. After lunch and rest for about two hours, the plane took off again at about 2.00 pm and made a steep ascent when a loud explosion was heard and the plane dived to the ground and burst into flames. It was reported that six persons including Netaji were killed and seven including Habib-ur-Rahman survived with minor to serious injuries. Two of them (Lt. Gen. Shidei and Pilot Major Takizawa) died on the spot and four including Netaji, died in hospital. Netaji was wearing Khaki drill clothes. His clothes were on fire. Col Rahman laid him down on the ground and noticed a deep cut on the left side of his head.

Col. Habib-ur-Rahman himself has given an account of the tragedy in a note to Hayashida in 1966 at Rawalpindi in the following words:

"Mr. S.C. Bose and myself jumped out through the fire. As soon as I was out of plane, I saw him struggling with fire on his clothes as some petrol had been splashed on them. I rushed forward and put out the fire and soon laid him on the ground."

After laying Netaji on the ground Rahman lay down by his side and just then Netaji enquired of him (Rahman) 'Apko ziada chot to nahin lagi'. Netaji sure of not surviving instructed Rahman : "When you go back, tell my countrymen that I fought to the last for the freedom of my country. And no power could now keep our country in bondage any longer. They should continue the struggle. India will be free before long."

Netaji enquired from an interpreter, Mr. Juichi Nakamura, in the Nanmon Army Hospital, Taipeh, about his men. He said, "My men are following me and they should be taken care of when they come to Formosa." His last words were : "I want to sleep." He took rest, after having fought continuously for the freedom of his mother country, without a word of complaint or a groan. The Japanese officers, at the other end, were groaning and crying with pain.

The Japanese doctors (Capt. Yoshimi, T. Tsuruta-who attended on Netaji), two nurses, Col. Habib-ur-Rahman, interpreter Nakamura and medical orderly, Mr. Kazo Mitsui were present at the time of Netaji's death. The Medical Officer, Yoshimi wrote in a death certificate in Japanese, that (Chandra Bose) died on account of "Burns of third degree." Habib-ur-Rahman stated: "I noticed that he had sustained a deep head injury which was bleeding profusely. His body had also suffered from deep burns." According to Capt. Yoshimi "Netaji was burnt all over..... even his chest was burnt. His face was swollen..... He was in his senses when he was brought in. He was in high fever....39 centigrade."

Habib-ur-Rahman has further stated: " The Japanese doctor treated him (Netaji) as best as he could, but unfortunately he expired at 8.30 p.m., on the same day, 18 August, 1945."

The cremation of Netaji's mortal remains took place at the Taipeh City Crematorium on 20th August, 1945. At the cremation Col. Habib-ur-Rahman, Maj. Nagatomo from Formosan Army, the interpreter Nakamura, Buddhist priest and manager for the crematorium were present.

The ashes of Netaji were shifted to the Nishi(west) Honganji, Temple, Taipeh. Hayashida arrived in Taipeh by a plane (at 2 p.m. on 5 September, 1945) and took into custody two boxes - one containing Netaji's ashes and the other, Netaji's treasure, gold and jewellery, and left after half an hour for Japan, accompanied by Maj. Nakamiya, Lt. Col. Sakai, Habib-ur-Rahman and a guard of three soldiers. The party was divided for the sake of safety at Fukuoka. Col. Rahman and Maj. Nakamiya left by plane and the remaining party with boxes, left by train (at 3 p.m. on 7 September) on the eve of the historic entry of General MacArthur into Japan, and delivered the boxes to (Maj. Kinoshita) at the Imperial General Headquarters at 11 p.m. on same day.

The next day (8th September) morning, the officer on duty Lt.Col. Takakura handed over the urn to Mr.Ram Murti, President, the I.I.L. Tokyo and S.A.Ayer, who received it with overwhelming emotion.

The conversation between S.A.Ayer and Col. Habib-ur-Rahman, on the same night(8th September,1945) at Mrs. Sahay's residence, "where Iyer was staying, cleared all doubts which Mr.Iyer had", stated Mr.Murti in his statement, "and now Mr.Iyer was convinced that the crash was an indisputable reality, and Netaji was a victim of it." The statement concluded, "and we all accepted this as truth without a shadow of doubt in our mind."

The urn was kept at the Renkoji Buddhist temple in Suginami Ward, Tokyo.

About three days after handing over the urn, Netaji's treasure of gold and jewellery, of about 11 kgs., valued at rupees one lakh, collected by about 100 girls of the Taipeh Girls High School, under the direction of Taipeh Army, after the air crash, another box of valuables was handed over by the Japanese Imperial General Headquarters to Mr.Murti. A rough list of the valuables was made by Col.Habib-ur-Rahman and signed by him. This treasure alongwith 300 grams of gold and 250 yens given by Mr.Ayer, remained with Mr. Murti (from 1945 to 1951). The First Secretary of the Indian Mission in Tokyo received Netaji's treasure, signing on the same receipt of a list prepared by Col.Rahman in 1945, and Mr.Ayer's treasure, from Mr.Murti on 24th September,1945.The whereabouts of this treasure are not known as yet.

(3) Sugata Bose, Prof. of History at Harvard University(grandson of Sarat Chandra Bose) had written a most celebrated biography of Netaji," His Majesty's Opponent". The sequence of events with regard to enquiries after death of Netaji has been narrated by Sugata Bose, which shall be worthwhile to mention hereinafter.

After cremation of dead body at Taipei, there was silence with regard to Netaji's whereabouts. On August 23,after a five day delay, the Domei agency of Japan broadcasted the news of Netaji's death.Col.Habib-ur-Rahman asked the Japanese to fly Netaji's body to Singapore or to Tokyo. They promised to try, but later reported practical difficulty in doing so. Habib consented to a cremation in Taipei,which took place on

20th August,1945. Ashes were placed in an urn and kept in the Nishi Honganji Temple.

Soon after the end of war, New Delhi sent two groups of Intelligence Officers led by Finney and Davies to Southeast Asia to conduct enquiries and arrest Subhash Chandra Bose,if he was alive.They included two Bengali police officers, namely, H.K.Roy and K.P.De. Mr. Davies's team, which included H.K.Roy, went first to Saigon and then to Taipei in September,1945. They interviewed the Japanese Military Officer in charge of the Saigon Airport, Military Officers at the Taipei Airport and the Chief Medical Officer at the Taipei hospital. At Bangkok, it seized a telegram dated August 20 from the Chief of Staff of the Japanese Southern Army in Saigon to the officer-in-charge of the Hikari Kikan in Bangkok which contains the news of crash in the afternoon of August 18 and with regard to the death of Netaji in the night. Finney's report reached the definite conclusion that Bose had indeed died as a result of the plane crash on 18.08.1945.

Again in 1946, Mountbatten's headquarters at Kandy conducted another enquiry into the fate of Subhash Chandra Bose. Mountbatten's probe into whether Bose had in fact died was conducted through Col. J.G.Figgess, who was attached to General Macarthur's headquarters in Tokyo and overseen by an American intelligence officer working under the general headquarters of the Supreme Command Allied Powers. On 25.07.1946, Figgess reported that their mortal enemy had indeed met his corporal death on 18.08.1945.

In August, 1946, an Indian journalist, Harin Shah, visited Taiwan and gathered information on what he described as the gallant end of Netaji. On-the-spot journalistic inquiries convinced Harin Shah that the news of Netaji's death as a result of the air crash was true.

In another enquiry on 19.10.1946, a British Captain, named Alfred Raymond Turner recorded a statement by Captain Yoshimi Taneyoshi, the surgeon in charge at the Taipei hospital, inside the Stanley Gaol in Hong Kong. He stated that the injured were brought from the airport to the hospital where Japanese military officer had pointed out "Chandra Bose" to him. The patient had suffered extensive burns. "During the first four hours",

according to Dr.Yoshimi "he was semi-conscious, practically normal, speaking quite a good deal." The doctors believed that the first word he spoke were in Japanese, asking for water, which he was fed through a hospital cup with a spout. It is speculated that Bose was unlikely to have used Japanese word *meju* for water and may have said something about "Mejda", his elder brother Sarat. The doctor stated that most of his speaking was in English . A request for an interpreter was made, and one was sent from the Civil Government Offices named Nakamura. Nakamura had no doubt that the man he was speaking with was Chandra Bose. The patient began to sink into unconsciousness after four hours, and died later that night. His adjutant, an Indian Colonel, who was also under Yoshmis care, wanted Bose's body to be taken to Tokyo. Therefore, the doctor injected Formalin into the body and had the coffin partly filled with lime, which was taken to the airport on August 20 by warrant officer Nishi. The officer returned saying that the body, "for some unknown reason,"could not be transported to Japan and had to be cremated in Taipei. The doctor wrote out a death certificate for the crematorium. Bose's ashes were handed over to the Indian colonel.

However, mystery shrouded, confusion created in the mind of Britishers because of a statement given by Mahatma Gandhi having doubt with regard to death of Subhash Chandra Bose. The Author, Mr.Sugata Bose, noted that at later stage, Gandhiji clarified the position that his statement was based on belief and not on knowledge

It shall be appropriate to quote relevant portion from the book "His Majesty's Opponent" written by Sugata Bose with regard to the controversy created because of the statement given by Gandhiji:

" The British had been worried by Gandhi's assertion in early January 1946 of his belief that Netaji was alive and would appear at the right moment. A week before the naval mutiny, Gandhi insisted on speaking about Bose in the present tense. Congressmen interpreted Gandhi's inner voice to be secret information received from Netaji. There were other rumors making the rounds. According to one, Nehru was said to have received a letter from Bose saying that he was in Russia and wanted to escape to India. He would arrive via Chitral,

where one of Sarat Bose's sons would receive him. Gandhi and Sarat Bose were alleged to be aware of these plans. The intelligent assessment deemed this story unlikely, but a growing belief in India that Bose is alive" was a cause for concern.

On March 30,1946, Gandhi clarified his views on the matter in his journal Harijan. He referred to the 1942 report on Bose's death, which he had believed but which later turned out to be incorrect. Since then, he had had "a feeling that Netaji could not leave us until his dreams of swaraj had been fulfilled." " To lend strength to his feeling," he added, " was the knowledge of Netaji's great ability to hoodwink his enemies and even world for the sake of his cherished goal." He explained that he had nothing but his "instinct" to tell him "Netaji was alive." He now conceded that no reliance could be placed on "such unsupported feeling" and that there was "strong evidence to counteract the feeling." The British government had access to that evidence. He had also heard the testimony of Habibur Rahman and S.A.Ayer. "In the face of these proofs, "the Mahatma wrote," I appeal to everyone before them, to reconcile themselves to the fact that Netaji has left us. All man's ingenuity is as nothing before the might of the one God."

The sequence of events and the incident of plane crash has never been believed by common Indians. Different Commissions were appointed from time to time by the Government of India to remove doubt with regard to plane crash but the incident remained shrouded in a mystery. The common Indians still do not believe that Netaji died in a plane crash, as referred to above. It is under these facts and circumstances that different Commissions were appointed.

Three Commissions were appointed by Government of India, namely, Shahnawaz Commission, Khosla Commission and Mukherjee Commission, *vide* notifications dated 05.04.1956,16.10.1970 and 14.05.1999 respectively. I propose referring to the main conclusion drawn by the Division Bench of the Lucknow Bench of the Allahabd High Court in the aforesaid judgment by the said Commissions.

Lucknow Bench has held that Shahnawaz Commission has found that Netaji Subhash Chandra Bose proceeded on an aeroplane bound for Manchuria on 17.08.1945. The plane crashed and was engulfed in flames at Taihoku in Formosa on 18th August,1945 as a result whereof Netaji sustained serious burn injuries and died the same night (night of 18.08.1945) at Taihoku hospital. The Lucknow Bench has also held that Khosla Commission reiterated the findings of the Shahnawaz Commission with regard to the accidental death of Netaji Subhash Chandra Bose. With regard to the Mukherjee Commission, the Lucknow Bench has held that the aforesaid Commission recorded conclusive findings that Netaji did not die in plane crash at Taipei and ashes placed in Japanese temple are not of Netaji Subhash Chandra Bose. Mukherjee Commission at page 122 of its report also held that there was no clinching evidence to prove that Bhagwanji @ Gumnami Baba was Netaji and, therefore, the question whether he(Netaji) died in Faizabad on September 16,1985, as testified by some of the witnesses, need not be answered.

It is pertinent to mention that the Government of India rejected the conclusion of the Mukherjee Commission that Netaji Subhash Chandra Bose did not die in a plane crash on 18.08.1945 at Taihoku Hospital in Formosa.

(4) Before parting with the aforesaid judgment of the Division Bench it is pertinent to mention that the Division Bench has discussed at some length the circumstantial evidence on the basis of which it was canvassed that Gumnami Baba *alias* Bhagwanji was none other than Netaji Subhash Chandra Bose, but since I propose dealing with this part of the judgment of the Division Bench subsequently and want to avoid repetition I am not setting forth the discussion of the Division Bench in this connection.

PART III

Evidence of Witnesses

(1) Since this is a Judicial Commission, set up under the Commission of Inquiry Act, 1952, it would only be appropriate for the Commission to answer the term of reference, namely, to find out the identity of Gumnami Baba *alias* Bhagwanji, who lived in Ram Bhawan, Faizabad and whose last rites were performed on 18th September, 1985, primarily on the evidence of witnesses who have deposed before the Commission.

(2) Despite the fact (as is also apparent from Para 4 of Part I of this report) that notifications were published in Hindi and English in local newspapers and also in newspapers published in Bangla language, regrettably only forty-five witnesses deposed before the Commission (thirty-five in person and ten through affidavits, which for reasons mentioned in them, were treated by the Commission as their statements before it). To elicit truth they were also cross-examined by the Commission. While evaluation their testimony, it was always in my mind that they were disposing about events which they had seen/took place at least thirty-one years earlier (Gumnami Baba *alias* Bhagwanji died on 16th September, 1985). In fact, some of them deposed about happenings which took place about sixty to sixty-five years earlier.

(3) It is common knowledge that human memory gets blurred with passage of time and when witnesses are asked to recall facts/events which took place thirty-one to sixty-five years earlier they are prone to fill in the gaps from their imagination. Consequently I evaluated the testimony of witnesses, with utmost caution and immense scrutiny.

(4) It is in this perspective that I propose evaluating the testimony of all the witnesses who deposed before the Commission. They are described as CW (Commission Witness).

(5.1) The first two witnesses, whose evidence I propose evaluating are CW-1 Jayanti Rakshit (Jayanti Bose) and her husband CW-2 Amiya Rakshit. Since their evidence is verbatim the same, I am dealing with it together.

The evidence of Jayanti Rakshit and Amiya Rakshit shows as under:

They are residents of G-4, Doveland Court, 29/13, Balligunj Park, Kolkata-70019, Jayanti Rakshit is the grand niece of Netaji Subhash Chandra Bose (Netaji) inasmuch as her grandfather late Sarat Chandra Bose was the real brother of Netaji and Amiya Rakshit is the husband of Jayanti Rakshit; for about 60 years there was no news about Netaji Subhash Chandra Bose; in 2012, after reading Anuj Dhar's Book " India's Biggest Cover Up" in which Anuj Dhar had mentioned that the person who was living in Ram Bhawan, Faizabad was Netaji Subhash Chandra Bose, they felt that a more elaborate enquiry be made about Netaji's disappearance, thereafter alongwith Tapti Ghosh (Sister of Jayanti Rakshit and sister-in-law of Amiya Rakshit) they came to Faizabad and talked to a number of persons whose impression was that Gumnami Baba was no other than late Subhash Chandra Bose; thereafter they went back to Calcutta and talked to Bijoy Nag and Surojit Dasgupta and a big group of some people who used to visit Faizabad every year on 23rd January, which was the birthday of Netaji Subhash Chandra Bose, who told them that they were not in a position to fix his identity because there was a curtain between the room in which Gumnami Baba used to stay and the place from where they used to talk to him; however, Surojit Dasgupta said one day while talking to Gumnami Baba the curtain moved aside and he found that the person who was sitting in the room was Subhash Chandra Bose; they also met in Faizabad Rita Banerjee (daughter-in-law of late Dr. P. Banerjee) who told them that she often visited Gumnami Baba and had seen him and thought he was Netaji Subhash Chandra Bose; they also talked to Beethi Chatterjee, mother of Rita Banerjee, who told them that she had seen Subhash Chandra Bose before and after hearing Gumnami Baba's voice she thought that he was Subhash Chandra Bose.

They did not have any personal knowledge whether Gumnami Baba alias Bhagwanji was Subhash Chandra Bose or not; on the basis of what was told to them by the above mentioned persons, they had a strong suspicion that he was Netaji Subhash Chandra Bose; and they had not seen any Book/items which are alleged to have been used by Gumnami Baba and are said to have belonged to Subhash Chandra Bose.(emphasis supplied).

I have carefully/thoughtfully perused the statements of CW-1 Jayanti Rakshit (Jayanti Bose) and her husband CW-2 Amiya Rakshit and after

bestowing my anxious consideration on their entire statements, I am of the view that since they did not have any personal knowledge whether Gumnami Baba *alias* Bhagwanji was Subhash Chandra Bose or not and on the basis of what was told to them by people they had a strong suspicion that he was Netaji Subhash Chandra Bose, their evidence thus was purely hearsay and the Commission cannot legally hold on their hearsay evidence that Gumnami Baba was Netaji Subhash Chandra Bose. In my view, their evidence is of no help to the Commission in determining the identity of Gumnami Baba.

(5.2) Now I take up the evidence of CW-3 Anuj Dhar. His evidence shows as under:

He is aged about 46 years and is a resident of 263, Kangra Niketan, Vikaspuri, New Delhi; he investigated this case as a journalist since 2002 and during course of investigation met people in U.P. and West Bengal, who had links with Gumnami Baba *alias* Bhagwanji; he also analyzed the documentary material left by Bhagwanji and submitted to Mr.B.Lal Kapoor, one of the leading authorities on handwriting samples of handwriting of both Subhash Chandra Bose and Bhagwanji in English on behalf of Hindustan Times and Mr.B.Lal Kapoor gave a positive report that the samples were of the same person; subsequently Mr.B.Lal Kapoor appeared before the M.K.Mukherjee Commission, which was set up by Government of India to enquire into the disappearance of Netaji Subhash Chandra Bose and gave the same report (before the Mukherjee Commission the samples of handwriting of Bhagwanji and Netaji Subhash Chandra Bose were given both in English and Bangla)

The evidence of CW-3 Anuj Dhar further shows that he had been talking to people who had occasion to know about Gumnami Baba *alias* Bhagwanji and the sum and substance of his entire investigation lead to the inference that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose who from about two years prior to his death was living in Ram Bhawan, Faizabad where he died on 16th September, 1985.

The evidence of Mr. Anuj Dhar further shows that alongwith Mr. Chandrachur Ghose (he was examined before the Commission as CW-4) he did a detailed joint investigation in this matter and they jointly prepared a

report which he submitted before the Commission with the request that it be treated as a part of his statement.

It is pertinent to mention that the Commission took the said report on record and directed that it shall be read as a part of the statement of the witness and marked it as Ext.C-1.

Mr.Anuj Dhar was cross-examined by the Commission. Two questions were put to him in cross-examination to which he furnished replies. I am extracting the questions put to Mr.Anuj Dhar and the answers given by him verbatim:

"Q-1.Do you have any personal knowledge of the fact whether Gumnami Baba alias Bhagwanji and Netaji Subhash Chandra Bose were one and the same person?"

Ans. I took up the investigation sometimes during the year 2002 (Gumnami Baba died on 16th Sept.1985) and have no personal knowledge. The source of my knowledge I have disclosed are what I have stated above and in the documentary evidence which I have filed.

Q-2. From where did you get handwriting samples of Gumnami Baba and Netaji Subhash Chandra Bose?"

Ans. I only got English samples of writing of Netaji Subhash Chandra Bose from National Archives, New Delhi and books published by Netaji Research Bureau of Calcutta.

I obtained samples of Gumnami Baba @ Bhagwanji in English from Mr.Ashok Tandon, resident of Faizabad, late Dr.P.Banerjee, resident of Faizabad, who used to visit him and late Durga Prasad Pandey, resident of Basti, who knew Gumnami Baba @ Bhagwanji intimately."

Anuj Dhar stated that Bhagwanji was Netaji Subhash Chandra Bose who from about two years prior to his death was living in Ram Bhawan at Faizabad, where he died on 16th September,1985. A perusal of his statement shows that he was prompted to reach the said conclusion for two reasons, namely:-(a) Mr.B.Lal Kapoor, handwriting expert, to whom the samples of handwriting of both Subhash Chandra Bose and Bhagwanji in English were given, gave a positive report that the samples were of the same person; and (b) he had been talking to people who had occasion to know about

Gumnami Baba *alias* Bhagwanji and it transpired from his conversation with them that Gumnami Baba *alias* Bhagwanji and Netaji Subhash Chandra Bose were the same person.

I have reflected over the aforesaid reasons and in my view they cannot be a valid basis for reaching the said conclusion.

So far reason (a) is concerned, it has been soundly repelled by the Mukherjee Commission at page 121 of its report in para 4.15.9 in the following words:

" The reports of the experts to whom the handwritings appearing in some books and journals found in 'Rambhawan' were sent for comparison with the admitted handwritings of Netaji materially differ. While one of them viz. Shri B.Lal, Ex-Government Examiner of Questioned Documents, New Delhi (CW-119) has given a firm opinion that those (both Bengali and English) were of Netaji, Shri Amar Singh and Shri M.L.Sharma (CW-121) of the Office of the Government Examiner of Questioned Documents, Government of India, Simla, who have filed a joint report, and Dr.S.K.Mondal of Forensic Science Laboratory, Government of West Bengal, Kolkata (CW-120) have given a contrary opinion. Such divergent opinion and absence of any evidence from any person conversant with the handwriting of Netaji that the questioned writings were of Netaji is another impediment to the safe acceptance of the oral version given in this regard."

So far as reason (b), namely, that the information which the witness derived from conversation which he had with people who knew about Gumnami Baba *alias* Bhagwanji and which led him (the witness) to believe that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose is concerned, was purely hearsay and consequently cannot be accepted by me.

It is pertinent to mention that Mr.Anuj Dhar in Ext.C-1 has stated in para-8 that there were impediments in believing that Bhagwanji was Netaji. I am extracting the said impediments in entirety:

"8. Impediments in believing that Bhagwanji was Netaji.

8.1 The deponents would also like to place on record before the Hon'ble Commission certain facts and instances which come in the way of accepting the theory that Bhagwanji was Netaji.

8.2 The very idea that Netaji could have lived secretly, in hiding, in such a wretched condition in his own country for so long is absolutely repugnant. This is the single most important reason why most people reject the Bhagwanji-Netaji link outright, without caring to go into details. Delving into the details, on the other hand, brings out a narrative that is so extraordinary that it makes the matter all the more incomprehensible.

8.3 On scrutiny of available information, the persona of Bhagwanji throws up 3 variations, each being difficult to reconcile with the other, especially because Bhagwanji has not left much data for us to work on and most people who knew him best are either dead or not willing to divulge fully all that they are privy to. From his claims, believed in religiously by his followers, Bhagwanji appears to be someone who was a high level international covert player going around the world advising numerous multi-national negotiations, a highly attained tantrik with supernatural powers and, at the same time, a person who lived in abject penury, suffering from ill-health from 1960 onward. The deponents cannot explain how a man who claimed he was helping covert military and diplomatic operations of the anti-imperialist block in different parts of the world, a man who claimed to have played a pivotal role in 1962, 1965 and 1971 wars was not able to fend for himself properly. These contradictions are difficult to explain particularly in view of Bhagwanji's and his followers' claim that he had spiritual powers beyond the realm of science.

8.4 If Bhagwanji was indeed Netaji, he would have been able to give insights on events related to his life no one could have. He would have, for example, given fullest details of how he escaped from India in 1941 and how he escaped to Russia in 1945 after a fake story of air crash was planned. Whatever the deponents have been able to access

thus far, including copies of correspondence, etc. recovered from Ram Bhawan and those made available by Bhagwanji's followers, provide only sketchy information and cannot be used to connect the dots to the satisfaction of sceptics. This is all the more reason why complete records should be summoned from each Bhagwanji's followers.

8.5 Next, Bhagwanji's many claims are not supported by anything that is in public domain. The claim that Netaji was declared a war criminal after the Second World War and that his name appeared on the list of war criminals remains unsubstantiated, even as list of war criminals bearing the names of Hitler and others have become public. The very fact that both Central Intelligence Agency (CIA) and Defence Intelligence Agency (DIA) of the United States should have informed Deponent under the country's Freedom of Information Act that they do not have any information about Netaji prima facie casts doubt on much of Bhagwanji's claims."

A perusal of Ext.C-1 also shows that in respect of Gumnami Baba's identity in all there were 6 claims. The said claims have been enumerated in para 4 of Ext.C-1 and read as under:

"Claim No.1 : Bhagwanji was one Krishna Dutt Upadhyay, a fugitive accused of murder.

Claim No.2: Bhagwanji was an Anand Margi.

Claim No.3: Bhagwanji was a CIA agent.

Claim No.4: Bhagwanji was a blind follower of Netaji Subhash Chandra Bose.

Claim No.5: Bhagwanji was a Netaji's imposter, set by the Intelligence Bureau.

Claim No.6: Bhagwanji was Netaji Subhash Chandra Bose in hiding."

A perusal of Ext.C-1 also shows that in para 6.3.1 of para 6.3 bearing heading 'material evidence' it has been mentioned that "*the most important evidence that could be had from Baba's belongings pertains to samples that could be tested forensically. These are his*

handwriting specimens, fingerprints and biological remains containing traces of his DNA."

So far as the handwriting specimens of Bhagwanji are concerned, I have already mentioned earlier as to why they do not merit acceptance.

In para 6.3.11, 6.3.12 and 6.3.13 Mr. Anuj Dhar has dealt with the DNA analysis and stated that the conclusion of Mukherjee Commission that the DNA found from the teeth did not match with that of paternal and maternal relatives of Netaji does not merit acceptance in view of the findings of the Division Bench in the aforesaid writ petitions that there was no evidence that the five teeth found in Ram Bhawan sent for DNA test were of Gumnami Baba *alias* Bhagwanji and who were the persons who retained the teeth of Bhagwanji after cremation.

With profound respect to the Division Bench, in my view, the said reason cannot be a basis for discrediting the DNA result. In this connection, I would first like to deal with para 4.15.10 and 4.15.11 of the Mukherjee Commission report at pages 121 and 122 respectively of the said report, which read thus:

"4.15.10. Five teeth out of nine, found in Ram Bhawan' alongwith samples of blood collected from two descendants on the father's side and three descendants on the mother's side of Netaji were sent to the Central Forensic Science Laboratory, Kolkata for DNA profiling test to fix the identity of the person to whom the teeth belonged. After subjecting three of the five teeth to the above test Dr. V.K.Kashyap, DNA Expert and Director of the Laboratory submitted a detailed report with the following opinion:

From the morphological examination and analysis of SRY gene, mt DNA (HVS I & HVS II), and Y-STR loci in the forwarded Exhibits 1-10, it can be concluded that forwarded- (Exhibits 2 to 4) belong to a single human aged male individual -(alleged Gumnami Baba). The individual- source of the teeth does not belong to either maternal or paternal DNA lineage of Netaji Subhash Chandra Bose, therefore, cannot be of Netaji Subhash Chandra Bose."

"4.15.11 He was thereafter examined by this Commission as CW-126 in course of which his report was exhibited (Ext.222A). He

was cross-examined at length by some of the deponents to bring home their point that no reliance could be placed on his opinion but their attempt failed. Since the report categorically states that all the teeth belonged to a single human aged male individual and since except Gumnami Baba, the only other aged member who stayed with him all along was Smt.Saraswati Devi Shukla, the negative finding recorded by Dr.Kashyap quoted earlier also militates against the eyewitnesses' account."

Since there is no dispute that at the time of the death of Gumnami Baba *alias* Bhagwanji the only other aged person who was living with him in Ram Bhawan,Faizabad was Smt.Saraswati Devi Shukla and the Mukherjee Commission, as is borne out from perusal of Para 4.15.11 of its report, has taken this fact into account, in my view it has been established beyond all reasonable doubt that the teeth sent to the DNA expert were of Gumnami Baba *alias* Bhagwanji.

Finally, it is pertinent to mention that one of the documents (Annexure 27) which is a part of Ext.C-1 is enquiry report of the Senior Superintendent of Police,Faizabad with respect to the death of one Bhagwanji who lived in Ram Bhawan,Faizabad, died on 16.09.1985 at 9.40 p.m; was cremated at Guptar Ghat,Faizabad on 18.09.1985; whom many believed was Netaji Subhash Chandra Bose; and in the said report it has been mentioned that all the three/four persons who were intimately connected with Bhagwanji (some names have also been mentioned) were closely examined by the police and none of them was able to give any solid evidence to suggest that Bhagwanji was in fact Netaji.

When the aforesaid facts are borne in mind, it would not be safe to accept the claim of CW-3 Anuj Dhar that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose, who from about two years prior to his death was living in Ram Bhawan,Faizabad where he died on 16.09.1985.

5.3 Evidence of CW-4 Chandrachur Ghose,aged about 42 years, son of N.K.Ghose, resident of D-94, Ridgewood Estate, DLF Phase-IV, Gurgaon shows as under:

In 2004 when he was in England he came to know about Gumnami Baba *alias* Bhagwanji; sometimes in 2006 he returned to India and

alongwith Anuj Dhar CW-3, jointly started investigating about identity of Gumnami Baba *alias* Bhagwanji; he and Anuj Dhar contacted a large number of persons, both in Calcutta and Faizabad (at Faizabad Gumnami Baba *alias* Bhagwanji died on 16.09.1985 in Ram Bhawan where he used to live) who were in touch with Gumnami Baba *alias* Bhagwanji; thereafter he asked the Central Government to release all the exhibited documents which were a part of M.K.Mukherjee Commission set up by the Government of India to enquire into the fate of Netaji Subhash Chandra Bose; exhibits were classified records; in deference to his desire the Government of India declassified them in the year 2010; he and Anuj Dhar took into possession the copies of documents pertaining to Gumnami Baba *alias* Bhagwanji from people who had come in contact with him, residing in Calcutta and Faizabad, he and Anuj Dhar separately met Justice M.K.Mukherjee with regard to the circumstances in which late Subhash Chandra Bose died.

The evidence of Chandrachur Ghose further shows that on the basis of the information derived by him from people living in Calcutta and Faizabad, who were in touch with Gumnami Baba *alias* Bhagwanji and the documents obtained from the Central Government, he came to the conclusion that there was a very strong possibility of the person known as Gumnami Baba *alias* Bhagwanji being Subhash Chandra Bose(Emphasis supplied).

The evidence of Chandrachur Ghose also shows that he and Anuj Dhar had collectively done a comprehensive research about identity of Gumnami Baba *alias* Bhagwanji; he (Chandrachur Ghose) desired that he be permitted to file a copy of the research paper prepared by him and Anuj Dhar and the said research paper be treated as a part of his statement and be read alongwith it by the Commission.

The Commission granted the aforesaid request of Chandrachur Ghose; took the said research paper on record; marked it as Ext.C-2 for identification; and directed that it shall be read by the Commission as a part of his statement.

Finally, Chandrachur Ghose stated that he and Anuj Dhar were still doing research in the matter and desired that if subsequently some useful material comes to light the Commission should permit him to file the same.

Chandrachur Ghose was cross-examined by the Commission and the solitary question put to him and the answer furnished by him to the said question are being extracted below:

"Q. Do you have any personal knowledge of the fact whether Gumnami Baba alias Bhagwanji and Subhash Chandra Bose were the same person?"

Ans. I have no personal knowledge that Gumnami Baba alias Bhagwanji and Netaji Subhash Chandra Bose were one and the same person but on the basis of my research paper I think there is a very strong possibility of Gumnami Baba alias Bhagwanji and Netaji Subhash Chandra Bose being the same person."

I would straightaway like to mention that information derived by Chandrachur Ghose from people that Gumnami Baba *alias* Bhagwanji was Subhash Chandra Bose, being hearsay, cannot be legally used for concluding that Gumnami Baba *alias* Bhagwanji was Subhash Chandra Bose.

I have very thoughtfully perused the statement of CW-4 Chandrachur Ghose and the research paper jointly prepared by him and CW-3 Anuj Dhar and filed by him -Ext.C-2.

Since I have already discussed the research paper jointly prepared by him and CW-3 Anuj Dhar while dealing with the evidence of CW-3 Anuj Dhar, I do not feel it necessary to refer to it again.

In his examination-in-chief Chandrachur Ghose has stated as follows:

"On the basis of the information derived by me from the people living in Calcutta and Faizabad, who were in touch with Gumnami Baba alias Bhagwanji and the documents obtained from the Central Government, I came to the conclusion that there was a very strong possibility of the person known as Gumnami Baba alias Bhagwanji being Subhash Chandra Bose "(Emphasis supplied)

In his cross-examination Chandrachur Ghose admitted as follows:

" I have no personal knowledge that Gumnami Baba @Bhagwanji and Netaji Subhash Chandra Bose were one and the same person but on the basis of my research paper I think there is a

very strong possibility of Gumnami Baba @ Bhagwanji and Netaji Subhash Chandra Bose being the same person."(Emphasis supplied)

A perusal of the above would show that Chandrachur Ghose had no personal knowledge that Gumnami Baba *alias* Bhagwanji and Netaji Subhash Chandra Bose were one and the same person but on the basis of research work he thought that there is a very strong possibility of Gumnami Baba *alias* Bhagwanji being Netaji Subhash Chandra Bose.

I have bestowed my anxious consideration to the claim of Chandrachur Ghose that there was a very strong possibility that Gumnami Baba *alias* Bhagwanji and Netaji Subhash Chandra Bose were one and the same person.

It should be borne in mind that Judicial Commissions of Enquiry (like the present) do not reach conclusions on a very strong possibility; they only reach one when there is a very high degree of probability of the likelihood of something being true. In this connection it would be apposite to refer to the Supreme Court judgment in the case of Sarwan Singh Rattan Singh vs. The State of Punjab (AIR 1957 Supreme Court page 637) where the Supreme Court in Para 9 held that suspicions howsoever strong can never take the place of proof and in Para 11 held that between may be true and must be true there is a long distance to travel and the inference of guilt cannot be drawn unless it has been travelled.

For the said reasons, the evidence of Chandrachur Ghose CW-4 does not prove beyond reasonable doubt that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose.

5.4 I now take up the evidence of CW-5 Sreejith Panicker. Its perusal shows as under:

His personal perception is that there is a very strong possibility of Gumnami Baba *alias* Bhagwanji being Netaji Subhash Chandra Bose because in his position as founder member of Mission Netaji, which is a research organization in New Delhi, he had been studying about this matter since the last ten years and collecting information about Gumnami Baba *alias* Bhagwanji from various sources, including people from Faizabad who had personally met him and Government sources; in February 2016 he visited Faizabad and met Mrs. Rita Banerjee (daughter-in-law of late

Dr.T.C.Banerjee, personal physician of late Gumnami Baba *alias* Bhagwanji) who had personally seen and spoken to Gumnami Baba *alias* Bhagwanji; Mrs. Rita Banerjee told him that Gumnami Baba had mentioned to her that he was Netaji Subhash Chandra Bose; under the Right to Information Act,2005 he made a large number of requests to Central Government for information pertaining to Gumnami Baba *alias* Bhagwanji; he received two replies from Central Government, which he filed before the Commission, desiring that they be treated as a part of his statement.

The Commission took the said replies on record; marked them as Ext.C-3 and C-4 for identification; and directed that they shall be read as a part of his statement.

Sreejith Panicker also deposed that his impression was that some information pertaining to Gumnami Baba *alias* Bhagwanji is with Centre/State of U.P. Intelligence Department and since he had no access to it because the Intelligence Department is exempt from RTI, the Commission may seek information from them.

Sreejith Panicker was cross-examined by the Commission and during it admitted "I do not have any personal knowledge but on the basis of information which I have gathered from Mrs. Rita Banerjee and some others, feel that there is a very strong possibility of Gumnami Baba *alias* Bhagwanji being Subhash Chandra Bose." (Emphasis supplied)

I have very carefully perused the statement of Sreejith Panicker and Ext. C-3 and C-4. After giving my anxious consideration to the matter, I am of the view that there is no legal evidence on the basis of which the Commission can accept the claim of the witness that there was a very strong possibility of Gumnami Baba *alias* Bhagwanji being Subhash Chandra Bose.

A perusal of the cross-examination of Sreejith Panicker (I have extracted it earlier), shows that he had no personal knowledge that Gumnami Baba *alias* Bhagwanji was Subhash Chandra Bose but on the basis of information which he had gathered from Mrs. Rita Banerjee and some others he felt that there was a strong possibility of Gumnami Baba *alias* Bhagwanji being Subhash Chandra Bose.

Since the evidence on the basis of which Sreejith Panicker concluded that there was a strong possibility of Gumnami Baba *alias* Bhagwanji being

Subhash Chandra Bose was hearsay in nature and a nullity in law, it cannot be a valid basis for drawing the aforesaid inference.

It is also pertinent to mention that a perusal of replies furnished by Central Government with respect to Ext.C-3 and C-4 show that it had no information pertaining to Gumnami Baba *alias* Bhagwanji being Netaji Subhash Chandra Bose.

For the said reasons, in my view, the claim of Sreejith Panicker that there was a strong possibility of Gumnami Baba *alias* Bhagwanji being Subhash Chandra Bose cannot be accepted.

5.5 I now propose considering the evidence of CW-6 Shyama Charan Pandey, aged about 72 years, son of Krishna Kant Pandey, resident of village and post Kaithi, Police Station Chaubepur, district Varanasi. His evidence shows as under:

Since Netaji Subhash Chandra Bose had died in 1977 in Dehradun, Gumnami Baba, who used to live in Ram Bhawan, Faizabad and whose last rites were performed on 18.09.1985 was not Netaji Subhash Chandra Bose.

The witness gave a compilation to the Commission, containing a large number of papers which showed his association with Netaji Subhash Chandra Bose and requested that the said compilation be treated as a part of his statement. The Commission accepted the aforesaid request of the witness and marked the said compilation as Ext.C-5.

A perusal of the said compilation shows that its gist is contained in an affidavit dated 14.09.2016 sworn before a Notary. That affidavit is a part of the compilation. A perusal of the said affidavit shows as under:

On 2nd December, 1951 all of a sudden, one Shardanand came to village Kaithi where he came in contact with his father (late Krishna Kant Pandey); he stayed in village Kaithi for about two and half months in a cave on the banks of river Ganga; at the instance of Shardanandji, in the year 1954, his father resigned from provincial service and spent most of his time serving him; sometimes after the arrival of Shardanandji in village Kaithi people started saying that Shardanandji was none else than Netaji Subhash Chandra Bose and in the local newspapers this news was flashed; all of a sudden on February 17, 1952 Shardanandji left Kaithi and proceeded to

Punjab; the uncle of the witness Radha Kant Pandey(late) accompanied him; in 1959 Shardanandji in Qasba Falakata, which was located in district Cooch Behar in West Bengal, established Shoulmari Ashram, with the object of improvement of mankind and upliftment of the country; at the Ashram people started talking that Shardanandji was Netaji Subhash Chandra Bose; all of a sudden in the year 1966 Shardanandji left Shoulmari Ashram and proceeded for Uttar Pradesh alongwith Dr. Suresh Chandra Pandey (retired Principal) resident of Amravati, Maharashtra; on April 17, 1977 Shardanandji died at 194, Rajpur Road,Dehradun; the entries contained in various diaries of his father lead to a strong suspicion that Shardanandji was Netaji Subhash Chandra Bose;

Mr.Nihrendra Dutt Majumdar,former Law Minister of West Bengal, who had worked with Netaji met Shardanandji in Shoulmari Ashram, who told him that Subhash Chandra Bose had not died yet and when former asked him what was the impediment in his not coming out openly,Shardanandji told him that he was suspicious of the intentions of Nehru and members of his family; in 1972 during his stay at Varanasi, Shardanandji in reply to a question by the witness said that Subhash Bose was not killed in a plane crash but may have died later; in the year 1962-63 after meeting Shardanandji, Uttam Chand Malhotra, at whose Kabul residence in the year 1941 Netaji had stayed for 46 days, said that Shardanandji was Netaji Subhash Chandra Bose; in the year 1972-73 Shiv Nath Singh Maurya and Dr. Bhagwan Das Arora met Shardanandji in Varanasi and declared that he was Subhash Chandra Bose; during the period 1962 to 1965 Shiv Nath Singh Maurya wrote letters to President of India, Prime Minister of India and Home Minister of India mentioning that Netaji Subhash Chandra Bose was staying in Shoulmari Ashram; Ram Shanker Singh, aged about 92 years and Vishram Singh aged 90 years, who served Shardanandji for a long number of years were of the definite opinion that he was Netaji Subhash Chandra Bose; in Shoulmari Ashram one Brigadier of Azad Hind Fauj came to meet Shardanandji, but he did not meet him; while going back the Brigadier stated that had Netaji Subhash Chandra Bose died, he would not have come to meet him; while Shardanandji used to stay in Dehradun, Colonel Pritam Singh, Lt. Col. Damodar Bhatt, Udai Singh Dangi and Uttam Chandra Malhotra (all of Azad Hind Fauj) constantly used

to help him; handwriting expert Vikas Srivastava compared the handwriting of Shardanandji and Subhash Chandra Bose and opined that they were of the same person; and on the basis of the aforesaid facts the witness has deposed in para 11 of the affidavit that Shardanandji was Netaji Subhash Chandra Bose and Gumnami Baba *alias* Bhagwanji was not Subhash Chandra Bose.

I have perused the aforesaid averments in the affidavit and other documents which are a part of the compilation. Their perusal shows that primarily the impression of the witness that Shardanandji was Netaji Subhash Chandra Bose was derived from the information furnished by Ram Shanker Singh, Vishram Singh, Nihrendra Dutt Majumdar, Uttam Chandra Malhotra, Dr. Bhagwan Das Arora, Shiv Nath Singh Maurya and a former Brigadier of Azad Hind Fauj. In my view, the said information being hearsay in nature is a nullity in law and the conclusion of the witness that Shardanandji was Subhash Chandra Bose is legally untenable. It is true that a perusal of the affidavit shows that during his stay at Varanasi (in 1972) Shardanandji told the witness that Subhash Chandra Bose was not killed in a plane crash but he may have died later, but the said statement does not mean/show that Shardanandji was Netaji Subhash Chandra Bose.

It may be mentioned that although the handwriting expert (his opinion is part of the compilation) found sufficient grounds of similarity in the writings of Netaji Subhash Chandra Bose and Shardanand and, therefore, opined that Shardanandji may be a hidden personality of Netaji Subhash Chandra Bose but I make no bones in observing that since there is irrefutable evidence in the form of the report of M.K. Mukherjee Commission (it was set up by the Central Government to enquire into the alleged disappearance of Netaji Subhash Chandra Bose) that Shardanandji was not Netaji Subhash Chandra Bose, the opinion of handwriting expert has to be ignored. At pages 108,109,110 and 111 Justice M.K. Mukherjee has dealt with it under the heading (iii) Death in Dehradun. I am extracting the discussion in entirety:-

"(iii) Death in Dehradun

4.13. The version claiming that Netaji died at Dehradun in 1977 stems from the setting up of an Ashram named and styled as 'Shoulmari Ashram' at a place called Falakata in the district of Cooch Behar which

borders Bangladesh, Bhutan and Nepal. According to the materials made available to this Commission, this Ashram was set up in or about 1959 by a Sadhu known as Shardanandji (hereinafter referred to as "Sadhu" and his disciples. At the inception nobody took notice of the Ashram and for that matter of the Sadhu, but when it extended its geographical area over 100 acres of land, its inhabitants rose to about 1,500 and armed guards were posted, outsiders living in and around the place became inquisitive about the real identity of the Sadhu as well as goings-on at the Ashram. Within a few months thereafter rumour spread in the district of Cooch Behar that Netaji had been living in the Ashram in the guise of the Sadhu. Though this rumour created a lot of commotion among the people the general intelligentsia ignored the rumour in absence of any authentic basis to prove that the Sadhu was Netaji. However, the rumour persisted and in 1961 it spread throughout the country.

4.13.1 Attracted by the rumour, Major SatyaGupta, a close associate of Netaji, met the Sadhu in February, 1962 at the Ashram and after coming back to Calcutta he called a press conference wherein he asserted that the Sadhu was none but Netaji. The assertion so made by him was published in different national newspapers on February 13, 1962. Thereafter, some people of repute visited the Ashram and met the Sadhu to ascertain whether he was Netaji or not. On return diametrically opposite views were expressed them regarding his identity. The issue was also raised in Indian Parliament and it became the subject matter of a debate. The Sadhu reportedly stayed in the Ashram for about 6/7 years whereafter he visited several places in India and ultimately settled down in Dehradun in 1973. There he died in 1977.

4.13.2 The question whether the Sadhu was Netaji or not came up for consideration before the Khosla Commission wherein, while some of the persons claimed that the Sadhu was none but Netaji, the others denied it. Before this Commission also the witnesses who were examined on this issue were similarly divided in their views. Before considering the evidence of the relevant witnesses examined by the earlier Commission, evidence adduced before this Commission may be looked into.

4.13.3 Of the eleven witnesses examined on this score eight have put forward the story that the Sadhu was none other than Netaji, while the other

three have disputed the claim. The eight witnesses that fall in the first category are Sudhansu Kumar Poddar (CW76), Sudhir Kumar Poddar (CW77), Lalit Mohan Chowdhury (CW78), Bikas Chandra Guhu (CW79), Sujit Kumar Biswas (CW80), Subhash Ranjan Dasgupta (CW85), S.S.Padhye (CW102) and Viswajit Dutta (CW113). When their evidence is pitted against that of the witnesses of the other category, viz. Rajat Kanti Bhadra (CW81), Dinabandhu Dutta (CW82.) and Nikhil Chandra Ghatak (CW83), the evidence of the former cannot be accepted for the following reasons: -

(i) The witnesses who claimed that the Sadhu was Netaji were only occasional visitors to the Ashram and they have not produced any reliable document in support of their such claim except that CW 79 produced a letter which, according to him, was handed over by the Sadhu on October 15,1967 authorising him to collect/raise donations on behalf of the Ashram and which was not found, when examined by the handwriting experts at the instance of the Commission alongwith the admitted handwriting of Netaji, to have been written by the latter, and

(ii) CW 81, who used to look after the stores of the Ashram during 1961-1967, CW82, who was also connected with the Ashram since was established in 1959 and is still with it, and CW83, who is senior practising Advocate in Jalpaiguri Courts and also a lecturer in Jalpaiguri Law College and was looking after the litigations concerning and/or relating to the Ashram, categorically stated that the Sadhu had denied in no uncertain terms that he was Netaji born in wedlock of Janaki Nath Bose and Bivabati Bose asserted that he was born in a Brahmin family of East Bengal(now Bangaldesh) and reiterated his aforesaid denial/assertion in various meetings held in the Ashram as also in meetings outside. This was corroborated by another witness, viz. CW 102 S.S.Padhye. Admittedly, Netaji was born in a Kayastha family of Cuttak in the State of Orissa.

4.13.4 Before the Khosla Commission also some witnesses made a similar statement as would be seen from the evidence of Dr. Pabitra Mohan Roy (KW 176) and Sri Surendra Mohan Ghose (KW154) before whom the

Sadhu had stated that he was not Netaji and was not the son of Janaki Nath Bose. Distinguishing the Sadhu's appearance, accent and his manner of speaking from those of Netaji, Nihrendu Dutta Majumdar, who deposed before the Khosla Commission as witness No.KW 174, stated that the Sadhu did not resemble Netaji and he spoke the dialect of the Sylhet border in East Bengal, whereas Netaji was a man of Cuttack(Orissa) with his ancestral home in South 24-Parganans (West Bengal)."

A perusal of the above would make it absolutely clear that when Sadhu himself told Rajat Kanti Bhadra (CW-81), Deen Bandhu Dutta (CW-82) and Nikhil Chandra Ghatak (CW-83) before the Mukherjee Commission and Dr. Pabitra Mohan Roy (KW-176) and Sri Surendra Mohan Ghose (KW154) before the Khosla Commission that he was not Netaji and the son of Janaki Nath Bose, it becomes crystal clear that the claim of Shyama Charan Pandey (CW-6) that Shardanandji was Netaji Subhash Chandra Bose is rendered untenable and cannot be accepted.

For the said reasons, in my view the evidence of Shyama Charan Pandey does not inspire confidence.

5.6 I now take up the evidence of CW-7 Smt.Rita Banerjee,aged about 64 years, wife of late Dr. Priya Brat Banerjee, resident of 1/13/1,Civil Lines, Faizabad.

The salient facts which emerge from her evidence are as under:

In 1975 Smt.Saraswati Devi Shukla, who used to look after Gumnami Baba *alias* Bhagwanji, came to her father-in-law late Dr. T.C.Banerjee and requested him to accompany her to Ayodhya to attend to a Sanyasi (Saint) who was unwell. Dr. Banerjee, after some persuasion, ultimately acceded to her request and alongwith her visited the place where the saint used to stay and examined him(the saint was known as Gumnami Baba *alias* Bhagwanji). While Dr.Banerjee was leaving she told him that he should not tell anyone about him (saint). On his return he (Dr.Banerjee) told her and members of the family that he had met Netaji Subhash Chandra Bose. Thereafter she and other members of the family requested him to take them to the place where the saint used to stay. Initially Dr.Banerjee turned down their request on the ground that the saint did not meet anyone but ultimately relented. One day he alongwith his wife Smt.Pushpa Banerjee, his son Dr.

P.Banerjee (husband of the witness) and the witness came to Brahmkund in Ayodhya where the saint used to stay. On their first visit the saint allowed her father-in-law Dr.T.C.Banerjee to meet him and they had to stay outside the room in which he used to stay. There was a curtain between the room in which the saint used to stay and the place where they were sitting. After 7/8 visits by them to meet the saint, one day the saint finally agreed to meet them. He asked Smt.Saraswati Devi, whom he used to address as Jagdamba, to get a mat and asked the four of them,namely, the witness, her father-in-law, her husband and her mother-in-law to sit on it. Her father-in-law introduced them to the saint. Thereafter the saint took out his spectacles and told them '*Theek se dekho kahin main Subhash Chandra Bose to nahi.*' Thereupon when they looked at the saint their suspicion that he was Netaji Subhash Chandra Bose turned into a reality. Thereafter they frequently started visiting the saint. She (the witness) often used to take food for him. However, twice a year they could not meet the saint *i.e.* around 23rd January (the date of his birthday) and Durga Pooja because on the said occasions people from Calcutta used to visit him. One day she (the witness) heard that the saint had left Lucknauwa Hata in Ayodhya where he used to stay and shifted to Ram Bhawan,Faizabad because someone had told him that members of Banerjee family were telling people that he (Gumnami Baba *alias* Bhagwanji) was Netaji Subhash Chandra Bose. For about one to one and a half years Gumnami Baba *alias* Bhagwanji was so much angry with them that he did not meet them. On 29th November,1983 her father-in-law died whereupon Gumnami Baba *alias* Bhagwanji through Smt. Saraswati Devi Shukla (Jagdamba) sent the family members a letter of condolence and conveyed to them to meet him after all the post. death ceremonies pertaining to late Dr.Banerjee were completed. Thereafter they regularly kept on visiting Gumnami Baba *alias* Bhagwanji in Ram Bhawan,Faizabad,where he died on 16.09.1985.

The witness filed a written statement, which the Commission took on record, marked it as Ext.C-6 and directed that it shall be read as a part of her statement. (A reading of the written statement shows that the witness verbatim has deposed before the Commission from it.)

In order to assess the credibility of Smt.Rita Banerjee and the truthfulness of her claim that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose, the Commission subjected her to cross-examination.

In reply to the question that between 16th September, 1985 (the date of death of Gumnami Baba *alias* Bhagwanji) and the recording of her statement by the Commission (15.10.2016) what effort she had made to prove/establish that Bhagwanji was Netaji Subhash Chandra Bose, she stated that since Bhagwanji did not want that his identity should be disclosed to anyone, till 15.10.2016 she did not disclose to anyone that Bhagwanji was Netaji Subhash Chandra Bose.

The next question put by the Commission to her was why she was now saying that Bhagwanji was Netaji Subhash Chandra Bose. She replied that since Mission Netaji was making a serious effort to discover the identity of Gumnami Baba and some people were saying that he was a imposter, she had told the Commission that Bhagwanji was Netaji Subhash Chandra Bose.

In reply to the question as to whether she had deposed before the Shahnawaz Commission, Khosla Commission and Mukherjee Commission, she replied that before the Mukherjee Commission she had not deposed but her husband had.

To the question if Gumnami Baba *alias* Bhagwanji was actually Netaji Subhash Chandra Bose, why he was concealing his identity, she stated that it was on account of some sort of pressure.

I have perused the statement of Smt.Rita Banerjee and the written statement Ext.C-6 filed by her very minutely and am constrained to observe that I cannot accept her claim that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose for three major reasons. Firstly, in my view, if Smt. Rita Banerjee was really convinced that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose, she would not have maintained a ominous silence over a period of thirty one years *i.e.* between 16.09.1985 (the date of death of Gumnami Baba *alias* Bhagwanji) and 15.10.2016 (the date when her statement was recorded by the Commission) in respect of telling/informing people that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose. I am not prepared to accept her explanation that she was silent because Gumnami Baba *alias* Bhagwanji

wanted to conceal his identity. In my view, if that was the reason, she would not have deposed before the Commission that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose.

Secondly, her denial that she did not depose before the three Commissions set up earlier, namely, Shahnawaz Commission, Khosla Commission and Mukherjee Commission (though her husband deposed before the Mukherjee Commission) hurts her credibility/ truthfulness/ reliability. A perusal of para 4.15.4 of the Mukherjee Commission report at page 117 shows that Smt. Rita Banerjee was examined before it as CW-65 and her claim was based on a belief that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose. Her evidence, according to Mukherjee Commission, did not assist the Commission in answering the issue whether Gumnami Baba was Subhash Chandra Bose. Her denial in respect of deposing before the Mukherjee Commission shows either she has a weak memory or she was deliberately suppressing the fact that she had deposed before the Mukherjee Commission because before it she had stated that her belief was that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose whereas before the present Commission she has deposed in no uncertain terms that on a number of occasions she had seen/met Gumnami Baba *alias* Bhagwanji and was convinced that he was Netaji Subhash Chandra Bose. In my view, any of the said conclusions lead to the inference that it would be unsafe to accept her claim that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose.

Thirdly, her claim that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose is belied by the DNA test referred to in paragraphs 4.15.10 and 4.15.11 at pages 121 and 122 of the Mukherjee Commission Report.

In view of the aforesaid infirmities, the claim of Smt. Rita Banerjee that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose has to be rejected without even *an iota* of doubt.

5.7 The next witness whose evidence I propose considering is CW-8 Prof. Dr. Dashrath Singh Tomar, aged about 65 years, son of late Ram Prasad Singh, resident of 9/2/18, Terhi Bazar, Ayodhya district Faizabad. The salient features which emerge from his evidence are as under:

In 1977-78 he was practicing as a Homoeopathic doctor in Ayodhya. At the said time an article appeared in Current Magazine, which was being published from Bombay, mentioning whether the person who was living in Ayodhya and hiding his identity was a CIA agent, or a saint or Subhash Chandra Bose. On reading the said article it came in his mind that he should visit the said person. As co-incidence would have it one Mahatma Saran, who lived in Ayodhya and was engaged in wood-furniture business, one day came to him and told him that he had to see a patient. When he told Mahatma Saran that he should bring the patient to his clinic, Mahatma Saran said that the patient did not visit anyone and he would have to examine him at the place where he lived. He also told him that he shall be paid his fees-. At about 9.00 p.m., after closing his clinic, he went to examine the said patient at his residence. When he reached there (Lucknauwa Hata, Ayodhya), he found Mahatma Saran present. - When he knocked at the gate of the house, a lady came out (her name was Jagdambey). The lady told him that they call the person whom he was going to examine as Bhagwanji. When he entered inside the gate, he found that there was a curtain on window of the room in which Bhagwanji was sitting. While he was standing outside the room, Bhagwanji in a roaring voice asked him his name. On his telling him the same said that he was a Kshatriya and whether he had taken a stand against any injustice and killed the person who had committed injustice. Thereafter for half an hour he gave discourse on ideals and for about one hour a speech on Parliament and law and order situation. After talking to Bhagwanji he was convinced that Bhagwanji was Netaji Subhash Chandra Bose. He then proceeded to examine Bhagwanji in the room. Bhagwanji complained of fracture of femur bone and piles. For the former he prescribed symphytem and for the latter acid nitric 200. Thereafter for three years he visited Bhagwanji frequently in connection with his and Jagdambey's illness. On such occasions Bhagwanji used to talk to him on political and geographical subjects. Bhagwanji also used to lament about lack of ideals in the country. After talking to Bhagwanji from time to time on his political and administrative experience and hearing his roaring voice he became convinced that Bhagwanji was Netaji Subhash Chandra Bose. Bhagwanji did not meet anyone on 23rd January of the year.

The witness was cross-examined by the Commission. The first question put to him therein was that in 1977-78 he had gone to examine Bhagwanji and his statement was being recorded on 15.10.2016, during the period of 37 years what did he do to prove that Bhagwanji was Netaji Subhash Chandra Bose. To the said question the witness replied that after Bhagwanji died on 16.09.1985 he approached Mr.Pandey, the then District Magistrate, Faizabad and told him on his enquiry whether Bhagwanji was Subhash Chandra Bose that he was hundred per cent convinced that he was.

The second question put to the witness was between 1977-78 and his meeting the District Magistrate what steps he took to prove that Bhagwanji was Netaji Subhash Chandra Bose. To the said question the witness replied that he did not make any special effort to prove that Bhagwanji was Netaji Subhash Chandra Bose excepting giving interview to the media.

In reply to the third question, which was whether he had seen Subhash Chandra Bose, he replied in the negative. I am extracting his reply in entirety:

" Ji nahi. Maine pahle kabhi Subhash Chandra Bose ko nahi dekha tha. Main unki photo, unki awaz, unke saman aur unki adarshon ki baaton ke aadhar par kahta hoon ke Bhagwanji hi Subhash Chandra Bose the."

The fourth question put to him in cross-examination was whether it should be understood that between 1985-2000 he had not made any special effort to prove that Bhagwanji was Netaji Subhash Chandra Bose. He replied in the affirmative in the following words:

"Ji haan. Maine vishesh prayas nahi kiya, lekin jo log mujhse poochte the, main unko uprokt baten batata rahta tha."

To the fifth question, which was whether Bhagwanji had told him that he was Netaji Subhash Chandra Bose, he replied that directly he had never told him so but he did say that Netaji did not die in a plane crash and why the Government does not get the DNA test of his ashes done.

I have carefully and thoughtfully perused the statement of Dr. Dashrath Singh and am constrained to observe that I am not prepared to

accept his claim that Bhagwanji was Netaji Subhash Chandra Bose for three main reasons.

Firstly, the witness has candidly admitted that neither he had ever seen Subhash Chandra Bose before nor Bhagwanji had himself told him that he was Netaji Subhash Chandra Bose. The witness (as is apparent from answer given by him to question no.3 during cross-examination) believed that Bhagwanji was Netaji Subhash Chandra Bose from his photo, voice, ideals, the conversation which he had with him and the articles found in his possession. In my view, from the aforesaid material it would be hazardous/unsafe to conclude that Bhagwanji was Netaji Subhash Chandra Bose.

Secondly, the claim of the witness that Bhagwanji was Netaji Subhash Chandra Bose is belied by the DNA test referred to in paragraphs 4.15.10 and 4.15.11 at pages 121 and 122 of the Mukherjee Commission Report.

Since I have extracted the said paragraphs of the Mukherjee Commission Report in paragraph 5.2 while dealing with the evidence of Anuj Dhar (CW-3), it is not necessary in my view to advert to the said paragraphs again.

Thirdly, the conduct of the witness does not inspire any confidence. A perusal of his cross-examination and the answers given by him to the questions put to him (to which I have referred to earlier) shows that from 1977-78 to 16th September, 1985 (the date when Bhagwanji died) and from 1985 to 2000 apart from telling Mr. Pandey, District Magistrate, Faizabad and Mr. Anuj Dhar that Bhagwanji was Netaji Subhash Chandra Bose, he had made no special effort to establish/prove that Bhagwanji was Subhash Chandra Bose. In my view, this conduct of the witness was extremely unnatural and casts a shadow of doubt on his veracity. The Supreme Court of India, times out of number, has held that the conduct of a witness is very material in determining his veracity and in coming to the conclusion whether his evidence inspires confidence or not. In my view, had the witness been convinced that Bhagwanji was Netaji Subhash Chandra Bose, he would have told all and sundry about it and not have maintained the sort of silence which he did.

Coupled with the conduct of the witness when it is borne in mind that the belief of the witness that Bhagwanji was Netaji Subhash Chandra Bose was based on facts which he had gathered in his contact with him in the year 1977/1978 and three years thereafter *i.e.* 38-35 years prior to 16.10.2016, the date when he was examined by the Commission, probability of the memory of the witness getting blurred and his imagining some of the things which he has deposed about Bhagwanji cannot be ruled out.

For the aforesaid reasons, in my view, it would be unsafe to accept the belief of Prof.Dr.Dashrath Singh that Bhagwanji was Netaji Subhash Chandra Bose.

5.8. I now take up the evidence of CW-9 Ravindra Nath Shukla, son of late Jagdish Prasad Shukla, aged about 57 years, resident of 867, Avas Vikas Colony, Amaniganj, Faizabad. In short, his evidence reads as under:

In 1976-1977 he used to visit Gumnami Baba *alias* Bhagwanji, who at that time was residing in Lucknauwa Hata in Ayodhya. For the first time he visited him alongwith Dr.Virendra Rai. When he met Gumnami Baba *alias* Bhagwanji, the latter enquired from him as to why he had come and told him that people call me a CIA agent/Netaji Subhash Chandra Bose/ a detective, who had run away from another country. Bhagwanji asked him what he thought about his identity. On this, he told Bhagwanji that since he lived behind a curtain and did not meet anyone, it was natural for people to think that he was either a CIA agent or Netaji Subhash Chandra Bose or a detective who had run away from another country. Thereafter he started visiting Bhagwanji and continued visiting him till 16.09.1985, the date of his death. The witness filed a elaborate written statement with the request that it be taken on record and read as a part of his statement. The Commission took the said written statement on record, marked it as Ext.C-7 for identification and directed that it shall be read as a part of his statement.

The evidence of Ravindra Nath Shukla further shows that every year on 23rd January, which was birthday of Bhagwanji and in both the Durga Poojas people from Calcutta used to visit Bhagwanji and he alongwith others used to make arrangements for their stay. One of the persons who visited him was Sri Pranav Mukherjee, who presently is the President of India. People from 12/13 families of Faizabad used to come to meet

Bhagwanji and one of them was Dr. R.P.Misra and his wife. From about 7/8 months prior to his death, food for Bhagwanji used to come from the house of Dr.R.P.Misra. Before that Mataji (Saraswati Devi Shukla) used to cook his food.

The evidence of Ravindra Nath Shukla further shows that on 16.09.1985 after having food Bhagwanji suddenly fell ill and despite medical aid administered by Dr. R.P.Misra and Dr. Banerjee, died the same night at 9.25 p.m. After Bhagwanji's death Dr.R.P.Misra and Mr.Arvind Singh said that they would send news of his death to Calcutta by asking the SSP to send a wireless but it transpired that they did not approach the SSP. Since it was summer season and there was a fear that the body of Bhagwanji may decompose, on 18th September,1985 last rites of Bhagwanji were performed at Guptar Ghat,Faizabad. Thereafter Dr. R.P.Misra started taking the belongings of Gumnami Baba *alias* Bhagwanji to his house. On this the witness and others objected and said that till the time people from Calcutta came (Dr.Pabitra Mohan Roy and Santosh Bhattacharya used to visit Bhagwanji) the belongings of Bhagwanji should not be removed and be locked in a room in Ram Bhawan. Then in a room in Ram Bhawan the belongings of Bhagwanji were locked. On 19.09.1985 he alongwith Dr.Virendra Rai visited the house of Dr.Pabitra Mohan Roy, met him and his wife and the latter showed them a photo of Netaji Subhash Chandra Bose and asked them, was he the person, who had died. On this they replied in the affirmative. Dr.Pabitra Mohan Roy and his wife told them that they had known him since he was in Rangoon. They also told them to keep his belongings safely and said that they would come soon. However, when they did not come, for a second time he and Dr.Virendra Rai accompanied by Dr.Banerjee went to Calcutta and met Dr.Pabitra Mohan Roy and Santosh Bhattacharya, who said that they would come but they did not come. Later on their niece Leela Roy came and an inventory of the belongings of Bhagwanji was prepared.

The witness was cross-examined by the Commission. In all 8 questions were put to him therein.

To question No.1,which was, who in his opinion Bhagwanji was, he replied that in his view he was Netaji Subhash Chandra Bose.

To question No.2, which was, what was the basis for his view, he replied that his belief was based on the conversation which he and others had over years with Bhagwanji and also on the photo which Dr.Pabitra Mohan Roy's wife had shown him at Calcutta.

To question No.3, which was, whether before today he had apprised any official that Bhagwanji was Subhash Chandra Bose, the witness replied that he had mentioned this fact to the Justice M.K.Mukherjee Commission in the year 2002-2003.

To question No.4, which was, whether between 16.09.1985 (the date on which Bhagwanji died) and the year 2002-2003 when Mukherjee Commission recorded his statement, he told any officer or anyone else that Gumnami Baba *alias* Bhagwanji was Subhash Chandra Bose, he replied that during the said period he had not told this fact to anyone.

I have perused the statement of Ravindra Nath Shukla and the written statement Ext.C-7 filed by him. I am constrained to observe that I do not find any merit in his belief that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose for three main reasons.

Firstly, a perusal of the answer given by the witness to Question No.2 shows that his belief was based on the conversation which he had with Bhagwanji over the years and on the photo which wife of Dr. Pabitra Mohan Roy had shown him in Calcutta (she had shown him the photo of Netaji Subhash Chandra Bose). The witness was examined as CW-61 before the Mukherjee Enquiry Commission and the said Commission in Para 4.15.2 of its report at page 115 has observed that he and some others had admitted before it that they had not seen Gumnami Baba.

In my view, since before the Mukherjee Commission the witness had admitted that he had not seen Gumnami Baba, I fail to understand how on seeing the photo of Netaji Subhash Chandra Bose at Calcutta he could conclude that Bhagwanji was Netaji Subhash Chandra Bose.

Secondly, the claim of the witness that Bhagwanji was Netaji Subhash Chandra Bose is belied by the DNA test referred to in paragraphs 4.15.10 and 4.15.11 at pages 121 and 122 of the M.K.Mukherjee Commission Report.

Since I have extracted the said paragraphs of the M.K.Mukherjee Commission Report in Para 5.2 while dealing with the evidence of Anuj Dhar (CW-3), it is not necessary, in my view, to advert to the said paragraphs again.

Thirdly, the conduct of the witness is a serious impediment in accepting his claim that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose. As seen earlier in answer to question No.4 the witness admitted that between the death of Gumnami Baba (it took place on 16.09.1985) and his statement before the Mukherjee Commission (it was recorded in the year 2002-2003) he did not give any statement to any official or tell anyone that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose. This silence on the part of the witness for over sixteen years is ominous and casts grave doubts on the genuineness of his claim that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose.

In my view, had the witness really believed that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose he would have been sharing this belief of his with all and sundry.

It may be mentioned that the Supreme Court, times out of number solely on account of the conduct of a witness in not disclosing an incident/fact to others at the earliest, had disbelieved a witness.

For the aforesaid reasons, in my view, it would not be safe to accept the belief of Ravindra Nath Shukla that Bhagwanji was Netaji Subhash Chandra Bose.

5.9 The next witness whose evidence I propose evaluating is CW-10 Ashok Tandon, aged about 65 years, son of late Nanak Chand Tandon, resident of 9, MIG, Laxmanpuri Colony, Faizabad. The salient features which emerge from his evidence are twofold:-

(a) he never met Gumnami Baba *alias* Bhagwanji (this is evident from the answer which he gave to question No.4 during cross-examination); and

(b) on the basis of circumstantial evidence, his conclusion is that Gumnami Baba was Netaji Subhash Chandra Bose.

The evidence of Ashok Tandon, in short, shows as under:

In 1985 he was the Editor of a local newspaper. On 18.09.1985 he received news that an unknown saint who was living in Ram Bhawan had died and was secretly cremated at Guptar Ghat and till his cremation people were not allowed to see his face. They thought that he was Netaji Subhash Chandra Bose. He did not believe the news and asked his correspondent not to publish it but in view of the information which he started getting, he started investigating about the identity of the unknown saint and in due course reached the conclusion that he was Netaji Subhash Chandra Bose. He published his conclusion in an elaborate write-up dated 28.10.1985. On the said date, the City Magistrate in the presence of some people (including him) opened the lock of the room in Ram Bhawan in which the belongings of the unknown saint were kept. He found that there was a huge collection of literature and some other articles. Some days after 28th October, 1985 Sub Inspector Harish Chandra Singh prepared an inventory of the belongings of Gumnami Baba which included huge literature in English, Hindi and Bangla and a large number of papers connected with Netaji Subhash Chandra Bose. Thereafter pursuant to the orders of the High Court passed in a writ petition preferred by Lalita Bose (niece of Subhash Chandra Bose), Satya Narain Singh Satya, an Advocate was appointed a Commissioner and in his presence continuously for 13 months an elaborate inventory of the belongings of Gumnami Baba was prepared. Since he (the witness) was a junior of Mr. Singh at that time, he was present alongwith Mr. Singh during the entire time in which the inventory was prepared. On the basis of material seen by him, he reached the following conclusion:

(1) Bhagwanji *alias* Gumnami Baba was a Bengali;

(2) Bhagwanji was a very well-read man and had a good knowledge about international politics and war tactics;

(3) Most of the letters which were found were in Bangla and English. Amongst them were letters sent by Prof. Samar Guha, Dr. Pabitra Mohan Roy, Vishwanath Roy, Amal Roy, Jagjit Das, Ashutosh Kali, Smt. Basanti Devi, Kaushal Kishore, Amlendu Ghose, Sunil Krishna Gupta, Atul Krishna Gupta, Trilok Nath Chakravarty, Sadhan Chandra Das, Shailendra Kumar, Nand Lal Chakravarty, Santosh Kumar Bhattacharya, Jagat Jitendra, Bhoop Bahadur, Surjeet, Tarun Kumar Mukherjee, Mihir Das and Shaila Sen. From

their perusal it appeared that the said persons were either members of the Indian National Army created by Netaji Subhash Chandra Bose or belonged to some revolutionary groups or were volunteers;

(4) From reading the letters sent by the said persons and Smt. Leela Roy (an ardent disciple of Netaji Subhash Chandra Bose) it appeared to him (the witness) that Gumnami Baba was Netaji Subhash Chandra Bose but from a perusal of the letters it was clear that there was no indication by the said persons that Gumnami Baba was Netaji Subhash Chandra Bose;

(5) On 23rd January which was birthday of Gumnami Baba people from Calcutta with sweets *etc.* used to come and on the said date no local person was allowed to visit him;

(6) The belongings of Gumnami Baba included Books on War with China and some of them contained his comments also;

(7) Both in correspondence and in personal conversation Gumnami Baba was never addressed as Netaji Subhash Chandra Bose. He was addressed as "Shri Charneshu", "Shradha Spadeshu" and "Swamiji";

(8) Leela Roy first came in contact with Gumnami Baba in 1963 while he was in Neemsar, Sitapur. She used to make available all the articles required by him. A list was sent to her and in one of the lists, it was mentioned 'photo of mother and father' (it was not mentioned whose mother and father) Leela Roy sent to him photos of Janaki Nath Bose and Smt. Prabhawati Devi, father and mother respectively of Netaji Subhash Chandra Bose. As a protest to the Khosla Commission Report, Suresh Chandra Bose (brother of Netaji Subhash Chandra Bose) wrote a book 'Decendent Report'. A copy of the said book was sent to Gumnami Baba and on the first page of the copy was written "Param kalaneeya devar chiranjiveshu - Pranadhik sneh ashirvad" but neither the name of the person to whom this message was sent was mentioned nor the name of the person who had sent it was mentioned. However, while the inventory was being prepared Lalita Bose (niece of Subhash Chandra Bose) said that the writing in Bengali was of her mother;

(9) Dr. Pabitra Mohan Roy, who was an officer in Azad Hind Fauj, wrote to Gumnami Baba you are my intelligence officer, without fear or favour must

(10) Vishwanath Roy wrote a letter to Gumnami Baba mentioning the day he came in 1923 alongwith Deshbandhu and Gumnami Baba gave a speech in connection with Vidhan Sabha elections he decided that he was his Guru;

(11) A small slip was found wherein in Bangla it was mentioned "*Harirpurar theke Vellington Square porjonto ja chhotey chhilo to jodi na ghotto tahono jeebanta hayto onyodike mor nito*" (In English it means that if what happened between Haripura and Vellington had not happened then life could have gone in a different direction). At Haripura Netaji Subhash Chandra Bose was elected as Congress President and in Vellington he resigned from the said post.

The evidence of Ashok Tandon shows that in view of the aforesaid circumstantial evidence he believed that Gumnami Baba was Netaji Subhash Chandra Bose.

Mr.Ashok Tandon has also filed a written compilation, a book on Gumnami Baba and a book called Ganga Patrika with the request that they be taken on record and the contents therein be read as a part of his statement. The Commission acceded to the request of the witness; took aforesaid documents on record; marked them as Exts. C-8,C-9 and C-10 for identification; and directed that the contents therein will be read as a part of the statement of the witness.

Sri Ashok Tandon was cross-examined by the Commission.

In answer to the first question, which was, who he thought was Gumnami Baba *alias* Bhagwanji, he replied that his investigation revealed that all those who came in contact with Gumnami Baba thought him to be Subhash Chandra Bose and he after perusing all the letters and evidences also reached the inference that he was Netaji Subhash Chandra Bose.

In answer to the second question, which was, whether there was any additional basis for his reaching the aforesaid conclusion, he replied that in society there was a general belief that Gumnami Baba was Netaji Subhash Chandra Bose and the conduct of his disciples in first maintaining confidentiality and later on saying that he was Netaji Subhash Chandra Bose made him believe that Gumnami Baba was Netaji Subhash Chandra Bose.

In reply to question No.3, which was, whether he had informed any officer or anybody that Gumnami Baba was Netaji Subhash Chandra Bose, he replied that he was a journalist and conformed to the ethics of journalism and from time to time in his writings and books mentioned this inference of his. He also stated that he had deposed before the Mukherjee Commission, had helped all those who came to him in connection with discovering the identity of Gumnami Baba *alias* Bhagwanji and gave some writing samples of Gumnami Baba to a budding journalist Mr.Anuj Dhar, which were sent to Mr.Lal, a handwriting expert, who gave positive report and sent a copy of it to him.

Question No.4 put to him was whether he had ever met Gumnami Baba *alias* Bhagwanji. In reply to it he emphatically denied having met him.

I have perused the statement of Mr.Ashok Tandon and the documentary evidence filed by him (Exts.C-8,C-9 and C-10) and in my view it would be unsafe to accept his inference that Gumnami Baba was Netaji Subhash Chandra Bose. As seen earlier, he candidly admitted that he had never met him and his inference was based on circumstantial evidence. For three reasons I am not inclined to accept his inference.

Firstly, his claim that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose is belied by the DNA test referred to in paragraphs 4.15.10 and 4.15.11 at pages 121 and 122 of the Mukherjee Commission Report.

Since I have extracted the said paragraphs of the Mukherjee Commission report in entirety in paragraph 5.2 while dealing with the evidence of Anuj Dhar (CW-3), it is not necessary, in my view, to advert to the said paragraphs again.

Secondly, a perusal of the statement of Mr.Ashok Tandon shows that his belief that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose was largely based on information which he had derived from others. In my view, such information falls in the category of 'hearsay evidence', is a nullity in law; and cannot be a basis for drawing the inference that Gumnami Baba was Netaji Subhash Chandra Bose.

Thirdly, the claim of the witness that since some of the letters and books recovered from Ram Bhawan, Faizabad have connection with Netaji

Subhash Chandra Bose, it follows as a logical imperative that the person residing in Ram Bhawan, Faizabad was Netaji Subhash Chandra Bose cannot be accepted in view of the DNA report referred to earlier. Even otherwise, merely because some of the letters and books recovered from Ram Bhawan, Faizabad relate to Subhash Chandra Bose, it does not mean that it was Subhash Chandra Bose who was living there. Their recovery is also compatible with the inference of another person living there. It is well-settled in law that an inference can only be reached on circumstantial evidence if four requirements are met:

- (i) circumstances are firmly established;
- (ii) they unerringly lead to the inference sought to be drawn;
- (iii) they are wholly inconsistent with any other inference;
- (iv) they are incapable of being explained on any other reasonable hypothesis.

I make no bones in observing that if the aforesaid four requirements are kept in mind, the circumstantial evidence on which the witness has based his inference that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose is clearly insufficient.

Before parting with the evidence of the witness, I would like to mention that although handwriting expert Mr. Lal gave a positive report in respect of the handwriting samples of Gumnami Baba which the witness gave to Mr. Anuj Dhar, who in turn sent them to Mr. Lal, who also sent a copy of his report to the witness, the said report cannot be taken as a conclusive proof of the fact that handwriting samples were of Netaji Subhash Chandra Bose because three other experts, namely, Mr. Amar Singh, Mr. M.L. Sharma and Mr. S.K. Mondal, who were examined by Mukherjee Enquiry Commission, gave a contrary opinion. This aspect has been dealt with by Justice M.K. Mukherjee Enquiry Commission in para 4.15.9 at page 121 of its report. I am extracting the aforesaid Para in entirety:

" The reports of the experts to whom the handwritings appearing in some books and journals found in 'Ram Bhawan' were sent for comparison with the admitted handwritings of Netaji materially differ. While one of .

them viz. Shri B.Lal, Ex-Government Examiner of Questioned Documents, New Delhi (CW-119) has given a firm opinion that those (both Bengali and English) were of Netaji, Shri Amar Singh and Shri M.L.Sharma (CW 121) of the Office of the Government Examiner of Questioned Documents, Government of India, Simla, who have filed a joint report, and Dr. S.K.Mondal of Forensic Laboratory, Government of West Bengal, Kolkata (CW-120) have given a contrary opinion. Such divergent opinion and any evidence from any person conversant with the handwriting of Netaji that the questioned writings were of Netaji is another impediment to the safe acceptance of the oral version given in this regard."

For the aforesaid reasons, in my view, it would not be safe to accept the belief of Ashok Tandon that Bhagwanji was Netaji Subhash Chandra Bose.

5.10 The next witness whose evidence I propose analyzing is CW-11 Ayodhya Prasad Gupta, aged about 90 years son of late Sooraj Lal, resident of village Jainagra, Post Office Bargaon, district Gonda. His evidence, in short, shows as under:

He was a Sepoy in Azad Hind Fauj(Indian National Army) of Subhash Chandra Bose; the story of plane crash at Formosa is a tissue of lies and the Japanese in the year 1945 safely left Netaji alongwith his belongings in Russia; twice Pandit Nehru met Netaji in Russia and asked him to come to India; at Nehru's behest Netaji came to India; between 1965 - 1970; he (Netaji) stayed in Shoulmari Ashram, where in 1966 the witness met him; between 1970-1972 he stayed at Naimisharanya where the witness met him for the second time; between 1972-1979 he stayed in Basti in the compound of Raja Saheb's bungalow; between 1980-1982 he stayed at Lucknauwa Kothi in Ayodhya ; between 1982-1985 he stayed at Ram Bhawan in Civil Lines, Faizabad where he died on 16.09.1985 at 6.00 p.m.; on 23rd January every year his birthday was celebrated; on that date he used to put on the uniform of Azad Hind Fauj and hoist the flag; on the said date members of his family used to come from Calcutta and distribute sweets and clothes *etc.* to the poor; one Saraswati Devi Shukla whom Gumnami Baba *alias* Bhagwanji called as Jagdambey used to stay with him; she did all domestic work and looked after his needs.

The evidence of witness also shows that he met Netaji Subhash Chandra Bose *alias* Gumnami Baba in Ram Bhawan who instantly recognized him. His evidence further shows that Netaji considered politics to be a dirty affair and rejected his suggestion to take any political post.

The witness also stated that he received summons from Mukherjee Commission to give evidence in Calcutta, in response to which he went to Calcutta and gave evidence.

The witness was cross-examined by the Commission.

In response to question No.1 which was when he used to meet Netaji what conversation he had with him, he replied that he used to ask him to join politics but Netaji used to tell him " *Ab mujhe yog karna hai our bhagwat bhajan karna hai*" .

In response to question No.2 which was prior to deposing before the Mukherjee Commission, did he disclose to any officer/organisation that Bhagwanji *alias* Gumnami Baba was Subhash Chandra Bose, he replied that a number of times he had told the District Magistrate and Superintendent of Police about it but he had no written evidence to back his claim. He also stated that he had written a book on Netaji Subhash Chandra Bose in which he had mentioned this fact.

In response to question No.3 which was in which year he had written the book, he replied that he wrote it in 1986 because Netaji had directed him to write a book about him(which should be widely distributed). He also stated that Netaji had asked him to make a film on him(Netaji), if possible.

In reply to the last question which was that since Netaji was such a fearless person why did he conceal his identity on his return to India, he stated that there was an agreement between Pandit Nehru and British Government(which was valid till 2002) that Netaji dead or alive should be handed over to the British Government.

I have perused the statement of Ayodhya Prasad Gupta in the background of terms of reference by which this Commission was created by the Uttar Pradesh Government, *vide* its notification dated 28.06.2016. A perusal of the said notification, as seen earlier, shows that the Governor of Uttar Pradesh has directed the Commission to find out the identity of Gumnami Baba *alias* Bhagwanji who lived in Ram Bhawan, Faizabad prior

to his death and whose last rites were performed on 18.09.1985. The claim of the witness that Gumnami Baba *alias* Bhagwanji who lived in Ram Bhawan, Faizabad between 1982-1985 (where he died on 16.09.1985) was Netaji Subhash Chandra Bose is unworthy of acceptance because it is belied by the DNA test referred to in paragraphs 4.15.10 and 4.15.11 at pages 121 and 122 of the Mukherjee Commission Report.

Since I have extracted the said paragraphs of the Mukherjee Commission Report in paragraph 5.2 while dealing with the evidence of Anuj Dhar (CW-3), it is not necessary in my view to advert to the said paragraphs again.

Apart from the above, I have no compunction in observing that Ayodhya Prasad Gupta is not a truthful witness. In his statement, he has candidly stated that he gave evidence before the Mukherjee Commission at Calcutta. I have perused the Mukherjee Commission Report and find that there is no mention/discussion about his evidence in it. I have also perused Appendix No.1 of the Mukherjee Commission Report which contains a list of witnesses examined by the Commission. Its perusal shows that 131 witnesses were examined by the Commission and the name of Ayodhya Prasad Gupta does not figure in the list.

Once it is accepted that Ayodhya Prasad Gupta was not examined before the Mukherjee Commission then it becomes clear that between 16.09.1985 (the date of death of Gumnami Baba *alias* Bhagwanji) and 25.10.2016 (the date when he was examined by this Commission), he did not give any statement to any authority that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose. Since the witness has no regard for the truth, I am not inclined to accept his claim that he orally told the District Magistrate and Superintendent of Police about this fact and mentioned about it in a book. It is pertinent to mention that he did not file a copy of his book before the Commission.

The Supreme Court, times out of number, has said that non disclosure of an incident/fact by a witness for a considerable time casts grave doubt on the credibility of a witness. In my view, had the witness been really convinced that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose, he would have been telling all and sundry about this fact.

I also do not find the statement of Ayodhya Prasad Gupta to be in consonance with probabilities which is a time honoured yardstick for measuring the credibility of a witness. In cross-examination at one place the witness stated that when he asked Netaji to accept an office, he replied that

" Ab mujhe yog karna hai our bhagwat bhajan karna hai".

If this was true then in my view Netaji would never have asked him to make a film on him (Netaji) . Netaji is alleged to have told him, if possible, to make a film on him.

Again the claim of the witness that every year on 23rd January Netaji used to put on uniform of Azad Hind Fauj and hoist flag is per se unworthy of acceptance because not only no other witness has stated about it but also because the almost consistent evidence which has come before Commission is that Gumnami Baba *alias* Bhagwanji never used to talk face to face with people. He used to talk from inside a room which had a window on which there was a curtain and the person/persons to whom he used to talk to was/were on the other side of the window. If such was the precaution which Gumnami Baba *alias* Bhagwanji took to conceal his identity, in my view, it sounds ridiculous that he would put on clothes of Azad Hind Fauj on his birthday and then unfurl flag.

All that I can say is that Ayodhya Prasad Gupta is a witness who has a scant regard for truth; has a fertile imagination; and it is impossible to sift untruth from truth and fantasy from reality in his statement. Such a witness, in my view, cannot be relied upon.

For the aforesaid reasons, in my view, it would not be safe to accept the belief of Ayodhya Prasad Gupta that Bhagwanji was Netaji Subhash Chandra Bose.

5.11 The next witness who appeared before the Commission was CW-12 Krishna Kumar, aged about 33 years, son of late Nanku Ram Yadav, resident of AH 3/7, Amrapali Yojna, near Dubagga Power House, Lucknow. His evidence shows as under :

In his understanding Gumnami Baba was Netaji Subhash Chandra Bose but the corpse which was burnt on 18.09.1985 was not of Netaji Subhash Chandra Bose. He stated that he has mentioned the said things in a

written compilation which he requested should be taken on record and read as a part of his evidence.

The Commission acceded to the request of the witness; took the said compilation on record; marked it as Ext.C-11 for identification; and directed that it will be read as a part of his statement.

A perusal of Ext.C-11 shows that the witness has concluded that Gumnami Baba was Subhash Chandra Bose on account of a large number of books and articles *etc.* pertaining to Netaji Subhash Chandra Bose having been recovered from the room in Ram Bhawan in which Gumnami Baba used to live prior to his death.

I am afraid, merely from this circumstance it cannot be inferred that Netaji Subhash Chandra Bose was living in the room from which the aforesaid articles were recovered. The said recovery is equally compatible with the inference that someone else may have been living in the room from which the aforesaid recovery was made.

The claim of the witness that Gumnami Baba *alias* Bhagwanji who lived in Ram Bhawan, Faizabad between 1982-1985 (where he died on 16.09.1985) was Netaji Subhash Chandra Bose is unworthy of acceptance because it is belied by the DNA test referred to in paragraphs 4.15.10 and 4.15.11 at pages 121 and 122 of the Mukherjee Commission Report.

Since I have extracted the said paragraphs of the Mukherjee Commission Report in paragraph 5.2 while dealing with the evidence of Anuj Dhar (CW-3), it is not necessary in my view to advert to the said paragraphs again.

I am also not inclined to believe the statement of the witness that the corpse which was burnt on 18.09.1985 was not of Gumnami Baba whom the witness believed was Netaji Subhash Chandra Bose because the overwhelming evidence which has been led before the Commission is that the corpse which was cremated on 18.09.1985 was of Gumnami Baba.

As a matter of fact, the evidence of Krishna Kumar has to be excluded from consideration because the notification of the U.P.Government dated 28.06.2016 by which the Commission was constituted provides that it shall find out the identity of Gumnami Baba *alias* Bhagwanji, who prior to his death lived in Ram Bhawan, Faizabad and whose dead body was cremated

on 18.09.1985 but the inference which follows from his statement is that the corpse which was burnt on 18.09.1985 was not of Gumnami Baba. For the aforesaid reasons, I do not accept Krishna Kumar's claim of Gumnami Baba being Netaji Subhash Chandra Bose.

5.12 The next witness whose evidence I propose evaluating is CW-13 Rakesh Srivastava, aged about 43 years, son of Kailash Bihari, grandson of Mahan Deshbhakt Ram Swarath Lal, resident of House No.14/60 Yaman Sahara Estate, Jankipuram, Lucknow. His evidence shows as under:

His grandfather Ram Swarath Lal was a Lieutenant in Azad Hind Fauj and was a resident of village Pathkhauli in district Basti; so far as his memory goes when he was about 10/12 years of age, he used to visit Pathkhauli; sometimes at his grandfather's place, in Pathkhauli, he used to see 4/5 people, who came from Ayodhya and looked like saints, they were of a quiet disposition and did not talk to anyone; they were in touch with his grandfather Ram Swarath Lal; his grandfather Ram Swarath Lal sometimes used to go to Ayodhya and stay with them; when he enquired from his grandfather about them he gave no information; when he and members of the family enquired from him (grandfather) about Netaji Subhash Chandra Bose, he used to say that he was alive but he could not tell them where he was.

From the aforesaid facts, the witness concluded that Gumnami Baba was Netaji Subhash Chandra Bose.

The witness also stated that since family members of Netaji Subhash Chandra Bose, who used to live in Calcutta were close to Nehruji, Subhash Chandra Bose used to prefer staying in Uttar Pradesh.

I have perused the statement of the witness and in my view there is no legal basis for the witness to conclude that Gumnami Baba was Netaji Subhash Chandra Bose because according to the witness from the information which he derived from his grandfather he concluded that Gumnami Baba was Netaji Subhash Chandra Bose and since this information would fall in the category of hearsay evidence it would be legally inadmissible.

Consequently, I have no hesitation in rejecting the claim of Rakesh Srivastava that Gumnami Baba was Netaji Subhash Chandra Bose.

5.13 The next in line of witnesses examined by the Commission was CW-14 Uma Charan Pandey, aged about 73 years, son of late Radha Kant Pandey, resident of village Kaithi, P.O.Kaithi district Varanasi. In short, his evidence shows as under:

His belief is that Gumnami Baba, who used to live in Ram Bhawan, Faizabad prior to his death and whose last rites were performed on 18.09.1985 in Faizabad was not Netaji Subhash Chandra Bose and Swami Shardanand who used to reside in an Ashram in Phalakata district Coochbihar, West Bengal was in fact Netaji Subhash Chandra Bose. In 1965 two incidents took place in his presence. The first incident pertained to Dwijendra Bose, nephew of Netaji Subhash Chandra Bose meeting Swami Shardanand in the Ashram.

Initially Swami Shardanand was not ready to meet him but three days later in his presence (presence of the witness) he met him in the prayer hall of the Ashram but there was a screen between Swami Shardanand and Dwijendra Bose on account of which both could not see one another. Swami Shardanand asked Dwijendra whether he was Netaji Subhash Chandra Bose on which Dwijendra replied if he was not why there was a screen between both of them. When Dwijendra told Swami Shardanand that he was Netaji Subhash Chandra Bose, Swami Shardanand reprimanded him and said that he (Dwijendra) belonged to a good family and it did not befit him to find out whether he was Subhash Chandra Bose or not and thereafter added that he (Swami Shardanand) had no connection with the family of Janki Nath Bose (Janki Nath Bose was the father of Netaji Subhash Chandra Bose).

The evidence of Uma Charan Pandey shows that he deposed about another incident which also took place in the year 1965. Depositing about it he stated that in his presence Mr. N.D. Majumdar, who was legal advisor to the Ashram, enquired from Swami Shardanand whether Netaji Subhash Chandra Bose was alive on which Swami Shardanand replied that he was alive. When N.D. Majumdar asked Swami Shardanand where Netaji Subhash Chandra Bose was, he said he may be somewhere. Swami Shardanand also emphatically denied about Netaji's death in a plane crash and said that actually there was no plane crash.

I have perused the statement of Uma Charan Pandey and am not inclined to accept his claim that Swami Shardanand was Netaji Subhash Chandra Bose because in his presence Swami Shardanand told Dwijendra Bose that he had no connection with the family of Janki Nath Bose (Janki Nath Bose was the father of Netaji Subhash Chandra Bose). And who can dispute that the best evidence whether Swami Shardanand was Netaji Subhash Chandra Bose would be of Swami Shardanand himself.

Once it is established that Swami Shardanand was not Netaji Subhash Chandra Bose, it follows as a logical imperative that the information which Swami Shardanand gave to N.D.Majumdar, in the presence of the witness, in terms, that Netaji Subhash Chandra Bose was alive and did not die in a plane crash would fall in the category of hearsay evidence and would be a nullity in law.

For the aforesaid reasons, I am not prepared to accept the claim of Uma Charan Pandey that Swami Shardanand was Netaji Subhash Chandra Bose.

5.14. I now take up the evidence of CW-15 Aditya Nath Pandey, aged about 70 years, son of late Shobh Nath Pandey, resident of village Kaithi, P.O.Kaithi, district Varanasi. He stated that he did not know Gaumnami Baba, who prior to his death lived in Ram Bhawan, Faizabad and whose last rites were performed on 18.09.1985 in Faizabad. However, his belief (as mentioned by him in his examination-in-chief before the Commission) was that one Baba (he later learnt he was Swami Shardanand) who had visited his village Kaithi in 1953-1954 a number of times and thereafter shifted to Shoulmari Ashram in Coochbehar was Netaji Subhash Chandra Bose.

I have given my anxious consideration to the aforesaid belief of the witness and have no hesitation in rejecting it because in his examination-in-chief itself he has stated that when on learning about the death of Swami Shardanand in Dehradun in 1977 he alongwith others went to Dehradun, they learnt that Baba was in fact Swami Shardanand and Swami Shardanand was Netaji Subhash Chandra Bose. This makes it manifest that the claim of the witness that Swami Shardanand was Netaji Subhash Chandra Bose was based on the information which he and others had received at Dehradun and

since the said information would fall in the category of hearsay evidence, I have no compunction in rejecting it.

5.15 I now take up the evidence of CW-16 Shyam Lal Singh, aged about 77 years, son of late Jhillu Singh, resident of village Kaithi, P.O. Kaithi, district Varanasi. His evidence shows as under:

He did not know Gumnami Baba who, prior to his death, lived in Ram Bhawan, Faizabad and whose last rites were performed on 18.09.1985; in 1951 a saint, who knew Krishna Kant Pandey, came to village Kaithi and stayed there for about two months in a cave by the side of river Ganges; a number of people used to come to meet him and soon a rumour started spreading that the saint was Netaji Subhash Chandra Bose; after living for two months in the cave, he (the witness) learnt that the saint had left for Shoulmari Ashram in West Bengal; on receiving the said information people from village Kaithi used to visit Shoulmari Ashram to meet the saint; in 1958 he (the witness) left for Bombay and thereafter had no information pertaining to the said saint; his belief was that the saint was Netaji Subhash Chandra Bose.

During cross-examination a single question was put to the witness, namely, whether between 1958 (when he left for Bombay) and 7.11.2016 (the date when he was examined by the Commission) he had disclosed to anyone that the saint was Netaji Subhash Chandra Bose. To the said question, he replied that during this gap of 59 years he had not told anyone that the saint was Netaji Subhash Chandra Bose.

I have perused the statement of Shyam Lal Singh and after bestowing my anxious consideration on his belief that the saint was Netaji Subhash Chandra Bose, I am constrained to observe that I do not find any merit in his aforesaid belief for two reasons: firstly, because apart from a rumour that the saint was Netaji Subhash Chandra Bose there was no tangible evidence on which the belief of the witness was based and secondly, if the witness was really convinced that the saint was Netaji Subhash Chandra Bose, he would not have maintained an ominous silence for 59 years i.e. between 1958 (when he left for Bombay) and 7.11.2016 (when his statement was recorded by the Commission) about the fact that the saint was Netaji Subhash

Chandra Bose. Instead during this period he would have been telling all and sundry that the saint was Netaji Subhash Chandra Bose.

For the aforesaid reasons, I am not prepared to accept the claim of Shyam Lal Singh that the saint, who lived in Kaithi and thereafter went to Shoulmari Ashram, was Netaji Susbhash Chandra Bose.

5.16 I now take up the evidence of Vishram Singh, aged about 91 years, and Ram Shanker Singh *alias* Lallan Singh, aged about 93 years, both residents of Village Kaithi, P.O.Kaithi, district Varanasi. Both of them have sent affidavits to the Commission mentioning therein that on account of their ages and physical incapacity they were not in a position to give evidence before the Commission and their affidavits which have been sworn before a Notary, be treated as their statements.

Since I found the request of Vishram Singh and Ram Shanker Singh to be reasonable, I marked the affidavit of Vishram Singh as CW-17 and that of Ram Shanker Singh as CW-18. I am treating the facts stated in their affidavits as their statement.

Since almost the same facts have been stated by CW-17 Vishram Singh and CW-18 Ram Shanker Singh in their affidavits, I am disposing of statements of both these witnesses together. Both these witnesses, who belong to village Kaithi, have stated that in the year 1951 one Shardanandji started staying in a cave by the side of river Ganges. The arrangements for him were made by one Krishna Kant Pandey. Influential people of the nearby localities started meeting Shardanandji. When in due course of time a rumour was spread that Shardanandji was Netaji Subhash Chandra Bose, he left Kaithi but came back again for some time to Kaithi in 1952. Thereafter he went to Shoulmari Ashram in West Bengal and from there to Dehradun, where he died in 1977. In their affidavits, both Vishram Singh and Ram Shanker Singh have stated that they were categorical in their belief that Shardanandji was Netaji Subhash Chandra Bose.

I have perused the affidavits of the aforesaid witnesses (which I am treating as their statement) and am constrained to observe that I am not prepared to accept the claim of Vishram Singh and Ram Shanker Singh that Shardanandji was Netaji Subhash Chandra Bose. Earlier in Para 7.13 I have dealt with the statement of CW-14 Uma Charan Pandey in whose presence

Swami Shardanandji told Dwijendra Bose, nephew of Netaji Subhash Chandra Bose, that he (Swami Shardanandji) had no connection with the family of Janaki Nath Bose (Janaki Nath Bose was the father of Netaji Subhash Chandra Bose). And who can dispute that the best evidence whether Swami Shardanand was Netaji Subhash Chandra Bose would be of Swami Shardanand himself .

The second reason why I am not inclined to accept the claim of Vishram Singh and Ram Shanker Singh that Swami Shardanand was Netaji Subhash Chandra Bose is because in the report of Mukherjee Commission in Paragraph 4.13.3 at pages 109 and 110 it is mentioned that in the presence of CW-81 Rajat Kanti Bhadra, CW-82 Deen Bandhu Dutta, and CW-83 Nikhil Chandra Ghatak, Sadhu, who was living in Shoulmari Ashram, West Bengal and was known as Shardanandji categorically stated that Netaji Subhash Chandra Bose was born in wedlock of Janaki Nath Bose and Bivawati Bose and he was born in a Brahmin family of East Bengal.

It is pertinent to mention that a perusal of Paragraph 4.13.4 of the Mukherjee Commission report shows that Dr.Pabitra Mohan Roy (KW-176) and Surendra Mohan Ghose (KW-154) stated before the Khosla Commission that the Sadhu had told them that he was not Netaji and the son of Janaki Nath Bose.

For the aforesaid reasons, I am not inclined to believe the claim of Vishram Singh CW-17 and Ram Shanker Singh CW-18 that Swami Shardanand was Netaji Subhash Chandra Bose.

5.17 I now propose taking up the evidence of CW-19 Smt. Amita Singh, aged about 47 years, wife of Rajiv Singh, resident of 34/702, NRI Complex, Nirul, Navi Mumbai-400706. Her evidence in short shows as under:

During last part of 1978 or the beginning of 1979 when her father was posted as Chief Chemist in Ramkola Sugar Mills, Deoria, Bhagwanji once visited her house; at that time she was aged about 8-9 years; when she returned from school she found Bhagwanji giving discourse to 15/20 people; when those persons went away she alongwith her brother and sister respectfully greeted him; Bhagwanji asked her whether she knew Netaji Subhash Chandra Bose on which she replied that he had given the slogan

"*Tum mujhe khoon do main tumhe azadi doonga*". Bhagwanji had meals at her house; spent the night in her drawing-cum-guest room and next morning went away.

The evidence of Amita Singh shows that this year (2016) she saw an old photograph of Netaji Subhash Chandra Bose in which he was not wearing a cap, dhoti, kurta and putting on a shawl and seeing it she became convinced that Gumnami Baba *alias* Bhagwanji, who had come to her house in Deoria in the end of 1978 or the beginning of 1979 was Netaji Subhash Chandra Bose.

Amita Singh was cross-examined by the Commission. Three questions were put to her therein. The first was that she had stated that in the end of 1978 or the beginning of 1979 Gumnami Baba *alias* Bhagwanji had come to her house and this year (2016) after seeing an old photo of Netaji Subhash Chandra Bose she became convinced that Gumnami Baba *alias* Bhgwanji was Netaji Subhash Chandra Bose. To the said question she replied in affirmative.

The second question put to her was whether from her aforesaid answer the Commission should construe that for the first time in 2016 she realised that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose. To the said question she also answered in the affirmative.

The third question put to her was that from her aforesaid answer the conclusion which emerged was that after about 37 years she remembered the features of Bhagwanji. To this she also replied in the affirmative.

I have thoughtfully perused the statement of Amita Singh and in my view it would not be safe to accept her claim that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose. A perusal of her statement shows that when she was aged about 8-9 years, Bhagwanji had come to her house and 37 years later *i.e.* in the year 2016 after seeing his photo she became convinced that Bhagwanji was Netaji Subhash Chandra Bose. In my opinion, after 37 years she could not have remembered the features of Bhagwanji *alias* Gumnami Baba, (which she had observed as a child aged about 8-9 years), on the basis of which on seeing the photo of Netaji Subhash Chandra Bose in 2016 she concluded that Bhagwanji was Netaji Subhash Chandra Bose.

5.18 I now propose examining the evidence of CW-20 Madan Mohan Tripathi, aged about 65 years, son of late Hriday Ram Tripathi, resident of Shiv Nagar Colony, Paharganj, Faizabad. His evidence shows as under:

He runs a school by the name of Bal Vidya Mandir; long time back one Ram Sewak Malviya was working as an Assistant Teacher in his school; one day Ram Sewak Malviya told him that Netaji Subhash Chandra Bose lives in Ayodhya and he should accompany him (Ram Sewak Malviya) to meet him (Netaji Subhash Chandra Bose); he told Ram Sewak Malviya that since once Baba Jai Gurudev had promised that he would produce Netaji Subhash Chandra Bose but had failed, he had no faith in what he (Ram Sewak Malviya) was saying and consequently would not go to Ayodhya; even thereafter on a number of occasions Ram Sewak Malviya asked him to accompany him (Ram Sewak Malviya) to Ayodhya but he declined; Ram Sewak Malviya also told him that he had given his Book 'Bhubhamini Vibharamam' to the unknown saint who had told him that he (Malviyaji) had praised Jawahar Lal Nehru in it on which he replied that he had also praised him (Subhash Chandra Bose); on that Subhash Chandra Bose started smiling.

When after his death the issue of Gumnami Baba came up for discussion and he (the witness) asked Malviyaji whether he was the same saint whom he (Malviyaji) wanted him to meet in Ayodhya, Malviyaji gave him a write-up of two pages titled 'Gumnami Mahatama Se Mera Sampark', which he (the witness) filed before the Commission desiring that the same be taken on record and be treated as a part of his statement. The Commission took the aforesaid write-up on record; marked it as Ext.C-12 for identification; and directed that it shall be read as a part of his statement. The witness also stated that Malviyaji is not alive.

A perusal of Ext.C-12 shows that it contains details pertaining to various meetings which took place between Ram Sewak Malviya and Gumnami Baba, during the years 1976-1978, in Ayodhya. It also shows that as a consequence thereof Ram Sewak Malviya was convinced that Gumnami Baba was Netaji Subhash Chandra Bose. Its perusal further shows that after 1978 Malviyaji did not meet Gumnami Baba and 8 years later, in the month of September, his son told him that a saint who was living in Ram

Bhawan, Faizabad had died and enquired from him whether he was Netaji, on which tears came in his eyes and when he reached Ram Bhawan, he found that all was over.

During cross-examination, two questions were put to him; the first was in which year Malviyaji had told him that he should accompany him (Malviyaji) to meet the saint, who was Netaji Subhash Chandra Bose.

To the said question the witness replied, it was approximately in the year 1980-1981.

The second question was whether between 1980-1981 and 01.12.2016 (the date he was examined by the Commission) he had told any official/person that Malviyaji had told him that Subhash Chandra Bose was alive.

To the said question, he replied that he did not remember whether between 1980-1981 and today he had told any official/person that Netaji Subhash Chandra Bose was alive.

I have perused the statement of Madan Mohan Tripathi and Ext. C-12 filed by him. Since their perusal shows that the knowledge of the witness that Netaji Subhash Chandra Bose was alive was derived through Ram Sewak Malviya, who was an Assistant Teacher in his school, his evidence would fall in the category of hearsay evidence and would be legally inadmissible.

I also do not find Madan Mohan Tripathi to be a truthful witness because during cross-examination when it was categorically put to him that whether between 1980-1981 (when Malviyaji told him that Netaji Subhash Chandra Bose was alive and he should meet him) and 01.12.2016 (the date on which Commission recorded his statement) he had told any officer/person that Netaji Subhash Chandra Bose was alive, he gave an evasive answer in terms "*Mujhe itna dhyan nahi hai ki varsh 1980-81 se aaj ke beech me yeh baat maine kisi adhikari ya kisi vyakti ko batayi athwa nahi*"

I have reflected over the aforesaid answer of the witness and make no bones in observing that I am not prepared to believe it. In my view it was not such a trivial fact which he could have forgotten. I am of the opinion

that the aforesaid answer is deliberate and casts a serious doubt on the veracity of the witness.

For the aforesaid reasons, the evidence of Madan Mohan Tripathi is of no use to the Commission in determining the identity of Gumnami Baba *alias* Bhagwanji which the Commission was directed to find out, *videnotification* dated 28.06.2016 issued by the Uttar Pradesh Government creating it.

5.19 I now take up the statement of CW-21 Atul Kumar Singh, aged about 53 years, son of late Hari Narain Singh, resident of Ashapur, Darshan Nagar, Faizabad. His evidence shows as under:

He was on visiting terms with his friends Ranvijay Singh and Arvind Singh, who lived in Jharkhandi Mohalla, Faizabad and whose neighbour was Dr.R.P.Misra, whom he had come to know through them; he used to call Dr.R.P.Misra's wife as aunty ; in 1984 aunty (Dr.R.P.Misra's wife) took him to Ram Bhawan, Faizabad where Gumnami Baba *alias* Bhgwanji used to live; since it was summer time and there was an asbestos sheet on the roof beneath which Gumnami Baba used to sit it was very hot at that place; aunty requested him to send some *puwal* or *kashehri* so that there may be some respite in heat to Gumnami Baba; at that time Bhagwanji, who used to sit behind a curtain and whom he had not seen personally, asked who was the person whom Dr.R.P.Misra's wife was asking to send *puwal* or *kashehri*; there was a lot of weight in his voice and the style of his speaking indicated a Bengali touch; thereafter only once or twice he visited Gumnami Baba because it was said about him that only those whom he wanted could meet him.

The evidence of Atul Kumar Singh further shows that after some time on radio he heard the voice of Netaji Subhash Chandra Bose and was convinced that there was a lot of similarity between that voice and the voice of Bhagwanji which he had heard in Ram Bhawan, Faizabad, having a Bengali touch Atul Kumar Singh was cross-examined by the Commission. Two questions were put to him therein. The first was whether before today (he was examined by the Commission on 01.12.2016) and the time when he had gone to meet Bhagwanji alongwith Mrs.R.P.Misra (it was some time in the year 1984) he had told anyone that there was a lot of similarity between

the voice of Bhagwanji which he had heard when he had gone to meet him and the voice which he heard on the radio.

To the said question he replied " *Maine yeh baat aaj se poorva our kisi ko nahi batayi*"

The second question put to him was whether he could say with certainty that the voice which he had heard on radio and the voice in which there was a Bengali touch was of the same person?

To the said question he replied " *Maine yeh mahsoos kiya tha ki woh awaz ek hi vyakti ki thi, lekin main poorna vishwas ke saath yeh nahi kah sakta ki woh awaz ek hi aadmi ki thi.*"

I have perused the statement of Atul Kumr Singh very minutely and in my view on the basis of his claim that since there was a lot of similarity between the voice of Gumnami Baba which he had heard in Ram Bhawan and that of Netaji Subhash Chandra Bose which he heard on radio, having a Bengali touch, it cannot be concluded for two reasons that the two voices were of the same person; firstly, because in his cross-examination Atul Kumar Singh has himself admitted that he cannot say with full confidence that the two voices were of the same person.

Secondly, in my view the conduct of the witness is very unnatural inasmuch as in his cross-examination he admitted that prior to the recording of his statement by the Commission(it was recorded on 01.12.2016) he had not disclosed to anyone that the voice of Gumnami Baba which he had heard in Ram Bhawan and that of Netaji Subhash Chandra Bose which he had heard on radio(both in the year 1984) were of the same person. In my opinion, if on the basis of similarity in two voices, the witness was really convinced that Gumnami Baba was Netaji Subhash Chandra Bose, he would not have maintained an ominous silence for 31-32 years *i.e.* between the period 1984 to 01.12.2016,about this fact.

For the aforesaid reasons, in my opinion, it cannot be concluded on the basis of the evidence of Atul Kumar Singh that Gumnami Baba was Netaji Subhash Chandra Bose.

5.20 I now take up the evidence of CW-22 Vishambhar Nath Arora, aged about 66 years, son of late Sri A.N.Arora, resident of 12, Lakshmanpuri Colony, Amaniganj, Faizabad. His statement reads as under:

He is a former Principal of Saket Postgraduate College, Faizabad, having served in the College in different capacities(including as Principal) for 42 years; till 1983 he stayed in Ayodhya; at the time of death of Gumnami Baba *alias* Bhagwanji, which took place at Ram Bhawan, Faizabad on 16.09.1985 he was residing at Faizabad; in the year 1978 when he was Professor in Defence Studies in Saket Postgraduate College, one Mr.S.C.Srivastava, Professor in Defence Studies came as an external examiner to the college; after the examination in which he was external examiner Dr.Srivastava expressed to him his wish to meet any spiritual personality in Ayodhya; at first he told him that there was none in his mind but then instantly it flashed in his mind that there was a Sadhu who was living in Lucknauwa Kothi, Ayodhya, who used to preach from behind a curtain and was not visible to the person/persons to whom he was preaching; thereafter he took Dr.Srivastava to Lucknauwa Kothi to meet the aforesaid Sadhu; on-knocking at the door where Sadhu used to live, one Smt.Saraswati Devi, who used to look after and make food for the said Sadhu, opened the window of the room in which Sadhu used to stay; she enquired about their credentials and asked them to give in writing their reason for meeting the Sadhu; accordingly on a piece of paper he (the witness) wrote the reason for visiting the Sadhu; Smt. Saraswati Devi took the said piece of paper from behind the window, went inside and 10 minutes later came back and told them from behind the window that Sadhu (Bhagwanji) was meditating and had asked them to come next day at 4.00 p.m. to meet him; since Dr.Srivastava had his return reservation, he left the same night but he (the witness) decided to meet the Sadhu *alias* Bhagwanji next day at 4.00 p.m.

The evidence of Vishambhar Nath Arora further shows that next day when at about 2.00 p.m. he came back from the college, he found a Jeep standing at the door of his house. His wife told him that an officer of Intelligence Bureau (I.B.) was waiting for him in the drawing room. He immediately met the I.B. officer, whose name was N.P.Tiwari. He was a Dy.S.P.in I.B. He enquired from Mr.Tiwari as to why he had come. The

latter told him that he had come to make a social call since he (the witness) was an important person of Ayodhya. At about 3.45 p.m. he told Mr.Tiwari that he had to leave, as he had an appointment at 4.00 p.m. on which the latter remarked, whether his appointment was with Parde Wale Baba. When he enquired from Mr.Tiwari as to how he knew that he (the witness) was going to meet Parde Wale Baba, the latter replied that since he had found his Scooter parked outside Lucknauwa Kothi, he thought that he (the witness) was going to meet Parde Wale Baba. He asked Mr.Tiwari whether he or Parde Wale Baba or both were under surveillance on which Mr.Tiwari gave a evasive reply. Mr.Tiwari told him that Parde Wale Baba was just an ordinary Baba, who was living in disguise and if he was under the impression that Parde Wale Baba was Netaji Subhash Chandra Bose, he was under a big delusion. Mr.Tiwari succeeded in persuading him to believe that Parde Wale Baba was an ordinary Sadhu living in disguise and was certainly not Netaji Subhash Chandra Bose. Consequently he never visited Parde Wale Baba *alias* Bhagwanji. The evidence of the witness further shows that the piece of paper on which he had given in writing expressing his and Prof.Srivastava's desire to meet Bhagwanji was found in the belongings of Bhagwanji which were recovered after his death.

I have perused the statement of Vishambhar Nath Arora and the same in my view shows that although people thought that Parde Wale Baba or Bhagwanji was Netaji Subhash Chandra Bose but Mr.N.P.Tiwari, Dy.S.P., I.B. was of the candid opinion that he was an ordinary Sadhu living in disguise and was certainly not Netaji Subhash Chandra Bose. The evidence of Vishambhar Nath Arora further shows that as a consequence of the conversation which he had with Dy.S.P. N.P.Tiwari, he was persuaded to believe that Bhagwanji was not Netaji Subhash Chandra Bose and consequently did not visit him. In my view had he believed that Parde Wale Baba/Bhagwanji was Netaji Subhash Chandra Bose, he would have certainly visited him.

5.21 I now take up the evidence of CW-23 Manish Joshi, aged about 35 years, son of Sri Subhash Kumar Joshi, resident of 2C-14, Ashirwad, Sector 2, Vaishali, Ghaziabad. A perusal of his statement shows:

He (Manish Joshi) had heard that a Mangolian Trade Union Photograph pertaining to 1952 had been filed before the Shahnawaz

Commission. His friend Anuj Dhar said that Bhagwanji used to say that the said photograph had been taken in Ulen Batar, Mangolia in which it was said that Netaji was present. Consequently, he started searching on internet the photographs of Mongolia pertaining to the year 1952 and in one online archive found a photo dated 28.01.1952 pertaining to the last rites of Marshal Khoro Login Chaiwalsan in which Netaji Subhash Chandra Bose was there. When he enquired about this photo from Dr.Vishambhar Nath Arora, resident of Faizabad and asked him whether Bhagwanji used to ever talk about Mongolia, the latter replied that Bhagwanji used to say that on account of him relations between Mongolia and China became cordial.

In his statement Manish Joshi also stated that Mukherjee Commission in its report had also mentioned that Netaji Subhash Chandra Bose had not died as a result of plane crash. He further stated that there was a possibility that the person who was living in Ram Bhawan,Faizabad as Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose.

The witness filed a written compilation of which copy of the said photograph was a part and desired that it be taken on record and read as a part of his evidence. The Commission acceded to the request of the witness; took his compilation and photograph on record; marked the compilation as Ext. C-13 and photograph as Ext.C-13A; and directed that the said exhibits shall be read as a part of the statement of the witness.

I have perused the statement of Manish Joshi and exhibits C-13 and C-13A. In my opinion, even if it is assumed for arguments sake that in the photograph dated 28.01.1952 (Ext.C-13A) Netaji Subhash Chandra Bose is seen alive (standing third from right as asserted by the witness), it does not prove the claim of the witness that he was Gumnami Baba *alias* Bhagwanji, whose last rites were performed on 18.09.1985 in Faizabad and who prior to his death was living in Ram Bhawan,Faizabad.

It should be borne in mind that the Governor of Uttar Pradesh *vide* notification of the U.P.Government dated 28.06.2016 has directed the Commission to find out the identity of Gumnami Baba *alias* Bhagwanji, who was living in Ram Bhawan,Faizabad prior to his death and whose last rites were performed on 18.09.1985. The witness has furnished no evidence to show that the person seen in photograph was living as Gumnami Baba

alias Bhagwanji in Ram Bhawan, Faizabad prior to his death and it were the last rites of the said person which were performed on 18.09.1985.

On the contrary, the claim of the witness that there was a possibility that Gumnami Baba *alias* Bhagwanji who lived in Ram Bhawan, Faizabad was Netaji Subhash Chandra Bose is unworthy of acceptance because it is belied by the DNA test referred to in paragraphs 4.15.10 and 4.15.11 at pages 121 and 122 of the Mukherjee Commission Report.

Since I have extracted the said paragraphs of the Mukherjee Commission Report in paragraph 5.2 while dealing with the evidence of Anuj Dhar (CW-3), it is not necessary, in my view, to advert to the said paragraphs again. The aforesaid finding of the DNA expert belies the claim of the witness that there was a possibility of Gumnami Baba *alias* Bhagwanji being Netaji Subhash Chandra Bose.

5.22 The next witness whose evidence I propose discussing is CW-24 Netram Singh, aged about 60 years, son of Sadhu Saran Singh, resident of village and post Semri Khan Kot district Siddharthnagar. His evidence can be divided in two parts, namely;

(a) the facts which he had gathered about Netaji Subhash Chandra Bose from his father, who was a Sepoy in the Indian National Army established by Netaji Subhash Chandra Bose; and

(b) his personal visits to Netaji Subhash Chandra Bose, who, in the year 1980 was living at Ayodhya - Faizabad border in disguise as Gumnami Baba.

Since the facts which he (the witness) gathered about Netaji Subhash Chandra Bose from his father would fall in the category of hearsay evidence and would not be legally admissible, I am not adverting to them.

I propose limiting the discussion to the personal visits made by the witness to Gumnami Baba, who, according to him, was none other than Netaji Subhash Chandra Bose.

The evidence of the witness shows that in the year 1980 he alongwith his father visited Netaji Subhash Chandra Bose, who, at that time was living at Ayodhya - Faizabad border and they met him. His evidence further shows that after about one to one and half years he went alone to meet Netaji

Subhash Chandra Bose, who was living at the same place where he had met him in 1980; Netaji Subhash Chandra Bose met him and told him "*Main gumnaam rahna chaahta hoon*" and asked him to leave. His evidence also shows that he was convinced that Gumnami Baba was Netaji Subhash Chandra Bose and was living as Gumnami Baba because he had told Nehruji "*Main gumnaami zindagi hi ab vyateet karoonga*".

I have perused the statement of Netram Singh and am constrained to observe that I am not inclined to accept his claim that Gumnami Baba was in fact Netaji Subhash Chandra Bose. It should be borne in mind that the Governor of Uttar Pradesh *videnotification* of the U.P.Government dated 28.06.2016 has directed the Commission to find out the identity of Gumnami Baba *alias* Bhagwanji, who was living in Ram Bhawan, Faizabad prior to his death and whose last rites were performed on 18.09.1985. The witness has furnished no evidence to show that the person whom he met in 1980 alongwith his father and one to one and half years later alone at Ayodhya - Faizabad border and whom he believed to be Netaji Subhash Chandra Bose was the same person who was living as Gumnami Baba in Ram Bhawan, Faizabad prior to his death and whose last rites were performed on 18.09.1985.

On the contrary, the claim of the witness that Gumnami Baba was none other than Netaji Subhash Chandra Bose is unworthy of acceptance because it is belied by the DNA test referred to in paragraphs 4.15.10 and 4.15.11 at pages 121 and 122 of the Mukherjee Commission Report.

Since I have extracted the said paragraphs of the Mukherjee Commission Report in paragraph 5.2 while dealing with the evidence of Anuj Dhar (CW-3), it is not necessary, in my view, to advert to the said paragraphs again.

The aforesaid finding of the DNA expert belies the claim of the witness that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose.

5.23 I now take up the statement of CW-25 Dr.Shanker Kumar Chatterjee, aged about 54 years, son of late Sushil Kumar Chatterjee, resident of Flat No.2A, Block N, Soura Niloy Housing Complex, 1, Kailash Ghosh Road, Kolkata-700008. Its perusal shows as under.

He had no doubt that Gumnami Baba *alias* Bhagwanji, who prior to his reported death lived in Ram Bhawan, Faizabad and whose last rites were performed on 18.09.1985 at Faizabad was Netaji Subhash Chandra Bose primarily because Leela Roy, who had been a close confidante for over 20 years of Netaji Subhash Chandra Bose and subsequently from 1963 to 1968 of Gumnami Baba *alias* Bhagwanji believed that Gumnami Baba *alias* Bhagwanji and Netaji Subhash Chandra Bose were one and the same person (Leela Roy died in 1970).

The witness also stated that the basis of his belief that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose is contained in his affidavit dated 21.11.2016 sworn before a Notary at Kolkata and which is a part of his compilation, which he had sent to the Commission.

The witness requested the Commission that the said affidavit be taken on record and be treated as a part of his statement. The Commission acceded to the request of the witness; took the said affidavit along with the compilation on record and marked it as Ext. C-14 for identification.

During cross-examination a solitary question was put by the Commission to the witness, namely, whether he had any personal information that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose to which the witness replied that he has no personal/direct information that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose and the source of his information is contained in Ext. C-14.

On perusing Ext. C-14 I find that the burden of the story of the witness was that in the Tashkent Talks which were held from 6th January to 10th January, 1966 between India (represented by Mr. Lal Bahadur Shastri) and Pakistan (represented by Mr. Ayub Khan) Netaji Subhash Chandra Bose was present (disguised as a reporter), as is manifest from a perusal of the picture mailed to the witness by his friend Siddharth Sathabai, which convinced the witness on research that one of the photos in the picture was that of Netaji Subhash Chandra Bose. (Opinion of Face Mapping Expert Mr. Neil Miller further hardened this belief of the witness).

I have perused the statement of Dr. Shanker Kumar Chatterjee and Ext. C-14. Even if it is assumed for arguments sake that Netaji Subhash Chandra Bose was present in the Tashkent Talks (disguised as a reporter), it

does not prove the claim of the witness that he was Gumnami Baba *alias* Bhagwanji, whose last rites were performed on 18.09.1985 and who prior to his death was living in Ram Bhawan, Faizabad. It should be borne in mind that the Governor of Uttar Pradesh *vide* notification of the U.P. Government dated 28.06.2016 has directed the Commission to find out the identity of Gumnami Baba *alias* Bhagwanji, who was living in Ram Bhawan, Faizabad prior to his death and whose last rites were performed in Faizabad on 18.09.1985. The witness has furnished no evidence to show that the person seen in photograph sent to him by Siddhartha Sathabai was the same person who was living as Gumnami Baba *alias* Bhagwanji in Ram Bhawan, Faizabad prior to his death and it were the last rites of the said person which were performed on 18.09.1985.

On the contrary, the claim of the witness that there was a possibility that Gumnami Baba *alias* Bhagwanji who lived in Ram Bhawan, Faizabad was Netaji Subhash Chandra Bose is unworthy of acceptance because it is belied by the DNA test referred to in paragraphs 4.15.10 and 4.15.11 at pages 121 and 122 of the Mukherjee Commission Report.

Since I have extracted the said paragraphs of the Mukherjee Commission Report in paragraph 5.2 while dealing with the evidence of Anuj Dhar (CW-3), it is not necessary, in my view, to advert to the said paragraphs again.

A perusal of the statement of the witness shows that he primarily believed that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose because that was the belief of Smt. Leela Roy, who had been closely associated with Netaji Subhash Chandra Bose and Gumnami Baba *alias* Bhagwanji. It is pertinent to mention that in paragraphs 1 and 2 of his affidavit (referred to above) the witness has also mentioned names of a large number of other persons who also believed that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose. I am afraid that the belief of the witness that Gumnami Baba was Netaji Subhash Chandra Bose was based on the belief of Leela Roy and those mentioned in paragraphs 1 and 2 of the affidavit of the witness and would thus fall in the category of hearsay evidence, hence cannot be taken into consideration by the Commission for determining the identity of Gumnami Baba.

I have already mentioned that during cross-examination the witness admitted that he had no personal/direct information that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose.

For the aforesaid reasons, I am not inclined to believe the claim of Dr. Shanker Kumar Chatterjee that Gumnami Baba *alias* Bhagwanji, who prior to his reported death lived in Ram Bhawan, Faizabad and whose last rites were performed on 18.09.1985 at Faizabad was Netaji Subhash Chandra Bose.

5.24 I now propose taking up the evidence of CW-26 Ram Prakash Tripathi, aged about 49 years, son of late Rajpati Tripathi, resident of 966, Divya Bhawan, Fatehganj, Faizabad. Its perusal, in short, shows as under:

He (Ram Prakash Tripathi) was a student of Krishna Gopal Srivastava, who was close to Gumnami Baba *alias* Bhagwanji. In the year 1985 he was studying in IGD Bombay (Bombay Art Course) in Saket Kala Kendra, Faizabad, which was run by Krishna Gopal Srivastava. In September, 1985 the students were preparing with full vigour for the ensuing examinations. Between 11th September to 15th September, 1985 Krishna Gopal Srivastava (late) was hardly present at Saket Kala Kendra, Faizabad. When he and others asked his sister-in-law Smt. Sukrit Srivastava as to what was the matter, she replied that the reason for absence of Krishna Gopal Srivastava was the illness of his Guru, Gumnami Baba *alias* Bhagwanji. On 17th September, 1985 Krishna Gopal Srivastava came in a foul mood and told him and others that Gumnami Baba *alias* Bhagwanji had died; his face was being disfigured and administration was harassing his disciples. Thereafter Krishna Gopal Srivastava remained depressed.

The evidence of the witness further shows that meanwhile media reports were published in terms that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose. In the year 1992 he (the witness) was appointed as a correspondent in the Faizabad Branch of Dainik Jagran. He asked Krishna Gopal Srivastava whether Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose to which the latter replied, whether people would believe them if they said he was Subhash Chandra Bose and advised him to keep a distance because problems are being created in the

lives of those who try to bring to the forefront the fact that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose.

The evidence of the witness further shows that prior to 17th September, 1985 birthday of Netaji Subhash Chandra Bose used to be celebrated in Saket Kala Kendra; from 1986 to 1991 it was celebrated near Company Bagh which was situated near Guptar Ghat where the last rites of Gumnami Baba *alias* Bhagwanji were performed; during celebrations Saraswati Devi Shukla, who was very close to Gumnami Baba *alias* Bhagwanji used to remain present alongwith a large number of other persons and the inference which emerged from what she and others used to say was that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose.

The evidence of the witness also shows that from 1992 (when he joined as correspondent in the Faizabad Branch of Dainik Jagran) he studied literature pertaining to Gumnami Baba *alias* Bhagwanji and Subhash Chandra Bose and the articles which were recovered from the place where Gumnami Baba *alias* Bhagwanji used to stay. The said study compelled him to believe that circumstantial evidence clearly pointed out that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose.

The witness was cross-examined by the Commission. Two questions were put to him therein. The first was whether he had personally met Gumnami Baba *alias* Bhagwanji, to which he replied in the negative. The second was whether between 16th September, 1985 and 31st January, 2017 (the date when the Commission recorded his statement) he had told any officer or any other person that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose to which he replied that in the year 2011 when he was a correspondent in Hindustan in New Delhi he had written that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose.

I have perused the statement of Ram Prakash Tripathi and after the utmost circumspection find it difficult to accept his claim that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose. In my view, if he was convinced that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose, he would not have maintained an ominous silence between 16th September, 1985 (the date of death of Gumnami Baba *alias* Bhagwanji)

and 2011 when he first published in Hindustan (New Delhi) that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose. The silence on the part of the witness during 26 years (period between 16th September, 1985 and 2011) in not disclosing to anyone that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose is suggestive of the fact that he was not convinced that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose. Had he been really convinced that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose he would have been telling all and sundry about it and also written about it much earlier. It should be remembered that he was a press correspondent since 1992.

So far as the information which the witness derived from Smt. Saraswati Devi Shukla and others during birthday celebrations of Netaji Subhash Chandra Bose at Company Bagh, Faizabad (on the basis of which he felt that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose) is concerned, it would fall in the category of hearsay evidence and would be a nullity in law.

The claim of the witness that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose is also unworthy of acceptance because it is belied by the DNA test referred to in paragraphs 4.15.10 and 4.15.11 at pages 121 and 122 of the Mukherjee Commission Report.

Since I have extracted the said paragraphs of the Mukherjee Commission Report in paragraph 5.2 while dealing with the evidence of Anuj Dhar (CW-3), it is not necessary, in my view, to advert to the said paragraphs again.

Apart from the above, it should also be remembered that during cross-examination in answer to question No.1, the witness admitted that he had not met Gumnami Baba *alias* Bhagwanji.

For the aforesaid reasons, I do not accept the claim of the witness that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose.

5.25. The next witness whose evidence I propose examining is CW-27 Ram Pratap Yadav, aged about 55 years, son of late Ram Gopal Yadav, resident of village Paliagoa, Tehsil Sohawal, district Faizabad. In short, his evidence shows as under:

In 1980 he was studying in Saket Mahavidyalaya in B.Sc. and was also working, part time as Compounder, in the Nursing Home of Dr. R.P.Misra situate in Faizabad city. Alongwith Dr.R.P.Misra he used to visit Chhoti Devkali Temple in Ayodhya where Bhagwanji was being treated for an old injury in leg which was not healing. There was a lot of dampness in Devkali Temple in which Bhagwanji used to live. Dr.R.P.Misra felt that he should stay in a house in which there was no dampness, plenty of light and people living in proximity had no access. Ultimately one such house named as Ram Bhawan was found in Faizabad city in which Bhagwanji alongwith his belongings shifted one midnight.

The evidence of the witness shows that while Bhagwanji was living in Ayodhya he used to constantly visit him and also supply him milk and yellow mustard (of the latter Bhagwanji was very fond). Bhagwanji used to enquire from him about the people who lived in his proximity. Every year on 23rd January Bhagwanji's birthday used to be celebrated at Ram Bhawan in style which people from Calcutta used to attend. One of them was Mr.P.M.Roy. At Bhagwanji's death Mr.P.M.Roy and others in Calcutta were telegraphically informed and when for 2/3 days no one from Calcutta came, Dr. R.P.Misra alongwith his associates performed his last rites at Guptar Ghat. After about 20/25 days, Dr.T.C.Banerjee, Dr.B.Roy and some others started discussing with Dr.R.P.Misra as to what had happened to some very expensive items which were kept in the drawing room of Bhagwanji. Thereafter Dr.T.C.Banerjee, Dr.B.Roy and some others started asserting that Bhagwanji was Netaji Subhash Chandra Bose and this fact was also prominently projected in a newspaper called 'Nai Log'.

The evidence of the witness also shows that about the said time Lalita Bose, niece of Netaji Subhash Chandra Bose came to Dr. R.P.Misra's residence and on seeing the album of Bhagwanji and some articles said that he was Netaji Subhash Chandra Bose. He (the witness) felt that like Bhagwanji, there was weight in Lalita Bose's voice and it came to his mind that the person whom he had served was probably Netaji Subhash Chandra Bose.

The witness was cross-examined by the Commission. Two questions were put to him therein. The first was whether between 16.09.1985(the date

of death of Bhagwanji) and 31st January,2017(the date on which his statement was recorded by the Commission) he had told any authority or person that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose. To it he replied that after 1985 he and his associates Ram Prasad Rasik, Nusrat Quddusi and many others used to talk about it. He admitted that he had not told any authority about it because he did not get any opportunity to do so and also he was hesitant as Baba never used to appear in front of any one. The second question put to the witness was that whether Bhagwanji used to talk face to face with those who used to come to meet him. He replied that Bhagwanji did not talk face to face with anyone. He used to always talk from behind a curtain. He(the witness) also used to meet and talk to him from behind a curtain. Bhagwanji used to sit on a wheel chair and used to conceal his face.

I have perused the statement of Ram Pratap Yadav and in my view it cannot be inferred from it that Gumnami Baba was Netaji Subhash Chandra Bose. It should be borne in mind that the witness himself has stated in his examination-in-chief that there was a possibility that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose. A perusal of his examination-in-chief shows that his conclusion was based on what Lalita Bose said on seeing the album and articles of Bhagwanji and the similarity between her voice and that of Bhagwanji. I am afraid that since the evidence of the witness shows that he did not arrive at a independent conclusion that Gumnami Baba was Netaji Subhash Chandra Bose and his conclusion was primarily based on the opinion of Lalita Bose, it would be hazardous to hold that Gumnami Baba was Netaji Subhash Chandra Bose. At any rate, on a mere possibility that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose, the Commission cannot hold that he was Netaji Subhash Chandra Bose.

As a matter of fact, in my view, there was not even a possibility of Gumnami Baba *alias* Bhagwanji being Netaji Subhash Chandra Bose because it is belied by the DNA test referred to in paragraphs 4.15.10 and 4.15.11 at pages 121 and 122 of the Mukherjee Commission Report referred to earlier.

Since I have extracted the said paragraphs of the Mukherjee Commission Report in paragraph 5.2 while dealing with the evidence of Anuj Dhar CW-3, it is not necessary, in my view, to advert to the said paragraphs again.

It should also be remembered that in cross-examination the witness clearly admitted that Bhagwanji never used to talk face to face with anyone, he (the witness) also used to talk to him from behind a curtain and even when Bhagwanji used to move on his wheel chair, his face was covered.

I also find the conduct of the witness to be very unnatural because during cross-examination he admitted that between 16.09.1985(the date of death of Bhagwanji) and 31st January,2017(the date when his statement was recorded by the Commission) he did not tell any authority that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose as he did not get any opportunity to do so. I am not prepared to accept this explanation of his.

For the aforesaid reasons, I am not willing to accept the claim of the witness that there was a possibility that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose. At any rate, on the basis of such a possibility, the Commission cannot hold that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose.

5.26 I now take up the statement of CW-28 Manjeet Singh, aged about 62 years, son of Guru Bux Singh, resident of 530/1 Brahm Kund, Parikrama Road,Ayodhya district Faizabad. His statement, in short,shows as under:

Gumnami Baba *alias* Bhagwanji stayed in his father's house No.530/1, situated at Brahm Kund,Parikrama Road, Ayodhya, as a tenant on a monthly rent of Rs.150/- from 15.01.1975 to 15.05.1978. Every year his birthday used to be celebrated on 23rd January and 4-5 persons from Calcutta used to attend the birthday celebration. Gumnami Baba used to live in the aforesaid house alongwith his Sevika Smt.Saraswati Devi, whom he used to address as Jagdambey. Apart from Dr.T.C.Banerjee and Dr. P.Banerjee, who used to treat him, others could only meet him after taking prior permission of Smt.Saraswati Devi. They used to sit on a dari in the outer room of the house and Gumnami Baba *alias* Bhagwanji used to talk to them from an adjoining room on the door of which there was a thick

curtain on account of which they were not in a position to see him. Gumnami Baba *alias* Bhagwanji had a roaring voice and from his talks it appeared that he had knowledge of almost every subject.

The evidence of the witness shows that he was curious to see him. Hence whenever he used to pass on a cycle in front of his house, he used to look towards the house. Once while he was passing by front of his house, he saw that from a window(in which glass was fitted) Gumnami Baba *alias* Bhagwanji was looking outside. The time was about 3-4 p.m. On seeing the face of Gumnami Baba, he became nervous and Gumnami Baba realizing that he had seen him immediately left the window. He (the witness) found that on the face of Gumnami Baba there were spectacles of round frame, the like of which he used to see in the photo of Netaji Subhash Chandra Bose.

The evidence of the witness further shows that Smt.Saraswati Devi tried to take the possession of the house; in the records of Nagar Palika got her name entered as a tenant; and started making endeavour to get the house allotted in her name. This resulted in a litigation, in which there was a compromise on 23.11.1977.

The evidence of the witness also shows that since people at night used to come to meet Gumnami Baba *alias* Bhagwanji, his father felt that perhaps some undesirable person was living in the house and consequently gave an application to the District Magistrate, Faizabad. Inspector Tiwari of LIU came to make an enquiry but Smt.Saraswati Devi, after scolding turned him away. At that time, the Kotwal of Police Station Ayodhya was Sri Hriday Narain Singh *alias* Zalim Singh, who called his father and told him that in case he would not let Gumnami Baba *alias* Bhagwanji live in the house, he would have him detained under MISA and detained him at Ayodhya Kotwali. On this, the mother of the witness met District Magistrate, Faizabad immediately on whose intervention, his father was let off the same day.

The evidence of the witness further shows that one night at about 9.00 p.m. in a blue Ambassador Car bearing No.UTC 3817, DIG, Faizabad Range Sri Shyam Lal visited Gumnami Baba *alias* Bhagwanji.

The evidence of the witness also shows that in the year 1978 Gumnami Baba *alias* Bhagwanji left his father's house and went to Lucknauwa Mandir, Ayodhya situated near Chhoti Devkali. His father also

gave some letters to Mr.V.N.Arora, who was a correspondent of NIP who told him that he had to publish some news in his paper(NIP which was published in English).

I have perused the statement of Manjeet Singh and the same, in my view, does not help the Commission in finding out the identity of Gumnami Baba *alias* Bhagwanji, who prior to his death lived in Ram Bhawan, Faizabad and whose last rites were performed on 18.09.1985 (*vide* notification of the U.P. Government dated 28.06.2016 the Commission has been directed to find out his identity). It is true that the witness has stated that one day at about 3-4 p.m. while he was passing in front of his house he saw Gumnami Baba *alias* Bhagwanji standing near a glass window putting on spectacles of round frame, the like of which he had been seeing on the photo of Netaji Subhash Chandra Bose. In my view, merely from this circumstance, it would be hazardous to conclude that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose, for one often finds people wearing spectacles of round frame. In all fairness, I may also mention that the witness has nowhere said in his statement that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose.

At the cost of repetition, I would like to point out that the evidence of CW-28 Manjeet Singh does not help the Commission in finding out the identity of Gumnami Baba *alias* Bhagwanji.

5.27. The next witness, whose evidence I propose examining/evaluating is Prof. Dwarka Nath Bose, aged about 79 years, son of Dr. Sunil Chandra Bose, resident of 7/2, Short Street, Kolkata-700017. A perusal of his evidence, in short, shows as under:

His father Dr. Sunil Chandra Bose was one of the elder brothers of Netaji Subhash Chandra Bose. Justice M.K. Mukherjee Enquiry Commission has dealt with the issue whether Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose and has reached the conclusion that there was no clinching evidence to show that he was Netaji Subhash Chandra Bose. For DNA testing blood samples of kith and kin of Netaji Subhash Chandra Bose were collected at the instance of Justice

M.K.Mukherjee Enquiry Commission. I (the witness) being one of the nephews of Netaji Subhash Chandra Bose gave sample of my blood for DNA testing.

From Ram Bhawan, Civil Lines, Faizabad where Gumnami Baba *alias* Bhagwanji (whose last rites were performed on 18.09.1985) lived, nine teeth were collected; five of them were sent to Central Forensic Science Laboratory, Calcutta; DNA Expert Dr. V.K. Kashyap, after examining three of them (Exts. 2 to 4) gave an opinion that they belonged to a single human aged male individual (alleged Gumnami Baba) and the individual source of teeth does not belong to either maternal or paternal DNA lineage of Netaji Subhash Chandra Bose, therefore, cannot be of Netaji Subhash Chandra Bose. Since along with Gumnami Baba *alias* Bhagwanji, the only aged member, who stayed with him all along was Smt. Saraswati Devi Shukla, the DNA report of Dr. Kashyap, in the opinion of Justice M.K. Mukherjee Enquiry Commission proved that Gumnami Baba *alias* Bhagwanji could not have been Netaji Subhash Chandra Bose. The witness stated that his personal view also was that he was not Netaji Subhash Chandra Bose.

A perusal of the statement of the witness also shows that the second reason furnished by him as to why Gumnami Baba *alias* Bhagwanji could not have been Netaji Subhash Chandra Bose is that on account of his confinement in British jails for nearly 11 years, the health of Netaji Subhash Chandra Bose was completely ruined and therefore the likelihood was that he was not alive in the year 1985 (on 16th September, 1985 Gumnami Baba *alias* Bhagwanji is alleged to have died).

A perusal of the statement of the witness also shows that so far as the recovery of Netaji Subhash Chandra Bose's photo *etc.* from Ram Bhawan, Faizabad is concerned, the same were supplied by Bijoy Nag, as is manifest from a cutting of Times of India, Kolkata, which the witness filed before the Commission with the request that Commission may take the same on record; treat it as part of his statement. To the said request, the Commission acceded; took the aforesaid cutting on record and marked it as Ext.C-16. A perusal of the said cutting shows that Gumnami Baba *alias* Bhagwanji had requested Santosh Kumar Bhattacharya *alias* Tripti and Sunil Das *alias* Mukul, to get the photographs of Netaji Subhash Chandra Bose's parents

and family members and the said persons got in touch with Bijoy Nag, who had the said photos sent to Gumnami Baba *alias* Bhagwanji, who selected five of them. The first was of Prabhabati Devi, the second was of Janki Nath Bose, the third was of both of them in a single frame, the fourth was of Subhash Chandra Bose himself with hair shaved after Janki Nath Bose's death and the fifth was of several members of Subhash Chandra Bose's family. As has been mentioned in the said write-up, Prabhawati Devi and Janki Nath Bose were mother and father respectively of Netaji Subhash Chandra Bose.

The witness asserted that from the recovery of aforesaid photos, it cannot be inferred that Gumnami Baba *alias* Bhagwanji, who was living in Ram Bhawan, Faizabad prior to his cremation on 18.09.1985 was Netaji Subhash Chandra Bose.

In the last paragraph of his examination-in-chief, the witness has also stated that in order to pass-off Gumnami Baba *alias* Bhagwanji as Netaji Subhash Chandra Bose after putting a beard on face of photo of Netaji Subhash Chandra Bose a morphed picture was prepared, as is evident from the cutting of Times of India, Kolkata dated 08.09.2011 which he filed before the Commission with the prayer that it may be taken on record and read as a part of his statement. The Commission took the said paper cutting on record; marked it as Ext.C-17 for identification; and directed that it shall be read as a part of the statement of the witness.

It is pertinent to mention that the witness has also filed a pedigree of the family of Janaki Nath Bose, who was married to Prabhabati Devi, (they were parents of Netaji Subhash Chandra Bose) and prayed that the said pedigree be taken on record. The Commission acceded to the request of the witness; took the said pedigree on record and marked it as Ext.C-15 for identification.

The witness also brought along with him three depositions, (wrongly described by him in his statement as affidavits) namely, of Prof. Chitra Ghose, aged about 87 years, Nita Ghose, aged about 75 years, and Krishna Ghose, aged about 77 years, all real nieces of Netaji Subhash Chandra Bose (as is manifest from the pedigree filed by him), sworn before a Notary at Kolkata and urged the Commission to accept them as the statements of the

said persons because for plausible reasons contained in them, they were not in a position to come and depose before the Commission. The Commission perused the said depositions; found the request of the persons making them to be reasonable and directed that they shall be treated as their statements. It marked the deposition of Chitra Ghose as CW-30, that of Krishna Ghose as CW-31 and that of Nita Ghose as CW-32.

The witness was also cross examined by the Commission. To the solitary question put to him therein, namely, whether he had personally met Gumnami Baba *alias* Bhagwanji, who lived in Ram Bhawan, Faizabad prior to his death and who was cremated on 18.09.1985, he replied in the negative.

I have perused the statement of Prof. Dwarka Nath Bose. After bestowing my anxious consideration to the averments contained therein, I am inclined to agree with his view that report of the Mukherjee Commission of Enquiry disproves that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose in view of the DNA test referred to in paragraphs 4.15.10 and 4.15.11 at pages 121 and 122 of the said Report.

Since I have extracted the said paragraphs of the Mukherjee Commission Report in paragraph 5.2 while dealing with the evidence of Anuj Dhar (CW-3), it is not necessary in my view to advert to the said paragraphs again.

In my view had Gumnami Baba *alias* Bhagwanji been Netaji Subhash Chandra Bose, then the DNA report would not have been to the effect "the individual - source of the teeth does not belong to either maternal or paternal DNA lineage of Netaji Subhash Chandra Bose, therefore, cannot be of Netaji Subhash Chandra Bose".

The assertion of the witness that the recovery of Netaji's photos *etc.* from Ram Bhawan, Faizabad cannot be taken as evidence of the fact that Netaji Subhash Chandra Bose was living there stands vindicated from a perusal of Ext.C-16 (cutting of Times of India, Kolkata dated 17.03.2016), which shows that the said photos were sent to Gumnami Baba *alias* Bhagwanji by Bijoy Nag, on his request.

For the aforesaid reasons, I find merit in the assertion of Prof. Dwarka Nath Bose that Gumnami Baba *alias* Bhagwanji was not Netaji Subhash Chandra Bose.

5.28 I now take up the deposition of CW-30 Prof.Chitra Ghose, daughter of Sarat Chandra Bose, who was real brother of Netaji Subhash Chandra Bose. In the said deposition, attested by a Notary at Kolkata, at the inception Prof.Chitra Ghose has stated that on account of her indisposition, it would not be possible for her to depose before the Commission and it be treated as her statement before the Commission. The said deposition was handed over to me by CW-29 Prof.Dwarka Nath Bose, son of Dr.Sunil Chandra Bose, who was real brother of Sarat Chandra Bose(father of Prof.Chitra Ghose), on 22.02.2017 when he deposed before the Commission. In his statement Prof.Dwarka Nath Bose has mentioned that Prof.Chitra Ghose is aged about 87 years.

In view of the aforesaid facts, I am treating the aforesaid deposition of Prof.Chitra Ghose as her statement before the Commission.

At the very outset she has stated that Gumnami Baba of Faizabad was not and could not have been Netaji Subhash Chandra Bose for the reasons enumerated hereinafter:

1. The Mukherjee Commission has categorically asserted that DNA testing process conducted in respect of Gumnami Baba by the internationally recognized Central Forensic Science Laboratory in Kolkata proves that the teeth forwarded to the Laboratory as those of Gumnami Baba could not have been of Netaji Subhash Chandra Bose.

2. The Mukherjee Commission has held that although one handwriting expert was of the firm opinion that the sample of writings from Gumnami Baba,namely, those found in some books and journals were of Netaji but three other equally eminent handwriting experts delivered a contrary opinion. In the light of majority opinion, the Mukherjee Commission saw no need to pursue the matter further.

3. On account of serious afflictions and illness from which Netaji Subhash Chandra Bose suffered and his frequent confinement in Jails it is scarcely conceivable that he could have survived as a mortal human being until his late eighties, as would have been the case had he been Gumnami Baba. (Subhash Chandra Bose was born in 1897 and Gumnami Baba died on 16.09.1985).

4. Subhash Chandra Bose was a man of indomitable courage and boundless energy and it is impossible to believe that he would have lived behind a curtain in some one's house at Faizabad.

5. Subhash Chandra Bose was very much attached to his parents, siblings, nieces, nephews, his wife and infant daughter and had he been alive and returned to India, it is unbelievable that he would have stayed away from his family which he loved so dearly.

6. In the context of establishing identity of Gumnami Baba, he is not by any means the first holy man to surface with claims to be Netaji Subhash Chandra Bose. There have been many such claims, all eventually debunked. Some say that he will emerge one day alive in India while others argue that he perished in Russia and could not have been Gumnami Baba.

7. The evidence on the basis of which people claim that Gumnami Baba was Netaji Subhash Chandra Bose was hear-say in nature. Much has been made of items found in his possession which were of a personal nature to the Bose family and Subhash Chandra Bose in particular. For example, family photographs, spectacles with round lenses and umbrella belonging to Subhash's father Janaki Nath Bose etc. The followers of Gumnami Baba brought the said items from Calcutta (at times on his specific request).

8. The writings of Netaji Subhash Chandra Bose suggest that he was a man of action. He was the man who was instrumental in formation over a very short period of time of Indian fighting forces both in Europe and Asia and indeed set up Indian Provisional Government in exile.

9. It is wrong to assume that her father Sarat Chandra Bose knew that Subhash Chandra Bose had not perished in an air crash. His correspondence makes it clear that he had no more than a feeling that his brother was still alive after 1945, but had no hard evidence at all.

In the last paragraph, the witness has stated as under:

"Briefly, it is unthinkable that the person who was Netaji would disappear into seclusion from 1945, until his death 40 years later at the age of 88 years - decades in which his beloved India lurched from crisis to crisis, beginning with the monstrous tragedy of partition on religious lines. Would Subhash Chandra Bose have idly stood by while the agonies of

communalism, massive poverty and bad Government assailed the people of India? I will be quite unequivocal in saying that this is impossible."

I have perused the statement of Prof.Chitra Ghose and after bestowing my anxious consideration to the averments contained therein, am inclined to agree with her that Gumnami Baba was not Netaji Subhash Chandra Bose. It is not disputed that Gumnami Baba, whose last rites were performed on 18.09.1985,prior to his death lived in Ram Bhawan, Faizabad and the only other aged member who stayed with him all along was Smt.Saraswati Devi Shukla. It is pertinent to mention that five teeth out of nine which were found in Ram Bhawan, Faizabad along with samples of blood collected from two descendants from father's side and three descendants of mother's side of Subhash Chandra Bose were sent to Central Forensic Science Laboratory, Kolkata for DNA testing and the DNA expert Dr.V.K.Kashyap subjected three of the five teeth for DNA testing and concluded that the forwarded teeth (Exts. 2 to 4) belonged to a single human aged male individual (alleged Gumnami Baba) and the individual - source of the teeth does not belong to either maternal or paternal DNA lineage of Netaji Subhash Chandra Bose, therefore, cannot be of Netaji Subhash Chandra Bose.

Since apart from Smt.Saraswati Devi Shukla, Gumnami Baba was the only aged member who lived in Ram Bhawan,Faizabad,had he been Subhash Chandra Bose, the DNA expert would not have reported that "the individual - source of the teeth does not belong to either maternal or paternal DNA lineage of Netaji Subhash Chandra Bose, therefore, cannot be of Netaji Subhash Chandra Bose".

I have extracted the aforesaid facts from paragraphs 4.15.10 and 4.15.11 at pages 121 and 122 of the Mukherjee Commission Report and in my view Prof. Chitra Ghose is justified in concluding that Justice M.K.Mukherjee Commission Report disproves that Gumnami Baba was Netaji Subhash Chandra Bose.

The second reason furnished by Prof.Chitra Ghose to show that Gumnami Baba was not Netaji Subhash Chandra Bose was that only one of the handwriting experts opined that the sample writings from Gumnami Baba, namely, those found in some books and journals, were of Netaji

Subhash Chandra Bose and since three other equally eminent handwriting experts delivered a contrary opinion, Mukherjee Commission was justified (in the light of majority opinion) in not pursuing the matter. This aspect has been considered by the Mukherjee Commission in paragraph 4.15.9 at page 121 of the Report. Since I have quoted the said paragraph in Para 5.2 while dealing with the evidence of CW-3 Anuj Dhar, I do not want to be guilty of repetition.

After perusing the reasons contained in paragraph 4.15.9 of the Mukherjee Commission Report, I am of the view that Prof. Chitra Ghose was justified in concluding that the evidence of handwriting experts does not show that Gumnami Baba was Netaji Subhash Chandra Bose.

I also find merit in Prof. Chitra Ghose's contention that a courageous and bold man like Netaji Subhash Chandra Bose would not have lived behind a curtain in Ram Bhawan, Faizabad, away from his wife, daughter and members of his extended family, who were very dear to him.

I refuse to accept the explanation furnished by CW-11 Ayodhya Prasad Gupta and the doubt which crept in the mind of CW-36 Shitla Prasad that since in the Transfer of Power Act (through which India got her independence) there was a provision that if Netaji Subhash Chandra Bose was found in India, he would be handed over to the British Government, he was leading a gumnami existence *i.e.* a life behind curtain because ever since the Khosla and Shahnawaz Commissions of Enquiry submitted their reports to the Government of India, which was over 40 years before the evidence of the said witnesses was recorded by this Commission, the consistent stand of the Government of India has been that Netaji Subhash Chandra Bose had died in a plane crash in Formosa in 1945 and since the evidence recorded by this Commission shows that Gumnami Baba was a highly literate person, well-informed about political affairs (both national and international) it can safely be presumed that he was well aware about this stand of Government of India and therefore the apprehension of his being handed over to the British authorities could never have prompted him to remain gumnami. For the above reasons, the aforesaid explanation of CW-11 Ayodhya Prasad Gupta and the doubt which crept in the mind of CW-36 Shitala Prasad is baseless.

Prof.Chitra Ghose is also justified in concluding that so far as the recovery of family photographs, spectacles of round lenses, umbrella belonging to Subhash's father Janki Nath Bose *etc.* from Ram Bhawan, Faizabad is concerned, they do not establish that Netaji Subhash Chandra Bose was living there because the said items were brought to Gumnami Baba from Calcutta by his followers; often on his request.

Prof.Chitra Ghose has also mentioned that there is no scintilla of real evidence to support any claim of Gumnami Baba being Netaji Subhash Chandra Bose and the evidence is hearsay and that of third party source. I have gone through the evidence led before the Commission and find that the bulk of evidence adduced before it to prove that Gumnami Baba was Netaji Subhash Chandra Bose is hearsay in nature.

For the aforesaid reasons, I find merit in the contention of Prof.Chitra Ghose that Gumnami Baba was not Netaji Subhash Chandra Bose and substance in her final conclusion,which has been reproduced verbatim in her own words at pages 213 and 214 of this report.

5.29 Deposition of CW-31 Krishna Ghose, duly attested by a Notary at Kolkata was handed over to me on 22.02.2017 by her father's real brother's son CW-29 Prof.Dwarka Nath Bose during the course of his deposition before the Commission. He urged that it be treated as her statement before the Commission because for plausible reasons contained in it, including the fact that she was aged about 77 years, she was not personally able to appear before the Commission.After reflecting on the request of Prof.Dwarka Nath Bose and on reading the deposition of Krishna Ghose, who stated therein that it was not easy for her to travel these days, I found the request to be reasonable and marked it as CW-31. Its perusal shows as under:

Her father Shailesh Bose was a younger brother of Netaji Subhash Chandra Bose. Some organizations and individuals are projecting Gumnami Baba as her uncle Subhash Chandra Bose in hiding or disguise. This is a tissue of lies and an affront to the dignity and honour of Subhash Chandra Bose, who was an iconic hero of India. Subhash Chandra Bose was responsible for setting up of first national, independent Government of India (in-exile) and creating a truly national army. He was not a man who would

have stealthily returned to India and concealed himself for decades in disguise while her mother India suffered from agonies of partition and post independence traumas.

I have perused the deposition of Krishna Ghose and find merit in her contention that Gumnami Baba was not Netaji Subhash Chandra Bose. The latter in my view was a man of action and like Gumnami Baba would not have hidden for decades and talked with persons from behind a screen with his face concealed from them while India suffered through agonies of partition and post independence traumas.

5.30 Deposition of CW-32 Nita Ghose, duly attested by a Notary at Kolkata, was handed over to me by her real brother CW-29 Prof.Dwarka Nath Bose on 22.02.2017 (during the course of his deposition before the Commission) with a request that for plausible reasons contained in it Nita Ghose was not able to appear in person and her deposition be treated as her statement before the Commission. After perusing her deposition, wherein she has stated that since her husband was laid up in bed with fracture she was unable to appear before the Commission, I found the request to be reasonable and marked her deposition as CW-32.

Nita Ghose has stated in her deposition that Gumnami Baba cannot be Netaji Subhash Chandra Bose for the reasons stated hereinafter:

(1) Since neither the parents nor siblings of Netaji Subhash Chandra Bose lived till late eighties, considering the perilous life which Netaji Subhash Chandra Bose had lived, it is most unlikely that he would have lived till the age of 88 years (Netaji was born in 1897 and Gumnami Baba died on 16.09.1985).

(2) The report of Mukherjee Enquiry Commission, which was based on DNA samples collected from paternal and maternal side of Netaji Subhash Chandra Bose and the teeth of alleged Gumnami Baba shows that Gumnami Baba could not have been Netaji Subhash Chandra Bose.

(3) Earlier in 1960s, some rumours had spread that Shoulmari Sadhu, who lived in North Bengal, was Netaji Subhash Chandra Bose. Many of Netaji's admirers and followers who had visited him were not convinced with his identity and consequently the rumour died down. Similarly, rumour of Gumnami Baba being Netaji Subhash Chandra Bose had started

circulating some years back and should be screened thoroughly before coming to any conclusion.

(4) A man of action and a true patriot like Netaji Subhash Chandra Bose would not have lived in India in seclusion for such a long time while his motherland was passing through tumultuous times.

I have perused the deposition of Nita Ghose and find merit in her belief that Gumnami Baba was not Netaji Subhash Chandra Bose because the said claim is belied by the DNA test referred to in paragraphs 4.15.10 and 4.15.11 at pages 121 and 122 of the Mukherjee Commission Report.

Since I have extracted the said paragraphs of the Mukherjee Commission Report in paragraph 5.2 of this report, while dealing with the evidence of Anuj Dhar (CW-3), it is not necessary in my view to advert to the said paragraphs again.

Since apart from Smt. Saraswati Devi Shukla, Gumnami Baba was the only aged member who lived in Ram Bhawan, Faizabad, had he been Subhash Chandra Bose, the DNA expert would not have reported that " the individual - source of the teeth does not belong to either maternal or paternal DNA lineage of Netaji Subhash Chandra Bose, therefore, cannot be of Netaji Subhash Chandra Bose".

I also find merit in her contention that a man of action and a true patriot like Netaji Subhash Chandra Bose would not have lived in India in seclusion for such a long period of time when India was passing through such tumultuous times.

It should be borne in mind that the consistent evidence of witnesses, who appeared before the Commission, is that there was a curtain between Gumnami Baba and the person/persons to whom he was talking on account of which both could not see one and another. I refuse to believe that a person like Netaji Subhash Chandra Bose, like a coward, would have concealed his identity in such a manner.

5.31 I now take up the statement of CW-33 Ardhendu Bose, aged about 70 years, son of late Sri Sailesh Chandra Bose, resident of 6, Southlands, 177, Saheed Bhagat Singh Road, Colaba, Mumbai. Its perusal, in short, shows as under:

His father late Sri Sailesh Chandra Bose was one of the younger brothers of Netaji Subhash Chandra Bose. He has emphatically stated that Gumnami Baba was not Netaji Subhash Chandra Bose for the reasons stated hereinafter:

(1) Although his father was the real brother of Netaji Subhash Chandra Bose and had died in March,1984 and he (his father) had heard about Gumnami Baba and very frequently at his father's residence in Bombay a lot of discussion pertaining to the identity of Gumnami Baba used to take place, had his father felt that Gumnami Baba was Netaji Subhash Chandra Bose, he would have certainly gone to visit/see him because that would have helped him to determine whether he was Netaji Subhash Chandra Bose or not. The circumstance that never once his father expressed his desire to visit/see Gumnami Baba shows that he was not Netaji Subhash Chandra Bose.

(2) No news about the death of Gumnami Baba was sent to immediate family members of Netaji Subhash Chandra Bose like Sri Amiya Nath Bose, Sri Shishir Kumar Bose, Sri Dwijendra Nath Bose and some others at Calcutta. They were not only very close to Netaji Subhash Chandra Bose but had also worked very intimately with him. Had Gumnami Baba been Netaji Subhash Chandra Bose news about his death would have certainly been sent to immediate family members of Netaji Subhash Chandra Bose at Calcutta.

(3) The cremation of Gumnami Baba was stealthily performed on 18.09.1985 at Guptar Ghat, Faizabad in the presence of only 13 persons and every effort was made to ensure that people did not see the face of Gumnami Baba. This shows that Gumnami Baba in reality was not Netaji Subhash Chandra Bose.

(4) In connection with my business(business of the witness) right from 1974 to 1975 I have been frequently visiting Kanpur; my perception is that if my father had the slightest doubt that Gumnami Baba was Netaji Subhash Chandra Bose in hiding, he would have certainly asked me to visit him for that could have unravelled the mystery of Gumnami Baba, who did not show his face to those, who visited him and a screen used to separate him from the person with whom he used to talk.

(5) The DNA report of Central Forensic Science Laboratory, Kolkata establishes that Gumnami Baba was not Netaji Subhash Chandra Bose. At the time of Gumnami Baba's death the only aged member living with him in Ram Bhawan, Civil Lines, Faizabad was Smt. Saraswati Devi Shukla, who used to look after him. From paragraphs 4.15.10 and 4.15.11 at pages 121 and 122 of the Mukherjee Commission Enquiry report, the following facts emerge:

Five out of nine teeth found in Ram Bhawan along with samples of blood collected from two descendants on father's side and three descendants on mother's side of Netaji were sent to Central Forensic Science Laboratory, Kolkata for DNA test to fix the identity of the person to whom the teeth belonged. After subjecting three of the five teeth (Ext.2 to 4) to DNA examination, DNA expert Dr. V.K.Kashyap, Director of Laboratory submitted a report "that forwarded teeth - (Ext.2 to 4) belong to a single human aged male individual - (alleged Gumnami Baba). The individual source of the teeth does not belong to either maternal or paternal DNA lineage of Netaji Subhash Chandra Bose, therefore, cannot be of Netaji Subhash Chandra Bose."

As the Mukherjee Commission concluded that the only other aged member who stayed with Gumnami Baba was Smt. Saraswati Devi Shukla, the report of Dr.Kashyap demolishes the belief that Gumnami Baba was Netaji Subhash Chandra Bose.

(6) On the basis of some articles recovered from Ram Bhawan, Faizabad like photos of parents of Netaji Subhash Chandra Bose, a pair of spectacles having round lenses and some books relevant to Netaji Subhash Chandra Bose a theory is being propagated that Gumnami Baba was none other than Netaji Subhash Chandra Bose in hiding. Such a theory is not credible as some of the aforesaid articles were sent to Gumnami Baba on his request by Mr.Bijoy Nag. At any rate, from the recovery of these articles, it cannot be conclusively said that Netaji Subhash Chandra Bose was Gumnami Baba. As I have deposed earlier, the DNA evidence demolishes the claim that Gumnami Baba was Netaji Subhash Chandra Bose.

(7) Netaji Subhash Chandra Bose was a courageous man. He was a man of action, who created the Indian National Army and formed a

provincial Government of Azad Hind outside India. In my view, had he been alive he would have been roaring like a lion and not like Gumnami Baba have lived the life of a coward in hiding, only meeting people from behind a screen; concealing his face from them.

I have perused the statement of CW-33 Ardhendu Bose and find merit in the aforesaid reasons on the basis of which he has concluded that Gumnami Baba was not Netaji Subhash Chandra Bose. The statement of Ardhendu Bose to the effect that no information of the death of Gumnami Baba was sent to the family members of Netaji at Calcutta and his cremation was performed stealthily on 18.09.1985 at Guptar Ghat, Faizabad receives assurance from the evidence of CW-9 Ravindra Nath Shukla, who, in his examination-in-chief stated that on the death of Gumnami Baba (on 16.09.1985) his physician and devout follower Dr. R.P.Misra said that he would ask the SSP, Faizabad to send a wireless message to Calcutta but no such wireless message was actually sent and when he questioned Dr. R.P.Misra about this, he could give no answer. I also find substance in the contention of Ardhendu Bose that the surreptitious manner in which the cremation of Gumnami Baba was performed on 18.09.1985 at Guptar Ghat in the presence of only 13 persons and the fact that people were not being allowed to see the face of Gumnami Baba also shows that Gumnami Baba was not Netaji Subhash Chandra Bose.

I also find merit in the assertion of Ardhendu Bose that had his father Sailesh Chandra Bose any doubt about Gumnami Baba being Netaji Subhash Chandra Bose, he would have either personally visited him or asked him (Ardhendu Bose) to visit him. It should be remembered that Sailesh Chandra Bose was the real brother of Netaji Subhash Chandra Bose and Ardhendu Bose being his son was the real nephew of Netaji Subhash Chandra Bose.

The assertion of Ardhendu Bose that DNA report of Central Forensic Science Laboratory, Kolkata establishes that Gumnami Baba was not Netaji Subhash Chandra Bose is correct because had he been Netaji Subhash Chandra Bose the DNA expert Dr.V.K.Kashyap, Director of Central Forensic Science Laboratory, Kolkata would not have reported "that forwarded teeth - (Ext.2 to 4) belong to a single human aged male individual

- (alleged Gumnami Baba). The individual source of the teeth does not belong to either maternal or paternal DNA lineage of Netaji Subhash Chandra Bose, therefore, cannot be of Netaji Subhash Chandra Bose."

Since the evidence which has been led before this Commission shows that the only other aged member who stayed with Gumnami Baba was Smt.Saraswati Devi Shukla and the said evidence was also led before the Mukherjee Commission, Ardhendu Bose is justified in asserting that the report of Dr. Kashyap demolishes the belief that Gumnami Baba was Netaji Subhash Chandra Bose. I also find merit in the assertion of Ardhendu Bose that had Gumnami Baba been Netaji Subhash Chandra Bose, the DNA expert would not have opined that the said teeth were not of Netaji Subhash Chandra Bose.

I also find weight in the assertion of the witness that Netaji Subhash Chandra Bose was a courageous man; a man of action, who had created Indian National Army and formed a Provincial Government of Azad Hind outside India and had he been alive he would have been roaring like a lion and not like Gumnami Baba have lived the life of a coward in hiding, meeting people from behind a screen and concealing his face from them.

It is true that on the basis of recovery of some of the articles from Ram Bhawan, Faizabad like photos of Netaji Subhash Chandra Bose, a pair of spectacles having round lenses and some books having relevance to Netaji Subhash Chandra Bose a theory is being propagated that Gumnami Baba was none other than Netaji Subhash Chandra Bose in hiding but in my view (as also deposed by the witness) much cannot be read into this because some of the articles were sent by Mr. Bijoy Nag to Gumnami Baba on his request. I also feel (as has been asserted by the witness) that simplicitor from the recovery of these articles it cannot be conclusively said that Gumnami Baba was Netaji Subhash Chandra Bose for (as also deposed by the witness) the DNA evidence demolishes the claim that Gumnami Baba was Netaji Subhash Chandra Bose.

In my view, the evidence of CW-33 Ardhendu Bose, who has emphatically stated that Gumnami Baba was not Netaji Subhash Chandra Bose inspires confidence.

5.32 The next witness whose evidence I propose considering is CW-34 Shibashish Nag, son of late Samarendra Nath Nag and late Manjula Nag r/o 23A, Sardar Sankar Road, P.O.Sarat Bose Road,Kolkata-700 029. He has sent an affidavit dated 08.03.2017 sworn before a Notary in Kolkata mentioning therein that since his wife was suffering from acute pain in the legs, is almost immobile and he is the only person who looks after her, he is unable to leave Kolkata and his affidavit be treated as his deposition. The aforesaid affidavit was received by the Commission on 15.03.2017 and since the Commission found the reasons for his not being able to depose before it to be weighty, it directed that the said affidavit shall be read as statement of CW-34 Shibashish Nag. A perusal of the aforesaid affidavit shows as under:

(1) He is a member of the family of Netaji Subhash Chandra Bose, being the grandson of Sudhir Chandra Bose (Netaji's fourth brother), whose only surviving daughter was his mother (mother of the deponent) late Manjula Nag.

(2) He has gone through the depositions made by the seniors of the family of Netaji Subhash Chandra Bose including his aunt Prof.Chitra Ghose, his uncle Dwarka Nath Bose and is in complete agreement with their claim that Gumnami Baba was not and could not have been his revered granduncle Netaji Subhash Chandra Bose.

(3) He is also in complete agreement with their view that it is inconceivable that a great leader of the Indian freedom movement who led the Indian National Army would remain cooped up as a sadhu in Faizabad for almost 40 years after independence when so much was needed to be done in the country.

I have perused the statement of Shibashish Nag and since he has candidly stated therein that he is in complete agreement with the deposition of Prof. Dwarka Nath Bose (his uncle) and Prof. Chitra Ghose (his aunt), who in no uncertain terms have deposed that Gumnami Baba was not Netaji Subhash Chandra Bose, as is manifest from a perusal of their statements which have been discussed in paragraphs 5.27 and 5.28 respectively of this report. I do not want to burden my report by reiterating the reasons

mentioned by them as to why Gumnami Baba was not Netaji Subhash Chandra Bose.

For the aforesaid reasons, I accept the claim of Shibashish Nag that Gumnami Baba was not Netaji Subhash Chandra Bose.

5.33 The next witness whose statement I propose discussing is CW-35 Arup Kumar Mitra. He has sent his statement dated 10.03.2017 attested by a Notary at Kolkata mentioning therein that on account of his poor health he is not able to appear in person before the Commission and the said statement be treated as his statement before the Commission.

The said statement of Arup Kumar Mitra was received by the Commission on 15.03.2017 and finding the reason furnished by him for not appearing in person before the Commission to be plausible I directed that the said statement shall be read as statement of CW-35 Arup Kumar Mitra. A perusal of the aforesaid statement of Arup Kumar Mitra shows as under:

(1) He is a member of the family of Netaji Subhash Chandra Bose, being grandson of his elder brother Dr. Sunil Chandra Bose. He strongly supports the depositions made by elders of the family of Netaji Subhash Chandra Bose including Prof. Dwarka Nath Bose and Prof. Chitra Ghose and others that Gumnami Baba could not have been his grand uncle Netaji Subhash Chandra Bose.

(2) The DNA tests conducted under the aegis of the Justice Mukherjee Commission have confirmed that there is no match between DNA samples of Gumnami Baba and those of the Bose family.

(3) Netaji was a dynamic leader of the Indian freedom struggle who escaped from India to lead the Indian National Army and it is unthinkable that he would remain in seclusion for two decades in Faizabad after independence.

I have perused the statement of Arup Kumar Mitra and since he has candidly stated therein that he is in complete agreement with the depositions of Prof. Dwarka Nath Bose (his uncle) and Prof. Chitra Ghose (his aunt), who in no uncertain terms have deposed that Gumnami Baba was not Netaji Subhash Chandra Bose, as is manifest from a perusal of their statements which have been discussed in paragraphs 5.27 and 5.28 respectively of this

report, I do not want to burden my report by reiterating the reasons mentioned by them as to why Gumnami Baba was not Netaji Subhash Chandra Bose. It is pertinent to mention that the averments which he has made in his statement find place in entirety in the statement of Prof.Chitra Ghose.

For the aforesaid reasons, I accept the claim of Arup Kumar Mitra that Gumnami Baba was not Netaji Subhash Chandra Bose.

5.34 CW-36.The next witness who deposed before the Commission was Shitla Singh, aged about 85 years, son of Raj Bahadur Singh, resident of Kharmaria, Tehsil Bikapur district Faizabad, presently residing at 8/9/97, Bahu Begum Maqbara,Faizabad. His evidence, in short, shows as under:

From 05.12.1958 he is publishing 'Jan Morcha', a daily newspaper and from 14.04.1963 he is its Editor. He had never met Gumnami Baba nor had received any information pertaining to Gumnami Baba. When the issue of Gumnami Baba cropped up, some newspapers started publishing that he was Netaji Subhash Chandra Bose, who was hiding because in the Transfer of Power Act under which India had obtained independence there was a provision that if Netaji Subhash Chandra Bose was found in India, he would be handed over to the British Government. He felt that it was his duty to apprise his readers about the identity of Gumnami Baba. It struck him whether a fearless person like Netaji Subhash Chandra Bose, who did not continue in Indian Civil Service, had created Indian National Army and had played a prominent role in the independence of India, would lead a gumnami (anonymous) existence. He met Maanwati Devi of his district, who was a Captain in the Indian National Army and she told him that Gumnami Baba was not Netaji Subhash Chandra Bose.

For the aforesaid reasons, he thought it necessary to meet the associates of Netaji Subhash Chandra Bose at Calcutta, who used to visit Faizabad on Netaji Subhash Jayanti and meet him. Consequently he sought the help of SSP,Faizabad and accompanied by an officer of Inspector rank (probably Harish Chandra Singh) went to Calcutta. At Calcutta he met Pabitra Mohan Roy, who was a close associate of Netaji Subhash Chandra Bose and published in Jan Morcha of 06.11.1985 the conversation which he had with Pabitra Mohan Roy about Gumnami Baba. He filed a copy of the

aforesaid conversation before the Commission; requested the Commission to take it on record and treat it as a part of his statement. The Commission took the same on record and marked it as Ext.C-18. A perusal of Ext.C-18 shows that Pabitra Mohan Roy emphatically denied that Gumnami Baba was Netaji Subhash Chandra Bose. It also shows that Dr. R.P.Misra's son accompanied by another doctor informed him about the death of Gumnami Baba but he did not think it necessary to act on the said information. In his deposition before the Commission he stated that if Pabitra Mohan Roy and others had thought that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose, they would have certainly come to Faizabad on receiving the news of his death.

A perusal of the statement of Shitla Singh further shows that on the main page of Jan Morcha of 03.11.1985, a copy of which he was filing, there was a write-up "Woh Kaun Tha". He prayed that the said write-up be taken on record and read as a part of his statement. The Commission acceded to his request; took the said write-up on record and marked it as Ext.C-19. A perusal of C-19 shows that an anonymous letter was published wherein it was mentioned that Gumnami Baba was none other than one K.D.Upadhyay, who had shot dead one Brahm Dev Misra, who was to attend a meeting in Gayatri Bhawan and after shooting him had run away with his gun. In the said letter it is mentioned that the police had not been able to trace out the murderer of Brahma Dev Misra. A perusal of statement of Shitla Singh further shows that approximately about two years ago, he had telephoned the then DGP of U.P. Sri Jagmohan Yadav and requested him to trace out the file of K.D.Upadhyay containing his signatures, photos *etc.* and to have the same compared with the signatures, photos *etc.* of Gumnami Baba *alias* Bhagwanji but nothing happened in the matter.

A perusal of the statement of witness Shitla Singh further shows that in Jan Morcha dated 03.11.1985 at page 4 there was a write-up under the caption " Netaji Ko Apmanit Mat Kijiye". The witness filed a copy of the said write-up; requested the Commission to take it on record and treat it as a part of his statement. The Commission acceded to his request; took the said write-up on record and marked it as Ext.C-20. A perusal of C-20 shows that apart from the fact that Shahnawaz Commission and Khosla Commission reported that Netaji Subhash Chandra Bose had died in a plane crash, it is

extremely improbable that a man of immense courage like Netaji Subhash Chandra Bose, who had founded the Indian National Army and had fought for India's independence would have chosen to lead a gunnami existence (anonymous existence) lest Nehru and others, who were ill-disposed towards him handed him over to the British Government.

The witness was cross-examined by the Commission.

In reply to Question No.1, which was, who in his opinion Gunnami Baba *alias* Bhagwanji was, he stated that in his view he was K.D. Upadhyay. He further stated that his view is reinforced by the fact that after his death the face of Gunnami Baba was defaced so that it could not be recognized. In his view, the haste with which Gunnami Baba *alias* Bhagwanji was cremated at a place at which people are not normally cremated and the circumstance that only 13 people participated in the cremation lead to the same inference.

Question No.2 put to the witness during cross-examination was, whether it was true that Gunnami Baba *alias* Bhagwanji never met people face to face and used to talk to people from inside a room on the window of which there was a curtain and the person/persons with whom he used to talk was/were on the other side of the window. He replied that he had also heard so.

I have perused the statement of Shitla Singh and Exts. C-18, C-19 and C-20 and am inclined to accept his view that Gunnami Baba *alias* Bhagwanji was not Netaji Subhash Chandra Bose. I find merit in his belief that a fearless person like Netaji Subhash Chandra Bose, who left Indian Civil Service, created Indian National Army and fought for India's independence from abroad would not have led a gunnami existence (anonymous existence) merely because of the fear that Nehru may hand him over to the British. In my view, fear was something which was alien to Subhash Chandra Bose; exemplary courage was the hallmark of his personality.

I also find merit in the assertion of Shitla Singh that had Gunnami Baba *alias* Bhagwanji been Netaji Subhash Chandra Bose, on receiving the news of death of Gunnami Baba *alias* Bhagwanji, Pabitra Mohan Roy and others, who were close associates of Netaji Subhash Chandra Bose, would

have rushed from Calcutta to Faizabad and been present at the time of the cremation of Gumnami Baba *alias* Bhagwanji. A perusal of C-18 shows that immediately on the death of Gumnami Baba *alias* Bhagwanji, Pabitra Mohan Roy had received information about the same.

The belief of Shitla Singh that Gumnami Baba *alias* Bhagwanji was not Netaji Subhash Chandra Bose is reinforced by the DNA test referred to in paragraphs 4.15.10 and 4.15.11 at pages 121 and 122 of the Mukherjee Commission Report. Since earlier at a number of places I have mentioned in detail as to how the DNA test belies the fact that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose, I do not want to be guilty of repetition.

Before parting with the evidence of Shitla Singh, I wish to make it clear that I am not inclined to accept his claim that Gumnami Baba *alias* Bhagwanji was actually K.D.Upadhyay. In my view, neither a perusal of statement of Shitla Singh nor C-19 shows that there was any tangible evidence/material to draw such a inference. I feel that it is just a surmise/suspicion of Shitla Singh that Gumnami Baba *alias* Bhagwanji was none other than K.D.Upadhyay. I wish to make it clear that Judicial Commissions of Enquiry, like the present, do not base their inference/findings on surmises/suspicions. They base the same on evidence which is legally admissible. For the aforesaid reasons, I am of the view that whereas Shitla Singh has been able to show that Gumnami Baba *alias* Bhagwanji was not Netaji Subhash Chandra Bose but he has failed to establish that he (Gumnami Baba *alias* Bhagwanji) was K.D.Upadhyay.

5.35 The next witness whose evidence I propose assessing is CW-37 Nand Kumar Misra, aged about 62 years, son of late Ram Kishore Misra, resident of Swarg Dwar, Ayodhya district Faizabad. His evidence, in short, shows as under:

Between 1974 to 1981 he served Gumnami Baba *alias* Bhagwanji, who, during the said period lived at three places in Ayodhya, namely, Udru Bazar Crossing, near Brahma Kund Gurudwara and Lucknauwa Hata. From Lucknauwa Hata Gumnami Baba *alias* Bhagwanji shifted to the house of Shakti Singh called Ram Bhawan in Civil Lines, Faizabad where he lived till his death and from where his dead body was taken to Guptar Ghat, Faizabad

where his last rites, in which members of his family(family of witness) participated, were performed.

The evidence of Nand Kumar Misra shows that Gumnami Baba *alias* Bhagwanji never talked face to face with anyone and used to talk to people from behind a curtain. Durga Prasad Pandey, an Advocate, on whose request his father (father of the witness) kept Gumnami Baba *alias* Bhagwanji as a tenant at his house in Udru Bazar Crossing, told his father that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose and his father in turn told him and members of the family this fact. He (the witness) was also curious to find out who Gumnami Baba was and when he peeped between the space between two parts of the door of the room in which Gumnami Baba used to live, it appeared to him that he was Netaji Subhash Chandra Bose and his belief was hardened when he saw a photo of Netaji Subhash Chandra Bose. Near about 18th January some guests of Gumnami Baba *alias* Bhagwanji were to visit him. He(the witness) stood on a stool to bring down beddings which were kept on a steel plank. In the process he became disbalanced and fell down. Immediately Gumnami Baba *alias* Bhagwanji came out and enquired from him whether he had seen him. In fact, he had and discovered that he was Netaji Subhash Chandra Bose. He stated that he was hundred per cent convinced that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose.

The witness was cross-examined by the Commission.

To the first question put to him therein, namely, whether before today he had told any person/any organization/any officer about seeing Gumnami Baba through the space between two parts of the door, getting disbalanced and falling from the stool, he replied that since his father had strictly told them not to mention this fact, he did not tell anyone that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose.

To the second question put to him therein, namely, why he was saying today that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose, he replied that since he was not alive, he has mentioned it.

I have perused the statement of Nand Kumar Misra, and am constrained to observe that I am not prepared to accept his claim that he had

personally seen Gumnami Baba *alias* Bhagwanji and was hundred per cent convinced that he was Netaji Subhash Chandra Bose for two reasons:

Firstly, his conduct in disclosing this fact for the first time on 21st April, 2017 (when his statement was recorded by the Commission) although he was in service of Gumnami Baba *alias* Bhagwanji from 1974 to 1981 renders it very unsafe for me to accept his evidence. In my view, if he was really convinced that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose, he would not have maintained an ominous silence between 1981 to 21st April, 2017 (for 36 years) about the fact that he was Netaji Subhash Chandra Bose. I am not prepared to accept his answer that since his father had asked him not to disclose it, he refrained from disclosing it. Had this reason been genuine, he would not have disclosed it to the Commission on 21st April, 2017 when his statement was being recorded by it.

The Supreme Court times out of number has held that the conduct of a witness is a very sound basis for evaluating his credibility and on innumerable occasions has rejected the testimony of a witness merely because it was not in consonance with the natural conduct of a person (as is the case here).

The second reason is that Nand Kumar Misra has candidly stated in his examination-in-chief that from Lucknauwa Hata, Ayodhya Gumnami Baba shifted to the house of Shakti Singh, namely, Ram Bhawan in Civil Lines, Faizabad where he lived till his death and from where his dead body was taken to Guptar Ghat, Faizabad for cremation (the evidence which has been led before the Commission is that Gumnami Baba *alias* Bhagwanji died on 16.09.1985 in Ram Bhawan, Faizabad and he was cremated on 18.09.1985). Had Gumnami Baba *alias* Bhagwanji been Netaji Subhash Chandra Bose the report of the DNA Expert Dr. V.K. Kashyap of Central Forensic Science Laboratory, Calcutta, who did DNA profiling of three teeth of Gumnami Baba *alias* Bhagwanji (Ext. 2 to 4), which were found in Ram Bhawan, to whom samples of blood collected from two descendants on father's side and three descendants on mother's side of Netaji Subhash Chandra Bose were also sent would not have been that "forwarded teeth - (Exhibits 2 to 4) belong to a single human aged male individual - (alleged Gumnami Baba). The individual - source of the teeth does not belong to

either maternal or paternal DNA lineage of Netaji Subhash Chandra Bose, therefore, cannot be of Netaji Subhash Chandra Bose".

It is pertinent to mention that the only other aged member who stayed with Gumnami Baba *alias* Bhagwanji all along was Smt.Saraswati Devi Shukla.

I have extracted the aforesaid facts pertaining to the DNA test from paragraphs 4.15.10 and 4.15.11 at pages 121 and 122 of the Mukherjee Commission Report.

For the aforesaid reasons, I am not prepared to accept the claim of CW-37 Nand Kumar Misra that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose.

5.36 The next witness whose evidence calls for evaluation is CW-38 Krishna Kumar Misra,aged about 60 years, son of late Ram Kishore Misra, resident of Swarg Dwar, Ayodhya,district Faizabad. In short it shows as under:

In 1974 Gumnami Baba *alias* Bhagwanji came as a tenant in his house in Udru Bazar in Ayodhya where he stayed till 1976. From there he went to Brahm Kund in Ayodhya, thereafter to Lucknauwa Hata,Ayodhya and finally to Ram Bhawan, Civil Lines, Faizabad where he died. On the third day of his death last rites were performed at Guptar Ghat in Faizabad.

Krishna Kumar Misra served Gumnami Baba *alias* Bhagwanji while he was in Udru Bazar, Brahm Kund and Lucknauwa Hata. His job was to do work like getting fish, oil, vegetables, bread butter *etc.* He did not serve him at Ram Bhawan,Faizabad but alongwith his father often visited him there at about 9.00 p.m.

The evidence of Krishna Kumar Misra shows that Gumnami Baba *alias* Bhagwanji lived behind a curtain and never talked with anyone face to face. Sometimes when the curtain, on account of impact of air moved, he saw him and became convinced that he was Netaji Subhash Chandra Bose. His father had also told him and members of the family that he was Netaji Subhash Chandra Bose but had asked them not to tell this to anyone.

The evidence of Krishna Kumar Misra further shows that while the corpse of Gumnami Baba *alias* Bhagwanji was being taken to Guptar Ghat

for cremation, his father told Mahatma Saran that he had not seen his face and requested him to show the same. At that time he (the witness) was also present. Mahatma Saran removed the cloth with which the face of Gumnami Baba *alias* Bhagwanji was covered and he and his father became fully convinced that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose. In all 13 persons participated in his last rites.

Krishna Kumar Misra was cross-examined by the Commission.

The first question put to him therein was whether between 1974 - 1976 when on account of curtain moving on impact of air he had seen the face of Gumnami Baba *alias* Bhagwanji and today (21.04.2017) he had told any person/organization/officer this fact. To the said question, he replied that since his father had told him not to mention this fact to anyone, he did not tell anyone.

Question No.2 put to him therein was why he was telling this fact today. He replied that since a Commission had been constituted by the U.P. Government to fix the identity of Gumnami Baba, he had mentioned it.

Question No.3 put to him therein was that since when Gumnami Baba *alias* Bhagwanji was cremated on 18.09.1985 (third day of his death) his face had been disfigured and could not be recognized, how could he say that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose. To it he replied that from his beard and hair he could say so.

I have perused the statement of Krishna Kumar Misra and am constrained to observe that I am not inclined to accept his claim that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose. Gumnami Baba never talked to any person face to face and always talked to people from behind a curtain. His evidence shows that when on account of impact of air the curtain moved, he discovered that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose and at the time of cremation from his beard and hair he could also make out that he was Netaji Subhash Chandra Bose.

I am afraid, on the basis of such evidence it would be unsafe to conclude with certainty that Gumnami Baba *alias* Bhagwanji was Netaji

Subhash Chandra Bose. Judicial Commissions of Enquiry (like the present) only reach conclusions when the evidence led before them proves a fact beyond all reasonable doubt. I am afraid, this is not the position here.

Another serious impediment in accepting the claim of the witness that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose is the ominous silence which he maintained between 1974 - 1976 (when on account of impact of air curtain moved and he saw the face of Gumnami Baba *alias* Bhagwanji) and today (21.04.2017) with respect to the identity of Gumnami Baba. A perusal of his statement shows that during the said period, he did not disclose to any person/organization/authority that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose. I am not prepared to accept his answer that his non-disclosure was on account of instructions of his father. In my view, had that been the reason, he would not have even told the Commission today that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose.

The Supreme Court, times out of number, has disbelieved witnesses on account of their conduct in not disclosing an incident for a considerable time to people. I am afraid, here the non-disclosure runs not into days but into years *i.e.* from 1974-1976 to 2017 (roughly 41 years). In my view, when after such a long time the witness asserts that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose, it would not be safe to accept his claim.

Finally, I am not inclined to accept the aforesaid claim of the witness because according to him prior to his death Gumnami Baba *alias* Bhagwanji lived in Ram Bhawan, Faizabad and the report of Dr. V.K.Kashyap, Director, Central Forensic Science Laboratory, Calcutta about the DNA profiling of three teeth of Gumnami Baba *alias* Bhagwanji which were recovered from Ram Bhawan, Faizabad belies the fact that he was Netaji Subhash Chandra Bose. Since while discussing the evidence of CW-37 Nand Kumar Misra (real brother of the witness), I have dealt with the DNA report in some detail, I do not want to be guilty of repetition.

For the aforesaid reasons, the evidence of Krishna Kumar Misra that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose does not inspire belief.

5.37 The next in line amongst the witnesses who appeared before the Commission is CW-39 Shiv Prasad, aged about 72 years, son of Basant Lal Yadav, resident of Ranopali P.O. Ayodhya, district Faizabad. His deposition, in short, shows as under:

In 1974 Gumnami Baba *alias* Bhagwanji used to live in Brahm Kund in Ayodhya. At that time he was employed as Telegram Messenger in Ayodhya Post Office. That year a telegram came in the name of Gumnami Baba *alias* Bhagwanji and he proceeded to deliver it. While he was delivering it Gumnami Baba *alias* Bhagwanji was inside a room, behind the verandah. When he asked him to open the door and take the telegram, Gumnami Baba *alias* Bhagwanji sternly reprimanded him. Gumnami Baba *alias* Bhagwanji took the telegram from the space between two planks of the door but he could not see his face.

The evidence of Shiv Prasad further shows that often he used to deliver telegrams to Gumnami Baba *alias* Bhagwanji but he never received telegrams face to face and took them from the space between two planks of the door of his room.

The evidence of Shiv Prasad also shows that one day while Gumnami Baba *alias* Bhagwanji was in Lucknauwa Hata and his Sevika Saraswati Devi Shukla was not present, he went to deliver a telegram to him. Gumnami Baba *alias* Bhagwanji asked him to see him and also told him (Shiv Prasad) that he would see him. He (Shiv Prasad) entered inside the room and touched his feet. At that time his face was not covered. It was fully open. After seeing him he became fully convinced that he was Netaji Subhash Chandra Bose. That day Gumnami Baba *alias* Bhagwanji also told him that he was going to Ram Bhawan, Civil Lines, Faizabad and asked him to continue meeting him. On his request he met him once at Ram Bhawan but the meeting was not face to face. While they were talking, Gumnami Baba *alias* Bhagwanji was inside a room on the window of which there was a curtain and he was on the other side of the curtain.

In his statement Shiv Prasad has candidly mentioned that he was fully convinced that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose.

Shiv Prasad was cross-examined by the Commission.

The first question put to him therein was whether he had told any officer/person/organization that once he had seen Gumnami Baba *alias* Bhagwanji face to face and was fully convinced that he was Netaji Subhash Chandra Bose. To the said question,he replied in the negative.

The second question put to him therein was why he had not mentioned it. He replied that he did not think it necessary,as his duty was to deliver telegram and after delivering it he used to return.

I have perused the statement of Shiv Prasad and make no bones in observing that am not inclined to accept his claim that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose. A perusal of his statement shows that his claim was based on the face to face meeting which he had with him in Lucknauwa Hata,Ayodhya in the absence of Smt.Saraswati Devi Shukla. Since practically all the witnesses who deposed before the Commission candidly stated that Gumnami Baba *alias* Bhagwanji never met any person face to face and stated that from a room on the window of which there was a curtain he used to talk to persons who were on the other side of curtain, I have no hesitation in rejecting the aforesaid claim of the witness.

Another serious impediment in accepting the aforesaid claim of the witness is that almost after 36 years, the witness was stating for the first time that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose. I say this because the evidence on record shows that Gumnami Baba *alias* Bhagwanji lived in Lucknauwa Hata about the year 1980-81 and there the witness had seen him face to face. It is pertinent to mention that the statement of the witness was recorded by the Commission on 21.04.2017 wherein he admitted that he had not told any individual/ officer/ organization that on seeing Gumnami Baba *alias* Bhagwanji face to face he was convinced that he was Netaji Subhash Chandra Bose. Since between 1980-81 and 2017 there is a yawning gap of almost 36 years, I make no bones in observing that I am not inclined to accept the claim of the witness that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose.

The third reason for not placing reliance on the testimony of the witness is because his evidence shows that from Lucknauwa Hata, Ayodhya Gumnami Baba *alias* Bhagwanji went to Ram Bhawan,Civil Lines,

Faizabad where he died. The DNA profiling of three teeth of Gumnami Baba *alias* Bhagwanji recovered from Ram Bhawan, Faizabad and done by Dr.V.K.Kashyap of Central Forensic Science Laboratory, Calcutta belies the fact that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose. Since while dealing with the evidence of CW-37 Nand Kumar Misra I have dealt with the DNA report in some detail, I do not want to be guilty of repetition.

For the aforesaid reasons, I have no compunction in rejecting the claim of CW-39 Shiv Prasad that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose.

5.38 I now take up the statement of CW-40 Dr. R.P.Misra, aged about 94 years, son of late Durga Prasad Misra, resident of Mohalla Jharkhandi, Faizabad. His statement (on account of his old age) was recorded by the Commission in question - answer form. What emerges therefrom is as under:

Gumnami Baba *alias* Bhagwanji was like a grandfather to him. He used to talk to people from behind a curtain. He never talked to him face to face. He (the witness) was present at Ram Bhawan at the time of the death of Gumnami Baba. He sent news about his death to close associates of Gumnami Baba in Calcutta, like Dr. Pabitra Mohan Roy and others. No one from Calcutta came and participated in the last rites of Gumnami Baba which were performed on 18.09.1985 at Guptar Ghat, Faizabad. His association with Gumnami Baba dates back to the time when Gumnami Baba used to live in Ayodhya at the house of Ram Kishore Panda but he never visited him there. He first came in contact with Gumnami Baba as a doctor but thereafter started treating him as his grandfather. From his first meeting with Gumnami Baba and till his death he continuously met him. 12-13 people participated in the cremation of Gumnami Baba. It is wrong to say that after the death of Gumnami Baba his face had been disfigured and people were not allowed to see his dead body. Smt.Saraswati Devi Shukla used to stay with Gumnami Baba and look after his needs. He did not know what was the perception of public in respect of identity of Gumnami Baba. Apart from him Raja Sahab Etawah used to visit Gumnami Baba in Ram Bhawan. He did not remember whether his first visit to Gumnami Baba was

occassioned by the fact that a wound on his leg was not healing on account of dampness in the premises in which he was living and on his advice Gumnami Baba was shifted to Ram Bhawan. Apart from him, late Dr.Banerjee (father-in-law of Rita Banerjee) also used to attend on Gumnami Baba. On the birthday of Gumnami Baba, people from Calcutta used to come but he did not remember whether a small function used to be held. He did not know whether people who used to come from Calcutta used to talk face to face with Gumnami Baba, as he was not concerned with it. He did not remember whether before today his statement was recorded by any authority. He did not remember whether Gumnami Baba used to ask people from Calcutta for literature pertaining to Subhash Chandra Bose and also articles of personal use of Netaji Subhash Chandra Bose. He did not remember whether people from Calcutta used to come on birthday of Gumnami Baba with aforesaid things.

At the end of the statement of the witness, I made the following note:

"I observed the demeanor of the witness. He understood the questions put to him by me and gave clear answer."

I have perused the questions put by me to Dr.R.P.Misra, the answers given by him to them and make no bones in observing that his statement does not help the Commission in fixing the identity of Gumnami Baba, who lived in Ram Bhawan,Civil Lines,Faizabad prior to his death and whose last rites were performed on 18.09.1985 at Guptar Ghat,Faizabad. The notification of the U.P.Government dated 28.06.2016, by which the Commission was created, mandated it to discover the identity of the aforesaid Gumnami Baba. It is pertinent to mention that all that he could say in respect of identity of Gumnami Baba was that he was like a grandfather to him and he could not say anything more about him.

However, the statement of Dr.R.P.Misra is of great significance because he was in constant touch with Gumnami Baba right from the time he was living in Ayodhya in Ram Kishore Panda's house and till his death in Ram Bhawan,Civil Lines,Faizabad on 16.09.1985. During the aforesaid period, his contact with him was both in the capacity of a doctor and as a

person whom he revered as a grandfather. From a perusal of the statement of Dr.R.P.Misra, the facts enumerated hereinafter emerge:-

(a) Gumnami Baba never met anyone (including him) face to face. He used to talk to people from behind a curtain.

(b) The only person who lived with him was Smt.Saraswati Devi Shukla, who used to look after him.

(c) Every year on his birthday people from Calcutta used to come.

(d) He was present in Ram Bhawan at the time of death of Gumnami Baba and news was sent to Dr.Pabitra Mohan Roy and others at Calcutta but none of them attended his cremation on 18.09.1985 at Guptar Ghat.

(e) It is wrong to say that subsequent to the death of Gumnami Baba, his face was disfigured and people were not allowed to see his dead body.

(f) He did not know what was the perception of general public about the identity of Gumnami Baba.

(g) He and late Dr. Banerjee (father-in-law of Rita Banerjee) were the only two doctors who attended on Gumnami Baba.

(h) He did not know whether Gumnami Baba used to ask people in Calcutta for literature pertaining to Subhash Chandra Bose and articles of personal use of Subhash Chandra Bose.

However, before parting with the statement of Dr.R.P.Misra, I feel it pertinent to mention that from a perusal of the facts mentioned above, it is clear that Dr.R.P.Misra and members of his family had a very long and intimate relationship with Gumnami Baba *alias* Bhagwanji. My impression is that for reasons best known to Dr.R.P.Misra, he was reluctant to speak about it and therefore insisted that he only knew him as his grandfather and had nothing more to tell about him. Considering his long relationship with Gumnami Baba *alias* Bhagwanji, bearing in mind the fact that he was his doctor and the responsibility of looking after him was his, I find it difficult to accept his statement that Gumnami Baba never talked to him face to face. In my view, alongwith Smt.Saraswati Devi Shukla (the Sevik of Gumnami Baba) who is not alive, he could have been the best person to shed light on

the identity of Gumnami Baba *alias* Bhagwanji but regrettably he is not doing so. What a pity?

5.39 The next witness whose evidence I propose considering is CW-41 Arvind Sharma, aged about 36 years, son of late Radhey Shyam Sharma, resident of D-106, Mahanagar Extension, Lucknow. He informed the Commission that he had sent a written compilation through post to the Secretary of the Commission, the said compilation betaken on record and treated as his statement. The Secretary of the Commission placed the said compilation before the witness, who admitted that it was the same compilation which he had sent to him.

The Commission acceded to the request of the witness; took the said compilation on record; marked it as Ext.-A dated 09.05.2017 and directed that it shall be read as a part of his statement.

A perusal of the compilation shows that the contention of the witness is that Netaji Subhash Chandra Bose did not die in a plane crash at Taihoku (present day Taiwan) in 1945, as reported by Shahnawaz Commission (1956) and Khosla Commission (1970). His further contention is that the Mukherjee Commission (2006) has not accepted the theory of plane crash and the research done by Logician, Columnist and Researcher Adhir Som also points to the same inference. A perusal of the compilation also shows that Adhir Som has based his inference on a French Intelligence Report which shows that at the end of November, 1946 at a conference at Hanoi, in which six nations were represented, Chandra Bose was present. According to him and the witness, Chandra Bose was none other than Netaji Subhash Chandra Bose.

I have perused the compilation and the annexures attached to the same filed by the witness (CW-41 Arvind Sharma). In my view, since in the French Intelligence Report it is only mentioned that Chandra Bose was present, it would be unsafe for the Commission to conclude that Chandra Bose, who was present at a conference at Hanoi, was none other than Netaji Subhash Chandra Bose. I feel it would not be appropriate for the Commission to draw the inference suggested by the witness.

However, since Mukherjee Commission of Enquiry has held that Netaji Subhash Chandra Bose did not die in a plane crash, the possibility

that he was alive after the year 1945 cannot be ruled out. But I make no bones in observing that merely in view of such a possibility, it cannot be held that Gumnami Baba was Netaji Subhash Chandra Bose.

This Commission was set up by the U.P.Government, *vide* notification dated 28.06.2016 requiring it to find out the identity of Gumnami Baba, who prior to his death lived in Ram Bhawan, Civil Lines, Faizabad and whose last rites were performed at Faizabad on 18.09.1985 (two days after his death which took place on 16.09.1985). Although from Ram Bhawan, Faizabad a large number of articles like photos of parents of Netaji Subhash Chandra Bose, spectacles containing round lenses and literature relevant to Netaji Subhash Chandra Bose was recovered, the Mukherjee Commission Report, for reasons contained in it, concludes that there was no clinching evidence to suggest that Gumnami Baba was in fact Netaji Subhash Chandra Bose. A large number of circumstances show that in fact Gumnami Baba was not Netaji Subhash Chandra Bose. Some of the witnesses including Prof. Dwarka Nath Bose CW-29, stated that some of the articles recovered from Ram Bhawan, had been sent to Gumnami Baba on his specific request. At any rate, in my view, merely from the aforesaid recovery, it cannot be inferred that it was Netaji Subhash Chandra Bose who was living in Ram Bhawan, Faizabad.

The evidence of the witnesses, who deposed before the Commission, shows that a large number of persons including Dr. Pabitra Mohan Roy used to visit Gumnami Baba. The evidence of Dr. R.P. Misra (CW-40), both the doctor and a close associate of Gumnami Baba shows that news of his death was sent to Dr. Pabitra Mohan Roy and others at Calcutta. The evidence of CW-36 Shitla Singh (Editor of Jan Morcha) shows that he interviewed Dr. Pabitra Mohan Roy, who admitted that he had received the news of Gumnami Baba's death and also admitted that none of them came to attend his funeral. In my view, this circumstance shows that Dr. Pabitra Mohan Roy and others did not believe that Gumnami Baba was Netaji Subhash Chandra Bose. I feel had they believed so, they would have certainly come to offer their homage to him.

A large number of witnesses admitted before the Commission that prior to the cremation of Gumnami Baba his face was disfigured; people were not allowed to see his dead body and only 13 persons participated in his funeral, which was done with hot haste in the evening at Guptar Ghat, Faizabad, where cremations are not normally done. I feel that all these facts also show that Gumnami Baba was not Netaji Subhash Chandra Bose.

I further find that the witnesses, who deposed before the Commission, stated that Netaji Subhash Chandra Bose left Indian Civil Service to join India's freedom movement; left India and formed Indian National Army; set up a Provincial Government outside India; and fearlessly fought for India's independence from abroad. In my opinion, such a man for four decades would not have led a gumnami existence (anonymous existence) talking to people from behind a curtain and not face to face, which has been the consistent evidence of witnesses who deposed before the Commission. It is pertinent to mention that the family members of Netaji, who deposed before the Commission, like CW-30 Prof. Chitra Ghose, CW-31 Krishna Ghose, CW-32 Nita Ghose and CW-33 Ardhendu Bose, considered the accusation of his leading a life behind curtain as a great insult to him. They were indignant at the idea and were just not prepared to accept it. I am inclined to accept their evidence. In their view, had he been alive, he would have been roaring like a lion.

The final nail in the coffin of those who contend that Gumnami Baba was Netaji Subhash Chandra Bose is provided by the evidence of DNA expert Dr. V.K. Kashyap of Central Forensic Science Laboratory, Kolkata. A perusal of paragraphs 4.15.10 and 4.15.11 at pages 121 and 122 of the Mukherjee Commission report show that five out of nine teeth found in Ram Bhawan, Faizabad along with samples of blood collected from two descendants on father's side and three descendants on mother's side of Netaji Subhash Chandra Bose were sent to Central Forensic Science Laboratory, Kolkata for DNA profiling test to fix the identity of the person to whom the teeth belonged. After subjecting three of the five teeth (Exts. 2 to 4) for DNA profiling, Dr. V.K. Kashyap, DNA Expert and Director of Laboratory submitted a report that "forwarded teeth (Exts 2 to 4) belonged to a single human aged male individual - (alleged Gumnami Baba). The individual source of the teeth does not belong to either maternal or paternal

DNA lineage of Netaji Subhash Chandra Bose, therefore, cannot be of Netaji Subhash Chandra Bose." The Mukherjee Commission has held that since the only other aged member who stayed with Gumnami Baba was Smt. Saraswati Devi Shukla, the negative finding recorded by Dr. V.K. Kashyap also militates against the eye witness account.

In my view, had Gumnami Baba been Netaji Subhash Chandra Bose, this would not have been the report of the DNA expert Dr. V.K. Kashyap. I feel it pertinent to mention that evidence led before this Commission also shows that the only other aged member who lived with Gumnami Baba was Smt. Saraswati Devi Shukla.

It is true that handwritings appearing in some books and journals found in Ram Bhawan were sent for comparison with handwritings of Netaji Subhash Chandra Bose to the handwriting experts but as the Mukherjee Commission in Para 4.15.9 at page 121 of its report stated that although one of the experts Sri B. Lal says that handwritings (both in Bengali and English) were of Netaji, three other experts, namely, Amar Singh, M.L. Sharma and Dr. S.K. Mondal gave contrary report. In view of such a divided opinion amongst handwriting experts, the Mukherjee Commission did not accept the evidence of Sri B. Lal.

In view of the aforesaid reasons, I am not inclined to accept the evidence of CW-41 Sri Arvind Sharma that Gumnami Baba was Netaji Subhash Chandra Bose.

It should be borne in mind that Judicial Commissions (like the present) only reach conclusions when a fact/facts has/have been proved beyond all reasonable doubt and not merely because it/they may be true. In this connection I would like to refer to the time-honoured judgment of the Supreme Court rendered in the case of Sarwan Singh Rattan Singh v. State of Punjab (AIR 1957 Supreme Court page 637) wherein in para 11 the Supreme Court has held that between 'may be true' and 'must be true' there is a long distance to travel and the inference of guilt can only be drawn when the said distance has been travelled. I regret that this distance has neither been travelled by CW-41 Arvind Sharma nor by other witnesses, who have stated before the Commission that Gumnami Baba was Netaji Subhash Chandra Bose. Consequently, the evidence of CW-41 Arvind Sharma that Gumnami Baba was Netaji Subhash Chandra Bose cannot be accepted.

Before parting with the evidence of CW-41 Arvind Sharma, I would like to mention that at page 6 of the compilation he has made 7 prayers of which prayer No.5 relates to DNA examination of Baba's remains listed at Sl.No.2250 in the original official inventory of the materials recovered from the last place of his residence and prayer No.6 is in respect of analysis of fresh handwriting of Gumnami Baba *vis-a-vis* that of Netaji Subhash Chandra Bose.

I have considered the aforesaid prayers and earlier mentioned that Mukherjee Commission of Enquiry got the DNA profiling of the teeth of Gumnami Baba and the comparison of handwriting of Gumnami Baba and Netaji Subhash Chandra Bose done by experts. The outcome of the reports of both the DNA expert and handwriting experts has been mentioned by me above. In my view, this exercise of DNA profiling and comparison of handwriting cannot be endlessly kept going on.

Similarly, I do not find merit in the other prayers.

So far as prayer No.1 that the Commission should strictly examine the issue whether Gumnami Baba and Netaji Subhash Chandra Bose were the same person or not is concerned, I am conscious of my obligations and have meticulously examined this issue.

As far as prayer No.2, which pertains to French Intelligence Report, is concerned, I have dealt with it while evaluating the statement of the witness.

So far as prayer No.3 is concerned, in my view, there is no necessity to summon the documents mentioned in it because the said documents will only establish that Netaji Subhash Chandra Bose did not die in a plane crash. It is pertinent to mention that the said conclusion has also been reached by the Mukherjee Commission. Despite the conclusion reached by the Mukherjee Commission, I have earlier furnished reasons why on its basis it cannot be concluded that Gumnami Baba was Netaji Subhash Chandra Bose.

For the same reason, I am not prepared to accede to prayer No.4.

So far as prayer No.7 is concerned, it is a request that all such acts which are necessary and expedient in the interest of justice may be done. Whatever in my view was necessary and expedient in the interest of justice to find out the identity of Gumnami Baba *alias* Bhagwanji, who prior to his

death lived in Ram Bhawan,Civil Lines,Faizabad and was cremated on 18.09.1985 (2 days after his death - he died on16.09.1985), I have done because that was the task assigned to the Commission by the Governor of Uttar Pradesh, *vide* notification dated 28.06.2016 issued by the U.P.Government by which the Commission was created.

5.40 The next witness whose evidence I propose considering is CW-42 Guru Shakti Singh *alias* Shakti Singh son of Thakur Guru Basant Singh,aged about 57 years, resident of Ram Bhawan, Civil Lines,Faizabad. In short, his evidence shows that :- sometimes in September/October,1982 Dr. R.P.Misra, who was employed as a doctor in Government Hospital, Faizabad, came to his residence and told him that his grandfather lives in Ayodhya; responsibility of looking after him was his; and since he had to continuously visit Ayodhya for discharging it, he enquired from him whether any portion of his house was vacant and if it was, would he let out the same to his grandfather. He agreed. One night, about two months later, Bhagwanji on a wheel-chair alongwith Dr.R.P.Misra and some others shifted in the portion which he had let out to him on rent. People of Dr. R.P.Misra's family continuously started visiting Bhagwanji. One day he (the witness) expressed his desire to Dr. Misra's wife,whom he called mausi, to meet Bhagwanji. She replied that after pooja she would arrange his meeting with him. Some days later Mrs. Misra told him that today evening Bhagwanji had called him. At about 7.00 p.m. he alongwith Mrs. Misra, went to meet him. They entered inside a room in which there was a bench,two chairs and a stool. Bhagwanji was in the adjoining room on the window of which there was a curtain. Bhagwanji talked to him from behind the curtain. He was sitting on the bench in the outer room and was impressed by his authoritative tone and the manner of his speech. Thereafter every Tuesday, whenever he was in Faizabad, he used to meet Bhagwanji after 8.00 p.m.

The evidence of the witness shows that on 15.09.1985 he learnt that Bhagwanji was unwell. Dr. R.P. Misra, Dr. P. Banerjee and some others were attending on him. When he enquired from Dr. R.P. Misra about the condition of Bhagwanji, he told him in a very bitter tone not to worry as

they were looking after him. On 16.09.1985 Bhagwanji died. The next day when he enquired from Dr.R.P.Misra as to when his cremation would be done, he said in the same tone that they were waiting for people to come from Calcutta. When till the evening of 18.09.1985 people from Calcutta did not come, Dr. R.P.Misra said that they would take Bhagwanji to Ayodhya for cremation. However, while they were on the way for cremation, all of a sudden the van, in which Bhagwanji's dead body was being carried, turned towards Guptar Ghat, Faizabad, and in the presence of police and administration, Bhagwanji's cremation was done at a place where cremations are not done.

On 30.10.1985 it was published on the front page of a local news paper 'Nai Log' that Gumnami Baba was Netaji Subhash Chandra Bose. He also had a similar doubt which was confirmed after reading the said news.

On 29.09.1985 Lalita Bose came to his house at Faizabad and expressed a desire to see the room in which Bhagwanji used to stay. Since a lock had been put on the said room by the district administration, he alongwith Lalita Bose went to District Magistrate, Faizabad, who directed the Inspector Kotwali and SDM to open the lock of the room. When the lock of the room was opened she saw amongst the articles in it her father's dissentient report and a letter which she said was written by her uncle Subhash Chandra Bose. She alongwith him went to the District Magistrate, Faizabad; asked him to order an enquiry; and to keep the belongings which were inside the room safely. On that the District Magistrate told her that she should approach the Court. He also told her that since the last two months it was being published in the newspapers that Gumnami Baba was Netaji Subhash Chandra Bose, why she had not come earlier on which she replied that previously also a large number of claims were made about persons being Netaji Subhash Chandra Bose and when they went, they found them to be bogus. She further told him that at the instance of some family members she had come to Faizabad to find out the truth.

Ram Prakash Singh, a social worker, who was close to Mr. Chandra Shekhar (former Prime Minister of India) arranged a meeting of Lalita Bose with the then Chief Minister of U.P. Sri Veer Bahadur Singh in

January,1986 and the latter told her that he was helpless and asked her to approach the Court.

Thereafter Lalita Bose alongwith Vishwa Bandhu Tiwari and Kausar Husain came to Lucknow and filed a petition in the Lucknow Bench of the Allahabad High Court wherein an interim order was passed by the High Court in pursuance of which an inventory was made with respect to the belongings of Gumnami Baba.

The evidence of Shakti Singh further shows that in the year 2010 he filed a writ petition at the Lucknow Bench of the Allahabad High Court in which the Court ordered " *The Government of U.P. is further directed to consider for appointment of a committee consisting of a team of experts and higher officers, headed by a Retired Judge of High Court, to hold an enquiry with regard to the identity of late Gumnami Baba alias Bhagwanji who resided in Ram Bhawan,Faizabad and cremated on 18.09.1985(supra). Let a decision be taken expeditiously, say within a period of three months.*"

In the last paragraph of his examination-in-chief the witness has stated that his belief is that merely from the recovery of some articles it cannot be concluded that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose but if a comparison of handwriting of Gumnami Baba and Subhash Chandra Bose is made by experts and a DNA examination of mattress, bedsheets, pillows and clothes of Gumnami Baba with the DNA of the members of Netaji's family is done, it would be clear that Gumnami Baba was Netaji Subhash Chandra Bose.

It is pertinent to mention that the witness was subjected to extensive cross-examination by the Commission. He admitted therein that including him Gumnami Baba never met anyone face to face. He always talked to people from behind a curtain. He also admitted therein that between the time Gumnami Baba died and till he was cremated, he was all the time by the side of his dead body and the decision to cremate him at Guptar Ghat was of Dr. R.P.Misra.

In cross-examination, he was also asked that before Gumnami Baba's death (on 16.09.1985) a large number of people of the family of Netaji Subhash Chandra Bose including Ardhendu Bose's father (who was real younger brother of Netaji Subhash Chandra Bose) were alive and had

Gumnami Baba been Netaji Subhash Chandra Bose, they would have met him. He replied that he can give no answer to this.

The witness admitted in cross-examination that he had deposed before the Mukherjee Commission but stated that he does not remember whether he had said before it that Gumnami Baba was Netaji Subhash Chandra Bose, as he has no copy of his deposition made before the Mukherjee Commission.

The last question put to him during cross-examination was whether between the time he had let out his premises to Gumnami Baba (it was about December,1982) and today (16.05.2017) he had told any person/organisation/officer that Gumnami Baba was Netaji Subhash Chandra Bose to which he replied in the negative.

I have perused the statement of Shakti Singh. He has admitted therein that he never saw Gumnami Baba face to face and the latter always talked to him from behind a curtain. In my opinion, this itself is sufficient for rejecting his claim that Gumnami Baba was Netaji Subhash Chandra Bose. It is pertinent to mention that on account of this fact, the Mukherjee Commission did not accept his evidence with respect to identity of Gumnami Baba (see the last para at page 115 of the Mukherjee Commission Report).

There are other weighty reasons as to why I am unable to accept his belief that Gumnami Baba was Netaji Subhash Chandra Bose. I am not prepared to accept his answer that he did not remember whether before the Mukherjee Commission he had stated that Gumnami Baba was Netaji Subhash Chandra Bose because he did not have a copy of his statement before that Commission with him. Shakti Singh in his statement has given out his age as about 57 years. This means when his deposition was recorded before the Mukherjee Commission he was aged about 47 years. He is an educated person. His statement shows that he has received University education. In my opinion, had he stated before the Mukherjee Commission that Gumnami Baba was Netaji Subhash Chandra Bose, he would have candidly mentioned this fact to this Commission. I am not prepared to condone his answer on the ground of lapse of memory. This, in my view, is the second reason for rejecting his claim that Gumnami Baba was Netaji Subhash Chandra Bose.

Thirdly, in his cross-examination, in answer to question No.29 Shakti Singh admitted that within one year of Gumnami Baba shifting to his house he had realised that he was Netaji Subhash Chandra Bose and in answer to question No.34 therein he admitted that before today i.e. 16.05.2017 he had not told any person/organisation/officer that Gumnami Baba was Netaji Subhash Chandra Bose.

Since in his examination-in-chief Shakti Singh had stated that Dr. R.P.Misra had requested him to let out his premises to Gumnami Baba sometimes about September/October,1982 and the later shifted in it about one and half months later, it is clear that Gumnami Baba shifted in Shakti Singh's premises sometimes about December,1982.

The fact that between December,1982 to 16-05.2017 i.e. for nearly 34 years Shakti Singh did not mention to anyone that Gumnami Baba was Netaji Subhash Chandra Bose renders it very unsafe for the Commission to accept this claim of his. In my view, had he been convinced that Gumnami Baba was Netaji Subhash Chandra Bose, he would have told all and sundry about it during the said thirty four years. The silence of the witness is ominous and by itself is a sufficient ground for rejecting his claim that Gumnami Baba was Netaji Subhash Chandra Bose.

It should be borne in mind that the Supreme Court times out of number has disbelieved witnesses on account of non-disclosure of a vital fact by them for a long time.

Fourthly, the report of the DNA expert Dr. V.K.Kashyap in respect of the teeth found in Ram Bhawan,Faizabad (I have referred to it in some detail while dealing with the evidence of Arvind Sharma CW-41) also belies the claim of the witness that Gumnami Baba was Netaji Subhash Chandra Bose. I do not want to burden my report by reiterating the said details.

Fifthly, it is impossible to believe that a courageous man like Netaji who resigned from the Indian Civil Service, formed the Indian National Army (INA), fought for India's independence, formed a government in exile, would have lived the life of a coward for four decades, hiding behind a curtain; a fact which Mr.Shakti Singh wants the Commission to believe.

The evidence of the immediate family members of Netaji Subhash Chandra Bose, namely, Prof. Dwarka Nath Bose (CW29), Ardhendu Bose

(CW-33), Prof. Chitra Ghose (CW-30), Krishna Ghose (CW-31) and Nita Ghose (CW-32), the first two being the real nephews of Netaji Subhash Chandra Bose (sons of his real brothers) and the last three being his real nieces (daughters of his real brothers) shows their indignation at the thought that their uncle Netaji Subhash Chandra Bose would have lived the life of a coward, hiding behind a curtain.

Sixthly, the evidence of CW-33 Ardhendu Bose shows that when Gumnami Baba died (it was on 16.09.1985), his father (Ardhendu Bose's father) was alive and if he had even an iota of doubt that Gumnami Baba was his own brother Netaji Subhash Chandra Bose, he would have visited him or asked him (Ardhendu Bose) to visit him at Faizabad because in connection with his business he periodically visited Kanpur (Kanpur is hardly 200 km from Faizabad). I find the said reason to be convincing.

Lastly, the evidence of Dr. R.P.Misra (CW-39) and Shitla Singh (CW-36) shows that news of death of Gumnami Baba was sent to Calcutta to Dr. Pabitra Mohan Roy and others, who were close associates of Netaji Subhash Chandra Bose, and the cremation of Gumnami Baba was delayed, as it was expected that they would attend it. The evidence of Dr. R.P.Misra shows that when no one from Calcutta came till the evening of 18.09.1985, it was decided to perform the cremation of Gumnami Baba. The evidence of Shitla Singh shows that in an interview Dr. Pabitra Mohan Roy admitted that he had received the news of Gumnami Baba's death but neither he nor his associates attended his cremation. This conduct of Dr. Pabitra Mohan Roy and others shows that they did not believe that Gumnami Baba was Netaji Subhash Chandra Bose because had they, they would have certainly attended his cremation which took place at Guptar Ghat, Faizabad two days after his death i.e. on 18.09.1985 (he died on 16.09.1985). This circumstance shows that the claim of Shakti Singh that Gumnami Baba was Netaji Subhash Chandra Bose is untenable.

For the aforesaid reasons, the evidence of Shakti Singh does not inspire any confidence.

I would be failing in my fairness if before parting with Shakti Singh's statement, I do not mention that Shakti Singh has stated that if the handwritings of Gumnami Baba and Netaji Subhash Chandra Bose are sent

to handwriting experts for comparison and the mattress, bedsheets, pillows and clothes of Gumnami Baba alongwith DNA samples of the family members of Netaji Subhash Chandra Bose are sent to the DNA expert, it would be clear whether Gumnami Baba was Netaji Subhash Chandra Bose. I am afraid that such a exercise is not called for. While dealing with the evidence of Arvind Sharma (CW-41), I have stated in some detail that the Mukherjee Commission sent the teeth of Gumnami Baba which were recovered from Ram Bhawan, Faizabad alongwith samples of blood of family members of Netaji Subhash Chandra Bose from the paternal and maternal side for DNA examination and the handwriting of Gumnami Baba and Netaji Subhash Chandra Bose to the handwriting experts. The outcome of the reports of both DNA expert and handwriting experts has been mentioned by me while dealing with the evidence of Arvind Sharma (CW-41). In my view, this exercise of DNA profiling and comparison of handwriting cannot be endlessly kept going on.

I may also mention that in his statement Shakti Singh has stated that the direction of the High Court to the U.P. Government was to consider for appointment of a committee consisting of a team of experts and higher officers headed by a retired Judge of High Court to hold an enquiry with regard to the identity of late Gumnami Baba *alias* Bhagwanji who resided in Ram Bhawan, Faizabad and was cremated on 18.09.1985.

Perhaps Mr. Shakti Singh wants to contend that the said direction has not been followed and instead of a committee consisting of a team of experts and higher officers headed by a retired High Court Judge, on the direction of Governor of Uttar Pradesh, the U.P. Government, vide notification dated 28.06.2016 constituted a Judicial Commission under the Commission of Inquiry Act, 1952 headed by me to find out the identity of Gumnami Baba.

In my view, since the High Court had merely directed the U.P. Government to consider the appointment of a committee consisting of a team of experts and higher officers headed by a retired High Court Judge to find out the identity of Gumnami Baba, it was open to the U.P. Government to only constitute the instant Commission.

A perusal of the notification dated 28.06.2016 by which the present Commission was constituted shows that it was set up because the Governor

of U.P. considered it expedient in public interest to determine the identity of Gumnami Baba *alias* Bhagwanji who prior to his death lived in Ram Bhawan, Faizabad and whose last rites were performed on 18.09.1985 and also in view of the aforesaid direction of the High Court to constitute it to determine the identity of Gumnami Baba.

Since para 4 of the notification leaves it to open to the Chairman of the Commission to decide whether there is any need for experts to assist it and in my opinion, there was no such need, I did not make any recommendation to the U.P. Government for appointment of experts.

For the reasons mentioned above the aforesaid grievance is without substance.

5.41 CW-43 Bijoy Kumar Nag, son of late Sushil Chandra Nag R/O Srinwantu, C/58 Panehasayar, Kolkata-700094 sent an affidavit, sworn before a Notary, through Mr. Rudra Jyoti Bhattacharjee, an Advocate. Since in Mr. Bhattacharjee's letter dated 23/05.2017 (alongwith which the affidavit was sent) it has been mentioned that Bijoy Kumar Nag is aged, not of sound health and in a position to travel to Lucknow and Faizabad, the Commission has treated the said affidavit as the statement of CW-43 Bijoy Kumar Nag.

I have perused the affidavit of Bijoy Kumar Nag who has categorically stated therein that Gumnami Baba (also known as Bhagwanji) was Netaji Subhash Chandra Bose, who prior to his death lived inside a room in Ram Bhawan, Faizabad; talked to people from behind a curtain; and excepting Dr. P. Banerjee (since deceased), Dr. R.P. Misra and a few persons from Kolkata, none had seen him.

In the said affidavit he has also mentioned that the body which was cremated on 18th September, 1985 was not of Gumnami Baba, who had left Ram Bhawan, Faizabad, with the assistance of Dr. R.P. Misra, but instead it was an unidentified body.

Since the notification of the U.P. Government dated 28.06.2016, by which this Commission was constituted, directs me to find out the identity of Gumnami Baba *alias* Bhagwanji, who prior to his death lived in Ram Bhawan, Civil Lines, Faizabad and whose dead body was cremated on 18th September, 1985 and according to the affidavit of Mr. Bijoy Kumar Nag, Gumnami Baba's dead body was not cremated on 18th September, 1985, as

he had left Ram Bhawan, Faizabad with the assistance of Dr.R.P.Misra and instead an unidentified body was cremated, his affidavit cannot be taken into consideration by the Commission in determining the identity of Gumnami Baba *alias* Bhagwanji.

Before parting with the affidavit of Mr.Bijoy Kumar Nag I may mention that neither Dr. R.P.Misra, who was examined by the Commission as CW-40, nor any other witness has stated before the Commission that Gumnami Baba *alias* Bhagwanji left Ram Bhawan (with the assistance of Dr. R.P.Misra) and only Bijoy Kumar Nag and CW-12 Krishna Kumar stated that the corpse which was cremated on 18th September,1985 was not of Gumnami Baba. Excepting Bijoy Kumar Nag and Krishna Kumar, the evidence of the witnesses, who deposed before the Commission, is that Gumnami Baba *alias* Bhagwanji died at Ram Bhawan,Faizabad on 16th September,1985 and his dead body was cremated on 18th September,1985 at Guptar Ghat,Faizabad.

5.42 The affidavits of Tarun Kumar Mukhopadhyay, R/O 2/1, Brindaban Mullick Ist Lane, Kolkata-700009 and Surajit Dasgupta R/O 25/1, Guruprasad Chowdhury Lane, Kolkata-700006 have been treated as their statements before the Commission (CW-44 Tarun Kumar Mukhopadhyay and CW-45 Surajit Dasgupta) in view of the letter of Mr.Rudra Jyoti Bhattacharjee, (an Advocate) dated 23.05.2017 (alongwith it the said affidavits were sent) wherein it has been mentioned that they are aged, not of sound health and in a position to travel to Lucknow and Faizabad. Since both Tarun Kumar Mukhopadhyay and Surajit Dasgupta claim to have met Bhagwanji/ Netaji while he was staying at Brahmkund,Ayodhya, I am considering their evidence together. They claim that they had seen Bhagwanji there face to face and were certain that he was Netaji Subhash Chandra Bose.CW-44 Tarun Kumar Mukhopadhyay claims to have met Bhagwanji in Brahmkund, Ayodhya in December,1979 and CW-45 Surajit Dasgupta there in September,1982 and February,1983. I am afraid I am not prepared to accept their claim because the evidence which has been led before the Commission shows that Bhagwanji only once stayed in Brahmkund, Ayodhya and that was between 15.01.1975 to 15.05.1978 in the house of CW-28 Manjeet Singh. Thereafter he shifted to Lucknauwa Hata in Ayodhya and from there to the house of CW-42 Shakti Singh called Ram

Bhawan, situate in Civil Lines, Faizabad, in December, 1982, where he lived till the end and died on 16.09.1985. It is thus clear that in December, 1979 and September, 1982 Bhagwanji lived in Lucknauwa Hata in Ayodhya and in February, 1983 in Ram Bhawan, Civil Lines, Faizabad and, therefore, there was no question of CW-44 Tarun Kumar Mukhopadhyay of meeting him in Brahmkund, Ayodhya in December, 1979 and of CW-45 Surajit Dasgupta meeting him there in September, 1982 and February, 1983. To me their claim of meeting Gumnami Baba in Brahmkund, Ayodhya does not appear to be correct. At any rate that they met Gumnami Baba face to face in Brahmkund, Ayodhya cannot be accepted.

In this connection I would like to advert to the evidence of CW-28 Manjeet Singh, who stated that Gumnami Baba *alias* Bhagwanji was a tenant in his house No.530/1, Parikrama Road, Brahmkund, Ayodhya from 15.01.1975 to 15.05.1978 and excepting Dr. T.C. Banerjee and Dr. P. Banerjee, who, in connection with his treatment, used to enter inside his room never met people face to face. Manjeet Singh's evidence shows that Gumnami Baba used to live inside a room on the door of which there was a thick curtain and the person/persons with whom he used to talk sat on a *dari* in an adjacent room but on account of the curtain they could not see him.

As the evidence before the Commission shows that Gumnami Baba only once stayed in Brahmkund, Ayodhya and that as a tenant at the house of Manjeet Singh from 15.01.1975 to 15.05.1978 (as deposed to by CW-28 Manjeet Singh), the averment in the affidavit of Tarun Kumar Mukhopadhyay that he met Gumnami Baba in Brahmkund, Ayodhya in December, 1979 and that in the affidavit of Surajit Dasgupta that he met him there in September, 1982 and February, 1983 cannot be accepted. The averment in their affidavits that they met Gumnami Baba face to face in Brahmkund, Ayodhya also cannot be accepted on the face of the evidence of CW-28 Manjeet Singh.

Before parting with the statement of CW-44 Tarun Kumar Mukhopadhyay and CW-45 Surajit Dasgupta, I feel it pertinent to mention that almost every witness, who deposed before the Commission, stated that Gumnami Baba never met people face to face and used to always talk to them from behind a curtain.

PART IV

Classification of evidence of witnesses for determining the identity of Gumnami Baba *alias* Bhagwanji

1. This is necessary because the notification of U.P. Government dated 28.06.2016 (by which the Commission has been constituted) provides that it shall find out the identity of Gumnami Baba *alias* Bhagwanji who prior to his death lived in Ram Bhawan, Faizabad and whose last rites were performed on 18.09.1985.

2. The evidence of the witnesses who deposed before the Commission or whose affidavits were considered as their statements before the Commission (in all they are 45 in number) can be classified under six heads, mentioned below :

1	2	3	4	5	6
<u>Witnesses who claim that Gumnami Baba <i>alias</i> Bhagwanji was/may have been Netaji Subhash Chandra Bose.</u> 1. CW-1 Jayanti Rakshik 2. CW-2 Amiya Rakshit. 3. CW-3 Anuj Dhar 4. CW-4 Chandrachur Ghose 5. CW-5 Surajit Panicker 6. CW-7 Rita Banerjee 7. CW-8 Prof. Dashrath Singh 8. CW-9 Ravindra Nath Shukla 9. CW-10 Ashok Tandon 10. CW-11 Ayodhya Prasad Gupta	<u>Witness who claim that Gumnami Baba <i>alias</i> hagwanji was not Netaji Subhash Chandra Bose</u> 1. CW-22 Vishambhar Nath Arora 2. CW-29 Prof. Dwarka Nath Bose. 3. CW-30 Prof. Chitra Ghose. 4. CW-31 Mrs. Krishna Ghose. 5. CW-32 Smt. Nita Ghose. 6. CW-33 Ardhendu Bose. 7. CW-34 Shibhashish Nag. 8. CW-35 Arup Kumar Mitra.	<u>Witnesses who claims that K.D. Updhyay was Gumnami Baba <i>alias</i> Bhagwanji</u> 1. CW-36 Shitla Singh	<u>Witness who claims that Gumnami Baba <i>alias</i> Bhagwanji was like his grandfather</u> 1. CW-40 Dr. R.P. Misra	<u>Witness who claims that a Mahatma who lived in village Kaithi in district Varanasi for two months in 1951 and thereafter went to Shoulmari Ashram in Falakata, Coochbehar, West Bengal was Netaji Subhash Chandra Bose-</u> 1. CW16 Shyam Lal Singh Shyam Lal Singh says in 1958 he went to Bomay and thereafter had no information about Babaji (Mahatma)	<u>Witnesses who claim that Swami Shardanand, who lived in Varanasi, Shoulmari Ashram, Falakata Coochbihar, West Bengal and died in Dehradun in 1977 was Netaji Subhash Chandra Bose.</u> 1. CW-6 Shyam Charan Pandey 2. CW-14 Uma Charan Pandey 3. CW-15 Aditya Nath Pandey 4. CW-17 Vishram Singh 5. CW-18 Ram Shanker Singh

11. CW-12 Krishna Kumar					
12. CW-13 Rakesh Srivastava					
13. CW-19 Amita Singh					
14. CW-20 Madan Mohan Tripathi					
15. CW-21 Atul Kumar Singh					
16. CW-23 Manish Joshi					
17. CW-24 Netram Singh					
18. CW-25 Dr. Shanker Chatterjee					
19. CW-26 Ram Prakash Tripathi					
20. CW-27 Ram Pratap Yadav					
21. CW-28 Manjeet Singh					
22. CW-37 Nand Kumar Misra					
23. CW-38 Krishna Kumar Misra					
24. CW-39 Shiv Prasad					
25. CW-41 Arvind Sharma					
26. CW-42 Guru Shakti Singh					
27. CW-43 Bijoy Kumar Nag					
28. CW-44 Tarun Kumar Mukhopadhyay					
29. CW-45 Surajit Dasgupta					

3. Evidence of witnesses mentioned in Column Nos. 4 and 5, for reasons mentioned therein, cannot be taken into consideration for determining the identity of Gumnami Baba *alias* Bhagwanji.

4. Evidence of witnesses whose names are mentioned in Column No.6 cannot be taken into consideration for determining the identity of Gumnami Baba *alias* Bhagwanji because they say that one Swami Shardanand who

lived in Shoulmari Ashram in Phalakata, Coochbehar, West Bengal and died in Dehradun in 1977 was Netaji Subhash Chandra Bose and the notification of the U.P. Government dated 28.06.2016, by which this Commission has been constituted, provides that it shall determine the identity of Gumnami Baba *alias* Bhagwanji, who prior to his death lived in Ram Bhawan, Faizabad and whose last rites were performed on 18.09.1985. Thus, their evidence is beyond the terms of reference made to the Commission.

PART V

Evidence of recovery of articles from that portion of the premises of Ram Bhawan, Civil Lines, Faizabad in which Gumnami Baba *alias* Bhgwanji lived from about December, 1982 till his death *i.e.* 16.09.1985.

1. As seen earlier on the direction of the Hon'ble Governor of Uttar Pradesh the U.P. Government has constituted this Commission to find out the identity of Gumnami Baba *alias* Bhagwanji, who prior to his death lived in Ram Bhawan, Faizabad and whose last rites were performed on 18.09.1985.

2. In para 1 of Part III of this report, I have said that the conclusion of the Commission on the identity of Gumnami Baba *alias* Bhagwanji would primarily depend on the evidence of witnesses, who have deposed before it. Thereafter in the said part I have evaluated in great detail the testimony of 45 witnesses, who either deposed in person before the Commission or whose affidavits sworn before a Notary, were treated as their statements before it.

3. Apart from the evidence of the aforesaid 45 witnesses, in my view, another source of evidence (though of a much lesser value) which the Commission would have to take into consideration for determining the identity of Gumnami Baba *alias* Bhagwanji would be the articles recovered from that portion of Ram Bhawan, Civil Lines, Faizabad in which Gumnami Baba *alias* Bhagwanji resided from about December, 1982 till his death *i.e.* 16.09.1985.

4. It is pertinent to mention that Gumnami Baba died on 16.09.1985 and his dead body was cremated on 18.09.1985 at Guptar Ghat, Faizabad. Evidence of CW-10 Ashok Tandon shows that after his death (in his presence and that of others), the City Magistrate, Faizabad opened the lock of the room in which articles relating to Gumnami Baba *alias* Bhagwanji were kept. On inspection he and others found that there was enormous literature and correspondence in English, Hindi and Bangla pertaining to Netaji Subhash Chandra Bose. In cross-examination CW-10 Ashok Tandon admitted that on the said material he concluded that Gumnami Baba was none other than Netaji Subhash Chandra Bose.

5. Evidence of Ashok Tandon also shows that his inference that Gumnami Baba was Netaji Subhash Chandra Bose is also based on the fact that the handwritings appearing in some books and journals found in Ram Bhawan, Faizabad were sent for comparison with the admitted handwritings of Netaji Subhash Chandra Bose to Mr. B. Lal, who found they were of Netaji Subhash Chandra Bose.

6. A perusal of the statement of CW-12 Krishna Kumar also shows that he concluded that Gumnami Baba was Netaji Subhash Chandra Bose because a large number of books and articles etc. pertaining to Netaji Subhash Chandra Bose were recovered from the room in Ram Bhawan, Faizabad in which Gumnami Baba used to live prior to his death.

7. The evidence of CW-3 Anuj Dhar shows that he took samples of handwritings of Gumnami Baba *alias* Bhagwanji from Ashok Tandon and along with CW-4 Chandrachur Ghose did a detailed joint investigation on the issue of identity of Gumnami Baba. His evidence also shows that they prepared a joint report, which he filed before the Commission. His evidence further shows that the handwritings appearing in some books and journals found in Ram Bhawan, Faizabad were sent for comparison with the admitted handwritings of Netaji and Mr. B. Lal, Ex. Government Examiner of Questioned Documents, New Delhi has given a firm opinion that those handwritings (both English and Hindi) were of Netaji.

8. On the basis of the aforesaid evidence of Mr. B. Lal coupled with the recovery of a large number of articles directly connected with the family of Netaji Subhash Chandra Bose (from those rooms of Ram Bhawan, Faizabad in which Gumnami Baba *alias* Bhgwanji used to live), like individual photos of Prabhawati Devi (mother of Netaji Subhash Chandra Bose), Janaki Nath Bose (father of Netaji Subhash Chandra Bose), their joint photograph, an umbrella belonging to Janaki Nath Bose, spectacles having round lenses (the like of which Netaji Subhash Chandra Bose used to put on) some letters sent by immediate family members of Netaji Subhash Chandra Bose, a large number of books in English, Hindi and Bangla, on a large number of subjects, (some of which pertain to Netaji Subhash Chandra Bose), some of the witnesses have tried to establish that Gumnami Baba was none other than Netaji Subhash Chandra Bose.

9. I have given my anxious consideration to the aforesaid claim of the witnesses and, in my view, merely from the aforesaid recovery, it cannot be inferred that it was Netaji Subhash Chandra Bose, who lived in Ram Bhawan, Faizabad in disguise as Gumnami Baba. The aforesaid recovery, in my opinion, is equally compatible with the inference that another person may have been living there.

10. The evidence of CW-42 Guru Shakti Singh *alias* Shakti Singh shows that he also feels the same way and this is apparent from the answer given by him to Question No.23 put to him during cross-examination. The said Question reads:

“kya saaman jo kisi se sambandh rakhta hai kewal uske prapt hone se yeh niskarsh nikala ja sakta hai ki jiska saaman hai wahi vyakti rah raha tha.”

His answer to it was as follows:

"Iske baare me upar apne bayan me maine bataya hai ki Netaji se sambandhit tamam saamano ke saath rakh dene se yeh sabit nahi hoga ki Gumnami Baba hi Netaji the, kintu yadi Gumnami Baba ke pass se paaye gaye tamam handwriting ko yadi Netaji ki handwriting se visheshagyon dwara milan karaya jay to yeh baat jaroor sabit hogi ki Netaji ki handwriting me likhne wala 16.09.1985 tak jinda tha."

11. So far as the evidence of handwriting experts is concerned a perusal of paragraphs 6.16, 6.17 and 6.18 on pages 326 to 329 of this Part of the Report would show that out of four handwriting experts, the evidence of only one shows that handwritings were of Netaji but three of them gave a contrary opinion. Consequently, in my view, Mr. Shakti Singh is not justified in saying that *"Netaji ki handwriting me likhne wala 16.09.1985 tak jinda tha"*.

12. In my view, the said recovery would fall in the category of circumstantial evidence and it is well-settled that circumstantial evidence can only be accepted as conclusive if four requirements, enumerated hereinafter, are met:

- (i) circumstances are firmly established;
- (ii) they unerringly lead to the inference sought to be drawn;

(iii) they are wholly inconsistent with any other inference;

(iv) they are incapable of being explained on any other reasonable hypothesis.

If the said norms are borne in mind, it cannot be conclusively said that the said recovery shows that it was none other than Netaji Subhash Chandra Bose, who lived in Ram Bhawan, Faizabad in disguise as Gumnami Baba *alias* Bhagwanji. To repeat, it is equally compatible with another person living there.

13. In this connection, it would be apposite to refer to the evidence of CW-29 Prof. Dwarka Nath Bose, CW-30 Prof. Chitra Ghose and CW-33 Ardhendu Bose (CW-29 and CW-33 are the real nephews of Netaji Subhash Chandra Bose, being sons of his real brothers and CW-30 is the real niece of Netaji Subhash Chandra Bose, being the daughter of his real brother). CW-29 Prof. Dwarka Nath Bose filed before the Commission a cutting of Times of India, dated March 17, 2016 (Ext. C-16), which on his request was taken on record and read as a part of his statement. Its perusal shows that the photos of Netaji Subhash Chandra Bose's parents etc. were sent to Gumnami Baba *alias* Bhagwanji by Mr. Bijoy Nag on his request (request of Gumnami Baba *alias* Bhagwanji).

14. Here it would be useful to advert to the evidence of CW-30 Prof. Chitra Ghose, whose affidavit has been treated by the Commission as her statement. In para vii of the said affidavit she has stated as follows:

"Much has been made of items in his possession of a personal nature to the Bose family and Subhash in particular, for example family photographs, spectacles with round lenses, an umbrella belonging to Subhash's father Janakinath etc. The suggestive nature of these items is diluted by the revelation that the said items were brought to 'Gumnami Baba' from Kolkata by his followers', reportedly even at times on his specific request."

In this connection, it would also be useful to refer to the evidence of CW-33 Ardhendu Bose, who at page 5 of his deposition, has stated thus:

"I understand that on the basis of some of the articles recovered from Ram Bhawan, Faizabad like photos of parents of Netaji Subhash

Chandra Bose, a pair of spectacles having round lenses and some books relevant to Netaji Subhash Chandra Bose a theory is being propagated that Gumnami Baba was none other than Netaji Subhash Chandra Bose in hiding. Such a theory is not credible as some of the aforesaid articles were sent to Gumnami Baba on his request by Mr.BijoyNag. At any rate, from the recovery of these articles, it cannot be conclusively said that Netaji Subhash Chandra Bose was Gumnami Baba, as I have deposed earlier, the DNA evidence demolishes the claim that Gumnami Baba was Netaji Subhash Chandra Bose."

16. So far as the evidence of handwriting expert Mr.B.Lal Kapoor is concerned, it is not conclusive in nature. Mr.Anuj Dhar merely on his evidence has sought to contend that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose. It appears that he was oblivious of the fact that the Mukherjee Commission of Enquiry sent the handwritings appearing in some books and journals found in Ram Bhawan,Faizabad for comparison with the admitted handwritings of Netaji Subhash Chandra Bose to Mr. Amar Singh, Mr. M.L.Sharma of the Office of Government Examiner of Questioned Documents, Government of India, Shimla and Dr. S.K.Mondal, Forensic Science Laboratory, Government of West Bengal,Kolkata and all three of themgave an opinion contrary to that of Mr.B.Lal. It was on account of this fact that the Mukherjee Commission of Enquiry did not give credence to the evidence of Mr.B.Lal.

17. In this connection, I would like to advert to the averments contained para 2 of the statement of Prof.Chitra Ghose and para 4.15.9 at page 121 of the Mukherjee Enquiry Commission Report.

In para 2 of her deposition, Prof.Chitra Ghose has stated thus:

"The Justice Mukherjee Commission also oversaw the conduct of hand-writing examinations and comparisons in respect of samples from Netaji and those purporting to be of 'Gumnami Baba'. According to one retired expert, in his 'firm opinion' the sample writings from 'Gumnami Baba', namely those found in 'some books and journals' were of Netaji. Three other, equally-eminant hand-writing experts then active in their profession,delivered a contrary

opinion. The Justice Mukherjee Commission, in light of the firm majority opinion, saw no need to pursue the matter."

In para 4.15.9 at page 121 of its report, The Mukherjee Commission has observed thus:

"The reports of the experts to whom the handwritings appearing in some books and journals found in 'Rambhawan' were sent for comparison with the admitted handwritings of Netaji materially differ. While one of them viz. Shri B.Lal, Ex-Government Examiner of Questioned Documents, New Delhi (CW-119) has given a firm opinion that those (both Bengali and English) were of Netaji, Shri Amar Singh and Shri M.L.Sharma (CW- 121) of the Office of the Government Examiner of Questioned Documents, Government of India, Simla, who have filed a joint report, and Dr.S.K.Mondal of Forensic Science Laboratory, Government of West Bengal, Kolkata (CW-120) have given a contrary opinion. Such divergent opinion and absence of any evidence from any person conversant with the handwriting of Netaji that the questioned writings were of Netaji is another impediment to the safe acceptance of the oral version given in this regard."

18. As a matter of fact, the recovery, evidence demolishes the claim of those who contend that Gumnami Baba *alias* Bhagwanji was none other than Netaji Subhash Chandra Bose.

The consistent evidence which has been led before the Commission is that the only other person, who stayed with Gumnami Baba in Ram Bhawan, Civil Lines, Faizabad was his Sewika Smt.Saraswati Devi Shukla(now she is no more). The evidence of CW-29 Prof.Dwarka Nath Bose, CW-30 Prof. Chitra Ghose, CW-32 Nita Ghose and CW-33 Ardhendu Bose shows that from Ram Bhawan,Civil Lines,Faizabad where Gumnami Baba lived prior to his death, teeth were collected by the Mukherjee Commission of Enquiry alongwith samples of blood collected from two descendants on father's side and three descendants on mother's side of Netaji Subhash Chandra Bose. The said Commission sent them to Central Forensic Science Laboratory,Kolkata for DNA profiling to fix the identity of the person to whom the teeth belonged. After subjecting three of the teeth (Exts.2 to 4) for DNA examination, the DNA expert Dr.V.K.Kashyap, Director of the said Laboratory concluded that they belong to a single

human aged male
(alleged Gumnami Baba). The individual source of the teeth does not belong to either maternal or paternal DNA lineage of Netaji Subhash Chandra Bose, therefore, cannot be of Netaji Subhash Chandra Bose.

The aforesaid witnesses stated that since the only other aged member who stayed with Gumnami Baba was Smt. Saraswati Devi Shukla, the report of Dr. Kashyap demolishes the plea that Gumnami Baba was Netaji Subhash Chandra Bose.

19. In this connection, I feel it pertinent to refer to paras 4.15.10 and 4.15.11 at pages 121 and 122 of the Mukherjee Enquiry Commission Report, which read thus:

"4.15.10. Five teeth out of nine, found in 'Ram Bhawan' alongwith samples of blood collected from two descendants on the father's side and three descendants on the mother's side of Netaji were sent to the Central Forensic Science Laboratory, Kolkata for DNA profiling test to fix the identity of the person to whom the teeth belonged. After subjecting three of the five teeth to the above test Dr. V.K. Kashyap, DNA Expert and Director of the Laboratory submitted a detailed report with the following opinion:

"From the morphological examination and analysis of SRY gene, mt DNA (HVS I & HVS II), and Y-STR loci in the forwarded Exhibits 1-10, it can be concluded that forwarded- (Exhibits 2 to 4) belong to a single human aged male individual -(alleged Gumnami Baba). The individual- source of the teeth does not belong to either maternal or paternal DNA lineage of Netaji Subhash Chandra Bose, therefore, cannot be of Netaji Subhash Chandra Bose."

"4.15.11 He was thereafter examined by this Commission as CW-126 in course of which his report was exhibited (Ext.222A). He was cross-examined at length by some of the deponents to bring home their point that no reliance could be placed on his opinion but their attempt failed. Since the report categorically states that all the teeth belonged to a single human aged male individual and since except Gumnami Baba, the only other aged member who stayed with him all along was Smt. Saraswati Devi Shukla, the negative finding recorded

by Dr.Kashyap quoted earlier also militates against the eyewitnesses' account."

20 A perusal of paras 4.15.10 and 4.15.11 of the Mukherjee Commission Enquiry Report show that CW-29 Prof.Dwarka Nath Bose, CW-30 Prof.Chitra Ghose,CW-32 Nita Ghose and CW-33 Ardhendu Bose are justified in contending that DNA examination of the teeth of Gumnami Baba, done under the aegis of Mukherjee Enquiry Commission, demolishes the claim made by those who contend that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose.

21. Before parting with the aspect of the DNA profiling of the teeth of Gumnami Baba, I would like to refer to paras 6.3.11,6.3.12 and 6.3.13 of the compilation jointly prepared by CW-3 Anuj Dhar and CW-4 Chandrachur Ghose, which, on their request, was taken on record by the Commission and read as part of their statement. In paras 6.3.11, 6.3.12 and 6.3.13 of his compilation Mr Anuj Dhar has contended that conclusion of Mukherjee Commission that the DNA found from the teeth of Gumnami Baba *alias* Bhagwanji did not match with that of paternal and maternal relatives of Netaji cannot be sustained, in view of the findings of the Division Bench in the aforesaid two Writ Petitions (Writ Petition No.Misc.Bench 929 of 1986: Miss Lalita Bose and others *vs.* State of U.P. and others and Connected Writ Petition No.Misc.Bench 10877 of 2010: Subhash Chandra Bose Rashtriya Vichar Kendra *vs.* State of U.P.and others) that there was no evidence that five teeth found in Ram Bhawan sent for DNA testing were of Gumnami Baba *alias*Bhagwanji and who were the persons, who retained the teeth of Bhagwanji after cremation. With profound respect to the Division Bench, I regret that I cannot subscribe to the aforesaid view because the definite evidence which has been led before the Commission is that excepting Smt.Saraswati Devi Shukla, who was Sewika of Gumnami Baba and is no more, no other person resided with him at Ram Bhawan,Civil Lines,Faizabad from where the said teeth were recovered.

Since no evidence has been led before the Commission to show that the said teeth were subsequently planted and the evidence led before it shows that the room from where they were recovered was locked, the presumption, in my view, would be (as held by the Mukherjee Enquiry

Commission) that they belonged to Gumnami Baba *alias* Bhagwanji. It is pertinent to mention that no evidence has been led before the Commission to show that the said teeth did not belong to Gumnami Baba.

22. Since the DNA evidence with respect to teeth of Gumnami Baba demolishes the claim of those who contend that he was Netaji Subhash Chandra Bose, it becomes crystal clear that it was not Netaji Subhash Chandra Bose but some other person, who lived in Ram Bhawan, Faizabad. Consequently the aforesaid recoveries lose all relevance and cannot be a basis for concluding that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose.

23. Another example of how the recovery evidence demolishes the claim of those who contend that Gumnami Baba *alias* Bhagwanji was none other than Netaji Subhash Chandra Bose came to my knowledge on 22.06.2017 when I did inspection of Chhota Box 5/5 and Bara Box 4/5 in Treasury, Collectorate, Faizabad, in which some of the articles recovered from that portion of Ram Bhawan, Faizabad, in which Gumnami Baba *alias* Bhagwanji used to live, were kept.

It is pertinent to mention that during inspection of the said boxes I took notes in my own handwriting. The said notes run into 9 pages and the last page of my notes has been signed by me. The said notes are on record.

Since the said boxes contained letters/correspondence in Bengali, a language with which I was not familiar, I took along with me Mr. Ronodeb Ghose, resident of 10, Gopalnagar, Krishna Nagar, Kanpur Road, Lucknow, who was well-versed in Bengali language to explain to me in English what was written/mentioned in the said letters/correspondence.

In Chhota Box 5/5 there was a letter in Bengali. Mr. Ronodeb Ghose went through the entire letter and told me that its substance in English is as under:

It is dated 16.10.1980. It is sent by Bulbul from Calcutta. It is addressed to Shricharan Kamlendu (Guruji). It is mentioned therein, 'when will you come to my place. If you come on the date of birthday of Netaji, we will have great pleasure'.

The evidence of CW-10 Ashok Tandon, who extensively examined the enormous quantity of literature, correspondence and documents kept in that room of Ram Bhawan in which Gumnami Baba *alias* Bhagwanji lived shows that on its basis he concluded that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose. His evidence also shows that no one could take the name of Netaji Subhash Chandra Bose and he was referred to by words like Shricharnesh, Shradha Shabdesh, Swamiji etc.

24. It appears that Shricharan Kamlendu(Guruji) in Bulbul's letter dated 16.10.1980 was Gumnami Baba *alias* Bhagwanji. Since in the said letter Bulbul has categorically mentioned that 'if you come on the date of birthday of Netaji, we will have great pleasure', it is obvious that Gumnami Baba *alias* Bhagwanji was not Netaji Subhash Chandra Bose.

25. The aforesaid discussion makes it clear that on the basis of various recoveries made from that portion of Ram Bhawan, in which Gumnami Baba *alias* Bhagwanji lived prior to his death, it cannot be inferred said that Gumnami Baba *alias* Bhagwanji was Netaji Subhash Chandra Bose.

26. I have reached the said conclusion after inspecting the relevant articles, which in my opinion had a bearing in determining the identity of Gumnami Baba *alias* Bhagwanji, which I was directed to find out in terms of the notification of the U.P.Government dated 28.06.2016 by which this Commission was constituted. The said articles were kept in that portion of Ram Bhawan, Faizabad in which Gumnami Baba *alias* Bhagwanji lived before his death, which took place on 16.09.1985.

PART VI

CONCLUSION

1. For reasons mentioned in Part IV of this Report (Pages 312 to 315) the claim of witness/witnesses mentioned under heads:- 4, 5 and 6 of the said Part cannot be taken into consideration by the Commission for answering the point of reference *i.e.* determining the identity of Gumnami Baba *alias* Bhagwanji, who lived in Ram Bhawan, Faizabad and whose dead body was cremated on 18.09.1985.

2. The answer of the Commission to the claim of the witnesses/witness mentioned under the remaining three heads *i.e.* head nos. 1,2 and 3 of Part IV of this Report (pages 312 to 315) with regard to the identity of Gumnami Baba *alias* Bhagwanji is as follows:-

Head No.1:- Witnesses who claim that Gumnami Baba *alias* Bhagwanji was/may have been Netaji Subhash Chandra Bose.

Commission's Answer:- Claim not correct for reasons mentioned in Part III and Part V of this Report.

Head No.2:- Witnesses who claim that Gumnami Baba *alias* Bhagwanji was not Netaji Subhash Chandra Bose.

Commission's Answer:- Claim correct, for reasons mentioned in Part III and Part V of this Report.

Head No.3:- Witness who claims that K.D.Upadhya was Gumnami Baba *alias* Bhagwanji.

Commission's Answer:- Claim not correct, for reasons mentioned in Part III of this Report.

Commission's Final Conclusion

3. For reasons mentioned in Part III and Part V of this Report, the identity of Gumnami Baba *alias* Bhagwanji (who lived in Ram Bhawan, Faizabad and whose dead body was cremated on 18.09.1985) which the Commission was directed to determine, vide the notification of the U.P. Government dated 28.06.2016, by which the Commission was constituted, could not be determined.

Commission's inference about the personality of the person who lived as Gumnami Baba *alias* Bhagwanji in Ram Bhawan, Faizabad and whose dead body was cremated on 18.09.1985.

4. From a perusal of the statements of witnesses, who deposed before the Commission or whose affidavits sworn before a Notary, for reasons mentioned in them, were considered by the Commission as their statements before it and inspection of articles, books etc. recovered from that portion of Ram Bhawan, Faizabad in which Gumnami Baba *alias* Bhagwanji used to live, the personality of the person who lived as Gumnami Baba *alias* Bhagwanji reflects the traits, enumerated hereinafter:-

(a) He was a Bengali;

(b) He was well-versed in Bengali, English and Hindi languages;

(c) He was an extraordinarily well-read person because a very large number of books in Bengali, English and Hindi, on a large number of subjects, were found in that portion of Ram Bhawan, Faizabad in which he lived;

(d) He was very well-informed about war, politics and current affairs;

(e) There was an air of authority in his voice/tone, similar to that in the voice/tone of Netaji Subhash Chandra Bose;

(f) He had tremendous will-power and self-control which enabled him to live the last 10 years of his life in Ayodhya and Faizabad behind a curtain;

(g) People with whom he used to talk from behind a curtain were mesmerized after listening to him;

- (h) He spent a considerable time in pooja and meditation;
- (i) He was fond of good things of life like music, cigar and food;
- (j) He was an admirer of Netaji Subhash Chandra Bose but whenever rumour started spreading that he was Netaji Subhash Chandra Bose, he immediately changed his house; and
- (k) He was disillusioned with the State of Governance in India.

In short, he was an extraordinary man, the like of whom one very rarely comes across, who chose to die with his identity remaining a mystery. But who can fault him for that, for he had the fundamental right to life, guaranteed by Article 21 of the Constitution of India, to lead his life the way he wanted and implicit in that right was his right to keep his identity a mystery.

But, be that as it may, it was a matter of great shame that his cremation was engineered in such a way that only 13 persons could participate in it. What an irony, for who can deny that he deserved a much bigger send-off from this earth.

ACKNOWLEDGEMENTS

I would be failing in my honesty if before parting with this Report, I do not express my enormous debt to two people, without whose help this Report would not have seen the light of the day. They are, Sri Dileep Kumar (Retired District Judge, Chandauli) Secretary of the Commission and my personal Secretary Sri R.P.Srivastava (Former Joint Principal Private Secretary to Hon'ble the Chief Justice, Allahabad High Court).

Except writing the Report, Sri Dileep Kumar took care of all other work relating to the Commission. He was not only of great help to me in recording the evidence of witnesses, who deposed before the Commission but the inputs which he periodically provided were of immense help to me in compiling the Report.

Thank you very much Sri Dileep Kumar.

But for the monumental effort of Sri R.P.Srivastava, this Report, which runs into nearly 350 pages, was not possible. Whatever I dictated to him the previous day (which at times was 30 to 40 pages) he used to place before me, flawlessly typed, the next morning. He also from time to time made very useful suggestions in respect of preparation of Report.

Thank you very much Sri R.P.Srivastava.

Dated : 19-09-2017

(JUSTICE VISHNU SAHAI)

Chairman,

Gumnami Baba @ Bhagwanji Enquiry Commission.

