

29

फाइल सं०

File No.

खण्ड
Volume

भारत सरकार
GOVERNMENT OF INDIA

गृह मंत्रालय
MINISTRY OF HOME AFFAIRS

अनुभाग
SECTION

पत्राचार
CORRESPONDENCE

_____ को सूचीकृत की गई
Indexed on

आद्याय _____
Initials

अभिलेख क/ख
Record A/B

अभिलेख ग _____ में नष्ट गए
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नोट किया जाए _____ अनुमाग्या नोट बुक
नोट न किया जाए

To be noted _____ In Sectional Note Book
Not to be noted

अनु. अ./अधीक्षक के हस्ताक्षर
Initials of S.O./Supdt

लिपिक के हस्ताक्षर
Initials of clerk

विषय
SUBJECT

Handwritten:
1st copy
Correspondence No. 407

पिछले हवाले
Previous References

बाद के हवाले
Later References

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Kept
16/10/15





29

फाइल सं०

File No. 7/12014/S/2007-CDM(A)

खण्ड
Volume

भारत सरकार
GOVERNMENT OF INDIA
गृह मंत्रालय
MINISTRY OF HOME AFFAIRS

अनुभाग
SECTION
पत्राचार
CORRESPONDENCE

के सूचीकृत की गई

विषय
SUBJECT

W.P.No. 2003/2006 - Rudra Jyoti Bhattacharya
& Ors Vs UOI & Ors - Appointment of
Sh. R.N. Das as Spl. Counsel - Payment
On Special rates - Request regarding.

वै नष्ट हुए

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अनुभागीय नोट बुक

in Sectional Note Book

को/Supdt.

कार

पिछले इयते
Previous References

बाद के इयते
Later References

29

S. Bhattacharya
22485215
033
Fax

Additional Solicitor General Kolkata
Farooq Razaq Mob. 98300283

Ph. 033-22484980

Fax. 03322906745

Advocate High Court Kolkata
Mohd Nizamuddin Fax 033-2248231

Mob. 9831673933

9038535952

MLB 20
K Shankar 22 89 1963
033

09433055985

S.K. Chandhary
09831691040

Sh. Grantam Bimbawale JS (Far East)

MEM

23012038

①

Ref. FR

This is the Judgement delivered by Hon'ble Justice Ashim Kumar Banerjee and Hon'ble Justice Dr. Mrinal Kant Chaudhuri dated 19.08.2013 disposing all the three writ Petitions No. 27541 (W) 2006, W.P. No. 2003 of 2006 Shri Rudra Syoti Bhattacharjee & others W.P. No. 8215 (W) of 2008 of Subhas Chandre Bose. No action now part. The file may be closed

BK/abli
24/4/14

US (NSA)

Abli
24/4

Pl. take out another copy of the judgement. The R.H.S. is not clear.

US

clear copy placed on file please.

US (NSA)

BK/abli
28/4/14

W (NSA)

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29/4

Speed Post

SPEED POST

①

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6076/DIR(L)/10
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F.No.1204/Home/06-III/2159/3601
GOVERNMENT OF INDIA
Ministry of Law & Justice
Deptt. of Legal Affairs
11, Strand Road
Kolkata

Date: 21.09.2010

FAX No.22311646
Tel. No.22484806

5-12014/12/07-CD

To
Shri S.K. Malhotra
Deputy Secretary(Legal)
Ministry of Home Affairs, Lok Nayak Bhavan
Khan Market, New Delhi - 110 003.

Sub : W.P.No.27541(W) of 2006
Shri Ashim Kr. Ganguly & Ors.
-Vs-
Union of India & Ors.

Sir,

Enclosed please find herewith supplementary Affidavit on behalf of the petitioner Shri Ashim Kr. Ganguly in the aforesaid matter as received from Office of the Additional Solicitor General of India, High Court, Calcutta. You are requested to send para wise comments and necessary instructions to supplementary Affidavit immediately for further necessary action. This is to inform you that Mr. Farook M. Razack, Additional Solicitor General of India has been engaged in the aforesaid matter along with Mr. R.N. Das, Sr. Counsel and Mr. Tarun Kr. Ghosh, Advocate.

This is for your information and necessary action.

Yours faithfully,


(G.S. Makker)

Jr. Central Govt. Advocate.

Copy to :
Mr. R.N. Das, Sr. Counsel, High Court, Calcutta.
Mr. Tarun Kr. Ghosh, Advocate, High Cour, Calcutta.
Enclosed copy of Supplementary Affidavit.

(Jr. C.G.A.)

3079
30 (cdm)

PS
For DS(S)
3079

Put up my copy.
3079
UIC (copy)

12

Court Matter

Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantrayala

Jaisalmer House, Mansingh Road
New Delhi - 110 011

Subjet : Writ Petition No.2003 of 2006 - Rudra Jyoti Bhattacharya Vs. UOI & Ors.

Writ Petition No.2003 of 2006 received from Shri G.S. Makkar, Jr.CGA, Ministry of Law & Justice, Kolkatta, in respect of the above mentioned case, is the concern of the **I.S. Division**. They may please take over the receipt for further necessary action.

2. The above mentioned order has not been acknowledged.

Encl : As above.

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85/10/07

Sid T.

(Santha Thampi)
Under Secretary to the Govt. of India
Tel.No.23381509

Internal Security Division
[Shri L.C. Goel, Joint Secretary]
North Block, New Delhi.

MHA I.D. No.23/7/2007(Vol.I)[Dy.No.251]-Judl. & P.P. dated 9 March, 2007.

CS (Gross) 9/3

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file & p.v.
mgmt.*

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80 (cdm)

SECRET

Copy No. 3

No. 19/CM/2006

CABINET SECRETARIAT

EXTRACTS FROM THE MINUTES OF THE MEETING
OF THE CABINET HELD AT 1915 HOURS, ON
TUESDAY, 9TH MAY, 2006, IN PANCHVATI, 7, RACE
COURSE ROAD, NEW DELHI.

Case No.164/19/2006

Item 4

Report of Justice Mukherjee Commission of
Inquiry on the alleged disappearance of Netaji
Subhas Chandra Bose - Action Taken Report.

The Cabinet considered the note dated 04.05.2006 from the Ministry of Home Affairs (Grih Mantralaya) and:

- (i) observed that the Commission's inquiry was inconclusive in many ways, unable to provide a definitive finding on several issues and at variance with past well accepted Inquiry Commissions' findings in some critical areas; and
- (ii) directed that in the light of (i) above, the Action Taken Report specifically mention that Government did not agree with the findings that:
 - (a) Netaji did not die in the plane crash; and
 - (b) the ashes in the Renkoji Temple were not of Netaji's.

SECRET

RBK

03 Copies.

In accordance with the Rules of Procedure in Regard to Proceedings of the Cabinet (Rule 10), progress of action to implement the decision may be included in the Ministry's Monthly Summary for the information of the Members of the council of Ministers.

Action taken to implement the decision may be communicated to the Cabinet Secretariat with reference to the Implementation Schedule attached to the agenda note.

SECRET

Copy No. (4)

No. 19/CM/2006

CABINET SECRETARIAT

EXTRACTS FROM THE MINUTES OF THE MEETING
OF THE CABINET HELD AT 1915 HOURS, ON
TUESDAY, 9TH MAY, 2006, IN PANCHVATI, 7, RACE
COURSE ROAD, NEW DELHI.

Case No.166/19/2006

Item 6

Approach & Key Components of National e-
Governance Plan (NeGP)

Postponed.

20

Mr. P. N. Das, Senior Advocate

(5)

☎ : 2417-8456 /2422-05
C-502, LAKE GARDEN,
KOLKATA-700 045

Ref. No.....

Date..... 30/9/2007.....

To
Mr. S. K. Goswami,
Under Secretary to the
Government of India,
Ministry of Home Affairs,
Lok Nayak Bhavan, Khan Market
New Delhi - 3.

Sub : In the High Court at Calcutta
Writ Petition No. 2003 of 2006
Rudrajyoti Bhattacharjee & Ors.
- Vs -
Union of India & Ors.

Dear Sir,

This has reference to my conversation with you in connection with the above matter. The draft affidavit in opposition on behalf of the respondents is being settled by me and the same will be handed over to you when you are coming to Kolkata.

In this connection I confirm having mentioned to you that since the above matter is a sensitive case and contains voluminous documents, sanction may kindly be obtained for payment to me as a Special Counsel on the special rate as prescribed by the Central Government.

I am enclosing herewith a specimen copy of a letter dated 27.12.2004 by which the Special Counsel fee was sanctioned for me in an earlier important case for Government of India.

Thanking you,

Yours faithfully,

R. N. Das

(R. N. Das)

Encl : Copy of letter dated 27.12.04

6

A

F.NO.278A/56/2003-Legal
Government of India
Ministry of Finance
(Department of Revenue)

New Delhi, the 27th December, 2004

O R D E R

Sanction of the President of India is hereby accorded to the engagement of Shri R.N. Das, Advocate as Special Counsel on behalf of the Department to defend the Appeal No.EDM-219/04-M/s. G.T.C. Industries Ltd. before CESTAT, KOLKATA, on the following terms and conditions:-

- a) Appearance fee : Rs.10,000/- per day for effective hearing
- b) Perusal fee : Rs.15,000/- (one time)
- c) Conference fee : Rs. 5,000/- (Max.4 in a case)
- d) Settling fee ; Rs. 5,000/- each
- e) Clerkage : @10% of the above
- f) Junior Advocate's fee + 1/3rd of Senior Counsel's fee

2. This issues with the concurrence of Ministry of Law and Justice (Department of Legal Affairs) vide their Dy.No.5886/2004 dated 16.11.2004.

Vijay Kaushik

(Vijay Kaushik)

Under Secretary to the Govt. of India

Copy to:

1. The Dte. General of Central Excise Intelligence, R.K. Puram, New Delhi.
2. The Directorate General of Central Excise Intelligence Kolkata Zonal Unit, (4/2, Karaya Road, 4th Floor) Kolkata-700017.
3. The Pay and Accounts Office Office of the Directorate of Central Excise Intelligence, Kolkata Zonal Unit
4. The Ministry of Law and Justice
5. Shri R.N. Das , Sr. Advocate
6. Guard file

R
12/1
LKS
22-05

(7)

By Spl. Messenger

No. I/12014/5/2007-Cdn(Pt.)
Government of India
Ministry of Home Affairs

Lok Nayak Bhavan, Khan Market,
New Delhi-3, dated October 3, 2007.

P.B. SA/07

The Secretary,
Ministry of Law & Justice,
Department of Legal Affairs,
Shastri Bhavan, New Delhi.

Sub: Payment of fees at special rates prescribed by Ministry of Law – Request of Shri R.N. Das, Special Counsel – Regarding.

Sir,

I am directed to say that a writ petition No. 2003/2006 has been filed in the Kolkata High Court by Shri Rudra Jyoti Bhattacharya and others against UOI praying for direction upon the Union of India to accept the findings of Justice Mukherjee Commission appointed by Government of India to inquire into the alleged disappearance of Netaji Subhas Chandra Bose. It is mentioned here that Government of India have not accepted the findings of the Justice Mukherjee Commission that Netaji Subhas Chandra Bose did not die in the plane crash at Taihoku on 18.8.1945 and that the ashes in the Renkoji Temple, Japan, are not of Netaji.

2. As the matter is sensitive and important in nature, Shri R.N. Das, Advocate, has been appointed as Special Counsel through the Ministry of Law & Jusstice, Branch Secretariat, Kolkata. During settling the affidavit in opposition in the matter, Shri Das has expressed the desire that he may be paid at the special rates prescribed by the Central Government. He has also enclosed a copy of sanction order of Ministry of Finance, Department of Revenue, in this regard. A copy of his letter dated 30.9.2007 along with copy of sanction order of Ministry of Finance is enclosed.

3. You are requested to kindly let us know whether Shri R.N. Das, Special Counsel, can be paid at the rates mentioned in the sanction order of Ministry of Finance, Department of Revenue, in respect of the above case.

4. This may kindly be treated as most urgent.

Yours faithfully,

S.K. Goswami 3/10/07

(S.K. Goswami)

Encl: As above.

Under Secretary to the Govt. of India

R.I.
Pl. issue
ML
4/10/07

8

ET

MOST IMMEDIATE
BY SPEED POST

No. I/12024/5/2007-Cdn.(Pt.)

Government of India

Ministry of Home Affairs

Lok Nayak Bhavan, Khan Market,
New Delhi-3, dated October 3, 2007.

Smt. S. Bhattacharya,
Additional Government Counsel,
Ministry of Law & Justice,
Branch Secretariat, 11, Strand Road, 2nd floor,
Kolkata - 700002.

04 OCT 2007

**Sub: W.P. No. 2003 of 2006 - Rudra Jyoti Bhattacharya
versus Union of India and others.**

Ref: Your file No. 402/Home/06-II/3039

Madam,

I am directed to say that Shri R.N. Das, Advocate, has been appointed as Special Counsel in the above matter through you. During settling the affidavit in opposition in the matter, Shri Das has expressed the desire that he may be paid at the special rates prescribed by the Central Government. He has also enclosed a copy of sanction order of Ministry of Finance, Department of Revenue, in this regard. A copy of his letter dated 30.9.2007 along with copy of sanction order of Ministry of Finance is enclosed.

2. You are requested to kindly let us know whether Shri R.N. Das, Special Counsel, can be paid at the rates mentioned in the sanction order of Ministry of Finance, Department of Revenue, in respect of the above case.

3. This may kindly be treated as most urgent.

Yours faithfully,

S.K. Goswami 3/10/07

(S.K. Goswami)

Encl: As above.

Under Secretary to the Govt. of India



Mr. R. N. Das, Senior Advocate

9
☎ : 2417-8456 / 2422-0575
C-502, LAKE GARDENS,
KOLKATA-700 045

Ref. No.....

Date..... 30/9/2007.....

To
Mr. S. K. Goswami,
Under Secretary to the
Government of India,
Ministry of Home Affairs,
Lok Nayak Bhavan, Khan Market
New Delhi - 3.

Sub : In the High Court at Calcutta
Writ Petition No. 2003 of 2006
Rudrajyoti Bhattacharjee & Ors.
- Vs -
Union of India & Ors.

Dear Sir,

This has reference to my conversation with you in connection with the above matter. The draft affidavit in opposition on behalf of the respondents is being settled by me and the same will be handed over to you when you are coming to Kolkata.

In this connection I confirm having mentioned to you that since the above matter is a sensitive case and contains voluminous documents, sanction may kindly be obtained for payment to me as a Special Counsel on the special rate as prescribed by the Central Government.

I am enclosing herewith a specimen copy of a letter dated 27.12.2004 by which the Special Counsel fee was sanctioned for me in an earlier important case for Government of India.

Thanking you,

Yours faithfully,

Encl : Copy of letter dated 27.12.04

R N Das
(R. N. Das)

(10)

5

F.NO.278A/56/2003-Legal
Government of India
Ministry of Finance
(Department of Revenue)

New Delhi, the 27th December, 2004

O R D E R

Sanction of the President of India is hereby accorded to the engagement of Shri R.N. Das, Advocate as Special Counsel on behalf of the Department to defend the Appeal No.EDM-219/04-M/s. G.T.C. Industries Ltd. before CESTAT, KOLKATA, on the following terms and conditions:-

- a) Appearance fee : Rs.10,000/- per day for effective hearing
- b) Perusal fee : Rs.15,000/- (one time)
- c) Conference fee : Rs. 5,000/- (Max.4 in a case)
- d) Settling fee : Rs. 5,000/- each
- e) Clerkage : @10% of the above
- f) Junior Advocate's fee + 1/3rd of Senior Counsel's fee

2. This issues with the concurrence of Ministry of Law and Justice (Department of Legal Affairs) vide their Dy.No.5886/2004 dated 16.11.2004.

Vijay Kaushik

(Vijay Kaushik)

Under Secretary to the Govt. of India

Copy to:

1. The Dte. General of Central Excise Intelligence, R.K. Puram, New Delhi.
2. The Directorate General of Central Excise Intelligence Kolkata Zonal Unit, (4/2, Karaya Road, 4th Floor) Kolkata-700017.
- 3 2. The Pay and Accounts Office Office of the Directorate of Central Excise Intelligence, Kolkata Zonal Unit
- 4 3. The Ministry of Law and Justice
- 5 4. Shri R.N. Das, Sr. Advocate
- 6 5. Guard file

11

F.No. 402/Home/06/5995

F.No. SB/Misc/2007
Government of India
Ministry of Law and Justice
Department of Legal Affairs
Branch Secretariat, Kolkata

11, Strand Road, 2nd floor, Kolkata
Dated: 11th October, 2007

To
The Under Secretary to the Govt.of India
Ministry of Home Affairs
Lok Nayak Bhavan, Khan Market,
New Delhi-110 003

Subject: W.P.No. 2003 of 2006
Rudra Jyoti Bhattacharyya-vs-Union of India and ors.



Sir,

Please refer to your letter No.I/120024/5/2007-Cdn.(Pt) dated 4.10.07 requesting this office to let you know whether Sri R.N.Das, Special Counsel may be paid at the rate mentioned in the sanctioned order of Ministry of Finance, Department of Revenue in respect of the above mentioned matter. Please note that Sri R.N.Das, Special Counsel has been briefed in this matter by Ministry of Law and Justice, Branch Secretariat, Kolkata. The fees of the Special Counsel will be paid by the Ministry of Law as per the prescribed fees for Govt.Counsel in the High Court, Calcutta.

Caly Satish

Yours faithfully,

SB 11/10/07

(S.Bhattacharyya)
Addl.Govt.Counsel/Litigation Incharge

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5 (12)

No.12014/21/07-Cdn. (Pt.)
Government of India
Ministry of Home Affairs
Internal Security Division
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जारी
ISSUED
हस्ताक्षर/Intls.
प्रा० तथा० प्र०/F&LNB

RDI
Q. 503
26/11/07

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi, dt.20.11.07

26 NOV 2007

To

Shri R.N. Das,
Senior Advocate,
C-502, Lake Gardens,
Kolkata-700 045.

Subject: Payment of fees at special rates prescribed by Ministry
of Law - Request of Shri R.N. Das, Special Counsel -
Regarding.

Sir,

I am directed to refer to your letter No. Nil dated 30.9.07, on the
above subject and to say that the matter has been taken up with Ministry
of Law and Justice, Branch Secretariat, Kolkata. A copy of the letter
received from them is enclosed, contents of which are self explanatory.

Yours faithfully,

S.K. GOSWAMI
21/11/07

(S.K. GOSWAMI)

Under Secretary to the Govt. of India

13

10

F. No. 33(1)/2007-Judl.
Govt. of India
Ministry of Law & Justice
Department of Legal Affairs
Judicial Section

Tele No. 2338 7543

New Delhi the 29th November, 2007

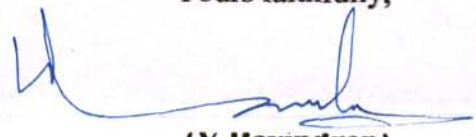
To,

Shri S.K. Goswami,
Under Secretary,
Ministry of Home Affairs,
Lok Nayak Bhavan,
Khan Market,
New Delhi-3

Sir,

I am directed to refer to your letter No. 1/12014/5/2007-Cdn(Pt) dated 03. 10.2007 seeking clarification as to whether Shri R.N. Das, Special Counsel can be paid special fee for conducting the Writ Petition No. 2003/2006 filed by Shri Kudra Jyoti Bhattacharya and others Vs. Union of India in Calcutta High Court and to intimate the Department that the special fee is paid on case-to-case basis depending on the merit of the case. If your Department recommends the payment of special fee to Shri Das then the proposal duly approved by the Minister in-charge of the Administrative Department recommending the payment of special fee, clearly indicating the terms and conditions, may be sent to us for obtaining the approval of the Competent Authority.

Yours faithfully,



(V. Ravindran)

Under Secretary to the Govt. of India.

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SO (Cdn)
Discussed with
USL Arms
to be filed
Bhattacharya
11/2/07

(14)

No.402/Home/06-II/467
Govt. of India
Ministry of Law & Justice
Deptt. of Legal Affairs
Branch Sectt.,
Kolkata

BY SPEED POST

S.S.Sarker,
ILS
Addl. Govt. Advocate

11, Strand Rd., Middle Bldg.,
2nd floor, Kolkata- 700 001

Dated, the 21st July, 2008

To
Shri S.K. Goswami,
Under Secretary to the Govt. of India,
Ministry of Home Affairs,
Lok Nayak Bhawan, Khan Market,
New Delhi-3.

Sub: WP No. 2003/06-Rudra Jyoti Bhattacharya
-Vs-Union of India & Ors.

Sir,

Please find enclosed herewith the copy of letter of Md. Nizamuddin, Advocate dated 18.7.08 along with the xerox signed copy of the Order dated 11th July, 2008 received by us on 18.07.08 which speak for themselves.

The matter has been adjourned for six weeks from 11th July, 2008. Hence, necessary instruction in respect of the queries raised by the Court may please be communicated at the earliest.

Encl: As above

Yours faithfully,
(S.S.Sarker)
Addl. Govt. Advocate

21/7

So (Copy)

15
Md. Nizamuddin

B. Sc. LL.B

ADVOCATE HIGH COURT, CALCUTTA
BAR ASSOCIATION, ROOM NO. 12
☎ : 2248 3190/3169, FAX : 2248 2313

Residence & Chamber
15, MARQUIS LANE
KOLKATA - 700 016
☎ : 2252 6730
Mobile : 9831673933

Date 18 -07- 2008



To

Mr. S. S. Sarker,
Addl. Govt. Advocate,
Ministry of Law & Justice,
11, Strand Road,
Kolkata - 700 001.

Dear Sir,

Re : File No. 462/Home/2006/Lit. II

W.P. No. 2003 of 2006

Rudrajyoti Bhattacharjee

Vs.

Union of India & Others

The aforesaid writ petition against the 'Action Taken Report' on the report of Justice Mukherjee Commission of Inquiry was partly heard on 11.07.2008 by Chief Justice and Justice Pinaki Chandra Ghosh when Their Lordships after hearing the counsel for the parties including Mr. R.N. Das, Sr. Advocate, assisted by me for the Respondent/Union of India have been pleased to pass the order asking us to seek instruction from Union of India as to whether A.T.R. has been placed before the Parliament and also whether any decision has been taken in Parliament accepting or rejecting the A.T.R. and for this purpose matter has been adjourned for six weeks for further consideration. For convenience of the authority in complying the order of the Hon'ble Court, I am enclosing herewith Xerox copy of the signed copy of the minutes of the aforesaid order dated 11.07.2008.

This is for your information, record and needful action.

Yours faithfully,

Mohd. Nizamuddin
Advocate

Enclo : As above

Mohd. Nizamuddin
Bhattacharjee
18/7

16

WP No. 2003 of 2006

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Original Side

RUDRA JYOTI BHATTACHARJEE & ORS
Versus
UNION OF INDIA

Appellants/Petitioners
Respondent

For Appellants/Petitioners : Mr. Kashi Kanta Maitra, Sr. Advocate with
Mr. Keshab Bhattacharjee and
Mr. Debabrata Kali, Advocates
For Respondent : Mr. R.N.Das, Sr. Advocate

BEFORE:

The Hon'ble CHIEF JUSTICE SURINDER SINGH NIJJAR
AND
The Hon'ble JUSTICE PINAKI CHANDRA GHOSE

Date : 11th July, 2008.

THE COURT : On the request of Mr. Das, Senior counsel appearing for the respondent to seek instructions from Union of India as to whether A.T.R. has been placed before the Parliament and also whether any decision has been taken in Parliament, either accepting or rejecting the A.T.R., let the matter be adjourned for six weeks for further consideration.

Xerox signed copy of this order be made available to the parties upon compliance of usual formalities.

xd
Rwe
18.7.08

Sd/- Surinder Singh Nijjar, C.J.
Sd/- Pinaki Chandra Ghose, J.

See the copy
18.7.08.
Assistant Registrar
High Court, Original Side
Calcutta

17

**MOST IMMEDIATE / OUT TODAY /
COURT MATTER**

**No.12014 / 5/ 07-Cdn(Pt).
Government of India
Ministry of Home Affairs
IS Division : Cdn Section**

**9th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi**

Dated , the 31st July, 2008

OFFICE MEMORANDUM

**Subject: WP No. 2003 / 2006 - Shri Rudra Jyoti Bhattacharya - Vs. -
Union of India & Ors.**

The Undersigned is directed to say that WP No. 2003 / 2006 - Shri Rudra Jyoti Bhattacharya - Vs. - Union of India & Ors regarding Action Taken Report (ATR) on the report of the Justice Mukherjee Commission of Inquiry was partly heard on 11.07.2008 by Chief Justice and Justice Pinaki Chandra Ghosh, the Hon'ble High Court of Calcutta, and after hearing the Counsel for the parties, the Hon'ble Court passed the order asking to seek the instructions from the Union of India as to whether the A.T.R has been placed before the Parliament and whether any decision has been taken in Parliament accepting or rejecting the ATR and for this purpose the matter has been adjourned for six weeks for further consideration.

2. It is stated that the report of the Justice Mukherjee Commission of Inquiry to the disappearance of Subhash Chandra Bose alongwith Memorandum on ATR was sent to the Lok Sabha Secretariat on 15th May, 2006 (Copy enclosed) and the same was laid on the Table of the Lok Sabha on 17.05.2006.

3. It is requested that the decision taken in the Parliament accepting or rejecting the ATR may kindly be intimated to the Ministry of Home Affairs, so that, the Hon'ble Court may be informed accordingly.

Amar Chand
(Amar Chand)

Under Secretary to the Govt. of India
Tel: 2461 0466

To,

**The Table Office
Lok Sabha,
Parliament House,
New Delhi.**

Lok Nayak Bhavan, Khan Market,
New Delhi, dated: May 15, 2006.

OFFICE MEMORANDUM

Sub: Laying of Report of the Justice Mukherjee Commission of Inquiry into the alleged disappearance of Netaji Subhas Chandra Bose and Memorandum of Action Taken thereon on the Table of Lok Sabha.

The undersigned is directed to forward herewith the following documents in connection with laying of the Report of the Justice Mukherjee Commission of Inquiry into the alleged disappearance of Netaji Subhas Chandra Bose along with Memorandum of Action Taken thereon on the Table of Lok Sabha on 17th May, 2006 :-

- and delay statement*
- i) One authenticated copy each of the Report of the Justice Mukherjee Commission of Inquiry into the alleged disappearance of Netaji Subhas Chandra Bose and the Memorandum of Action Taken thereon both in Hindi and English;
 - ii) Thirty-five (35) copies each of the report and the Memorandum of Action Taken thereon both in Hindi and English for laying on the Table of the House;
 - iii) One copy of the duly filled in proforma to be attached to the Office Memorandum forwarding papers to be laid on the Table of the Lok Sabha.

The name, designation and telephone numbers of the officer from whom additional copies of the documents could be obtained, if required, are indicated below :-

S.K. Goswami, Under Secretary, Ministry of Home Affairs,
Lok Nayak Bhavan, Khan Market, New Delhi.
Telephone No. 2461-0466

The receipt of the documents may kindly be acknowledged.

Sc
(S.C. Bardhan)
Officer on Special Duty (Security)
Tel. No. 2469-7124

Table Office,
Lok Sabha Secretariat,
Parliament House, New Delhi.

Copy forwarded for information and necessary action to Parliament Section,
MHA, North Block, New Delhi.
Parliament Section, MHA, North Block.

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16/5

Sc

19

SENDING CONFIRMATION

DATE : JAN-4-2000 TUE 12:48
NAME :
TEL :

PHONE : 23035463
PAGES : 2
START TIME : JAN-04 12:47
ELAPSED TIME : 00'45"
MODE : ECM
RESULTS : OK

20

6

Ministry of Home Affairs
IS Division : Cdn Section

Subject: WP No. 2003 / 2006 - Shri Rudra Jyoti Bhattacharya - Vs. - Union of India & Ors.

The Undersigned is directed to say that WP No. 2003 / 2006 - Shri Rudra Jyoti Bhattacharya - Vs. - Union of India & Ors regarding Action Taken Report (ATR) on the report of the Justice Mukherjee Commission of Inquiry was partly heard on 11.07.2008 by Chief Justice and Justice Pinaki Chandra Ghosh, the Hon'ble High Court of Calcutta, and after hearing the Counsel for the parties, the Hon'ble Court passed the order asking to seek the instructions from the Union of India as to whether the A.T.R has been placed before the Parliament and whether any decision has been taken in Parliament accepting or rejecting the ATR and for this purpose the matter has been adjourned for six weeks for further consideration.

2. It is stated that the report of the Justice Mukherjee Commission of Inquiry to the disappearance of Subhash Chandra Bose alongwith Memorandum on ATR was laid on the Table of the Both Houses of Parliament on 17.05.2006. The same was discussed in the Lok Sabha on 18.5.2006, 2.8.2006, 3.8.2006 and 7.8.2006.

3. It is requested that the decision taken in the Parliament accepting or rejecting the ATR, may kindly be intimated to I S Division alongwith copy of the debate of the above mentioned dates, so that, the Hon'ble Court may be informed accordingly.


(B K Rekhi)
SO (Cdn)

SO (Parliament), MHA, North Block New Delhi.

MHA Note I.D. No.12014 / 5/ 07-Cdn(Pt). dated, the 6th Aug, 08.

P.B. 4/08

21

⑤

**MOST IMMEDIATE / OUT TODAY /
COURT MATTER**

No.12014 / 5/ 07-Cdn(Pt).
Government of India
Ministry of Home Affairs
IS Division : Cdn Section

9th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi

Dated , the 6th Aug, 2008

OFFICE MEMORANDUM

**Subject: WP No. 2003 / 2006 - Shri Rudra Jyoti Bhattacharya - Vs. -
Union of India & Ors.**

The undersigned is directed to refer to this Ministry's O.M of even number dated 31st July, 2008 on the subject mentioned above and to request that reply of the Lok Sabha Sectt may kindly be expedited.

Amar Chand

(Amar Chand)

Under Secretary to the Govt. of India

Tel: 2461 0466

To,

The Table Office
Lok Sabha,
Parliament House,
New Delhi.

P.B. 2/08
MS


LOK SABHA SECRETARIAT

Telegrams : LOKSABHA, NEW DELHI
FAX : 23010756


PARLIAMENT HOUSE ANNEXE
NEW DELHI-110001

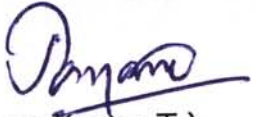
F No. 23/5/XIV/2008/T

Dated: 4th August, 2008

OFFICE MEMORANDUM

Subject: WP No. 2003/2006-Shri Rudra Jyoti Bhattacharya-Vs.-Union of India & Ors.

The undersigned is directed to refer to the Ministry of Home Affairs (IS Division) OM No. 12014/5/07-Cdn(Pt). Dated 31st July, 2008 on the above subject and to state that no decision regarding accepting or rejecting the ATR on the Report of the Justice Mukherjee Commission of Inquiry relating to the disappearance of Subhash Chandra Bose has been taken by Lok Sabha till date.



(Jaya Kumar T.)
Deputy Secretary-II
Ph. No. 23034795

To

The Ministry of Home Affairs,
(IS Div: Cdn Section)
(Shri Amar Chand, Under Secretary)
New Delhi.

Pl. Mr. Chand

A to

Sd/- (Chand)

23

5

**MOST IMMEDIATE / OUT TODAY /
COURT MATTER**

No.12014 / 5/ 07-Cdn(Pt).
Government of India
Ministry of Home Affairs
IS Division : Cdn Section

9th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi

Dated , the 7th Aug, 2008

OFFICE MEMORANDUM

**Subject: WP No. 2003 / 2006 - Shri Rudra Jyoti Bhattacharya - Vs. -
Union of India & Ors.**

The Undersigned is directed to say that WP No. 2003 / 2006 - Shri Rudra Jyoti Bhattacharya - Vs. - Union of India & Ors regarding Action Taken Report (ATR) on the report of the Justice Mukherjee Commission of Inquiry was partly heard on 11.07.2008 by Chief Justice and Justice Pinaki Chandra Ghosh, the Hon'ble High Court of Calcutta, and after hearing the Counsel for the parties, the Hon'ble Court passed the order asking to seek the instructions from the Union of India as to whether the A.T.R has been placed before the Parliament and whether any decision has been taken in Parliament accepting or rejecting the ATR and for this purpose the matter has been adjourned for six weeks for further consideration.

2. It is stated that the report of the Justice Mukherjee Commission of Inquiry to the disappearance of Subhash Chandra Bose alongwith Memorandum on ATR was sent to the Rajya Sabha Secretariat on 15th May, 2006 (Copy enclosed) and the same was laid on the Table of the Rajya Sabha on 17.05.2006.

3. It is requested that the decision taken in the Parliament accepting or rejecting the ATR may kindly be intimated to the Ministry of Home Affairs, so that, the Hon'ble Court may be informed accordingly.

Amar Chand

(Amar Chand)

Under Secretary to the Govt. of India
Tel: 2461 0466

To,

The Table Office
Rajya Sabha,
Parliament House,
New Delhi.

vide P.B 1/08

*M
STP*

**MOST IMMEDIATE / OUT TODAY /
COURT MATTER**

**No.12014 / 5/ 07-Cdn(Pt).
Government of India
Ministry of Home Affairs
IS Division : Cdn Section**

**9th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi**

Dated , the 18th Aug, 2008

OFFICE MEMORANDUM

**Subject: WP No. 2003 / 2006 - Shri Rudra Jyoti Bhattacharya - Vs. -
Union of India & Ors.**

The undersigned is directed to refer this Ministry's OM of even number dated 7th Aug, 2008 and to say that WP No. 2003 / 2006 - Shri Rudra Jyoti Bhattacharya - Vs. - Union of India & Ors regarding Action Taken Report (ATR) on the report of the Justice Mukherjee Commission of Inquiry was partly heard on 11.07.2008 by Chief Justice and Justice Pinaki Chandra Ghosh, the Hon'ble High Court of Calcutta, and after hearing the Counsel for the parties, the Hon'ble Court passed the order asking to seek the instructions from the Union of India as to whether the A.T.R has been placed before the Parliament and whether any decision has been taken in Parliament accepting or rejecting the ATR and for this purpose the matter has been adjourned for six weeks for further consideration.

2. It is stated that the report of the Justice Mukherjee Commission of Inquiry to the disappearance of Subhash Chandra Bose alongwith Memorandum on ATR was sent to the Rajya Sabha Secretariat on 15th May, 2006 (Copy enclosed) and the same was laid on the Table of the Rajya Sabha on 17.05.2006.

3. It is requested that the decision taken in the Parliament accepting or rejecting the ATR may kindly be expedited, so that, the Hon'ble Court may be informed accordingly.


(Amar Chand)

Under Secretary to the Govt. of India
Tel: 2461 0466

To,

**The Table Office
Rajya Sabha,
Parliament House,
New Delhi.**

P.B. 2/08
NY

(25)



**PARLIAMENT OF INDIA
RAJYA SABHA SECRETARIAT**

Telegram: "PARISHAD"
Tel.: 23035445/23034581
Telefax: 23011328
E-mail: rstable@sansad.nic.in

**PARLIAMENT HOUSE
NEW DELHI**

No.RS.40/2008-T

21st August, 2008

OFFICE MEMORANDUM

Subject: - WP No. 2003/2006 – Shri Rudra Jyoti Bjattacjarya –
Vs. – Union of India & Ors.

The undersigned is directed to refer to the Ministry of Home Affairs O.M. No. 12014/5/07-Cdn (Pt). dated the 18th August, 2008 on the subject cited above and to state that the Report of the Justice Mukherjee Commission of Inquiry into the alleged disappearance of Netaji Subhas Chandra Bose along with the Action Taken Report was laid on the Table of the Rajya Sabha on the 17th May, 2006. Since there was no Motion before the House to accept or reject the said ATR, the Secretariat has no comments to offer in the matter.

*RE put in
A
2/10
So (Cdn)*


(K. SUDHAKARAN)
Deputy Director

To,

Ministry of Home Affairs
(Shri Amar Chand, Under Secretary),
IS Division: Cdn Section,
9th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi

one member).

(4) The appropriate Government shall cause to be laid before each House of Parliament or, as the case may be, the Legislature of the State the report, if any, of the Commission on the inquiry made by the Commission under sub-section (1) together with a Memorandum of the action taken thereon, within a period of six months of the submission of the report by the Commission to the appropriate Government.]

4.

Powers of Commission.

4. Powers of Commission. The Commission shall have the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely

- (a) 2[summoning and enforcing the attendance of any person from any part of India] and examining him on oath;
- (b) requiring the discovery and production of any document
- (c) receiving evidence on affidavits ;
- (d) requisitioning any public record or copy thereof from any court of office;
- (e) issuing commissions for the examination of witnesses or documents ;
- (f) any other matter which may be prescribed.

5.

Additional powers of Commission.

5. Additional powers of Commission. (1) Where the appropriate Government is of opinion that, having regard to the nature of the inquiry to be made and other circumstances of the case, all or any of the provisions of sub-section (2)

1 Ins. by Act 79 of 1971, s.5.

2 Subs. by s. 6, ibid., for certain words.

3 Ins. by Act 36 of 1986, s. 2 (w.e.f. 14-5-1986).

4 Subs. and omitted by Act 19 of 1990, s.2.

By Speed Post

27

No.12014/5/07-Cdn.(Pt.)
Government of India
Ministry of Home Affairs

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi, dt.19.9.08

19 SEP 2008

To

Shri R.N. Das,
Senior Advocate,
C-502, Lake Gardens,
Kolkatta - 700045.

Subject: Writ Petition No.2003/2006 – Rudra Jyoti Bhattacharya - Vs
Union of India & Ors.

Sir,

Please refer to your letter dated 4th August, 2008 on the above mentioned subject. In this connection we have already sent the reply to Shri S.S. Sarker, Addl. Govt. Advocate vide this Ministry's letter of even number dated 2nd September, 2008 (copy enclosed).

Yours faithfully

Amar Chand

(AMAR CHAND)

UNDER SECRETARY TO THE GOVT. OF INDIA.

Tel:24610466

ole

28

Court Matter

Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantrayala

Jaisalmer House, Mansingh Road
New Delhi - 110 011.

10544/28 (100) 08
174

Subjet : W.P. No.2003 of 2006 - Rudra Jyoti Bhattacharjee Vs. UOI.

The enclosed copy of the letter dated 4.8.2008 received from Shri R.N. Das, Sr. Advocate, Calcutta on the subject mentioned above, is the concern of IS Division.

2. They may please take the receipt for further necessary action.

Encl : As above.

Mohinder Singh

(Mohinder Singh)
Director (Judl)
Tel.No.23074185

I.S. Division, MHA
[Shri D. Diptivilasa, Joint Secretary]
North Block,
New Delhi.

MHA I.D. No.23/07/2008(Vol.I)[Dy.No.1093]-Judl. & P.P. dtd 11 Sept, 2008.

6050/DS(2)08
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DS(4)

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1919

do (Cobu)

M. R. N. Das Sr. Advocate

29

☎ : 417-8456 / 422-0575
C-502, LAKE GARDEN
CALCUTTA-700 045

Ref. No. _____

Shree
Pl. directed with me.
A. 20.11.07
Sh. m. / T-m

Date 4/8/2008

To
Under Secretary to the Govt. of India
Ministry of Home Affairs,
Loknaya Bhawan, Khan Market
New Delhi - 110 003.

Sub : In the High Court at Calcutta
W. P. No. 2003 of 2006
Rudra Jyoti Bhattacharjee
- Vs -
Union of India

Dear Sir,

During the course of hearing of the above case on 11.7.08 before Hon'ble Chief Justice Sri Surendra Singh Nijjar and Hon'ble Justice Pinaki Chandra Ghosh, the undersigned was directed to seek instructions from Union of India as to whether the Action Taking Report (ATR) had been placed before the Parliament and also whether any decision has been taken by the Parliament either by accepting or rejecting the ATR and place the information before the Hon'ble Court on the next date of hearing. A xerox copy of the signed copy of the Minutes of the hearing dated 11.7.08, as counter signed by the Assistant Registrar, High Court, Original Side Calcutta, is enclosed herewith.

In this connection para 37 of the Affidavit in Opposition on behalf of Respondent nos. 1, 2 and 3 affirmed on 25.10.07 may be referred to where it has been stated as follows :-

With reference to paragraph 37 of the writ petition, the answering respondent states that as per Section 3(4) of the Commissions of Inquiry Act, 1952, the appropriate Government shall cause to be laid before each House of Parliament, or as the case may be the Legislature of the State, the report, if any, of the Commission of Inquiry made by the Commission under sub-section (1) together with a memorandum of the

Ministry of Home Affairs
New Delhi / New India
25 AUG 2008
क्र. सं. सं. 55817
डा. सं. सं.
Court 10/8/08
29/8/08

Contd. P(2)

Mr. R. N. Das Sr. Advocate

30

☎ : 417-8456 / 422-0575
C-502, LAKE GARDEN
CALCUTTA-700 045

Ref. No. _____

-: 2 :-

Date 4/8/2008

action taken thereon, within a period of six months of the submission of the report by the Commission to the appropriate Government. It is submitted that to the best of the knowledge and belief of the answering respondent, the Government of India duly complied with the requirements of this sub-section of the Act in letter and spirit. "

Kindly obtain written instruction from Ministry of Home Affairs, Government of India, New Delhi as to when the Report of the Commission of Enquiry made by Justice M. K. Mukherjee and the Action Taken Report of the appropriate Government were laid before each House of Parliament and whether any decision has been taken in Parliament, either by accepting or rejecting the ATR and forward the same to me for submitting before the Hon'ble Judges on the next date of hearing. The hearing of the above case has been adjourned for six weeks from 11.7.08. In the event the written instructions are not readily available from the Ministry of Home Affairs, kindly intimate to me before the next date of hearing to seek further adjournment for getting the information required by the Hon'ble Court.

Thanking you,

Yours faithfully,

R N Das
(R. N. Das)

Sr. Special Counsel
for Govt. of India

Copy to

Ministry of Law & Justice, Department of
Legal Affairs, Branch Secretariate,
11, Strand Road, Kolkata - 700001.

WP No. 2003 of 2006

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Original Side

RUDRA JYOTI BHATTACHARJEE & ORS
Versus
UNION OF INDIA

Appellants/Petitioners
Respondent

For Appellants/Petitioners : Mr. Kashi Kanta Maitra, Sr. Advocate with
Mr. Keshab Bhattacharjee and
Mr. Debabrata Kall, Advocates
For Respondent : Mr. R.N.Das, Sr. Advocate

BEFORE:

The Hon'ble CHIEF JUSTICE SURINDER SINGH NIJJAR
AND
The Hon'ble JUSTICE PINAKI CHANDRA GHOSE

Date : 11th July, 2008.

THE COURT : On the request of Mr. Das, Senior counsel appearing for the respondent to seek instructions from Union of India as to whether A.T.R. has been placed before the Parliament and also whether any decision **has** been taken in Parliament, either accepting or rejecting **the** A.T.R., let the matter be adjourned for six weeks for further consideration.

Xerox signed copy of this order **be made** available to the parties upon compliance of usual **formalities**.

xd
Rme
18.7.08

sd/- Surinder Singh NiJJar, C.J.

sd/- P. Pinaki Chandra Ghose, J.

...
Dee la loipo
12.7.08.
Assistant Registrar
High Court, Original Side
Calcutta

By Speed Post

62

No.12014/5/07-Cdn.(Pt.)
Government of India
Ministry of Home Affairs

.....

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi, dt.19.9.08

To

Shri R.N. Das,
Senior Advocate,
C-502, Lake Gardens,
Kolkatta - 700045.

Subject: Writ Petition No.2003/2006 – Rudra Jyoti Bhattacharya - Vs
Union of India & Ors.

Sir,

Please refer to your letter dated 4th August, 2008 on the above mentioned subject. In this connection we have already sent the reply to Shri S.S. Sarker, Addl. Govt. Advocate vide this Ministry's letter of even number dated 2nd September, 2008 (copy enclosed).

Yours faithfully,

(AMAR CHAND)
UNDER SECRETARY TO THE GOVT. OF INDIA.
Tel:24610466

R.I.F.
D.I. issue
M
18/9/08

By Speed Post

BB

No.12014/5/07-Cdn.(Pt.)
Government of India
Ministry of Home Affairs

.....
Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi, dt.2.9.08

To

Shri S.S. Sarker,
ILS,
Addl. Govt. Advocate,
Ministry of Law & Justice,
11, Strand Road,
Kolkatta - 700001.

02 SEP 2008

Subject: Writ Petition No.2003/2006 – Rudra Jyoti Bhattacharya - Vs
Union of India & Ors.

Sir,

Please refer to your letter No.402/Home/06-II/467 dated 21st July, 2008 on the above mentioned subject.

2. In the above context it may be stated that Section 3(4) of the Commission of Inquiry Act states as under:

The appropriate Government shall cause to be laid before each House of Parliament or, as the case may be, the Legislature of the State the report, if any, of the Commission on the inquiry made by the Commission under sub-section (1) together with a Memorandum of the action taken thereon, within a period of six months of the submission of the report by the Commission to the appropriate Government.

3. Accordingly, the report of JMCI was placed before the both Houses of Parliament along with Action Taken Report on 17th May, 2006.

Yours faithfully,

Amr Chd

(AMAR CHAND)

UNDER SECRETARY TO THE GOVT. OF INDIA

BY SPEED POST

Ph.No.2248 6516
FAX No.2248 5215

No.402/Home/06/Lit-II
Govt. of India
Ministry of Law & Justice
Deptt. of Legal Affairs
Branch Sectt., Kolkata

S.S.Sarker
ILS
Addl. Govt. Advocate

11, Strand Rd., Middle Bldg.,
2nd floor, Kolkata-1.

Date: 21.11.08.

To
Secretary,
Govt. of India,
Ministry of Home Affairs,
Lok Nayak Bhawan, 9th floor, 'C' Wing,
Room No.8, New Delhi.

Attn. Shri Amar Chand,
Under Secretary to the Govt. of India

Sub: W.P. No. 2003/06-Shri Rudra Jyoti Bhattacharjee &
Ors.-Vs-Union of India & Ors.

Sir,

The aforesaid matter has been partly heard today and stood over to 28.11.08. By this time it has been made clear before the Court that the report of J.M.C.I. was placed before both the Houses of Parliament along with the Action Taken Report on 17th May, 2006. The Division Bench presided over by the Hon'ble Chief Justice of Calcutta High Court is pressing to apprise the Court of the fate of the A.T.R. i. e. whether it has been accepted or rejected. However, the matter has been adjourned only for one week. As has been impressed, if the instruction as to the fate of A.T.R. is not brought into record, the Division Bench will proceed to hear without such instruction. Hence, you are requested to take the needful action in the light of above as well as the contents of the letter of Md. Nizamuddin, Jr. Counsel dated 21.11.08(copy enclosed).

The matter may be treated as most urgent.

Encl:As above

Yours faithfully,

(S.S.Sarker)

Addl. Govt. Advocate

Copy to: Shri D.R.Meena,
Addl. Secretary to the Govt. of India,
Ministry of Law & Justice, Deptt. of Legal Affairs,
Shastri Bhawan, 4th floor, 'A' Wing, New Delhi.

He is requested to use his good office in doing the needful.

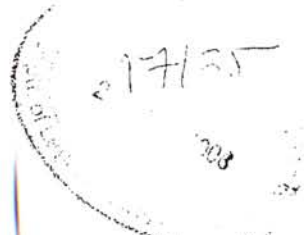
Addl. Govt. Advocate

Md. Nizamuddin,
 Advocate,
 High Court, Calcutta
 Bar Association, Room No.12,
 Ph.2248 3190/3169, FAX: 2248 2313

Residence & Chamber
 15, Marquis Lane,
 Kolkata-700016.
 Phone:22526730
 Mobile: 9831673933
 9432593908

Date: 21.11.08.

To
 Mr. S.S.Sarker,
 Addl. Govt. Advocate,
 Ministry of Law & Justice,
 Deptt. of Legal Affairs,
 Branch Sectt.,
 Kolkata.



Re: File No.402/Home/06/Lit-II
 W.P. No.2003/06-Shri Rudra Jyoti Bhattacharjee & Ors.
 -Vs-Union of India & Ors.

Sir,

The aforesaid matter was partly heard today before the Hon'ble Chief Justice and the Hon'ble Justice Sanjib Banerjee and has been fixed for further hearing on 28.11.08.

Kindly take note that in the aforesaid matter the Hon'ble Court by its earlier Order dated 11.7.08 asked us to seek certain instruction from the Union of India, details of which will appear from the signed copy of the minutes of the said Order and xerox copy of which was sent to you by me for needful action but till date no answer to the specific query raised by the Hon'ble Court in the aforesaid Order has been received by us.

Today, we prayed for further time for such instruction but the Hon'ble Court declined to grant such time and has commenced the hearing of the matter and the matter would be further heard on 28.11.08 without such instruction. In the aforesaid matter I was led by Shri R.N.Das. Senior Advocate.

So, you are requested to take further needful action in the light of the above.

Yours faithfully,

Md. Nizamuddin
 (Md. Nizamuddin)
 Advocate

*Udhar
 P. N. Das*

36

By Speed Post

R & I
Please issue

MOST IMMEDIATE / COURT MATTER
No.12014 / 5/ 07-Cdn(Pt).
Government of India
Ministry of Home Affairs
IS Division : Cdn Section

9th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi
Dated , the 25th Nov, 2008

25 NOV 2008

To,

Shri S S Sarkar, ILS,
Addl. Govt. Advocate,
Ministry of Law and Justice,
11, Strand Road,
Kolkata - 700001.

**Subject: WP No. 2003 / 2006 - Shri Rudra Jyoti Bhattacharya - Vs. -
Union of India & Ors.**

Sir,

The undersigned is directed to refer your L.No. 402/Home/06/Lit-II dated 21.11.2008 on the above mentioned subject and to state that as already informed vide our letter of even number dated 2nd Sept, 2008 that as per Section 3 (4) of the Commission of Inquiry Act, the appropriate Government shall cause to be laid before each House of Parliament or, as the case may be, the Legislature of the State the report, if any, of the Commission on the inquiry made by the Commission under sub Section (1) together with a memorandum of the Action Taken thereon, within a period of six months of the submission of the report by the Commission to the appropriate Government. Accordingly, the report of the JMCI was placed before the both Houses of Parliament alongwith Action Taken Report on 17th May, 2006.

2. With regard to the acceptance or rejection of the ATR by both Houses of Parliament, the matter was taken up with the Rajya Sabha and Lok Sabha Sectt. Rajya Sabha Sectt vide O.M. No. Rs.40/2008-T dated 21st Aug, 2008 (copy enclosed) has informed that since there was no motion before the House to accept or reject the said ATR, the Rajya Sabha has no comments to offer in the matter. Further, Lok Sabha Secretariat vide O.M. No. 23/5/XIV/2008/T dated 4th Aug, 2008 (copy enclosed) has informed that no decision regarding accepting or rejecting the ATR has been taken by the Lok Sabha till date.

Yours faithfully,

Amar Chand
(Amar Chand)

Under Secretary to the Govt. of India
Tel: 2461 0466

Copy to : Shri Mohd. Nizamuddin, Advocate, High Court, Calcutta, Bar Association, Room No.12, [Fax No. 033- 22482313] - for information and further necessary action.

जारी किया
ISSUED
25 NOV 2008
हस्ताक्षर/Intls. &
प्रा. तथा प्रे. R&I/LND

OK

By Speed Post

23

MOST IMMEDIATE / COURT MATTER
No.12014 / 5/ 07-Cdn(Pt).
Government of India
Ministry of Home Affairs
IS Division : Cdn Section

9th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi
Dated , the 25th Nov, 2008

To,

**Shri S S Sarkar, ILS,
Addl. Govt. Advocate,
Ministry of Law and Justice,
11, Strand Road,
Kolkata – 700001.**

**Subject: WP No. 2003 / 2006 - Shri Rudra Jyoti Bhattacharya - Vs. -
Union of India & Ors.**

Sir,

The undersigned is directed to refer your L.No. 402/Home/06/Lit-II dated 21.11.2008 on the above mentioned subject and to state that as already informed vide our letter of even number dated 2nd Sept, 2008 that as per Section 3 (4) of the Commission of Inquiry Act, the appropriate Government shall cause to be laid before each House of Parliament or, as the case may be, the Legislature of the State the report, if any, of the Commission on the inquiry made by the Commission under sub Section (1) together with a memorandum of the Action Taken thereon, within a period of six months of the submission of the report by the Commission to the appropriate Government. Accordingly, the report of the JMCI was placed before the both Houses of Parliament alongwith Action Taken Report on 17th May, 2006.

2. With regard to the acceptance or rejection of the ATR by both Houses of Parliament, the matter was taken up with the Rajya Sabha and Lok Sabha Sectt. Rajya Sabha Sectt vide O.M. No. Rs.40/2008-T dated 21st Aug, 2008 (copy enclosed) has informed that since there was no motion before the House to accept or reject the said ATR, the Rajya Sabha has no comments to offer in the matter. Further, Lok Sabha Secretariat vide O.M. No. 23/5/XIV/2008/T dated 4th Aug, 2008 (copy enclosed) has informed that no decision regarding accepting or rejecting the ATR has been taken by the Lok Sabha till date.

Yours faithfully,


(Amar Chand)

Under Secretary to the Govt. of India
Tel: 2461 0466

✓ Copy to : Shri Mohd. Nizamuddin, Advocate, High Court, Calcutta, Bar Association, Room No.12, [Fax No. 033- 22482313] – for information and further necessary action.

(38)

[Handwritten signature]

LOK SABHA SECRETARIAT

Telegrams : LOKSABHA, NEW DELHI
FAX : 23010756

PARLIAMENT HOUSE ANNEXE
NEW DELHI-110001

F No. 23/5/XIV/2008/T

Dated: 4th August, 2008

OFFICE MEMORANDUM

Subject: WP No. 2003/2006-Shri Rudra Jyoti Bhattacharya-Vs.-Union of India & Ors.

The undersigned is directed to refer to the Ministry of Home Affairs (IS Division) OM No. 12014/5/07-Cdn(Pt). Dated 31st July, 2008 on the above subject and to state that no decision regarding accepting or rejecting the ATR on the Report of the Justice Mukherjee Commission of Inquiry relating to the disappearance of Subhash Chandra Bose has been taken by Lok Sabha till date.

[Handwritten signature]
(Jaya Kumar T.)
Deputy Secretary-II
Ph. No. 23034795

To

The Ministry of Home Affairs,
(IS Div: Cdn Section)
(Shri Amar Chand, Under Secretary)
New Delhi.

Pl. fr. [unclear]

A-70

Sd/ (Cdn)

A39

PARLIAMENT OF INDIA
RAJYA SABHA SECRETARIAT

Telegram: "PARISHAD"
Tel.: 23035445/23034581
Telefax: 23011328
E-mail: rstable@sansad.nic.in

PARLIAMENT HOUSE
NEW DELHI

No.RS.40/2008-T

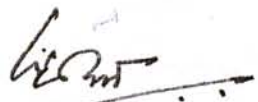
21st August, 2008

OFFICE MEMORANDUM

Subject: - WP No. 2003/2006 – Shri Rudra Jyoti Bjattacjarya –
Vs. – Union of India & Ors.

The undersigned is directed to refer to the Ministry of Home Affairs O.M. No. 12014/5/07-Cdn (Pt). dated the 18th August, 2008 on the subject cited above and to state that the Report of the Justice Mukherjee Commission of Inquiry into the alleged disappearance of Netaji Subhas Chandra Bose along with the Action Taken Report was laid on the Table of the Rajya Sabha on the 17th May, 2006. Since there was no Motion before the House to accept or reject the said ATR, the Secretariat has no comments to offer in the matter.

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sol (car)


(K. SUDHAKARAN)
Deputy Director

To,
Ministry of Home Affairs
(Shri Amar Chand, Under Secretary),
IS Division: Cdn Section,
9th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi

40

28

MOST IMMEDIATE / COURT MATTER

No.12014 / 5/ 07-Cdn(Pt).

Government of India

Ministry of Home Affairs

IS Division : Cdn Section

9th Floor, Lok Nayak Bhawan,

Khan Market, New Delhi

Dated , the 25th Nov, 2008

To,

Shri S S Sarkar, ILS,
Addl. Govt. Advocate,
Ministry of Law and Justice,
11, Strand Road,
Kolkata – 700001.

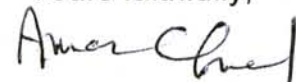
**Subject: WP No. 2003 / 2006 - Shri Rudra Jyoti Bhattacharya - Vs. -
Union of India & Ors.**

Sir,

The undersigned is directed to refer your L.No. 402/Home/06/Lit-II dated 21.11.2008 on the above mentioned subject and to state that as already informed vide our letter of even number dated 2nd Sept, 2008 that as per Section 3 (4) of the Commission of Inquiry Act, the appropriate Government shall cause to be laid before each House of Parliament or, as the case may be, the Legislature of the State the report, if any, of the Commission on the inquiry made by the Commission under sub Section (1) together with a memorandum of the Action Taken thereon, within a period of six months of the submission of the report by the Commission to the appropriate Government. Accordingly, the report of the JMCI was placed before the both Houses of Parliament alongwith Action Taken Report on 17th May, 2006.

2. With regard to the acceptance or rejection of the ATR by both Houses of Parliament, the matter was taken up with the Rajya Sabha and Lok Sabha Sectt. Rajya Sabha Sectt vide O.M. No. Rs.40/2008-T dated 21st Aug, 2008 (copy enclosed) has informed that since there was no motion before the House to accept or reject the said ATR, the Rajya Sabha has no comments to offer in the matter. Further, Lok Sabha Secretariat vide O.M. No. 23/5/XIV/2008/T dated 4th Aug, 2008 (copy enclosed) has informed that no decision regarding accepting or rejecting the ATR has been taken by the Lok Sabha till date.

Yours faithfully,



(Amar Chand)

Under Secretary to the Govt. of India

Tel: 2461 0466

Copy to : Shri Mohd. Nizamuddin, Advocate, High Court, Calcutta, Bar Association, Room No.12, [Fax No. 033- 22482313] – for information and further necessary action.

Faint, illegible text, possibly bleed-through from the reverse side of the page.

033 223 11646
485215

BY SPEED POST

Ph.No.2248 6516
FAX No.2248 5215

No.402/Home/06/Lit-II / 6218
Govt. of India
Ministry of Law & Justice
Deptt. of Legal Affairs
Branch Sectt., Kolkata

S.S.Sarker
ILS
Addl. Govt. Advocate

11, Strand Rd., Middle Bldg.,
2nd floor, Kolkata-1.

Date: 21.11.08.

To
Secretary,
Govt. of India,
Ministry of Home Affairs,
Lok Nayak Bhawan, 9th floor, 'C' Wing,
Room No.8, New Delhi.



Attn. Shri Amar Chand,
Under Secretary to the Govt. of India

Sub: W.P. No. 2003/06-Shri Rudra Jyoti Bhattacharjee &
Ors.-Vs-Union of India & Ors.

Sir,

The aforesaid matter has been partly heard today and stood over to 28.11.08. By this time it has been made clear before the Court that the report of J.M.C.I. was placed before both the Houses of Parliament along with the Action Taken Report on 17th May, 2006. The Division Bench presided over by the Hon'ble Chief Justice of Calcutta High Court is pressing to apprise the Court of the fate of the A.T.R. i. e. whether it has been accepted or rejected. However, the matter has been adjourned only for one week. As has been impressed, if the instruction as to the fate of A.T.R. is not brought into record, the Division Bench will proceed to hear without such instruction. Hence, you are requested to take the needful action in the light of above as well as the contents of the letter of Md. Nizamuddin, Jr. Counsel dated 21.11.08(copy enclosed).

The matter may be treated as most urgent.

Encl:As above

Yours faithfully,

(S.S.Sarker)

Addl. Govt. Advocate

Copy to: Shri D.R.Meena,
Addl. Secretary to the Govt. of India,
Ministry of Law & Justice, Deptt. of Legal Affairs,
Shastri Bhawan, 4th floor, 'A' Wing, New Delhi.

He is requested to use his good office in doing the needful.

Addl. Govt. Advocate

Handwritten initials

Handwritten signature: f. (copy)

42

~~Handwritten mark~~

Md. Nizamuddin,
Advocate,
High Court, Calcutta
Bar Association, Room No.12,
Ph.2248 3190/3169, FAX: 2248 2313

Residence & Chamber
15, Marquis Lane,
Kolkata-700016.
Phone:22526730
Mobile: 9831673933
9432593908

Date: 21.11.08.

To
Mr. S.S.Sarker,
Addl. Govt. Advocate,
Ministry of Law & Justice,
Deptt. of Legal Affairs,
Branch Sectt.,
Kolkata.

217/25
2008
Circular stamp of the Ministry of Law & Justice, Government of West Bengal

Re: File No.402/Home/06/Lit-II
W.P. No.2003/06-Shri Rudra Jyoti Bhattacharjee & Ors.
-Vs-Union of India & Ors

Sir,

The aforesaid matter was partly heard today before the Hon'ble Chief Justice and the Hon'ble Justice Sanjib Banerjee and has been fixed for further hearing on 28.11.08.

Kindly take note that in the aforesaid matter the Hon'ble Court by its earlier Order dated 11.7.08 asked us to seek certain instruction from the Union of India, details of which will appear from the signed copy of the minutes of the said Order and xerox copy of which was sent to you by me for needful action but till date no answer to the specific query raised by the Hon'ble Court in the aforesaid Order has been received by us.

Today, we prayed for further time for such instruction but the Hon'ble Court declined to grant such time and has commenced the hearing of the matter and the matter would be further heard on 28.11.08 without such instruction. In the aforesaid matter I was led by Shri R.N.Das, Senior Advocate.

So, you are requested to take further needful action in the light of the above

Yours faithfully,
~~Md. Nizamuddin~~
(Md. Nizamuddin,
Advocate

Handwritten signature and initials



सत्यमेव जयते

No. 25/4/NGO-XVI

June 11, 2008

To

Shri Amit Arora,
276, Captain Gaur Mall,
Srinivaspuri Depot,
Near Okhla Mandi,
New Delhi-110065.

Subject: Appeal under RTI Act 2005 of Shri Amit Arora.

Sir,

I am directed to refer to Ministry of Home Affairs letter No. 12014/6/08-Cdn dated 9th May 2008 on the subject above. The reply to Point (ii) of your query, which has been referred to Ministry of External Affairs, is as under:

- (ii) No decision has been taken on the question of bringing back the ashes of Netaji Subhash Chander Bose to India.

Yours faithfully,

Sd/-

(Debnath Shaw)
Joint Secretary (CNV)
Tel. 23011357

Copy to Shri S.K. Malhotra, Deputy Secretary/CPIO, Ministry of Home Affairs, IS Division (Cdn.), 9th Floor, Lok Nayak Bhawan, Khan Market, New Delhi-110003.

us (A) 9
19/6/08

20/6/08
Sof C.D.V.

Smt. N.K.
20/6

D. Shaw
(Debnath Shaw)

4648/DSC(2)/08
19/6/08

51/cdm/08
20/6

43

विदेश मंत्रालय, नई दिल्ली
MINISTRY OF EXTERNAL AFFAIRS
NEW DELHI

49

110

142/155 (19/2/07)
212

MOST IMMEDIATE

विदेश मंत्रालय, नई दिल्ली
MINISTRY OF EXTERNAL AFFAIRS
NEW DELHI

Dear Mr. Shri Saxena

L.D. Ralte
Joint Secretary (CNV)
Tel: 2301 1357

D.O. No.25/105/NGO-Pt.

20 February 2007

Dear Shri Saxena,

Please refer your D.O.No.13013/9/06-CDN dated 29 December 2007 on the assurance to USQ 2817 dated 23.08.2006 by Dr. Brun Mukherjee regarding financial assistance to Renkoji Temple, Japan.

2 I am directed to inform that government has not sanctioned for payment to Renkoji Temple. It is possible that some individuals may have been made payments.

With best regards,

Yours sincerely,

(L.D. Ralte)

Shri Vipin Saxena
Joint Secretary (Security)
Ministry of Home Affairs
Lok Nayak Bhawan
New Delhi - 11 00 03

DRL

Sec. (Arms)

Pl pay up properly
re: assurance of assistance file

23/2

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119/155/107
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SS(Cook)
MHA
Ref. to
Sec. Dir.

(L)

20/2/07

20/2/07

119/155/107

119/155/107

119/155/107

45

4

No. 402/Home/06-II/1248
Ministry of Law and Justice
11, Strand Road, Kolkata-1.

Date :- 17.3.09

To
Sri Amar Chand
Under Secretary
Ministry of Home Affairs
IS Divn. CDN Section
9th floor, Lok Nayak Bhawan
Khan Market
N. Delhi.

Sub:- WP No. 2003 of 06
Sri Rudra Jyoti Bhattacharjee
-Vs-
UII & Ors.

Sir,

Please find enclosed herewith a copy of letter dated 16.3.2009 from our panel counsel Md. Nizamuddin, Advocate which will speak for itself.

This is for your information and necessary action.

Encl: As above.

Yours faithfully,

by 17/3/09
(S.K. Dey)
Supdt. L

2/4
do (copy)

MD. NIZAMUDDIN

B. Sc. LL. B

ADVOCATE HIGH COURT, CALCUTTA
BAR ASSOCIATION, ROOM NO. 12

F(46)

3426

Residence & Chamber

15, MARQUIS LANE
KOLKATA - 700016

Phone: 22526730

Mobile: 9831673933

: 9432593908

Date: 16.03.09

To
Mr. S.S. Sarkar
Addl. Govt. Advocate
Ministry of Law & Justice
11, Strand Road
Kolkata - 1

Re: MOL. F. No. 402/Home/2006 -- Lit - II
W. P. No. 20003 of 2006
Rudra Jyoti Bhattacharjee & Ors.
-Vs-
Union of India & Ors.

Dear Sir,

The aforesaid Public interest litigation (PIL) involving the issue of the report of Mukherjee Commission about controversy of the reported dated of Subhas Chandra Bose was partly heard at length on 13.3.09 by the Chief Justice & B. Somadder j and has been fixed for further hearing on 27.3.09.

In the matter I was led by Mr. R. N. Das, Sr. Advocate.

This is for your information and record.

Mohamed Hossain

(2)
16/3/09

Ph.No.22311645
FAX No.22311646

No.402/Home/06-II 16481
Govt. of India
Ministry of Law & Justice
Deptt. of Legal Affairs
Branch Sectt., Kolkata

11, Strand Rd., Middle Bldg.,
2nd floor, Kolkata-1.

Date: 05.12.08.

To
Shri Amar Chand,
Under Secretary to the Govt. of India,
Ministry of Home Affairs,
IS Divn., Cdn. Section,
9th floor, Lok Nayak Bhawan,
Khan Market, New Delhi.

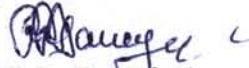
Sub: W.P. No. 2003/06-Shri Rudra Jyoti Bhattacharjee
& Ors.-Vs-Union of India & Ors.

Sir,

Please find enclosed herewith a copy of the letter of Md. Nizamuddin, Counsel dated 2.12.08 in respect of the aforesaid matter which speaks for itself. The development, if any, in respect of the fate of A.T. R. in the Houses of Parliament may please be communicated.

Encl: As above

Yours faithfully,


(P.R. Banerjee)
Asstt. Legal Adviser

Received on 6/11/09

6/11/08
So (Cdn)

MR. NIZAMUDDIN
B. Sc. LL. B
ADVOCATE HIGH, COURT CALCUTTA
BAR ASSOCIATION, ROOM NO. 12

17586

Residence & Chamber
15, MARQUIS LANE
KOLKATA - 700016
Phone : 22526730
Mobile : 9831673933
: 9432593908

Date: 2.12.08

To
Mr. S. S. Sarker
Addl. Govt. Advocate
Ministry of law & Justice
Dept. of Legal Affairs
11, Strand Road Kol. - 1

Re: MOL. F. No. 402/Home/06 - Lit - II
W.P. No. 2003/of 2006
Shri Rudra Jyoti Bhattacharjee & Ors.
-Vs-
Union of India & Ors.

Sir,

The above aforesaid PIL involving the issue of Action Taken Report on the basis of Justice Mukherjee Commission Report; was partly heard on 28.11.08 before Chief & Justice Sanjib Banerjee and in course of hearing I submitted before The Hon'ble Court instruction dated 25.11.08 issued by the Under Secretary to the Govt. of India enclosing the relevant information dated 4.08.08 of the Lok Sabha and the relevant information dated 21.8.08 of the Rajya Sabha which were furnished to me by you, The Hon'ble Court after hearing both sides, have been pleased to fix the matter for further hearing after Christmas Vacation and further passed the order for hearing this matter alongwith other connected Appellate Side matters involving similar issue.

This is for your information and record.

Mohamed Jyoti
Advocate

For Mr. S. S. Sarker
12/12/08

BY SPEED POST

Ph. No.22486516
FAX No.22485215

No.402/Home/2006/Lit-II
Govt. of India
Ministry of Law & Justice
Deptt. of Legal Affairs
Branch Sectt., Kolkata

S.S.Sarker,
ILS
Addl.Govt.Advocate

11, Strand Rd., Middle Bldg.,
2nd floor, Kolkata-1.

Date: 28.01.10.

To
The Hon'ble Secretary
to the Govt. of India,
Ministry of Home Affairs,
IS-II Division: Cdn. Section,
9th floor, Lok Nayak Bhawan,
Khan Market, New Delhi.

Sub: W.P. No. 2003 of 2006-Rudra Jyoti Bhattacharya-
Vs-Union of India & Ors.

Sir,

Please refer to this office letter No.402/Home/2006/Lit-II/1536, 1537, 1538 and
1539 dated 25th August, 2009.

The aforesaid matter was taken up for hearing on 15.01.10, when after hearing the
parties, Their Lordships presided over by Hon'ble Mr. Mohit S. Shah, Chief Justice have
been pleased to direct the respondent, Union of India to file the latest development or
Action Taken Report (ATR) by Lok Sabha on Justice Mukherjee Commission's Report.
The copy of the communication of Md. Nizamuddin, Counsel engaged in the aforesaid
matter dated 18.01.10 is enclosed herewith. The matter has been adjourned to 19.02.10
as '**Specially Fixed Matter**'.

You are requested to pass necessary instruction to the concerned officer for doing
the needful in this regard urgently so that report/information comes to us well in advance.

Yours faithfully,

Encl:As above

(S.S.Sarker)

Addl. Govt. Advocate

Copy to: 1. Shri Amar Chand, Under Secretary to the Govt. of India, Ministry of Home
Affairs, IS Division, Cdn. Section, 9th floor, Lok Nayak Bhawan, Khan
Market, New Delhi for information.

2. Shri R.N.Das, Sr. Advocate and Special Counsel, High Court, Calcutta
for information.

3. Md. Nizamuddin, Advocate, High Court, Calcutta for information and
necessary action.

Addl. Govt. Advocate

Received on 3/2/10
PC put up immediately
Anneel
3/4/10

So (Cdn)

MD. NIZAMUDDIN

B. Sc. LL. B
ADVOCATE HIGH COURT, CALCUTTA
BAR ASSOCIATION, ROOM NO. 12



Residence & Chamber
15, MARQUIS LANE
KOLKATA - 700016
Phone: 22526730
Mobile: 9831673933
: 9432593908

Date: 18.01.10

To
Mr. S.S. Sarkar
Addl. Govt. Advocate
Ministry of Law & Justice
11, Strand Road
Kolkata - 1

Re: MOL. F. No. 402/Home/2008/- Lit - II
W.P. No. 2003 of 2006
Rudra Jyoti Bhattacharya & Ors.
-Vs-
Union of India & Ors.

Dear Sir,

The aforesaid Public Interest Litigation (PIL) involving the issue of the report of Mukherjee Commission about controversy of the death of Subhas Chandra Bose was heard in part at length on 15.01.10 by The Hon'ble Mr. Mohit S. Shah, Chief Justice & The Hon'ble Justice Bhaskar Bhattacharya which was opposed by me on behalf of the Respondents and which has been specially fixed for further hearing on 19.02.10. In course of hearing; defending the Respondents; I filed a copy of the letter dated 25.11.08 which was furnished to me by you and which was written by Sri Amar Chand, Under Secretary Govt. of India informing you about the existing status of the report of the Mukherjee Commission and ATR that the same have been placed before both the Houses of the Parliament but no decision of acceptance or rejection has been taken since there was no Motion before the House in this regard. Their Lordships have been pleased to pass the order giving liberty to the Petitioner to file objection in the form of affidavit against the aforesaid documents filed by me since the petitioner has challenged the veracity of the said documents filed by me and Their Lordships further directed the Respondent/Union of India to file further action/progress till date in detail in writing by competent and responsible authority in this regard on the next date of hearing.

The Hon'ble Court has been pleased to pass the order granting liberty to parties to obtain Photostat copy of the aforesaid order dated 15.1.10 from which detail would appear. You are requested to kindly do the needful for compliance of the aforesaid direction of The Hon'ble Court so that on the next date of hearing information/instruction as has been asked for could be filed in court.

This is for your information, record and urgent needful action.

*Wright
Placefile*

19/1/2010

*2/1/10
22/1/10*

*Neha...
Advocate*

MOST IMMEDIATE / COURT MATTER

No.1 - 12014 / 5/ 2007-Cdn(Pt).

Government of India

Ministry of Home Affairs

IS-II Division : Cdn Section

9th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi

Dated , the 4th Feb, 2010.

To,

Shri Mohd. Nizamuddin,
Advocate, High Court, Calcutta,
Bar Association, Room No.12, [Fax No. 033- 22482313]

And

15, Marquis Lane,
Kolkata – 700016.

4 FEB 2010

**Subject: WP No. 2003 / 2006 - Shri Rudra Jyoti Bhattacharya
& Ors - Vs. - Union of India & Ors.**

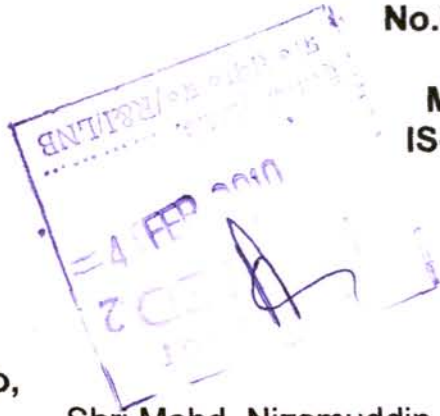
Sir,

I am directed to refer to your letter dated 18.1.2010 received through Additional Government Advocate vide letter No. 402/Home/2006/Lit-II/166 dated 28.1.2010 on the above mentioned subject and to state that Section 3 (4) of the Commission of Inquiry Act states as under :-

“The appropriate Government shall cause to be laid before each House of Parliament or, as the case may be, the legislature of the State the report, if any, of the Commission on the inquiry made by the Commission under sub – section (1) together with a Memorandum of the action taken thereon, within a period of six months of the submission of the report by the Commission to the appropriate Government”.

2. Accordingly, the report of the Justice Mukherjee Commission of Inquiry alongwith with the Action Taken thereon was placed before both the Houses of Parliament on 17th May, 2006 (copy enclosed). As already informed vide our letter dated 25.11.2008 that in such cases the Government is required to lay

R&F
R-issue
ML
4/2/2010



By Speed Post

the report of the Commission on the Table of both the Houses of Parliament, which has already been done.

152

Yours faithfully,

Amar Chand

(Amar Chand)

Under Secretary to the Govt. of India

Tel: 2461 0466

By Speed Post

Copy to : **Shri S S Sarkar, ILS, Addl. Govt. Advocate, Ministry of Law and Justice, Department of Legal Affairs, Branch Sectt, 11, Strand Road, Middle Building, 2nd Floor, Kolkata - 700001.** - for information w.r.t. letter No. 402/Home/2006/Lit-II / 166 dated 28.1.2010.

de



शिवराज पाटील
SHIVRAJ V. PATIL
गृह मंत्री, भारत
HOME MINISTER, INDIA

May 15, 2006

To,

The Hon'ble Speaker,
Lok Sabha,
New Delhi.

15/5/06

Sir,

I give notice of my intention to lay on the Table of Lok Sabha the Report of the Justice Mukherjee Commission of Inquiry into the alleged disappearance of Netaji Subhas Chandra Bose, along with the Action Taken Report and the Statement of reasons for delay in laying the Report, on 17th May, 2006.

Yours sincerely,

o/c

(SHIVRAJ V. PATIL)

Copy to: 1) Secretary General,
Lok Sabha,
New Delhi.

15/5/06
at 6.30 P.M.

2) Table Office, Lok Sabha,
New Delhi.

3) M/o Parliamentary Affairs

4) Parliament Section, MHA, North Block

By

50
AUTHENTICATED
Shivraj V. Patil
SHIVRAJ V. PATIL
HOME MINISTER

**MEMORANDUM OF ACTION TAKEN ON THE REPORT
OF THE JUSTICE MUKHERJEE COMMISSION OF INQUIRY REGARDING
THE ALLEGED DISAPPEARANCE OF
NETAJI SUBHAS CHANDRA BOSE**

By Government of India Notification No. S.O. 339(E) dated 14th May, 1999, Shri M.K. Mukherjee, retired Judge of the Supreme Court of India, was appointed under the Commissions of Inquiry Act, 1952, to inquire into all the facts and circumstances related to the disappearance of Netaji Subhas Chandra Bose in 1945 and subsequent developments connected therewith including –

- (a) whether Netaji Subhas Chandra Bose is dead or alive;
- (b) if he is dead, whether he died in the plane crash, as alleged;
- (c) whether the ashes in the Japanese temple are ashes of Netaji;
- (d) whether he has died in any other manner at any other place and, if so, when and how;
- (e) if he is alive, in respect of his whereabouts.

2. The Government have examined the Report submitted by the Commission on 8th November, 2005 in detail and have not agreed with the findings that -

- (a) Netaji did not die in the plane crash; and
- (b) the ashes in the Renkoji Temple were not of Netaji.

3. This Report is placed before the Houses as required under sub-section (4) of Section 3 of the Commissions of Inquiry Act, 1952.

55

AUTHENTICATED
Shivraj V. Patel
SHIVRAJ V. PATEL
HOME MINISTER

STATEMENT OF REASONS FOR DELAY IN TABLING THE REPORT OF THE
JUSTICE MUKHERJEE COMMISSION OF INQUIRY INTO THE ALLEGED
DISAPPEARANCE OF NETAJI SUBHAS CHANDRA BOSE.

The Justice Mukherjee Commission of Inquiry was set up by the Government of India on 14th May, 1999 under the Commissions of Inquiry Act, 1952, to inquire into the alleged disappearance of Netaji Subhas Chandra Bose.

The Commission submitted its on report on 8th November, 2005. As per the provision of Sub-section 4 of Section 3 of the Commissions of Inquiry Act, 1952, the Report submitted by the Commission is to be Tabled before each House of Parliament within a period of six months of the submission of the report by the Commission i.e. before 7th May, 2006..

The incidental delay has been occasioned by time taken in translation, printing, consideration of the report by the Government, its approval by the Cabinet and the adjournment of Parliament on 22nd March, 2006

56

No.12014/5/07-Cdn.(Pt.)
Government of India
Ministry of Home Affairs
IS-II Division

.....

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi, dt.4.2.2010

OFFICE MEMORANDUM

**Subject: Writ Petition No.2003/2006 – Rudra Jyoti Bhattacharya - Vs
Union of India & Ors.**

The undersigned is directed to refer to Lok Sabha Secretariat O.M.No.23/5/XIV/2008/T dated 4th August, 2008 (copy enclosed for ready reference) on the subject mentioned above and to state that the case was heard by the Hon'ble Chief Justice of Calcutta High Court on 15th January 2010. The Hon'ble court has directed the Union of India to file the further action/progress till date in detail. The next date of hearing ~~was~~ fixed for 19th February 2010.

Lok Sabha Secretariat is requested to intimate the latest position regarding accepting or rejecting the ATR on the Report of the Justice Mukherjee Commission of Inquiry relating to the disappearance of Netaji Subhash Chandra Bose immediately so that the Hon'ble Court could be informed accordingly.

Amar Chand

(AMAR CHAND)

UNDER SECRETARY TO THE GOVT. OF INDIA.

Tel:24610466

To

Shri Jaya Kumar T.,
Deputy Secretary-II,
Lok Sabha Secretariat,
Parliament House Annexe,
New Delhi-110001.

issued vide

P.B.10/08

NR
4/2/2010

57

[Handwritten scribbles]

LOK SABHA SECRETARIAT

Telegrams : LOKSABHA, NEW DELHI
FAX : 23010756

PARLIAMENT HOUSE ANNEXE
NEW DELHI-110001

F No. 23/5/XIV/2008/T

Dated: 4th August, 2008

OFFICE MEMORANDUM

Subject: WP No. 2003/2006-Shri Rudra Jyoti Bhattacharya-Vs.-Union of India & Ors.

The undersigned is directed to refer to the Ministry of Home Affairs (IS Division) OM No. 12014/5/07-Cdn(Pt). Dated 31st July, 2008 on the above subject and to state that no decision regarding accepting or rejecting the ATR on the Report of the Justice Mukherjee Commission of Inquiry relating to the disappearance of Subhash Chandra Bose has been taken by Lok Sabha till date.

[Handwritten signature]

(Jaya Kumar T.)
Deputy Secretary-II
Ph. No. 23034795

To

The Ministry of Home Affairs,
(IS Div: Cdn Section)
(Shri Amar Chand, Under Secretary)
New Delhi.

Pl. put up

A-10
Sd/ (Cdn)

23035463

F No. 23/5/XIV/2008/T

Dated: 12th February, 2010

OFFICE MEMORANDUM

Subject: WP No. 2003/2006-Shri Rudra Jyoti Bhattacharya-Vs.-Union of India & others.

The undersigned is directed to refer to the Ministry of Home Affairs (IS Division) OM No. 12014/5/07-Cdn(Pt) dated 4th February, 2010, on the above subject and to state that there is no general statutory provision which makes it obligatory on Parliament to accept or reject any Action Taken Report (ATR), placed by the Government before the Houses. However, Members of Lok Sabha may Table notices of motions/resolutions accepting or rejecting the Action Taken Report (ATR). Whenever a motion or a resolution is adopted by the House, copy of the same is forwarded to the Minister concerned.

2. In the instant case, no notice of a motion/resolution for accepting or rejecting the ATR has been received.

3. However, Justice Mukherjee Commission of Inquiry relating to the disappearance of Netaji Subhash Chandra Bose alongwith the Action Taken Report (ATR) thereon was discussed under Rule 193 of Rules of Procedure and Conduct of Business in Lok Sabha on 2, 3 and 7 August, 2006 and the discussion was replied to by the Minister of Home Affairs. Under Rule 193, there is no formal motion before the House and with the reply of the Minister the discussion comes to close.

Sr 12/2/10
(S. K. GANGULI)
Under Secretary
Tel. No. 23034795

To

The Ministry of Home Affairs,
(IS Div. Cdn Section)
(Shri Amar Chand, Under Secretary)
Room No. 8, 'C' Wing, 9th Floor,
Lok Nayak Bhavan,
New Delhi.

Pl. sent etc immediately,

15/2

Sd (Cdn)

R&I Sec.

A. Issue the Dkt Copies through Speed Post Immediately.

(59)

**BY SPEED POST
OUT TODAY**

जारी किया
ISSUED
16 FEB 2010
हिस्तागत/Intls.
प्रति सथा. प्र./R&I/LNB

No.I/ 12014/5/2007-Cdn.
Ministry of Home Affairs
Internal Security Division-II

9th Floor, 'C' Wing,
Lok Nayak Bhawan,
New Delhi, the 16th February, 2010

16/02/10

Shri Mohd. Nizammudin,
Advocate, High Court, Kolkata,
Bar Association, Room No. 12, (Fax No. 033-22482313)
15, Marquis Lane,
Kolkata-700016.

16 FEB 2010

**Subject: WP No. 2003/2006 – Shri Rudra Jyoti
Bhattacharya & Ors-Vs. –Union of India & Ors.**

Sir,

In continuation of this Ministry's letter of even number dated 4th February, 2010, I am directed to inform that Lok Sabha Secretariate vide letter dated 12.2.2010 (copy enclosed) has since informed that there is no general statutory provision which makes it obligatory on the part of the Parliament to accept or reject any Action Taken Report (ATR), placed by the Government before the Houses. However, Members of Lok Sabha may Table notices of motions / resolutions accepting or rejecting the Action Taken Report(ATR).

It has further been informed by Lok Sabha Secretariate that no notice of a motion / resolution for accepting or rejecting the ATR has been received in the above case. However, the report of Justice Mukherjee Commission of Inquiry relating to the disappearance of Netaji Subhash Chandra Bose alongwith the Action Taken Report (ATR) thereon was discussed under Rule 193 of Rules of Procedure and Conduct of Business in Lok Sabha on 2,3, and 7th August, 2006 and the discussion was replied to by the Minister of Home Affairs. Under Rule 193, there is no formal motion before the House and with the reply of the Minister the discussion comes to a close.

Issued

ajc

Yours faithfully,

(Signature)

(AMAR CHAND)

Under Secretary to the Govt. of India

Tel: 24610466

Encl. as above

16/02

(60) Speed Post
By Fax 56

MOST IMMEDIATE / COURT MATTER

**No.1 - 12014 / 5/ 2007-Cdn(Pt).
Government of India
Ministry of Home Affairs
IS-II Division : Cdn Section**

**9th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi**

Dated , the 26th Feb, 2010.

To,

**Shri S S Sarkar,
ILS, Addl. Govt. Advocate,
Ministry of Law and Justice,
Department of Legal Affairs,
Branch Sectt, 11, Strand Road,
Middle Building, 2nd Floor, Kolkata – 700001.**

**Subject: WP No. 2003 / 2006 - Shri Rudra Jyoti Bhattacharya
& Ors - Vs. - Union of India & Ors.**

Sir,

I am directed to refer to your letter No. 402/Home/2006/Lit-II/166 dated 28.1.2010 on the above mentioned subject and to request that outcome of the hearing held on 19.2.2010 in the case may kindly be intimated so that further action, if any, could be taken.

Yours faithfully,

Amar Chand

(Amar Chand)

Under Secretary to the Govt. of India

Tel: 2461 0466

(617)

MOST IMMEDIATE / COURT MATTER

No.I - 12014 / 5/ 2007-Cdn(Pt).
Government of India
Ministry of Home Affairs
IS-II Division : Cdn Section

9th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi

Dated , the 5th March, 2010.

To

Shri Mohd. Nizamuddin,
Advocate, High Court, Calcutta,
Bar Association, Room No.12, [Fax No. 033- 22482313]
And
15, Marquis Lane,
Kolkata – 700016.

**Subject: WP No. 2003 / 2006 - Shri Rudra Jyoti Bhattacharya
& Ors - Vs. - Union of India & Ors.**

Sir,

I am directed to refer to this Ministry's letter of even number dated 16th February, and the subsequent telephonic discussions on the above mentioned subject and to enclose a draft Affidavit for vetting.

Yours faithfully,

Amar Chand

(Amar Chand)

Under Secretary to the Govt. of India

Tel: 2461 0466

05 MAR 2010

Copy to : Shri S S Sarkar, ILS, Addl. Govt. Advocate, Ministry of Law and Justice, Department of Legal Affairs, Branch Sectt, 11, Strand Road, Middle Building, 2nd Floor, Kolkata – 700001 for similar necessary action.

W.P. No. 2003 of 2006

IN THE HIGH COURT OF CALCUTTA

In the matter of :

An application under Article 226 of the Constitution of India

- And -

In the matter of:

Shri Rudrajyoti Bhattacharjee & ors.

... Petitioners

... versus ...

Union of India and others

... Respondents

**AFFIDAVIT-IN-OPPOSITION ON BEHALF OF THE
RESPONDENT**

I, _____ son of Shri _____ aged _____ by
occupation service, residing at _____ hereby solemnly affirm and
say as follows:

I am the _____ in the Government of India, Ministry of
Home Affairs, and I am duly authorized and competent to affirm this
affidavit on behalf of the respondents.

With regard to the observations of the Hon'ble Court as to whether
Action Taken Report has been accepted or rejected by the Parliament it

(69)

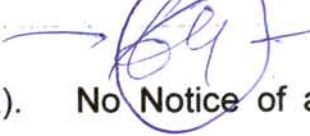
is stated that Section 3(4) of the Commission of Inquiry Act states as under:

“The appropriate Government shall cause to be laid before each House of Parliament or, as the case may be, the legislature of the State the report, if any, of the Commission on the inquiry made by the Commission under sub – section (1) together with a Memorandum of the action taken thereon, within a period of six months of the submission of the report by the Commission to the appropriate Government”.

Accordingly, the report of the Justice Mukherjee Commission of Inquiry alongwith with the Action Taken thereon was placed before both the Houses of Parliament on 17th May, 2006.

Rajya Sabha Secretariat has informed that there was no motion before the House to accept or reject the said ATR.

Lok Sabha Secretariat has also informed that there is no general statutory provision which makes it obligatory on the part of the Parliament to accept or reject any Action Taken Report (ATR) placed by the Government before the Houses. However, Members of Lok Sabha may Table Notices of motions / resolutions accepting or rejecting the

→ 

Action Taken Report (ATR). No Notice of a motion / resolution for accepting or rejecting the ATR has been received by the Lok Sabha Secretariat. However, the report of Justice Mukherjee Commission of Inquiry relating to the disappearance of Netaji Subhash Chandra Bose alongwith the action Taken Report (ATR) thereon was discussed under Rule 193 of Rules of Procedure and Conduct of Business in Lok Sabha on 2nd, 3rd and 7th Aug, 2006 and the discussion was replied to by the Minister of Home Affairs. Under Rule 193, there is no formal motion before the House and with the reply of the Minister the discussion comes to a close.

The statements made above are derived from records which I verily believe to be true and are submitted before the Hon'ble Court.

Solemnly affirmed bymjn the said,

Name.....

On this 4th day of March, 2010.

Before me

SPFED POST
Speed Post

Ph. No.22486516
FAX No.22485215

No.402/Home/2006/Lit-II/812
Govt. of India
Ministry of Law & Justice
Deptt. of Legal Affairs
Branch Sectt., Kolkata

S.S.Sarker,
ILS
Addl.Govt.Advocate

11, Strand Rd., Middle Bldg.,
2nd floor, Kolkata-1.

Date: 01.03.10.

To
Shri Amar Chand,
Under Secretary to the Govt. of India,
Ministry of Home Affairs, IS Division,
Cdn. Section, 9th floor,
Lok Nayak Bhawan,
Khan Market, New Delhi-3

Sub: W.P. No. 2003 of 2006-Rudra Jyoti Bhattacharya-
Vs-Union of India & Ors.

Sir,

This has reference to your letter No.I-12014/5/2007-Cdn(Pt) dated 26th February, 2010 sent by FAX.

The matter was last heard on 19.02.10 by the Division Bench presided over by Hon'ble Chief Justice. It has been directed by the Division Bench to file an Affidavit stating the contents of instructions in letter No. 12014/5/2007-Cdn dated 16th February, 2010 directly sent to Md. Nizamuddin, Advocate. Incidentally, it is stated that the undersigned has not received any such instruction from your office. Since, the matter pertains to Original Side, all instructions to the Counsel are required to be conveyed by the Advocate-on-record and the Counsel is also supposed to act on the basis of instruction from the Advocate-on-record. However, since Affidavit is to be filed and served on the other side well in advance of 09.04.10, please inform urgently whether the said instruction dated 16.02.10 can solely be considered for preparation of Affidavit or anything else. On receiving instruction from your end, the Counsel will be instructed to transform the instruction into Affidavit with additional instruction, if any. It is also learnt from the communication of Md. Nizamuddin, Advocate that a Supplementary Affidavit

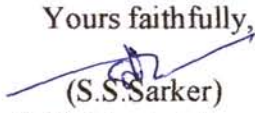


-:2:-

has been filed by the petitioner challenging your earlier instruction dated 25.11.08. The copy of the said Affidavit is sent herewith . Liberty has been given to file Affidavit-in-opposition of the Supplementary Affidavit.

Please send your parawise comments and instruction on the Supplementary Affidavit immediately for doing the needful at this end.

Encl:As above

Yours faithfully,

(S.S.Sarker)
Addl. Govt. Advocate

Copy to: 1.The Secretary to the Govt. of India, Ministry of Home Affairs,
IS-II Division: Cdn Section, 9th floor, Lok Nayak Bhawan,
Khan Market, New Delhi for information.

2. Md. Nizamuddin, Advocate, High Court, Calcutta for information and necessary action.

Encl: Supplementary
Affidavit

Addl. Govt. Advocate

MD. NIZAMUDDIN

B. Sc. LL. B

ADVOCATE HIGH COURT, CALCUTTA
BAR ASSOCIATION, ROOM NO. 12

(Handwritten signature)

Residence & Chamber

15, MARQUIS LANE

KOLKATA - 700016

Phone: 22526730

Mobile: 9831673933

: 9038535952

Date: 22.02.10

To
Mr. S.S. Sarkar
Addl. Govt. Advocate
Ministry of Law & Justice
11, Strand Road
Kolkata - 1



Re: MOL. F. No. 402/Home/2009/- Lit - II
W.P. No. 2003 of 2006
Rudra Jyoti Bhattacharya & Ors.
-Vs-
Union of India & Ors.

Dear Sir,

The aforesaid Public Interest Litigation (PIL) involving the issue of the report of Mukherjee Commission about controversy of the death of Subhas Chandra Bose which was partly heard at length on 15.01.10 by The Hon'ble Mr. Mohit S. Shah, Chief Justice & The Hon'ble Justice Bhaskar Bhattacharya and order was passed upon the Union of India/Respondent to file the report about the development/progress/present status with regard to the report of the said commission and the matter was fixed for further hearing on 19.02.10; was accordingly further heard on 19.02.10 by The Hon'ble Chief Justice and The Hon'ble Justice Pinaki Chandra Ghosh and in course of hearing I filed the instruction dated 16.02.10 being NO.1/12014/5/2007-Cdn. Issued by SRI Amar Chand Under Secretary to the Govt. of India, Ministry of Home Affairs, and Their Lordships on perusal of the same; I have been pleased to direct the authority who has issued the aforesaid instruction to file the same by way of affidavit and serve the copy of the said affidavit on the petitioners before 09.04.10 and specially fixed the matter for the further hearing on 09.04.10.

Kindly take further note that in course of hearing; the Petitioners have filed in court an affidavit challenging the earlier instruction dated 25.11.08 issued by the aforesaid authority and served a copy the said affidavit upon me in court to which The Hon'ble Court has directed the authority to file affidavit in opposition to the said affidavit within the next date of hearing and serve copy upon the petitioners before filing the same. Copy of the aforesaid affidavit is enclosed herewith for your official record and needful action to comply the aforesaid order/direction of The Hon'ble Court. You are requested to kindly return the copy of the aforesaid affidavit to me after getting the Xerox of the same for my record at the earliest.

You are requested to kindly do the needful for compliance of the aforesaid direction of The Hon'ble Court.

This is for your information, record and urgent needful action.

Encl: Copy of the affidavit as stated above

(Handwritten signature)
Advocate

(68)

Received in court in course of hearing
Advocate
19/2/10

W.P. No. 2003 of 2006

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

ORIGINAL SIDE

In the matter of:

An application under Article 226

of the Constitution of India;

And

In the matter of:

A writ of and/or order or direction in the nature of

Mandamus, Certiorari and Prohibition;

And

In the matter of:

Judgement and Order dated April 30, 1998 passed by

the Division Bench Consisting of the Hon'ble


Prabha Shankar Mishra, the Chief Justice (as His

Lordship then was) and the Hon'ble justice Bhaskar

Bhattacharya in W.P. 281 of 1998;

And

2



In the matter of:-

Non-Compliance of the directions passed by their
Lordships in the W.P. No. 281 of 1998;

And

In the Matter of:

Notification being No. S.O. 339(E) dated 14th May
1999 issued under the signature of Special Secretary
(ISP), Ministry of Home Affairs, Government of
India whereby a commission of Inquiry was
appointed for the purpose of making an independent
inquiry into the disappearance of Netaji Subhas
Chandra Bose in 1945;

And

In the Matter of:

Commission of Inquiry Act, 1952;

And



In the Matter of:

Memorandum of Action Taken on the Report of the
Justice Mukherjee Commission of Inquiry;

And

In the matter of:

1. Shri Rudra Jyoti Bhattacharjee Advocate, son of
Shri Santosh Kumar Bhattacharjee, Bar Association,
Room No. 2, High Court Calcutta;
2. Sri Surajit Dasgupta, son of Late Jatindra Mohan
Dasgupta, by occupation business, resident of 25/1,
Guruprasad Chowdhury Lane, P.S. Amherst Street,
Kolkata-700 006
3. Sri Nandalal Chakraborty, by occupation, Head of
the Department of Political Science, Presidency
College, resident of 559/1, Dakshin Dari Road, P.S.
lake Town, Kolkata-700 048

4. Dr. Madhusudan Pal, by occupation Assistant
Professor, Calcutta Medical College Hospital,
resident of A/5/2, Sharabani Abashan, Salt Lake, Sec-
III, Kolkata-700 009.

5. Sri Tarun Kumar Mukherjee son of Late
Gobindalal Mukherjee, resident of 2/1, Brindaban
Mullick 1st Lane, P.S.- Amherst Street, Kolkata- 700
009.

6. Shri Jagatjit Dasgupta son of Late Jatindra Mohan
Dasgupta, resident of 25/1 Guruprosad Chowdhury
Lane, P.S.- Amherst Street, Kolkata-700 006.

7. Sri Kusal Sankar Chowdhury son of Chowdhury,
resident of 32 B, Justice Manmatha Mukherjee Row,
P.S. -Amherst Street, Kolkata-700 009.



8. Shri Siddheswar Bhattacharjee, resident of

Hatepara " Matri Bhavan", P.O. Krishnnagar, Pin

Code- 741 104, District- Nadia

9. Shri Sunil Krishna Gupta, resident of 38,

Vidyasagar Street, P.S.-Amherst Street, Kolkata-

700 009

.....
...PETITIONERS

VERSUS

1. Union of India service through the Principal

Secretary to the Prime Minister's Office, South

Block, New Delhi.

2. The Secretary, Ministry of Home Affairs,

Government of India, North Block, New Delhi.

3. The Special Secretary, Ministry of Home

Affairs, Government of India, North Block, New

Delhi.

6

4. 7Shri Manoj Kumar Mukherjee (retired judge
of Supreme Court of India), the Chairman of
Justice Mukherjee Commission of Inquiry,
resident of GD/359, Sector-III, Salt Lake,
Kolkata-700 106

RESPONDENTS

SUPPLEMENTARY AFFIDAVIT
on behalf of the Petitioner

I, Surojit Dasgupta , Son of Jatindra Mohan Dasgupt aged about 51 years, by occupation
Business, resident of--25/1, Guruprasad Chowdhury Lane, P.S. Amherst Street, Kolkata-
700006 do hereby solemnly affirmed and state as follows;

1. I am the petitioner No. 2 and am well acquainted with the facts and circumstances of
the case and also I have been duly authorized by all other petitioners to affirm this and as
such competent to affirm affidavit this affidavit.

A 74

2. That the Ld. Counsel for the respondents have placed before this Hon'ble court two office Memorandum one bearing number R.S.40/2008-T dated 21st August,2008 issued under the signature of the Deputy Director, Rajya Sabha Secretariat, another office Memorandum bearing No. 23/5/XIV/2008/T dated 4th August,2008 issued under the signature of the Deputy Secretary-II of Lok Sabha Secretariat, whereby and where under both the houses communicated that no decision has been taken, but it appears from the said office Memorandum that Action Taken Report was laid on the table of both the houses. It would be relevant to mention here that neither houses of the parliament shall take any decision on the Action Taken Report, but to discuss on the subject matter.

Copy of the office Memorandum dated 4-8-2008 and 21-8-2008 are annexed hereto and collectively marked as Annexure "P/ 15 "

3. The petitioner assert that the Ministry of Home Affairs, Government of India has placed its Action Taken Report on 17-5-2006 in both the houses of parliament in compliance to the provision of Sec.3(4). The statute requires the Government to place the Action Taken Report before both the Houses. But the statute does not require the decision of the Rajya Sabha or the Lok Sabha, The member of both the houses of the Parliament may discuss on the subject. matter by way of motion and/or notices in terms of the

business of parliament. The petitioners are not concerned with such business and/or

discussions/debate of both the houses of the parliament.

4. The Commission of Inquiry under question was appointed by the Government of India, Ministry of Home Affairs, not by the parliament. The Chairman of the Commission of Inquiry submitted its report before the Ministry of Home Affairs, Government of India and the said Ministry has tabled before both the Houses of the Parliament its Action Taken Report in compliance with the provisions as laid down under Section 3(4) of the Commission of Inquiry Act.

The petitioners have challenged the Action Taken Report issued by the Ministry of Home Affairs, Government of India before this Hon'ble court.

5. Petitioners assert that there was debate and discussions at length by the members of both the houses of Parliament, that is, in Rajya Sabha there was a debate on 24-8-2006 and in Lok Sabha on 2nd and 3rd August.2006 .but the letters of both the Secretariat are silent about such discussions, although the statute requires the Government to table the Action Taken Report before the houses of parliament. Petitioners have collected printed version of debate in Rajya Sabha from the Web site of the parliament..

A 26

Copy of the printed version of debate of Rajya Sabha held on 24-8-2006 are annexed

hereto marked as and collectively Annexure-'P/16'

6. Petitioners assert that the Action Taken Report was tabled in the Lok Sabha and short duration discussion notices under Rule 193 of the Lok Sabha were given by fifteen (15) members of the Lok Sabha, namely Shri Probodh Sinha, Basudeb Acharya, Sri B.

Mohtab, Sri Brojo Kishor Tripathi, Sri Rupchand Pal, Sri Ajoy Chakraborty, Professor

Malhotra, and Sri Subrata Bose addressed on the subject on the floor of the Lok Sabha on

2nd and 3rd August, 2006. Thereafter the speaker of the Lok Sabha asked the Hon'ble

Minister of Home Affairs to Reply on the debate, as the Action Taken Report

was laid on the table of both the houses of the parliament by the Ministry of Home Affairs,

Government of India, which is the usual course of business of the Lok Sabha.

The Hon'ble Minister of Home Affairs Shri Sivraj Patil concluded the debate by addressing

his reply on debate in justification of the Action Taken Report. So, it can not be said that

"since there was no motion to accept or reject the said ATR, the secretariat has no

comments to offer in the matter", as stated by the Deputy Director, Rajya Sabha

Secretariat by the letter dated 21-8-2008.

The Deputy Secretary-II of Lok Sabha Secretariat by its letter dated 4-8-2008 has misled

this Hon'ble Court by mentioning **"....no decision regarding accepting or rejecting the**

ATR on Report of Justice Mukherjee Commission of Inquiry relating to the

disappearance of Subhas Chandra Bose has been taken by Lok Sabha till date”.

7. Petitioners submit that acceptance or rejection of the Report of Commission is the part of the government of India, Ministry of Home Affairs, which has to be supported by the Hon'ble Minister of the Home Affairs of the government of India, as the Action Taken Report has been submitted and/or laid on the table of both the houses of parliament is under the signature of the said Hon'ble Home Minister Sivraj Patil.

In this context, the Parliament has no business to take decision on Action Taken Report.

8. The Justice Mukherjee Commission of Inquiry was appointed by the Ministry of Home Affairs, Govt. of India under the direction of the Hon'ble Division Bench of Calcutta High Court whereby their Lordships laid down the terms of reference. The Govt. of India issued the notification in full consonance and accord with the historic statement made by the then Prime Minister Morarji Desai and also the Govt. of India while issuing notification appointing Justice Mukherjee Commission of Inquiry in terms of the direction of the Hon'ble Division Bench of High Court Calcutta by accepting such terms as valid.

78

Now the respondent authority by issuing the impugned Action Taken Report blowing hot & cold at the breath. A public authority's action or declaration has a public effect and Govt. of India, Ministry of Home Affairs having made a solemn public declaration in that regard can not be permitted to take U-turn from it's earlier declaration.

That statement made in paragraphs 1 to 6 are true to my knowledge on the basis of information's derived from the records and those made in paragraphs 7 & 8 are my humble submissions before this Hon'ble Court.

Solemnly affirmed by the said
Surojit Dasgupta in the Court
House at Calcutta on this
Day of February, 2010.

Before me,

COMMISSIONER

79

ANNEXURE-4/15

LOK SABHA SECRETARIAT

Telegrams : LOKSABHA, NEW DELHI
FAX : 23010756

PARLIAMENT HOUSE ANNEXE
NEW DELHI-110001

F No. 23/5/XIV/2008/T

Dated: 4th August, 2008

OFFICE MEMORANDUM

Subject: WP No. 2003/2006-Shri Rudra Jyoti Bhattacharya-Vs.-Union of India & Ors.

The undersigned is directed to refer to the Ministry of Home Affairs (IS Division) OM No. 12014/5/07-Cdn(Pt). Dated 31st July, 2008 on the above subject and to state that no decision regarding accepting or rejecting the ATR on the Report of the Justice Mukherjee Commission of Inquiry relating to the disappearance of Subhash Chandra Bose has been taken by Lok Sabha till date

Jaya Kumar T.

(Jaya Kumar T.)
Deputy Secretary-II
Ph. No. 23034795

To

The Ministry of Home Affairs,
(IS Div: Cdn Section)
(Shri Amar Chand, Under Secretary)
New Delhi.

02 part up

710

Sd/- (Cdn)

(80)

P/15
E-1

PARLIAMENT OF INDIA
RAJYA SABHA SECRETARIAT

Telegram: "PARISHAD"
Tel.: 23035445/23034581
Telefax: 23011328
E-mail: rstable@sansad.nic.in

PARLIAMENT HOUSE
NEW DELHI

No. RS. 40/2008-T

21st August, 2008OFFICE MEMORANDUM

Subject: - WP No. 2003/2006 – Shri Rudra Jyoti Bjattajarya –
Vs. – Union of India & Ors.

The undersigned is directed to refer to the Ministry of Home Affairs O.M. No. 12874/5/07-Cdn (Pt). dated the 18th August, 2008 on the subject cited above and to state that the Report of the Justice Mukherjee Commission of Inquiry into the alleged disappearance of Netaji Subhas Chandra Bose along with the Action Taken Report was laid on the Table of the Rajya Sabha on the 17th May, 2006. Since there was no Motion before the House to accept or reject the said ATR, the Secretariat has no comments to offer in the matter.

AK
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AK
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So (Cay)

K. Subhakaran
(K. SUBHAKARAN)
Deputy Director

To, Ministry of Home Affairs
(Shri Amar Chand, Under Secretary),
IS Division: Cdn Section,
9th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi

*11-03 a.m.

1. Starred Questions

The following Starred Questions were orally answered:-

Starred Question No.401 regarding **Immigration Reform Bill discussion in US Congress.**

Starred Question No.402 regarding **Competitive edge to post office.**

Starred Question No.403 regarding **Promotion of sports and sportsmen.**

Starred Question No.405 regarding **Availability of telephone equipments.**

Starred Question No.406 regarding **Quality of MTNL and BSNL mobile services.**

Answers to remaining Starred Question Nos. 404 and 407 to 420 were laid on the Table.

2. Unstarred Questions

Answers to Unstarred Question Nos. 2879 to 3033 were laid on the Table.

12:00 Noon.

3. Papers Laid on the Table

Shri S. Jaipal Reddy (Minister of Urban Development) laid on the Table a copy each (in English and Hindi) of the following papers under sub-section (4) of section 25 of the Delhi Development Act, 1957:—

- | | | | |
|------|-----|--|-----|
| (i) | (a) | Annual Accounts of the Delhi Development Authority (DDA),
Delhi, for the year 2001-2002 and the Audit Report thereon. | New |
| | (b) | Statement giving reasons for the delay in laying the papers mentioned
at (a) above. | |
| (ii) | (a) | Annual Accounts of the Delhi Development Authority (DDA),
Delhi, for the year 2002-2003 and the Audit Report thereon. | New |

*

From 11.00 a.m. to 11.03 a.m. some points were raised.

RAJYA SABHA

- (b) Statement giving reasons for the delay in laying the papers mentioned at (a) above.

Shri T.R. Baalu (Minister of Shipping, Road Transport & Highways) laid on the Table a copy each (in English and Hindi) of the following Notifications of the Ministry of Shipping, Road Transport and Highways (Department of Shipping)—

(i) G.S.R. 454 (E) dated the 1st August, 2006, publishing the Merchant Shipping (Recruitment and Placement of Seafarers) Amendment Rules, 2006, under sub section (3) of section 458 of the Merchant Shipping Act, 1958.

(ii) G.S.R. 457 (E) dated the 2nd August, 2006, regarding entry of Vessels into Ports Rules, 2005, under sub section (2B) of section 6 of the Indian Ports Act, 1908.

Shri Priyaranjan Dasmunsi (Minister of Parliamentary Affairs and Minister of Information & Broadcasting) laid on the Table a copy (in English and Hindi) of the Ministry of Information and Broadcasting Notification G.S.R. 452 (E) dated the 31st July, 2006, publishing the Cable Television Networks (Second Amendment) Rules, 2006, under sub-section (3) of section 22 of the Cable Television Networks (Regulation) Act, 1995.

Shri Suresh Pachouri (Minister of State in the Ministry of Personnel, Public Grievances & Pensions and Ministry of Parliamentary Affairs) laid on the Table:-

I. A copy each (in English and Hindi) of the following Notifications of the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and

6:18 p.m.

The motion moved by Shri Priyaranjan Dasmunsi that the Bill be passed was adopted and the Bill was passed.

6:19 p.m.

10. Clarification by Minister

Shri Arjun Singh, ** Minister of Human Resource Development, clarified points raised by some Members in the House on the 18th August, 2006 relating to some books published by NCERT.

**Sp

Spoke in Hindi.

24TH AUGUST, 2006

7:32 p.m.

10. Half-an-Hour Discussion

Shri Santosh Bagrodia raised a discussion on points arising out of the answers given in the Rajya Sabha on the 10th August, 2006 to Starred Questions No. 242 and 249 regarding 'Discrimination against Indians in British jails' and 'Negotiations for release of Indians in British jails'.

The following Members took part in the discussion:—

- | | | |
|-----------|----|------------------------|
| 7:41 p.m. | 1. | Shri Tarini Kanta Roy |
| 7:46 p.m. | 2. | Shri Motilal Vora** |
| 7:49 p.m. | 3. | Shri B.S. Gnanadesikan |

7:52 p.m.

Shri E. Ahammed, Minister of State in the Ministry of External Affairs, replied to the discussion.

8-12 p.m.

11. Statements by Ministers

8:12 p.m.

- (1) Shri Suresh Pachouri, Minister of State in the Ministry of Personnel, Public Grievances and Pensions and Minister of State in the Ministry of Parliamentary Affairs, laid on the Table a statement (in English and Hindi) on the status of implementation of recommendations contained in the Twelfth Report of the Department-related Parliamentary Standing Committee on Coal and Steel.
- (2) Shri Suresh Pachouri, Minister of State in the Ministry of Personnel, Public Grievances and Pensions and Minister of State in the Ministry of Parliamentary Affairs, laid on the Table a statement (in English and Hindi) on the status of implementation of recommendations contained in the Twenty-fourth Report of the Department-related Parliamentary Standing Committee on Information Technology.

**

Spoke in Hindi.

RAJYA SABHA

8-13 p.m.

- (3) Shri Suresh Pachouri, Minister of State in the Ministry of Personnel, Public Grievances and Pensions and Minister of State in the Ministry of Parliamentary Affairs, laid on the Table a statement (in English and Hindi) on the status of implementation of recommendations contained in the Twentieth, Twenty-second and Twenty-eighth Reports of the Department-related Parliamentary Standing Committee on Information Technology.

8-14 p.m.

12. Short Duration Discussion

Dr. Barun Mukherjee raised a discussion on the report of the Justice Mukherjee Commission of Enquiry regarding alleged disappearance of Netaji Subhash Chandra Bose, laid on the Table of the House on the 17th May, 2006.

The following Members took part in the discussion:—

AGB

- | | | |
|------------|----|--------------------------------|
| 8:39 p.m. | 1. | Dr. Murli Manohar Joshi** |
| 9:16 p.m. | 2. | Shri Virendra Bhatia** |
| 9:33 p.m. | 3. | Dr. Chandan Mitra |
| 9:50 p.m. | 4. | Shri Prasanta Chatterjee |
| 10:01 p.m. | 5. | Shri Shyam Benegal |
| 10:13 p.m. | 6. | Dr. E.M. Sudarsana Natchiappan |

10:18 p.m.

Shri Shivraj Vishwanath Patil, Minister of Home Affairs, replied to the discussion.

The discussion was concluded.

(The House adjourned at 11.15 p.m. till 11-00 a.m. on Friday, the 25th August, 2006)

**

Spoke in Hindi.

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IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Original Side

WP No. 2003 of 2006
RUDRA JYOTI BHATTACHARJEE & ORS
Versus
UNION OF INDIA
With

W.P.27541(W) of 2006
Ashim Kumar Ganguly & Anr.
Versus
Union of India

And
W.P.No.8215(W) of 2008
Subhas Chandra Bose
-versus-
Union of India & Anr.

For Petitioner (in Item No.1) : Mr. Kashi Kanta Moitra, Sr.Advocate with
Mr. Keshab Bhattacharjee and
Mr. Debabrata Kole

For petitioner (in Item No.2) : Mr. Ashim Kumar Ganguly, Advocate
For petitioner (in Item No.3) : Mr. Subhash Chandra Basu, Advocate

For Respondent (in Item No.1) : Md. Nizamuddin, Advocate

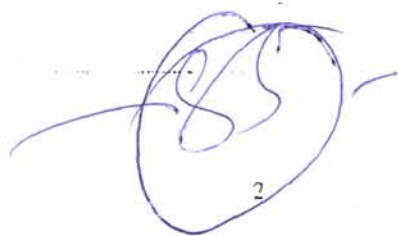
For Respondent (in Item No.3) : Mr. Tarun Kumar Ghosh, Advocate

BEFORE:

The Hon'ble CHIEF JUSTICE MOHIT S. SHAH
AND

The Hon'ble JUSTICE BHASKAR BHATTACHARYA

Date : 15th January, 2010.


2

THE COURT : In course of arguments, it is pointed out by Mr. Nizamuddin, learned Standing Counsel for Union of India that on 11th July, 2008 this Court had passed the following order:

"On the request of Mr.Das, Senior counsel appearing for the respondent to seek instructions from Union of India as to whether A.T.R. has been placed before the Parliament and also whether any decision has been taken in Parliament, either accepting or rejecting the A.T.R., let the matter be adjourned for six weeks for further consideration."

Learned Standing Counsel then places on record a copy of the letter dated 25th November, 2008 from Under Secretary, Government of India and addressed to the Additional Government Advocate along with a copy of the Office Memorandum dated 4th August, 2008 from Deputy Secretary-II, Lok Sabha Secretariat and a copy of Office Memorandum dated 21st August, 2008 from Deputy Director of the Rajya Sabha Secretariat.

Learned counsel for the petitioners do not admit the contents of the above communication dated 25th November, 2008, as quoted.

It will be open to the petitioner [in item no.1] to file affidavit on the same for the purpose of controverting the statements recorded in this communication.

PC 2

(Handwritten signature)

Learned counsel for the Union of India seeks further time to take instructions in the matter and to place the same before this Court as to whether any decision has been taken by the Lok Sabha after 4th August, 2008 on the Memorandum of the Action Taken on the Report of Justice Mukherjee Commission of Inquiry relating to the disappearance of Subash Chandra Bose.

In W.P.No.8215(W) of 2008 [item no.3], affidavit in opposition is to be filed by 12th February, 2010 ; reply thereto, if any, is to be filed by 18th February, 2010. Let all these matters appear in the list on 19th February, 2010.

sd/- Mohit S. Shah, C.J.
(MOHIT S. SHAH, C.J.)

sd/- Bhaskar Bhattacharya, J.
(BHASKAR BHATTACHARYA, J.)

Rsg.
Asstt. Registrar[CR]

CERTIFIED TO BE A TRUE COPY
Finance Dept 1.2.10
Authorized under Section 76 of
the Indian Evidence Act, 1872
(Act-1 of 1872)




cannot be alive today. He would have been 109 years old. In normal circumstances, it is most unlikely. So, the issue is not whether he is dead or alive. The issue is, what happened to him, what happened to the great son of India who struggled so relentlessly. (Contd. by kgg/6h)

kgg/6h/9.35

SURI CHANDAN MITRA (CONTD.): Taking such enormous personal risks, leaving this country, going to Germany and then taking a submarine, perhaps, unprecedented in history to travel from Germany right up to Japan across the Cape of Good Hope, man of such enormous courage, fortitude and who could go to any length to secure India's freedom, what happened to him? Unless we find out the answer to it, I think, Sir, the nation cannot be expected to agree that the problem is over or that Netaji's death is a settled fact. Even if his death is a settled fact, the manner of his death needs to be probed and the Government must do everything within its power to try and find out how this happened.

That is why, Sir, I am very disappointed with the ATR that was submitted by the Government on the Mukherjee Commission's Report. It is a very cursory--I think, this point has been made by all previous speakers--rejection of the report; it says that the Government rejects the Mukherjee Commission's conclusion that Netaji did not die in the aircrash at Taihuku on August 18, 1945. Sir, this is in double negatives. The Commission says that he did not die because there was no aircrash in Taihuku. The Government rejects the finding. It means, the Government is saying that Netaji indeed died in the aircrash of August 18, 1945. Sir, when the Government of Taiwan, Taiwan authorities have categorically stated that there was no aircrash in Taiwan on August 18, 1945, the only aircrash that happened -- Mukherjee Commission's Report records it -- is some time in September in southern Taiwan. The Taihuku airport, it says, no longer exists and it is impossible to figure out what happened there. They categorically stated that there was no aircrash. On what basis can the Government come to the conclusion that Netaji must have died in an aircrash that did not happen?

Sir, I think, this is something which the Government seriously need to answer. I would like to draw your attention and, through you, that of



the Home Minister that the British Government obtained a report from the Taiwan authorities regarding Subhas Chandra Bose's so-called death. Now, the receipt of that report from the Taiwan Government was never disclosed by the Government of India. It came to India via Britain. And this is something which several Members have just now mentioned that this crucial finding, the information passed on to the Government of India in 1956, that particular file the Government of India claims has been destroyed. Sir, this is a great tragedy. I think, there should have been an inquiry by now as to what happened to the file. How did it disappear? That file and the information arrived even when the first committee was there. The Shah Nawaz Committee was instituted for conducting an inquiry. At that point of time, that information arrived. It was not passed on to the Shah Nawaz Committee and subsequently the file, it is claimed, has been destroyed. I would request the Home Minister to kindly go into this matter and find out how and why and under what circumstances was it destroyed and what was the reason for the destruction of the file. Sir, it is in this context, it is equally important to point out that in Britain, the Mukherjee Commission points out that the British authorities have accepted that they have information on Subhas Chandra Bose. They have said that there is a file which shall be opened in the year 2020. That is, 75 years after the disappearance of Netaji. There are various rules about classified documents. The most secret, the highly classified documents are opened only after 75 years. The British Government have said that that will be opened in 2020. It was claimed and I heard the debate in the Lok Sabha in which it was claimed that whatever letters the British have, in this regard, were passed on to India.

(Contd. by 6j/kls)

S/6J-9.40

R. CHANDAN MITRA (CONTD): But, Sir, the Mukherjee Commission was asking for it, was told this cannot be passed on and the Government gave the reason that information contained in these files if disclosed will affect relations with friendly countries. I quote again, "Information contained in these files will affect relations with friendly countries." Sir, this leads to further and even more serious doubts that: Did Netaji actually succeed in his Mission to go to Russia? All evidence suggests that Netaji took the plane and persuaded Japanese that they could at least ferry him to Manchuria from where he would proceed to Russia. Now if that happened...(Interruptions)...

SHRI SHIVRAJ V. PATIL: Will you yield for a minute? ... (Interruptions)... Now, you know Japan had fought against Russia or the Soviet Union, Germany had fought a war against the Soviet Union. Why had Netaji from Germany had gone to these South East Asian countries and in collaboration with Japan? And even after this do you think he would have gone to Russia?

SHRI SHYAM BENEGAL: Sir, may I say something? The Azad Hind Government had a legation in Omska. Omska is in Siberia, then a part of Soviet Union. That is number one. Two, Soviet Union went to war with Japan only in the last week before Japan surrendered. Until that time -- this is one thing we do not really know -- whether the Azad Hind Government was actually recognised by the Soviet Union or not. But there is no question about the fact that he left Taiwan, there was no question that he headed towards that with General Chiddai who was travelling with him. The real problem here is in terms of ambiguities that when General Chiddai, he and Habibur Rahman were travelling in that aircraft, the important thing is that when at Tahihoku Airport from that plane Salli, it was not a new plane, it was a very old Japanese aircraft and one of its engines was already defective and it started for Taiwan. All that sort of thing is known, but the important thing is that when that aircraft was taking off crashed and that is what Habib's constant testimony was until he died, he never changed the testimony. You can give all kinds of values to it, but, anyhow, it is all a sort of ambiguity of different kinds. But the important thing is that you see that General Chiddai, which is not accepted by Justice Mukherjee, but he actually died in that crash. But Chiddai's family has said that he

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died in that crash. So, the fact is and Chiddai himself, we know, where he was going. He was going to Manchuria, for what reason, to surrender the Japanese forces to the Soviet army in Manchuria. That is what he was doing. Thank you. (ENDS)

SHRI SHIVRAJ V. PATIL: Sir, it is very interesting because Shyam Bengalji has done a lot of research and I watch his films not once but two-three times. After this discussion was fixed, I watched it with more care and with a lot of interest. There are two points which are nagging us. One, could he go to the Soviet Union because he was with Axis and not with Alliance? That is one. Why did he not come to India after India became free? These are the two points which are nagging us. I am not saying that wrong or right. ...(Interruptions)... (Contd. by 6K)

SSS/6K/9.45

SHRI S. S. AHLUWALIA: At the time of transfer of power, an agreement was signed between the Government of Britain and the then Government of India that these papers would be kept secret for 30 years and these people would become the criminal of wars of British, if they were caught within 30 years, then, they should be handed over to the Government of Britain. So, these papers were never disclosed.

SHRI SHIVRAJ V. PATIL: Pandit Jawaharlal Nehru donned the black coat and gown and went to the Red Fort to defend...

SHRI S. S. AHLUWALIA: That was INA for Shah Nawaz Khan. (Interruptions)

SHRI CHANDAN MITRA: Sir, if I may continue, Mr. Vice-Chairman, Sir, I think, this debate is throwing up some very, very interesting points. We have such eminent experts who are here. Dr. Joshi has spoken with great detail of authority and information. Dr. Barun Mukherjee has spoken. Mr. Shyam Benegal has made an absolutely masterly film. I would like to make a recommendation that in every school in this country that film should be mandatorily shown. Shri Virendra Bhatia was just saying how Netaji's memory has not been adequately reflected in our books. But, today in an age of multi-media people will probably watch a film with far greater interest than read a book. So, at least, this we should definitely do. But that is only a diversion. So, the point I am trying to make is that there are some very, very important avenues that remain to be explored. Now, the

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Mukherjee Commission has established, although the Government does not accept it but, I think, the evidence is conclusive that there was no air crash in Taihuku on 18th August, 1945. We should have had no difficulty in accepting this reality. Therefore, the point has been made that the ashes at the Renkoji temple could not be that of Netaji Subhash Chandra Bose. Anyway, DNA test is not possible because even if the bones had survived as it is claimed when the body is cremated, the DNA does not survive the burning and you cannot get a DNA in a conclusive result of that. So, it cannot be done. So, in these circumstances, we believe, at least, I believe, that Government would have been well advised to accept the Mukherjee Commission's Report and set the stage for further probe. Dr. Joshi, has said in the Committee of Scholars. There could be further inquiry into this. Further inquiry is needed as to what happened, where Netaji could have gone. May be, the Terms of Reference again could be defined separately. We can request the British Government to specifically declassify that file which they have said they will open in 2020 because this is a matter not so important for Britain. It is a matter, which is very, very important to India. (Interruptions) Without those official requests it will never happen. Also the Mukherjee Commission went to Omsk and to Irkhutsk because in Omsk, as Shri Shyam Benegal has just pointed out there used to be an allegation. Now, the KGB archives could not be explored because the Russians flatly refused the Mukherjee Commission's access to the KGB archives. Now, this again has to be taken up and I say this again in the context of the same thing that information contained in these files, if they become public, will affect relations with friendly country. Sir, are the friendly countries more important or are the people of India more important? Is our history more important to us than some collateral damage that may happen to relations more important? Sir, a lot of people are just waiting to speak, I have made my points. The only thing is, I would request the Government to approach this with an open mind. It is not a political question. It is a question of our nationhood, it is a matter of our pride, it is a matter of our tri-colour, the tri-colour that was hoisted at Andaman and Nicobar Islands and in Manipur and in the interest of truth, in the interest of re-discovering the heart and soul of the Indian freedom movement, the Government must not close this chapter, keep

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it open, until we get the truthful answer of what happened to Netaji Subhash Chandra Bose. I believe, the people of this country will not rest quiet even if it takes three more generations to come to that conclusion. Thank you. (Ends) (Contd. by USY/6L)

-SSS-USY/6L/9.50

SHRI PRASANTA CHATTERJEE (WEST BENGAL): Sir, this debate should have come much earlier and appeared in the list of business. But anyway, the very purpose of participating in today's debate is that we wanted, the entire country wanted to know the exact reason of Netaji's death, time, place, and whether it was due to air crash. The truth should come out. It is also our duty, the hon. Minister was asking, how to preserve the ideals and teachings of Netaji as best as we can. Also, the further study of the entire Freedom Movement, of the lives of many martyrs is absolutely necessary because many truths have not come out. These teachings should be taken to the young generation. The issue is not that whether Netaji is still alive. If he would have been alive, this day his age would have been 109 years. Because I am from West Bengal, unfortunately I was in that Chair as a Mayor for ten years. The Municipal Corporation of West Bengal had also produced a film on the life of Netaji. We had also published one book and distributed it free to the children of West Bengal. We say that Netaji was hiding. Why will he be hiding? He was 'patriot of patriots'. I cannot authenticate it, but one of the historians of Calcutta wrote, in a book, about one of the very wonderful incidents of Netaji's life. But this is not an authenticated statement, I must say. He wrote that one of the headmasters of a Corporation School was a freedom fighter. Netaji Subhash Chandra Bose was the Chief Executive Officer, not the Mayor, at that time. Chitharanjan was the mayor at that time. At the behest of police, he wrote a letter to the Chief Executive Officer that such and such Headmaster was in the terrorists' movement; he was connected with the terrorists' movement. I was told by that historian, who is the elder brother of the present Education Minister of West Bengal, that Netaji immediately went to market and purchased a bouquet and went to the residence of the headmaster and presented him the bouquet, and informed the Police Commissioner that he had presented the bouquet to the headmaster.

Many committees and commissions have been constituted but the

mystery of Netaji's disappearance has not been solved. The real cause of his death has not come to light. Netaji wanted a very secular India. He has mentioned about his Azad Hind Vahini that that was the real formation of Hindu-Muslim unity. The way the brigade was formed is a lesson for all of us.

Sir, with a direction from the High Court for a further inquiry in to the death of Netaji, the Union Government, after consulting the Chief Justice of Supreme Court, appointed Justice Mukherjee to inquire into the matter. The Legislative Assembly of West Bengal took a unanimous decision and requested for a further inquiry.

Sir, it took a long six-and-a-half years to complete the job. It is also a fact that the Union Government did not cooperate with the Commissions, with the earlier commissions as well as the present one, to complete the job at the earliest. (Contd. by 6m -- VP)

VP/9.55/6M

SHRI PRASANTA CHATTERJEE (CONTD.): It took one year to have an office. I remember, the West Bengal Government took the initiative, and one of its Ministers vacated his own office for locating the Commission's office. That was the situation. A liaison office in Delhi was set up after a lapse of another two years. This was the attitude of the Government.

Sir, the former Prime Minister declared, on the floor of the House, on 05.03.1952 that the Report submitted to him by Mr. S.A. Ayer, the former Information and Broadcasting Minister of the Provincial Government of *Azad Hind*, had to be taken as authentic. But, it has come to light that Ayer's visit to Japan was by no means official. And the Report was not prepared following the official order. So, an unofficial inquiry was authenticated by the former Prime Minister. On the other hand, the story of the alleged air crash and the authenticity of Mr. Ayer's report was never sought to be examined. Ayer in his book, "Unto him a witness" which was submitted to Khosla Commission stated, categorically, that it was he who drafted the Domain Despatch on the basis of which Reuters circulated the alleged death news. He has further stated that without visiting the alleged spot of the air crash, and without meeting Habibur Rahman, he drafted the Despatch on the basis of information he gathered from some Japanese officers. Thus he had no personal knowledge of the alleged incident. Shri Shah

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Nawaz Committee too, without visiting the alleged spot, gave its verdict that Netaji Bose died in an alleged air crash on 18.08.1945. The Government of India also accepted that.

Shri Habibur Rahman, who was also an eye witness, also made contradictory statements. According to Rahman, the dead body cremated on 20.08.1945 was stated to be that of Ichiro Okura. But, according to the Municipal Certificate, cremation took place on 22.08.1945. The Cremation Certificate mentions Ichiro Okura died on 19th August 1945 and not on 18th. According to Habibur Rahman, the cremation took place in Taipei, but according to other information, the body was flown to Tokyo. There was a story that Dr. Yoshimi treated Netaji before his death. But Dr. Yoshimi confessed before the Justice Mukherjee Commission that he never saw Netaji and he could not identify the one whom he had allegedly treated as Netaji.

It was reported that Justice Mukherjee asked Dr. Yoshimi, "Did he issue Death Certificate in the name of Netaji Subash Chandra Bose?" He replied, "No. I issued the Certificate in the name of Ichiro Okura." But when Justice Mukherjee showed the Death Certificate in the name of Netaji Subash Chandra Bose, signed in 1988, i.e., 43 years after his reported death in 1945, Dr. Yoshimi said one India and a Japanese came to him and asked for a certificate after 43 years in the name of Netaji Subash Chandra Bose. All these things are very serious and require attention.

The statement of former Prime Minister, Morarji Desai, has been referred to here. I do not want to go into the details of that. But, now, he also expressed his doubt about the correctness of the conclusions reached in the two reports, namely, the Shah Nawaz Committee and the Khosla Commission. Anyway, Sir, the truth has not come out. This is a fact. It is an undoubted fact that Governments did not play their role to unearth the truth and did not cooperate with the Commission also. Sir, we demand from the Government that all reports, so far submitted, including the recent one, be studied further in depth, experts and knowledgeable Members should be consulted to arrive at a final reliable conclusion.

Finally, I would like to conclude by saying that Netaji is no more. But the ideals of secularism, and his thought of economic development of the country should reach the nation, particularly, the younger

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generation of this country.

(Continued by PB/6N)

PREVIOUS
PAGE

← MAIN →

NEXT PAGE

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W.P. No. 2003 of 2006
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

In the matter of :
An application under Article 226 of
the Constitution of India;
And

In The Matter Of;

1. Shri Rudra Jyoti Bhattacharjee Advocate & Ors.

.....
...PETITIONERS

VERSUS

Union of India & Anr.

RESPONDENTS

SUPPLEMENTARY AFFIDAVIT

Debjani Ghosal, Advocate
Bar Association Room No.2
High Court Calcutta

97
No.12014/5/07-Cdn.(Pt.)
Government of India
Ministry of Home Affairs
IS-II Division

.....
Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi, dt.11.3.2010

12 MAR 2010

To

Shri S.S. Sarker,
ILS,
Addl. Govt. Advocate,
Ministry of Law & Justice,
11, Strand Road,
Kolkatta - 700001.

Subject: Writ Petition No.2003/2006 – Rudra Jyoti Bhattacharya - Vs
Union of India & Ors.

Sir,

This has reference to Ministry of Law & Justice letter No.402/Home/2006/Lit-II/812 dated 1.3.2010 on the above subject.

2. Draft Affidavit on the views of Lok Sabha and Rajya Sabha Secretariat, in so far as Action Taken Report on the report of Justice Mukherjee Commission of Inquiry relating to the disappearance of Netaji Subhash Chandra Bose is concerned has already been sent on 5.3.2010.
3. Parawise Comments of Ministry of Home Affairs on the supplementary affidavit filed by the petitioner is enclosed for further necessary action.
4. Ministry of Home Affairs may kindly be kept apprised of the developments in the case from time to time.

Yours faithfully,



(AMAR CHAND)

UNDER SECRETARY TO THE GOVT. OF INDIA

ok

12 MAR 2010

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By Speed Post

Copy to: Shri Mohd. Nizamuddin, Advocate, High Court, Calcutta, Bar Association, Room No.12, And 15, Marquis Lane, Kolkata - 700016 alongwith a copy of the Draft Parawise Comments of MHA on the supplementary affidavit filed by the petitioner for similar necessary action.

Amar Chand
(AMAR CHAND)

UNDER SECRETARY TO THE GOVT. OF INDIA

ok

W.P. No. 2003 of 2006

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

ORIGINAL SIDE

IN THE MATTER OF

An application under Article 226

Of the Constitution of India

And

In the matter of :

A writ of and/or order or direction in the nature of Mandamus, Certiorari and Prohibition;

1. The averments made in para-1 need no comments as these are matters to be established by the petitioner before the Hon'ble Court.
2. The averments made in para-2 need no comments as these are matters of records.
3. The averments made in para-3 need no comments as these are matters of records.
4. The averments made in para-4 need no comments as these are matters of record. However in so far as challenging of the Action taken Report by the petitioner is concerned, it may be stated that the report of Justice Mukherjee Commission of Inquiry was examined minutely and meticulously by the Government but it was

100

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not possible to accept the same as it was observed that the Commission's Inquiry was inconclusive and it has not been able to provide definite findings.

The answering respondent respectfully states that Government of India accepted the findings of the earlier Committee i.e. Shahnawaj Khan Committee and the Khosla Commission of Inquiry to the effect that Netaji died in the plane crash at Taihoko and the ashes in the Japanese temple are of Netaji. Justice Mukherjee Commission appointed, inter-alia, in deference to the Judgment of Hon'ble Kolkatta High Court contradicted the findings of the earlier Committee and Commission, but did not do so convincingly and conclusively. It was, therefore, not possible to accept the same.

5. The averments made in para-5 need no comments as these are matters of records.

6. In respect of averments made in para-6, it is stated that there is no statutory provision which makes it obligatory on the part of Parliament to accept or reject any Action Taken Report placed by the Government before the Houses. However, the petitioner has mentioned the names of 15 Members of the Lok Sabha which gave notices for Short Duration Discussions under Rule 193 of the Lok Sabha and at the same time mentioned the Statement made to the effect "since there was no motion to accept or reject the said ATR of Rajya Sabha Secretariat, Secretariat has no comments to offer". It is stated that the Members of the Lok Sabha table the notice in the Lok Sabha only and not in the Rajya Sabha. Similarly, the Members of the Rajya Sabha table the notices in Rajya Sabha and not in the Lok Sabha. The Notice tabled in House is discussed in the same House and not in the other House.

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7. The averments made in para-7 need no comments as these are matters of records..

8. With regards to the averments made in para-8, the answering respondent reiterates what has been stated in reply to para-4 above.

Solemnly affirmed by _____
in the Court House
at Calcutta on this

_____ Day of March, 2010

Before me,

402
SPEED POST

Most Urgent
By Speed Post

No. 402/Home/06-II | 1202
Ministry of Law & Justice
11, Strand Road
Kolkata-700001

Date: 19.3.2010

Tel: 22486516

Shri Amar Chand
Under secretary
Ministry of Home Affairs
1S-II Division
Lok Nayak Bhavan,
9th Floor, C Wing, Room No.8
New Delhi.-3

Dear Sir,

Sub: WP No. 2003/06
Rudra Jyoti Bhattacharya
Vs.
Union of India & Ors.

This has reference to your letter No. 12014/5/07-Cdn.(pt.)
dated 11.3.2010.

The draft affidavit on the views of Lok Sabha and
Rajya Sabha Secretariat in respect of A T R of Justice
Mukherjee Commission of Inquiry relating to the
disappearance of Netaji Subhash Chandra Bose has not
been received by this office.

You are requested to send the same immediately for
giving it the final shape as per law.

The matter is most urgent.

Yours faithfully,

(S S Sarker)
Addl. Govt. Advocate

CC:

Shri Md. Nizamuddin, Advocate, High Court, Bar Assn.,
Room No.12, Calcutta-1.

- He is requested to confirm whether he has received
any affidavit related to the above subject from the
department directly. In case of such receiving, he
is requested to contact this office immediately with the
said affidavit.

Addl. G.A.

SENDING REPORT

(102)

Mar. 30 2011 4-

YOUR LOGO : IIR (S)
YOUR FAX NO. : 24613196

TO	FROM	START TIME	USAGE TIME	MODE	PAGES	RESULT
0015	0015	Mar. 30 04:13PM	01'12	SND	04	OK

TO TURN OFF REPORT, PRESS 'MENU' #04.
TO SELECT OFF BY USING '+' OR '-'.

RdF
Bl issue
30/3/10

(Signature)

(Signature)

MOST IMMEDIATE / COURT MATTER

No.I - 12014 / 5/ 2007-Cdn(Pt).
Government of India
Ministry of Home Affairs
IS-II Division : Cdn Section

9th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi

Dated , the 30th March, 2010.

31 MAR 2010

To,

Shri S S Sarkar, ILS,
Addl. Govt. Advocate,
Ministry of Law and Justice,
Department of Legal Affairs,
Branch Sectt,
11, Strand Road,
Middle Building, 2nd Floor,
Kolkata – 700001.

Subject: WP No. 2003 / 2006 - Shri Rudra Jyoti Bhattacharya
& Ors - Vs. - Union of India & Ors.

Sir,

This has reference to your letter No. 402 / Home/06-II / 1202
dated 19th March, 2010 on the above mentioned subject.

2. The draft Affidavit on the views of Lok Sabha and Rajya Sabha
Secretariat in respect of ATR of Justice Mukherjee Commission of
Inquiry relating to the disappearance of Netaji Subhash Chandra Bose,
was sent on 5th March, 2010 to the Ministry of Law, Kolkata Sectt.
Branch and also to Shri Mohd Nizamuddin. Further, a copy of the same
is again enclosed herewith.

3. It is requested that MHA may kindly be kept informed about the
developments in the case from time to time.

Yours faithfully,

(Signature)

(Amar Chand)

Under Secretary to the Govt. of India

Tel: 2461 0466



105
404

BY SPEED POST/OUT TODAY

Ph. No.22486516
FAX No.22485215

No.402/Home/06-II /1571
Govt. of India
Ministry of Law & Justice
Deptt. of Legal Affairs
Branch Sectt., Kolkata

S.S.Sarker,
ILS
Addl.Govt.Advocate

11, Strand Rd., Middle Bldg.,
2nd floor, Kolkata-1.

Date: 08.04.10.

To
Shri Amar Chand,
Under Secretary to the Govt. of India,
Ministry of Home Affairs,
IS-II Division: Cdn Section,
9th floor, Lok Nayak Bhawan,
Khan Market, New Delhi.

Sub: W.P. No. 2003 of 2006- Shri Rudra Jyoti Bhattacharya & Ors.
-Vs-Union of India & Ors.

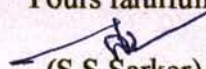
Sir,

Please find enclosed herewith the following:-

1. Draft Affidavit-in-opposition;
2. Affidavit drafted by Md. Nizamuddin, Counsel on behalf of the respondent Nos. 1, 2, 3 and settled by Shri R.N.Das, Special Counsel in the above matter.

You are requested to finalise at your level and make yourself available for affirmation along with the final copy (two engross and four copies of the same) at the earliest.

Encl: As above

Yours faithfully,

(S.S.Sarker)
Addl. Govt. Advocate

Copy to: Md. Nizamuddin,
Advocate, High Court, Calcutta for information.

He is requested to make a submission for extension of time for Affidavit-in-opposition etc. if the matter is called.

Pl but up immediately
Addl. Govt. Advocate
12/4 do (copy)

106

*Affidavit drawn by me
Signed
Advocate*

W.P. No. 2003 of 2006

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

ORIGINAL SIDE

In the matter of:

An application under Article 226

of the Constitution of India;

And

In the matter of:

A writ of and/or order or direction in the nature of

Mandamus, Certiorari and Prohibition;

And

In the matter of:

Judgement and Order dated April 30, 1998 passed by

the Division Bench Consisting of the Hon'ble

Prabha Shankar Mishra, the Chief Justice (as His

Lordship then was) and the Hon'ble justice Bhaskar

Bhattacharya in W.P. 281 of 1998;

And

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In the matter of:-

Non-Compliance of the directions passed by their

Lordships in the W.P. No. 281 of 1998;

And

In the Matter of:

Notification being No. S.O. 339(E) dated 14th May

1999 issued under the signature of Special Secretary

(ISP), Ministry of Home Affairs, Government of

India whereby a commission of Inquiry was

appointed for the purpose of making an independent

inquiry into the disappearance of Netaji Subhas

Chandra Bose in 1945;

And

In the Matter of:

Commission of Inquiry Act, 1952;

And

In the Matter of:

Memorandum of Action Taken on the Report of the
Justice Mukherjee Commission of Inquiry;

And

In the matter of:

1. Shri Rudra Jyoti Bhattacharjee Advocate, son of
Shri Santosh Kumar Bhattacharjee, Bar Association,
Room No. 2, High Court Calcutta;

2. Sri Surajit Dasgupta, son of Late Jatindra Mohan
Dasgupta, by occupation business, resident of 25/1,
Guruprasad Chowdhury Lane, P.S. Amherst Street,
Kolkata-700 006

3. Sri Nandalal Chakraborty, by occupation, Head of
the Department of Political Science, Presidency
College, resident of 559/1, Dakshin Dari Road, P.S.
lake Town, Kolkata-700 048

4. Dr. Madhusudan Pal, by occupation Assistant

Professor, Calcutta Medical College Hospital,

resident of A/5/2, Sharabani Abashan, Salt Lake, Sec-

III, Kolkata-700 009.

5. Sri Tarun Kumar Mukherjee son of Late

Gobindalal Mukherjee, resident of 2/1, Brindaban

Mullick 1st Lane, P.S.- Amherst Street, Kolkata- 700

009.

6. Shri Jagatjit Dasgupta son of Late Jatindra Mohan

Dasgupta, resident of 25/1 Guruprosad Chowdhury

Lane, P.S.- Amherst Street, Kolkata-700 006.

7. Sri Kusal Sankar Chowdhury son of Chowdhury,

resident of 32 B, Justice Manmatha Mukherjee Row,

P.S. -Amherst Street, Kolkata-700 009.

8. Shri Siddheswar Bhattacharjee, resident of
Hatepara " Matri Bhavan", P.O. Krishnnagar, Pin
Code- 741 104, District- Nadia

9. Shri Sunil Krishna Gupta, resident of 38,
Vidyasagar Street, P.S.-Amherst Street, Kolkata-
700 009

.....

...PETITIONERS

VERSUS

1. Union of India service through the Principal
Secretary to the Prime Minister's Office, South
Block, New Delhi.

2. The Secretary, Ministry of Home Affairs,
Government of India, North Block, New Delhi.

3. The Special Secretary, Ministry of Home
Affairs, Government of India, North Block, New
Delhi.

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4. 7Shri Manoj Kumar Mukherjee (retired judge

of Supreme Court of India), the Chairman of

Justice Mukherjee Commission of Inquiry,

resident of GD/359, Sector-III, Salt Lake,

Kolkata-700 106

RESPONDENTS

(112)

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AFFIDAVIT ON BEHALF OF THE RESPONDENT NOS. 1, 2, 3

I son of aged about years, by faith-Hindu, working for gain having my office at do hereby solemnly affirm and say as follows:

1. I am the in the Government of India, Ministry of Home Affairs, and I am duly authorized and competent to affirm this affidavit on behalf of the Respondent Nos. 1, 2, 3.
2. This Hon'ble Court was pleased to pass order on 15th January, 2010, granting liberty to the Union of India/Respondents to seek instruction in the matter and to place the same before The Hon'ble Court, as to whether any decision has been taken by the Lok Sabha after 4th August, 2008, on the Memorandum of the Action Taken Report on the report of justice Mukherjee Commission of Inquiry any latest progress/development if taken place before both the Houses of the Parliament in connection with Justice Mukherjee Commission of Inquiry into the alleged disappearance of Netaji Subhas Chandra Bose, on the next date of hearing i.e. 19th February, 10, and pursuant to the aforesaid order, Union of India/Respondent sent relevant instruction to its Ld. Counsel to put up the same before This Hon'ble court and accordingly the Ld. counsel in course of hearing on 19th February, 10, put up the aforesaid instruction before This Hon'ble Court and The Hon'ble Court on perusal of the same directed the Respondents to file the aforesaid instruction by way of affidavit on or before the next date of hearing i.e. 9th April, 10, and accordingly the same is being filed by way of this affidavit.

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accepting or rejecting the Action Taken Report (ATR). No. Notice of a motion/resolution for accepting or rejecting the ATR has been received by the Lok Sabh Secretariat. However, the report of Justice Mukherjee Commission of inquiry relating to the disappearance of Netaji Subhash Chandra Bose alongwith the Action Taken Report (ATR) thereon was discussed under Rule 193 of Rules of Procedure and Conduct of Business in Lok Sabha on 2nd, 3rd and 7th Aug, 2006 and the discussion was replied to by the Minister of Home Affairs. Under Rule 193, there is no formal motion before the House and with the reply of the Minister the discussion comes to a close.

6. The statements contained in paragraphs 1 to 5 based on information derived from record which I verily believe to be true.

Solemnly affirmed by the said

.....

at the Court House at Calcutta

on this Day of April, 2010,

Before me,

Commissioner

Xerox copy of the aforesaid instructions are annexed hereto and collectively marked R-1.

3. With regard to the issue as to whether Action Taken Report has been accepted or rejected by the Parliament it is submitted that Section 3(4) of the Commission of Inquiry Act states as under:

The appropriate Government shall cause to be laid before each House of Parliament or, as the case may be, the legislature of the State the report, if any, of the Commission under on the inquiry made by the Commission under sub-section (1) together with a memorandum of the action taken thereon, within a period of six months of the submission of the report by the Commission to the appropriate Government".

Accordingly, the report of the Justice Mukherjee Commission of inquiry alongwith with the Action Taken thereon was placed before both the Houses of Parliament on 17th May, 2006.

4. Rajya Sabha Secretariat has informed that there was no motion before the House to accept or reject the said ATR.
5. Lok Sabha Secretariat has also informed that there is no general statutory provision which makes it obligatory on the part of the Parliament to accept or reject any Action Taken Report (ATR) placed by the Government before the Houses. However, Members of Lok Sabha may Table Notices/resolutions

R_i

(715)

LOK SABHA SECRETARIAT

Telegrams : LOKSABHA, NEW DELHI
FAX : 23010756

PARLIAMENT HOUSE
NEW DELHI-110001

F No. 23/5/XIV/2008/T

Dated: 12th February, 2010

OFFICE MEMORANDUM

Subject: WP No. 2003/2006-Shri Rudra Jyoti Bhattacharya-Vs.-Union of India & others.

The undersigned is directed to refer to the Ministry of Home Affairs (IS Division) OM No. 12014/5/07-Cdn(Pt) dated 4th February, 2010, on the above subject and to state that there is no general statutory provision which makes it obligatory on Parliament to accept or reject any Action Taken Report (ATR), placed by the Government before the Houses. However, Members of Lok Sabha may Table notices of motions/resolutions accepting or rejecting the Action Taken Report (ATR). Whenever a motion or a resolution is adopted by the House, copy of the same is forwarded to the Minister concerned.

2. In the instant case, no notice of a motion/resolution for accepting or rejecting the ATR has been received.

3. However, Justice Mukherjee Commission of Inquiry relating to the disappearance of Netaji Subhash Chandra Bose alongwith the Action Taken Report (ATR) thereon was discussed under Rule 193 of Rules of Procedure and Conduct of Business in Lok Sabha on 2, 3 and 7 August, 2006 and the discussion was replied to by the Minister of Home Affairs. Under Rule 193, there is no formal motion before the House and with the reply of the Minister the discussion comes to close.

Sr 12/2/10
(S. K. GANGULI)
Under Secretary
Tel. No. 23034795

To

The Ministry of Home Affairs,
(IS Div. Cdn Section)
(Shri Amar Chand, Under Secretary)
Room No. 8, 'C' Wing, 9th Floor,
Lok Nayak Bhavan,
New Delhi.

PR sent to immediately,

A
1512

Sd (Cdn)



शिवराज पाटील
SHIVRAJ V. PATIL
गृह मंत्री, भारत
HOME MINISTER, INDIA

May 15, 2006

To,

The Hon'ble Speaker,
Lok Sabha,
New Delhi.

Sir,

I give notice of my intention to lay on the Table of Lok Sabha the Report of the Justice Mukherjee Commission of Inquiry into the alleged disappearance of Netaji Subhas Chandra Bose, along with the Action Taken Report and the Statement of reasons for delay in laying the Report, on 17th May, 2006.

Yours sincerely,

e/c

(SHIVRAJ V. PATIL)

Copy to: 1) Secretary General,
Lok Sabha,
New Delhi.

15/5/06
at 6.30 P.M.

2) Table Office, Lok Sabha,
New Delhi.

3) M/o Parliamentary Affairs

4) Parliament Section, MHA, North Block

(117)

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AUTHENTICATED
Shivraj V. Patil
SHIVRAJ V. PATIL
HOME MINISTER

**MEMORANDUM OF ACTION TAKEN ON THE REPORT
OF THE JUSTICE MUKHERJEE COMMISSION OF INQUIRY REGARDING
THE ALLEGED DISAPPEARANCE OF
NETAJI SUBHAS CHANDRA BOSE**

By Government of India Notification No. S.O. 339(E) dated 14th May, 1999, Shri M.K. Mukherjee, retired Judge of the Supreme Court of India, was appointed under the Commissions of Inquiry Act, 1952, to inquire into all the facts and circumstances related to the disappearance of Netaji Subhas Chandra Bose in 1945 and subsequent developments connected therewith including –

- (a) whether Netaji Subhas Chandra Bose is dead or alive;
- (b) if he is dead, whether he died in the plane crash, as alleged;
- (c) whether the ashes in the Japanese temple are ashes of Netaji;
- (d) whether he has died in any other manner at any other place and, if so, when and how;
- (e) if he is alive, in respect of his whereabouts.

2. The Government have examined the Report submitted by the Commission on 8th November, 2005 in detail and have not agreed with the findings that -

- (a) Netaji did not die in the plane crash; and
- (b) the ashes in the Renkoji Temple were not of Netaji.

3. This Report is placed before the Houses as required under sub-section (4) of Section 3 of the Commissions of Inquiry Act, 1952.

118 113
AUTHENTICATED
Shivraj V. Patel
SHIVRAJ V. PATEL
HOME MINISTER

STATEMENT OF REASONS FOR DELAY IN TABLING THE REPORT OF THE JUSTICE MUKHERJEE COMMISSION OF INQUIRY INTO THE ALLEGED DISAPPEARANCE OF NETAJI SUBHAS CHANDRA BOSE.

The Justice Mukherjee Commission of Inquiry was set up by the Government of India on 14th May, 1999 under the Commissions of Inquiry Act, 1952, to inquire into the alleged disappearance of Netaji Subhas Chandra Bose.

The Commission submitted its report on 8th November, 2005. As per the provision of Sub-section 4 of Section 3 of the Commissions of Inquiry Act, 1952, the Report submitted by the Commission is to be Tabled before each House of Parliament within a period of six months of the submission of the report by the Commission i.e. before 7th May, 2006..

The incidental delay has been occasioned by time taken in translation, printing, consideration of the report by the Government, its approval by the Cabinet and the adjournment of Parliament on 22nd March, 2006

W.P. No. 2003 of 2006
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

In the matter of:

An application under Article 226 of the
Constitution of India:

-And-

In the matter of:

Shri Rudra Jyoti Bhattacharjee Advocate &
Ors.

.....Petitioners

-Versus-

Union of India & Ors.

.....Respondents

AFFIDAVIT ON BEHALF OF THE
RESPONDENTS NO. 1, 2, 3.

Mr. S. S. Sarkar,
The Addl. Govt. Advocate
Ministry of Law & Justice
11, Strand Road Kolkata 1.

A/o drawn by me
viz Adhokal
8/4/10

120

W.P. No. 2003 of 2006

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

ORIGINAL SIDE

In the matter of:

An application under Article 226

of the Constitution of India;

And

In the matter of:

A writ of and/or order or direction in the nature of

Mandamus, Certiorari and Prohibition;

And

In the matter of:

Judgement and Order dated April 30, 1998 passed by

the Division Bench Consisting of the Hon'ble

Prabha Shankar Mishra, the Chief Justice (as His

Lordship then was) and the Hon'ble justice Bhaskar

Bhattacharya in W.P. 281 of 1998;

And

In the matter of:-

Non-Compliance of the directions passed by their

Lordships in the W.P. No. 281 of 1998;

And

In the Matter of:

Notification being No. S.O. 339(E) dated 14th May

1999 issued under the signature of Special Secretary

(ISP), Ministry of Home Affairs, Government of

India whereby a commission of Inquiry was

appointed for the purpose of making an independent

inquiry into the disappearance of Netaji Subhas

Chandra Bose in 1945;

And

In the Matter of:

Commission of Inquiry Act, 1952;

And

In the Matter of:

Memorandum of Action Taken on the Report of the
Justice Mukherjee Commission of Inquiry;

And

In the matter of:

1. Shri Rudra Jyoti Bhattacharjee Advocate, son of
Shri Santosh Kumar Bhattacharjee, Bar Association,
Room No. 2, High Court Calcutta;

2. Sri Surajit Dasgupta, son of Late Jatindra Mohan
Dasgupta, by occupation business, resident of 25/1,
Guruprasad Chowdhury Lane, P.S. Amherst Street,
Kolkata-700 006

3. Sri Nandalal Chakraborty, by occupation, Head of
the Department of Political Science, Presidency
College, resident of 559/1, Dakshin Dari Road, P.S.
lake Town, Kolkata-700 048

4. Dr. Madhusudan Pal, by occupation Assistant
Professor, Calcutta Medical College Hospital,
resident of A/5/2, Sharabani Abashan, Salt Lake, Sec-
III, Kolkata-700 009.

5. Sri Tarun Kumar Mukherjee son of Late
Gobindalal Mukherjee, resident of 2/1, Brindaban
Mullick 1st Lane, P.S.- Amherst Street. Kolkata- 700
009.

6. Shri Jagatjit Dasgupta son of Late Jatindra Mohan
Dasgupta, resident of 25/1 Guruprosad Chowdhury
Lane, P.S.- Amherst Street, Kolkata-700 006.

7. Sri Kusal Sankar Chowdhury son of Chowdhury,
resident of 32 B, Justice Manmatha Mukherjee Row,
P.S. -Amherst Street, Kolkata-700 009.

1023 (724)

114

8. Shri Siddheswar Bhattacharjee, resident of
Hatepara " Matri Bhavan", P.O. Krishnnagar, Pin
Code- 741 104, District- Nadia

9. Shri Sunil Krishna Gupta, resident of 38,
Vidyasagar Street, P.S.-Amherst Street, Kolkata-
700 009

.....

...PETITIONERS

VERSUS

1. Union of India service through the Principal
Secretary to the Prime Minister's Office, South
Block, New Delhi.

2. The Secretary, Ministry of Home Affairs,
Government of India, North Block, New Delhi.

3. The Special Secretary, Ministry of Home
Affairs, Government of India, North Block, New
Delhi.

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4. 7Shri Manoj Kumar Mukherjee (retired judge
of Supreme Court of India), the Chairman of
Justice Mukherjee Commission of Inquiry,
resident of GD/359, Sector-III, Salt Lake,
Kolkata-700 106

RESPONDENTS

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AFFIDAVIT-IN-OPPOSITON TO THE SUPPLEMENTARY AFFIDAVIT OF THE
PETITIONER,ON BEHALF OF THE RESPONDENT NOS. 1, 2,3

I son of aged about years, by faith-Hindu, working
for gain having my office at do hereby solemnly affirm and
say as follows:

1. I am the in the Government of India, Ministry of Home Affairs, and I am duly authorized and competent to affirm this affidavit on behalf of the Respondent Nos. 1, 2, 3.
2. I have gone through the copy of the supplementary affidavit affirmed on unspecified day of February, 2010 by the Petitioner No. 2 herein above and have understood the contents and purport thereof.
3. I deny each and every allegation contained in paragraphs 1 to 3 of the aforesaid affidavit save and except what are matters of record.
4. I deny each and every allegation contained in paragraphs 4 & 5 of the aforesaid affidavit save and except what are matter of record. I further state that so far as challenging of the Action Taken Report by the petitioner is concerned, it may be stated that the report of Justice Mudherjee Commission of Inquiry was examined minutely and meticulously by the Government but it was not possible to accept the same as it was observed that the Commission's Inquiry was inconclusive and it has not been able to provide definite findings.

I further state that Government of India accepted the findings of the earlier Committee i.e. Shahnawaj Khan Committee and the Khoshla Commission of

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Inquiry to the effect that Netaji died in the plane crash at Taihoko and the ashes in the Japanese temple are of Netaji. Justice Mukherjee Commission appointed, inter-alia, in deference to the judgment of Hon'ble Kolkata High Court contradicted the findings of the earlier Committee and Commission, but did not do so convincingly and conclusively. It was, therefore, not possible to accept the same.

5. I deny each and every allegation contained in paragraphs 6, 7, & 8 of the aforesaid affidavit save and except what are matter of record. I deny the allegation that the Lok Sabha Secretariat has misled this Hon'ble Court by its letter dated 4.08.08 as alleged at all. I state that actual state of affairs in the Lok Sabha relating to Report of the said Commission and Action Taken Report will be reflected from the office Memorandum being F. No.23/5/XIV/2008/T dated 12th February, 2010, issued from the Lok Sabha Secretariat and also relevant documents which are annexed hereto and collectively marked R-1.
6. The statements contained in paragraphs 1to 5 are based on information derived from record which I verily believe to be true.

Solemnly affirmed by the said

.....

at the Court House at Calcutta

on this Day of April, 2010,

- 128
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5/4

LOK SABHA SECRETARIAT

Telegrams : LOKSABHA, NEW DELHI
FAX : 23010756

PARLIAMENT HOUSE
NEW DELHI-110001

F No. 23/5/XIV/2008/T

Dated: 12th February, 2010

OFFICE MEMORANDUM

Subject: WP No. 2003/2006-Shri Rudra Jyoti Bhattacharya-Vs.-Union of India & others.

The undersigned is directed to refer to the Ministry of Home Affairs (IS Division) OM No. 12014/5/07-Cdn(Pt) dated 4th February, 2010, on the above subject and to state that there is no general statutory provision which makes it obligatory on Parliament to accept or reject any Action Taken Report (ATR), placed by the Government before the Houses. However, Members of Lok Sabha may Table notices of motions/resolutions accepting or rejecting the Action Taken Report (ATR). Whenever a motion or a resolution is adopted by the House, copy of the same is forwarded to the Minister concerned.

2. In the instant case, no notice of a motion/resolution for accepting or rejecting the ATR has been received.

3. However, Justice Mukherjee Commission of Inquiry relating to the disappearance of Netaji Subhash Chandra Bose alongwith the Action Taken Report (ATR) thereon was discussed under Rule 193 of Rules of Procedure and Conduct of Business in Lok Sabha on 2, 3 and 7 August, 2006 and the discussion was replied to by the Minister of Home Affairs. Under Rule 193, there is no formal motion before the House and with the reply of the Minister the discussion comes to close.

S.K. Ganguli
12/2/10
(S. K. GANGULI)
Under Secretary
Tel. No. 23034795

To

The Ministry of Home Affairs,
(IS Div. Cdn Section)
(Shri Amar Chand, Under Secretary)
Room No. 8, 'C' Wing, 9th Floor,
Lok Nayak Bhavan,
New Delhi.

PR sent to immediately,

15/2

Sd (Cdn)

128 (129)

124



शिवराज पाटील
SHIVRAJ V. PATIL
गृह मंत्री, भारत
HOME MINISTER, INDIA

May 15, 2006

To,

The Hon'ble Speaker,
Lok Sabha,
New Delhi.

15/5/06

Sir,

I give notice of my intention to lay on the Table of Lok Sabha the Report of the Justice Mukherjee Commission of Inquiry into the alleged disappearance of Netaji Subhas Chandra Bose, along with the Action Taken Report and the Statement of reasons for delay in laying the Report, on 17th May, 2006.

Yours sincerely,

e/c

(SHIVRAJ V. PATIL)

Copy to : 1) Secretary General,
Lok Sabha,
New Delhi.

RP
15/5/06
at 6.30 P.M.

2) Table Office, Lok Sabha,
New Delhi.

3) M/o Parliamentary Affairs

4) Parliament Section, MHRD, North Block

130

129

128

AUTHENTICATED
Shivraj V. Patil
SHIVRAJ V. PATIL
HOME MINISTER

**MEMORANDUM OF ACTION TAKEN ON THE REPORT
OF THE JUSTICE MUKHERJEE COMMISSION OF INQUIRY REGARDING
THE ALLEGED DISAPPEARANCE OF
NETAJI SUBHAS CHANDRA BOSE**

By Government of India Notification No. S.O. 339(E) dated 14th May, 1999, Shri M.K. Mukherjee, retired Judge of the Supreme Court of India, was appointed under the Commissions of Inquiry Act, 1952, to inquire into all the facts and circumstances related to the disappearance of Netaji Subhas Chandra Bose in 1945 and subsequent developments connected therewith including -

- (a) whether Netaji Subhas Chandra Bose is dead or alive;
- (b) if he is dead, whether he died in the plane crash, as alleged;
- (c) whether the ashes in the Japanese temple are ashes of Netaji;
- (d) whether he has died in any other manner at any other place and, if so, when and how;
- (e) if he is alive, in respect of his whereabouts.

2. The Government have examined the Report submitted by the Commission on 8th November, 2005 in detail and have not agreed with the findings that -

- (a) Netaji did not die in the plane crash; and
- (b) the ashes in the Renkoji Temple were not of Netaji.

3. This Report is placed before the Houses as required under sub-section (4) of Section 3 of the Commissions of Inquiry Act, 1952.

1050 (131) 126
SHIVRAO V. PATIL
HOME MINISTER

STATEMENT OF REASONS FOR DELAY IN TABLING THE REPORT OF THE JUSTICE MUKHERJEE COMMISSION OF INQUIRY INTO THE ALLEGED DISAPPEARANCE OF NETAJI SUBHAS CHANDRA BOSE.

The Justice Mukherjee Commission of Inquiry was set up by the Government of India on 14th May, 1999 under the Commissions of Inquiry Act, 1952, to inquire into the alleged disappearance of Netaji Subhas Chandra Bose.

The Commission submitted its report on 8th November, 2005. As per the provision of Sub-section 4 of Section 3 of the Commissions of Inquiry Act, 1952, the Report submitted by the Commission is to be Tabled before each House of Parliament within a period of six months of the submission of the report by the Commission i.e. before 7th May, 2006..

The incidental delay has been occasioned by time taken in translation, printing, consideration of the report by the Government, its approval by the Cabinet and the adjournment of Parliament on 22nd March, 2006

W.P. No. 2003 of 2006
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

In the matter of:

An application under Article 226 of the
Constitution of India:

-And-

In the matter of:

Shri Rudra Jyoti Bhattacharjee Advocate &
Ors.

.....Petitioners

-V ersus-

Union of India & Ors.

.....Respondents

AFFIDAVIT-IN-OPPOSITION TO THE
SUPPLEMENTARY AFFIDAVIT OF THE
PETITIONERS, ON BEHALF OF THE
RESPONDENTS NO. 1, 2, 3.

Mr. S. S. Sarkar,
The Addl. Govt. Advocate
Ministry of Law & Justice
11, Strand Road Kolkata 1.

(132)

128

Filed by us (Cyp)

IN THE HIGH COURT AT CALCUTTA

CONSTITUTIONAL WRIT JURISDICTION

ORIGINAL SIDE

In the matter of:

An application under Article 226
of the Constitution of India;

And

In the matter of:

A writ of and/or order or direction in the nature of
Mandamus, Certiorari and Prohibition;

And

In the matter of:

Judgement and Order dated April 30, 1998 passed by the
Division Bench Consisting of the Hon'ble Prabha Shankar
Mishra, the Chief Justice (as His Lordship then was) and the Hon'ble
Justice Bhaskar Bhattacharya in W.P. 281 of 1998;

And

In the matter of:

Non-Compliance of the directions passed by their Lordships in the
W.P. No. 281 of 1998.

And

Am chl



In the matter of:

Notification being No. S.O.339(E) dated 14th May 1999 issued under the signature of Special Secretary (ISP), Ministry of Home Affairs, Government of India whereby a Commission of Inquiry was appointed for the purpose of making an independent inquiry into disappearance of Netaji Subhas Chandra Bose in 1945;

And

In the matter of:

Commission of Inquiry Act, 1952;

And

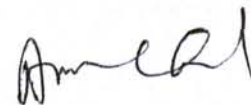
In the matter of:

Memorandum of Action Taken on the Report of the Justice Mukherjee Commission of Inquiry;

And

In the matter of:

1. Shri Rudra Jyoti Bhattacharjee Advocate, son of Shri Santosh Kumar Bhattacharjee, Bar Association, Room No. 2, High Court Calcutta;



2. Sri Surjit Dasgupta, son of Late Jatindra Mohan Dasgupta, by occupation business, resident of 25/1, Guruprasad Chowdhury Lane, P.S. Amherst Street, Kolkata-700 006.

3. Sri Nandalal Chakraborty, by occupation, Head of the Department of Political Science, Presidency College, resident of 559/1, Dakshin Dari Road, P.S. Lake Town, Kolkata-700 048.

4. Dr. Madhusudan Pal, by occupation Assistant Professor, Calcutta Medical College Hospital, resident of A/5/2, Sharabani Abashan, Salt Lake, Sec- III, Kolkata-700 009.

5. Sri Tarun Kumar Mukherjee, son of Late Gobindalal Mukherjee, resident of 2/1, Brindaban Mullick 1st Lane, P.S. Amherst Street, Kolkata-700 009.

6. Shri Jagatjit Dasgupta, son of Late Jatindra Mohan Dasgupta, resident of 25/1 Guruprasad Chowdhury Lane, P.S. Amherst Street, Kolkata-700 006.



7. Sri Kusal Sankar Chowdhury, son of Chowdhury, resident of 32 B, Justice Manmatha Mukherjee Row, P.S.-Amherst Street, Kolkata-700 009.

Am Ch

8. Sri Siddheswar Bhattacharjee, resident of Hatepara "Matri Bhavan", P.O. Krishnnagar, Pin Code- 741 104, District- Nadia.

9. Shri Sunil Krishna Gupta, resident of 38, Vidyasagar Street, P.S. -Amherst Street, Kolkata-700 009.

.... PETITIONERS

VERSUS

1. Union of India service through the Principal Secretary to the Prime Minister's Office, South Block, New Delhi .

2. The Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi.

3. The Special Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi.

4. Shri Manoj Kumar Mukherjee (retired judge of Supreme Court of India), the Chairman of Justice Mukherjee Commission of Inquiry, resident of GD/359, Sector- III, Salt Lake, Kolkata-700 009.



RESPONDENTS

Amal Ch

AFFIDAVIT ON BEHALF OF THE RESPONDENT NOS. 1,2,3

I Amar Chand son of Shri Basant Ram aged about 55 years, by faith-Hindu, working for gain having my office at New Delhi do hereby solemnly affirm and say as follows:

1. I am the Under Secretary in the Government of India, Ministry of Home Affairs, and I am duly authorized and competent to affirm this affidavit on behalf of the Respondent Nos. 1,2,3.

2. This Hon'ble Court was pleased to pass order on 15th January, 2010, granting liberty to the Union of India/respondents to seek instruction in the matter and to place the same before The Hon'ble Court, as to whether any decision has been taken by the Lok Sabha after 4th August, 2008, on the Memorandum of the Action Taken Report on the report of Justice Mukherjee Commission of Inquiry, any latest progress /development if taken place before both the Houses of Parliament in connection with Justice Mukherjee Commission of Inquiry into the alleged disappearance of Netaji Subhas Chandra Bose, on the next date of hearing i.e. 19th February, 2010 and pursuant to the aforesaid order, Union of India/Respondent sent relevant instruction to its Ld. Counsel to put up the same before This Hon'ble Court and accordingly the Ld. Counsel in course of hearing on 19th February, 2010, put up the aforesaid instructions before this Hon'ble Court and The Hon'ble Court on perusal of the same directed the Respondents to file the aforesaid instructions by way of affidavit on or before the next date of hearing i.e. 9th April, 2010, and accordingly the same is being filed by way of this affidavit.

Amar Chand



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Xerox copy of the aforesaid instructions are annexed hereto and collectively marked R-1

3. With regard to the issue as to whether Action Taken Report has been accepted or rejected by the Parliament it is submitted that Section 3(4) of the Commission of Inquiry Act states as under:

“The appropriate Government shall cause to be laid before each House of Parliament or, as the case may be, the legislature of the State the report, if any, of the Commission on the inquiry made by the Commission under sub-section (1) together with a Memorandum of the action taken thereon, within a period of six months of the submission of the report by the Commission to the appropriate Government.”

Accordingly, the report of the Justice Mukherjee Commission of inquiry alongwith the Action Taken Report thereon was placed before both the Houses of Parliament on 17th May, 2006.

4. Rajya Sabha Secretariat has informed that there was no motion before the House to accept or reject the said ATR.

5. Lok Sabha Secretariat has also informed that there is no general statutory provision which makes it obligatory on the part of the Parliament to accept or reject any Action Taken Report (ATR) placed by the Government before the Houses. However, Members of Lok Sabha may table Notices/Resolutions accepting or rejecting the Action Taken Report (ATR). No Notice of a motion/resolution for accepting or rejecting the ATR has been received by the Lok Sabha Secretariat. However, the report of Justice Mukherjee Commission of Inquiry relating to the disappearance of Netaji Subhash Chandra Bose



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alongwith the Action Taken Report (ATR) thereon was discussed under Rule 193 of Rules of Procedure and Conduct of Business in Lok Sabha on 2nd, 3rd, and 7th Aug, 2006 and the discussion was replied to by the Minister of Home Affairs. Under Rule 193, there is no formal motion before the House and with the reply of the Minister the discussion comes to a close.

6. The statements contained in paragraphs 1 to 5 based on information derived from record which I verify believe to be true.

Solemnly affirmed by the said

.....

at the Court House at Calcutta

on this Day of , 2010.

Before me

Commissioner



Solemnly affirmed before me
Notary Public, N. Delhi

- 5 MAY 2010

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LOK SABHA SECRETARIAT

Telegrams : LOKSABHA, NEW DELHI
FAX : 23010756

PARLIAMENT HOUSE
NEW DELHI-110001

F No. 23/5/XIV/2008/T

Dated: 12th February, 2010

OFFICE MEMORANDUM

Subject: WP No. 2003/2006-Shri Rudra Jyoti Bhattacharya-Vs.-Union of India & others.

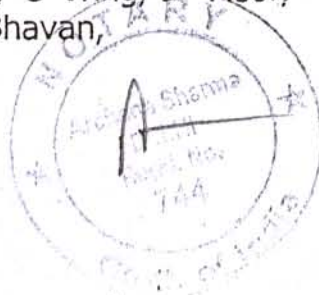
The undersigned is directed to refer to the Ministry of Home Affairs (IS Division) OM No. 12014/5/07-Cdn(Pt) dated 4th February, 2010, on the above subject and to state that there is no general statutory provision which makes it obligatory on Parliament to accept or reject any Action Taken Report (ATR), placed by the Government before the Houses. However, Members of Lok Sabha may Table notices of motions/resolutions accepting or rejecting the Action Taken Report (ATR). Whenever a motion or a resolution is adopted by the House, copy of the same is forwarded to the Minister concerned.

2. In the instant case, no notice of a motion/resolution for accepting or rejecting the ATR has been received.
3. However, Justice Mukherjee Commission of Inquiry relating to the disappearance of Netaji Subhash Chandra Bose alongwith the Action Taken Report (ATR) thereon was discussed under Rule 193 of Rules of Procedure and Conduct of Business in Lok Sabha on 2, 3 and 7 August, 2006 and the discussion was replied to by the Minister of Home Affairs. Under Rule 193, there is no formal motion before the House and with the reply of the Minister the discussion comes to close.

S.K. Ganguli
12/2/10
(S. K. GANGULI)
Under Secretary
Tel. No. 23034795

To

The Ministry of Home Affairs,
(IS Div. Cdn Section)
(Shri Amar Chand, Under Secretary)
Room No. 8, 'C' Wing, 9th Floor,
Lok Nayak Bhavan,
New Delhi.



PR hat etc immediately

15/2

Sd (Cdn)

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NOTIFIED S. 306 A. 2.

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शिवराज पाटील
SHIVRAJ V. PATIL
गृह मंत्री, भारत
HOME MINISTER, INDIA

May 15, 2006

To,

The Hon'ble Speaker,
Lok Sabha,
New Delhi.

15/5/06

Sir,

I give notice of my intention to lay on the Table of Lok Sabha the Report of the Justice Mukherjee Commission of Inquiry into the alleged disappearance of Netaji Subhas Chandra Bose, along with the Action Taken Report and the Statement of reasons for delay in laying the Report, on 17th May, 2006.

Yours sincerely,

e/c

(SHIVRAJ V. PATIL)

Copy to: 1) Secretary General,
Lok Sabha,
New Delhi.

RP
15/5/06
at 6.30 P.M.

2) Table Office, Lok Sabha,
New Delhi.



3) m/o Parliamentary Affairs

4) Parliament Section, MHA, North Block

(142)

137

AUTHENTICATED
Shivraj V. Patil
SHIVRAJ V. PATIL
HOME MINISTER

MEMORANDUM OF ACTION TAKEN ON THE REPORT
OF THE JUSTICE MUKHERJEE COMMISSION OF INQUIRY REGARDING
THE ALLEGED DISAPPEARANCE OF
NETAJI SUBHAS CHANDRA BOSE

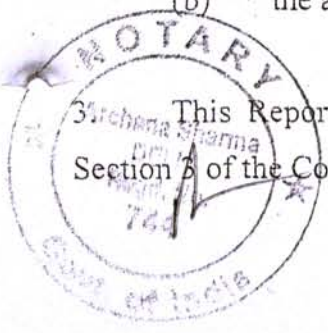
By Government of India Notification No. S.O. 339(E) dated 14th May, 1999, Shri M.K. Mukherjee, retired Judge of the Supreme Court of India, was appointed under the Commissions of Inquiry Act, 1952, to inquire into all the facts and circumstances related to the disappearance of Netaji Subhas Chandra Bose in 1945 and subsequent developments connected therewith including -

- (a) whether Netaji Subhas Chandra Bose is dead or alive;
- (b) if he is dead, whether he died in the plane crash, as alleged;
- (c) whether the ashes in the Japanese temple are ashes of Netaji;
- (d) whether he has died in any other manner at any other place and, if so, when and how;
- (e) if he is alive, in respect of his whereabouts.

2. The Government have examined the Report submitted by the Commission on 8th November, 2005 in detail and have not agreed with the findings that -

- (a) Netaji did not die in the plane crash; and
- (b) the ashes in the Renkoji Temple were not of Netaji.

This Report is placed before the Houses as required under sub-section (4) of Section 3 of the Commissions of Inquiry Act, 1952.



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SHIVAN V. PATEL
HOME MINISTER

STATEMENT OF REASONS FOR DELAY IN TABLING THE REPORT OF THE JUSTICE MUKHERJEE COMMISSION OF INQUIRY INTO THE ALLEGED DISAPPEARANCE OF NETAJI SUBHAS CHANDRA BOSE.

The Justice Mukherjee Commission of Inquiry was set up by the Government of India on 14th May, 1999 under the Commissions of Inquiry Act, 1952, to inquire into the alleged disappearance of Netaji Subhas Chandra Bose.

The Commission submitted its report on 8th November, 2005. As per the provision of Sub-section 4 of Section 3 of the Commissions of Inquiry Act, 1952, the Report submitted by the Commission is to be Tabled before each House of Parliament within a period of six months of the submission of the report by the Commission i.e. before 7th May, 2006..

The incidental delay has been occasioned by time taken in translation, printing, consideration of the report by the Government, its approval by the Cabinet and the adjournment of Parliament on 22nd March, 2006



239

149
(149)

W.P. No.2003 of 2006
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

In the matter of:

An application under Article 226 of the constitution
of India.

-And-

In the matter of:

Shri Rudra Jyoti Bhattacharjee Advocate & Ors.

.....Petitioners

- Verses-

Union of India & Ors.

.....Respondents

AFFIDAVIT ON BEHALF OF THE
RESPONDENTS NO. 1,2,3

Mr. S.S. Sarkar,
The Addl. Govt. Advocate
Ministry of Law & Justice
11, Strand Road Kolkata 1.

Amr Ch



IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

ORIGINAL SIDE

In the matter of:

An application under Article 226
of the Constitution of India;

And

In the matter of:

A writ of and/or order or direction in the nature of
Mandamus, Certiorari and Prohibition;

And

In the matter of:

Judgement and Order dated April 30, 1998 passed by the
Division Bench Consisting of the Hon'ble Prabha Shankar
Mishra, the Chief Justice (as His Lordship then was) and the Hon'ble
Justice Bhaskar Bhattacharya in W.P. 281 of 1998;

And

In the matter of:

Non-Compliance of the directions passed by their Lordships in the
W.P. No. 281 of 1998.

And

Amr Chel



14/05/1999
2/45
146
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In the matter of:

Notification being No. S.O.339(E) dated 14th May 1999 issued under the signature of Special Secretary (ISP), Ministry of Home Affairs, Government of India whereby a Commission of Inquiry was appointed for the purpose of making an independent inquiry into disappearance of Netaji Subhas Chandra Bose in 1945;

And

In the matter of:

Commission of Inquiry Act, 1952;

And

In the matter of:

Memorandum of Action Taken on the Report of the Justice Mukherjee Commission of Inquiry;

And

In the matter of:

1. Shri Rudra Jyoti Bhattacharjee Advocate, son of Shri Santosh Kumar Bhattacharjee, Bar Association, Room No. 2, High Court Calcutta;

Amesh



2. Sri Surjit Dasgupta, son of Late Jatindra Mohan Dasgupta, by occupation business, resident of 25/1, Guruprasad Chowdhury Lane, P.S. Amherst Street, Kolkata-700 006.

3. Sri Nandalal Chakraborty, by occupation, Head of the Department of Political Science, Presidency College, resident of 559/1, Dakshin Dari Road, P.S. Lake Town, Kolkata-700 048.

4. Dr. Madhusudan Pal, by occupation Assistant Professor, Calcutta Medical College Hospital, resident of A/5/2, Sharabani Abashan, Salt Lake, Sec- III, Kolkata-700 009.

5. Sri Tarun Kumar Mukherjee, son of Late Gobindalal Mukherjee, resident of 2/1, Brindaban Mullick 1st Lane, P.S. Amherst Street, Kolkata-700 009.

6. Shri Jagatjit Dasgupta, son of Late Jatindra Mohan Dasgupta, resident of 25/1 Guruprasad Chowdhury Lane, P.S. Amherst Street, Kolkata-700 006.

7. Sri Kusal Sankar Chowdhury, son of Chowdhury, resident of 32 B, Justice Manmatha Mukherjee Row, P.S.-Amherst Street, Kolkata-700 009.



Am Chud

8. Sri Siddheswar Bhattacharjee, resident of Hatepara "Matri Bhavan", P.O. Krishnagar, Pin Code- 741 104, District- Nadia.

9. Shri Sunil Krishna Gupta, resident of 38, Vidyasagar Street, P.S. -Amherst Street, Kolkata-700 009.

.... PETITIONERS

VERSUS

1. Union of India service through the Principal Secretary to the Prime Minister's Office, South Block, New Delhi .

2. The Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi.

3. The Special Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi.

4. Shri Manoj Kumar Mukherjee (retired judge of Supreme Court of India), the Chairman of Justice Mukherjee Commission of Inquiry, resident of GD/359, Sector- III, Salt Lake, Kolkata-700 009.

RESPONDENTS



Archan

AFFIDAVIT-IN-OPPOSITION TO THE SUPPLEMENTARY AFFIDAVIT
OF THE
PETITIONER ON BEHALF OF THE RESPONDENT NOS. 1, 2,3

(149) 148

I Amar Chand son of Shri Basant Ram aged about 55 years, by faith-Hindu, working for gain having my office at New Delhi do hereby solemnly affirm and say as follows:

1. I am the Under Secretary Government of India, Ministry of Home Affairs, and I am duly authorized and competent to affirm this affidavit on behalf of the Respondent Nos. 1, 2, 3.

2. I have gone through the copy of the supplementary affidavit affirmed on unspecified day of February, 2010 by the Petitioner No. 2 herein above and have understood the contents and purport thereof.

3. I deny each and every allegation contained in paragraphs 1 to 3 of the aforesaid affidavit save and except what are matters of record.

4. I deny each and every allegation contained in paragraphs 4 & 5 of the aforesaid affidavit save and except what are matter of record. I

further state that so far as challenging of the Action Taken

Amar Chand



Report by the petitioner is concerned, it may be stated that the report of Justice Mukherjee Commission of Inquiry was examined minutely and meticulously by the Government but it was not possible to accept the same as it was observed that the Commission Inquiry was inconclusive and it has not been able to provide definite findings. I further state that Government of India accepted the findings of the earlier Committee i.e. Shahnawaj Khan Committee and the Khoshla Commission of Inquiry to the effect that Netaji died in the plane crash at Taihoku and the ashes in the Japanese temple are of Netaji. Justice Mukherjee Commission appointed, inter-alia, in deference to the judgment of Hon Kolkata High Court contradicted the findings of the earlier Committee and Commission, but did not do so convincingly and conclusively. It was, therefore, not possible to accept the same.

5. I deny each and every allegation contained in paragraphs 6, 7, & 8 of the aforesaid affidavit save and except what are matter of record. I deny the allegation that the Lok Sabha Secretariat has misled this Hon'ble Court by its letter dated 4.08.08 as alleged at all. I state that actual state of affairs in the Lok Sabha relating to Report of the said



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Commission and Action Taken Report will be reflected from the Office Memorandum being F. No.23/5/X1V/2008/T dated 12th February, 2010, issued from the Lok Sabha Secretariat and also relevant documents which are annexed hereto and collectively marked R-1.

6. The statements contained in paragraphs 1 to 5 are based on information derived from record which I verily believe to be true.

Archa

Solemnly affirmed by the said

at the Court House at Calcutta

on this _____ Day of _____, 2010.



Solemnly affirmed before me
Archa
Notary Public, N. Delhi

- 5 MAY 2010

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N/

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LOK SABHA SECRETARIAT

Telegrams : LOKSABHA, NEW DELHI
FAX : 23010756

PARLIAMENT HOUSE
NEW DELHI-110001

F No. 23/5/XIV/2008/T

Dated: 12th February, 2010

OFFICE MEMORANDUM

Subject: WP No. 2003/2006-Shri Rudra Jyoti Bhattacharya-Vs.-Union of India & others.

The undersigned is directed to refer to the Ministry of Home Affairs (IS Division) OM No. 12014/5/07-Cdn(Pt) dated 4th February, 2010, on the above subject and to state that there is no general statutory provision which makes it obligatory on Parliament to accept or reject any Action Taken Report (ATR), placed by the Government before the Houses. However, Members of Lok Sabha may Table notices of motions/resolutions accepting or rejecting the Action Taken Report (ATR). Whenever a motion or a resolution is adopted by the House, copy of the same is forwarded to the Minister concerned.

2. In the instant case, no notice of a motion/resolution for accepting or rejecting the ATR has been received.

3. However, Justice Mukherjee Commission of Inquiry relating to the disappearance of Netaji Subhash Chandra Bose alongwith the Action Taken Report (ATR) thereon was discussed under Rule 193 of Rules of Procedure and Conduct of Business in Lok Sabha on 2, 3 and 7 August, 2006 and the discussion was replied to by the Minister of Home Affairs. Under Rule 193, there is no formal motion before the House and with the reply of the Minister the discussion comes to close.

S.K. Ganguli
12/2/10
(S. K. GANGULI)
Under Secretary
Tel. No. 23034795

To

The Ministry of Home Affairs,
(IS Div. Cdn Section)
(Shri Amar Chand, Under Secretary)
Room No. 8, 'C' Wing, 9th Floor,
Lok Nayak Bhavan,
New Delhi.

PR sent to immediately,

A
1512

sd (Cdn)



153

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शिवराज पाटील
SHIVRAJ V. PATIL
गृह मंत्री, भारत
HOME MINISTER, INDIA

May 15, 2006

To,

The Hon'ble Speaker,
Lok Sabha,
New Delhi.

Sir,

I give notice of my intention to lay on the Table of Lok Sabha the Report of the Justice Mukherjee Commission of Inquiry into the alleged disappearance of Netaji Subhas Chandra Bose, along with the Action Taken Report and the Statement of reasons for delay in laying the Report, on 17th May, 2006.

Yours sincerely,

e/c

(SHIVRAJ V. PATIL)

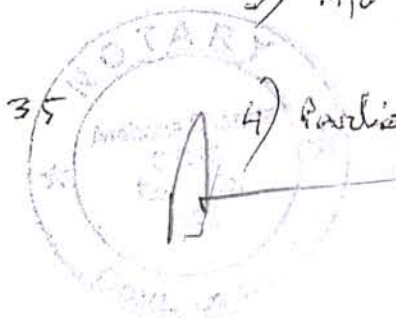
Copy to: 1) Secretary General,
Lok Sabha,
New Delhi.

EP
15/5/06
at 6:30 P.M.

2) Table Office, Lok Sabha,
New Delhi.

3) M/o Parliamentary Affairs

4) Parliament Section, MHA, North Block



154

149

AUTHENTICATED
Shivraj V. Patil
SHIVRAJ V. PATIL
HOME MINISTER

MEMORANDUM OF ACTION TAKEN ON THE REPORT
OF THE JUSTICE MUKHERJEE COMMISSION OF INQUIRY REGARDING
THE ALLEGED DISAPPEARANCE OF
NETAJI SUBHAS CHANDRA BOSE

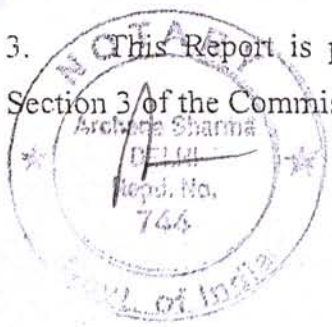
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- (a) whether Netaji Subhas Chandra Bose is dead or alive;
- (b) if he is dead, whether he died in the plane crash, as alleged;
- (c) whether the ashes in the Japanese temple are ashes of Netaji;
- (d) whether he has died in any other manner at any other place and, if so, when and how;
- (e) if he is alive, in respect of his whereabouts.

2. The Government have examined the Report submitted by the Commission on 8th November, 2005 in detail and have not agreed with the findings that -

- (a) Netaji did not die in the plane crash; and
- (b) the ashes in the Renkoji Temple were not of Netaji.

3. This Report is placed before the Houses as required under sub-section (4) of Section 3 of the Commissions of Inquiry Act, 1952.



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Shivraj V. Pathi
SHIVRAJ V. PATHI
HOME MINISTER

STATEMENT OF REASONS FOR DELAY IN TABLING THE REPORT OF THE JUSTICE MUKHERJEE COMMISSION OF INQUIRY INTO THE ALLEGED DISAPPEARANCE OF NETAJI SUBHAS CHANDRA BOSE.

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The Commission submitted its report on 8th November, 2005. As per the provision of Sub-section 4 of Section 3 of the Commissions of Inquiry Act, 1952, the Report submitted by the Commission is to be Tabled before each House of Parliament within a period of six months of the submission of the report by the Commission i.e. before 7th May, 2006..

The incidental delay has been occasioned by time taken in translation, printing, consideration of the report by the Government, its approval by the Cabinet and the adjournment of Parliament on 22nd March, 2006



158

W.P. No.2003 of 2006
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

In the matter of:

An application under Article 226 of the constitution
of India.

-And-

In the matter of:

Shri Rudra Jyoti Bhattacharjee Advocate & Ors.

.....Petitioners

- Verses-

Union of India & Ors.

.....Respondents

AFFIDAVIT -IN- OPPOSITION OF THE
SUPPLEMENTARY AFFIDAVIT OF THE
PETITIONERS, ON BEHALF OF THE
RESPONDENTS NO. 1,2,3

Mr. S.S. Sarkar,
The Addl. Govt. Advocate
Ministry of Law & Justice
11, Strand Road Kolkata 1.



Amal

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BY SPEED POST
OUT TODAY

No.I/ 12014/5/2007-Cdn.
Ministry of Home Affairs
Internal Security Division-II

9th Floor, 'C' Wing,
Lok Nayak Bhawan,
New Delhi, the 21st June, 2010

To

Shri Mohd. Nizammudin,
Advocate, High Court, Kolkata,
Bar Association, Room No. 12, (Fax No. 033-22482313)
15, Marquis Lane,
Kolkata-700016.

Subject: WP No. 2003/2006 – Shri Rudra Jyoti
Bhattacharya & Ors-Vs. –Union of India & Ors.

Sir,

Apropos discussion with the undersigned another notarised copy each of Affidavit on behalf of the Respondents No. 1,2,3 on Memorandum of Action Taken Report of the Justice Mukherjee Commission of Inquiry and Affidavit –in-opposition of the Supplementary Affidavit of the petitioners, on behalf of the Respondents 1,2,3 are enclosed for taking necessary action at your end

Yours faithfully,

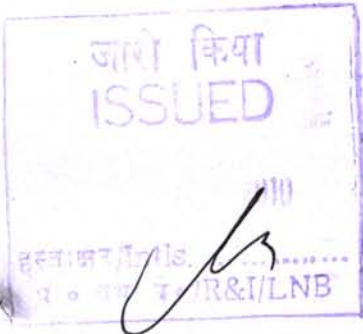
Amar Chand

(AMAR CHAND)

Under Secretary to the Govt. of India

Tel: 24610466

Encl. as above



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Please
visit
BBK
21/6/10

Farooqui Razak.

Fax 03322966743

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W.P. No. 2003 of 2006

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

ORIGINAL SIDE

In the matter of:

An application under Article 226

of the Constitution of India;

And

In the matter of:

A writ of and/or order or direction in the nature of
Mandamus, Certiorari and Prohibition;

And

In the matter of:

Judgement and Order dated April 30, 1998 passed by the
Division Bench Consisting of the Hon'ble Prabha Shankar
Mishra, the Chief Justice (as His Lordship then was) and the Hon'ble
Justice Bhaskar Bhattacharya in W.P. 281 of 1998;

And

In the matter of:

Non-Compliance of the directions passed by their Lordships in the
W.P. No. 281 of 1998.

And

Amal



In the matter of;

Notification being No. S.O.339(E) dated 14th May 1999 issued under the signature of Special Secretary (ISP), Ministry of Home Affairs, Government of India whereby a Commission of Inquiry was appointed for the purpose of making an independent inquiry into disappearance of Netaji Subhas Chandra Bose in 1945;

And

In the matter of;

Commission of Inquiry Act, 1952;

And

In the matter of;

Memorandum of Action Taken on the Report of the Justice Mukherjee Commission of Inquiry;

And

In the matter of:

1. Shri Rudra Jyoti Bhattacharjee Advocate, son of Shri Santosh Kumar Bhattacharjee, Bar Association, Room No. 2, High Court

Calcutta;



Amel

2. Sri Surjit Dasgupta, son of Late Jatindra Mohan Dasgupta, by occupation business, resident of 25/1, Guruprasad Chowdhury Lane, P.S. Amherst Street, Kolkata-700 006.
3. Sri Nandalal Chakraborty, by occupation, Head of the Department of Political Science, Presidency College, resident of 559/1, Dakshin Dari Road, P.S. Lake Town, Kolkata-700 048.
4. Dr. Madhusudan Pal, by occupation Assistant Professor, Calcutta Medical College Hospital, resident of A/5/2, Sharabani Abashan, Salt Lake, Sec- III, Kolkata-700 009.
5. Sri Tarun Kumar Mukherjee, son of Late Gobindalal Mukherjee, resident of 2/1, Brindaban Mullick 1st Lane, P.S. Amherst Street, Kolkata-700 009.
6. Shri Jagatjit Dasgupta, son of Late Jatindra Mohan Dasgupta, resident of 25/1 Guruprasad Chowdhury Lane, P.S. Amherst Street, Kolkata-700 006.
7. Sri Kusal Sankar Chowdhury, son of Chowdhury, resident of 32 B, Justice Manmatha Mukherjee Row, P.S.-Amherst Street, Kolkata-700 009.



Amcl

8. Sri Siddheswar Bhattacharjee, resident of Hatepara "Matri Bhavan", P.O. Krishnnagar, Pin Code- 741 104, District- Nadia.

9. Shri Sunil Krishna Gupta, resident of 38, Vidyasagar Street, P.S. -Amherst Street, Kolkata-700 009.

.... PETITIONERS

VERSUS

1. Union of India service through the Principal Secretary to the Prime Minister's Office, South Block, New Delhi .

2. The Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi.

3. The Special Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi.

4. Shri Manoj Kumar Mukherjee (retired judge of Supreme Court of India), the Chairman of Justice Mukherjee Commission of Inquiry, resident of GD/359, Sector- III, Salt Lake, Kolkata-700 009.



RESPONDENTS

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AFFIDAVIT ON BEHALF OF THE RESPONDENT NOS. 1,2,3

I Amar Chand son of Shri Basant Ram aged about 55 years, by faith-Hindu, working for gain having my office at New Delhi do hereby solemnly affirm and say as follows:

1. I am the Under Secretary in the Government of India, Ministry of Home Affairs, and I am duly authorized and competent to affirm this affidavit on behalf of the Respondent Nos. 1,2,3.

2. This Hon'ble Court was pleased to pass order on 15th January, 2010, granting liberty to the Union of India/respondents to seek instruction in the matter and to place the same before The Hon'ble Court, as to whether any decision has been taken by the Lok Sabha after 4th August, 2008, on the Memorandum of the Action Taken Report on the report of Justice Mukherjee Commission of Inquiry, any latest progress /development if taken place before both the Houses of Parliament in connection with Justice Mukherjee Commission of Inquiry into the alleged disappearance of Netaji Subhas Chandra Bose, on the next date of hearing i.e. 19th February, 2010 and pursuant to the aforesaid order, Union of India/Respondent sent relevant instruction to its Ld. Counsel to put up the same before This Hon'ble Court and accordingly the Ld. Counsel in course of hearing on 19th February, 2010, put up the aforesaid instructions before this Hon'ble Court and The Hon'ble Court on perusal of the same directed the Respondents to file the aforesaid instructions by way of affidavit on or before the next date of hearing i.e. 9th April, 2010, and accordingly the same is being filed by way of this affidavit.



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Xerox copy of the aforesaid instructions are annexed hereto and collectively marked R-1

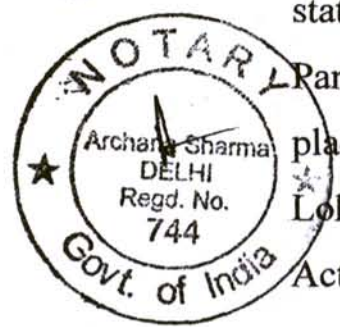
3. With regard to the issue as to whether Action Taken Report has been accepted or rejected by the Parliament it is submitted that Section 3(4) of the Commission of Inquiry Act states as under:

“The appropriate Government shall cause to be laid before each House of Parliament or, as the case may be, the legislature of the State the report, if any, of the Commission on the inquiry made by the Commission under sub-section (1) together with a Memorandum of the action taken thereon, within a period of six months of the submission of the report by the Commission to the appropriate Government.”

Accordingly, the report of the Justice Mukherjee Commission of inquiry alongwith the Action Taken Report thereon was placed before both the Houses of Parliament on 17th May, 2006.

4. Rajya Sabha Secretariat has informed that there was no motion before the House to accept or reject the said ATR.

5. Lok Sabha Secretariat has also informed that there is no general statutory provision which makes it obligatory on the part of the Parliament to accept or reject any Action Taken Report (ATR) placed by the Government before the Houses. However, Members of Lok Sabha may table Notices/Resolutions accepting or rejecting the Action Taken Report (ATR). No Notice of a motion/resolution for accepting or rejecting the ATR has been received by the Lok Sabha Secretariat. However, the report of Justice Mukherjee Commission of Inquiry relating to the disappearance of Netaji Subhash Chandra Bose



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alongwith the Action Taken Report (ATR) thereon was discussed under Rule 193 of Rules of Procedure and Conduct of Business in Lok Sabha on 2nd, 3rd, and 7th Aug, 2006 and the discussion was replied to by the Minister of Home Affairs. Under Rule 193, there is no formal motion before the House and with the reply of the Minister the discussion comes to a close.

6. The statements contained in paragraphs 1 to 5 based on information derived from record which I verify believe to be true.

Solemnly affirmed by the said

.....

at the Court House at Calcutta

on this Day of , 2010.

Before me

Commissioner



Amel

Solemnly affirmed before me
[Signature]
Notary Public. N Delhi

19 JUN 2010

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R/

12/2/10

LOK SABHA SECRETARIAT

Telegrams : LOKSABHA, NEW DELHI
FAX : 23010756

PARLIAMENT HOUSE
NEW DELHI-110001

F No. 23/5/XIV/2008/T

Dated: 12th February, 2010

OFFICE MEMORANDUM

Subject: WP No. 2003/2006-Shri Rudra Jyoti Bhattacharya-Vs.-Union of India & others.

The undersigned is directed to refer to the Ministry of Home Affairs (IS Division) OM No. 12014/5/07-Cdn(Pt) dated 4th February, 2010, on the above subject and to state that there is no general statutory provision which makes it obligatory on Parliament to accept or reject any Action Taken Report (ATR), placed by the Government before the Houses. However, Members of Lok Sabha may Table notices of motions/resolutions accepting or rejecting the Action Taken Report (ATR). Whenever a motion or a resolution is adopted by the House, copy of the same is forwarded to the Minister concerned.

2. In the instant case, no notice of a motion/resolution for accepting or rejecting the ATR has been received.

3. However, Justice Mukherjee Commission of Inquiry relating to the disappearance of Netaji Subhash Chandra Bose alongwith the Action Taken Report (ATR) thereon was discussed under Rule 193 of Rules of Procedure and Conduct of Business in Lok Sabha on 2, 3 and 7 August, 2006 and the discussion was replied to by the Minister of Home Affairs. Under Rule 193, there is no formal motion before the House and with the reply of the Minister the discussion comes to close.

12/2/10
(S. K. GANGULI)
Under Secretary
Tel. No. 23034795

To

The Ministry of Home Affairs,
(IS Div. Cdn Section)
(Shri Amar Chand, Under Secretary)
Room No. 8, 'C' Wing, 9th Floor,
Lok Nayak Bhavan,
New Delhi.

Amar Chand



1682 (166)

12/1/06

NOTICE



शिवराज पाटील
SHIVRAJ V. PATIL
गृह मंत्री, भारत
HOME MINISTER, INDIA

May 15, 2006

To,

15/5/06

The Hon'ble Speaker,
Lok Sabha,
New Delhi.

Sir,

I give notice of my intention to lay on the Table of Lok Sabha the Report of the Justice Mukherjee Commission of Inquiry into the alleged disappearance of Netaji Subhas Chandra Bose, along with the Action Taken Report and the Statement of reasons for delay in laying the Report, on 17th May, 2006.

Yours sincerely,

e/c

(SHIVRAJ V. PATIL)

Amulani



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AUTHENTICATED
Shivaji V. Patil
SHIVAJI V. PATIL
HOME MINISTER

**MEMORANDUM OF ACTION TAKEN ON THE REPORT
OF THE JUSTICE MUKHERJEE COMMISSION OF INQUIRY REGARDING
THE ALLEGED DISAPPEARANCE OF
NETAJI SUBHAS CHANDRA BOSE**

By Government of India Notification No. S.O. 339(E) dated 14th May, 1999, Shri M.K. Mukherjee, retired Judge of the Supreme Court of India, was appointed under the Commissions of Inquiry Act, 1952, to inquire into all the facts and circumstances related to the disappearance of Netaji Subhas Chandra Bose in 1945 and subsequent developments connected therewith including -

- (a) whether Netaji Subhas Chandra Bose is dead or alive;
- (b) if he is dead, whether he died in the plane crash, as alleged;
- (c) whether the ashes in the Japanese temple are ashes of Netaji;
- (d) whether he has died in any other manner at any other place and, if so, when and how;
- (e) if he is alive, in respect of his whereabouts.

2. The Government have examined the Report submitted by the Commission on 8th November, 2005 in detail and have not agreed with the findings that -

- (a) Netaji did not die in the plane crash; and
- (b) the ashes in the Renkoji Temple were not of Netaji.

3. This Report is placed before the Houses as required under sub-section (4) of Section 3 of the Commissions of Inquiry Act, 1952.

Amel



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SHIVRAJ V. PATEL
HOME MINISTER

STATEMENT OF REASONS FOR DELAY IN TABLING THE REPORT OF THE JUSTICE MUKHERJEE COMMISSION OF INQUIRY INTO THE ALLEGED DISAPPEARANCE OF NETAJI SUBHAS CHANDRA BOSE.

The Justice Mukherjee Commission of Inquiry was set up by the Government of India on 14th May, 1999 under the Commissions of Inquiry Act, 1952, to inquire into the alleged disappearance of Netaji Subhas Chandra Bose.

The Commission submitted its on report on 8th November, 2005. As per the provision of Sub-section 4 of Section 3 of the Commissions of Inquiry Act, 1952, the Report submitted by the Commission is to be Tabled before each House of Parliament within a period of six months of the submission of the report by the Commission i.e. before 7th May, 2006..

The incidental delay has been occasioned by time taken in translation, printing, consideration of the report by the Government, its approval by the Cabinet and the adjournment of Parliament on 22nd March, 2006

Ameli



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100 (169)

W.P. No.2003 of 2006
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

In the matter of:

An application under Article 226 of the constitution
of India.

-And-

In the matter of:

Shri Rudra Jyoti Bhattacharjee Advocate & Ors.

.....Petitioners

- Verses-

Union of India & Ors.

.....Respondents

AFFIDAVIT ON BEHALF OF THE
RESPONDENTS NO. 1,2,3



Mr. S.S. Sarkar,
The Addl. Govt. Advocate
Ministry of Law & Justice
11, Strand Road Kolkata 1.

(Handwritten signature)

170

W.P. No. 2003 of 2006

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

ORIGINAL SIDE

In the matter of:

An application under Article 226

of the Constitution of India;

And

In the matter of:

A writ of and/or order or direction in the nature of
Mandamus, Certiorari and Prohibition;

And

In the matter of:

Judgement and Order dated April 30, 1998 passed by the
Division Bench Consisting of the Hon'ble Prabha Shankar
Mishra, the Chief Justice (as His Lordship then was) and the Hon'ble
Justice Bhaskar Bhattacharya in W.P. 281 of 1998;

And

In the matter of:

Non-Compliance of the directions passed by their Lordships in the
W.P. No. 281 of 1998.

And

Amel



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-2-

In the matter of;

Notification being No. S.O.339(E) dated 14th May 1999 issued under the signature of Special Secretary (ISP), Ministry of Home Affairs, Government of India whereby a Commission of Inquiry was appointed for the purpose of making an independent inquiry into disappearance of Netaji Subhas Chandra Bose in 1945;

And

In the matter of;

Commission of Inquiry Act, 1952;

And

In the matter of:

Memorandum of Action Taken on the Report of the Justice Mukherjee Commission of Inquiry;

And

In the matter of:

1. Shri Rudra Jyoti Bhattacharjee Advocate, son of Shri Santosh Kumar Bhattacharjee, Bar Association, Room No. 2, High Court Calcutta;



Am Ch

2. Sri Surjit Dasgupta, son of Late Jatindra Mohan Dasgupta, by occupation business, resident of 25/1, Guruprasad Chowdhury Lane, P.S. Amherst Street, Kolkata-700 006.
3. Sri Nandalal Chakraborty, by occupation, Head of the Department of Political Science, Presidency College, resident of 559/1, Dakshin Dari Road, P.S. Lake Town, Kolkata-700 048.
4. Dr. Madhusudan Pal, by occupation Assistant Professor, Calcutta Medical College Hospital, resident of A/5/2, Sharabani Abashan, Salt Lake, Sec- III, Kolkata-700 009.
5. Sri Tarun Kumar Mukherjee, son of Late Gobindalal Mukherjee, resident of 2/1, Brindaban Mullick 1st Lane, P.S. Amherst Street, Kolkata-700 009.
6. Shri Jagatjit Dasgupta, son of Late Jatindra Mohan Dasgupta, resident of 25/1 Guruprasad Chowdhury Lane, P.S. Amherst Street, Kolkata-700 006.
7. Sri Kusal Sankar Chowdhury, son of Chowdhury, resident of 32 B, Justice Manmatha Mukherjee Row, P.S.-Amherst Street, Kolkata-700 009.



[Handwritten Signature]

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-4-

8. Sri Siddheswar Bhattacharjee, resident of Hatepara "Matri Bhavan", P.O. Krishnnagar, Pin Code- 741 104, District- Nadia.

9. Shri Sunil Krishna Gupta, resident of 38, Vidyasagar Street, P.S. -Amherst Street, Kolkata-700 009.

.... PETITIONERS

VERSUS

1. Union of India service through the Principal Secretary to the Prime Minister's Office, South Block, New Delhi .

2. The Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi.

3. The Special Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi.

4. Shri Manoj Kumar Mukherjee (retired judge of Supreme Court of India), the Chairman of Justice Mukherjee Commission of Inquiry, resident of GD/359, Sector- III, Salt Lake, Kolkata-700 009.



RESPONDENTS

Am Ch

103 (174)

**AFFIDAVIT-IN-OPPOSITON TO THE SUPPLEMENTARY AFFIDAVIT
OF THE
PETITIONER ON BEHALF OF THE RESPONDENT NOS. I, 2,3**

I Amar Chand son of Shri Basant Ram aged about 55 years, by faith-Hindu, working for gain having my office at New Delhi do hereby solemnly affirm and say as follows:

1. I am the Under Secretary Government of India, Ministry of Home Affairs, and I am duly authorized and competent to affirm this affidavit on behalf of the Respondent Nos. 1, 2, 3.

2. I have gone through the copy of the supplementary affidavit affirmed on unspecified day of February, 2010 by the Petitioner No. 2 herein above and have understood the contents and purport thereof.

3. I deny each and every allegation contained in paragraphs I to 3 of the aforesaid affidavit save and except what are matters of record.

4. I deny each and every allegation contained in paragraphs 4 & 5 of the aforesaid affidavit save and except what are matter of record. I further state that so far as challenging of the Action Taken Report by the petitioner is concerned, it may be stated



Amar Chand

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that the report of Justice Mukherjee Commission of Inquiry was examined minutely and meticulously by the Government but it was not possible to accept the same as it was observed that the Commission Inquiry was inconclusive and it has not been able to provide definite findings. I further state that Government of India accepted the findings of the earlier Committee i.e. Shahnawaj Khan Committee and the Khoshla Commission of Inquiry to the effect that Netaji died in the plane crash at Taihoku and the ashes in the Japanese temple are of Netaji. Justice Mukherjee Commission appointed, inter-alia, in deference to the judgment of Hon Kolkata High Court contradicted the findings of the earlier Committee and Commission, but did not do so convincingly and conclusively. It was, therefore, not possible to accept the same.

5. I deny each and every allegation contained in paragraphs 6, 7, & 8 of the aforesaid affidavit save and except what are matter of record. I deny the allegation that the Lok Sabha Secretariat has misled this Hon'ble Court by its letter dated 4.08.08 as alleged at all. I state that actual state of affairs in the Lok Sabha relating to Report of the said Commission and Action Taken Report will be reflected

Amel



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from the Office Memorandum being F. No.23/5/X1V/2008/T dated 12th February, 2010, issued from the Lok Sabha Secretariat and also relevant documents which are annexed hereto and collectively marked R-1.

- 6. The statements contained in paragraphs I to 5 are based on information derived from record which I verily believe to be true.

Solemnly affirmed by the said

at the Court House at Calcutta

on this _____ Day of _____, 2010.



Solemnly affirmed before me

Notary Public, N. Delhi

19 JUN 2010

Amal

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R/

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LOK SABHA SECRETARIAT

Telegrams : LOKSABHA, NEW DELHI
FAX : 23010756

PARLIAMENT HOUSE
NEW DELHI-110001

F No. 23/5/XIV/2008/T

Dated: 12th February, 2010

OFFICE MEMORANDUM

Subject: WP No. 2003/2006-Shri Rudra Jyoti Bhattacharya-Vs.-Union of India & others.

The undersigned is directed to refer to the Ministry of Home Affairs (IS Division) OM No. 12014/5/07-Cdn(Pt) dated 4th February, 2010, on the above subject and to state that there is no general statutory provision which makes it obligatory on Parliament to accept or reject any Action Taken Report (ATR), placed by the Government before the Houses. However, Members of Lok Sabha may Table notices of motions/resolutions accepting or rejecting the Action Taken Report (ATR). Whenever a motion or a resolution is adopted by the House, copy of the same is forwarded to the Minister concerned.

2. In the instant case, no notice of a motion/resolution for accepting or rejecting the ATR has been received.

3. However, Justice Mukherjee Commission of Inquiry relating to the disappearance of Netaji Subhash Chandra Bose alongwith the Action Taken Report (ATR) thereon was discussed under Rule 193 of Rules of Procedure and Conduct of Business in Lok Sabha on 2, 3 and 7 August, 2006 and the discussion was replied to by the Minister of Home Affairs. Under Rule 193, there is no formal motion before the House and with the reply of the Minister the discussion comes to close.

12/2/10
(S. K. GANGULI)
Under Secretary
Tel. No. 23034795

To

The Ministry of Home Affairs,
(IS Div. Cdn Section)
(Shri Amar Chand, Under Secretary)
Room No. 8, 'C' Wing, 9th Floor,
Lok Nayak Bhavan,
New Delhi.



Mrs. Anand...
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Mr. Gazette & debate
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शिवराज पाटील
SHIVRAJ V. PATIL
गृह मंत्री, भारत
HOME MINISTER, INDIA

May 15, 2006

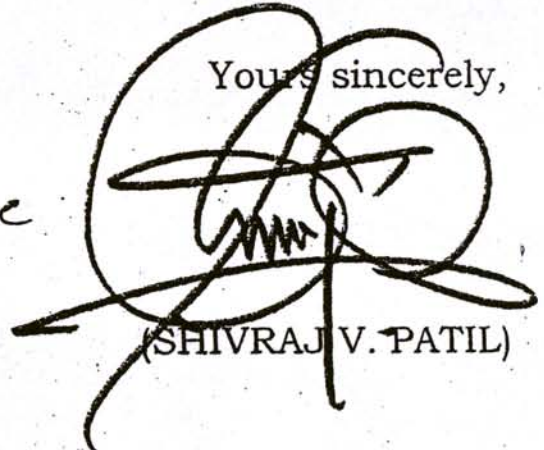
To,

15/5/06
The Hon'ble Speaker,
Lok Sabha,
New Delhi.

Sir,

I give notice of my intention to lay on the Table of Lok Sabha the Report of the Justice Mukherjee Commission of Inquiry into the alleged disappearance of Netaji Subhas Chandra Bose, along with the Action Taken Report and the Statement of reasons for delay in laying the Report, on 17th May, 2006.

Yours sincerely,

e/c

(SHIVRAJ V. PATIL)



178 (179)

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AUTHENTICATED
Shivaji V. Patil
SHIVAJI V. PATIL
HOME MINISTER

**MEMORANDUM OF ACTION TAKEN ON THE REPORT
OF THE JUSTICE MUKHERJEE COMMISSION OF INQUIRY REGARDING
THE ALLEGED DISAPPEARANCE OF
NETAJI SUBHAS CHANDRA BOSE**

By Government of India Notification No. S.O. 339(E) dated 14th May, 1999, Shri M.K. Mukherjee, retired Judge of the Supreme Court of India, was appointed under the Commissions of Inquiry Act, 1952, to inquire into all the facts and circumstances related to the disappearance of Netaji Subhas Chandra Bose in 1945 and subsequent developments connected therewith including -

- (a) whether Netaji Subhas Chandra Bose is dead or alive;
- (b) if he is dead, whether he died in the plane crash, as alleged;
- (c) whether the ashes in the Japanese temple are ashes of Netaji;
- (d) whether he has died in any other manner at any other place and, if so, when and how;
- (e) if he is alive, in respect of his whereabouts.

2. The Government have examined the Report submitted by the Commission on 8th November, 2005 in detail and have not agreed with the findings that -

- (a) Netaji did not die in the plane crash; and
- (b) the ashes in the Renkoji Temple were not of Netaji.

3. This Report is placed before the Houses as required under sub-section (4) of Section 3 of the Commissions of Inquiry Act, 1952.

Patil



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H26
H25
SHIVRAO V. PATIL
HOME MINISTER

STATEMENT OF REASONS FOR DELAY IN TABLING THE REPORT OF THE JUSTICE MUKHERJEE COMMISSION OF INQUIRY INTO THE ALLEGED DISAPPEARANCE OF NETAJI SUBHAS CHANDRA BOSE.

The Justice Mukherjee Commission of Inquiry was set up by the Government of India on 14th May, 1999 under the Commissions of Inquiry Act, 1952, to inquire into the alleged disappearance of Netaji Subhas Chandra Bose.

The Commission submitted its on report on 8th November, 2005. As per the provision of Sub-section 4 of Section 3 of the Commissions of Inquiry Act, 1952, the Report submitted by the Commission is to be Tabled before each House of Parliament within a period of six months of the submission of the report by the Commission i.e. before 7th May, 2006..

The incidental delay has been occasioned by time taken in translation, printing, consideration of the report by the Government, its approval by the Cabinet and the adjournment of Parliament on 22nd March, 2006

Anand



W.P. No.2003 of 2006
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

In the matter of:

An application under Article 226 of the constitution
of India.

-And-

In the matter of:

Shri Rudra Jyoti Bhattacharjee Advocate & Ors.

.....Petitioners

- Verses-

Union of India & Ors.

.....Respondents

AFFIDAVIT -IN- OPPOSITION OF THE
SUPPLEMENTARY AFFIDAVIT OF THE
PETITIONERS, ON BEHALF OF THE
RESPONDENTS NO. 1,2,3



Mr. S.S. Sarkar,
The Addl. Govt. Advocate
Ministry of Law & Justice
11, Strand Road Kolkata 1.

Amal

SENDING REPORT

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Jun. 23 2010 12:28AM

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D.O. No. I/12014/12/07-Cdn.

Speed Post



K. MURALIDHARAN
DEPUTY SECRETARY
Ω 24617196

भारत सरकार
GOVERNMENT OF INDIA
गृह मंत्रालय
MINISTRY OF HOME AFFAIRS
लोक नायक भवन, खान मार्केट
LOK NAYAK BHAWAN, KHAN MARKET
नई दिल्ली-110003
NEW DELHI-110003



Dated: 11th June, 2010.

Dear Sir,

15 JUN 2010

Please refer to my telephonic conversation with you regarding the pending court cases likely to come up for hearing on 18.6.2010 relating to Netaji Subhash Chandra Bose.

2. The following are the three cases:

- (i) W.P.(W) 8215 of 2008 : Subhash Chandra Basu and Another Vs. Union of India & Others.:

This writ petition relates to reappointing/reopening of Justice Mukherji Commission of Inquiry (JMCI) report for conducting further enquiry into the alleged death or disappearance of Netaji Subhash Chandra Bose and to produce all relevant records. Shri T.K. Ghose is the Central Government Advocate in this case. This petition is to be heard along with Writ Petition No.2003 of 2006 – Rudra Jyoti Bhattacharya and Ors. Vs. Union of India & Ors. Parawise comments of this Ministry were sent on 2.4.2009 and was listed for hearing on 9.4.2010. The counter affidavit is yet to be filed by the Central Government counsel and it was required to be filed by 21.5.2010. The Counsel has informed that he would take extension of time for filing the three affidavits up to 7th June. The next date of hearing has now been fixed on 18.06.2010.

- (ii) Two Draft Supplementary Affidavits have been delivered on 13/14.05.2010. The Writ Petition No.2003 of 2006: Rudra Jyoti Bhattacharya & Ors. Vs. Union of India & Ors. regarding the action taken report on the Justice Mukherji Commission Enquiry Report on the Table of both Houses of Parliament, for filing before the Hon'ble High Court.

Contd.....

2184

179

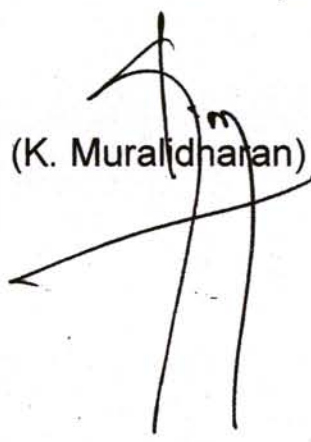
(iii) Writ Petition (W) No.27541 of 2006: Ashim Kumar Ganguly and Another Vs. Union of India & Others regarding Government refraining from incurring further public money from Government exchequer for maintenance and upkeep of Renkoji Temple in Japan and refrain Government from incurring any expenditure to Netaji Subhash Research Bureau. This case will also be listed for hearing on 18.06.2010.

3. I shall be grateful if you could kindly arrange and expedite the three cases. In case, an officer is required to be deputed for conferencing the same may also be conveyed to us.

With regards,

Yours sincerely,

(K. Muralidharan)



Shri Farooq M. Razak,
Additional Solicitor General, Kolkata,
19, Balu Hakak Lane,
Park Circus,
Kolkata-700017.



187 (185)

180

BY SPEED POST

**No.I/ 12014/5/2007-Cdn.
Ministry of Home Affairs
Internal Security Division-II**

**9th Floor, 'C' Wing,
Lok Nayak Bhawan,
New Delhi, the 24th June, 2010.**

To

**Ms. S. Bhattacharya
Joint Secretary & Legal Adviser ,
Ministry of Law and Justice,
Deptt. Of Legal Affairs,
11 Strand Road, Kolkata-700001**

28 JUN 2010

Madam,

I am directed to convey that following three Writ Petitions are pending in the Hon'ble High Court of Kolkata regarding Netaji Subhash Chandra Bose:

- (i.) WP No. 2003/2006 – Shri Rudra Jyoti Bhattacharya & Ors-Vs. –Union of India & Ors.
- (ii) W.P.(W) No. 27541 of 2006 – Ashim Kumar Ganguly and Another Vs. Union of India & Others
- (iii) W.P. No. 8215(W)/08 filed by Shri Subash Chadra Basu & others Vs. UOI & others

3. As the matters are very sensitive. It is requested that Shri Farooq M. Razak, Additional Solicitor General of India may be appointed in these cases. As the matters are very sensitive.

4. The concerned officer dealing with the subject shall be deputed to brief the cases and it is requested that the date and time for conferencing may also be intimated to this Ministry. It is also requested that the developments in these cases may also please be informed to this Ministry.

Yours faithfully,

(Smt.L.P.Shrivastava)

Under Secretary to the Govt. of India

Tel: 24610467

Copy to Sh. Farooq A'bdul Razak, ASG, Calcutta High Court. Calcutta.

R & J
Please
issue
BK
25/6/10

186

181

ISSUED
28 JUN 2010
R&I/ENB

BY SPEED POST

No.I/ 12014/5/2007-Cdn.
Ministry of Home Affairs
Internal Security Division-II

9th Floor, 'C' Wing,
Lok Nayak Bhawan,
New Delhi, the 24th June, 2010.

To

Ms. S. Bhattacharya
Joint Secretary & Legal Adviser ,
Ministry of Law and Justice,
Deptt. Of Legal Affairs,
11 Strand Road, Kolkata-700001

28 JUN 2010

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- (i.) WP No. 2003/2006 – Shri Rudra Jyoti Bhattacharya & Ors-Vs. –Union of India & Ors.
- (ii) W.P.(W) No. 27541 of 2006 – Ashim Kumar Ganguly and Another Vs. Union of India & Others
- (iii) W.P. No. 8215(W)/08 filed by Shri Subash Chadra Basu & others Vs. UOI & others

3. As the matters are very sensitive. It is requested that Shri Farooq M. Razak, Additional Solicitor General of India may be appointed in these cases. As the matters are very sensitive.

4. The concerned officer dealing with the subject shall be deputed to brief the cases and it is requested that the date and time for conferencing may also be intimated to this Ministry. It is also requested that the developments in these cases may also please be informed to this Ministry.

Yours faithfully,

(Smt.L.P.Shrivastava)

Under Secretary to the Govt. of India

Tel: 24610467

R & J
Please
issue
BY SH
25/6/10

✓ Copy to Sh. Farooq Abdul Razak, DSG, Calcutta High Court, Calcutta.

For. P & I
Issued
30/6/10

108 (187)

~~108~~

BY SPEED POST

**No.I/ 12014/5/2007-Cdn.
Ministry of Home Affairs
Internal Security Division-II
9th Floor, 'C' Wing,
Lok Nayak Bhawan,
New Delhi, the 24th June, 2010.**

To
**Ms. S. Bhattacharya
Joint Secretary & Legal Adviser ,
Ministry of Law and Justice,
Deptt. Of Legal Affairs,
11 Strand Road, Kolkata-700001**

Madam,

I am directed to convey that following three Writ Petitions are pending in the Hon'ble High Court of Kolkata regarding Netaji Subhash Chandra Bose:

- (i.) WP No. 2003/2006 – Shri Rudra Jyoti Bhattacharya & Ors-Vs. –Union of India & Ors.
- (ii)W.P.(W) No. 27541 of 2006 – Ashim Kumar Ganguly and Another Vs. Union of India & Others
- (iii)W.P. No. 8215(W)/08 filed by Shri Subash Chadra Basu & others Vs. UOI & others

3. As the matters are very sensitive. It is requested that Shri Farooq M. Razak, Additional Solicitor General of India may be appointed in these cases. As the matters are very sensitive.

4. The concerned officer dealing with the subject shall be deputed to brief the cases and it is requested that the date and time for conferencing may also be intimated to this Ministry. It is also requested that the developments in these cases may also please be informed to this Ministry.

Yours faithfully,

L.P. Shrivastava

(Smt.L.P.Shrivastava)

Under Secretary to the Govt. of India

Tel: 24610467

जाता किया
ISSUED
01 JUL 2010
हस्ताक्षर/Intls.
प्रा० तथा पं०/R&I/LNB

01 JUL 2010

By Speed Post

Copy to Sh. Farooq Abdul Razaq, ASG, Calcutta High Court, Calcutta.

03322485215

0105 JUL 10



RAGHAB P. DASH
DIRECTOR



188
RAJYA SABHA SECRETARIAT
PARLIAMENT OF INDIA
PARLIAMENT HOUSE ANNEXE
NEW DELHI-110 001

183

No. RS.10/1/2010-GRU

July 11, 2010

Dear Madam,

This has reference to your letter dated 14.07.2010 regarding supply of a copy of the full text of the debates of Justice Mukherjee Commission of Inquiry regarding alleged disappearance of Netaji Subhas Chander Bose, held in Rajya Sabha.

2. The complete text of the debate has been photocopied and the same is enclosed.

With regards,

Yours sincerely,


(Raghav P. Dash)

41
16/7/10
SO (cdn)
Smt. L.P. Shrivastava
Under Secretary
Ministry of Home Affairs
Room No. 1, 9th Floor
'C' Wing
Lok Nayak Bhawan
New Delhi-110003

188 (189)

By Speed Post

184

Issued by
L.P.

कृपया कियत
ISSUED
19 JUL 2010
हस्ताक्षर/Initials
श्री. ल. प. श्रिवस्तवा/R.S./LNB

No.I/ 12014/5/2007-Cdn.
Ministry of Home Affairs
Internal Security Division
Cdn. Section

9th Floor, 'C' Wing,
Lok Nayak Bhawan,
New Delhi, the 16th July, 2010.

19 JUL 2010

To

Shri Farooq M. Razak,
Additional Solicitor General, Kolkata,
19, Balu Hatak Lane,
Park Circus,
Kolkata- 700017

**Sub: WP No. 2003/2006-Shri Rudra Jyoti Bhattacharya-Vs.-Union
of India & Ors.**

Sir,

I am directed to forward herewith a copy of full text of the debate held in Rajya Sabha on 24th August, 2006 as required.

A copy of the debate in Lok Sabha, if any, is being collected and will be forwarded as soon as possible.

gc

Yours faithfully,

(Smt. L.P. Shrivastava)
Under Secretary to the Govt. of India
Tel. 24610467

1889 (790)

259) 125

No.I/ 12014/5/2007-Cdn.
Ministry of Home Affairs
Internal Security Division
Cdn. Section

9th Floor, 'C' Wing,
Lok Nayak Bhawan,
New Delhi, the 13th July 2010.

OFFICE MEMORANDUM

Sub: WP No. 2003/2006-Shri Rudra Jyoti Bhattacharya-Vs.-Union of
India & Ors.

The undersigned is directed to refer to your letter No. RS.40/2008-T dated 21.08.2008 providing information on the action taken report in the regard to the report laid on the Table of the House in respect of Justice Mukherjee Commission of Inquiry (JMCI). In order to prepare the necessary affidavit, the Additional Solicitor General, Kolkata High Court has desired full text of the debate held in the Rajya Sabha.

2. It is requested that a copy of the full text of the full debates on Justice Mukherjee Commission of Inquiry (JMCI) that took place on different dates may be provided to this Ministry immediately latest by 15.07.2010.

L.P. Shrivastava

(Smt. L.P. Shrivastava)
Under Secretary to the Govt. of India
Tel. 24610467

Shri K. Sudhakaran
Deputy Director
Rajya Sabha Secretariate
Parliament House, New Delhi.

P.B. No. 5/10
15/7/10

100-791
No.I/ 12014/5/2007-Cdn.
Ministry of Home Affairs
Internal Security Division
Cdn. Section

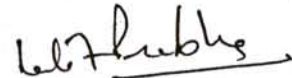
21/7/10
9th Floor, 'C' Wing,
Lok Nayak Bhawan,
New Delhi, the 13th July, 2010.

OFFICE MEMORANDUM

Sub: WP No. 2003/2006-Shri Rudra Jyoti Bhattacharya-Vs.-Union of India & Ors.

The undersigned is directed to refer to your letter No. 23/5/XIV/2008/T dated 12.02.2010 providing information on the action taken report in the matter of report laid on the Table of the House in respect of Justice Mukherjee Commission of Inquiry (JMCI). In order to prepare the necessary affidavit by the Assistant Solicitor General, Kolkata High Court has desired full text of the debate held in the Rajya Sabha.

2. It is requested that a copy of the full text of the full debates on Justice Mukherjee Commission of Inquiry (JMCI) that took place on different dates may be provided to this Ministry immediately latest by 15.07.2010.



(Smt. L.P. Shrivastava)
Under Secretary to the Govt. of India
Tel. 24610467

Shri S.K.Ganguly,
Under Secretary
Lok Sabha Secretariat,
Parliament House, New Delhi.

P.B. No. 5 / 10
15/7/10

(192)

2007) 187

No.I/ 12014/5/2007-Cdn.
Ministry of Home Affairs
Internal Security Division
Cdn. Section

9th Floor, 'C' Wing,
Lok Nayak Bhawan,
New Delhi, the 14th July, 2010.

OFFICE MEMORANDUM

Sub: WP No. 2003/2006-Shri Rudra Jyoti Bhattacharya-Vs.-Union of
India & Ors.

Apropos our telephonic discussion today in regard to information on the action taken report in the regard to the report laid on the Table of the House in respect of Justice Mukherjee Commission of Inquiry (JMCI). In order to prepare the necessary affidavit, the Addional Solicitor General, Kolkata High Court has desired full text of the debate held in the Rajya Sabha.

2. It is requested that a copy of the full text of the full debates on Justice Mukherjee Commission of Inquiry (JMCI) that took place on different dates may be provided to this Ministry immediately latest by 15.07.2010.

L.P. Shrivastava

(Smt. L.P. Shrivastava)
Under Secretary to the Govt. of India
Tel. 24610467

Shri Raghav Dass,
Director,
Room No. 632,
Parliament House Annexe,
New Delhi.

P.B.S / 10
15/7/10

192

262

128

PARLIAMENT OF INDIA
RAJYA SABHA SECRETARIAT

Telegram : "PARISHAD"

Fax : (91 11) 3014948/3015585/3012376 PHA
(91 11) 3792940/3011207/3793376 PH

Telephone :

Website : <http://parliamentofindia.nic.in>

Email :

Parliament House/Annexe,
New Delhi-110001.

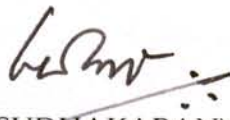
NO.RS.40/2010-T.

19th July, 2010

OFFICE MEMORANDUM

**SUBJECT: WPN0.2003/2006 – Shri Rudra Jyoti
Bhattacharya Vs. Union of India and Ors.**

The undersigned is directed to refer to the Ministry of Home Affairs O.M. No. 1/12014/5/2007-Cdn. dated the 13th July, 2010 on the subject cited above and to state that the Report of the Justice Mukherjee Commission of Inquiry into the alleged disappearance of Netaji Subhas Chandra Bose along with the Action Taken Report was discussed in the Rajya Sabha in the form of a Short Duration Discussion on the 24th August, 2006 and the full text of the verbatim debates is available on the Rajya Sabha Website namely www.rajyasabha.nic.in under the link "Debates-Rajya Sabha Verbatim Debates-Archives-Session No.(208) -Date & Time (24.8.2006, 8-00 pm to 12-00 midnight)".


(K. SUDHAKARAN)
JOINT DIRECTOR

To,

Ministry of Home Affairs
(Shrimati L.P. Shrivastava, Under Secretary)
Internal Security Division,
9th Floor, 'C' Wing,
Lok Nayak Bhawan,
New Delhi.

193 (194)
263 189
No.I/ 12014/5/2007-Cdn.
Ministry of Home Affairs
Internal Security Division
Cdn. Section

9th Floor, 'C' Wing,
Lok Nayak Bhawan,
New Delhi, the 20th July, 2010.

OFFICE MEMORANDUM

Sub: WP No. 2003/2006-Shri Rudra Jyoti Bhattacharya-Vs.-Union of India & Ors.

The undersigned is directed to refer to your letter No. 23/5/XIV/2008/T dated 12.02.2010 providing information on the action taken report in the matter of report laid on the Table of the House in respect of Justice Mukherjee Commission of Inquiry (JMCI). In order to prepare the necessary affidavit by the Assistant Solicitor General, Kolkata High Court has desired full text of the debate held in the Lok Sabha.

2. It is requested that a copy of the full text of the full debates on Justice Mukherjee Commission of Inquiry (JMCI) that took place on different dates may be provided to this Ministry immediately. The next date of hearing in the High Court, Kolkata is 23.07.2010.

L.P. Shrivastava
20/7/10
(Smt. L.P. Shrivastava)

**Under Secretary to the Govt. of India
Tel. 24610467**

**Shri S.K.Ganguly,
Under Secretary
Lok Sabha Secretariat,
Parliament House, New Delhi.**

Issued PB 5/2010

(195)

By Speed Post

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T90

No.I/ 12014/5/2007-Cdn.
Ministry of Home Affairs
Internal Security Division
Cdn. Section

9th Floor, 'C' Wing,
Lok Nayak Bhawan,
New Delhi, the 22nd July, 2010.

26 JUL 2010

Rt.I
Please issue
By
26/7/10
26 JUL 2010
R&I LNB

To

Shri Farooq M. Razak,
Additional Solicitor General, Kolkata,
19, Balu Hatak Lane,
Park Circus,
Kolkata- 700017

**Sub: WP No. 2003/2006-Shri Rudra Jyoti Bhattacharya-Vs.-Union
of India & Ors.**

Sir,

In continuation to this Ministry's letter of even number dated 20th July, 2010, I am directed to forward a copy of the debate on Justice Mukherjee Commission Report held in Lok Sabha on 2,3 and 7 August, 2006 also.

Yours faithfully,

L.P. Shrivastava
22/7/10

(Smt. L.P. Shrivastava)

Under Secretary to the Govt. of India
Tel. 24610467

(198)

ACTION TAKEN ON THE REPORT OF JUSTICE MUKHERJEE
COMMISSION ON INQUIRY REGARDING THE ALLEGED DISAPPEARANCE
OF NETAJI SUBHAS CHANDRA BOSE
REASON FOR NOT ACCEPTING THE REPORT

J.P.
2/6/06

The Government Considered on 25.04.2006 the Action taken "Report of Justice Mukherjee Commission of Inquiry on the alleged disappearance of Netaji Subhas Chandra Bose and following were observed.

- (i) That the Commission's inquiry was inconclusive in many ways, unable to provide a definitive finding on several issues and at variance with past well accepted Inquiry Commissions' findings in some critical areas; and
- (ii) In the light of (i) above, the Action Taken Report specifically mention that Government did not agree with the findings that:
 - (a) Netaji did not die in the plane crash; and
 - (b) The ashes in the Renkoji Temple were not of Netaji.

ASGI → Fax 03322 906743

Tel. ~~03322 4949~~⁹
03322 4849801

BY SPEED POST/OUT TODAYPh. No.22486516
FAX No.22485215No.402/Home/06-II
Govt. of India
Ministry of Law & Justice
Deptt. of Legal Affairs
Branch Sectt., KolkataS.S.Sarker,
ILS
Addl. Govt. Advocate11, Strand Rd., Middle Bldg.,
2nd floor, Kolkata-1.

Date: 01.09.10.

To
The Secretary,
Ministry of Home Affairs,
IS-II Division: Cdn Section,
9th floor, Lok Nayak Bhawan,
Khan Market, New Delhi.Attn. Shri Amar Chand,
Under SecretarySub: W.P. No. 2003 of 2006- Shri Rudra Jyoti Bhattacharya & Ors.
-Vs-Union of India & Ors.

Sir,

Please find enclosed herewith the communication of Md. Nizamuddin, Counsel engaged in the aforesaid matter, which is self explanatory.

You are requested to send your necessary instruction immediately for doing the needful.

The matter is due on 10th September, 2010.

Encl: As above

Yours faithfully,


(S.S.Sarker)
Addl. Govt. Advocate*M. put up copy.**1/17
so (cd-).**1/17
S.S. Sarker*

MD. NIZAMUDDIN
 B. Sc. LL. B
 ADVOCATE HIGH COURT, CALCUTTA
 BAR ASSOCIATION, ROOM NO. 12

Residence & Chamber
 15, MARQUIS LANE
 KOLKATA - 700016
 Phone: 22526730
 Mobile: 9831673933
 : 9038535952



Date: 23.08.10

To
 Mr. S.S. Sarkar
 Addl. Govt. Advocate
 Ministry of Law & Justice
 11, Strand Road
 Kolkata - 1

2003
 Re: MOL. F. No. 402/Home/2009/- Lit - II
 W.P. No. 2003 of 2006
 Rudra Jyoti Bhattacharya & Ors.
 -Vs-
 Union of India & Ors.

Dear Sir,

The aforesaid Public Interest Litigation (PIL) involving the issue of the report of Mukherjee Commission and about controversy over the death of Subhas Chandra Bose was partly heard at length on 20.08.10 by The Hon'ble Chief Justice & The Hon'ble Justice Bhaskar Bhattacharya and Their Lordships after hearing both sides, have been pleased to fix the matter for further hearing on 10.09.10 as specially fixed kindly take note that in the aforesaid case a new development has taken place that is the petitioner has brought to the notice of the Hon'ble court in course of hearing that a newspaper report published in 'TIMES OF INDIA' Pune addition has reported that one City based NGO namely world Peace Centre (WPC) will bring the ashes of Netaji Subhas Chandra Bose from Japan to India by the next Independence Day and the India Government has given clearance in this regard to which the court has taken exception as to how the Government of India can such a decision when the matter is subjudice before Their Lordships. The Hon'ble Court has kept that newspaper reporting with the courts' record and also directed the petitioner to file the said report by way of affidavit and also asked us to take instruction from the Govt. about the truthfulness of such reports before the next date of hearing.

In the matter I was led by Ld. Addl. Solicitor General.

You are requested to kindly treat this a very urgent and do the needful for compliance of the order of the Hon'ble Court by furnishing the instruction as has been asked by the Hon'ble Court and also see that the officer concerned immediately contacts me or the Ld. Addl Solicitor General for some vital discussion.

This is for your information and record.

Mohamed Shajid
 Advocate

P. S. Sarkar
 23/8

199

23792285

Kind Attn. Shri R. K. Singh
JSS C/O

KIND ATTN: K. MURALIDHARAN
DEPUTY SECRETARY (SECURITY)

200 image: 1688x1233 pixels) - Scaled (43%)

https://mail.google.com/mail/?ui=2&ik=1522ec5b9e&view=

Netaji's ashes to be brought to city by next Independence Day

TIMES NEWS NETWORK

Pune: City-based World Peace Centre (WPC) will bring the ashes of freedom fighter and Azaad Hind Sena founder Subhash Chandra Bose, who sought Japan's assistance for India's freedom movement during World War II, to Pune by the next Independence Day.

The centre has received clearance from the Union government through Indo-Japan association and the ashes that are currently in Tokyo's Netaji Subhash Chandra Memorial will be handed over to the WPC by the next Independence Day.

Addressing a news conference here on Monday Vishwanath Karad, chairman of World Peace Centre, said, "We have communicated with Kazuo Kaneko and Gen Kurosaki, who look after the Bose



A file photo of Subhash Chandra Bose during his visit to Pune

Memorial in Japan. The procedure for official transfer of the ashes to the centre has been initiated with

the help of Maharashtra businessman Balasaheb Deshmukh, who is in Japan since the past three decades. Homage will be paid at the Red Fort in New Delhi and the ashes would be deposited in the Ganga river on August 18 next year." Bose was killed on August 18 in Japan during the end of WW-II.

Deshmukh, who was also present for the news conference, said, "I will be assisting the WPC to bring Bose's ashes to his own country and perform the last rituals. Bose has a daughter from his German wife, who is currently in Germany. Attempts to contact her failed. Since she is the only successor of the Indian leader, we need her consent to perform the last rituals. Meanwhile, the Japanese government has permitted the WPC to initiate the procedure to bring back the ashes."

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Also check up from
MCA.

Tamara Shinde So.
2301 51116

1/19

So (cdm)

by
1/19
V.S. Arora

199(200)

Most Immediate

F.No.I-12014/5/2007-Cdn.
Government of India
Ministry of Home Affairs
(Internal Security.II Division)

9th Floor, Lok Nayak Bhawan, Khan Market,
New Delhi-110003. Dated: 3rd Sept. 2010.

Office Memorandum

--

Subject: Court case filed in Kolkata High Court regarding the alleged disappearance of Netaji Subhash Chandra Bose.

--

The undersigned is directed to convey that there are three court cases filed on the above subject matter in the Kolkata High Court and the hearing is going on. The Addl. Solicitor General, Kolkata has forwarded a copy of the news item appeared in Pune Times dated 18th August, 2010 a copy, which is self-explanatory, is enclosed.

2. As may be seen it has been mentioned in the Article that the Pune City based World Peace Centre (WPC) has received clearance from the Union Government through Indo-Japan Association for bringing the ashes that are currently in Tokyo's Netaji Subhash Chandra Memorial and will be handed over to the WPC. MHA has not received any such request and not given any clearance in this regard.

3. Addl. Solicitor General has ~~decided~~ to know whether Ministry of External Affairs has received any request from WPC in the matter and whether they have given any permission to this effect. The next hearing is fixed on 10th September, 2010 and it is requested that information may kindly be provided by return fax so that Addl. Solicitor General can be informed suitably.

Encl. At above

Shri Sandeep Chakraborty,
Director (Japan),
Ministry of External Affairs,
South Block,
New Delhi.

- 7c

(K. Muralidharan)
Deputy Secretary(S)
Tel.:24617196

200 (201)

Copy to: Shri Farooq M.Razak, Addl. Solicitor General, Kolkara, 19, Balu Hakak Lane, Park circus, Kolkata-700017.

1196

(202)

Fw: Wedding-Announcement

Bodh Raj Sikri
To murlidhar C&PC

30-08-2010

033 - 229 06743 (F)

203

197

**Ministry of External Affairs
East Asia Division**

**Court Case filed in Kolkata High Court regarding the alleged disappearance of Netaji
Subhash Chandra Bose**

Reference your O.M. No. I-12014/5/2007-Cdn dated 3rd September, 2010, regarding the news item which appeared in Pune Times on 18th August, 2010. Ministry of External Affairs has not received any such request and not given any clearance in this regard. We have also ascertained the facts from our Mission in Tokyo who have conveyed that the Article is farfetched and not based on facts.

(Signature)
**(Sandeep Chakravorty)
Director (China/EA)**

**Ministry of Home Affairs (Internal Security.II Division) – Shri K. Muralidharan,
Deputy Secretary (S)**

MEA U.O. No. C/103/1/2010-JP

03 September, 2010

Pl. put up today

Jm
3/9/10

US/Cash/

204

By Speed Post

199

No.12014/5/2007-Cdn.
Government of India
Ministry of Home Affairs
IS- II Division

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi,
Dated the 6th September, 2010.

To

Shri Farooq M. Razak,
Additional Solicitor General Kolkata,
19, Balu Hakak Lane,
Park Circus,
Kolkata- 700 017

Sub: WP No. 2003/2006- Shri Rudra Jyoti Bhattacharya Vs. Union of India & Ors.

Sir,

I am directed to refer to letter No. 402/Home/06-II dated 1st September, 2010 from Branch Sectt., Kolkata on the above mentioned subject and to say that the Union Ministry of Home Affairs and the Ministry of External Affairs have not given any clearance to the matters raised in the News item which appeared in The Pune Times on 18th August, 2010. The facts have also been ascertained by the Ministry of External Affairs from their Mission in Tokyo who have conveyed that the article is farfetched and not based on facts. A copy of Minsitry of External Affairs UO No. C/103/1/2010-JP dated 3rd September, 2010 is enclosed.

2. Shri Amar Chand, Under Secretary (Legal), Ministry of Home Affairs has been deputed to attend the Court Case and he shall brief you and handover the photocopies of the documents on 8th and 9th at Kolkata.

3. Kindly acknowledge receipt of the letter.

Yours faithfully,

Encls: As above

(K. Muralidharan)
Deputy Secretary to the Govt. of India
Tel: 24617196

2015

Most Immediate

199

F.No.I-12014/5/2007-Cdn.
Government of India
Ministry of Home Affairs
(Internal Security.II Division)

9th Floor, Lok Nayak Bhawan, Khan Market,
New Delhi-110003. Dated: 3rd Sept. 2010.

Office Memorandum

--

Subject: Court case filed in Kolkata High Court regarding the alleged disappearance of Netaji Subhash Chandra Bose.

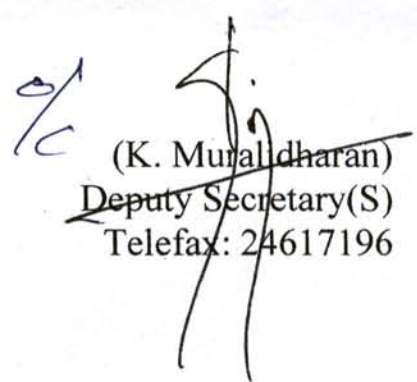
--

The undersigned is directed to convey that there are three court cases filed on the above subject matter in the Kolkata High Court and the hearing is going on. The Addl. Solicitor General, Kolkata has forwarded a copy of the news item appeared in Pune Times dated 18th August, 2010 a copy, which is self-explanatory, is enclosed.

2. As may be seen it has been mentioned in the Article that the Pune City based World Peace Centre (WPC) has received clearance from the Union Government through Indo-Japan Association for bringing the ashes that are currently in Tokyo's Netaji Subhash Chandra Memorial and will be handed over to the WPC. MHA has not received any such request and not given any clearance in this regard.

3. Addl. Solicitor General has desired to know whether Ministry of External Affairs has received any request from WPC in the matter and whether they have given any permission to this effect. The next hearing is fixed on 10th September, 2010 and it is requested that information may kindly be provided by return fax so that Addl. Solicitor General can be informed suitably.

Issued by
PB.No-6A of 09
Gh
03/9/10


(K. Muralidharan)
Deputy Secretary(S)
Telefax: 24617196

Shri Sandeep Chakraborty,
Director (Japan),
Ministry of External Affairs,
South Block,
New Delhi.

FAX : 23016514

Encl: as above.

03 SEP 2010

200

Copy to: Shri Farooq M.Razak, Addl. Solicitor General, Kolkata, 19, Balu Hakak Lane, Park Circus, Kolkata-700017.

Issued
by speed post

R.S.I
pl-issue
03/9/10

(K. Muralidharan)
Deputy Secretary(S)
Telefax: 24617196

जात प्राप्त
ISSUED
03 SEP 2010
हस्ताक्षर/Intls.
प्र. नं. प्र. R&LNS

207

23792285

Kind Attn. Shri R. K. Singh
JSS & Co

KIND ATTN: K. MURALIDHARAN
DEPUTY SECRETARY (SECURITY)

80 image, 1688x1233 pixels) - Scaled (43%)

https://mail.google.com/mail/?ui=2&ik=1522ec5b94d...new=

Netaji's ashes to be brought to city by next Independence Day

TIMES NEWS NETWORK

Pune: City-based World Peace Centre (WPC) will bring the ashes of freedom fighter and Azaad Hind Sena founder Subhash Chandra Bose, who sought Japan's assistance for India's freedom movement during World War II, to Pune by the next Independence Day.

The centre has received clearance from the Union government through Indo-Japan association and the ashes that are currently in Tokyo's Netaji Subhash Chandra Memorial will be handed over to the WPC by the next Independence Day.

Addressing a news conference here on Monday Vishwanath Karad, chairman of World Peace Centre, said, "We have communicated with Kazuo Kaneko and Gen Kurosaki, who look after the Bose



A file photo of Subhash Chandra Bose during his visit to Pune

Memorial in Japan. The procedure for official transfer of the ashes to the centre has been initiated with

the help of Maharashtra businessman Balasaheb Deshmukh, who is in Japan since the past three decades. Homage will be paid at the Red Fort in New Delhi and the ashes would be deposited in the Ganga river on August 18 next year." Bose was killed on August 18 in Japan during the end of WWII.

Deshmukh, who was also present for the news conference, said, "I will be assisting the WPC to bring Bose's ashes to his own country and perform the last rituals. Bose has a daughter from his German wife, who is currently in Germany. Attempts to contact her failed. Since she is the only successor of the Indian leader, we need her consent to perform the last rituals. Meanwhile, the Japanese government has permitted the WPC to initiate the procedure to bring back the ashes."

Pl. put up.
Also check up from
MCA.

Tanveer Shukla So.
2301 5116

19/9

So (cdw)

by
11/9
VSC/CDW

SENDING REPORT

2008

201

Sep. 06 2010 12:18AM

YOUR LOGO : DS(S)MHA
YOUR FAX NO. : 01124617196

NO.	OTHER FACSIMILE	START TIME	USAGE TIME	MODE	PAGES	RESULT
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TO TURN OFF REPORT, PRESS 'MENU' #04.
THEN SELECT OFF BY USING '+' OR '-'.

2270/28C 15-11-2010

209

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IS/IS/II
2440/28C/10
819

BY SPEED POST/OUT TODAY

Ph. No.22486516
FAX No.22485215

No. 402/Home/06-II [316]
Govt. of India
Ministry of Law & Justice
Deptt. of Legal Affairs
Branch Sectt., Kolkata



S.S.Sarker,
ILS
Addl. Govt. Advocate

11, Strand Rd., Middle Bldg.,
2nd floor, Kolkata-1.

Date: 01.09.10.

To
The Secretary,
Ministry of Home Affairs,
IS-II Division: Cdn Section,
9th floor, Lok Nayak Bhawan,
Khan Market, New Delhi.

Attn. Shri Amar Chand,
Under Secretary

Sub: W.P. No. 2003 of 2006- Shri Rudra Jyoti Bhattacharya & Ors.
-Vs-Union of India & Ors.

Sir,

Please find enclosed herewith the communication of Md. Nizamuddin, Counsel engaged in the aforesaid matter, which is self explanatory.

You are requested to send your necessary instruction immediately for doing the needful.

The matter is due on 10th September, 2010.

Encl: As above

Yours faithfully,

(S.S.Sarker)
Addl. Govt. Advocate

Action already
taken
8/9/10

Mr
819

D/S

P. put up immediately.

used

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819
80 (Cdn)

MD. NIZAMUDDIN

B. Sc. LL. B
ADVOCATE HIGH COURT, CALCUTTA
BAR ASSOCIATION, ROOM NO. 12

2010
Residence & Chamber
15, MARQUIS LANE
KOLKATA - 700016
Phone: 22526730
Mobile: 9831673933
: 9038535952



Date: 23.08.10

To
Mr. S.S. Sarkar
Addl. Govt. Advocate
Ministry of Law & Justice
11, Strand Road
Kolkata - 1

2006

Re: MOL. F. No. 402/Home/2009/- Lit - II
W.P. No. 2003 of 2006
Rudra Jyoti Bhattacharya & Ors.
-Vs-
Union of India & Ors.

Dear Sir,

The aforesaid Public Interest Litigation (PIL) involving the issue of the report of Mukherjee Commission and about controversy over the death of Subhas Chandra Bose was partly heard at length on 20.08.10 by The Hon'ble Chief Justice & The Hon'ble Justice Bhaskar Bhattacharya and Their Lordships after hearing both sides, have been pleased to fix the matter for further hearing on 10.09.10 as specially fixed kindly take note that in the aforesaid case a new development has taken place that is the petitioner has brought to the notice of the Hon'ble court in course of hearing that a newspaper report published in 'TIMES OF INDIA' Pune addition has reported that one City based NGO namely world Peace Centre (WPC) will bring the ashes of Netaji Subhas Chandra Bose from Japan to India by the next Independence Day and the India Government has given clearance in this regard to which the court has taken exception as to how the Government of India can such a decision when the matter is subjudice before Their Lordships. The Hon'ble Court has kept that newspaper reporting with the courts' record and also directed the petitioner to file the said report by way of affidavit and also asked us to take instruction from the Govt. about the truthfulness of such reports before the next date of hearing.

In the matter I was led by Ld. Addl. Solicitor General.

You are requested to kindly treat this a very urgent and do the needful for compliance of the order of the Hon'ble Court by furnishing the instruction as has been asked by the Hon'ble Court and also see that the officer concerned immediately contacts me or the Ld. Addl Solicitor General for some vital discussion.

This is for your information and record.

Mohammad Shajid
Advocate

Rudra Jyoti
23/8

R&T

Pl. issue through Speed Post

290

By Speed Post

By Fax 2010

immediately

26/2

MOST IMMEDIATE / COURT MATTER

**Government of India
Ministry of Home Affairs
IS-II Division : Cdn Section**

9th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi

Dated , the 26th Feb, 2010.

To,

Shri S S Sarkar,
ILS, Addl. Govt. Advocate,
Ministry of Law and Justice,
Department of Legal Affairs,
Branch Sectt, 11, Strand Road,
Middle Building, 2nd Floor, Kolkata – 700001.

Subject: WP No. 2003 / 2006 - Shri Rudra Jyoti Bhattacharya
& Ors - Vs. - Union of India & Ors.

Sir,

I am directed to refer to your letter No. 402/Home/2006/Lit-II/166 dated 28.1.2010 on the above mentioned subject and to request that outcome of the hearing held on 19.2.2010 in the case may kindly be intimated so that further action, if any, could be taken.

Issued

26/02/10

jc

Yours faithfully,

Amar Chand

(Amar Chand)

Under Secretary to the Govt. of India

Tel: 2461 0466

212

R-219/25(182)/10
4/2 206
BY SPEED POST

Ph. No.22486516
FAX No.22485215

No.402/Home/2006/Lit-II
Govt. of India
Ministry of Law & Justice
Deptt. of Legal Affairs
Branch Sectt., Kolkata

1165

S.S.Sarker,
ILS
Addl.Govt.Advocate

JS/15-I



11, Strand Rd., Middle Bldg.,
2nd floor, Kolkata-1.

Date: 28.01.10.

✓ To
The Hon'ble Secretary
to the Govt. of India,
Ministry of Home Affairs,
IS-II Division: Cdn. Section,
9th floor, Lok Nayak Bhawan,
Khan Market, New Delhi.

Sub: W.P. No. 2003 of 2006-Rudra Jyoti Bhattacharya-
Vs-Union of India & Ors.

Sir,

Please refer to this office letter No.402/Home/2006/Lit-II/1536, 1537, 1538 and
1539 dated 25th August, 2009.

The aforesaid matter was taken up for hearing on 15.01.10, when after hearing the
parties, Their Lordships presided over by Hon'ble Mr. Mohit S. Shah, Chief Justice have
been pleased to direct the respondent, Union of India to file the latest development or
Action Taken Report (ATR) by Lok Sabha on Justice Mukherjee Commission's Report.
The copy of the communication of Md. Nizamuddin, Counsel engaged in the aforesaid
matter dated 18.01.10 is enclosed herewith. The matter has been adjourned to 19.02.10
as '**Specially Fixed Matter**'.

You are requested to pass necessary instruction to the concerned officer for doing
the needful in this regard urgently so that report/information comes to us well in advance.

Yours faithfully,

Encl:As above

(S.S.Sarker)
Addl. Govt. Advocate

Copy to: 1.Shri Amar Chand, Under Secretary to the Govt. of India, Ministry of Home
Affairs, IS Division, Cdn. Section, 9th floor, Lok Nayak Bhawan, Khan
Market, New Delhi for information.

2.Shri R.N.Das, Sr. Advocate and Special Counsel, High Court, Calcutta
for information.

3.Md. Nizamuddin, Advocate, High Court, Calcutta for information and
necessary action.

Addl. Govt. Advocate

WS (L)
5
4/2

4/2 50 (Cdn)

12/Jan/2010
4/2

MD. NIZAMUDDIN

B. Sc. LL. B

**ADVOCATE HIGH COURT, CALCUTTA
BAR ASSOCIATION, ROOM NO. 12**

213



Residence & Chamber

15, MARQUIS LANE

KOLKATA - 700016

Phone: 22526730

Mobile: 9831673933

: 9432593908

Date: 18.01.10

To
Mr. S.S. Sarkar
Addl. Govt. Advocate
Ministry of Law & Justice
11, Strand Road
Kolkata - 1

Re: MOL. F. No. 402/Home/2008/- Lit - II
W.P. No. 2003 of 2006
Rudra Jyoti Bhattacharya & Ors.
-Vs-
Union of India & Ors.

Dear Sir,

The aforesaid Public Interest Litigation (PIL) involving the issue of the report of Mukherjee Commission about controversy of the death of Subhas Chandra Bose was heard in part at length on 15.01.10 by The Hon'ble Mr. Mohit S. Shah, Chief Justice & The Hon'ble Justice Bhaskar Bhattacharya which was opposed by me on behalf of the Respondents and which has been specially fixed for further hearing on 19.02.10. In course of hearing; defending the Respondents; I filed a copy of the letter dated 25.11.08 which was furnished to me by you and which was written by Sri Amar Chand, Under Secretary Govt. of India informing you about the existing status of the report of the Mukherjee Commission and ATR that the same have been placed before both the Houses of the Parliament but no decision of acceptance or rejection has been taken since there was no Motion before the House in this regard. Their Lordships have been pleased to pass the order giving liberty to the Petitioner to file objection in the form of affidavit against the aforesaid documents filed by me since the petitioner has challenged the veracity of the said documents filed by me and Their Lordships further directed the Respondent/Union of India to file further action/progress till date in detail in writing by competent and responsible authority in this regard on the next date of hearing.

The Hon'ble Court has been pleased to pass the order granting liberty to parties to obtain Photostat copy of the aforesaid order dated 15.1.10 from which detail would appear. You are requested to kindly do the needful for compliance of the aforesaid direction of The Hon'ble Court so that on the next date of hearing information/instruction as has been asked for could be filed in court.

This is for your information, record and urgent needful action.

Wright
Haque

19/1/2010

213

Nohar
Advocate

208

2018 (214)

BY SPEED POST/OUT TODAY

Ph. No.22480691
FAX No.22485215

No.402/Home/06-II/3614
Govt. of India
Ministry of Law & Justice
Deptt. of Legal Affairs
Branch Sectt., Kolkata

S.S.Sarker,
ILS
Addl. Govt. Advocate

11, Strand Rd., Middle Bldg.,
2nd floor, Kolkata-1.



To
The Under Secretary,
Ministry of Home Affairs,
IS-II Division: Cdn Section,
9th floor, Lok Nayak Bhawan,
Khan Market, New Delhi.

Sub: W.P. No. 2003 of 2006- Shri Rudra Jyoti Bhattacharya & Ors.
-Vs-Union of India & Ors.

Sir,

I am directed to forward herewith a copy of letter dated 13.09.2010 of Md. Nizamuddin, Advocate and the copy of the Supplementary Affidavit filed by the petitioner.

The next date is due on 19.11.2010. Before that Affidavit-in-opposition to the Supplementary Affidavit is to be filed. Hence, you are requested to furnish your comment and instruction immediately for necessary action.

Yours faithfully,

Jy Ghosh
(Jayanta Ghosh)
Supdt. (Legal)

Encl: As above

For Cdn.
Anil 4/10
LSC (NSA/Cdn)

12014/5/2007 - Cdn

MD. NIZAMUDDIN

B. Sc. LL. B
ADVOCATE HIGH COURT, CALCUTTA
BAR ASSOCIATION, ROOM NO. 12

209
Residence & Chamber
15, MARQUIS LANE
KOLKATA - 700016
Phone: 22526730
Mobile: 9831673933
: 9038535952

Date: 13.09.10

To
Mr. S.S. Sarkar
Addl. Govt. Advocate
Ministry of Law & Justice
11, Strand Road
Kolkata - 1



Re: MOL. F. No. 402/Home/2006/- Lit - II
W.P. No. 2003 of 2006
Rudra Jyoti Bhattacharya & Ors.
-Vs-
Union of India & Ors.

Dear Sir,

The aforesaid Public Interest Litigation (PIL) involving the issue of the report of Mukherjee Commission and about controversy over the death of Subhas Chandra Bose was partly heard at length on 10.09.10 by The Hon'ble Chief Justice & The Hon'ble Justice Bhaskar Bhattacharya and Their Lordships after hearing both sides, have been pleased to fix the matter for further hearing on 19.11.10 as specially fixed kindly take note that in course of hearing the petitioners have filed supplementary affidavit annexing a newspaper report published in 'TIMES OF INDIA' Pune addition reporting that one City based NGO namely world Peace Centre (WPC) will bring the ashes of Netaji Subhas Chandra Bose from Japan to India by the next Independence Day and the India Government has given clearance in this regard when the Hon'ble Court has was the order giving liberty to the Govt. of India to file affidavit in opposition to the said supplementary affidavit and also taking all necessary instructions before the next date of hearing.

In the matter I was led by Ld. Addl. Solicitor General.

This is for your information, record and needful action.

Mohamed Hiza del
Advocate

Stamp
13/9
Bhaskar
13/9

216

W.P. No. 2003 of 2006

IN THE HIGH COURT AT CALCUTTA

CONSTITUTIONAL WRIT JURISDICTION

ORIGINAL SIDE

In the matter of

An application under Article 226 of the Constitution of
India,

And

In the matter of

A writ of and/or order or direction in the nature of
Mandamus, Certiorari and Prohibition,

And

In the matter of

Judgement and Order dated April 30, 1998 passed by the
Division Bench Consisting of the Hon'ble Prabha
Shankar Mishra, the Chief Justice (as His Lordship then
was) and the Hon'ble justice Bhaskar Bhattacharya in
W.P. 281 of 1998,

A.O. 70x
2
2009

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217

And

In the matter of:-

Non-Compliance of the directions passed by their Lordships in the W.P. No. 281 of 1998;

And

In the Matter of:

Notification being No. S.O. 339(E) dated 14th May 1999 issued under the signature of Special Secretary (ISP), Ministry of Home Affairs, Government of India whereby a commission of Inquiry was appointed for the purpose of making an independent inquiry into the disappearance of Netaji Subhas Chandra Bose in 1945;

And

In the Matter of:

Commission of Inquiry Act, 1952,

And

218

In the Matter of:

Memorandum of Action Taken on the Report of the
Justice Mukherjee Commission of Inquiry;

And

In the matter of:

1. Shri Rudra Jyoti Bhattacharjee Advocate, son of Shri
Santosh Kumar Bhattacharjee, Bar Association, Room
No. 2, High Court Calcutta;

2. Sri Surajit Dasgupta, son of Late Jatindra Mohan
Dasgupta, by occupation business, resident of 25/1,
Guruprasad Chowdhury Lane, P.S. Amherst Street,
Kolkata-700 006

3. Sri Nandalal Chakraborty, by occupation, Head of the
Department of Political Science, Presidency College,
resident of 559/1, Dakshin Dari Road, P.S. lake Town,
Kolkata-700 048

219

4. Dr. Madhusudan Pal, by occupation Assistant Professor, Calcutta Medical College Hospital, resident of A/5/2, Sharabani Abashan, Salt Lake, Sec-III, Kolkata-700 009.

5. Sri Tarun Kumar Mukherjee son of Late Gobindalal Mukherjee, resident of 2/1, Brindaban Mullick 1st Lane, P.S.- Amherst Street, Kolkata- 700 009.

6. Shri Jagatjit Dasgupta son of Late Jatindra Mohan Dasgupta, resident of 25/1 Guruprosad Chowdhury Lane, P.S.- Amherst Street, Kolkata-700 006.

7. Sri Kusal Sankar Chowdhury son of Chowdhury, resident of 32 B, Justice Manmatha Mukherjee Row, P.S. -Amherst Street, Kolkata-700 009.

220

2/4

8. Shri Siddheswar Bhattacharjee, resident of Hatepara "

Matri Bhavan", P.O. Krishnnagar, Pin Code- 741 104,

District- Nadia

9. Shri Sunil Krishna Gupta, resident of 38, Vidyasagar

Street, P.S.-Amherst Street, Kolkata-700 009

.....PETITIONERS

VERSUS

1. Union of India service through the Principal Secretary

to the Prime Minister's Office, South Block, New

Delhi.

2. The Secretary, Ministry of Home Affairs, Government

of India, North Block, New Delhi.

3. The Special Secretary, Ministry of Home Affairs,

Government of India, North Block, New Delhi.

4. Shri Manoj Kumar Mukherjee (retired judge of Supreme Court of India), the Chairman of Justice Mukherjee Commission of Inquiry, resident of GD/359, Sector-III, Salt Lake, Kolkata-700 106.

.....RESPONDENTS

SUPPLEMENTARY AFFIDAVIT
ON BEHALF OF THE PETITIONERS

I, Surajit Dasgupta, son of Late Jatindra Mohan Dasgupta, aged about 51 years by occupation business, resident of 25/1, Guruprasad Chowdhury Lane, P.S. Amherst Street, Kolkata-700 006 do hereby solemnly affirm and say as follows;

1. That I am petitioner No.2 in the above mentioned writ petition and am acquainted with the facts and circumstances of the case and also I have been duly authorized by the other writ petitioners to affirm this affidavit on their behalf and as such I am competent to affirm this affidavit.
2. That the Division Bench of this Hon'ble court comprising of the Hon'ble Chief Justice Prabha Sanker Mishra (as His Lordship then was) and the Hon'ble Justice Barin

222

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Ghosh while disposing of a writ petition W.P. No.1805 of 1997 passed an order as

follows;

“ Before closing the proceedings, however, in view of the assurance that nothing of the sort is likely to be done by the Government of India we are inclined to order that before accepting the ashes which are allegedly kept at the Renkoji Temple at Japan as that of Netaji Subhas Chandra Bose, the Government of India shall obtain full particulars and evidence and satisfy itself about the genuineness of the claim that the ashes kept at Renkoji Temple of Japan are that of Netaji Subhas Chandra Bose and take the people of India in confidence”

3. That the Inquiry Commission was set up by the Government of India to enquire in depth into the matter of mysterious disappearance of Netaji Subhas Chandra Bose.

The Hon'ble Justice Monoj Kumar Mukherjee (as his Lordship then was) a retired Judge of the Hon'ble Supreme Court of India presided over as Chairman of the said Inquiry Commission. The Commission has arrived at a conclusive findings that

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- i) Netaji Subhas Chandra Bose did not die in the alleged air crash on 18th August, 1945;
- ii) The ashes kept in the Renkoji Temple in Japan is not of Netaji Subhas Chandra Bose.

4. The documents and records categorically marked as top secret records maintained by the Government of India reveal as follows:-

- i) File No. 23(ii)/56-57 PM

A secret note of Shri M.O. Mathai dated 2/12/1954 communicating to the Joint Secretary (AD) Government of India to the effect that:-

"A small amount of Rs. 200/- and odd was received by the Minister of External Affairs from our Embassy in Tokyo along with the ashes and other remains of the Late Shri Subhas Chandra Bose.

It is crystal clear that the ashes initially kept in the Renkoji Temple has been taken back to India, possibly the genuineness of the ashes was doubtful. The ashes now kept in the Renkoji Temple are not those ashes remains which were kept in August 1945 claiming those to be of Netaji Subhas Chandra Bose.

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A copy of the said Office Note dated 02/12/1954 is annexed hereto and marked as Annexure "R/2"

ii. File No. 25/4/NGO/Vol-2 (LW-KW)

The first Secretary, Indian Embassy Tokyo T.N. Kaul in his note dated 28/7/1955 stated interalia:

"My impression is that while Government of India has accepted the fact of Netaji's death, we haven't necessarily accepted that the ashes in the Renkoji Temple are his ashes"

In the same letter said Shri T.K. Kaul raised an interesting question:-

"While we accept Netaji's Death, do we accept these ashes as the real ones"

iii. File No. 25/4/NGO/Vol-2 (LW-KW):

Shri A.K. Damadaran, DIR of Finance, Government of India his note dated 15/12/1996 stated:-

"Without in any way committing ourselves to the identity of the ashes, we could recompose the priest and the temple by some annual Grant which wouldn't be for the custody of ashes but as a reward for their non-standing loyalty to India"

225

225

Shri Damodaran in the said note further stated that:-

"Even if it finally transpires that the ashes aren't genuine, still this amount would in no-way be an excessive compensation"

iv. File No. 25/4/NGO/Vol-2 (LW-KW)

An official note dated 16/12/1996 issued under the signature of Shri V Doraiswami, Director (Finance), Government of India stated that:-

"But the ashes having not been pronounced genuine, one has to find justification for incurring the expenditure on their safe retention abroad....In any case if the purpose of the expenditure is not to be disclosed, which, I presume is the intention it can be made only form discretionary grants of this Ministry"

v. File No 25/4/NGO/Vol-2(LW-KW):

An official note dated 6/12/1973 issued by Shri P.K. Budhwar, Deputy Secretary, Ministry of External Affairs (East Asia Division) stated referring to Muchizuki's statement that he was a stranger to the Late Netaji and people who brought the ashes was stranger to that:-

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"A remark of this nature could throw doubt on the authenticity of these ashes & it is, therefore, for consideration whether we should continue making such payments in respect of an item whose authenticity would also appear to be in some doubts".

Vii File No G-12(3)/98-NGO ✓

The above top secret file contents are top secret internal note on the subject "return of Netaji 's ashes to India" under the signature of P.P. Shukla, Joint Secretary (P) datged 1st April, 1998 interalia to the effect that:-

"The matter was discussed again in the Cabinet on 8 February 1995 and it was decided that the ashes would not be brought back to India for the present but that the dependability of the arrangements in Japan should be examined. This was done and it was felt that we could raise our annual upkeep contribution from Y 600,000 to Y 1 million"

Copy of all the above secret office Notes are annexed hereto and marked as

Annexure "16"

5 That during the pendency of the present writ petition before this Hon'ble Court the Government of India circumvention the process of the court and the process of law has granted clearance to a non government organization to bring the ashes kept in the Renkoji Temple.

The news has been widely circulated in a daily "Times of India" Pune Edition on August 18, 2010. The petitioners have obtained a print out of the news from the website of the said news paper.

A copy of the news item dated 18/8/2010 is annexed hereto and marked as Annexure "

6 The petitioners state that the above mentioned facts and secret documents that the ashes kept in the Renkoji Temple are not that of Netaji Subhas Chandra Bose. Moreover ashes initially kept in the Renkoji Temple has been brought back to India before December 2 1954 and the ashes now kept in the Renkoji Temple is an after thought devise as intriguing part respondent authorities with an mischievous intention to establish that Netaji Subhas Chandra Bose has died in the alleged air crash

[Handwritten mark]

7. The petitioners submit that unless the Government of Indai is restrained from giving any sought of clearance to any Non Government Organisation to bring the ashes to India, the public at large of the nation shall suffer irreparable loss and injury.

8. The instant application is made bonafide and in the interest of justice.

9. The statement made in the paragraphs 1 to 6 are true to my knowledge and based on the information derived from the record and those made in the paragraphs 7 and 8 are my humble submission before this Hon'ble Court

Solemnly affirmed by-----

In the court house on the -----

Day of September, 2010

Before me

COMMISSIONER

-14- 229(229)

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ANNEXURE P/16

PRIME MINISTER'S SECRETARIAT

19

A small amount of Rs. 200/- and odd was received by the Minister of External Affairs from our Embassy in Tokyo along with the ashes and other remains of the late Shri Subhash Chandra Bose. This money is being kept in the External Affairs Ministry.

2. I have consulted the Prime Minister about this and he agrees that this amount might be transferred to the INA Relief Fund. The Ministry might get into touch with the General Secretary of the AICC, 7 Jantar Mantar Road, New Delhi, and have this money transferred to the INA Fund. A receipt might be obtained for the Ministry's record.

etc
M.O. Mathal
(M.O. Mathal)
2.12.1954.

JS(AD) - Shri Prem Krishen.

PM's Secy 4/90 D/S 13170 dt 2/12/54

certified to be the
Xerox copy of page no. 19
of File no. 23(D)/56-57 PM-INA Treasury;
Exhibit 240.

Chatterjee

18/08/04

C. M. CHATTERJEE

Court Master

Justice Mukherjee Committee
of Inquiry Calcutta
11A, Mirza Ghalib Rd.
Calcutta-700017

3 pages

Pub. Sec.

See paper are blaggyid below pl. Pub. sections may also check wrt Freedom Fighters' delegation meeting with PM

✓ Pub I NO papers in Public I pl.

SO (pl) Public II ~~Public I~~ my please also check.

~~Public - II~~ check in G.M. papers 3/90
~~Public - 10~~ SPH. S. H. S. in 2/4/90
SO (pl) 27/9/90

We do not have pps relating to their meeting with PM (Ref para 1 of FR). However the file on the subject is placed below pl

(M)

yshankar
11/8

8/11/90
26/12/90

~~20~~ - *Must be immediate*

2 (287)

INTERNAL

* F2

Placed below is a letter from Shri Shantilal Patel, MP, to PM requesting that the ashes of Netaji Subhash Chandra Bose, which are preserved in the Renkoji temple in Japan should be brought back to India. The position is as follows:-

Netaji Subhash Chandra Bose died in a hospital at Taipei (Taiwan) on 18.8.45. Two days later, his body was cremated and his ashes carried to Tokyo. It appears that the ashes were kept at the residence of Shri A.M. Sahai (ex-Minister of The Netaji Cabinet) in Tokyo where ceremonies were held for 11 days, after which the ashes were taken to the Renkoji Buddhist Temple in the Nakanjo area of Tokyo where they are maintained to this day.

The Govt. of India had appointed an Enquiry Committee in 1956 headed by the late Shah Nawaz Khan and including Netaji's elder brother Shri S.C. Bose to go into the circumstances of Netaji's death. The Committee submitted a report in which the majority opinion was that Netaji met his death in an air crash on 18.8.45 and that the ashes in the Renkoji temple were those of Netaji. Netaji's brother, S.C. Bose, however, dissented from this view.

In 1970, a one man committee of Justice G.D. Khosla was set up which also concluded that the casket lodged in the Renkoji Temple contained the ashes of Netaji. However, Shri S.C. Bose again wrote to Prime Minister Smt. Indira Gandhi saying that there was no convincing proof that the so called ashes were genuine.

In view of this, GOI did not treat the findings as conclusive and did not bring back the ashes to India. The ashes have been lying in Japan since 1945. The Govt. of India provides an annual grant for maintenance of the Temple.

In recent months, two persons, Shri L. Joychandra Singh and Shri Sheel Bhadra Yaji, who had been associated with Netaji have been mounting a campaign to bring back the ashes of Netaji from Japan. Shri Singh says he had been in touch with various organisations associated with Netaji, including the Netaji Academy in Tokyo. He also says that Shri S.C. Bose, who had so far objected to the return of the ashes is no more, having expired 4 years ago. His son, Shri Arvind Bose, has entrusted responsibility for this issue to his cousin, Dr. Sisir Bose, who has supported bringing back Netaji's ashes to India and the creation of a National Memorial in his honour in Delhi.

L. SECY. TO P.M.
No. 112/120
Date 24/8/70

8360/85R/120
24/8

17
282
::P::

The Netaji Research Foundation in Jaipur contests the veracity of the ashes in Japan and is opposed to their return. This Foundation wants a fresh inquiry into Netaji's disappearance and has approached the Rajasthan High Court to direct the Govt. of India to do so.

R X:

PM has also recently received a letter from Shri Ashish Roy, the great grand son of Netaji's eldest brother Sarat Bose, in which he has remarked that if the ashes in Tokyo are indeed those of Netaji's, then they ought to be brought to India with due honour and publicity. But before this is done, it must be incontrovertibly proved that he died as a result of the air crash and that the ashes are his. He has also mentioned that Netaji's wife, Emilie Schenk Bose, has also expressed the view that the ashes should not be brought back to India.

It is, therefore, apparent that a consensus has not developed in favour of bringing the ashes back to India and there are strong feelings among a section of the public about the facts surrounding the death of Netaji.

In view of this, it would not be appropriate to take steps to bring the ashes back to India.

A draft reply from PM to Shri Shantilal Patel, MP, is placed below.*

* D.F.A.
~~copy~~
~~copy~~

Shankar
(Meera Shankar)
Director
23.8.90

JS(B) L.A. 24/8

✓ PRL. SECY. why are we then doing
P.M. X on proposal

Hgr
m

PM
Key
00/4/10/96

Because there is a strong body of opinion which believes that the ashes in Tokyo are those of Netaji, even as there is an equally strong body of opinion which doubts this.
Shankar
22/8/90 - 24/8/90

232

S/4/N/60 - Vol - II (LW-KW)

3 - 1 - 0

This matter was discussed in F.S.'s morning meeting. It was considered necessary to get the Ambassador's views before finalising the matter. I am issuing a telegram accordingly ^{to} our Ambassador in Peking. We may also find out what statements have been made in Parliament on this subject. [My impression is that while Government of India have accepted the fact of Netaji's death, we have not necessarily accepted that the ashes in the Renkoji Buddhist temple are his ashes. It should be verified whether there are reported to be any other ashes of the late Netaji.

F&A Section

[Handwritten Signature]

(T. N. Kaul)
28.7.1955.

4-A-10116

5

(SK) Discussed with T. N. Kaul. A copy of the telegram has already been sent on 28th July, P.M. N.G.O. may kindly place that telegram on this file.

A. G. Khosla
6/8

N.G.O.

~~17~~

19-2307

14/N/670-Vol-11 (210-K6)

-2- (2)

SECRET

PRIME MINISTER'S SECRETARIAT

I suggest you send the following reply to the attached telegram from Tokyo:

"Your telegram 73, July 29th. We think that our Embassy should participate in Memorial Services for Subhas Chandra Bose. Prime Minister stated in Parliament two years ago that in the circumstances we had to accept fact of death. Therefore, there is no difficulty in our taking up this position publicly."

J Nehru

(J. Nehru)
30.7.55.

11/11/55

ES

J. Nehru

Sam...

(S. A.) ...

DS (6)

11/11/55

No.D.3565-NGO/55. ... (9-A)

Demi-official letter No.F.5(1)NGO-1, dated the 30th August 1955, from the Embassy of India in Japan, Tokyo.

10

Please acknowledge and examine. While we accept Netaji's death, do we accept these ashes as the real ones? If so, then we could take them over; if not, then the course suggested by the Ambassador is the right one.

F.N. Kaul.

3/9/55.

Please let me have the file.

A. J. Kidwai.

4/9/55.

Draft acknt is submitted. Please see current correspondence in this file with particular attention to the communications cited in the margin of 51(1-A) and minute 5 ante.

11/11/55

Handwritten notes at bottom

(236)

29

~~20~~
-7-55-

55
43

TOP SECRET
IMMEDIATE

Ministry of External Affairs

Ministry of External Affairs
Director (East Asia Division)
Prime Minister's Secretariat may kindly

see the enclosed letter from the Embassy of India, Tokyo. Director (East Asia) has asked for a comprehensive note stating the reasons for our earlier decision and the demand made by some for bringing Netaji's ashes to India. We were able to find files Nos. 25/4/NGO-51 Vol. I and 25/4/NGO Vol. III in the NGO section. However, the NGO records are not complete. It is possible that some papers are in the PM's Secretariat. We are particularly looking for correspondence on this matter following a letter from our Embassy in November 1958, part of which has been reproduced on page 5 of the incomplete comprehensive note enclosed herewith. It would be much appreciated if Prime Minister's Secretariat could kindly let us have any papers they might have on the subject.

B.P. Agarwal
(B.P. AGARWAL)
UNDER SECRETARY (EAST ASIA)

Prime Minister's Secretariat (Shri Natwar Singh, D.S.)
H.E.A. U.O. No. 8300-NGO/66 dated 7-10-66.

Genl.
K. Natwar Singh
17.10.66

From overleaf.

56-8-

230

Prime Minister's Secretariat



230

A copy of the correspondence exchanged between the late Prime Minister, Shri Jawaharlal Nehru, and the late Chief Minister of West Bengal on the subject in December 1960 and January, 1961 is placed below. No other relevant paper pertaining to the period subsequent to November, 1958 is available with this Secretariat.

K. Matwar Singh
(K. Matwar Singh)
Deputy Secretary

Ministry of External Affairs (Shri B.P. Agarwal)
P.M.'s Sectt. U.O.No.2(381)/60-66-PM dated 19-X-66

I discuss with Dir (EA). Necessary information for the visit to Tokyo was taken by law. DS (EA) may kindly see regarding a reply to Shri Dixit's letter to DIR.

There were one or two perhwa int. questions of late. Some files are being sent separately.

DS (EA)

14/11/66
75/4

4303/DS
5859-DE

If the Rankoji temple insists on handing over the ashes to us, we could bring them over to India and keep them securely in the National Museum along with Netaji's other relics. If we do this openly making it clear that the problem is still not finally solved, the family of Subhash Babu cannot very well object. The question of their dispersal according to Hindu beliefs can be taken up after some more time passes and there is no probability of Netaji's survival. It does not seem very fair to continue to burden these foreigners with our problem.

A. K. Damodaran
(A. K. Damodaran)
3.11.66

T19
22

Min. FA

T. 11/66 FA

(from prepage)

The question of the disposal of the ashes of Netaji now kept in Tokyo temple is a very complicated one. As far as the Government is concerned, they have accepted the findings of the Shaw Nawaj Khan Committee and have no difficulty in treating the ashes as those of Netaji. It is, however, a different matter for the family of Netaji who still believe that he is alive. I, therefore, doubt very much whether the family will accept the idea of the ashes being kept in the Netaji Museum in Calcutta. Of course, other articles belonging to Netaji are exhibited in this museum but they are different because they are not intended to show that he is no more. Far from agreeing to the ashes being brought to India and exhibited in the museum, the relatives, family as well as politicians, might raise an agitation against the Government for trying to assert that Netaji is dead. Therefore, unless the family gives its consent, it would not be appropriate to try to bring the ashes to India now. It seems to me that the only thing we can do at present is to give some financial assistance to the Priest who is now looking after the ashes in the Tokyo temple. I shall be grateful if F.S. will see to this and give his advice.

Narayan
 (K.R. Narayanan)
 Director (East Asia)
 21/11/66

F.S.

T1973/FS/66

22/11/66

11/11/66 FM

FS

Let us discuss how we can proceed
 in regard to 'A'. Narayan

~~28/11~~

237

9-
 57
 46

44 (57)

237

A

157

156

24/11/66

from pre-page:

162-58-

Discussed with Dir. EA.

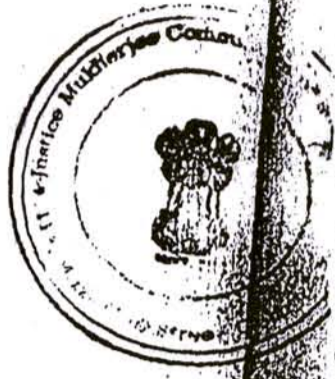
2. As long as there are some people who genuinely believe that these ashes are not those of Netaji Subhas Chandra Bose, it would be improper and inadvisable for us to take charge of them. At the same time, the fact that the Rankoji Temple and this particular priest have so devotedly looked after the Urn containing the ashes and Netaji's other belongings for all these years shows their great affection and loyalty towards our country and the memory of a great national hero. Such devotion deserves some recognition from us. [Without in any way committing ourselves to the identity of the ashes, we could recompense the Priest and the Temple by some annual grant which would not be for the custody of these ashes but as a reward for their long-standing loyalty to India. This, while formally the purpose of the grant would be in recognition of their services to our country, it would, in fact, serve as some sort of compensation for the trouble they are taking in looking after the Urn containing the ashes. A payment for the custody of the Urn itself would be open to many objections but by thus expressing our gratitude in tangible terms, we would earn the appreciation of the Priest and the Temple and would also ensure that the Urn and other Indian property now lying in the Temple would be properly looked after.

3. An annual payment of Rs. 5,000 seems to be sufficient for this purpose. We could, in the first instance, sanction it as a grant for 1967 and get it renewed every year.

4. [In view of the political importance of the subject, we hope there would be no difficulty in finding the funds for this purpose. It would be most unhappy development if, due to some default on the part of these custodians of the Urn or the Temple authorities, some damage is done to this Urn or its contents and it is later on confirmed that the ashes are those of Netaji Bose.] [This annual expenditure will not be too much to pay in order to ensure their safety. Even if it finally transpires that the ashes are not genuine, still this amount would, in no way, be an excessive compensation for the Priest's general friendliness towards India as shown in the devotion with which he has looked after the Urn and other property of Netaji.] However, we do not know which Ministry would be able to provide funds for such a purpose. The Ministry of Education, Cultural Department, might have some funds for the encouragement of friendship of India with other countries through cultural/media, either directly or through the Indian Council for Cultural Relations. Since such a gesture would definitely be conducive towards promoting Indo-Japanese friendship, we could request that Ministry to let us know whether they could spare some funds for this purpose. Another source would be the Ministry of Finance. We shall be very grateful if Director (Finance) could kindly examine this suggestion and indicate whether it would be possible for us to get some funds from our own Ministry. The background of the case is explained in earlier notes from page 1 and the letter to Shri Narayaman from Shri Dixit of 26th Sept. (below).

(A. K. Damodaran)
15.xii.66.

Dir. (Finance).



1967 Di
A.K. Damodaran

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From pre-page:

16258 -

Discussed with Dir. EA.

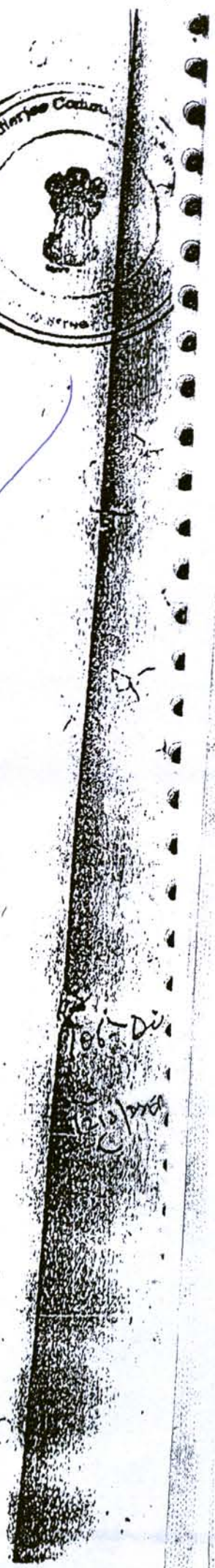
2. As long as there are some people who genuinely believe that these ashes are not those of Netaji Subhas Chandra Bose, it would be improper and inadvisable for us to take charge of them. At the same time, the fact that the Rankoji Temple and this particular priest have so devotedly looked after the Urn containing the ashes and Netaji's other belongings for all these years shows their great affection and loyalty towards our country and the memory of a great national hero. Such devotion deserves some recognition from us. [Without in any way committing ourselves to the identity of the ashes, we could recompense the Priest and the Temple by some annual grant which would not be for the custody of these ashes but as a reward for their long-standing loyalty to India. This, while formally the purpose of the grant would be in recognition of their services to our country, it would, in fact, serve as some sort of compensation for the trouble they are taking in looking after the Urn containing the ashes. A payment for the custody of the Urn itself would be open to many objections but by thus expressing our gratitude in tangible terms, we would earn the appreciation of the Priest and the Temple and would also ensure that the Urn and other Indian property now lying in the Temple would be properly looked after.]

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(A. K. Damodaran)
15.xii.66.

Dir. (Finance).



23- 2392 (240)

-88-

from pre-page:

16258 -

Discussed with Dir. EA.

2. As long as there are some people who genuinely believe that these ashes are not those of Netaji Subhas Chandra Bose, it would be improper and inadvisable for us to take charge of them. At the same time, the fact that the Rankoji Temple and this particular priest have so devotedly looked after the Urn containing the ashes and Netaji's other belongings for all these years shows their great affection and loyalty towards our country and the memory of a great national hero. Such devotion deserves some recognition from us. [Without in any way committing ourselves to the identity of the ashes, we could recompense the Priest and the Temple by some annual grant which would not be for the custody of these ashes but as a reward for their long-standing loyalty to India. This, while formally the purpose of the grant would be in recognition of their services to our country, it would, in fact, serve as some sort of compensation for the trouble they are taking in looking after the Urn containing the ashes. A payment for the custody of the Urn itself would be open to many objections but by thus expressing our gratitude in tangible terms, we would earn the appreciation of the Priest and the Temple and would also ensure that the Urn and other Indian property now lying in the Temple would be properly looked after.

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(A. K. Damodaran)
15.xii.66.

Dir. (Finance).



Feb-67
12/1/67

~~24~~
240 (24)

(24)

~~11~~
161

(51)
59

(from pre-page)

It is, indeed, difficult for me to express any firm view in regard to the incidence of expenditure on an extremely delicate purpose. If it were a question of making payment for custody of "the ashes", it would, perhaps, have been in order to suggest that the Ministry of Education should meet the expenditure. [But, the ashes having not been pronounced genuine, one has to find justification for incurring the expenditure on their safe retention abroad. It is not clear from what source the expenditure was incurred on the Netaji Enquiry Committee in 1956. In any case, if the purpose of the expenditure is not to be disclosed - which, I presume, is the intention - , it can be met only from Discretionary Grants of this Ministry.] We have no funds for this in our budget for the current year, nor have any steps been taken to make provision for this in the budget estimates for the next financial year. If the intention is to start the first instalment of Rs.5,000/- from the next financial year, we should make a specific provision in the budget for this purpose. I suggest that the concurrence of the Ministry of Finance may be taken to including the necessary provision under the Discretionary Grant allotted to this Ministry for being expended through the Missions.

V. Doraiswamy
(V. Doraiswamy)
Director (Finance)
16.12.66

- 162 -

D.S. (E. A.)

'A' also:

If D. agrees, we may ask Tolay about the
memo about stone proposal before we take up
the matter with 17/F.

A. D. ...

163-

24/12

Discussed - Item Ch. to Sri Desai

A. D. ...
24/12/66

n. g. o.

-25-
-60-
-12-

Dy No. 920/NGO/67 RR. (S.No 165-A)

on file
Sd: A. Damodaran



Submitted please.

2/1/67
U.S. (F.A.)
D.S. (S.A.)

2/2/67
R. R. Srinivasan
2/2/67

b6

This case concerns the custody of the ashes of Netaji in the Renkoji Temple in Tokyo. The Chief Priest had suggested to our Embassy that he would like to hand over the ashes to us. We made a counter proposal that we could pay to the Temple a small annual grant. This would enable us to ensure safe custody of the ashes pending agreement by all parties concerned including the members of Netaji's family that the ashes are genuine.

2. Our Embassy has now informed us that the temple authorities are agreeable to the suggestion and they would continue to keep custody of the ashes.

3. FS had last seen the papers in November, when he agreed to the suggestion that some financial assistance could be given to the Priest. We may now initiate action for providing the amount of Rs. 5,000 in the discretionary grant allotted to this Ministry for being expended through the Mission during the financial year 1967-68, if necessary by re-appropriation. The file can be sent to the Finance Ministry, after FS has approved.

A. Damodaran
(A. K. Damodaran).
6.11.67.

Dir. PA

167-
Naray - 64.
8/2/67

168
8/4/67

169

Ministry of Finance may kindly see notes from page 1 on the captioned case. In view of the importance of the case, he should be given free of 11/15 given his convenience. To be done by the Mission for Rs. 5000 in the Discretionary Grant. A. Damodaran

7/11/67

KAV
40/2
D. Srinivasan

- 25 -

(213)

(45) (61)

- 170 -

Ministry of Finance
(E.A. Division)

The proposal in this file is an unusual one and relates to the grant of a subsidy of about Rs. 5,000/- from out of the discretionary funds with the E.A. Ministry for being paid to the authorities in charge of the Renkoji temple in Tokyo, wherein the ashes, believed to be of Netaji, have been kept all these years. The temple authorities have been, for quite some time, pressing for the custody of the ashes being taken over by us. Even though the Government of India have officially accepted the report of the findings of the Shah Nawaz Khan Enquiry Committee on Netaji that Netaji was killed in an air accident in September, 1945, it is felt by the E.A. Ministry that the idea of officially accepting the ashes or bringing them over to India, may not be acceptable to the family of Netaji and other political groups who have ~~ascertained~~ ^{maintained} that Netaji is not dead. [With a view to avoid political and other complications, it has been proposed that the temple priest be given payment of Rs. 5,000/- per annum for some years, ostensibly for the renovation and preservation of the temple. The payment is not proposed to be directly linked with the priest agreeing to retain the custody of the ashes but to be given in consideration of the temple authorities' loyalty towards India and Netaji for a number of years.] Our Mission in Tokyo has reported that the chief priest is agreeable to receive this grant in the form suggested by the MEA and apparently, in consideration of the same, would not be pressing for the ashes to be taken over by us till such time as we are ready to take over the same.

2. I discussed this case with Director (East). He expressed the view that it may not be desirable or even feasible to take over the ashes and maintain the same in our Embassy on account of the attendant publicity and other difficulties including the preservation of the same in a manner befitting the memory of the deceased leader. He agrees that the grant

-27-
2459

-62- 14

From newspaper:

if made without any stipulation is likely to be taken as permanent by the recipients and it might be difficult to stop the same in future even after the need for making such payment has ceased to exist. He is, therefore, agreeable to make it clear to the recipient that the grant is being made for an initial period of 3 years subject to review later on. By doing this, we may be able to stop payment of this grant at the most within a period of one or two years after we have taken over the custody of the ashes.

3. In view of these considerations and the political factors mentioned, we may agree to the E.A. Ministry making these payments for an initial period of 3 years. The need for the renewal of this aid could be considered from time to time. As the amount involved is not much, it should be possible for the E.A. Ministry to meet the expenditure within their existing budget provision under discretionary grant for the current year.

S. P. Krishnamurthy
(S.P. Krishnamurthy),
22.2.1967

IS (EAE)

- 171 -

I would suggest an initial payment of Rs 5000 without giving the impression that it is an annual affair. The provision could be renewed from year to year.

M.P. Sundaram
24.2.67

Dir (Eas) - Shri Narayanan

Recd to Mr G. Tohyo - 172 -
Now if the file is Bdm. Division
Narayana

DS(EA)

- 173 -

D. S. (E.S.T.) may kindly see before
we write to T. Toyo.

Abdullah
27/2

DS(E.S.T.)

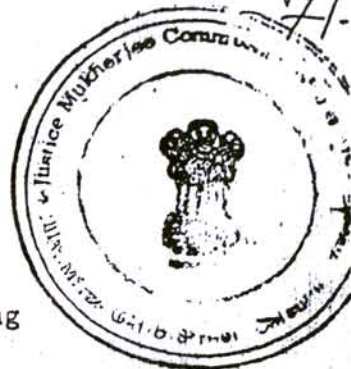


S-131-DS(EA)/6
23/2
0022-4(EA)/7
23-67
TS 27/2/67
D/S
27/2/67

25/4/NGO², Vol-11 (LW-KW)

28
246
71
Secret

MINISTRY OF EXTERNAL AFFAIRS
(EAST ASIA DIVISION)



Reference JS(EA)'s note on pre-page.

It constitutes a somewhat unusual case involving annual grant of a subsidy of Rs.5000 from out of the 'Secretionary Fund' of the MEA to the authorities in charge of the Renkoji Temple in Tokyo, where the ashes, believed to be of Netaji, have been kept all these years. Indicated by the Note at Sl.No.170 (Flag 'A') on this subject, these payments started from the year 1967 and were not being made till the financial year 1971-72.

When this decision was taken in 1967, the view expressed that even though the Government of India had officially accepted the report of the findings, of the Khan Nawaz Khan Enquiry Committee on Netaji that Netaji was killed in an air accident in September 1945, the idea of officially accepting the ashes or bringing them over to India may not be acceptable to the family of Netaji, and other political groups who have maintained that Netaji is not dead.

In order to avoid political and other complications, it was, therefore, decided in 1967 that the Renkoji Temple Priest be paid Rs.5000 per annum for some years, ostensibly for the renovation and preservation of the temple. Earlier the temple authorities had been, for quite some time, pressing for the custody of the ashes to be taken over by the Government of India. [But while deciding upon this annual payment of Rs.5000 to the temple priest the impression sought to be conveyed by us was that this payment was not to be directly linked with the temple priest agreeing to retain the custody of the ashes, but to be given in consideration of the temple authority's loyalty towards India and Netaji for a number of years.] Our Mission in Tokyo subsequently reported that the temple priest was agreeable to this sort of an arrangement and that he would also not be pressing for the ashes to be taken over by us till such time as we were ready to take over the same.

Considering all this, it was, therefore, decided to initially sanction this annual payment of Rs.5000 for a period of 3 years only, so that no long-term commitment is involved on our part. It was obviously the intention of the Ministry at that stage to review this question on a year to year basis instead of making it an arrangement for an indefinite period.

After the expiry of this 3 year period, a fresh sanction was again issued for the year 1971-72.

In view of the background position given above, the following is for consideration:-

(a) Since no such payment was made to the Temple Priest in 1972-73, what was his reaction, if any, to this disruption of payment? Our Embassy in Tokyo should be in a position to throw some light on this.

(b) In case these payments are stopped, what are the chances of the Temple Priest reviving his earlier demand that we should take over these ashes? The views of our Mission in Tokyo should be sought on this also.

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Contd. from pre-page

(c) Presuming that these payments are stopped and the Temple Priest starts insisting that we take over the custody of these ashes would we be in a position to do so, keeping in view the possible political and other implications?

(d) If the only means by which we can ensure that the Chief Priest of Renkoji Temple does not insist on our taking over these ashes is to continue making these payments to him and if we still want to avoid possible controversies in the event these ashes are brought over to India, then there would appear to be no alternative, but to continue these payments. If the answers to the above questions are in the negative, then there would appear to be no reason for us to continue making these payments. In this context, it may also be mentioned that since the payments are made in Yens, the annual sum of Yen 240,000 will now work out to more than Rs.5000 on account of the Yen revaluation. Internal Finance should be in a position to work out the exact revised figure.

8. While reviewing this question, it would be interesting to recall the contents of a letter written on November 23, 1953 by the Priest of the Renkoji Temple in Tokyo to the then Prime Minister of India (Flag 'B'). One particular portion in this letter is somewhat intriguing. To quote the Priest from this letter: "I, a stranger to the late Netaji was asked to keep the ashes by people who were strangers to me including Indians of whom I have never heard since that time. xxxxx" A remark of this nature could throw doubt on the authenticity of these ashes and it is, therefore, for consideration whether we should continue making such payments in respect of an item whose authenticity would also appear to be in some doubt.

V. V. Gmp

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(P.K. Budhwar)
Deputy Secretary (EA)
6.12.1973

JS(EA)

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It may be idly made to the
Secretary.

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1/11/74

(through NCO)

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File No. ~~6-12(3)/98-N670~~

6-12(3)/98-N670

TOP SECRET

INTERNAL

Subject : Ashes of Netaji Subash Chandra Bose.

12-1-2/c

Reference letter No. Bon/Amb/98-5(C) dated 3 March 1998 from Ambassador Lambah on the above subject.

2. The substance of the letter is based on a discussion he had on 2 March 1998 with Dr. Anita Pfaff, daughter of Netaji Subash Chandra Bose. Dr. Pfaff conveyed that she had not consulted all the family members regarding the proposal to move the ashes to India, but was confident that it would be acceptable to the family. She was also keen that there should be a national consensus among the political parties on this subject and that the best time for transferring them to India would be the second half of 1998. Some consultations with the Japanese authorities, particularly the priests at the Renkoji Temple, would also be essential.

3. In terms of action at our end, the most important requirement is to consult the various political parties, since there is a body of opinion which maintains that in fact, Netaji is still alive and the entire issue remains somewhat controversial. This will need to be got out of the way before further action can be taken.

P. P. Shukla
(P.P. Shukla)
JS (P)
11 Mar 98

Principal Secretary to PM

for the purpose to visit the
knowledge, suitable documents
for me to send London.

JS (P)

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INTERNAL/
TOP SECRET

Subject: Return of Netaji's ashes to India

Pps 1-2/c

Ambassador Lambah had written to Principal Secretary to PM on the above subject, on the basis of a recent discussion he had with Netaji's daughter, Dr. Anita Pfaff. Principal Secretary had sought MEA's views, which have been received in the form of a brief note enclosing their files on the subject.

2. The details of the case may be seen in the background note prepared in MEA on the subject (Flag-1). Although it is undated, it is clear that the note was prepared in December 1995 as may be seen from the yellow sticker attached.

3. In brief, the background is that two Commissions of Inquiry had been set up to determine the fate of Netaji. The first was the Shah Nawaz Committee, set up in 1956, which included Netaji's brother, Suresh Chandra Bose. This was a three-member Committee and two members, including the Chairman, concluded that Netaji had died in an air crash at Taihoku (Taiwan) on 18 August 1945. Netaji's brother dissented and recorded his own views. GOI accepted the majority verdict.

4. A second, single-member, Committee, comprising of Justice G.D. Khosla, was set up in 1970 and came to the same conclusion, which was again accepted by GOI. Nonetheless, the controversy did not die down and Shri Samar Guha, MP moved a motion in Parliament in August

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1977 urging the Government to set up one more Inquiry Commission. In 1978, the then Prime Minister (Shri Morarji Desai) made a statement clarifying that "no useful purpose would be served by having any further inquiry". The matter was accordingly dropped.

5. The ashes purported to be Netaji's are kept in the Renkoji Temple in Tokyo and there have been repeated proposals for them to be transferred to India. They are, at present, being looked after by Japanese associates of Netaji, but many of them are getting on in years. Some of them have therefore requested us to take custody of the ashes and transfer them to India and take a decision on the basis of a national consensus on what we wish to do with the ashes. This matter was examined in CCPA on 20 February 1991 which took the view that "no useful purpose would be served by holding yet another enquiry or by bringing the ashes back to India at present as this might create unnecessary tensions". The matter was discussed again in the Cabinet on 8 February 1995 and it was decided that the ashes would not be brought back to India for the present but that the dependability of the arrangements in Japan should be examined. This was done and it was felt that we could raise our annual upkeep contribution from ¥ 600,000 to ¥ 1 million.

6. Former EAM (Shri Pranab Mukherjee) visited Japan in September 1995 and visited the Renkoji Temple and also discussed this issue with the Japanese Foreign Minister. The latter said that there was no inconvenience involved in retaining the ashes in Japan, but personally felt that it would be better to return them to his homeland and to his family.

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EAM said that he would consult Netaji's daughter as the nearest surviving kin.

7. EAM visited Germany in October 1995 and met Dr. Anita Pfaff, who said that the ashes should be brought to Germany if their return to India was a matter of controversy. To this, it was pointed out that Japan was not in favour of moving the ashes to any third country. She also discussed the possibility of a suitable memorial for Netaji in India. EAM made no comment on this.

8. A view has also been held that Netaji had been captured by the Russians after the Second World War and had been kept in captivity there. This is the view of those who believe that Netaji did not die in the air crash as conventional belief would have it. To ascertain the facts on this matter, we had approached the Russian Government after the collapse of the Soviet Union. In October 1995, the Russian Ministry of Foreign Affairs confirmed to us that there was no information to substantiate the view that Netaji had come to the Soviet Union after the Second World War. However, the proponents of this view are not satisfied with this and wish to see the Soviet records for themselves.

9. In the FR from Ambassador Lambah and its enclosed 1 from Dr. Anita Pfaff, it is recommended that the ashes should be brought back to India. However, Dr. Pfaff feels that a national committee is required for this.

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mkh
Shukla
JS[P]
1 April 98

27/98
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Handwritten 'MS' in the top right corner.

10. Getting a national consensus does not appear to be easy, as the version of Netaji's death in the air crash is not universally accepted. That being so, doubts are also expressed with regard to the ashes being those of Netaji. Shri Ashis Ray (former CNN Bureau Chief here), a great-nephew of Netaji, had written to PM suggesting a DNA examination, but this, too, appears unacceptable to other members of the family. Ultimately, it will require a political consensus among the various political parties.

11. Dr. Pfaff has been to India twice in order to build up a consensus in favour of the return of the ashes, but is clearly uncertain about the results of her efforts. She is equally uncertain about a consensus within the family. Her last visit was in January 1998, during which she had called on the previous PM. She has, as mentioned above, expressed the hope that the new Government would take account of her wishes and bring back the ashes to India.

12. This is where matters stand at present and a decision needs to be taken on whether the ashes are indeed those of Netaji and, if so, whether they can now be brought back to India. From the above, it is clear that there is no particular urgency in settling this matter. However, a view needs to be taken on how to deal with this issue in the future.

P. P. Shukla
[P.P. Shukla]
JS[P]
1 April 98

Prl. Secretary to PM

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বর্তমান

বঙ্গদেশের সংবাদ ১৯৫৬ সালের ১০ ডিসেম্বর



স্বরাষ্ট্র মন্ত্রীর সঙ্গে সাক্ষাৎকারে অধ্যক্ষ ডাঃ সুনীল কুমার।

ডি ভাঙ্কুর

সি পি এমের লা, আহত ৪

সমর্থকরা গণ মতো হুজুর্গের মধ্যস্থত জন আহত স কে এম কে প্রোগার এম স্বাধীন বসেছে। সি পি এম শে 'মদান। বসেছে। বেশ কিছু প আশ্রমের টাকার সিনে

হয়। মেহমুদের পাশের বাড়ির লোকজন রেহাই পাননি। সি পি এম সমর্থকরা তাঁদেরও মারধর করে। মেহমুদ আলমের বাড়ির গায়ে তারা বোমা মারে। টালি ভাঙচুর করে। বোমার টুকরো এসে লাগে পাশের বাড়ির মহিলা-সইলা খাতুনের মাথায়।

মেহমুদ আলমের বাড়ি তখনই করে সি পি এম সমর্থকরা। এরপর ছুটে যায় নিকটবর্তী বাঙালবর্তি এলাকায়। সেখানে এঁদের পর এক বোমা ছোড়ে। বোমার টুকরো লাগে সোহাইল আমেদ, মহম্মদ আরসুত, মহম্মদ আসরাফ এবং নিলু নামে একজন তিখারি জখম হন। স্থানীয় এলাকায় 'ফরিদ' নামে পরিচিত ওই তিখারির একটি চোখের অগ্নি স্কো পড়ে। সি পি এম সমর্থকরা স্থানীয় কংগ্রেস কাউন্সিলার সুলতান হাসানের বাড়ির সামনেও বোমা ফাটায়। আহত হন কংগ্রেস কর্মী মুনতাজ আলি। ওই সময় তারা একটি কনটেস্টা গাড়ি, একটি ট্রাক এবং দুটি ট্যাক্সি ভাঙচুর করে।

এদিন ঘটনাস্থলে গিয়ে দেখা গেল গোটা এলাকায় তীব্র উত্তেজনা রয়েছে। এম এ বেডাল পুলিশের সামনে ছুটিয়ে রয়েছে বোমার টুকরো। এম এ বেডাল পুলিশের সামনে ছুটিয়ে রয়েছে বোমার টুকরো। এম এ বেডাল পুলিশের সামনে ছুটিয়ে রয়েছে বোমার টুকরো।

খোঁজা ছিল তখন কিছু বন্দু সমর্থক তার সোকামে এসে হাজির হয়। আগাছকদের একজন তার সোকামের কাছে লাথি মারে। ফলে তার পা

রাজীব-বীরেন্দ্র বেঠক নিষ্ফল

বেলগেড, ৪ সেপ্টেম্বর (পি টি আই): প্রধানমন্ত্রী রাজীব গান্ধী ও নেপালের রাজা বীরেন্দ্রের মধ্যে দীর্ঘ প্রতীক্ষিত বেঠক আজ এখানে অনুষ্ঠিত হয়েছে। তবে অচলাবস্থা তাতেও কাটেনি। জনৈক ভারতীয় মুখপাত্র জানান, সহায়তাপূর্ণ পরিবেশে সামগ্রিকভাবে ষিপিাস্কিক সম্পর্ক নিয়ে তাঁদের মধ্যে আলোচনা হয়। দুই দেশের পররাষ্ট্র মন্ত্রীরা আগামী তিন দিনের মধ্যে বেঠকে বসবেন কিনা তা তিনি জানাননি।

নকশাল : কেন্দ্রীয় দল অঙ্কু যাচ্ছে

নয়াদিল্লি, ৪ সেপ্টেম্বর (পি টি আই): অঙ্কু প্রদেশে নকশাল আন্দোলন দমন করতে রাজ্য সরকার যে 'বু-প্রিট' প্রস্তত করেছে তার কার্যকারিতা পরীক্ষা করার জন্য কেন্দ্রীয় সরকার শীঘ্রই অঙ্কু পর্যবেক্ষণ দল পাঠাচ্ছে। স্বরাষ্ট্র দপ্তরের এক মুখপাত্র জানিয়েছেন, ওই পর্যবেক্ষণ দলের রিপোর্ট মতো কেন্দ্র অঙ্কু আধা সামরিক বাহিনী পাঠানোর ব্যাপারে সিদ্ধান্ত করবে।

কেন্দ্রীয় স্বরাষ্ট্র দপ্তরের নির্দেশ মতো বু-প্রিট প্রস্তত করার সংবাদ স্বরাষ্ট্র মন্ত্রণালয়ে পৌছানোর সঙ্গে সঙ্গে কেন্দ্র বিশেষ পর্যবেক্ষণ দল পাঠানোর কথা ঘোষণা করেছে।

বিদ্যুৎ ঘাটতি : মিল নেই হিসাবে

স্টাফ রিপোর্টার: মানুষের অভিজ্ঞতার সঙ্গে বিদ্যুৎ দপ্তরের দেওয়া বিদ্যুৎ ঘাটতির হিসাবের কোনো মিল খুঁজে পাওয়া যাচ্ছে না। সোমবার বিদ্যুৎ দপ্তর থেকে জানানো হয়েছে, এদিন সন্দের সময় কলকাতা শহরে (সি ই এস সি) বিদ্যুৎ ঘাটতি ছিল ৬৫ মেগাওয়াট। ওই সময়ে দক্ষিণবঙ্গে পর্যদের ঘাটতি ছিল ৬৫ মেগাওয়াট।

অথচ এদিন সকাল থেকে রাত্রি পর্যন্ত দফায় দফায় ঘণ্টার পর ঘণ্টা লোডশেডিং হয়েছে।

রেনকোজি মন্দির ভস্মীভূত

টোকিও, ৪ সেপ্টেম্বর (ডি পি এ): এক বিধ্বংসী অগ্নিকাণ্ডে জাপানের ৩৪৫ বছরের পুরনো ঐতিহাসিক রেনকোজি বৌদ্ধ মন্দিরটি সম্পূর্ণ ভস্মীভূত হয়েছে। আগের পুলিশ বৃষ্টি এই শহর জ্বালানো হয়।

এই ঘটনায় কেউ আহত হননি। জানা গেছে, খুব ভোরের দিকে এই আগুন লাগে।

সি পি এম রাজ্যে পহ দল পাঠা

জয়ন্ত ঘোষাল, নয়াদিল্লি, ৪ সেপ্টেম্বর: পশ্চিমবঙ্গে সি পি এমের সন্ত্রাসের বিষয়টি নিয়ে খোঁজ খবর নিতে পর্যবেক্ষণ দল পাঠাচ্ছে কেন্দ্র। কেন্দ্রীয় স্বরাষ্ট্রমন্ত্রী বুটা সিং এই সিদ্ধান্ত নিয়েছেন। তিনি এই সিদ্ধান্তের কথা কয়েকজনকে জানিয়েছেন। পর্যবেক্ষণ দলে কারা থাকছেন তা জানা যায়নি। তবে এই পর্যবেক্ষণ দল যাবে তাও ঠিক হয়নি। তবে রাজ্যের স্বরাষ্ট্রমন্ত্রীকে এই সিদ্ধান্তের কথা জানিয়ে দেওয়া হয়েছে।

আজ বুটা সিং-এর সঙ্গে কেন্দ্রীয় রাজস্ব দপ্তরের রাষ্ট্রমন্ত্রী অজিত পাঞ্জা এবং প্রদেশ কংগ্রেস সভাপতি এ বি এ গনি খান চৌধুরি দেখা করেন। অজিত পাঞ্জা কেন্দ্রীয় স্বরাষ্ট্রমন্ত্রীকে পশ্চিমবঙ্গে সি পি এম সন্ত্রাসের বিস্তারিত রিপোর্ট দেন। অন্যদিকে গণি খান তাঁকে বলেন, আসম লোকসভা নির্বাচনের সময় রাজ্যে বিশেষ পুলিশ বাহিনী পাঠাক কেন্দ্র। বুটা তাঁকে বিষয়টি বিবেচনার আশ্বাস দিয়েছেন। গণি খানও আজ প্রদেশ কংগ্রেসের তরফ থেকে স্বরাষ্ট্র দপ্তরের কাছে সি পি এমের সাম্প্রতিক সন্ত্রাসের রিপোর্ট দিয়েছেন।

অজিত পাঞ্জা বেঠকে সব কাগজের কাটিং সমেত একটি বিস্তারিত রিপোর্ট দেন। এই রিপোর্টে তিনি গত ১২ বছরে সি পি এম সন্ত্রাস নিয়ে লিখেছেন। কোলো ঘটনা ধাল দেননি। বেঠকে সন্তোষমোহন দেবও ছিলেন। রিপোর্টারের একটি বড় ফর্মে রয়েছে

কংগ্রেস ৩৫৬ জানায়নি : তে

স্টাফ রিপোর্টার: কংগ্রেস নেতা ও বিধায়ক সুব্রত মুখার্জি সোমবার বিধানসভার লবিতে বলেন, আমি মনে করি টেকনিক্যালি কেন্দ্রের পশ্চিমবঙ্গ সরকারের ওপর সংবিধানের ৩৫৬ ধারা প্রয়োগ করা ঠিক নয়। তবে, আমি যখন বিরোধী দলে আছি তখন আমাকেও এই ধারার কথা বলতে হয়।

এদিকে, কংগ্রেস নেতা ও বিধায়ক সৌগত রায় বিধানসভার লবিতে বলেন, প্রদেশ কংগ্রেস ও বিধানসভার কংগ্রেস পরিষদীয় দল ৩৫৬ ধারা প্রয়োগের দাবি কেন্দ্রের কাছে পৌঁছানি। কেন্দ্রীয় মেট্রী কৃষ্ণী পাঠা। প্রিয়মঞ্জুন দাসমুখল এ ব্যাপারে যে দাবি করেছেন তা তাঁদের ব্যক্তিগত অভিমত। সুব্রতবাবুকে সাংবাদিকরা প্রশ্ন ক

- ১৫-০৬-

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বর্তমান

মঙ্গলবার ৫ সেপ্টেম্বর ১৯৮৯, ২০ ভাদ্র ১৩৯৬

রেনকোজি মন্দির ভস্মীভূত

টোকিও, ৪ সেপ্টেম্বর (ডি.পি.এ):- এক বিধ্বংসী অগ্নিকাণ্ডে জাপানের ৩৪৫ বছরের পুরনো ঐতিহাসিক রেনকোজি বৌদ্ধ মন্দিরটি সম্পূর্ণ ভস্মীভূত হয়েছে। আজ পুলিশ সূত্রে এই খবর জানানো হয়।

পুলিশের তরফ থেকে জানানো হয়, এই দুর্ঘটনায় কেউ আহত হননি। জানা গেছে খুব ভোরের দিকে এই আগুন লাগে।

062-37-
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English translation of the News.

'BARTAMAN' CALCUTTA, SEPTEMBER 5, 1989.

RENKOJI TEMPLE BURNT TO ASHES

Tokyo, 4th September (D. P. A);

According to information received from Police sources to day, a devastating fire breaking out at day break has completely destroyed Japan's historic three hundred and forty five years old Renkoji Buddhist Temple. No one is reported to have injured in this mishap. Information received that the fire broke out at dawn of the day.

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Netaji's ashes to be brought to city by next Independence Day

TIMES NEWS NETWORK

Pune: City-based World Peace Centre (WPC) will bring the ashes of freedom fighter and Azaad Hind Sena founder Subhash Chandra Bose, who sought Japan's assistance for India's freedom movement during World War II, to Pune by the next Independence Day.

The centre has received clearance from the Union government through Indo-Japan association and the ashes that are currently in Tokyo's Netaji Subhash Chandra Memorial will be handed over to the WPC by the next Independence Day.

Addressing a news conference here on Monday Vishwanath Karad, chairman of World Peace Centre, said, "We have communicated with Kazuo Kaneko and Gen Kurosaki, who look after the Bose Memorial in Japan. The procedure

for official transfer of the ashes to the centre has been initiated with the help of Maharashtra businessman Balasaheb Deshmukh, who is in Japan since the past three decades. Homage will be paid at the Red Fort in New Delhi and the ashes would be deposited in the Ganga river on August 18 next year." Bose was killed on August 18 in Japan during the end of WW-II.

Deshmukh, who was also present for the news conference, said, "I will be assisting the WPC to bring Bose's ashes to his own country and perform the last rituals. Bose has a daughter from his German wife, who is currently in Germany. Attempts to contact her failed. Since she is the only successor of the Indian leader, we need her consent to perform the last rituals. Meanwhile, the Japanese government has permitted the WPC to initiate the procedure to bring back the ashes."



A file photo of Subhash Chandra Bose during his visit to Pune

Advertisement

25B

W.P. No. 2003 of 2006

IN THE HIGH COURT AT CALCUTTA

CONSTITUTIONAL WRIT JURISDICTION

Original Side

In the matter of:

An application under Article 226 of the
Constitution of India:

In the matter of:

Shri Rudra Jyoti Bhattacharjee & Ors

.....Petitioners

Versus

Union of India & Ors

.....Respondents

**SUPPLEMENTARY AFFIDAVIT ON
BEHALF OF THE PETITIONERS**

Miss Debjani Ghosal

Advocate

Bar Association Room No.2

High Court, Calcutta

Room No. 20B,

10 Old Post Office Street,

Message Confirmation Report

JAN-12-2011 05:15 AM WED

Fax Number :
Name :

Name/Number : 23022045
Page : 1
Start Time : JAN-12-2011 05:14AM WED
Elapsed Time : 00' 46"
Mode : STD G3
Results : [O.K]

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Ministry of Home Affairs
IS-II Division

'C' Wing, 9th Floor,
Lok Nayak Bhawan, Khan Market,
New Delhi .

**Sub: W.P. No. 2003 of 2006 - Shri Rudra Jyoti Bhattacharya & Ors
Vs. Union of India & Ors.**

A supplementary affidavit filed by the petitioner in the above Writ Petition has been received in this Ministry which relates to issue of the Report of the Mukherjee Commission of Inquiry relating to controversy over the death of Subhash Chandra Bose. A copy of the supplementary petition is enclosed.

2. Some of the Annexures to the supplementary petition are from the secret/top secret files of the Prime Minister's Office and Ministry of External Affairs'. In view of this, the parawise comment on the petition may be sent to this Ministry by 25th October, 2010 to enable this Ministry to file the Counter Affidavit to the supplementary petition.

3. The next date of hearing in the case is 19th November, 2010 and before the date affidavit in opposition to the supplementary affidavit is required to be filed.

Encl: As above

(K. Muralidharan)
Deputy Secretary (S)
Tel : 24617196

PMO, Director (Shri Amit Aggarwal), South Block, New Delhi
Director, Japan (Sh. Sandeep Chakraborty) MEA, South Block, New
Delhi
MHA UO No. 12014/5/2007-Cdn. dated 07, October, 2010


Issued PB 12/09 1.10
Issued PB 11/09 2.
Ruchica 12/09
08/10/10.

258 (259)

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Ministry of External Affairs
(East Asia Division)

Reference MHA U.O. No.12014/5/2007-Cdn. Dated 7 October, 2010 regarding Writ Petition filed by Shri Rudra Jyoti Bhattacharya. As the supplementary petition is on the basis of a news item that the Government of India has agreed to bring back the ashes of Shri Subhash Chandra Bose to India by a Pune based NGO namely World Peace Centre, this Ministry confirms that it has not given any permission to any organization to bring the ashes of Shri Netaji Subhash Chandra Bose from Japan to India. Therefore, the questions raised in the supplementary affidavit are not relevant. MHA may like to convey this position to the Honourable Court.


(Sandeep Chakravorty)
Director (East Asia)
Tel: 23012536
Fax: 23016514

- ✓ 1) **Shri K. Muralidharan**, Deputy Secretary (S), Ministry of Home Affairs, Lok Nayak Bhawan, Khan Market, New Delhi
- 2) **Shri Amit Aggrwal**, Director, Prime Minister's Office, South Block, New Delhi

MEA U.O. No.S-1974/Dir(EA)/2010

21 October 2010

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No.12014/5/2007-Cdn.
Government of India
Ministry of Home Affairs
IS- II Division

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi,
Dated the 10th November, 2010

Office Memorandum

Sub: WP No. 2003 of 2006- Shri Rudra Jyoti Bhattacharya & Ors Vs. Union of India & Ors.

The undersigned is directed to say that the above mentioned Court case is coming up for hearing on 19th November, 2010.

2. This Ministry contacted Shri Mohd Nizamuddin, Government Advocate in the Writ Petition No.2003/2006 – Rudra Jyoti Bhattacharya & Ors. Vs. Union of India. He has desired to furnish a copy of the discussion that took place on 28th August, 1978, regarding the reply given by the then Prime Minister Shri Morarji Desai in the Rajya Sabha in connection with the reports of Shahnawaj Committee and the Khosla Commission on the issue of death of Netaji Subash Chandra Bose.

3. The Rajya Sabha Secretariat may please furnish a copy of the discussion that took place on 28th August, 1978 immediately. The matter is to be discussed with ASG, Kolkata High Court.


(K Muralidharan)
Deputy Secretary(S)

**Shri K. Sudhakaran,
Deputy Director,
Rajya Sabha Secretariat,
Parliament House, New Delhi.**

Issued vide

PB 12/09

Ruchika

10/11/2010.

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261

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No.12014/5/2007-Cdn.
Government of India
Ministry of Home Affairs
IS- II Division

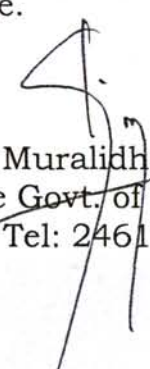
Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi,
Dated the 10th November, 2010

Office Memorandum

**Sub: WP No. 2003 of 2006- Shri Rudra Jyoti Bhattacharya & Ors Vs.
Union of India & Ors.**

The undersigned is directed to refer to this Ministry's UO of even number dated 7th October, 2010 calling for comments on the Supplementary Petition file by Shri Surojit Das Gupta, the second petitioner in the above said petition by 25th October, 2010 to enable this Ministry to file the Counter Affidavit to the Supplementary petition.

2. The comments on the Supplementary Petition has not been received so far. Since the next date of hearing in this case is 19th November, 2010 and the time is very short for filing the Supplementary Affidavit, it is requested to expedite the comments in order to prepare the affidavit in opposition to the supplementary affidavit in time.


(K. Muralidharan)
Deputy Secretary to the Govt. of India
Tel: 24617196

Shri Amit Aggarwal,
Director,
Prime Minister's Office
South Block, New Delhi.

Issued vide PB 11/08

Ruchika

10/11/2008.

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No.12014/5/2007-Cdn.
Government of India
Ministry of Home Affairs
IS- II Division

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi,
Dated the 10th November, 2010

Office Memorandum

Sub: WP No. 2003 of 2006- Shri Rudra Jyoti Bhattacharya & Ors Vs. Union of India & Ors.

The undersigned is directed to refer to this Ministry U.O. of even number dated 7th October, 2010. The case is coming up for hearing on 19th November, 2010.

2. This Ministry contacted Shri Mohd Nizamuddin, Government Advocate in the Writ Petition No.2003/2006 – Rudra Jyoti Bhattacharya & Ors V.s Union of India. He desired the following:-

- (i) The statement of the former Prime Minister Shri Morarji Desai in Parliament on Netaji Subash Chandra Bose.
- (ii) Is it a fact that ashes kept in Renkoji temple in Japan are that of Netaji Subash Chandra Bose ?
- (iii) How do Government confirm that the plane crashed at Taihoku in Japan on 18th Aug 1945 did not carry Netaji Subash Chandra Bose ? Or if he died in the plane crash, how do Govt. confirm that Netaji Subash Chandra Bose was traveling in that plane.
- (iv) A copy of the details of the discussion that took place in the Cabinet partially rejecting the report of the Mukherjee Commission Report.
- (v) Why Govt. of India can not take an independent decision on the Justice Mukherjee Commission of Inquiry Report when Parliament did not arrive at the specific decision.

3. The Counsel has requested MHA to discuss this matter with ASG, Kolkata High Court. Therefore it is requested to furnish the information on the above points immediately in order to apprise the ASG, Kolkata

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- 2 -

High Court. While furnishing information it may kindly be informed whether the above information can be furnished if available in your records and also whether the same could be handed over to Kolkata High Court in connection with the above mentioned Court case.

~~(K Muralidharan)
Deputy Secretary(S)~~

**Shri Amit Aggarwal,
Director,
Prime Minister Office,
South Block, New Delhi**

**Sandeep Chakraborty,
Director, Japan,
Ministry of External Affairs,
South Block, New Delhi.**

Issued vide
PB 14/10

Ruchika
10/11/2010:

Issued vide. 10/08

Ruchika
~~11/11/10~~
10/11/2010.



सत्यमेव जयते

FAROOK M. RAZACK

अपर महा-सॉलिसिटर

भारत

ADDITIONAL SOLICITOR-GENERAL
OF INDIA12th November 2010

Dear Shri Muralidharan,

Re: W. P. No. 2003 of 2006**Rudrajyoti Bhattacharya & Ors. vs. Union of India & Ors.**

With

W. P. No. 27541 (W) of 2006**Ashim Kumar Ganguly & Anr. vs. Union of India & Ors.**

With

W. P. No. 8215 (W) of 2008**Subhash Chandra Bose vs. Union of India & Ors.**

The aforesaid matters are coming up for hearing before the learned Division Bench of the Hon'ble High Court at Calcutta on 19th November 2010. On the last occasion i.e., on 10th September 2010, the matter was heard out at length. The issue raised by the learned Counsel appearing for the petitioners was relating to a publication made by Pune Times, a Pune based newspaper on 18th August 2010 wherein it had been stated that some activists have obtained permission from the Central Government to bring the ashes of Netaji Subhash Chandra Bose kept in the Renkoji Temple at Japan to India. It was submitted by me that neither the Ministry of Home Affairs nor the Ministry of External Affairs had given any clearance in respect of the matter raised in the news item, which appeared in Pune Times on 18th August 2010. A communication dated 6th September 2010 issued by the Ministry of Home Affairs in this regard which had been received by me was submitted before the Hon'ble Court. At this juncture two supplementary affidavits were filed by the petitioners regarding these facts and the same was taken on record. Prayer was made by me for leave to file an affidavit-in-opposition to the supplementary affidavits filed in Court. Leave was granted and the matter has been fixed for final hearing on 19th November 2010 at 2.00 PM.

Handwritten notes:
 Lunkh
 By had. Mr put up
 by
 15/11/10
 KSI Lunkh



मृत्यमैव जयते

FAROOK M. RAZACK

अपर महा-सॉलिसिटर
भारतADDITIONAL SOLICITOR-GENERAL
OF INDIA

On earlier occasion, when the matter had been heard certain queries were raised by the Hon'ble Court which had been communicated to Shri Amarchand, Under Secretary, Government of India, Ministry of Home Affairs when he had visited me at my Chamber. However, I have not received any reply in respect thereof. The said queries have also been informed to you verbally over the phone. I once again highlight the said queries raised by the Hon'ble Court hereinbelow for your instructions:

1. The Action Taken Report pursuant to the filing of Justice Mukherjee Commissions Report, interms whereof, the Government has not accepted the findings of Justice Mukherjee Commission does not disclose any reasons. Therefore, as no reasons have been disclosed the said Action Taken Report is bad in law. Accordingly, I was asked by the Hon'ble Court to apprise them whether any reasons were given by the Central Government for rejection of Justice Mukherjee Commission's finding.
2. Whether there are any documents supporting or negating the statement made by Shri Morarji Desai, the then Prime Minister of India in Parliament on 28th August 1978 which is highlighted at page 14 of the Justice Mukherjee Commission Report Volume 1?
3. Whether Shri Tarakeshwar Pal, learned Counsel appearing for the Government of India had been briefed by the Central Government to represent the Union of India before the Justice Mukherjee Commission and whether he represented the Central Government in the said capacity and advanced arguments on its behalf? (Note: There is lot of controversy regarding this fact because at page 36 of Justice Commission Report Volume 1, it has been stated that Shri Tarakeshwar Pal, learned Counsel appearing for the Government of India had made submissions)

Your instructions on the aforesaid queries is very essential and the same may, therefore, be immediately communicated to me.



सत्यमेव जयते

FAROOK M. RAZACK

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अपर महा-सॉलिसिटर
भारतADDITIONAL SOLICITOR-GENERAL
OF INDIA

Besides, kindly let me know whether there is any document or Rule or any statutory provision which provides that decisions taken by full Cabinet cannot be disclosed before a Court of Law. This is required because I was told by Shri Amarchand, Under Secretary that the Action Taken Report whereby the findings of Justice Mukherjee Commission was not accepted was the decision of the full Cabinet.

I have not yet received the affidavit-in-opposition drafted by the junior Counsel in answer to the supplementary affidavits filed by the writ petitioners on 10th September 2010. I am instructing the learned Advocate concerned to prepare the same immediately, if he has not done it so far, so that the same maybe affirmed before the date of the hearing and filed in Court.

As the final hearing is likely to take place on 19th November 2010, I would request you to come down to Kolkata on Thursday the 18th November 2010 so that necessary instructions may be obtained relating to the cases in question.

With warm regards,

Yours sincerely,

(FAROOK M. RAZACK)

Shri K. Muralidharan,
The Deputy Secretary (Security),
Government of India,
Ministry of Home Affairs,
New Delhi

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Most Immediate
Court Case

No.12014/5/2007-Cdn.
Government of India
Ministry of Home Affairs
IS- II Division

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi,
Dated the 16th November, 2010.

To

Shri Farook M. Razak,
Additional Solicitor General Kolkata,
19, Balu Hakak Lane,
Park Circus,
Kolkata- 700 017

Sub: W.P. No. 2003 of 2006
Rudrajyoti Bhattacharya & Ors. Vs Union of India & Ors.
With
W.P. No. 27541 (W) of 2006
Ashim Kumar Ganguly & Anr. Vs Union of India & Ors.
With
W.P. No. 8215(W) of 2008
Shri Subhas Chandr Basu & Ors Vs. Union of India & Ors.

Sir,

I am directed to refer to your letter dated 12th November, 2010 on the above mentioned subject and to say that no record of the deliberations/discussions of the Cabinet have not been circulated to the Ministry of Home Affairs and only the final decision of the Cabinet are issued to this Ministry in the form of minutes of the meeting.

2. As regard documents concerning the statement made by Shri Morarji Desai, the then Prime Minister of India in Parliament on 28th August, 1978 are concerned, no documents are available in MHA and were also not available when JMCI took cognizance of the statement of the former Prime Minister. This

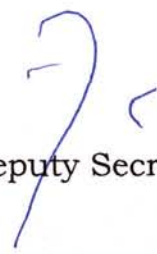
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has been mentioned in the subsequent paragraph on Page 14 onwards of Vol-I of the Report of the JMCI (copy enclosed).

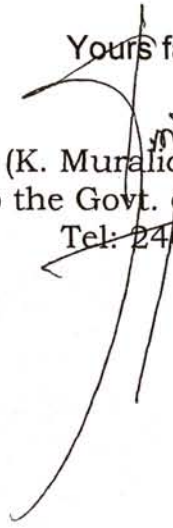
3. This Ministry has not been despite all efforts able to lay its hands on the documents concerning the appointment of Shri Tarakeshwar Pal, learned Counsel on his appointment of any submission made by him on behalf of Central Government.

Received copy
Sankar, Advocate
18/11/2010



Yours faithfully,

(K. Muralidharan)
Deputy Secretary to the Govt. of India
Tel: 24617196



By Speed Post

No.12014/5/2007-Cdn.
Government of India
Ministry of Home Affairs
IS- II Division

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi,
Dated the 24th November, 2010.

R+I to Issue

Ruchika

24/11/2010.

To

Shri Farooq M. Razak,
Additional Solicitor General Kolkata,
19, Balu Hakak Lane,
Park Circus,
Kolkata- 700 017

25 NOV 2010

- Sub: (i) 2003/2006 Rudra Jyoti Bhattacharya Vs. Union of India & Ors
(ii) 27541 of 2006 - Ashim Kumar Ganguly & Ors Vs. Union of India & Others
(iii) WP No. 8215(W)/08 - Subhash Chandra Basu & Ors Vs. Union of India & Ors.

Sir,

This letter is in pursuance of the discussions & briefing held with you in Kolkata in your Chamber and the hearing which took place before the Court of Chief Justice on 19th November, 2010 at 2.00 P.M. It had been mentioned by the Advocate of the Petitioners that the Counter Affidavit had not been filed in the Writ Petition No. 8215(W) of 2008- Subhash Chandra Basu & Ors Vs. Union of India & Ors. The Hon'ble Court had directed that the Union Government should file the affidavit on this petition and final hearing will now take place on 13th January, 2011.

2. In this connection it may be conveyed that a copy of the parawise comments had been sent to Smt. S. Bhattacharya, Ministry of Law, Kolkata Branch on 2.4.2009 and reminders had also been sent to her for forwarding the draft affidavit to Ministry of Home Affairs but the same have not yet been received in spite of repeated reminders. A copy of the parawise comments had also been handed over personally to Shri T.K. Ghosh. Government Advocate on 14.5.2010 by Shri Amar Chand, Under Secretary, MHA, when he was in

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Kolkata. A copy of the prawise comments had also been handed over to you by Smt.L.P. Shrivastava, US, MHA and Smt. B.K.Rekhi, Section Officer, MHA during their visit to Kolkata on 08.7.2010. They had also apprised Smt. S. Bhattacharya of the fact that the Ministry had not received the draft affidavit till then whereas a copy of the parawise comments had been sent to her on 2.4.2009. She had spoken to Shri T.K. Ghosh and directed him to prepare the draft affidavit and sent to the Ministry. She had directed Smt. L.P. Shrivastava that the affidavit so received may be got affirmed before the Oath Commissioner, High Court of Delhi and sent to them along with 4 copies thereof for filing, but the same has not been received as yet. A copy of letter dated 13th July, 2010 written to Shri Ghosh in this regard is enclosed. Also a copy of letter dated 22nd September, 2010 written to Smt. S. Bhattacharya is also enclosed for information.

3. In view of the above position, it is requested that you may kindly personally look into the matter and also request you to coordinate the case personally with all the concerned Government Advocates and arrange to send the draft affidavit to this Ministry at the earliest i.e. by 8th December, 2010.

Yours faithfully,

Encls: As above

(K. Muralidharan)
Deputy Secretary to the Govt. of India
Tel: 24617196

Copy to:

Smt. S. Bhattacharya, Senior Central Government Advocate and
Incharge, Branch Secretariat, Kolkata

25 NOV 2010

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[Handwritten signature]
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जारी किया
ISSUED
22 SEP 2010
हस्ताक्षर, Intls. ...
प्रा. तथा दे. R&LNB

BY SPEED POST

No.I/ 12014/5/2007-Cdn.
Ministry of Home Affairs
Internal Security Division-II

9th Floor, 'C' Wing,
Lok Nayak Bhawan,
New Delhi, the 23rd September, 2010.

To

Ms. S. Bhattacharya
Joint Secretary & Legal Adviser ,
Ministry of Law and Justice,
Deptt. Of Legal Affairs,
11 Strand Road, Kolkata-700001

22 SEP 2010

Subject: W.P. No. 8215(W)/08 filed by Shri Subash Chadra Basu & others
Vs. UOI & others

Madam,

I am directed to refer to your letter No. 592/Home/2008/Lit.III/2053/3248 dated 3.9.2010 on the above subject and to convey that a copy of parawise comments of this Ministry on the writ petition has been sent to you vide this Ministry's letter of even number dated 2.04.2009 followed by reminders.

During the visit of undersigned alongwith Smt. L.P. Shrivastava, Under Secretary to Kolkatta on 9th July, 2010, we had met yourself and drawn your attention to the above fact. It was also mentioned that a copy of parawise comments were handed over to Shri Ghosh on 10.5.2010 by Shri Amar Chand, Under Secretary. Yourself had assured that Shri T.K.Ghosh would be asked to prepare affidavit and directed him to send the same to the Ministry which could be typed on green sheet and affirmed by the Oath Commissioner and for that purpose, Under Secretary need not visit Kolkatta again. The necessary affidavit in W.P. No. 8215(W)/08 has not been received as yet.

Attention is invited to this Ministry letter of even number dated 15.7.2010 addressed to Shri T.K.Ghosh, Advocate appointed in this case with a copy to you for information (Copy enclosed). It is requested to get the affidavit prepared on the

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28/9

bases of parawise comments furnished by the Ministry in order to get it affirmed by the Oath Commissioner as suggested by you.

Yours faithfully,

(B.K.Rekhi)
Section Officer
22.09.2010

ASI may
be issue endorsement
as mentioned below
23/9/10

Copy to :

518 23 SEP 2010

Shri Farooq M. Razak, Additional Solicitor General, Kolkata. A copy of parawise comments of this Ministry were also handed over to the ASG during the visit to Kolkata on 8.07.2010.

(19, Balu Hachak Lane, Park Circus,
Kolkata - 700 017)

जति दिना
ISSUED
23 SEP 2010
R&I/NB

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Speed Post

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Issue
15/7/10

जा. वि. प्र.
ISSUED
15 JUL 2010
हस्ताक्षर/Intls. ...
प्र. नं. R&/LNB
To

No.12014/6/2008-Cdn.
Ministry of Home Affairs
IS-II Division

285

9th Floor, 'C' Wing, Lok Nayak
Bhavan, Khan Market, New
Delhi, dated the 13th July, 2010.

15 JUL 2010

Shri T.K. Ghosh
Advocate, Bar Association,
Room No. 2, Calcutta High Court
Kolkata.

Subject: Petition No. 8215 (W) of 2008 – Subhash Chandra Basu Vs Union
of India

Sir,

I am directed to invite your attention to the copy of parawise comments on the above writ petition handed over to you by Sh. Amar Chand, Under Secretary, MHA on his visit to Kolkata on 14.5.2010 on the directions of Senior Counsel Shri R.N. Das. In this connection your letter dated 12.4.2010 addressed to Senior Govt. Counsel (Shri R.N. Das) on the subject refers.

2. I am also directed to say that Smt. S. Bhattacharya Addl. Govt. Advocate/ Incharge, Branch Sectt., Kolkata has also discussed this matter with you on 9.7.2010 and directed to finalize the affidavit in consultation with Additional Solicitor General, Sh. Farooq Razak. The same may be done within this week to enable the undersigned to obtain the approval of higher authorities before it is got affirmed by the Oath Commissioner, Delhi High Court.

3. An urgent action is requested.

Yours faithfully,



(Smt. L.P. Shrivastava)
Under Secretary to the Govt. of India

→

273 (274)

13/6

15 JUL 2010

Copy to:

S18

1. ✓ Additional Solicitor General, Sh. Farooq M. Razak, 19, Balu Hakak Lane, Park Circus, Kolkata- 700017.
2. ✓ Smt. S. Bhattacharya, Additional Advocate/Incharge, Deptt. Of Legal Affairs, Branch Sectt., 11 Stand Road, 2nd Floor, Kolkata- 700001 w.r.t. the discussions with her on 9.7.2010 at Kolkata.
3. ✓ Shri R.N. Das, Senior Govt. Council, High Court Kolkata with reference to his discussions with Sh. Amar Chand, Under Secretary, MHA on 14.5.2010.

USHA SHARMA
INT SECRETARY

2112/2205/10
23/11



RAJYA SABHA SECRETARIAT
PARLIAMENT OF INDIA
PARLIAMENT HOUSE ANNEXE
NEW DELHI-110 001
TEL.: 23034239, 23016431
TELEFAX : 23012522
E-MAIL : usharma@sansad.nic.in

28

Ref. No.: RS/25/2010-Ed(E)

Date ^{22nd} November, 2010

Sir,

Kindly refer to my earlier letter dated 16th November, 2010 for providing a copy of the discussion that took place on 28th August, 1978 regarding the reply given by the then P.M. Shri Morarji Desai in the Parliament in connection with the reports of Shahnawaj Committee and the Khosla Commission on the issue of death of Netaji Subhash Chandra Bose. As it was mentioned in your office memorandum dated 10th November, 2010 that said discussion had taken place in Rajya Sabha on 28th August, 1978, accordingly it was forwarded to Shri S.D. Nautiyal, Director (R&L), Rajya Sabha for supplying a copy of the said discussion that took place on 28th August, 1978. However after dispatch of said letter to you, Research & Library Section, Rajya Sabha detected and verified that said discussion actually took place in Lok Sabha and not in Rajya Sabha. As the said discussion pertains to Lok Sabha, you are, therefore, requested to approach the Lok Sabha Secretariat in this regard.

(9)

With regards,

Yours sincerely,

Usha Sharma
(USHA SHARMA)

Shri K. Muralidharan,
Deputy Secretary(S), IS-II Division,
Ministry of Home Affairs,
Lok Nayak Bhavan, 9th floor,
'C' Wing, Room No.8,
New Delhi

(X) P. put up

23/11
[Signature]

23/11
so (edu.)

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No.12014/5/2007-Cdn.
Government of India
Ministry of Home Affairs
IS- II Division

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi,
Dated the 24th November, 2010

Office Memorandum

Sub: WP No. 2003 of 2006- Shri Rudra Jyoti Bhattacharya & Ors Vs. Union of India & Ors.

The undersigned is directed to say that the above mentioned Court case is coming up for hearing on 13th January, 2011.

2. This Ministry contacted Shri Farooq M. Razak, Additional Solicitor General Kolkata, in the Writ Petition No.2003/2006 - Rudra Jyoti Bhattacharya & Ors. Vs Union of India. He has desired to furnish a copy of the discussion that took place on 28th August, 1978, regarding the reply given by the then Prime Minister Shri Morarji Desai in the Lok Sabha in connection with the reports of Shahnawaj Committee and the Khosla Commission on the issue of disappearance of Netaji Subash Chandra Bose.

3. The Lok Sabha Secretariat is requested to furnish a copy of the discussion that took place on 28th August, 1978 immediately. The matter is to be discussed with ASG, Kolkata High Court.

L.P. Shrivastava

(Smt. L.P. Shrivastava)

Under Secretary to the Govt. of India

Tel: 24610467

Shri S.K. Ganguly ,
Under Secretary,
Lok Sabha Secretariat,
Parliament House, New Delhi.

Issued vide

PB 3/08

Ruchika

24/11/10.

276 (277)

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No.12014/5/2007-Cdn.
Government of India
Ministry of Home Affairs
IS- II Division

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi,
Dated the 24th November, 2010.

To

Shri Farooq M. Razak,
Additional Solicitor General Kolkata,
19, Balu Hakak Lane,
Park Circus,
Kolkata- 700 017

- Sub: (i) 2003/2006 Rudra Jyoti Bhattacharya Vs. Union of India & Ors
- (ii) 27541 of 2006 – Ashim Kumar Ganguly & Ors Vs. Union of India & Others
- (iii) WP No. 8215(W)/08 - Subhash Chandra Basu & Ors Vs. Union of India & Ors.

Sir,

This letter is in pursuance of the discussions & briefing held with you in Kolkata in your Chamber and the hearing which took place before the Court of Chief Justice on 19th November, 2010 at 2.00 P.M. It had been mentioned by the Advocate of the Petitioners that the Counter Affidavit had not been filed in the Writ Petition No. 8215(W) of 2008- Subhash Chandra Basu & Ors Vs. Union of India & Ors. The Hon'ble Court had directed that the Union Government should file the affidavit on this petition and final hearing will now take place on 13th January, 2011.

2. In this connection it may be conveyed that a copy of the parawise comments had been sent to Smt. S. Bhattacharya, Ministry of Law, Kolkata Branch on 2.4.2009 and reminders had also been sent to her for forwarding the draft affidavit to Ministry of Home Affairs but the same have not yet been received in spite of repeated reminders. A copy of the parawise comments had also been handed over personally to Shri T.K. Ghosh. Government Advocate on 14.5.2010 by Shri Amar Chand, Under Secretary, MHA, when he was in

278 (278)

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Kolkata. A copy of the prawise comments had also been handed over to you by Smt.L.P. Shrivastava, US, MHA and Smt. B.K.Rekhi, Section Officer, MHA during their visit to Kolkata on 08.7.2010. They had also apprised Smt. S. Bhattacharya of the fact that the Ministry had not received the draft affidavit till then whereas a copy of the parawise comments had been sent to her on 2.4.2009. She had spoken to Shri T.K. Ghosh and directed him to prepare the draft affidavit and sent to the Ministry. She had directed Smt. L.P. Shrivastava that the affidavit so received may be got affirmed before the Oath Commissioner, High Court of Delhi and sent to them along with 4 copies thereof for filing, but the same has not been received as yet. A copy of letter dated 13th July, 2010 written to Shri Ghosh in this regard is enclosed. Also a copy of letter dated 22nd September, 2010 written to Smt. S. Bhattacharya is also enclosed for information.

3. In view of the above position, it is requested that you may kindly personally look into the matter and also request you to coordinate the case personally with all the concerned Government Advocates and arrange to send the draft affidavit to this Ministry at the earliest i.e. by 8th December,2010.

Yours faithfully,

Encls: As above

(K. Muralidharan)
Deputy Secretary to the Govt. of India
Tel: 24617196

Copy to:
Smt. S. Bhattacharya, Senior Central Government Advocate and
Incharge, Branch Secretariat, Kolkata

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Most Immediate

3031/2006/16/201

PRIME MINISTER'S OFFICE
[POLITICAL SECTION]

South Block, New Delhi – 110 101

Subject: Writ Petition no. 2003 of 2006 – Shri Rudra Jyoti Bhattacharya & Ors Vs. Union of India & Ors.

Reference is invited to Ministry of Home Affairs OM no. 12014/5/2007-Cdn. dated 7.10.2010 and dated 10.11.2010, on the above subject.

2. Records that have been enclosed with the supplementary affidavit relates to the following three files, which have been declassified:

- (a) File no. 23(11)/56-57 PM
- (b) File no. 800/6/C/1/90-Pol [note 1 to 6 and corrs. 1 to 35]
- (c) File no. G-12(3)/98-NGO [note 1 to 5 and corrs. 1 to 126]

3. The file mentioned at sl. (a) has been transferred to the National Archives of India, vide this office's letter no. D.28014/2/2009-PMD dated 15.7.2010. Therefore, MHA may directly take up the matter with NAI for accessing / obtaining the relevant record. The files listed at sl. (b) and (c) are sent herewith, so that Home Ministry may itself frame consolidated paragraph-wise comments.

4. In respect of the five points mentioned in MHA's OM no. 12014/5/2007-Cdn. dated 10.11.2010, it is stated with regard to point (i) that records of PMO have been checked and no such statement has been found. However, points (i) and (iv) concern records that are to be maintained by the Secretariats of the Houses of Parliament and the Cabinet Secretariat, respectively. As regards point (ii), the Ministry of External Affairs has been dealing with this issue and has already responded to MHA vide OM no. S-1974/Dir(EA)/2010 dated 21.10.2010; PMO has no specific information on this point. With regard to points (iii) and (v), it may be noted that the Ministry of Home Affairs is itself the nodal Ministry concerned.

(Amit Agrawal)
Director
Tel. 2301 2613
Fax No. 23016857

Deputy Secretary (S), Ministry of Home Affairs [Shri K. Muralidharan]

PMO ID no. 1596776/PMO/2010-Pol

Dated: 12.11.2010

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Most Immediate

PRIME MINISTER'S OFFICE
[POLITICAL SECTION]

South Block, New Delhi – 110 101

Subject: Writ Petition no. 2003 of 2006 – Shri Rudra Jyoti
Bhattacharya & Ors Vs. Union of India & Ors.

Reference is invited to Ministry of Home Affairs OM no. 12014/5/2007-Cdn. dated 7.12.2010 and this office's ID note no. 1596776/PMO/2010-Pol dated 12.11.2010, on the above subject.

2. The file no. 23(11)/56-57 PM and 23 (ii)/56-57 PM are same. Hence, the matter may be directly taken up with National Archives of India.

3. With regard to parawise comments, position regarding all the points had already been made clear, i.e. point (i) that records of PMO have been checked and no such statement has been found. However, points (i) and (iv) concern records that are to be maintained by the Secretariats of the Houses of Parliament and the Cabinet Secretariat, respectively. As regards point (ii), the Ministry of External Affairs has been dealing with this issue and has already responded to MHA *vide* OM no. S-1974/Dir(EA)/2010 dated 21.10.2010; PMO has no specific information on this point. With regard to points (iii) and (v), it may be noted that the Ministry of Home Affairs is itself the nodal Ministry concerned.


(Ashish Gupta)
Director
Tel. 2301 7442
Fax No. 23016857

Deputy Secretary (S), Ministry of Home Affairs [Shri K. Muralidharan]

PMO ID no. 1596776/PMO/2010-Pol

Dated: 12.11.2010

273

**COURT CASE
OUT TODAY**

28

No.12014/5/2007-Cdn.
Government of India
Ministry of Home Affairs
IS- II Division

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi,
Dated the 7th December, 2010

Office Memorandum

Sub: WP No. 2003 of 2006- Shri Rudra Jyoti Bhattacharya & Ors Vs. Union of India & Ors.

The undersigned is directed to refer to PMO's ID No.1596776/PMO/2000/Pol dated 12th November 2010 on the above mentioned subject and to say that seven extracts from the following files have been enclosed in the supplementary writ petition.

- (i) No.23 (ii)/56-57 PM
- (ii) No.25/4/NGO/Vol-2 (LW-KW)
- (iii) No.25/4/NGO/Vol-2(LW-KW)
- (iv) No.25/4/NGO/Vol-2 (LW-KW)
- (v) No.25/4/NGO/Vol-2(LW-KW)
- (vi) No.25/4/NGO/Vol-2(LW-KW)
- (vii) No.G-12(3)/98-NGO

However, comments have not been received from the PM Office on the contents of the above paragraphs mentioned in respect of the above said files. The file No. listed at (vii) above i.e., No.G-12(3)/98-NGO have been received from the Prime Minister's Office but their comments have not been received.

2. I am also directed to say that it has been mentioned that the file No.23(11)/56-57 PM has been sent to National Archives of India but the contents of the para-4 of the supplementary writ petition relate to file No.23(ii)/56-57 PM. Therefore para wise comments may be provided immediately to enable this Ministry to frame suitable draft reply for the Hon'ble Court as the case is coming up for final hearing on 13th January 2011.

O/C

(K. Muralidharan)
Deputy Secretary to the Govt. of India
Tel: 24617196

Shri Amit Aggarwal,
Director,
Prime Minister's Office

Issued PB 11/09


PRIME MINISTER'S OFFICE
[Political Section]

South Block, New Delhi – 110 101

Subject: Writ Petition no. 2003 of 2006 – Shri Rudra Jyothi
Bhattacharya & Ors Vs. Union of India & Ors.

In response to telephonic conversation, regarding the matter, it is to inform that the file no. 25/4/NGO/Vol-2(LW-KW) does not belong to this office. However, MEA's UO note no. S-1974/Dir(EA)/2010 dated 21.10.2010 clarifies that the information sought is available with MEA. *p. 25-2/c*

2. Accordingly, it is requested that Ministry of Home Affairs may consult Ministry of External Affairs in the matter. It is further requested that MHA may kindly frame suitable para-wise comments.


(Ashish Gupta)
Director
Tel.: 2301 7442

Ministry of Home Affairs
[Attn: Shri K. Muralidharan, Deputy Secretary (S)]

PMO ID no. 1596776/PMO/2010-Pol

Dated: 29.12.2010

Handwritten notes:
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sol (coln)

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fax log

**PRIME MINISTER'S OFFICE
[Political Section]**

South Block, New Delhi – 110 101

Subject: Writ Petition no. 2003 of 2006 – Shri Rudra Jyothi
Bhattacharya & Ors Vs. Union of India & Ors.

In response to telephonic conversation, regarding the matter, it is to inform that the file no. 25/4/NGO/Vol-2(LW-KW) does not belong to this office. However, MEA's UO note no. S-1974/Dir(EA)/2010 dated 21.10.2010 clarifies that the information sought is available with MEA.

2. Accordingly, it is requested that Ministry of Home Affairs may consult Ministry of External Affairs in the matter. It is further requested that MHA may kindly frame suitable para-wise comments.

*283/3434/10
30/12*

Ashish Gupta

(Ashish Gupta)
Director
Tel.: 2301 7442

Ministry of Home Affairs
[Attn: Shri K. Muralidharan, Deputy Secretary (S)]

PMO ID no.1596776/PMO/2010-Pol

Dated: 29.12.2010

M. Gupta

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sol (cdn)*

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Court Case
Most Immediate

DO No. I-12014/5/2007-Cdn

JOINT SECRETARY

New Delhi dated the _____ December, 2010

Dear Shri Gautam Bambawale,

@p 252/L
v/p 218-220/L

A Supplementary Affidavit to Writ Petition No. 2003 of 2006- Shri Rudra Jyoti Bhattacharya & Ors Vs. Union of India & Ors has been filed by Surajit Dasgupta in the Kolkata High Court. On the alleged disappearance of Netaji Subhash Chandra Bose and bringing back of ashes from Renkoji Temple, Japan . The Supplementary Affidavit was sent to Director (Japan) on 7.10.2010. The information received vide MEA UO No. S-1974/Dir(EA)/2010 dated 21.10.2010 is not sufficient enough to prepare comments on para 5 ,6 & 7 as notings quoted in para 4 (ii), (iii), (iv) and (v) of the Supplementary Affidavit are from MEA's File No. 25/4/NGO/Vol-2(LW-KW).

2. I shall be grateful if you could furnish para-wise comments on the above mentioned points of the Supplementary Affidavit in order to prepare counter affidavit by MHA on behalf of MEA also, as the case has been fixed for final hearing on 13.01 2011.

Yours sincerely,

Rajesh
(Rashmi Goel)

Shri Gautam Bambawale,
Joint Secretary (Far East),
Ministry of External Affairs,
South Block, New Delhi

Rashmi Goel
Joint Secretary (IS-II)
Telefax – 2463 3828



सत्यमेव जयते

Court Case/Most Immediate

भारत सरकार
GOVERNMENT OF INDIA
गृह मंत्रालय
MINISTRY OF HOME AFFAIRS
लोक नायक भवन, खान मार्केट
LOK NAYAK BHAWAN, KHAN MARKET
नई दिल्ली-110003
NEW DELHI-110003

D. O. No. I-12014/5/2007-Cdn.

December 31, 2010

~~HI to issue please~~

Ruchika

3/01/2011

Dear Shri Bambawale

A supplementary Affidavit to Writ Petition No.2003 of 2006 – Shri Rudra Jyoti Bhattacharya & Others Vs. Union Of India & Others has been filed by Surajit Dasgupta in the Kolkata High Court on the alleged disappearance of Netaji Subhash Chandra Bose and bringing back of ashes from Renkoji Temple, Japan. The Supplementary Affidavit was sent to Director (Japan) on 7.10.2010. The information received vide MEA U.O. No. S-1974/Dir(EA)/2010 dated 21.10.2010 is not sufficient enough to prepare comments on para 5, 6 & 7 as notings quoted in para 4 (ii), (iii), (iv) and (v) of the Supplementary Affidavit are from MEA's File No.25/4/NGO/Vol-2(LW-KW).

2. I shall be grateful if you could furnish para-wise comments on the above mentioned points of the Supplementary Affidavit in order to prepare counter affidavit by MHA on behalf of MEA also, as the case has been fixed for final hearing on 13.01.2011.

Wish you a happy new year.

With regards,

Yours sincerely,

(Rashmi Goel)

Shri Gautam Bambawale,
Joint Secretary (Far East),
Ministry of External Affairs,
South Block,
New Delhi.

Issued vide PB No. 11/08

Ruchika

3/01/2011.

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Most Immediate

**PRIME MINISTER'S OFFICE
[POLITICAL SECTION]**

South Block, New Delhi – 110 101

**Subject: Writ Petition no. 2003 of 2006 – Shri Rudra Jyoti
Bhattacharya & Ors Vs. Union of India & Ors.**

Reference is invited to Ministry of Home Affairs OM no. 12014/5/2007-Cdn. dated 7.12.2010 and this office's ID note no. 1596776/PMO/2010-Pol dated 12.11.2010, on the above subject.

2. The file no. 23(11)/56-57 PM and 23 (ii)/56-57 PM are same. Hence, the matter may be directly taken up with National Archives of India.

3. With regard to parawise comments, position regarding all the points had already been made clear, i.e. point (i) that records of PMO have been checked and no such statement has been found. However, points (i) and (iv) concern records that are to be maintained by the Secretariats of the Houses of Parliament and the Cabinet Secretariat, respectively. As regards point (ii), the Ministry of External Affairs has been dealing with this issue and has already responded to MHA vide OM no. S-1974/Dir(EA)/2010 dated 21.10.2010; PMO has no specific information on this point. With regard to points (iii) and (v), it may be noted that the Ministry of Home Affairs is itself the nodal Ministry concerned.

DSCS/3409/10
28/12/10


(Ashish Gupta)
Director
Tel. 2301 7442
Fax No. 23016857

Deputy Secretary (S), Ministry of Home Affairs [Shri K. Muralidharan]

PMO no. 1596776/PMO/2010-Pol

Dated: 12.11.2010

9-12-2010




M. put up by
28/12
Boc (amb)

Most Immediate**PRIME MINISTER'S OFFICE
[POLITICAL SECTION]****South Block, New Delhi - 110 101****Subject: Writ Petition no. 2003 of 2006 - Shri Rudra Jyoti
Bhattacharya & Ors Vs. Union of India & Ors.**

Reference is invited to Ministry of Home Affairs OM no. 12014/5/2007-Cdn. dated 7.12.2010 and this office's ID note no. 1596776/PMO/2010-Pol dated 12.11.2010, on the above subject.

2. The file no. 23(11)/56-57 PM and 23 (ii)/56-57 PM are same. Hence, the matter may be directly taken up with National Archives of India.

3. With regard to parawise comments, position regarding all the points had already been made clear, i.e. point (i) that records of PMO have been checked and no such statement has been found. However, points (i) and (iv) concern records that are to be maintained by the Secretariats of the Houses of Parliament and the Cabinet Secretariat, respectively. As regards point (ii), the Ministry of External Affairs has been dealing with this issue and has already responded to MHA vide OM no. S-1974/Dir(EA)/2010 dated 21.10.2010; PMO has no specific information on this point. With regard to points (iii) and (v), it may be noted that the Ministry of Home Affairs is itself the nodal Ministry concerned.


(Ashish Gupta)
Director
Tel. 2301 7442
Fax No. 23016857

Deputy Secretary (S), Ministry of Home Affairs [Shri K. Muralidharan]

PMO ID no. 1596776/PMO/2010-Pol

Dated: 12.11.2010

9-12-2010







288
No.12014/5/2007-Cdn.
Government of India
Ministry of Home Affairs
IS- II Division

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi,
Dated the 29th December, 2010

Office Memorandum

Sub: WP No. 2003 of 2006- Shri Rudra Jyoti Bhattacharya & Ors Vs. Union of India & Ors.

p273/c
The undersigned is directed to refer to this Ministry's letter of even number dated 7th December, 2010 on the above subject and to say that in the above Writ Petition, the following files have been mentioned. (In Para No.4,5,6 & 7 of the Supplementary Affidavit).

- (i) No.23 (ii)/56-57 PM
- (ii) No.25/4/NGO/Vol-2 (LW-KW)
- (iii) No.25/4/NGO/Vol-2(LW-KW)
- (iv) No.25/4/NGO/Vol-2 (LW-KW)
- (v) No.25/4/NGO/Vol-2(LW-KW)
- (vi) No.25/4/NGO/Vol-2(LW-KW)
- (vii) No.G-12(3)/98-NGO

2. PMO have not furnished the specific comments on the above paras. It is, therefore, not possible for MHA to prepare the para-wise comments without the specific comments of PMO. It is again requested that PMO may kindly furnish the comments at the earliest in respect of Paras 4, 5, 6 & 7 of the Supplementary Affidavit pertaining to them urgently in order to enable this Ministry to file the Counter Affidavit as the case is coming up for final hearing on 13th January 2011.

3. It may be mentioned that with reference to Para 5 of the Supplementary Affidavit Ministry of External Affairs has informed that the news item which appeared in "Pune Times", they have not received any such request and given any clearance in this regard. MEA has also ascertained the facts from their mission in Tokyo who have conveyed that the article is farfetched and not based on facts. PMO is, therefore, is also requested to apprise this Ministry whether they have given any permission in this regard.

(K. Muralidharan)
Deputy Secretary to the Govt. of India
Tel: 24617196

Shri Amit Aggarwal,
Director,
Prime Minister's Office
South Block, New Delhi.

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(Far East)
JS 23012038

Sn. Gantam Bambaale

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23792124

Rashmi Goel
Joint Secretary (IS-II)
Telefax – 2463 3828



Court Case/Most Immediate

भारत सरकार
GOVERNMENT OF INDIA
गृह मंत्रालय
MINISTRY OF HOME AFFAIRS
लोक नायक भवन, खान मार्केट
LOK NAYAK BHAWAN, KHAN MARKET
नई दिल्ली-110003
NEW DELHI-110003
D. O. No. I-12014/5/2007-Cdn.
December 31, 2010

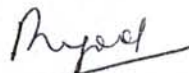
Dear Shri Bambawale

A supplementary Affidavit to Writ Petition No.2003 of 2006 – Shri Rudra Jyoti Bhattacharya & Others Vs. Union Of India & Others has been filed by Surajit Dasgupta in the Kolkata High Court on the alleged disappearance of Netaji Subhash Chandra Bose and bringing back of ashes from Renkoji Temple, Japan. The Supplementary Affidavit was sent to Director (Japan) on 7.10.2010. The information received vide MEA U.O. No. S-1974/Dir(EA)/2010 dated 21.10.2010 is not sufficient enough to prepare comments on para 5, 6 & 7 as notings quoted in para 4 (ii), (iii), (iv) and (v) of the Supplementary Affidavit are from MEA's File No.25/4/NGO/Vol-2(LW-KW).

2. I shall be grateful if you could furnish para-wise comments on the above mentioned points of the Supplementary Affidavit in order to prepare counter affidavit by MHA on behalf of MEA also, as the case has been fixed for final hearing on 13.01.2011.

Wish you a happy new year.
With regards,

Yours sincerely,


(Rashmi Goel)

Shri Gautam Bambawale,
Joint Secretary (Far East),
Ministry of External Affairs,
South Block,
New Delhi.

No. 1-12014/5/2007-NCB
Government of India
Ministry of Home Affairs
IS-II Division

R+I to issue please

Ruehika

6/1/2001.

'C' Wing, 9th Floor,
Lok Nayak Bhawan, Khan Market,
New Delhi the 7th January, 2011

Office Memorandum

07 JAN 2011

- Sub: (i) W.P. No. 8215 (W)/2008 filed by Shri Subhash Chandra Basu & Others Vs. Union of India & Ors.**
(ii) W.P. No. 2003/2006 -Rudra Jyoti Bhattacharya & Ors Vs. Union of India & Ors
(iii) W.P. No.27541 (W) of 2006 -Ashim Kumar Ganguly & Ors Vs. Union of India & Ors regarding Death of Netaji Subhash Chandra Bose

The undersigned is directed to invite your kind attention on the above noted subject and to refer to the telephonic discussions with the undersigned on 5.1.2011. Additional Solicitor General has informed the undersigned that the case is coming up for final hearing on 13.1.2011. It is conveyed that Counter Affidavit has not been filed in the WP No. 8215(W) of 2008 -Subhash Chandra Basu Vs. Union of India. During the hearing before the Ld. Court of Chief Justice on 19.11.2010 at 2.00 p.m., it was mentioned by the Advocate of the Petitioner that Counter Affidavit has not been filed in the aforesaid writ petition. The learned Additional Solicitor General appeared on behalf of Government of India and Ld. Court advised that Union Government should file the affidavit in this Writ Petition and the final hearing will take place on 13th January, 2011.

2. In this connection, I am further directed to convey that in the W.P. No.8215(W) of 2008 filed by Shri Subhash Chandra Basu & Ors Vs. Union of India, MHA, Principal Secretary of PM, Ministry of External Affairs and Ministry of Parliamentary Affairs have been made Respondents to this writ petition. The MHA had prepared the parawise comments and forwarded the same to Additional Government Counsel, Ministry of Law & Justice, Branch Sectt,

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Kolkata on 2.4.2009 for preparing the affidavit. The draft affidavit has been received in this Ministry and the same has been modified and edited by this Ministry. Since PMO, Ministry of External Affairs and Ministry of Parliamentary Affairs have also been made Respondent to the writ petition, a copy of draft affidavit prepared by this Ministry has been forwarded to PMO, MEA and Ministry of Parliamentary Affairs for their comments on 15th December, 2010. The comments of PMO and Parliamentary Affairs have been received. The comments of PMO are as under:

Comments of PMO:

“PMO has no comments to offer and to request Home Ministry to file affidavit for Government of India, in consultation with the other Ministries concerned, after due vetting.”

Comments of Ministry of Parliamentary Affairs:

“The Ministry of Parliamentary Affairs is not concerned with the subject matter and have no comments to offer on the draft affidavit. The Ministry does not propose to file a separate affidavit. In view of the above, Ministry of Home Affairs is requested to get the name of Ministry of Parliamentary Affairs deleted from the list of Respondents.”

3. The comments of Ministry of External Affairs has not yet been received and that Ministry has already been reminded to expedite the comments. Till the comments of MEA is received, this Ministry is not in a position to forward the draft final affidavit to you for filing. It is, therefore, requested that extension of time may kindly be arranged to be sought for filing the Counter Affidavit.

4. With regard to W.P. No. 2003/2006 –Rudra Jyoti Bhattacharya & Ors Vs. Union of India & Ors., Supplementary Petition has been filed by one Shri Surojit Das Gupta. PMO and MHA have been made Respondents in this case. Since, MEA is also concerned with the subject matter and the Petitioner has

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not made MEA as a Respondent. Therefore, comments from PMO and MEA have been called for.

5. PMO has requested Ministry of Home Affairs may consult Ministry of External Affairs in the matter. MEA has so far not furnished their comments. MEA has been requested to furnish parawise comments on the above mentioned Supplementary Petition in order to prepare counter affidavit by MHA on behalf of MEA. MEA has been reminded at the higher official level.

6. With regard to W.P. No.27541 (W) of 2006 -Ashim Kumar Ganguly & Ors Vs. Union of India & Ors regarding Death of Netaji Subhash Chandra Bose, in this case also reply to supplementary affidavit is yet to be filed. Since MEA is concerned with the subject relating to alleged ashes staked in the Renkoji Temple at Japan, that Ministry have been requested to send their comments to enable this Ministry to file a counter affidavit on behalf of MEA which are still awaited.

7. In view of the above detailed position, it is requested that extension of time for filing the Counter Affidavit may please be arranged to be conveyed to the Ministry.

Shri Farooq M. Razak,
Additional Solicitor General,
19, Balu Hakak Lane,
Park Circus,
Kolkata-700017

(K. Muralidharan)
Deputy Secretary to the Govt. of India
Tel.: 24617196



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Court case
Most Immediate

F No.I—12014/5/2007-Cdn
Government of India
Ministry of Home Affairs
(Internal Security.II Division)

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi,
Dated the 10th January, 2011.

Writ Petition

Sub : Court cases filed in Calcutta High Court regarding the alleged disappearance of Netaji Subhas Chandra Bose

The undersigned is directed to convey that there are three ^{Writ Petitions} court cases filed on the above subject matter in the Calcutta High Court and the hearing is going on. The Addl. Solicitor General, Kolkata has forwarded a copy of the news items ^{that} appeared in Pune Times dated 18th August, 2010, a copy ^{of} which is self-explanatory, is enclosed.

2. As may be seen it has been mentioned in the Article that the Pune City based World Peace Centre (WPC) has received clearance from the Union Government through Indo-Japan Association for bringing the ashes that are currently in Tokyo's Netaji Subhas Chandra Memorial and will be handed over to the WPC. MHA has not received any such request and ^{has} not given any clearance in this regard.

3. It has been asserted from the Ministry of External Affairs that they have not given any ^{approval} information to any of the NGOs in the matter. Ministry of Culture who are concerned with the celebrations of Birth / Death anniversaries of VIPs is requested to inform this Ministry ~~to know~~ if they have given any permission to this effect. The next ^{hearing} has been fixed for 13th January, 2011. // It is requested that information may be provided immediately by return FAX so that necessary Affidavit could be filed in the Hon'ble High Court of Calcutta.

(K Muralidharan)
Deputy Secretary(S)
Tel.:24617196

I date of
for me
three writ
petition

Shri K S Lather,
Deputy Secretary(C&M) — ^{Ministry of Culture}
Ground Floor, Vigyan Bhawan Annexe ^{Shankar Sharma}
New Delhi.

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**F. No. 15-2/2011-C&M
Government of India
Ministry of Culture**

DSCS/3545/2011
14/1/11

**Vigyan Bhawan Annexe, New Delhi
Dated, the 13th January, 2011**

OFFICE MEMORANDUM

Subject: Writ Petition filed in Calcutta High Court regarding the alleged disappearance of Netaji Subhas Chandra Bose.

The undersigned is to refer to the Ministry of Home Affairs OM. No. I-12014/5/2007-Cdn dated the 10th January, 2011 on the subject mentioned above and to say that the Ministry of Culture only provides financial assistance to voluntary organizations for centenary/jubilee year anniversaries' celebrations and for maintenance & development of memorials. As regards this specific issue regarding grant of approval for bringing the ashes that are currently in Tokyo's Netaji Subhas Chandra Memorial is concerned, it is informed that no such permission has been given by this Ministry at any time.

Kanwar Sameer Lather

**(Kanwar Sameer Lather)
Deputy Secretary to the Govt. of India
Tel No. 23022041**

**Shri K. Muralidharan
Deputy Secretary (S)
Ministry of Home Affairs
Internal Security, II Division
Room No. 8, 9th Floor, 'C' Wing
Lok Nayak Bhavan, New Delhi.**

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**Ministry of External Affairs
(East Asia Division)**

Reference D.O. No.I-12014/5/2007-Cdn. Dated December, 31, 2010 from JS(IS-II) of MHA regarding a supplementary Affidavit to Writ Petition No.2003 of 2006 – Shri Rudra Jyoti Bhattacharya & Others Vs Union of India & Others. MEA's para-wise comments on the supplementary Affidavit are as follows:

Para-5

As per information available with us, the Government of India has not granted any clearance to any Non Governmental Organization (NGO) to bring the ashes kept in Renkoji Temple in Tokyo to India. The news circulated in Times Now of India (Pune edition) of August 18, 2010 is factually incorrect.

Para-6

As per information available with this Ministry, the ashes kept in Renkoji Temple are that of Netaji Subhash Chandra Bose.

Para-7

This Ministry has not received any request to bring back the ashes of Netaji to India and does not propose to issue any clearance to any NGO in this regard.


(Sandeep Chakravorty)
Director (East Asia)
Tel: 23012536
Fax: 23016514

- 29/14/cdn
14/1/2011
- 1) Ms. Rashmi Goel, Joint Secretary (IS-II), Ministry of Home Affairs, Lok Nayak Bhavan, Khan Market, New Delhi
 - 2) Shri K. Muralidharan, DS(IS-II), Ministry of Home Affairs, Lok Nayak Bhavan, Khan Market, New Delhi
 - 3) Shri Amit Aggrwal, Director, Prime Minister's Office, South Block, New Delhi

MEA U.O. No.30/JS(EA)/2011

11 January 2011

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**F. No. 15-2/2011-C&M
Government of India
Ministry of Culture**

**Vigyan Bhawan Annexe, New Delhi
Dated, the 13th January, 2011**

OFFICE MEMORANDUM

Subject: Writ Petition filed in Calcutta High Court regarding the alleged disappearance of Netaji Subhas Chandra Bose.

The undersigned is to refer to the Ministry of Home Affairs OM. No. I-12014/5/2007-Cdn dated the 10th January, 2011 on the subject mentioned above and to say that the Ministry of Culture only provides financial assistance to voluntary organizations for centenary/jubilee year anniversaries' celebrations and for maintenance & development of memorials. As regards this specific issue regarding grant of approval for bringing the ashes that are currently in Tokyo's Netaji Subhas Chandra Memorial is concerned, it is informed that no such permission has been given by this Ministry at any time.

Kanwar Sameer Lather

**(Kanwar Sameer Lather)
Deputy Secretary to the Govt. of India
Tel No. 23022041**

**Shri K. Muralidharan
Deputy Secretary (S)
Ministry of Home Affairs
Internal Security, II Division
Room No. 8, 9th Floor, 'C' Wing
Lok Nayak Bhavan, New Delhi.**

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Court cases
Most Immediate

F No.I—12014/5/2007-Cdn
Government of India
Ministry of Home Affairs
(Internal Security.II Division)

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi,
Dated the 10th January, 2011.

Sub : Writ Petitions filed in Calcutta High Court regarding the
alleged disappearance of Netaji Subhas Chandra Bose

The undersigned is directed to convey that there are three Writ Petitions filed on the above subject matter in the Calcutta High Court and the hearing is going on. The Addl. Solicitor General, Kolkata has forwarded a copy of the news items that appeared in Pune Times dated 18th August, 2010, a copy is enclosed which is self-explanatory.

2. As may be seen it has been mentioned in the Article that the Pune City based World Peace Centre (WPC) has received clearance from the Union Government through Indo-Japan Association for bringing the ashes that are currently in Tokyo's Netaji Subhas Chandra Memorial and will be handed over to the WPC. MHA has not received any such request and has not given any clearance in this regard.

3. It has been asserted from the Ministry of External Affairs that they have not given any approval to any of the NGOs in the matter. Ministry of Culture who are concerned with the celebrations of Birth / Death anniversaries of VIPs is requested to inform this Ministry if they have given any permission to this effect. The next date of hearing for the three Writ Petitions has been fixed for 13th January, 2011.

4. It is requested that information may be provided immediately by return FAX so that necessary Affidavit could be filed in the Hon'ble High Court of Calcutta.

(K Muralidharan)
Deputy Secretary(S)
Tel.:24617196
Fax

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Shri K S Lather,
Deputy Secretary(C&M)
Ministry of Culture
Ground Floor, Vigyan Bhawan Annexe
New Delhi.

Issued vide PB No. 14 of 2010

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Ministry of External Affairs
(East Asia Division)

Reference D.O. No.I-12014/5/2007-Cdn. Dated December, 31, 2010 from JS(IS-II) of MHA regarding a supplementary Affidavit to Writ Petition No.2003 of 2006 – Shri Rudra Jyoti Bhattacharya & Others Vs Union of India & Others. MEA's para-wise comments on the supplementary Affidavit are as follows:

Para-5

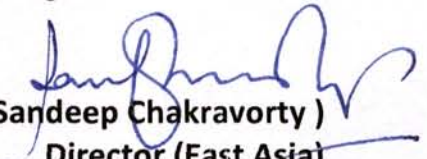
As per information available with us, the Government of India has not granted any clearance to any Non Governmental Organization (NGO) to bring the ashes kept in Renkoji Temple in Tokyo to India. The news circulated in Times Now of India (Pune edition) of August 18, 2010 is factually incorrect.

Para-6

As per information available with this Ministry, the ashes kept in Renkoji Temple are that of Netaji Subhash Chandra Bose.

Para-7

This Ministry has not received any request to bring back the ashes of Netaji to India and does not propose to issue any clearance to any NGO in this regard.


(Sandeep Chakravorty)
Director (East Asia)
Tel: 23012536
Fax: 23016514

- ✓ 1) **Ms. Rashmi Goel**, Joint Secretary (IS-II), Ministry of Home Affairs, Lok Nayak Bhavan, Khan Market, New Delhi
- 2) **Shri K. Muralidharan**, DS(IS-II), Ministry of Home Affairs, Lok Nayak Bhavan, Khan Market, New Delhi
- 3) **Shri Amit Aggrwal**, Director, Prime Minister's Office, South Block, New Delhi

MEA U.O. No.30/JS(EA)/2011

11 January 2011

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No.12014/5/2007-Cdn.
Government of India
Ministry of Home Affairs
IS- II Division

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi,
Dated the 4th January, 2011

To

Shri S S Sarkar, ILS
Additional Govt. Advocate,
Ministry of Law & Justice,
Deptt. of Legal Affairs,
Branch Secretariat, 11, Strand Road,
Middle Bldg, 2nd Floor,
Kolkata- 700 001.

- 7 FEB 2011

**Sub: Supplementary WP No. 2003 of 2006- Shri Rudra Jyoti
Bhattacharya & Ors Vs. Union of India & Ors.**

I am directed to refer to Ministry of Law & Justice, Deptt. of Legal Affairs, Branch Secretariat, Kolkata letter No.402/Home/06-II/3162 dated 01.09.10 on the above mentioned Supplementary Writ Petition and to send herewith para-wise comments for preparing the draft counter-affidavit and sending the same to this Ministry for vetting before filing it in the Hon'ble High Court, Calcutta.

(K. Muralidharan)
Deputy Secretary to the Govt. of India
Tel: 24617196

Copy to :-

- 7 FEB 2011

1. Shri Farooq M Razak, Addl. Solicitor General Kolkata, 19, Balu Hakak Lane, Park Circus, Kolkata - 700 007.
2. Shri Md. Nizamuddin, Advocate, Kolkata High Court, Bar Association, Room No.12, Kolkata- 700 001.

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Para-wise comments of Ministry of Home Affairs on the supplementary affidavit filed by Shri Surajit Das Gupta on writ petition No.2003 of 2006- Shri Rudra Jyoti Bhattacharya and others Vs. Union of Others

1. Averments made in para-1 need no comments.
2. It is a matter of record.
3. With regard to averment made in Para 3 of Writ Petition, it is a matter of record, however, following is again submitted for the sake of clarity:

(A) The disappearance of Netaji Subhas Chandra Bose has engaged the attention of the Government right from the beginning. The Government of India has, so far, appointed three Committees/ Commissions to inquire into the alleged disappearance of Netaji Subhash Chandra Bose. The first one was a Committee, known as Shah Nawaz Committee, consisting of three members, appointed in the year 1956. The Committee examined 67 witnesses. Two members of the said Committee came to the conclusion that Netaji died in the plane crash at Taihoku, Formosa (now Taiwan) on 18th August, 1945 and that his ashes were taken to Tokyo and preserved in the Renkoji Temple there. The other member of the Committee submitted a dissenting report. The Government of India accepted the majority report.

(B) The second inquiry made was a one-man Commission under Justice (Retd.) G.D. Khosla appointed in 1970. This Commission submitted its report in the year 1974. This Commission also came to the conclusion that Netaji died in the plane crash at Taihoku on

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18th August, 1945 and the ashes preserved in the Renkoji Temple, Tokyo are of Netaji.

(C) Subsequently, a writ petition was filed before the learned Division Bench of the Hon'ble Court of Calcutta. After hearing the learned Counsel appearing for the parties the Hon'ble Court of Calcutta by its order / judgement dated 30-04-1998 directed the Union of India to re-inquire into the alleged disappearance of Netaji Subhas Chandra Bose in accordance with law by appointing a Commission of Inquiry. This was followed by a motion adopted by the West Bengal Legislative Assembly on December 24, 1998 demanding that the Government of India should make necessary arrangements for availability of records and documents in and outside India so that the scholars and people could have access to them and also institute a fresh inquiry into the matter to remove the mystery regarding the whereabouts of Netaji Subhash Chandra Bose.

(D) Therefore, the Government of India appointed a Commission headed by Justice (Retd.) M.K. Mukherjee, into all the facts and circumstances related to the disappearance of Netaji Subhash Chandra Bose in 1945 and subsequent developments connected therewith, including:-

- (a) whether Netaji Subhash Chandra Bose is dead or alive;
- (b) if he is dead, whether he died in the plane crash, as alleged;
- (c) whether the ashes in the Japanese temple are ashes of Netaji;

→ (302)

- (d) whether he has died in any other manner at any other place and, if so, when and how;
- (e) if he is alive, in respect of his whereabouts.

(E) The Justice Mukherjee Commission of Inquiry, (JMCI), submitted its Report on 8th November, 2005 on the following terms of references and concluded the following:-

S. No.	Terms of reference	Conclusion of the Commission
A.	whether Netaji Subhas Chandra Bose is dead or alive;	Netaji Subhas Chandra Bose is dead;
B.	if he is dead, whether he died in the plane crash, as alleged	He did not die in the plane crash, as alleged
C.	Whether the ashes in the Japanese Temple are ashes of Netaji;	The ashes in the Japanese temple are not of Netaji;
D.	Whether he has died in any other manner at any other place and, if so, when and how;	In the absence of any clinching evidence a positive answer cannot be given;
E.	If he is alive, in respect of his whereabouts.	Answer already given in (A) above.

The Commission also observed as under:-

"5.1.1 As regards the ancillary query (vide paragraph 3 of the Notification) the Commission is of the view – consequent upon its above findings – that in undertaking the scrutiny of publications touching upon the question of death or otherwise of Netaji, the Central Government can proceed on the basis that he is dead but did not die in the plane crash, as alleged".

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(F) The report of the JMCI was examined in detail. It was found that the Commission's findings were inconclusive in many ways and it had not been able to provide definitive findings. The findings of the JMCI that Netaji did not die in the plane crash is based on non-availability of 'clinching evidence'. Shah Nawaz Committee of 1956 and Khosla Commission of 1970 also encountered the same predicament. They, therefore, relied on the oral evidence of the witnesses including those who were co-passengers of Netaji in the said ill-fated plane and came to the conclusion that Netaji died in the plane crash on 18th August, 1945 and he was cremated in Taiwan Crematorium and his ashes were taken to Tokyo and preserved in the Renkoji Temple. The findings of Justice Mukherjee Commission of Inquiry, therefore, do not conclusively disprove the plane crash story in the face of overwhelming oral evidence, particularly of those who were co-passengers of Netaji and also the Doctors and staff of the Hospital where he was treated to severe and serious burn injuries sustained in the plane crash. The Government of India did not accept the conclusions of JMCI.

(G) The report of the JMCI was placed before both the Houses of Parliament along with the Action Taken Report (ATR) on 17th May, 2006 as per Section 3(4) of the Commissions of Inquiry Act, 1952. The relevant portion of the said ATR reads as follows:-

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(207)

"2. The Government have examined the Report submitted by the Commission on 8th November, 2005 in detail and have not agreed with the findings that :-

- c) Netaji did not die in the plane crash; and
- d) The ashes in the Renkoji Temple were not of Netaji.

The Report was placed before the Houses of Parliament on 17-05-2006 as required under Sub-Section 4 of Section 3 of the Commissions of Inquiry Act, 1956".

- (H) It would be seen that the Government has accepted the majority reports of the Committees / Commissions and there are no good reasons or evidence to indicate that Netaji did not die in the plane crash on 18th August, 1945. Though the Mukherjee Commission worked for 6 years and 7 months, it could not find any proof that Netaji Subhash Chandra Bose died in any other manner. Therefore, there is no reason for the Government of India to accept that the earlier two findings were incorrect. Further, it is always open to the Government of India to accept or reject the recommendations/findings of a Commission. The Commissions of Inquiry Act, 1952 Sub-Section-4 of Section-3 provides that the report of the Commission along with the ATR has to be placed before Parliament so that Parliament can take necessary action in the matter as it may be advised. No further directions were given by Parliament and, therefore, it is prayed that the matter may be treated as closed. The decision of the Government does not suffer from

(305)

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arbitrariness as there are good grounds as mentioned at Para-4(G) above for the Government not to accept the report of JMCI. It is emphasized that the report and findings of the Commission of Inquiry are meant for information of the Government. The decision of the Government does not suffer from an illegality or arbitrariness.

4. With regard to averment made in Para 4(i) of Writ Petition, it is stated that these are extracts from the noting of PMO File No.23(ii)/56-57 PM and are matter of record. These notings do not show what was done with the ashes. Presumably the family members of Netaji were to be consulted before ashes were to be brought to India and perhaps wanted it to bring ceremoniously.

5. With regard to averment made in Para 4(ii) of Writ Petition, it is stated that these are extracts from the noting of Ministry of External Affairs File No.25/4/NGO/Vol-2(LW-KW) and are matter of record. The Note of Shri T N Kaul dated 28.7.1955 appears to mention his personal view only and cannot be said to be the Government's opinion. This is supported by the Note dated 28.8.1990 of Meera Shankar, the then Director in PMO, which is reproduced below:

"Because there is a strong body of opinion which believes that the ashes in Tokya are those of Netaji, even as there is an equally strong body of opinion which doubts this." (Annexure P/16 of the Supplementary Affidavit).

6. With regard to averment made in Para 4(III) of Writ Petition, it is stated that these are extracts from the noting of Ministry of External Affairs File No.25/4/NGO/Vol-2(LW-KW) and are matter of record. The Notes stated to have

been recorded by Shri A K Damadaran as Director of Finance, Govt. of India, it is stated that the said notes are not of Director Finance.

7. With regard to averment made in Para 4(IV) of Writ Petition, it is stated that these are extracts from the noting of Ministry of External Affairs File No.25/4/NGO/Vol-2(LW-KW) and are matter of record. The Notes are not dated 16.12.1996 as alleged but are of 16.12.1966.

8. With regard to averment made in Para 4(V) of Writ Petition, it is stated that these are extracts from the noting of Ministry of External Affairs File No.25/4/NGO/Vol-2(LW-KW) and are matter of record. The note dated 6.12.1973 recorded by Shri P K Budhwar, Deputy Secretary, Ministry of External Affairs clearly indicates that there has been two opinion at that time about the genuineness of the ashes of Netaji Subash Chandra Bose. The Petitioner has chosen to pick and choose the text from the notings suitable to support his view.

9. With regard to averment made in Para 4(VII) of Writ Petition, it is stated that these are extracts from the noting of PMO File No.G-12(3)/98-NGO and are matter of record. This is an Internal Note prepared on the basis of the letter received by the Private Secretary to PM for his information.

10. With regard to averment made in Para-5 of the Writ Petition, it is stated that as per information available with Ministry of External Affairs, the Government of India has not granted any clearance to any Non Governmental Organization to bring the ashes kept in Renkoji Temple in Tokyo to India. The news, circulated in Times of India (Pune edition) of August 18, 2010 is factually incorrect.


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11. With regard to averment made in Para-6 of the Writ Petition, Ministry of External Affairs in the Govt. of India is of the view that ashes kept in Renkoji Temple are that of Netaji Subash Chandra Bose.

12. With regard to averment made in Para-7 Ministry of External Affairs has not received any request to bring back the ashes of Netaji to India and does not propose to issue any clearance to any NGO in this regard.

13. With regard to averment made in Para-8 & 9 it is submitted that the prayers as made the Petitioner may not be allowed as they are devoid of merits or substance.



Para-wise comments of Ministry of Home Affairs on the supplementary affidavit filed by Shri Surajit Das Gupta on writ petition No.2003 of 2006- Shri Rudra Jyoti Bhattacharya and others Vs. Union of Others

1. Averments made in para-1 need no comments.
2. It is a matter of record.
3. With regard to averment made in Para 3 of Writ Petition, it is a matter of record, however, following is again submitted for the sake of clarification:- *clarity :*

(A) The disappearance of Netaji Subhas Chandra Bose has engaged the attention of the Government right from the beginning. The Government of India has, so far, appointed three Committees/Commissions to inquire into the alleged disappearance of Netaji Subhash Chandra Bose. The first one was a Committee, known as Shah Nawaz Committee, consisting of three members, appointed in the year 1956. The Committee examined 67 witnesses.

Two members of the said Committee came to the conclusion that Netaji died in the plane crash at Taihoku, Formosa (now Taiwan) on 18th August, 1945 and that his ashes were taken to Tokyo and preserved in the Renkoji Temple there. The other member of the Committee submitted a dissenting report. The Government of India accepted the majority report.

(B) The second inquiry ^{*made*} was a one-man Commission under Justice (Retd.) G.D. Khosla appointed in 1970. This Commission submitted its report in the year 1974. This

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Commission also came to the conclusion that Netaji died in the plane crash at Taihoku on 18th August, 1945 and the ashes preserved in the Renkoji Temple, Tokyo are of Netaji.

- (C) Subsequently, a writ petition was filed before the learned Division Bench of the Hon'ble Court of Calcutta. After hearing the learned Counsel appearing for the parties the Hon'ble Court of Calcutta by its order / judgement dated 30-04-1998 directed the Union of India to re-inquire into the alleged disappearance of Netaji Subhas Chandra Bose in accordance with law by appointing a Commission of Inquiry. This was followed by a motion adopted by the West Bengal Legislative Assembly on December 24, 1998 demanding that the Government of India should make necessary arrangements for availability of records and documents in and outside India so that the scholars and people could have access to them and also institute a fresh inquiry into the matter to remove the mystery regarding the whereabouts of Netaji Subhash Chandra Bose.
- (D) Therefore, the Government of India appointed a Commission headed by Justice (Retd.) M.K. Mukherjee, into all the facts and circumstances related to the disappearance of Netaji Subhash Chandra Bose in 1945 and subsequent developments connected therewith, including:-

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- (a) whether Netaji Subhash Chandra Bose is dead or alive;
- (b) if he is dead, whether he died in the plane crash, as alleged;
- (c) whether the ashes in the Japanese temple are ashes of Netaji;
- (d) whether he has died in any other manner at any other place and, if so, when and how;
- (e) if he is alive, in respect of his whereabouts.

(E) The Justice Mukherjee Commission of Inquiry, (JMCI), submitted its Report on 8th November, 2005 on the following terms of references and concluded the following:-

S. No.	Terms of reference	Conclusion of the Commission
A.	whether Netaji Subhas Chandra Bose is dead or alive;	Netaji Subhas Chandra Bose is dead;
B.	if he is dead, whether he died in the plane crash, as alleged	He did not die in the plane crash, as alleged
C.	Whether the ashes in the Japanese Temple are ashes of Netaji;	The ashes in the Japanese temple are not of Netaji;
D.	Whether he has died in any other manner at any other place and, if so, when and how;	In the absence of any clinching evidence a positive answer cannot be given;
E.	If he is alive, in respect of his whereabouts.	Answer already given in (A) above.

The Commission also observed as under:-

"5.1.1 As regards the ancillary query (vide paragraph 3 of the Notification) the Commission is of the view – consequent upon its above findings – that in undertaking the scrutiny of publications

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touching upon the question of death or otherwise of Netaji, the Central Government can proceed on the basis that he is dead but did not die in the plane crash, as alleged”.

- (F) The report of the JMCI was examined in detail. It was found that the Commission's findings were inconclusive in many ways and it had not been able to provide definitive findings. The findings of the JMCI that Netaji did not die in the plane crash is based on non-availability of "clinching evidence". Shah Nawaz Committee of 1956 and Khosla Commission of 1970 also encountered the same predicament. They, therefore, relied on the oral evidence of the witnesses including those who were co-passengers of Netaji in the said ill-fated plane and came to the conclusion that Netaji died in the plane crash on 18th August, 1945 and he was cremated in Taiwan Crematorium and his ashes were taken to Tokyo and preserved in the Renkoji Temple. The findings of Justice Mukherjee Commission of Inquiry, therefore, do not conclusively disprove the plane crash story in the face of overwhelming oral evidence, particularly of those who were co-passengers of Netaji and also the Doctors and staff of the Hospital where he was treated to severe and serious burn injuries sustained in the plane crash. The Government of India did not accept the conclusions of JMCI.
- (G) The report of the JMCI was placed before both the Houses of Parliament along with the Action Taken Report (ATR) on

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17th May, 2006 as per Section 3(4) of the Commissions of Inquiry Act, 1952. The relevant portion of the said ATR reads as follows:-

"2. The Government have examined the Report submitted by the Commission on 8th November, 2005 in detail and have not agreed with the findings that :-

- c) Netaji did not die in the plane crash; and
- d) The ashes in the Renkoji Temple were not of Netaji.

The Report was placed before the Houses of Parliament on 17-05-2006 as required under Sub-Section 4 of Section 3 of the Commissions of Inquiry Act, 1956".

- (H) It would be seen that the Government has accepted the majority reports of the Committees / Commissions and there are no good reasons or evidence to indicate that Netaji did not die in the plane crash on 18th August, 1945. Though the Mukherjee Commission worked for 6 years and 7 months, it could not find any proof that Netaji Subhash Chandra Bose died in any other manner. Therefore, there is no reason for the Government of India to accept that the earlier two findings were incorrect. Further, it is always open to the Government of India to accept or reject the recommendations/findings of a Commission. The Commissions of Inquiry Act, 1952 Sub-Section-4 of Section-3 provides that the report of the Commission along with the ATR has to be placed before Parliament so that Parliament

can take necessary action in the matter as it may be advised. No further directions were given by Parliament and, therefore, it is prayed that the matter may be treated as closed. The decision of the Government does not suffer from arbitrariness as there are good grounds as mentioned at Para-4(G) above for the Government not to accept the report of JMCI. It is emphasized that the report and findings of the Commission of Inquiry are meant for information of the Government. The decision of the Government does not suffer from an illegality or arbitrariness.

4. With regard to averment made in Para 4(I) of Writ Petition, it is stated that these are extracts from the noting of PMO File No.23(ii)/56-57 PM and are matter of record. This ^{notings} ~~does~~ not show what was done with the ashes. Presumably the family members of Netaji were to be consulted before ashes were to be brought to India and perhaps wanted it to bring ceremoniously.

5. With regard to averment made in Para 4(II) of Writ Petition, it is stated that these are extracts from the noting of Ministry of External Affairs File No.25/4/NGO/Vol-2(LW-KW) and are matter of record. The Note of Shri T N Kaul dated 28.7.1955 appears to mention his personal view only and cannot be said to be the Government's opinion. This is supported by the Note dated 28.8.1990 of Meera Shankar, the then Director in PMO, which is reproduced below:

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“Because there is a strong body of opinion which believes that the ashes in Tokya are those of Netaji, even as there is an equally strong body of opinion which doubts this.” (Annexure P/16 of the Supplementary Affidavit.).

6. With regard to averment made in Para 4(III) of Writ Petition, it is stated that these are extracts from the noting of Ministry of External Affairs File No.25/4/NGO/Vol-2(LW-KW) and are matter of record. The Notes stated to have been recorded by Shri A K Damadaran as Director of Finance, Govt. of India, it is stated that the said notes are not of Director Finance.

7. With regard to averment made in Para 4(IV) of Writ Petition, it is stated that these are extracts from the noting of Ministry of External Affairs File No.25/4/NGO/Vol-2(LW-KW) and are matter of record. The Notes are not dated 16.12.1996 as alleged but are of 16.12.1966.

8. With regard to averment made in Para 4(V) of Writ Petition, it is stated that these are extracts from the noting of Ministry of External Affairs File No.25/4/NGO/Vol-2(LW-KW) and are matter of record. The note dated 6.12.1973, ^{recorded} by Shri P K Budhwar, Deputy Secretary, Ministry of External Affairs clearly indicates that there has been two opinion at that time about the genuineness of the ashes of Netaji Subash Chandra Bose. The Petitioner has chosen to pick and choose the text ^{from the notes} suitable to support his view.

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9. With regard to averment made in Para 4(VII) of Writ Petition, it is stated that these are extracts from the noting of PMO File No.G-12(3)/98-NGO and are matter of record. This is an Internal Note prepared on the basis of the letter received by the Private Secretary to PM. *for his information*

10. With regard to averment made in Para-5 of the Writ Petition, it is stated that as per information available with Ministry of External Affairs, the Government of India has not granted any clearance to any Non Governmental Organization to bring the ashes kept in Renkoji Temple in Tokyo to India. The news circulated in Times ~~Now~~ of India (Pune edition) of August 18, 2010 is factually incorrect.

11. With regard to averment made in Para-6 of the Writ Petition, Ministry of External Affairs, *in the Govt of India* is of the view that ashes kept in Renkoji Temple are that of Netaji Subash Chandra Bose.

12. With regard to averment made in Para-7 Ministry of External Affairs has not received any request to bring back the ashes of Netaji to India and does not propose to issue any clearance to any NGO in this regard.

13. With regard to averment made in Para-8 & 9 it is submitted that the prayers as made the Petitioner may not be allowed as they are devoid of merits or substance.

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Issued by
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18/2/11

जारी किया
ISSUED
18 FEB 2011
हस्ताक्षर/Intis.
प्रा. तथा प्र. R&L/NB

By speed post
Court Case
Immediate

No.12014/5/2007-Cdn.
Government of India
Ministry of Home Affairs
IS- II Division

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi,
Dated the 17th February, 2011

18 FEB 2011

To

Shri S S Sarkar, ILS
Additional Govt. Advocate,
Ministry of Law & Justice,
Deptt. of Legal Affairs,
Branch Secretariat, 11, Strand Road,
Middle Bldg, 2nd Floor,
Kolkata- 700 001.

**Sub: Supplementary WP No. 2003 of 2006- Shri Rudra Jyoti
Bhattacharya & Ors Vs. Union of India & Ors.**

I am directed to refer to this Ministry's letter of even number dated 4th January, 2011 forwarding therewith para-wise comments on the Supplementary Writ Petition for preparing the draft counter-affidavit and to request that the same may be forwarded immediately to this Ministry for vetting before filing it in the Hon'ble High Court, Calcutta.

L.P. Shrivastava
17/2/11

(Smt L P Shrivastava)
Under Secretary (NSA)
2461-0467

ssd

18 FEB 2011

Copy to :-

1. Shri Farooq M Razak, Addl. Solicitor General Kolkata, 19, Balu Hakak Lane, Park Circus, Kolkata - 700 007.
2. Shri Md. Nizamuddin, Advocate, Kolkata High Court, Bar Association, Room No.12, Kolkata- 700 001.

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By Speed Post

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Please
Issue

(Bhaskar)
4/2/11

जारी किया
ISSUED
- 7 FEB 2011

हस्ताक्षर/Intls.
क्र. तथ. पं. R&I/LN3

No.12014/5/2007-Cdn.
Government of India
Ministry of Home Affairs
IS- II Division

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi,
Dated the 4th January, 2011

To

Shri S S Sarkar, ILS
Additional Govt. Advocate,
Ministry of Law & Justice,
Deptt. of Legal Affairs,
Branch Secretariat, 11, Strand Road,
Middle Bldg, 2nd Floor,
Kolkata- 700 001.

- 7 FEB 2011

**Sub: Supplementary WP No. 2003 of 2006- Shri Rudra Jyoti
Bhattacharya & Ors Vs. Union of India & Ors.**

I am directed to refer to Ministry of Law & Justice, Deptt. of Legal Affairs, Branch Secretariat, Kolkata letter No.402/Home/06-II/3162 dated 01.09.10 on the above mentioned Supplementary Writ Petition and to send herewith para-wise comments for preparing the draft counter-affidavit and sending the same to this Ministry for vetting before filing it in the Hon'ble High Court, Calcutta.

(K. Muralidharan)
Deputy Secretary to the Govt. of India
Tel: 24617196

Copy to :- - 7 FEB 2011

1. Shri Farooq M. Razak, Addl. Solicitor General Kolkata, 19, Balu Hakak Lane, Park Circus, Kolkata - 700 007.
2. Shri Md. Nizamuddin, Advocate, Kolkata High Court, Bar Association, Room No.12, Kolkata- 700 001.

o/c

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Para-wise comments of Ministry of Home Affairs on the supplementary affidavit filed by Shri Surajit Das Gupta on writ petition No.2003 of 2006- Shri Rudra Jyoti Bhattacharya and others Vs. Union of Others

1. Averments made in para-1 need no comments.
2. It is a matter of record.
3. With regard to averment made in Para 3 of Writ Petition, it is a matter of record, however, following is again submitted for the sake of clarity:

(A) The disappearance of Netaji Subhas Chandra Bose has engaged the attention of the Government right from the beginning. The Government of India has, so far, appointed three Committees/ Commissions to inquire into the alleged disappearance of Netaji Subhash Chandra Bose. The first one was a Committee, known as Shah Nawaz Committee, consisting of three members, appointed in the year 1956. The Committee examined 67 witnesses. Two members of the said Committee came to the conclusion that Netaji died in the plane crash at Taihoku, Formosa (now Taiwan) on 18th August, 1945 and that his ashes were taken to Tokyo and preserved in the Renkoji Temple there. The other member of the Committee submitted a dissenting report. The Government of India accepted the majority report.

(B) The second inquiry made was a one-man Commission under Justice (Retd.) G.D. Khosla appointed in 1970. This Commission submitted its report in the year 1974. This Commission also came to the conclusion that Netaji died in the plane crash at Taihoku on

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18th August, 1945 and the ashes preserved in the Renkoji Temple, Tokyo are of Netaji.

(C) Subsequently, a writ petition was filed before the learned Division Bench of the Hon'ble Court of Calcutta. After hearing the learned Counsel appearing for the parties the Hon'ble Court of Calcutta by its order / judgement dated 30-04-1998 directed the Union of India to re-inquire into the alleged disappearance of Netaji Subhas Chandra Bose in accordance with law by appointing a Commission of Inquiry. This was followed by a motion adopted by the West Bengal Legislative Assembly on December 24, 1998 demanding that the Government of India should make necessary arrangements for availability of records and documents in and outside India so that the scholars and people could have access to them and also institute a fresh inquiry into the matter to remove the mystery regarding the whereabouts of Netaji Subhash Chandra Bose.

(D) Therefore, the Government of India appointed a Commission headed by Justice (Retd.) M.K. Mukherjee, into all the facts and circumstances related to the disappearance of Netaji Subhash Chandra Bose in 1945 and subsequent developments connected therewith, including:-

- (a) whether Netaji Subhash Chandra Bose is dead or alive;
- (b) if he is dead, whether he died in the plane crash, as alleged;
- (c) whether the ashes in the Japanese temple are ashes of Netaji;

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- (d) whether he has died in any other manner at any other place and, if so, when and how;
- (e) if he is alive, in respect of his whereabouts.

(E) The Justice Mukherjee Commission of Inquiry, (JMCI), submitted its Report on 8th November, 2005 on the following terms of references and concluded the following:-

S. No.	Terms of reference	Conclusion of the Commission
A.	whether Netaji Subhas Chandra Bose is dead or alive;	Netaji Subhas Chandra Bose is dead;
B.	if he is dead, whether he died in the plane crash, as alleged	He did not die in the plane crash, as alleged
C.	Whether the ashes in the Japanese Temple are ashes of Netaji;	The ashes in the Japanese temple are not of Netaji;
D.	Whether he has died in any other manner at any other place and, if so, when and how;	In the absence of any clinching evidence a positive answer cannot be given;
E.	If he is alive, in respect of his whereabouts.	Answer already given in (A) above.

The Commission also observed as under:-

"5.1.1 As regards the ancillary query (vide paragraph 3 of the Notification) the Commission is of the view – consequent upon its above findings – that in undertaking the scrutiny of publications touching upon the question of death or otherwise of Netaji, the Central Government can proceed on the basis that he is dead but did not die in the plane crash, as alleged".

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(F) The report of the JMCI was examined in detail. It was found that the Commission's findings were inconclusive in many ways and it had not been able to provide definitive findings. The findings of the JMCI that Netaji did not die in the plane crash is based on non-availability of 'clinching evidence'. Shah Nawaz Committee of 1956 and Khosla Commission of 1970 also encountered the same predicament. They, therefore, relied on the oral evidence of the witnesses including those who were co-passengers of Netaji in the said ill-fated plane and came to the conclusion that Netaji died in the plane crash on 18th August, 1945 and he was cremated in Taiwan Crematorium and his ashes were taken to Tokyo and preserved in the Renkoji Temple. The findings of Justice Mukherjee Commission of Inquiry, therefore, do not conclusively disprove the plane crash story in the face of overwhelming oral evidence, particularly of those who were co-passengers of Netaji and also the Doctors and staff of the Hospital where he was treated to severe and serious burn injuries sustained in the plane crash. The Government of India did not accept the conclusions of JMCI.

(G) The report of the JMCI was placed before both the Houses of Parliament along with the Action Taken Report (ATR) on 17th May, 2006 as per Section 3(4) of the Commissions of Inquiry Act, 1952. The relevant portion of the said ATR reads as follows:-

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"2. The Government have examined the Report submitted by the Commission on 8th November, 2005 in detail and have not agreed with the findings that :-

- c) Netaji did not die in the plane crash; and
- d) The ashes in the Renkoji Temple were not of Netaji.

The Report was placed before the Houses of Parliament on 17-05-2006 as required under Sub-Section 4 of Section 3 of the Commissions of Inquiry Act, 1956".

- (H) It would be seen that the Government has accepted the majority reports of the Committees / Commissions and there are no good reasons or evidence to indicate that Netaji did not die in the plane crash on 18th August, 1945. Though the Mukherjee Commission worked for 6 years and 7 months, it could not find any proof that Netaji Subhash Chandra Bose died in any other manner. Therefore, there is no reason for the Government of India to accept that the earlier two findings were incorrect. Further, it is always open to the Government of India to accept or reject the recommendations/findings of a Commission. The Commissions of Inquiry Act, 1952 Sub-Section-4 of Section-3 provides that the report of the Commission along with the ATR has to be placed before Parliament so that Parliament can take necessary action in the matter as it may be advised. No further directions were given by Parliament and, therefore, it is prayed that the matter may be treated as closed. The decision of the Government does not suffer from

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arbitrariness as there are good grounds as mentioned at Para-4(G) above for the Government not to accept the report of JMCI. It is emphasized that the report and findings of the Commission of Inquiry are meant for information of the Government. The decision of the Government does not suffer from an illegality or arbitrariness.

4. With regard to averment made in Para 4(i) of Writ Petition, it is stated that these are extracts from the noting of PMO File No.23(ii)/56-57 PM and are matter of record. These notings do not show what was done with the ashes. Presumably the family members of Netaji were to be consulted before ashes were to be brought to India and perhaps wanted it to bring ceremoniously.

5. With regard to averment made in Para 4(ii) of Writ Petition, it is stated that these are extracts from the noting of Ministry of External Affairs File No.25/4/NGO/Vol-2(LW-KW) and are matter of record. The Note of Shri T N Kaul dated 28.7.1955 appears to mention his personal view only and cannot be said to be the Government's opinion. This is supported by the Note dated 28.8.1990 of Meera Shankar, the then Director in PMO, which is reproduced below:

"Because there is a strong body of opinion which believes that the ashes in Tokya are those of Netaji, even as there is an equally strong body of opinion which doubts this." (Annexure P/16 of the Supplementary Affidavit).

6. With regard to averment made in Para 4(III) of Writ Petition, it is stated that these are extracts from the noting of Ministry of External Affairs File No.25/4/NGO/Vol-2(LW-KW) and are matter of record. The Notes stated to have

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been recorded by Shri A K Damadaran as Director of Finance, Govt. of India, it is stated that the said notes are not of Director Finance.

7. With regard to averment made in Para 4(IV) of Writ Petition, it is stated that these are extracts from the noting of Ministry of External Affairs File No.25/4/NGO/Vol-2(LW-KW) and are matter of record. The Notes are not dated 16.12.1996 as alleged but are of 16.12.1966.

8. With regard to averment made in Para 4(V) of Writ Petition, it is stated that these are extracts from the noting of Ministry of External Affairs File No.25/4/NGO/Vol-2(LW-KW) and are matter of record. The note dated 6.12.1973 recorded by Shri P K Budhwar, Deputy Secretary, Ministry of External Affairs clearly indicates that there has been two opinion at that time about the genuineness of the ashes of Netaji Subash Chandra Bose. The Petitioner has chosen to pick and choose the text from the notings suitable to support his view.

9. With regard to averment made in Para 4(VII) of Writ Petition, it is stated that these are extracts from the noting of PMO File No.G-12(3)/98-NGO and are matter of record. This is an Internal Note prepared on the basis of the letter received by the Private Secretary to PM for his information.

10. With regard to averment made in Para-5 of the Writ Petition, it is stated that as per information available with Ministry of External Affairs, the Government of India has not granted any clearance to any Non Governmental Organization to bring the ashes kept in Renkoji Temple in Tokyo to India. The news circulated in Times of India (Pune edition) of August 18, 2010 is factually incorrect.

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11. With regard to averment made in Para-6 of the Writ Petition, Ministry of External Affairs in the Govt. of India is of the view that ashes kept in Renkoji Temple are that of Netaji Subash Chandra Bose.

12. With regard to averment made in Para-7 Ministry of External Affairs, has not received any request to bring back the ashes of Netaji to India and does not propose to issue any clearance to any NGO in this regard.

13. With regard to averment made in Para-8 & 9 it is submitted that the prayers as made the Petitioner may not be allowed as they are devoid of merits or substance.

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No. 12014/6/2008 - Cdn.
Govt. of India / Ministry of Home Affairs
IS-II Division

c/o : Office of
Additional Solicitor General,
(Sh. Farooq M. Razak)
Kalkatta,
19, Balu Hakak Lane
Park Circus,
Kalkatta - 700 017
Dated : 23/2/2011

To
Ms. S. Bhattacharya,
Jt. Secretary & Legal Adviser,
Ministry of Law & Justice,
Deptt. of Legal Affairs, Branch Secy.
11, Strand Road, Kalkatta - 700001

Subject: W.P. No 8215 (W)/08 filed by Sh. Subash Chandra Basu
& others.

Madam,

~~It~~ is directed to say that the three writ petitions on the disappearance of Netaji Subash Chandra Bose and bringing back the ashes kept in Renkaji Temple, including the above mentioned writ petition are to be heard in The Hon'ble High Court on 24th Feb. 2011, the date specifically fixed for the purpose. The Counter Affidavit in the above said petition was finalized by Sh. Tarun Kumar Ghosh, CGSC. During the conference with ASG in the evening of 22nd Feb. 11, he was not available and was given to understand that he is no more on the panel of govt. counsels. It is therefore requested that another govt. counsel be appointed immediately to represent UOI in the matter and this Ministry may be informed immediately under intimation to Ld. ASG (Sh. Razak) Kalkatta.

Yours Faithfully,

h. p. shrivastava
23/2/11

(Sh. H. P. Shrivastava)
Under Secretary to Govt. of India

Copy to : Shri Farooq M. Razak, ASG, Kalkatta,
19, Balu Hakak Lane, Park Circus, Kalkatta 700001.

(327)

3/19

By Speed Post.

No.12014/12/2007-Cdn.
Government of India
Ministry of Home Affairs
IS- II Division

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi,
Dated the 4th March, 2011.

- 8 MAR 2011

R+I to issue

पुचिरी जारी प्रकरणे
ISSUED

8/3/2011

- 8 MAR 2011

To

हस्ताक्षर/Intls.
नं० तथा नं०/R&I/LNB

Additional Govt. Advocate
Ministry of Law and Justice,
Deptt. of Legal Affairs, Branch Secretariat,
11, Strand Road, 2nd Floor,
Kolkata - 700 001

Sub : Calcutta High Court - Discussions on 3 Writ Petition
Nos.2003/2006, 27541/2006 & 8251/2008 on the
disappearance of Netaji Subhas Chandra Bose.

I am directed to say that the three Writ Petitions on the above mentioned subject were heard in the Calcutta High Court on 24th February, 2011. The learned Court also heard the Report of the Justice Mukherjee Commission of Inquiry (JMCI) that was laid on the table of the house on 17th May, 2006. In para-2.10.2 of the Report of the JMCI, (copy of page 38 of the Report enclosed), it has been mentioned that deponents and their Counsels were to make their submissions on the issues before the Commission in response thereto..... Shri Tarakeswar Pal, the learned Counsel appearing for Government of India and deponents..... made their respective submissions in details. This Ministry has not been able to find any record to confirm that if at any given point of time Shri Tarakeswar Pal was appointed as the Govt. of India Counsel to make its submissions before the JMCI.

2. An Affidavit has to be filed before the Hon'ble Court, Kolkata immediately as to whether Union of India appointed Shri Tarakeswar Pal as the Government Counsel to represent Government of India before the Commission. Since Ministry of Home Affairs has so far not been able to trace any record to show that Ministry had appointed Shri Tarakeswar Pal to represent Government of India, the Ministry of Law and Justice, Branch Secretariat, Kolkata is requested to check its record and inform this Ministry by 16th March, 2011 if they have any papers on the appointment of Shri Tarakeswar Pal as Government Counsel to represent Union of India before the JMCI.

(K Muralidharan)
Deputy Secretary to the Govt. of India
Tel. 24617196

2.10.2 Keeping in view the above yardstick relating to reception of evidence in this inquiry, the deponents and/or their Counsel were asked to make their submissions on the issues (the terms of reference) before the Commission. In response thereto Ms. Chandreyee Alam, Shri Keshab Bhattacharjee, Shri Rudrajyoti Bhattacharjee, Shri Supriyo Bose, the learned Counsel appearing for some of the deponents, Shri Tarakeswar Pal, - the learned Counsel appearing for Government of India and deponents Dr. Madhusudan Pal, Professor Nandalal Chakrabarti, Dr. Susanta Mitra, Shri Kanailal Basu, Dr. Bijoy Ketan Mukherjee, Shri Sukhendu Kumar Baur, Shri Subhas Ranjan Dasgupta and Shri Satyabrata Tapadar made their respective submissions in detail. Some of them have filed written arguments also to supplement their oral submissions.

Consequent upon the conclusion of the arguments the findings on the terms of reference are to be recorded and it will be apposite to record the same at appropriate stages.

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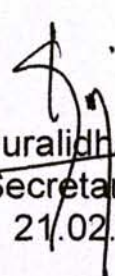
Ministry of Home Affairs
(Internal Security. II Division)

--

There are 3 writ petitions pending for official hearing in the Kolkata High Court (Nos. 2003/2006, 8215/2008, 27541/2006) relating to Netaji Subhash Chandra Bose. Addl. Solicitor General informed the undersigned that the hearing of the case is scheduled to take place on 24th Feb., 2011. Two Supplementary Affidavits and one Counter Affidavit is ready for affirmation after obtaining the comments of Ministry of External Affairs, Ministry of Parliamentary Affairs, Netaji Research Bureau and Prime Minister's Office.

2. Since the affidavits have to be affirmed before 24th February, 2011, it is proposed that Smt. L.P. Shrivastava, Under Secretary dealing with the subject matter be deputed for conference with Addl. Solicitor General at Kolkata and affirming the affidavits in Kolkata High Court. ASG desired that the officer may reach Kolkata on 22nd February, 2011 and attend the hearing also on 24th February, 2011.

3. For approval.


(K. Muralidharan)
Deputy Secretary (S)
21.02.2011

JS(IS.II) - on tour abroad.

Secretary (IS)

DS(S)

Amal

Amal 21/2

Amal
21/2

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to (cd-2)

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2/13

Government of India
Ministry of Home Affairs
IS- II Division

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi,
Dated the 4th March, 2011.
7th

Sub : Calcutta High Court – Discussions on 3 Writ Petition
Nos.2003/2006, 27541/2006 & 8251/2008 on the
disappearance of Netaji Subhas Chandra Bose.

Three Writ Petitions on the above mentioned subject were heard in the Calcutta High Court on 24th February, 2011. The learned Court also heard the Report of the Justice Mukherjee Commission of Inquiry (JMCI) that was laid on the table of the house on 17th May, 2006. In para-2.10.2 of the Report of the JMCI, (copy of page 38 of the Report enclosed), it has been mentioned that deponents and their Counsels were to make their submissions on the issues before the Commission in response thereto.....

Shri Tarakeswar Pal, the learned Counsel appearing for Government of India and deponents..... made their respective submissions in details. This Ministry has not been able to find any record to confirm that if at any given point of time Shri Tarakeswar Pal was appointed as the Govt. of India Counsel to make its submissions before the JMCI.

332

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- 2 -

2. An Affidavit has to be filed before the Hon'ble High Court, Calcutta immediately as to whether Union of India appointed Shri Tarakeswar Pal as the Government Counsel to represent Government of India before the Commission. Since Ministry of Home Affairs has so far not been able to trace any record to show that Ministry had appointed Shri Tarakeswar Pal to represent Government of India, Prime Minister's Office is requested to convey urgently to this Ministry by 16th March, 2011 whether they have any papers on the appointment of Shri Tarakeswar Pal as Government Counsel to represent Union of India before the JMCI.

(K Muralidharan)
Deputy Secretary to the Govt. of India
Tel. 24617196

Shri Amit Agarwal,
Director
P.M.O, South Block
New Delhi.

Issued vide PB 11/08

Ruehica
8/3/2011.

MHA U.O. No. 12014/12/2007-Cdn. dated 7.3.2011

Shri Sandeep Chakravorty,

Director (China/EA) MEA, South Block, New Delhi.

Issued vide 2/2011 Ruehica
8/3/2011.

2.10.2 Keeping in view the above yardstick relating to reception of evidence in this inquiry, the deponents and/or their Counsel were asked to make their submissions on the issues (the terms of reference) before the Commission. In response thereto Ms. Chandreyee Alam, Shri Keshab Bhattacharjee, Shri Rudrajyoti Bhattacharjee, Shri Supriyo Bose, the learned Counsel appearing for some of the deponents, Shri Tarakeswar Pal, - the learned Counsel appearing for Government of India and deponents Dr. Madhusudan Pal, Professor Nandalal Chakrabarti, Dr. Susanta Mitra, Shri Kanailal Basu, Dr. Bijoy Ketan Mukherjee, Shri Sukhendu Kumar Baur, Shri Subhas Ranjan Dasgupta and Shri Satyabrata Tapadar made their respective submissions in detail. Some of them have filed written arguments also to supplement their oral submissions.

Consequent upon the conclusion of the arguments the findings on the terms of reference are to be recorded and it will be apposite to record the same at appropriate stages.

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Government of India
Ministry of Home Affairs
IS- II Division

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi,
Dated the 4th March, 2011.
7th

Sub : Calcutta High Court – Discussions on 3 Writ Petition Nos.2003/2006, 27541/2006 & 8251/2008 on the disappearance of Netaji Subhas Chandra Bose.

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(335)

577

Government of India
Ministry of Home Affairs
IS- II Division

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi,
Dated the 4th March, 2011.
7th

Sub : Calcutta High Court - Discussions on 3 Writ Petition
Nos.2003/2006, 27541/2006 & 8251/2008 on the
disappearance of Netaji Subhas Chandra Bose.

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(K Muralidharan)
Deputy Secretary to the Govt. of India
Tel. 24617196

Shri Amit Agarwal,
Director
P.M.O, South Block
New Delhi.

Issued vide PB 11/08
Ruchica
8/3/2011.

MHA U.O. No. 12014/12/2007-Cdn. dated 7.3.2011

Shri Sandeep Chakravorty,
Director (China/EA) MEA, South Block, New Delhi.

Issued vide 2/2011 Ruchica
8/3/2011.

(337)

3/11

- 2 -

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(K Muralidharan)
Deputy Secretary to the Govt. of India
Tel. 24617196

Shri Amit Agarwal,
Director
P.M.O, South Block
New Delhi.

Issued vide PB 11/08

Ruchica

8/3/2011.

MHA U.O. No. 12014/12/2007-Cdn. dated 7.3.2011

Shri Sandeep Chakravorty,

Director (China/EA) MEA, South Block, New Delhi.

Issued vide 2/2011 Ruchica

8/3/2011.

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338340
No. 12014/12/2007-Cdn
Government of India
Ministry of Home Affairs
IS II Division

9th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi-3
Dated the 28th February, 2011,

To

Shri Shakeel Mohammed Akhter,
Advocate, Calcutta High Court
25, Serang Lane, 1st Floor
Kolkata - 700014

Sir,

A copy of the Justice Mukherjee Commission of Inquiry
(3 volumes) is enclosed herewith, as desired.

Yours faithfully,

L P Shrivastava

Encl : As above.

(Smt L P Shrivastava)
Under Secretary to the Govt. of India
Tel. No.2461-0467

R+ITo issue please

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By Speed Post

Ruchica

18/3 जारी किया
ISSUED
15 MAR 2011
To
प्र. ०, तथा १०/R&I/ENB

No. 12014/12 /2007-Cdn
Government of India
Ministry of Home Affairs
IS II Division

15 MAR 2011

9th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi-3
Dated the 14th March, 2011,

15 MAR 2011

Shri Shakeel Mohammed Akhter,
Advocate, Calcutta High Court,
C/o Shri Somenath Bose,
Advocate,
6, Old Post Office Street,
Ground Floor, Room No.50
Kolkata- 700001

Sir,

A copy of the Justice Mukherjee Commission of Inquiry
(3 volumes) is enclosed herewith, as desired.

Yours faithfully,

L.P. Shrivastava
15/3/11

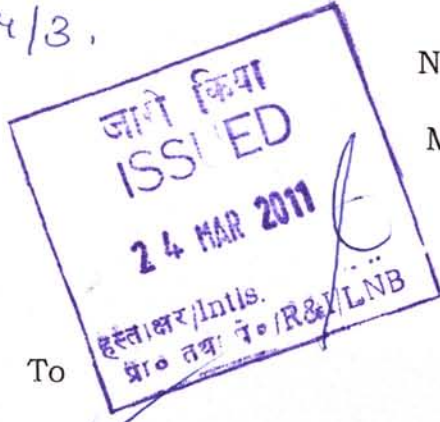
Encl : As above.

(Smt L P Shrivastava)
Under Secretary to the Govt. of India
Tel. No.2461-0467

R+I to issue please

Rudhica

24/3.



To

Additional Govt. Advocate,
Ministry of Law & Justice,
Deptt. of Legal Affairs,
Branch Secretariat,
11, Strand Road, 2nd Floor,
Kolkata- 700 001.

Sub: Calcutta High Court - discussion on 3 Writ Petition No. 2003/2006, 27541/2006 and 8251/2008 on the disappearance of Netaji Subhas Chandra Bose.

I am directed to refer to this Ministry's letter of even number dated 8th March, 2011 (copy enclosed) on the above mentioned subject and to request that reply may please be expedited as the case is coming up for hearing on 21st April, 2011.

Encl. as above.

(Smt L P Shrivastava)
Under Secretary to the Govt. of India
Tel: 24610467

By speed post
Court Case
Immediate

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi,
Dated the 23rd March, 2011

24 MAR 2011

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F.A. No. 3015750
3017763

GOVERNMENT OF INDIA
MINISTRY OF LAW, JUSTICE & C.A.
Department of Legal Affairs,
Branch Secretariat
4, KIRAN SHANKAR ROY ROAD,
2nd Floor, Calcutta-70001
Phone Nos: 2486515/2489525.

No. 152/LC/2000/

Sri V.P. Bhatia
Under Secretary to the Govt. of India,
Ministry of Home Affairs,
New Delhi.

Dated: 7.11. 2000

Sub: Engagement of a Counsel to represent the
Ministry of Home Affairs before Hon'ble
Mr. Justice Mukherjee Commission of Inquiry
which is enquiring into the alleged
disappearance of Netaji Subhas Chandra Bose

Ref: Your letter No. I.12014/24/2000-IS(D, III)
dt. 3rd. Nov. 2000.

Sir,

Please note that Sri TARAKESWAR PAL Sr. Advocate, High Court, Calcutta
Bar Association Room No.5, High Court Calcutta Ph: 248-3190
FAX No. (033) 248-2313.

He has been engaged in the above matter to appear and plead on behalf of
the Department at the existing terms of the Central/State Government
Panel.

You are therefore requested to contact the Learned Counsel with
all relevant papers and files for preparation of the case on behalf of
the Department.

A copy of the engagement letter annexed hereto may please be made
over to the Learned Counsel.

~~All papers sent to this office are returned.~~

Encl: As above.

Yours faithfully,

(H. D. RATHOD.)

Senior Central Government Advocate & Incharge.

Copy to SRI - Tarakeswar Pal, Sr. Advocate, "PURBASASI" 33, Ashoke Avenue
Near Navanir, Calcutta-700 040 PH. 471-0592(R)

He is requested to conduct the case on behalf of the Department,
as per the Departmental instructions. All Fee Bills may be submitted
to the Department directly for payment as per approved scheduled rates.

(H. D. RATHOD.)

342

S. no. 3

ET
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Most Immediate

By FAX and Speed Post
No.I.12014/24/2000-IS(D.III)

Dated, the 8th Nov., 2000.

To : Shri Tarakeswar Pal, Sr. Advocate,
"PURNASASI" 33, Ashoke Avenue,
Near Navanir, Calcutta-700 040.
FAX No.033-2482313.

Subject: **Engagement of a Counsel to represent the Ministry of Home Affairs before Hon'ble Mr. Justice Mukherjee Commission of Inquiry which is inquiring into the alleged disappearance of Netaji Subhas Chandra Bose.**

Sir,

I am directed to refer to the Ministry of Law, Justice and CA (Department of Legal Affairs), Branch Secretariat, Calcutta, letter No.152/LC/2000 dated the 7th November, 2000 addressed to this Ministry with a copy endorsed to you on the above subject and to say that you have been engaged to appear and plead on behalf of the Ministry of Home Affairs at the existing terms of the Central/State Government Panel before the Justice Mukherjee Commission of Inquiry. A representative of this Ministry will be shortly meeting you at Calcutta to brief you in the matter with relevant papers/documents. You are, however, requested to let this Ministry know the details of documents etc. required by you so that the same could be made available through this Ministry's representative.

2. The next hearing of the Commission is to be held on 23.11.2000 at Calcutta and your reply in the matter is therefore immediately needed so that you can make an effective appearance before it. The same may be sent at FAX No.3015750 or 3017763.

Yours faithfully,

(V.P. BHATIA)

Under Secretary to the Government of India.

Contd.2/--

345

P. Muralidharan

31

No.12014/5/2007-Cdn.
Government of India
Ministry of Home Affairs
IS - II Division

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi,
Dated the 4th April, 2011

Office Memorandum

Sub: Calcutta High Court - discussion on 3 Writ Petition No. 2003/2006, 27541/2006 and 8251/2008 on the disappearance of Netaji Subhas Chandra Bose.

The undersigned is directed to refer to Ministry of Parliamentary Affairs' OM No. 15(9)2010MF dated 23.12.2010 and to convey that 24th February, 2011 was specifically fixed for hearing on the above mentioned three Writ Petitions and were heard in Court No.1 by Hon'ble Chief Justice Shri J.N. Patel and Justice Shri D.Bhattacharya. The Hon'ble Justice has desired to know specifically about the discussions on the report of the Justice Mukherjee Commission of Inquiry (which was laid on the Table of both the Houses of Parliament on 17.5.2006) are challengeable in Court of Law when no decision has been taken on it.

2. It is requested that an answer to the above query of the Hon'ble Court may please be intimated at the earliest before 10th April, 2011 with various provisions of Acts and Rules applicable in the matter as the next date of hearing has been specifically fixed for 21st April, 2011.

(K. Muralidharan)
Deputy Secretary to the Govt. of India
Tel: 24617196

Shri H.L. Negi,
Director,
Ministry of Parliamentary Affairs,
86-B, Parliament House,
New Delhi.

Issued vide PB 3/08
Puchica
5/4

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339/28/2

11083

No.402/Home/06-II
Ministry of Law and Justice
11, Strand Road, Kolkata-1

Date: 14.2.11

To
Md. Nizamuddin
Advocate
High Court
Calcutta.

Sub: WP No. 2003 of 06
Shri Rudra Jyoti Bhattacharya & Ors. -vs- UOI & Ors.,

Sir,

I am enclosing herewith the para-wise comments for drafting counter affidavit and send the same to this office at an early date so that we may send the same to the department for vetting without lapse of time.

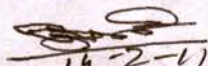
Thanking you in anticipation.

Encl: as above.

Yours faithfully,

(J.K. Ghosh)
Supdt.(L)

CC to:
Sri K. Muralidharan, Dy. Secretary, Ministry of Home Affairs, IS-II Divn. Lok Nayak Bahwan, 9th floor, C Wing, N Delho.


14-2-11
Supdt.(L)

205/06/coln
28/2

A - put up / follow up

H
28/2
sol (adv)

up (adv)

28/2

3479
Speed post
Most urgent

SPEED POST

No. 402/Home-06-II 11285
Ministry of Law and Justice
Strand Road, Kolkata-1

Date: 22.2.11

To
Smt. L P Shrivastava
Under Secretary
Ministry of Home Affairs
IS-II Divn.
Lok Nayak Bhawan, 9th floor
C Wing
Room No. 8
N. Delhi. - 110003.

Sub: WP No. 2003 of 06
Shri Rudra Jyoti Bhattacharya -vs- UOI & Ors.

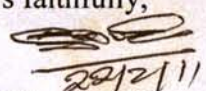
Madam,

I am directed to enclosed herewith the draft Affidavit in Opposition drafted by
Md. Nizamuddin, Advocate.

This is for your kind perusal and necessary action please.

Encl: as above.

Yours faithfully,


22/2/11
(J.K. Ghosh)
Supdt.(L)

Recd today

H
1/3/11

so (cdn)

232/22/cdn
3/3.

MD. NIZAMUDDIN
B. Sc. LL. B
ADVOCATE HIGH, COURT CALCUTTA
BAR ASSOCIATION, ROOM NO. 12

548
Residence & Chamber
15, MARQUIS LANE
KOLKATA - 700016
Phone : 40692176
Mobile : 9831673933
: 9432593908



Date: 21.02.11

To
Mr. J. K. Ghosh
Supdt., Legal
Ministry of Law & Justice
11, Strand Road
Kolkata - 1

Re: F.No. 402/Home/2006 Lit -II
W.P. No. 2003 of 2006
Sri Rudra Jyoti Bhattacharya & Ors.
-Vs-
Union of India & Ors.

Your Ref. No.: F.No. 402/Home/2006 Lit -II/1082 dt. 14.02.11

Dear Sir,

Pursuant to your above referred letter requesting me to draw affidavit-in-opposition, please find the draft copy of the same which has been drawn by me.

This is for your information, record and expeditious needful action.

Kindly take note that the above referred matter has been specially fixed for day to day basis hearing on 24.02.2011 before the Bench presided over by the Hon'ble Chief Justice, so, the affidavit must have to be affirmed and served on the other side before 24.02.11.

Encl: Draft copy of A.O. as referred above.

Lnc
21/2/11

Mohammed J. Akbar
Advocate

349

337

W.P. No. 2003 of 2006

IN THE HIGH COURT OF CALCUTTA

Constitutional Writ Jurisdiction

(Original Side)

In the matter of :

An application under Article 226 of the
Constitution of India;

And

In the matter of :

A writ and/or order or direction in the
nature of Mandamus, Certiorari and
Prohibition;

And

In the matter of :

Judgment and Order dated April 30, 1998
passed by the Division Bench consisting of
the Hon'ble Prabha Shankar Mishra, the
Chief Justice (as His Lordship then was)
and the Hon'ble Justice Bhaskar
Bhattacharya in W.P. 281 of 1998;

And



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348 (350)

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In the matter of :

Non-compliance of the directions passed by their Lordships in the W.P. No. 281 of 1998;

And

In the matter of :

Notification being No. S.O. 339(E) dated 14th May, 1999 issued under the signature of Special Secretary (ISP), in Ministry of Home Affairs, Government of India, whereby a commission of inquiry was appointed for the purpose of making an independent inquiry into the disappearance of Netaji Subhas Chandra Bose;

And

In the matter of :

Commissions of Inquiry Act, 1952;

And

[Handwritten signature]



359

In the matter of :

Memorandum of Action Taken on the
Report of the Justice Mukherjee
Commission of Inquiry;

And

In the matter of :

1. Shri Rudrajyoti Bhattacharjee,
Advocate, son of Shri Santosh Kumar
Bhattacharjee, Bar Association, Room
No. 2, High Court, Calcutta:
2. Shri Surajit Dasgupta, son of late
Jatindra Mohan Dasgupta, by occupation
business, resident of 25/1, Guruprasad
Chowdhury Lane, P.S. Amherst Street,
Kolkata-700009.
3. Shri Nandalal Chakraborty, by
occupation Head of the Department of
Political Science, Presidency College,
resident of 559/1, Dakshin Dari Road, P.S.
Lake Town, Kolkata-700048.

~~Signature~~



4 (352)

353

72

4. Dr. Madhusudan Pal, by occupation Assistant Professor, Calcutta Medical College Hospital, resident of A/5/2, Sharabani Abashan, Salt Lake, Sector III, Kolkata-700009.

5. Shri Tarun Kumar Mukhyerjee, son of late Gobindalal Mukherjee, resident of 2/1, Brindaban Mukherjee 1st Lane, P.S. Amherst Street, Kolkata-700009.

6. Shri Jagatjit Dasgupta, son of late Jatindra Mohan Dasgupta, resaident of 25/1, Guruprosad Chowdhury Lane, P.S. Amherst Street, Kolkata-700006.

7. Shri Kusal Sankar Chowdhury, residents: of 32B, Justice Manmatha Mukherjee Row, P.S. Amherst Street, Kolkata-700009.

[Handwritten signature]



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(353)

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8. Shri Siddheswar Bhattacharjee,
resident of Hatepara "Matri Bhavan",
P.O. Krishnagar, Pin Code 741 104,
District Nadia.

9. Shri Sunil Krishna Gupta, resident of
38 Vidyasagar Street, P.S. Amherst Street,
Kolkata-700009.

..... Petitioners

-Versus-

1. Union of India through the Principal
Secretary to the Prime Minister's Office,
Block, New Delhi.

2. The Secretary, Ministry of Home
Affairs, Government of India, North
Block, New Delhi.

[Handwritten signature]



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3. The Special Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi,
4. Shri Manoj Kumar Mukherjee (retired judge of Supreme Court of India), the Chairman of Justice Mukherjee Commission of Inquiry, Resident of GD/359, Sector III, Salt Lake, Kolkata-700106.

.....Respondents

AFFIDAVIT-IN-OPPOSITION ON BEHALF OF THE
RESPONDENT NOS. 1, 2 AND 3

I, _____, aged about _____ years, by occupation service, having my office at LokNayak Bhavan, Khan Market, New Delhi, do hereby solemnly affirm and say as follows:

1. I am the Under Secretary to the Government of India, Ministry of Home Affairs, and I am duly authorized and competent to affirm this affidavit on behalf of the respondent Nos. 1, 2 and 3 above named being duly authorized by them I have read the copy of the supplementary the affidavit of Shri Surojit Dasgupta, Petitioner No.2 affirmed in September, 2010, and have understood the Contents and purport of the same.
2. Save and except what are matters of record I deny each and every allegation contained in paragraphs 1, 2 & 3 of the aforesaid affidavit.

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3. With ^{further reference to the} ~~regard to~~ averment made in Para 3 of ^{the said proposed affidavit} ~~Writ Petition~~, ~~it is a matter of~~ ~~record, however,~~ following is again submitted for the sake of clarity:

(A) The disappearance of Netaji Subhas Chandra Bose has engaged the attention of the Government right from the beginning. The Government of India has, so far, appointed three Committees/ Commissions to inquire into the alleged disappearance of Netaji Subhash Chandra Bose. The first one was a Committee, known as Shah Nawaz Committee, consisting of three members, appointed in the year 1956. The Committee examined 67 witnesses. Two members of the said Committee came to the conclusion that Netaji died in the plane crash at Taihoku, Formosa (now Taiwan) on 18th August, 1945 and that his ashes were taken to Tokyo and preserved in the Renkoji Temple there. The other member of the Committee submitted a dissenting report. The Government of India accepted the majority report.

(B) The second inquiry made was a one-man Commission under Justice (Retd.) G.D. Khosla appointed in 1970. This Commission submitted its report in the year 1974. This Commission also came to the conclusion that Netaji died in the plane crash at Taihoku on

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18th August, 1945 and the ashes preserved in the Renkoji Temple, Tokyo are of Netaji.

(C) Subsequently, a writ petition was filed before the learned Division Bench of the Hon'ble Court of Calcutta. After hearing the learned Counsel appearing for the parties the Hon'ble Court of Calcutta by its order / judgement dated 30-04-1998 directed the Union of India to re-inquire into the alleged disappearance of Netaji Subhas Chandra Bose in accordance with law by appointing a Commission of Inquiry. This was followed by a motion adopted by the West Bengal Legislative Assembly on December 24, 1998 demanding that the Government of India should make necessary arrangements for availability of records and documents in and outside India so that the scholars and people could have access to them and also institute a fresh inquiry into the matter to remove the mystery regarding the whereabouts of Netaji Subhash Chandra Bose.

(D) Therefore, the Government of India appointed a Commission headed by Justice (Retd.) M.K. Mukherjee, into all the facts and circumstances related to the disappearance of Netaji Subhash Chandra Bose in 1945 and subsequent developments connected therewith, including:-

- (a) whether Netaji Subhash Chandra Bose is dead or alive;
- (b) if he is dead, whether he died in the plane crash, as alleged;
- (c) whether the ashes in the Japanese temple are ashes of Netaji;

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- (d) whether he has died in any other manner at any other place and, if so, when and how;
- (e) if he is alive, in respect of his whereabouts.

(E) The Justice Mukherjee Commission of Inquiry, (JMCI), submitted its Report on 8th November, 2005 on the following terms of references and concluded the following:-

S. No.	Terms of reference	Conclusion of the Commission
A.	whether Netaji Subhas Chandra Bose is dead or alive;	Netaji Subhas Chandra Bose is dead;
B.	if he is dead, whether he died in the plane crash, as alleged	He did not die in the plane crash, as alleged
C.	Whether the ashes in the Japanese Temple are ashes of Netaji;	The ashes in the Japanese temple are not of Netaji;
D.	Whether he has died in any other manner at any other place and, if so, when and how;	In the absence of any clinching evidence a positive answer cannot be given;
E.	If he is alive, in respect of his whereabouts.	Answer already given in (A) above.

The Commission also observed as under:-

"5.1.1 As regards the ancillary query (vide paragraph 3 of the Notification) the Commission is of the view – consequent upon its above findings – that in undertaking the scrutiny of publications touching upon the question of death or otherwise of Netaji, the Central Government can proceed on the basis that he is dead but did not die in the plane crash, as alleged".

to
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(F) The report of the JMCI was examined in detail. It was found that the Commission's findings were inconclusive in many ways and it had not been able to provide definitive findings. The findings of the ~~JMCI~~ ^{Justice Mukherjee Commission of Inquiry} that Netaji did not die in the plane crash is based on non-availability of 'clinching evidence'. Shah Nawaz Committee of 1956 and Khosla Commission of 1970 also encountered the same predicament. They, therefore, relied on the oral evidence of the witnesses including those who were co-passengers of Netaji in the said ill-fated plane and came to the conclusion that Netaji died in the plane crash on 18th August, 1945 and he was cremated in Taiwan Crematorium and his ashes were taken to Tokyo and preserved in the Renkoji Temple. The findings of Justice Mukherjee Commission of Inquiry, therefore, do not conclusively disprove the plane crash story in the face of overwhelming oral evidence, particularly of those who were co-passengers of Netaji and also the Doctors and staff of the Hospital where he was treated to severe and serious burn injuries sustained in the plane crash. The Government of India did not accept the conclusions of JMCI.

(G) The report of the JMCI was placed before both the Houses of Parliament along with the Action Taken Report (ATR) on 17th May, 2006 as per Section 3(4) of the Commissions of Inquiry Act, 1952. The relevant portion of the said ATR reads as follows:-

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"2. The Government have examined the Report submitted by the Commission on 8th November, 2005 in detail and have not agreed with the findings that :-

- c) Netaji did not die in the plane crash; and
- d) The ashes in the Renkoji Temple were not of Netaji.

The Report was placed before the Houses of Parliament on 17-05-2006 as required under Sub-Section 4 of Section 3 of the Commissions of Inquiry Act, 1956".

(H) It would be seen that the Government has accepted the majority reports of the Committees / Commissions and there are no good reasons or evidence to indicate that Netaji did not die in the plane crash on 18th August, 1945. Though the Mukherjee Commission worked for 6 years and 7 months, it could not find any proof that Netaji Subhash Chandra Bose died in any other manner. Therefore, there is no reason for the Government of India to accept that the earlier two findings were incorrect. Further, it is always open to the Government of India to accept or reject the recommendations/findings of a Commission. The Commissions of Inquiry Act, 1952 Sub-Section-4 of Section-3 provides that the report of the Commission along with the A:R has to be placed before Parliament so that Parliament can take necessary action in the matter as it may be advised. No further directions were given by Parliament and, therefore, it is prayed that the matter may be treated as closed. The decision of the Government does not suffer from

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arbitrariness as there are good grounds as mentioned at Para-4(G) above for the Government not to accept the report of JMCI. It is emphasized that the report and findings of the Commission of Inquiry are meant for information of the Government. The decision of the Government does not suffer from an illegality or arbitrariness.

4. With ~~regard~~^{regard} to averment made in Para 4(i) of ~~Writ Petition~~^{the said affidavit}, it is stated that these are extracts from the noting of PMO File No.23(ii)/56-57 PM and are matter of record. These notings do not show what was done with the ashes. Presumably the family members of Netaji were to be consulted before ashes were to be brought to India and perhaps wanted it to bring ceremoniously.

5. With regard to averment made in Para 4(ii) of ~~Writ Petition~~^{the said affidavit}, it is stated that these are extracts from the noting of Ministry of External Affairs File No.25/4/NGO/Vol-2(LW-KW) and are matter of record. The Note of Shri T N Kaul dated 28.7.1955 appears to mention his personal view only and cannot be said to be the Government's opinion. This is supported by the Note dated 28.8.1990 of Meera Shankar, the then Director in PMO, which is reproduced below:

"Because there is a strong body of opinion which believes that the ashes in Tokya are those of Netaji, even as there is an equally strong body of opinion which doubts this." (Annexure P/16 of the Supplementary Affidavit).

6. With regard to averment made in Para 4(III) of ~~Writ Petition~~^{the said affidavit}, it is stated that these are extracts from the noting of Ministry of External Affairs File No.25/4/NGO/Vol-2(LW-KW) and are matter of record. The Notes stated to have

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been recorded by Shri A K Damadaran as Director of Finance, Govt. of India, it is stated that the said notes are not of Director Finance.

7. With regard to averment made in Para 4 (IV) of the said affidavit, it is stated that those are extracts from the noting of Ministry of External Affairs File No.25/NGO/Vol-2 (LW-KW) and are matter of record. The Notes are not dated 16.12.1996 as alleged but are of 16.12.1966.

8. With regard to averment made in Para 4(V) of the said affidavit, it is stated that those are extracts from the noting of External Affairs File No.25/NGO/Vol-2 (LW-KW) and are matter of record. The note dated 6.12.1973 recorded by Shri PK Budhwar, Deputy Secretary, Ministry of External Affairs clearly indicates that there has been two opinion at the time about the genuineness of the ashes of Netaji Subhas Chandra Bose. The Petitioner has chosen to pick and choose the text from the notings suitable to support his view.

9. With regard to averment made in Para 4(VII) of the said affidavit, it is stated that those are extracts form the noting of PMO File No. G-12(3)/98-NGO and are matter of record. This is an Internal Note prepared on the basis of the letter received by the Private Secretary to PM for his information.

10. I deny each and every allegation contained in paragraph 5 of the said affidavit save and except what are matters of record. I specifically deny the allegation that Government of India has granted any clearance to any non Govt. Organization to bring the ashes kept in the Renkoji Temple. It is stated that as per information available with Ministry of External Affairs, the Government of India has not granted any clearance to any Non Government Organization to bring the ashes kept

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in Renkoji Temple in Tokyo to India. The news circulated in Times of India (Pune edition) of August 18,2010 is factually incorrect.

11. I deny each and allegation contained in paragraphs 6 of the said affidavit save and except what are matters of record. I specifically deny each allegation of afterthought devise or of any mischievous intention in establishing that Netaji Subhas Chandra Bose had died in air crash it is stated that Ministry of External Affairs in the Govt. of India is of the view that the ashes kept in Renkoji Temple are that of Netaji Subhas Chandra Bose.

12. With regard to submission and allegation made in paragraph 7 of the said affidavit it is stated that the same is baseless and on surmises and conjectures. It is stated that Ministry of External Affairs has not received any request to bring the ashes of Netaji to India and the Government those not propose to issue any clearance to any NGO in this regard.

13. With a reference to the submission made in paragraph 8 of the said affidavit it is submitted that the said supplementary affidavit and the prayer made there in by petitioner is devoid of any merit or substance and it should be rejected by This Hon'ble Court.

14. The statement contained in paragraph 1 to 11 are based on information derived form record and those contained in paragraphs 12 and 13 are humble submission before This Hon'ble Court.

Solemnly affirmed by the said.....

In the court house on theday of February, 2011

Before me

Commissioner

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W.P. No. 2003 of 2006

IN THE HIGH COURT AT CALCUTTA

CONSTITUTIONAL WRIT JURISDICTION

Original Side

In the matter of:

An application under Article 226 of the
Constitution of India:

In the matter of:

Shri Rudra Jyoti Bhattacharjee & Ors
.....Petitioners

Versus

Union of India & Ors
.....Respondents

Applicant - in - opposition to the
PETITION ~~At~~ Supplementary Affidavit
of writ petitions no. 2

Mr. S. S. Sarkar
~~Mr. Debendra Ghosh~~
Addl. Govt. Advocate
~~Shri Rudra Jyoti Bhattacharjee~~
Ministry of Law & Justice
11, Strand Road, Cal - 1
~~Bar Association of Calcutta~~
High Court, Calcutta
Room No. 103,
10 Old Police Office Building



मरणोप जयते

FAROOK M. RAZACK

362 (364)

अपर महा-सॉलिसिटर
भारत

ADDITIONAL SOLICITOR-GENERAL
OF INDIA

5th April, 2011

Sub: W.P. No. 2003/06 -Rudrajyoti Bhattacharya Vs. UOI
(Matter relating to Subhash Chandra Bose)

Dear Mr. Muralidharan,

Please find enclosed herewith a copy of the order dated 24.2.2011 passed by their Lordships Hon'ble the Chief Justice and Hon'ble Justice Asim Kumar Roy which is self-explanatory.

Kindly let me have your instructions in the matter in the light of the order passed by the Hon'ble Court at the earliest.

Thanking you,

Yours faithfully,

Farooq M. Razack

(FAROOK M. RAZACK)

To,
K. Muralidharan,
Deputy Secretary (Security),
Government of India,
Ministry of Home Affairs,
New Delhi.

M. put up immediately

5/4/2011

*4/5/11
SO (Cdr)*

US (Cdr)

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IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Original Side

W.P.No.2003 of 2006
Rudra Jyoti Bhattacharjee & Ors.
Versus
Union of India & Ors.

With

W.P.27541(W) of 2006
Ashim Kumar Ganguly & Anr.
Versus
Union of India & Ors.

And

W.P.8215(W) of 2008
Subhas Chandra Bose
Versus
Union of India & Anr.

For petitioners (in Serial No.1) :Mr. Kashi Kanta Moitra, Sr.Advocate,
Mr. Kesab Bhattacharya,
Ms. Debjani Ghosal,
Mr. Debabrata Koley, Advocates

For petitioners (in Serial No.2) :Mr. Ashim Kumar Ganguly, Advocate

For petitioners (in Serial No.3) :Mr. Subhas Chandra Bose, Advocate

For Respondent/UOI:Mr. F.M.Razack, Addl.Solicitor General,
Mr. Somenath Bose,
Md. Nizamuddin,
Mr. Shakeel Md. Akhtar, Advocates

BEFORE:

The Hon'ble the CHIEF JUSTICE
AND
The Hon'ble JUSTICE ASHIM KUMAR ROY

Date : 24th February, 2011.

The Court : The affidavit, list of dates and synopsis filed by the Learned Additional Solicitor General with copies to the other side be taken on record. The Learned Additional Solicitor General has placed before us two sets of Justice Mukherjee Commission Enquiry Report for the purpose of reference.

We have heard the learned Counsel for the parties and we are of the view that the parties should submit appropriate issues before this Court which are required to be decided so that the Court can finally proceed to hear the parties.

It was also argued before the Court that the ashes kept in the Renkoji Temple are not of Netaji Subhas Chandra Bose which is also an issue before this Court and that Justice Mukherjee Commission Enquiry did not think it proper to get this issues resolved by referring it to forensic examination. If the parties want this Court to decide on the said aspect of the matter, they may seek information and instruction from their respective clients as to whether the ashes can be sent for forensic examination.

Therefore, the matter is adjourned till 29th April, 2011 to enable the parties to prepare themselves on the issues which arise in the matter.

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Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(J. N.PATEL, C.J.)

(ASHIM KUMAR ROY, J.)

SN.
Asst.Registrar(CR)

By Speed Post
Most urgent

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No.12014/5/2007-Cdn.
Government of India
Ministry of Home Affairs
IS- II Division

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi,
Dated the 18th April, 2011

To

Shri J. K. Ghosh,
Superintendent (Legal)
Ministry of Law & Justice
11, Strand Road, Branch Secretariat,
Kolkata - 700 001

**Sub: Writ Petition No.2003 of 2006 - Shri Rudra Joyti Bhattacharya
Vs. Union of India & Ors.**

Sir,

I am to refer to your letter No.402/home-06-II/1285 dated 22.2.2011 sending therewith draft affidavit in opposition drafted by Mohd Nizamuddin, Advocate on the above mentioned subject. The affidavit has been notarized by the Oath Commissioner. The same is being sent herewith for filing in the Hon'ble High Court of Calcutta.

Enclo : As above.



**(Smt L. P. Shrivastava)
Under Secretary to the Govt. of India**

Copy to:-

Shri Farooq M Razak, Addl. Solicitor General Kolkata, 19, Balu Hakak Lane, Park Circus, Kolkata - 700 007.

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W.P. No. 2003 of 2006

IN THE HIGH COURT OF CALCUTTA

Constitutional Writ Jurisdiction

(Original Side)

In the matter of:

An application under Article 226
of the Constitution of India;

And

In the matter of:

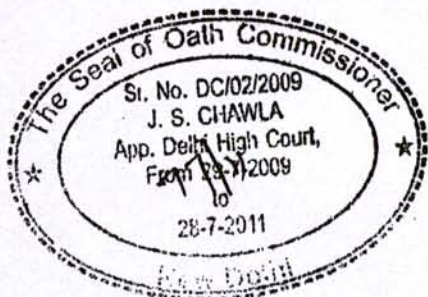
A writ and / or order or direction
in the nature of Mandamus,
Certiorari and Prohibition;

And

In the matter of:

Judgement and Order dated
April, 30, 1998 passed by the
Division Bench consisting of the
Hon'ble Prabha Shankar Mishra,
the Chief Justice (as His
Lordship then was) and the
Hon'ble Justice Bhaskar
Bhattacharya in W.P. 281 of
1998;

And



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In the matter of:

Non-compliance of the directions
passed by their Lordships in the
W.P. No. 281 of 1998;

And

In the matter of:

Notification being No.S.O.
339(E) dated 14th May, 1999
issued under the signature of
Special Secretary(ISP), in
Ministry of Home Affairs,
Government of India, whereby a
commission of inquiry was
appointed for the purpose of
making an independent inquiry
into the disappearance of Netaji
Subhas Chandra Bose;

And

In the matter of:

Commissions of Inquiry Act,
1952;

And

In the matter of:

Memorandum of Action Taken
on the Report of the Justice

Justice Prakash



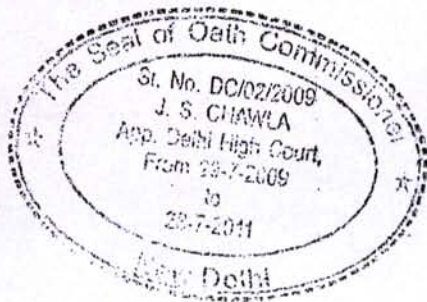
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Mukherjee Commission of
Inquiry;

And

In the matter of:

1. Shri Rudrajyoti Bhattacharjee,
Advocate, son of Shri Santosh
Kumar Bhattacharjee, Bar
Association, Room No.2, High
Court, Calcutta;
2. Shri Surajit Dasgupta, son of
late Jatindra Mohan Dasgupta, by
occupation business, resident of
25/1, Guruprasad Chowdhury
Lane, P.S Amherst Street,
Kolkata – 700009.
3. Shri Nandalal Chakraborty, by
occupation Head of the
Department of Political Science,
Presidency College, resident of
559/1, Dakshin Dari Road, P.S.
Lake Town, Kolkata -700048.
4. Dr Madhusudan Pal, by
occupation Assistant Professor,
Calcutta Medical College
Hospital, resident of A/5/2,
Sharabani Abashan, Salt Lake,
Sector III, Kolkata – 700009.



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5. Shri Tarun Kumar Mukhyerjee, son of late Gobindalal Mukherjee, resident of 2/1, Brindaban Mukherjee 1st Lane, P.S. Amherst Street, Kolkata – 700009.

6. Shri Jagatjit Dasgupta, son of late Jatindra Mohan Dasgupta, resident of 25/1, Guruprosad Chowdhury Lane, P.S. Amherst Street, Kolkata – 700006.

7. Shri Kusal Sankar Chowdhury, resident of 32 B Justice Manmatha Mukherjee Row, P.S. Amherst Street, Kolkata-700009.

8. Shri Siddheswar Bhattacharjee, resident of Hatepara "Matri Bhavan", P.O. Krishnagar, Pin Code 741 104, District Nadia.

9. Shri Sunil Krishna Gupta, resident of 38 Vidyasagar Street, P.S. Amherst Street, Kolkata – 700009.

.....Petitioners

- Versus -

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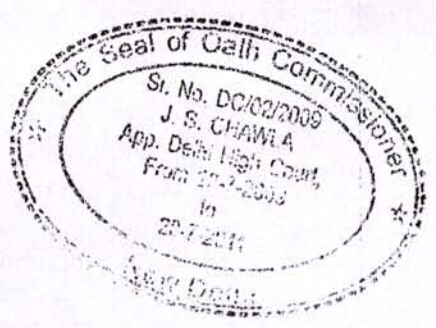


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1. Union of India through the Principal Secretary to the Prime Minister's office, South Block, New Delhi.
2. The Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi.
3. The Special Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi.
4. Shri Manoj Kumar Mukherjee (retired judge of Supreme Court of India), the Chairman of Justice Mukherjee Commission of Inquiry, Resident of GD/359 Sector III, Salt Lake, Kolkata-700106.

Lalitha



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AFFIDAVIT-IN-OPPOSITION ON BEHALF OF THE
RESPONDENTS NOS.1, 2 AND 3

I, Smt L P Shrivastava, aged about 58 years, by occupation service, having my office at Lok Nayak Bhavan, Khan Market, New Delhi, do hereby solemnly affirm and say as follows:

1. I am the Under Secretary to the Government of India, Ministry of Home Affairs, and I am duly authorized and competent to affirm this affidavit on behalf of the respondent Nos. 1,2 and 3 above named being duly authorized by them I have read the copy of the supplementary the affidavit of Shri Surojit Dasgupta, Petitioner No.2 affirmed in September, 2010, and have understood the Contents and purport of the same.

2. Save and except what are matters of record I deny each and every allegation contained in paragraphs 1, 2 & 3 of the aforesaid affidavit.

3. With further reference to the averment made in para 3 of the said aforesaid affidavit, following is again submitted for the sake of clarity:

(A) The disappearance of Netaji Subhas Chandra Bose has engaged the attention of the Government right from the beginning. The Government of India has, so far, appointed three Committees/ Commissions to inquire into the alleged disappearance of Netaji Subhas Chandra Bose. The first one was a Committee, known as Shah Nawaz Committee, consisting of three members, appointed in the year 1956. The Committee examined 67 witnesses. Two members of the said Committee came to the

Legally
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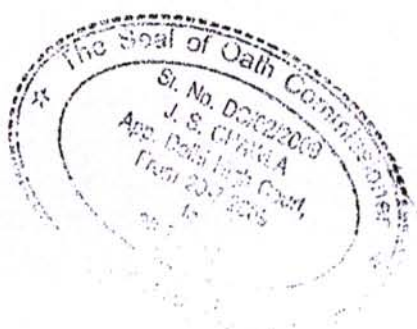
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conclusion that Netaji died in the plane crash at Taihoku, Formosa (now Taiwan) on 18th August, 1945 and that his ashes were taken to Tokyo and preserved in the Renkoji Temple there. The other member of the Committee submitted a dissenting report. The Government of India accepted the majority report.

- (B) The second inquiry made was a one-man Commission under Justice (Retd.) G.D. Khosla appointed in 1970. This Commission submitted its report in the year 1974. This Commission also came to the conclusion that Netaji died in the plane crash at Taihoku on 18th August, 1945 and the ashes preserved in the Renkoji Temple, Tokyo are of Netaji.
- (C) Subsequently, a writ petition was filed before the learned Division Bench of the Hon'ble Court of Calcutta. After hearing the learned Counsel appearing for the parties the Hon'ble Court of Calcutta by its order / judgement dated 30-04-1998 directed the Union of India to re-inquire into the alleged disappearance of Netaji Subhas Chandra Bose in accordance with law by appointing a Commission of Inquiry. This was followed by a motion adopted by the West Bengal Legislative Assembly on December 24, 1998 demanding that the Government of India should make necessary arrangements for availability of records and documents in and outside India so that the scholars and people could have access to them and also

Lalit Prasad



(37)

(37)

institute a fresh inquiry into the matter to remove the mystery regarding the whereabouts of Netaji Subhas Chandra Bose.

(D) Therefore, the Government of India appointed a Commission headed by Justice (Retd.) M.K. Mukherjee, into all the facts and circumstances related to the disappearance of Netaji Subhas Chandra Bose in 1945 and subsequent developments connected therewith, including:-

- (a) whether Netaji Subhas Chandra Bose is dead or alive;
- (b) if he is dead, whether he died in the plane crash, as alleged;
- (c) whether the ashes in the Japanese temple are ashes of Netaji;
- (d) whether he has died in any other manner at any other place and, if so, when and how;
- (e) if he is alive, in respect of his whereabouts.

(E) The Justice Mukherjee Commission of Inquiry, (JMCI), submitted its Report on 8th November, 2005 on the following terms of references and concluded the following:-

S. No.	Terms of reference	Conclusion of the Commission
A.	whether Netaji Subhas Chandra Bose is dead or alive;	Netaji Subhas Chandra Bose is dead;

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B.	if he is dead, whether he died in the plane crash, as alleged	He did not die in the plane crash, as alleged
C.	Whether the ashes in the Japanese Temple are ashes of Netaji;	The ashes in the Japanese temple are not of Netaji;
D.	Whether he has died in any other manner at any other place and, if so, when and how;	In the absence of any clinching evidence a positive answer cannot be given;
E.	If he is alive, in respect of his whereabouts.	Answer already given in (A) above.

The Commission also observed as under:-

"5.1.1 As regards the ancillary query (vide paragraph 3 of the Notification) the Commission is of the view – consequent upon its above findings – that in undertaking the scrutiny of publications touching upon the question of death or otherwise of Netaji, the Central Government can proceed on the basis that he is dead but did not die in the plane crash, as alleged".

(F) The report of the JMCI was examined in detail. It was found that the Commission's findings were inconclusive in many ways and it had not been able to provide definitive findings. The findings of the Justice Mukherjee Commission of Inquiry that Netaji did not die in the plane crash is based on non-availability of "clinching evidence". Shah Nawaz Committee of 1956 and Khosla Commission of 1970 also encountered the same predicament. They, therefore, relied on the oral evidence of the witnesses including those who were co-passengers of Netaji in the said ill-fated plane and came to the

Unsubstantiated



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conclusion that Netaji died in the plane crash on 18th August, 1945 and he was cremated in Taiwan Crematorium and his ashes were taken to Tokyo and preserved in the Renkoji Temple. The findings of Justice Mukherjee Commission of Inquiry, therefore, do not conclusively disprove the plane crash story in the face of overwhelming oral evidence, particularly of those who were co-passengers of Netaji and also the Doctors and staff of the Hospital where he was treated to severe and serious burn injuries sustained in the plane crash. The Government of India did not accept the conclusions of JMCI.

(G) The report of the JMCI was placed before both the Houses of Parliament along with the Action Taken Report (ATR) on 17th May, 2006 as per Section 3(4) of the Commissions of Inquiry Act, 1952. The relevant portion of the said ATR reads as follows:-

"2. The Government have examined the Report submitted by the Commission on 8th November, 2005 in detail and have not agreed with the findings that :-

- a) Netaji did not die in the plane crash; and
- b) The ashes in the Renkoji Temple were not of Netaji.

The Report was placed before the Houses of Parliament on 17-05-2006 as required under Sub-Section 4 of Section 3 of the Commissions of Inquiry Act, 1952".

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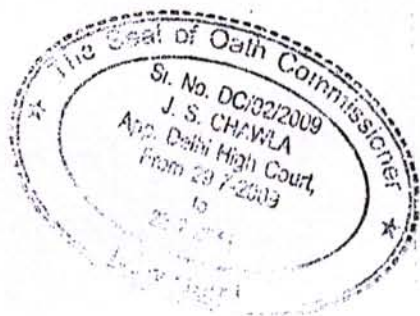


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(H) It would be seen that the Government has accepted the majority reports of the Committees / Commissions and there are no good reasons or evidence to indicate that Netaji did not die in the plane crash on 18th August, 1945. Though the Mukherjee Commission worked for 6 years and 7 months, it could not find any proof that Netaji Subhas Chandra Bose died in any other manner. Therefore, there is no reason for the Government of India to accept that the earlier two findings were incorrect. Further, it is always open to the Government of India to accept or reject the recommendations / findings of a Commission. The Commissions of Inquiry Act, 1952 Sub-Section-4 of Section-3 provides that the report of the Commission along with the ATR has to be placed before Parliament so that Parliament can take necessary action in the matter as it may be advised. No further directions were given by Parliament and, therefore, it is prayed that the matter may be treated as closed. The decision of the Government does not suffer from arbitrariness as there are good grounds as mentioned at Para-4(G) above for the Government not to accept the report of JMCI. It is emphasized that the report and findings of the Commission of Inquiry are meant for information of the Government. The decision of the Government does not suffer from an illegality or arbitrariness.

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4. With regard to averment made in Para 4(i) of the said affidavit, it is stated that those are extracts from the noting of PMO File No. 23(ii)/56-57 PM and are matter of record. These notings do not show what was done with the ashes. Presumably the family members of Netaji were to be consulted before ashes were to be brought to India and perhaps wanted it to bring ceremoniously.

5. With regard to averment made in Para 4(ii) of the said affidavit, it is stated that those are extracts from the noting of Ministry of External Affairs File No.25/4/NGO/Vol-2(LW-KW) and are matter of record. The Note of Shri T N Kaul dated 28.7.1955 appears to mention his personal view only and cannot be said to be the Government's opinion. This is supported by the Note dated 28.8.1990 of Meera Shankar, the then Director in PMO, which is reproduced below:

"Because there is a strong body of opinion which believes that the ashes in Tokyo are those of Netaji, even as there is an equally strong body of opinion which doubts this." (Annexure P/16 of the Supplementary Affidavit).

6. With regard to averment made in Para 4(iii) of the said affidavit, it is stated that these are extracts from the noting of Ministry of External Affairs File No.25/4/NGO/Vol-2(LW-KW) and are matter of record. The Notes stated to have been recorded by Shri A K Damadaran as Director of Finance, Govt. of India, it is stated that the said notes are not of Director Finance.

7. With regard to averment made in Para 4(IV) of the said affidavit, it is stated that those are extracts from the noting of Ministry of External Affairs File

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No.25/4/NGO/Vol-2(LW-KW) and are matter of record. The Notes are not dated 16.12.1996 as alleged but are of 16.12.1966.

8. With regard to averment made in Para 4(V) of the said affidavit, it is stated that those are extracts from the notings of Ministry of External Affairs File No.25/4/NGO/Vol-2(LW-KW) and are matter of record. The note dated 6.12.1973 recorded by Shri P K Budhwar, Deputy Secretary, Ministry of External Affairs clearly indicates that there has been two opinion at that time about the genuineness of the ashes of Netaji Subhas Chandra Bose. The Petitioner has resorted to pick and choose the text from the notings suitable to support his view.

9. With regard to averment made in Para 4(VII) of the said affidavit, it is stated that those are extracts from the noting of PMO File No.G-12(3)/98-NGO and are matter of record. This is an Internal Note prepared on the basis of the letter received by the Private Secretary to PM for his information.

10. I deny each and every allegation contained in paragraph 5 of the said affidavit save and except what are matters of record. I specifically deny the allegation that Government of India has granted any clearance to any non Govt. Organization to bring the ashes kept in Renkoji Temple. It is stated that as per information available with Ministry of External Affairs, the Government of India has not granted any clearance to any Non Government Organization to bring the ashes kept in the Renkoji Temple. It is stated that as per information available with Ministry of External Affairs, the Government of India has not granted any clearance to any Non Government Organization to bring the ashes kept in

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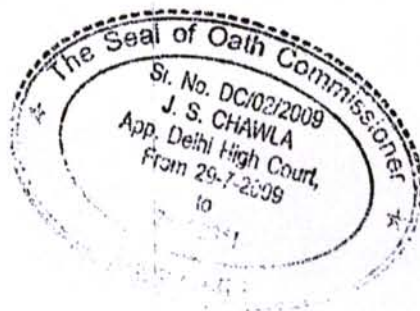
Renkoji Temple in Tokyo to India. The news circulated in Times of India (Pune edition) of August 18, 2010 is factually incorrect.

11. I deny each and every allegation contained in paragraph 6 of the said affidavit save and except what are matters of record. I specifically deny each allegation of afterthought devise or of any mischievous intention in establishing that Netaji Subhas Chandra Bose had died in air crash it is stated that Ministry of External Affairs in the Govt. of India is of the view that the ashes kept in Renkoji Temple are that of Netaji Subhas Chandra Bose.

12. With regard to submission and allegation made in paragraph 7 of the said affidavit it is stated that same is baseless and on surmises and conjectures. It is stated that Ministry of External Affairs has not received any request to bring the ashes of Netaji to India and the Government does not propose to issue any clearance to any NGO in this regard.

13. With a reference to the submission made in paragraph 8 of the said affidavit it is submitted that the said supplementary affidavit and the prayer made there in by petitioner is devoid of any merit or substance and it should be rejected by This Hon'ble Court.

Leet Khabb



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(Handwritten initials)

14. The statement contained in paragraph 1 to 11 are based on information derived from record and those contained in paragraphs 12 and 13 are humble submission before This Hon'ble Court.

Solemnly affirmed by the said..... **15 APR 2011**

In the Court house on the day of April, 2011.

Before me
Commissioner

(Handwritten signature)

श्रीमती ललित प्रभा श्रीवास्तव
Smt. L. P. SHrivASTAVA
अवर सचिव
Under Secretary
मुख्य सचिवालय
Ministry of Home Affairs
भारत सरकार
Govt. of India

(Handwritten) Identify the deponent who has signed/put T.I. in my Presence



CERTIFIED THAT THE DEPONENT
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S/o W/o D/o..... *(Handwritten)*
R/o..... *(Handwritten)*
Identified by Shri/Smt..... *(Handwritten)*
Solemnly affirmed before me at
Delhi on..... *(Handwritten)*
Sl. No..... *(Handwritten)*
the affidavit which has been read
over and explained to him are true
and correct to my knowledge
Oath Commissioner New Delhi

15 APR 2011



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W.P. No.2003 of 2006

IN THE HIGH COURT AT CALCUTTA

CONSTITUTIONAL WRIT JURISDICTION

Original Side

In the matter of:

An application under Article 226 of the

Constitution of India:

In the matter of:

Shri Rudra Jyoti Bhattacharjee & Ors

.....Petitioners

Versus

Union of India & Ors

.....Respondents

Affidavit-in-opposition to supplementary
affidavit of writ Petition No.2

SENDING REPORT

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By Speed Post

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To

जारी किया
ISSUED
25 APR 2011
हस्ताक्षर/Inits.
प्र. सं. 7-139/2011

No.12014/5/2007-Cdn.
Government of India
Ministry of Home Affairs
IS- II Division

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi,
Dated the 21st April, 2011

Shri Farook M. Razack,
Learned Additional Solicitor General of India
19, Balu Hakak Lane, Park Circus,
Kolkata - 700 007.

25 APR 2011

Sub : W.P No.2003/06 - Rudrajyoti Bhattacharya Vs. UOI
(Matter relating to Subhas Chandra Bose)

Sir,

The undersigned is directed to invite attention to your letter dated 5.4.2011 and to furnish the following instructions in the matter in the light of the order passed by the Hon'ble High Court of Calcutta.

"The Justice Mukherjee Commission has already gone into the details with regard to the DNA test of the Ashes and an exclusive para on this issue has been devoted as para 2.8 of the report (Volume-1). A chronological events on the issue of DNA test has been prepared from this detailed chapter recommended by the Justice Mukherjee Commission of Inquiry and a copy is enclosed.

As may be seen from the above, the Commission has taken all possible steps to undertake DNA test of the ashes through the various Govt. Agencies and also in consultation with various Laboratories and Experts in the field at home and abroad and also with Ministry of External Affairs and the Indian Embassy in Japan. The Commission after corroborating all the inputs, had come to the

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conclusion that inputs and reports from different experts from home and abroad practically projected a bleak prospect of a DNA Test. The Commission therefore considered a faint possibility of the DNA testing as indicated by Centre for Cellular and Molecular Biology (CCMB) Hyderabad. The Commission made efforts to persuade the Renkoji Temple Authorities, through MEA to allow physical inspection and collection of potentially less charred bone pieces from the casket lying in their Custody. Due to the Temple Authority's reticence, the Commission could not proceed further in the matter."

2. Based on the above points and the chronological events, it is requested that Learned ASG may kindly arrange to prepare an appropriate Affidavit / Prayer to be placed before Hon'ble High Court of Calcutta before the hearing on 29.4.2011. It is also specifically conveyed that in view of the efforts already taken up by the Justice Mukherjee Commission, there is no need now for sending the ashes kept in Renkoji Temple in Japan for any further forensic examination as it would open up contentious issues.

Yours faithfully,

(K. Muralidharan)
Deputy Secretary to the Govt. of India
Tel.:24617196

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REGARDING DNA TEST OF THE ASHES OF NETAJI SUBHAS CHANDRA BOSE – CHRONOLOGICAL EVENTS

SNo.	Date	Events	Remarks
1.	16.9.2002	Visit of Justice Mukherjee Commission of Inquiry to Renkoji Temple, Tokyo, Japan and discussion with the Chief Priest of the temple to ascertain whether there were any bones in the ashes which could, if possible, be subjected to DNA test.	Being holiday in Japan on 16.9.2002, the Glass Chamber could not be opened. The Indian Ambassador in Japan was requested by the Commission to depute a competent representative of his Embassy to inspect the ashes and report the matter.
2.	24.10.2002	Shri C. Rajasekhar, First Secretary and Mr. T. Armstrong Changsan, Second Secretary of Indian Embassy opened the Casket in the presence of Chief Priest and his wife, examined the contents and took photographs and a joint report was sent to the Justice Mukherjee Commission along with photographs.	
3.	5.12.2002	The Commission wrote to Director, Centre for Cellular and Molecular Biology (CCMB) and Director, Centre for DNA Fingerprinting and Diagnostics at Hyderabad to let them know whether DNA test could be conducted on the bones found in the ashes.	

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4.	10.12.2002	Director, CCMB informed that if the bones were collected from burnt ashes it would not be possible to isolate DNA from the bones for DNA test, as DNA would have been completely destroyed.	Director, CCMB also conveyed that Special Laboratory facility is required for conducting the proposed DNA test not available in India at that time.
5.	17.12.2002 & 23.12.2002	The Commission requested Indian Embassy in Japan to get the bones lying at the Renkoji Temple examined afresh, preferably by an Expert and whether the DNA test is possible.	
6.	27.12.2002	The Embassy assured that they would solicit the services of an Expert and furnish the opinion to the Commission.	
7.		The Commission suo moto wrote to Director, Department of Genetics, Max Planck Institute for Evolutionary Anthropology, Licipzig, Germany to know about the feasibility of the DNA test of the ashes kept in Renkoji Temple.	
8.	2.1.2003	Dr. Paabo expressed his ability to undertake this test and advised the Commission to contact Prof. Mark Stoneking or Prof. Sir Alec Jeffreys of the Department of Genetics at the university of Leicester, (U.K).	

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9.	21.1.2003	Mr Terry Melton informed the Commission that cremated remains are very unlikely to give a DNA profile.		
10.	27.1.2003	The Commission informed MEA to furnish the details of National Forensic Laboratory in U.K.		
11.	26.3.2003	MEA replied that they have sought advice of Home Ministry.		
12.	13.8.2003	MHA informed the Commission to take its own decision regarding holding of anthropological evaluation for determining the feasibility of DNA test and selection of Expert for this purpose.		
13.	31.5.2004	The Renkoji Temple Authorities based on MEA's letter dated 31.5.2004 had given their assent to a DNA test being conducted on the ashes kept in their custody subject to fulfillment of certain conditions.		
14.	6.5.2004	The Commission wrote to Director, CCMB, Hyderabad to furnish the names and particulars of 3 Japanese Scientists to get a successful DNA test done on the ashes kept in the Renkoji Temple. Director, CCMB		

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		recommended the names of Prof. Saitou Naruya for carrying out test.	
15.	26.5.2004	The Commission wrote Prof. Saitou Naruya about the feasibility of undertaking DNA test.	
16.	11.6.2004	Prof. Naruya conveyed that the DNA examination from such ash is usually impossible because of critical damage to DNA and other biomolecules when a dead human body is burnt into ashes.	
17.	17.6.2004	The Commission accepted the conditions and wrote to MEA on 17.6.2004 to conduct the DNA test on the terms and conditions.	
18.	21.6.2004	The Commission forwarded the photographs and requested to furnish his opinion about the feasibility of DNA test.	
19.	16.7.2004	Prof. Naruya informed the Commission that it was unlikely to extract DNA test from the bones as shown in the photographs. He also desired that a Specialist on Forensic Science may examine the issue.	
20.	20.7.2004	The Commission accorded permission as asked by Prof. Naruya and entrusted the job to Dr. Yamamoto, a Forensic DNA Expert of Nagoya	

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		University Japan.	
21.	23.7.2004	Prof. Naruya commended that since all bones and teeth as shown in the photograph having received high heat, there was almost no possibility to obtain DNA from the bone materials.	
22.	3.11.2004	The Commission approached Director CCMB Hyderabad for re-examination and second opinion.	
	3.11.2004	The Director CCMB after analyzing the photographs opined that the photographs showed existence of completely burnt bones leaving very little hope for the survival of DNA and possible isolation of DNA for the purpose of establishing the identity of the deceased. He advised that services of a Molecular Biologist may be taken.	This necessitated permission to be given by the Renkoji Temple to a Scientist for the collection of the charred pieces of bones from the contents of the urn kept in the temple.
23.	9.11.2004	The Commission wrote to MEA to let them know whether the Renkoji Temple Authorities would accede to a request of allowing an Expert to be deputed by the Commission to sort out potentially less charred bone pieces.	
24.	2.5.2005	After six months the Commission received a communication from MEA conveying that Indian Mission in Japan has made a formal request to the Head Priest of Renkoji Temple for accessing a technical person to select less charred bone pieces.	The specific approval from the Head Priest was not received.

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25.	20.5.2005	The Commission again wrote to MEA to persuade the temple authorities to accord their consent. The Commission had been sending reminders to MEA and copies endorsed to MHA. The Commission therefore could not proceed further and the Commission came to the conclusion that as regard DNA test of ashes is concerned the report received by the Commission from different Experts from home and abroad practically projected a bleak prospect.	On account of temple authorities' reticence the Commission could not proceed further in the matter. It may be observed that all the Concerned Authorities concern with this issue was completely alive to the issue and made their best efforts to conduct the DNA Test of the ashes.
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R + I to issue please

By Speed Post

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To



No.12014/5/2007-Cdn.
Government of India
Ministry of Home Affairs
IS- II Division

Lok Nayak Bhavan, 9th floor, 'C' Wing,
Room No.8, New Delhi,
Dated the 21st April, 2011

Shri Parook M. Razack,
Learned Additional Solicitor General of India
19, Bahu Hakak Lane, Park Circus,
Kolkata - 700 007.

**Sub : W.P No.2003/06 - Rudrajyoti Bhattacharya Vs. UOI
(Matter relating to Subhas Chandra Bose)**

Sir,

The undersigned is directed to invite attention to your letter dated 5.4.2011 and to furnish the following instructions in the matter in the light of the order passed by the Hon'ble High Court of Calcutta.

"The Justice Mukherjee Commission has already gone into the details with regard to the DNA test of the Ashes and an exclusive para on this issue has been devoted as para 2.8 of the report (Volume-1). A chronological events on the issue of DNA test has been prepared from this detailed chapter recommended by the Justice Mukherjee Commission of Inquiry and a copy is enclosed.

As may be seen from the above, the Commission has taken all possible steps to undertake DNA test of the ashes through the various Govt. Agencies and also in consultation with various Laboratories and Experts in the field at home and abroad and also with Ministry of External Affairs and the Indian Embassy in Japan. The Commission after corroborating all the inputs had come to the

Vigyan Bhawan Annexe, New Delhi
Dated, the 13th January, 2011

OFFICE MEMORANDUM

Subject: Writ Petition filed in Calcutta High Court regarding the alleged disappearance of Netaji Subhas Chandra Bose.

The undersigned is to refer to the Ministry of Home Affairs OM. No. I-12014/5/2007-Cdn dated the 10th January, 2011 on the subject mentioned above and to say that the Ministry of Culture only provides financial assistance to voluntary organizations for centenary/jubilee year anniversaries' celebrations and for maintenance & development of memorials. As regards this specific issue regarding grant of approval for bringing the ashes that are currently in Tokyo's Netaji Subhas Chandra Memorial is concerned, it is informed that no such permission has been given by this Ministry at any time.

Kanwar Sameer Lather

(Kanwar Sameer Lather)
Deputy Secretary to the Govt. of India
Tel No. 23022041

✓
Shri K. Muralidharan
Deputy Secretary (S)
Ministry of Home Affairs
Internal Security, II Division
Room No. 8, 9th Floor, 'C' Wing
Lok Nayak Bhavan, New Delhi.

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F.No.402/Home/06/Lit.II
Govt. of India
Ministry of Law and Justice
Deptt. Of Legal Affairs, Branch Secretariat,
11, Strand Road, 2nd floor (Middle Row Bldg.,)
Kolkata-700 001

Dated the 13th April, 2011

To
The Secretary,
(Attention: Shri K. Muralidharan,
Deputy Secretary to the Govt. of India),
Ministry of Home Affairs, IS-II Division,
Lok Nayak Bhavan, 9th floor, C Wing, Room No.8,
NEW DELHI

Sub: W.P.NO.2003 of 2006
Sri Rudrajyoti Bhattacharjee &Ors -vs- Union of India&Ors

Sir,

This has reference to your letter being No.12014/12/2007-Cdn dated 4th/7th March, 2011.

Our Litigation file related to the above mentioned Writ Petition does not reflect anything about the engagement of Shri Tarakeswar Pal, Advocate either in the Litigation matter or to appear before Justice Mukherjee Commission of Inquiry (JMCI).

In fact, this Law Ministry engages Counsel or Advocate only on a reference made either by the party or by the concerned Deptt.. Hence, you are requested to check at your level whether at any point of time, any reference was made to this Law Ministry for engagement of any Counsel to appear before Justice Mukherjee Commission of Inquiry (JMCI). The detailed particulars, if any, may enable this office to look into the matter further.

Yours faithfully,

[Handwritten signature]

(S.S.Sarker)

Additional Govt.Advocate/Incharge

M. Paul 09

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No.F.15(9)/2010-ME
Government of India
ME-Section

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94-A, Parliament House,
New Delhi

Dated: 23/5/2011

OFFICE MEMORANDUM

**Subject: Calcutta High Court-discussion on 3 WPs No. 2003/2006, 27541/2006
and 8251/2008 on the disappearance of Netaji Subhash Chandra Bose.**

The undersigned is directed to refer to the IS-II Division, Ministry of Home Affairs' O.M. No.12014/5/2007-Cdn. dated 4th April, 2011 on the above subject and to state that the Lok Sabha Secretariat have intimated that as the question posed by the Hon'ble Court involves interpretation of Constitutional provisions, the Ministry of Home Affairs may be requested to consult the Ministry of Law on this issue. A copy of the Lok Sabha Secretariat U.O. No. 18/5(1)/2011/L-I dated 29/4/2011 is enclosed for ready reference.

[Handwritten signature]

(H.L. Negi)

Deputy Secretary to the Govt. of India
Tel: 23034844

Ministry of Home Affairs,
IS-II Division,
(Shri K. Muralidharan, Deputy Secretary),
Lok Nayak Bhavan, 9th Floor, 'C' Wing,
Room No.-8, New Delhi.

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LOK SABHA SECRETARIAT
(Legislative Branch-I)

SUBJECT: WP No. 8215(W)/08-Shri Subhash Chandra Basu & Ors. Vs UOI in the High Court at Calcutta reg: reappointment or reopening of Mukherjee Commission to complete and/or conduct further enquiry into the alleged death or disappearance of Netaji Subhash Chandra Bose.

The undersigned is directed to refer to the Ministry of Parliamentary Affairs OM dated 15.4.2011 on the above subject and to state that as the question posed by the Hon'ble Court involves interpretation of constitutional provisions, the Ministry of Home Affairs may be requested to consult the Ministry of Law on this issue.

Naval K. Verma
29.4.2011
(NAVAL K. VERMA)
DEPUTY SECRETARY
Tel. 23034873

Ministry of Parliamentary Affairs (Shri Devashis Bose, Under Secretary)

L.S.S. U.O. No. 18/5(1)/2011/L-I,

dated 29.4.2011

29.04.2011
S.O. (STC)
29/4/11
Sh. Anirash

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03-5-2011

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ANNEXURE-P-23

Ors vs Union Of India Along With W.P. No. ... on 19 September, 2013

Calcutta High Court
Calcutta High Court
Ors vs Union Of India Along With W.P. No. ... on 19 September, 2013
Author: Banerjee
Form No. J.(2)

IN THE HIGH COURT AT CALCUTTA

Civil Appellate Jurisdiction

Original Side

Present :

The Hon'ble Mr. Justice Ashim Kumar Banerjee And

The Hon'ble Justice Dr. Mrinal Kanti Chaudhuri W.P. No. 2003 of 2006

SHRI RUDRA JYOTI BHATTACHARJEE & ORS.

VS.

UNION OF INDIA

ALONG WITH

W.P. No. 27541 (W) of 2006

ASHIM KR. GANGULY & ANR.

VS.

UNION OF INDIA

AND

W.P. No. 8215 (W) of 2008

SUBHAS CHANDRA BOSE

VS.

UNION OF INDIA & ANR.

For the Appellants : Mr. Keshav Bhattacharjee, Advocate (in WP 2003/06) Mr. Jagabandhu Ray, Advocate
Ms. Debjani Ghosal, Advocate

For the Appellants : Mr. Ashim Kumar Ganguly, (In person) (in WP 27541 (W)/06)

For the Appellants : Mr. Subhas Chandra Bose, (In person) (in WP 8215 (W)/08)

(409)

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Ors vs Union Of India Along With W.P. No. ... on 19 September, 2013

For added respondents : Mr. Rudrajyoti Bhattacharjee, Advocate (in WP 27541 (W)/06) Ms. Debjani Ghosal, Advocate For Union of India : Mr. R.N. Das, Senior Advocate Mr. Somenath Bose, Advocate

Mr. Md. Nizammudin, Advocate

Mr. Ashis Kr. Roy, Advocate

Heard on : August 19, 21, 22, 29 and September 3, 2013.

Judgment on : September 19, 2013. ASHIM KUMAR BANERJEE, J.

PREFACE :

Indian freedom struggle passed through violent and non-violent movement from time to time. We do not wish to enter into a debate, who should be given the credit for our freedom, the non-violent movement under the leadership of the father of the nation or the violent one. If people would like to give credit to the non-violent movement they would have sound logic behind it. Yet, no one could ignore the relentless fight of the youths of India to put the British administration in difficulty many a times through violent movement, rather it was a fall out of continuous oppression and torture that the British administration inflicted on our predecessor. Netaji Subhas Chandra Bose was one of the pioneers of our non-violent movement and ardent follower of the father of the nation. However, in 1939 he left the Congress and organized the Indian youth to fight out the British administration. The Second World War helped him in this regard when he joined the opposing force of British with his disciplined force commonly known as 'INA'. He left the country and went underground and fought the British from outside. We ultimately got freedom in 1947. Sixty-six years have passed thereafter. We feel ashamed, we do not know his whereabouts. By the long passage of time, any prudent man would agree, he is no more in this world. How did he die? What did he do since we last heard him on the Radio? Being the citizen of the world's largest democracy, each one of us has a birth right to ask the Government to let us know about him and how he died. Three Commissions could not answer the query, was the Government sincere? or despite their best efforts and sincerity they could not find out the cause. With this mindset, we proceed to dispose of the present litigation pertaining to our great Hero.

BACKDROP :

After the India became independent the democratic Government of the country appointed a Commission called 'Shah Nawaz Committee' in April 1956 to find out the whereabouts of Netaji. The 'Shah Nawaz Committee' could not effectively answer the reference. The Government again appointed 'Khosla Commission of enquiry' in 1970 to enquire into and report to the Government on the circumstances concerning the departure of Netaji from Bangkok on or about August 18, 1945 and reported death in the plane crash and the subsequent development thereto. The second Commission also failed to answer the reference. The Government did not proceed any further. This caused annoyance to the members of public. On January 22, 1992 the President of India decided to award Bharat Ratna to Netaji posthumously that created a tremendous discontent amongst the members of the public as the Government took Netaji to be dead. Sri Bijon Ghosh, an advocate of this Court filed a Public Interest Litigation that ultimately reached the Apex Court. The Apex Court however recorded the concession of the Central Government who ultimately dropped the idea of giving the posthumous award to Netaji. The Apex Court recorded, "since no further steps have been taken pursuant to the press communique and the matter is treated as closed, we declare that the press communique should be treated as cancelled". The Government had to backtrack and withdraw the notification. Subsequently, another Advocate of this Court Mr. Rudrajyoti Bhattacharjee along with another, filed Public Interest Litigation being WP No. 281 of 1998 inter alia praying for various directions on the alleged research being conducted by Netaji Research Bureau and for classification and disclosure of all documents relating to Netaji as also his nexus in the Second World War. The Division Bench of our Court disposed of the writ petition by directing the respondent administration to launch a vigorous enquiry in accordance with law by appointing a

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Ors vs Union Of India Along With W.P. No. ... on 19 September, 2013

Commission of Enquiry to find out whether he was dead or alive, and in case, he was dead, the cause of death as also to find out, whether the ashes that was kept at Renkoji Temple at Japan would belong to Netaji or not. The administration accepted the said order and appointed one- man enquiry Commission under the aegis of Monoj Kumar Mukherjee, a former Judge of the Apex Court to answer the following questions:

- (a) Whether Netaji Subhas Chandra Bose is dead or alive; (b) If he is dead, whether he died in the plane crash, as alleged; (c) Whether the ashes in the Japanese Temple are ashes of Netaji;
- (d) Whether he has died in any other manner at any other place and, if so, when & how;
- (e) If he is alive, in respect of his whereabouts. The Commission submitted its report on November 8, 2005. The detailed report in three volumes answered as follows : (a) Netaji Subhas Chandra Bose is dead;
- (b) He did not die in the plane crash, as alleged; (c) The ashes in the Japanese Temple are not of Netaji; (d) In absence of any clinching evidence a positive answer cannot be given; and
- (f) Answer already given in (a) above.

On May 16, 2006 the Ministry of Home Affairs, Government of India tabled the Action Taken Report on the report of the Commission, before the Parliament. The Action Taken Report would provide as follows :

"The Government have examined the Report submitted by the Commission on 8th November, 2005 in detail and have not agreed with the findings that -

(a) Netaji did not die in the plane crash; and (b) The ashes in the Renkoji Temple were not of Netaji." The matter would rest at that stage. The cause is still left unfound. The present three applications, which we heard, were the fall out in desperation.

PRESENT LIS :

WP 2003 of 2006

Mr. Rudrajyoti Bhattacharjee, an Advocate of this Court filed application in the nature of Public Interest Litigation inter alia praying for the following reliefs :

- "a) A Writ of and/or order or direction in the nature of mandamus commanding the respondents, its agents and subordinates to act in accordance to law and to rescind, recall and cancel the impugned Action Taken Report being Annexure "P/14" forthwith.
- b) To command the respondents to implement in particular the crucial and all-important findings reached by the Commission after an elaborate, indepth inquiry and/or probe by giving public hearing to all concerns that Netaji did not die on the 18th August 1945 as alleged and also the categorical findings that the alleged ashes of Netaji kept in the Renkoji Temple are not ashes of Netaji Subhas Chandra Bose should be implemented and acted upon.
- c) For a further declaration that all connected official records, papers books published by the Government, its agent or any other publications should be corrected strictly and scrupulously in terms of the Inquiry Commissions report;
- d) A writ of and/or order or directions in the nature of Certiorari requiring respondents to certify, transmit and produce all records relating to the enquiry into the disappearance of Netaji Subhas Chandra Bose; and to show cause as to why the order complained of should not be set aside and upon hearing the parties and perusing the

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records be pleased to quash the impugned Action Taken Report being Annexure "P/14". e) A writ of and/or order or direction in the nature of Prohibition restraining the respondents, its subordinates and agents from giving any effect or further effect to the impugned Action Taken Report being Annexure-"P/14".

f) A writ of and/or order or direction in the nature of Prohibition restraining the respondents, its subordinate and agents from allowing any person or persons to bring ashes, kept in the Renkoji Temple."

The Union of India filed affidavit-in-opposition through one Swapan Kumar Goswami, Under Secretary to the Ministry of Home Affairs affirmed on October 25, 2007 inter alia contending, the Government of India thoroughly examined the report of Mukherjee Commission and took the decision not to accept the findings as they were not based on firm grounds. The deponent also asserted, the Union of India acted in terms of the Commissions of Enquiry Act, 1952. He prayed for dismissal of the writ petition. In short, the Government did not offer any further enquiry to be made in this regard. The parties subsequently filed supplementary affidavits, last one was filed in September, 2010. In the supplementary affidavit the petitioner No. 2 Surojit Dasgupta contended, "the Parliament has no business to take decisions on Action Taken Report". In effect, the petitioners challenged the Action Taken Report. The Deputy Director, Rajya Sabha Secretariat vide office Memorandum dated August 21, 2008 informed, "since there was no Motion before the House to accept or reject the said ATR, the Secretariat has no comment to offer in the matter".

WP 27541 (W) OF 2006 :

Two other Advocates filed this Public Interest Litigation inter alia objecting to the money spent from the public exchequer for maintaining Renkoji Temple and the ashes preserved there, stated to be of Netaji, even after the Mukherjee Commission held, it would not belong to Netaji. The Central Government also filed affidavit in this matter. They also relied upon Action Taken Report and informed, "the Government of India is not spending any money to maintain the ashes kept in the Renkoji Temple, Tokyo". With regard to the other allegation of spending from public exchequer for research on Netaji, the deponent contended, "Netaji Research Bureau is an internationally known Institute of History, Politics and International Relations established in 1957. Netaji Research Bureau is celebrating its Golden Jubilee anniversary in the year 2007-2008. The Founder Director of Netaji Research Bureau Dr. Sisir Kumar Bose had collected materials on the life of his uncle Netaji Subhas Chandra Bose from all over the world for many decades. Apart from a very rich archives the Bureau has a museum and preserved rooms of Netaji which are visited by hundreds of people throughout the year. The Bureau has published 12 volumes of Netaji Subhas Chandra Bose's works. It has also produced documentaries and audio cassettes on him. The Bureau is engaged in preserving and propagating the life and works of Netaji Subhas Chandra Bose for the generations to come. It is run by a body of distinguished persons".

The deponent prayed for dismissal of the application. WP 8215 (W) OF 2008 :

The petitioner No. 2 in the second application filed this Public Interest Litigation with another Advocate of this Court inter alia praying for re-appointment or re-opening the Mukherjee Commission to have concrete answer in respect of Item No. (d) and (e) which remain unanswered. The Central Government also filed affidavit through Under Secretary, Ministry of Home Affairs inter alia contending, this issue was barred by the provision of Article 122 of the Constitution being in complete domain of the Parliament. This affidavit also relied upon Action Taken Report and its acceptance by both Houses of the Parliament. The affidavit would also suggest, the Commission worked for six and half years and the Government had to spend huge sum of money from the public exchequer on this count. Commenting on the report the deponent stated, "Justice Mukherjee Commission's Report, therefore, does not conclusively disprove the plane crash in the light of overwhelming oral evidence, particularly of those who were co-passengers of Netaji and also the doctors and staff of the Hospital where he was treated for third degree burn injuries sustained in the plane crash. It is submitted that Government of India, therefore, found it difficult to accept the conclusions of the Justice Mukherjee Commission of Enquiry". ARGUMENTS :

Mr. Ashim Kumar Ganguly, learned advocate argued in support of his petition being the second one. He would contend, once the Mukherjee Commission categorically answered, Netaji did not die in the plane crash, there was no reason why the public exchequer would be spent on the maintenance of Renkoji Temple and the ashes stated to be of Netaji.

Mr. Subhas Chandra Bose, learned advocate arguing in support of the third petition would contend, the report of Mukherjee Commission was inconclusive, hence, it was incumbent upon the Central Government to re-appoint or re-open the issue appointing another Commission by the same person or anyone else to find out definite answer on the issues left by the earlier Commission. Mr. Rudrajyoti Bhattacharjee, learned advocate representing the other petitioners being the added respondents in the third petition would support the petitioner's contentions.

Mr. Keshav Bhattacharjee, learned advocate argued in the first matter. He took immense pain to draw our attention to report of the Commission, its finding recorded therein and contended, even after the alleged plane crash Netaji was alive and the independent Government of the country was aware of the same. In this regard, he would refer to the documents collected by Mukherjee Commission and annexed to its report. In fact, Taiwan Government in their E-mail admitted, "we may not sure whether U.S. still hold the passenger lists of that crashed plane by the very limited information, but this is the most closest information we could gather after the most effort we did in this regard". In the said E-mail they admitted, there was no evidence to show that one plane had crashed carrying Netaji. He would also refer to pages 255-262 where the Chairman of the Mukherjee Commission submitted report on his visit to Taipai and Bangkok to show, he was not convinced with the alleged plane crash incident. He would also refer to the letter of the then Prime Minister of India appearing at page-33 of the petition that would quote a statement of Shyamlal Jain, Stenographer working for Jawharlal Nehru addressed to one Mr. Atlee,

"Dear Mr. Atlee,

I understand from most reliable source that Subhas Chandra Bose your War Criminal has been allowed by Stalin to enter into the Russian territory, which act of his is clear treachery and betrayal of faith, as Russia was an ally of the British and the America, Stalin should not have done so. This is just for your information and notice." This was recorded by Khosla Commission. He also contended, the Government of India was aware, there was no alleged plane crash on August 18, 1945 involving Netaji's death. The Taiwan Government carried out a detailed investigation and submitted a report to the Government to United Kingdom on May 23, 1956 that report was inspected by Mukherjee Commission which would show, there was no air crash involving Netaji. He would refer to the Radio Message of Netaji appearing at page 114A-B. Netaji's voice was broadcast on December 26, 1945, January 1, 1946 and February 1946. Commenting on the Action Taken Report, Mr. Bhattacharjee would contend, how the Home Minister himself could sign the report as would be appearing at the top of it at page-127 of the compilation. He prayed for suitable orders re-opening the entire issue so that the people of the country would know, what had actually happened to Netaji.

Per contra, Mr. R.N. Das, learned senior advocate appearing for the Union of India in all the three matters would refer to various provisions of the Commission of Enquiry Act and contend, once the report was placed in both Houses of the Parliament and the Action Taken Report was accepted, the Court would have hardly anything to do in the matter. He would contend, Action Taken Report once accepted by the Parliament, was no more available for judicial scrutiny. He would refer to the documents pertaining to tabling of the Action Taken Report before the Parliament. He would lastly contend, the Commission appointed under the said Act of 1952 was recommendatory in nature. It was nothing but a fact finding body without any power of adjudication or granting of relief. Mr. Somenath Bose, learned advocate also appearing for the Union of India would add, once the Parliament accepted the report and did not find anything wrong the Court would have hardly anything to do. The proceeding of the Parliament was protected from judicial scrutiny under Article 122 of the Constitution. On the Netaji Research Bureau, Mr. Basu would contend, Bureau was doing research job not only on this subject but also on other subjects too. Hence, it would not be proper to shut the

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organization or stop funding the same. Commenting on the evidence of Shyam Lal Jain, he would say, it had no evidentiary value in view of the provisions of Section 18 of the Evidence Act.

While replying, Mr. Subhas Chandra Bose would contend, Commission's power was not challenged in the writ petition. It was the Action Taken Report of the Government that would definitely come under the judicial scrutiny. In any event, the Action Taken Report being cryptic and devoid of reason, would certainly warrant interference. Joining him, Mr. Ashim Kumar Ganguly would contend, Netaji Research Bureau did not file any affidavit counter acting the allegations made against them.

Mr. Keshav Bhattacharjee, learned advocate while replying, dealt with the cases cited by Mr. Das. He would also contend, the Action Taken Report was challenged and not the Parliament proceeding, hence, Article 122 would have no application. He would sum up his argument, once the Action Taken Report did not disclose any reason subsequent affidavit supplementing reason would not cure the defect. The official stand of the Government was not known to the members of the public that must come up.

CASAES CITED :

1. All India Reporter 1999 Calcutta page-9 (Rudra Jyoti Bhattacharjee & Ors. Vs. Union of India & Ors.);
2. All India Reporter 1997 Supreme Court page-3019 (Union of India Vs. Bijan Ghosh & Ors.);
3. All India Reporter 1977 Volume-IV Supreme Court Cases page-608 (State of Karnataka Vs. Union of India & Anr.);
4. 2004 Volume-V Supreme Court Cases page-568 (State of Orissa Vs. Dhaniram Luhar);
5. All India Reporter 1978 Supreme Court page-851 (Mohinder Singh Gill & Anr. Vs. The Chief Election Commissioner, New Delhi);
6. 70 Calcutta Weekly Notes page-399 (Sahu Jain Ltd. Vs. Deputy Secretary & Ors.);
7. All India Reporter 1967 Supreme Court page-295 (Barium Chemicals Ltd. and Anr. Vs. Company Law Board and Ors.). The case of Barium Chemicals (supra) was relied upon on the sufficiency of reason. The case of State of Orissa (supra) was relied upon as to the scope of Court's interference on a cryptic order being devoid of reason. The decision in the case of Mohinder Singh Gill (supra) and Sahu Jain (supra) were cited on the issue as to how the definite assertion made in the case could be dealt with in the affidavit-in-opposition.

The above are well settled principles of law that would still hold the field. We need not deliberate further on the same. OUR VIEW :

We would be concerned with the appropriate provisions of the said Act of 1952 to Mr. R.N. Das find out our competence to deal with the issue. Section 3 would empower the Union of India or the State to appoint Commission of Enquiry for the purpose of making an enquiry into any definite matter of public importance and performing such functions and submit report before the Parliament or the Assembly as the case may be. As soon as the report would be submitted to the Government, the Government would lay the same before the Parliament and/or the Assembly as the case may be, together with the Action Taken Report on the same. The Mukherjee Commission was appointed under Section 3 of the said Act of 1952. The Mukherjee Commission submitted its report before the Government. Government placed the Action Taken Report before both Houses of Parliament. They accepted the same. Article 122 would prevent us from questioning the same through a judicial scrutiny. Hence, we are unhesitatingly of the opinion, the Mukherjee Commission report or the Action Taken Report on the same is not available to us for any judicial scrutiny. We are constrained to hold, the challenge to the Action Taken Report is not maintainable. It is unfortunate, even after sixty-six years of

independence we would not know how our leader being universally acclaimed, spent his last days. We would not know, how did he die. We would not know, where was he after he was last seen in early 1940s. Our Division Bench, in the earlier proceeding in the case of Rudra Jyoti Bhattacharjee (supra), categorically asked the Government to conduct a vigorous enquiry that the Central Government complied. We have nothing further to do on that score. In the case of State of Karnataka (supra) the State filed a suit in the Supreme Court for a declaration that the appointment of Commission by the Central Government was illegal and ultra vires on the ground, the said Act of 1952 did not authorize the Central Government to constitute such Commission. The Seven-Judge Bench, per majority, held, the suit maintainable and thereafter observed, the Central Government was quite competent under the said Act of 1952 to appoint such Commission and the suit was liable to be dismissed.

On the issue of expenditure on Renkoji Temple, we are of the view, once the Central Government by affidavit made it clear, they no more funded the maintenance of the said Temple of the ashes, no interference on this score is required. On the Netaji Research Bureau, it is common knowledge of all concerned, the Bureau is working on the Research. Without any plausible reason being shown, there could not be any direction for stoppage of the grant. While we hold, the petitioners in all the three petitions would not be entitled to any relief as claimed, we would still observe and express our hope and trust, the Central Government, in their wisdom, would certainly keep it in mind and would explore the possibility, if possible, to find out the answer on the issue which is a long cherished desire of the people of the country. In short, it is our earnest endeavour to observe, the issue must not be closed forever. The writ petitions are accordingly disposed of without any order as to costs.

Dr. Mrinal Kanti Chaudhuri, J:

I agree.

[ASHIM KUMAR BANERJEE, J.]

[DR. MRINAL KANTI CHAUDHURI, J.]