

Secret

फाइल संख्या 915/11/1/9/99 Pol.

File No.

खण्ड

Volume

I

भारत सरकार

GOVERNMENT OF INDIA

प्रधान मंत्री कार्यालय

PRIME MINISTER'S OFFICE

POLITICAL

अनुभाग/प्रभाग

SECTION/DIVISION

टिप्पणियां/पत्राचार

NOTES/CORRESPONDENCE

विषय

SUBJECT

NETAJI SUBHASH CHANDRA
BOSE.

DISAPPEARANCE/DEATH

SQUARY - Reg.

की सूचीफल की गई
Indexed on

आरम्भ
Initial

अभिलेख क/ख
Record A/B

अभिलेख में में भंग की जाए
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अनुभाषीय नोट बुक में में
To be noted in Sectional Note Book

Not to be noted

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(15) →



①/②

Bijan Ghosh

ADVOCATE
SUPREME COURT OF INDIA

SIX LAWYERS' CHAMBERS
SUPREME COURT BUILDINGS
NEW DELHI - 110 001
FAX OFF. 3782595
PHONE OFF. 3382078
3381007
RES. 8539044
8525525

Sinoh/c

Mr. L.K. Advani
Hon'ble Minister
Ministry of Home Affairs
104 North Block
New Delhi - 110 011.

March 27, 1999

①

**Sub: Fresh Judicial Inquiry into Netaji 'death'
And
White Paper w.r.t. Status of Netaji as a
International War Criminal.**

Dear Sir,

The undersigned came to know from newspaper that in a press conference on 25.03.99 the Home Minister announced intention of Govt to institute a fresh Judicial inquiry into the disappearance of Netaji Subhas Chandra Bose. The Inquiry Commission will be set up soon after Home Ministry's proposal gets a clearance from the Union Cabinet.

It is really surprising, how a democratic Govt. can institute a judicial inquiry under the Commissions of Inquiry Act, 1952, to inquire the whereabouts of a war criminal or in other words, to know & trace out the arrest-evading-stories of a war criminal.

Why He was declared a war criminal

Netaji was declared a war criminal by the United Nations at the end of World War II since He joined the Axis Camp and wanted a total defeat of the Allied Forces, and accordingly he submitted his strategic plan.
(India in Axis Strategy by Milan Hauner, German Historical Institute London).

Though He did it in order to achieve the freedom of His motherland but His decision could have shifted the fate of future humanity since India played the decisive role in the way of getting victory to Allied Forces.

The World War II was not simply a war between two groups of Nations, but a battle between light and darkness, democracy and fascism, victory of civilization or abyss.

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PRL, SECY. to PM,

DY. No. 291/P/99

Date 1-4-99

Office of J. B. (J)

Dy. No. 789-62

Date 3/4/99

790/Dir(v) 99
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JS(S)
20/4/99
To MHA
Dr. S. M.
he (P)
P-III
msd
5/4/99

As it was considered that victory to Axis Camp would endangered future of humanity, thus the persons of potentiality who joined Axis Camp or main partners of Axis Camp, were declared war criminals irrespective of the fact whether they committed crimes during war upon the prisoners of war and/or the civilian victims.

Collaborating Axis Camp, in one way or the other, was treated as a crime against humanity and future of humanity, thus a war crime. Who commits a war crime is a war criminal.

Netaji was bracketed with Axis Power and for that reason he was declared a war criminal by United Nations which is, till date, holding the field.

Initially time limit for arrest and trial of war criminals was 30 years which was subsequently ratified in 1971, whereby limitation of time-bar was withdrawn and India was one of the signatories of that Ratification Treaty regarding arrest and trial of War Criminal. (This is a matter of record of U.N. documents).

Had India had no war criminals, why she was a signatory to the ratification treaty (U.N.s) regarding arrest & trial of war criminals declared by U.N. in 1945 ?

Rightly or wrongly He was declared a war criminal, but as long as that declaration remains, He is a war criminal.

[Ref: U.N.s Secretary General's letter to Admiral Goyal (Retd)]

Govt. Of India should take all steps to remove His name from the war criminal list maintained by United Nations.

This work is very difficult since Govt. Of India entered into International Agreement and signed United Nations Treaty in making Him a war criminal and promise bound to arrest Him and hand him over for trial as war criminal, if he is found in India.

Citizenship of Bose

As per the Internationally accepted provisions, trial of a war criminal will be held in that country, where he belongs by virtue of being a citizen, since there is no International sovereignty, but State Sovereignty. Permanent International Military Tribunal has not yet been established for trial of a war criminal.

As per Constitution of India, Part- II, Netaji is not a citizen of India.

The question of " handing his over " for trial as war criminal arises, since he can not be tried in India, as he is not a citizen of India.

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Can a Judicial Inquiry be instituted by the Govt. Of India under the Commissions of Inquiry Act, w.r.t. a person who is not a citizen of India ?

Indian laws are applicable to citizens of India only and not to them who are not citizens of India.

Transfer Of Power

It is evident from the British official documents of Transfer of Power, 1942 - 47 that he was declared a war criminal, only a censored edition (in 12 vols.) of which has been published by Britishers in 1971 (on wards) and Britain alone is in possession of those documents though India was one of the party to that transfer .

Power was transferred to India under an Agreement, but India does not have copy of full text of that instrument !

The entire text of Transfer Of Power have not yet been published, although it was initially agreed that the full text of Transfer Of Power will be published in 1999. (Constitutional Law of India, Supplement , 3rd Edition by H.M.Seervai pg.18) .

The main reason for not yet publishing the entire text of Transfer of Power is , Netaji was declared a war criminal with the knowledge and consent of Congress High Commands and there was agreement between the Congress and / or Govt. of India in one hand and the British Govt. on the other hand , which was one of the conditions of Transferring Power to Indians , that if Netaji is found on Indian soil he will be arrested and handed over for trial as a war criminal .

Govt of India has not yet taken any step to procure and publish the entire text of documents of Transfer Of Power 1942-47, though we are celebrating 50 years of Independence.

What we call 'India wins Independence ' is nothing but transferring power from Britishers to Indians.

In the absence of entire documents of Transfer Of Power 1942-47, no fruitful , effective and truthful inquiry could be conducted w.r.t. the causes of disappearance of Netaji and tracing his whereabouts.

No inquiry will be needed in this regard if the entire text of Transfer of Power is faithfully and truthful published .

Earlier Inquiry Committee and Commission

An Inquiry Committee was instituted in 1956 (commonly known as Shahnawaz Committee), though Commissions of Inquiry Act, 1952 was available to the Govt. of India, inter alia, to enquire about the facts and circumstances of disappearance of Netaji after 18th August, 1945. The question, Netaji being a war criminal, was vehemently raised by so many persons before the Committee amongst whom H.M.V.Thaver was the most prominent and vocal, but the committee altogether evaded such questions.

An Inquiry Commission was instituted in 1970, (commonly known as Khosla Commission), during pendency of that Commission, India ratified the war criminal treaty (11.01.71), which question was raised before the Commission by Mr. Niharendu Dutta Majumdar, a close associate of Netaji, but only evasive answer was given.

Before the Parliament, this question was raised several times but as usual evasive answers only were given.

The report of Khosla Commission was placed before the table together with Memorandum of Actions taken thereon and the Govt. accepted that report. This fact of accepting the report and memorandum of action taken, were stated by the UoI on affidavit before the Court in the Writ Petition filed by the undersigned, Bijan Ghosh -vs- UoI & Ors., challenging the posthumous 'Bharat Ratna' awarded upon Netaji in 1992 (decided in favor of writ petitioner by the Supreme Court, reported in AIR 1997 Supreme Court 3019.)

So, how a second Inquiry Commission could be instituted on the same subject, particularly when the report and Memorandum of action taken, were accepted by the Govt. ?

Dissentient Report

A dissentient report was submitted to Netaji Inquiry Committee Report by one of the members of the Committee who happened to be Netaji's elder brother, Suresh Chandra Bose, at page 11 of the report it is recorded " ALSO BECAUSE HE HAD BEEN DECLARED AN INTERNATIONAL WAR CRIMINAL " .

The fact that Netaji was declared an International War Criminal was known to every concerned persons but Govt. Of India all along tried to mislead the Country and the other population of the World in this regard.

To tell a lie to the Nation, no Inquiry Commission is required .

Report of Initial Field Inquiries

Just after the surrender of Japan, more than four independent and separate teams were commissioned to inquire and arrest Netaji from South East Asia. All these are matter of records. Four of them were under Wavell, Mountbatten, MacArther, Nehru respectively. Final Report of all such inquiries were indefinite.

Why so many teams of inquiries ?

Why they were sent to arrest him, or to know His whereabouts ?

Why a definite information about death or disappearance of Netaji was so important to U.K. or U.S.A., who got victory ?

The only answer is , war criminal.

Is Govt Of India willing or in a position to publish the reports of those Inquiries ?

If it is done , that will serve the whole purpose of instituting another Judicial Inquiry .

Classified Documents

About 9000 files pertaining to Netaji and INA were made Classified by British Government and carrying that British legacy, India Government maintained those files as Classified.

Only in February , 1998, about 987 files were down graded to Declassified and now kept in National Archives . Even the manuscript of " History of INA " , written by Dr. Pratul Chandra Gupta, is still a Classified Document.

Why all such important files, which are mines of information about Netaji and His activities, were marked as 'Top Secret' and/or made Classified ?

Why rest of the files have not yet been made Declassified ?

Unless and until all such files and all other information pertaining to Netaji and INA are made declassified and made accessible to Public , no such Judicial Inquiry could be made.

" A matter of Public Importance " can not be Secret and/or Classified information .

Why not Inquiry about death of Shyama Prasad

When Govt of India is thinking to have a fresh probe about a fact of 55 years back, when why not of a fact which is about 50 years back, the mysterious death of Shyama Prasad Mookerjee?

His death was not related to Kashmir Issue but Netaji.

Netaji wanted to enter India via Chitral, Gilgit (which files are till date Classified, some are lying at National Archives).

Netaji wanted to discuss that matter and sought assistance of Shyama Prasad for an help from within India, which was the cause of death of Shyama Prasad.

One may call it a wishful thinking, but there is no doubt that Govt., for a definite reason only, did not appoint any Commission to know the causes and facts & circumstances leading to arrest, detention and death of Shyama Prasad Mookherjee.

Causes of Disappearance of Netaji

There cannot be any causes for disappearance of an Indian leader at the conclusion of W.W.-II and His subsequent non-reappearance, (whom Gandhiji hailed as " Patriot of Patriots, the Prince of Patriots " and His country men regard Him as the main architect of freedom struggle) other than the sole cause that he was declared a war criminal by the United Nations and He is a war criminal still now.

To evade arrest and trial as a war criminal, He disappeared under the camouflage of a death news and that is the only reason for His non-reappearance.

There is no mystery about his disappearance but the only mystery, the way Govt. of India is suppressing the truth about Netaji.

Public Purpose

Nation will not gain by knowing under what camouflage a war criminal hides out or what mysterious stories were given out by Him in order to go underground. Nation will be benefited with befitting dignity if a positive step is taken to remove His name prospectively, if not retrospectively, from the war criminal list prepared by the United Nations at the end of World War II.

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Incorrect Statement

The Minister of Home Affairs made a totally incorrect statement that Netaji's name was not included in the list of war criminals. It is immaterial whether a country declare Him a war criminal or not but it is material whether He was declared a war criminal by United Nations or India was under agreement with any country to hand Him over in the even he is found in Indian Soil for trial as a war criminal.

The United Nations do not furnish any such information to any individual but only to a country, since the countries are the members of the United Nations.

If the Govt. of India has any doubt, they should request the United Nations to furnish information about Netaji's status as an International War Criminal.

Further, Govt of India may write to U.K. and U.S.A. to give a categorical answer whether there was any agreement with them and the Indian Congress leaders and/or Govt. of India w.r.t. arrest and trial of Netaji as a War Criminal.

White Paper

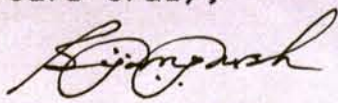
Before instituting any further Judicial Inquiry or any other Inquiry, the Govt. of India is bound to publish a White Paper on

- (a) the present status of Netaji as an International War Criminal, as declared after the World War II, qua United Nations' documents;
- (b) the existence or absence of any agreement w.r.t. arrest and handing over of Netaji, if he is found in Indian soil for his trial as a war criminal.

In these premises, Govt. of India cannot institute a fresh Judicial Inquiry, as proposed by Ministry of Home Affairs on 25.03.99.

Should you the fail to comply with this Legal Notice, I shall move before the Court of Law without any further notice.

Thank you.
Yours truly,


(bijan ghosh)

cc: The Principal Secretary to the Prime Minister
Govt. of India, South Block, New Delhi.

प्रधान मंत्री कार्यालय
PRIME MINISTER'S OFFICE

2/c (8)

नई दिल्ली-110 011

New Delhi-110 011

**Subject : Fresh Judicial Inquiry into Netaji
Subhas Chandra Bose's disappearance/
death.**

1/c
Enclosed please find a copy of letter
dated 27-3-1999 from Sh. Bijan Ghosh, Advocate on
the subject mentioned above for action as
appropriate.

Rashmi Verma
[Rashmi Verma]
Director

o/c
Home Secretary, MHA.

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dated 7-4-1999

PMO u.o. NO. 915/11/C/9/99-Pol

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**SECRET/MOST IMMEDIATE
OUT TODAY**



संयुक्त सचिव
JOINT SECRETARY

**SANGITA GAIROLA
JOINT SECRETARY (IS-I)
Tel: 301 5736**

भारत सरकार
GOVERNMENT OF INDIA
गृह मंत्रालय
MINISTRY OF HOME AFFAIRS

S/NO3/C

D.O. No. VI/11034/18/98-D.III

March 12, 1999

Dear Sir,

As you may be aware, the Calcutta High Court in its judgement dated 30th April, 1998 on a Writ Petition No.281 of 1998 filed by one Shri Rudra Jyoti Bhattacharjee and Another Vs. Union of India & Others in the form of a public interest litigation has directed that the Central Government shall launch a vigorous enquiry into the disappearance of Netaji Subhas Chandra Bose. A copy of the judgement is enclosed.

The Government proposes to examine all aspects relating to the nature and mechanism of the new enquiry. Towards this end the Union Home Minister has convened a meeting on **24th of March, 1999** at **12.00 P.M. in his Chamber in North Block, Ministry of Home Affairs, New Delhi**, to elicit the considered views of eminent opinion makers like you.

I shall, therefore, be grateful, if you kindly make it convenient to attend the meeting.

Yours sincerely,

Sangita Gairola
(Sangita Gairola)

Shri Brajesh Mishra,
Principal Secretary to PM,
Prime Minister's Office,
South Block,
New Delhi.

By No. 197-S
Date 7/4/99

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with regards,

PR SECY to PM. 7/4
DY No. 532-S/99
Date 12/3/99

→ 4/C



34-25-45

W.P.No. 281 of 1998

In the High Court at Calcutta
Constitutional Writ Jurisdiction

Original side

present :

The Hon'ble Mr. Prabhakar Shanker Mishra, Chief Justice

and

The Hon'ble Justice B. Bhattacharya

Rudra Jyoti Bhattacharjee & Anr.

versus

Union of India & Ors.

(public Interest litigation matter)

Judgement on : April 30, 1998.

Prabha Shanker Mishra, C.J.:

It is difficult for us to pick up the threads to have any well-knit statement of fact from the contents of the instant petition yet, after our several attempts and after hearing the petitioner in person and the learned advocate representing the respondents no. 1 to 4, we have been able to gather some bits from here and some bits from there to have some comprehension of the narration in the petition.

The Asiatic Society, Calcutta is impleaded as one of the respondents. We do not, however, find any reason why any prerogative order and/or direction be issued or made against the Society. Since, in our view, the Society is not a necessary party, we are not persuaded to issue any notice to it, name of the 5th respondent is accordingly deleted and expurgated.

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S. Bhattacharya.

WP. 281/98

3) J/ 30. 4. 98

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Alleged mysterious disappearance of Netaji Subhas Chandra Bose, according to the petitioner requires direction inter alia, to the respondents herein (1) to classify and disclose all documents relating to Netaji Subhas Chandra Bose including the Indian National Army; (2) to make a categorical statement whether name of Netaji was and still is in the list of war criminals drawn up after the Second World War and issue a press communique to the said effect; (3) not to allow any agency or publisher or any person to publish the story of the death of Netaji Subhas Chandra Bose in the alleged plane crash on 18.8.1945; (4) to disclose the stand of the Government of India regarding Netaji Subhas Chandra Bose if he is found on Indian soil - "whether Government of India will welcome him or hand over him to the allied forces for trial as war criminal and make a press communique to that effect" and (5) to produce and or transmit all the records, files and documents as mentioned in Annexure 'F' to the petition about disappearance of Netaji Subhas Chandra Bose since August 18, 1945 and subsequent thereto.

petitioner has stated and in doing so he has only echoed and joined a multitude of Indians that for his gallant deeds for independence of India, Netaji is recognised as one of the greatest national leaders of international importance that his mysterious disappearance on and from August 1945 is still wreaking and agitating the minds of the citizens of India and that the story which once floated that he died in the alleged plane crash on 18th August, 1945 at Tai Hoku in Japan is not accepted by the Indians.

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One British Intelligence Officer allegedly informed one Amrik Singh Gill, who was awaiting execution of death sentence, on 19th August, 1945 that Netaji died in an aircrash on 18th August, 1945. Gill published the said information in a magazine of Netaji Centre publication at Kuala Lumpur. The same was reprinted in Jayshree, a Bengali Magazine, in its Azad Hind Golden Jubilee number in October, 1993. Delhi Radio, on 21st August, 1945 made the announcement that Netaji died in an aircrash on 18th August, 1945 (Ref., "A Springing Tiger" by Hue Toy, a Military Intelligence Officer of British Army). Quite a few publications and information to the above effect followed and when the controversy thickened and mystery deepened, the Government of India constituted Netaji Enquiry Committee in the year 1956 with Sri Shahnwaz Khan as the president and Sri Suresh Chandra Bose and Sri S.N. Moitra as Members. This was followed by appointment of a Commission of Enquiry in the year 1970. Netaji Enquiry Committee as well as the Commission of Enquiry submitted their reports. On 28th August, 1978, however, the then prime Minister of India made a statement at the floor of the Lok Sabha that, "Shah Nawaz Committee and Khosla Commission hold the report of Netaji Subhas Chandra Bose's death following a plane crash as true. Since then reasonable doubts have been cast on the correctness of the two reports and various important contradictions in the testimony of the witnesses have been noticed. Some further contemporary official records have also become available. In the light of those doubts and contradictions and those records, Government find it difficult to accept that the earlier conclusions are decisive." According to the petitioner, the above statement of the then prime Minister of India was a virtual and simultaneous burial of the Netaji Enquiry Committee and Enquiry Commission reports. However, on 11th

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April, 1979 the then Minister of State for Home Affairs made a statement on the Lok Sabha in reply to a question that was raised on the request by General Fujiwara of Japan for bringing the alleged ashes of Netaji from Renkoji Temple to India, "In the light of reasonable doubts cast on the correctness of the conclusions reached in two enquiry reports on the death of Netaji Subhas Chandra Bose, the Government finds it difficult to accept that the earlier conclusions are decisive. It will, therefore, not be possible to take any action at the present on the suggestion of Gen. Fujiwara to bring the ashes." According to the petitioner waxing and waning attitude and behaviour of the Government of India and other responsible persons have almost betrayed the design of precipitating and perpetuating the myth of the death of Netaji Subhas Chandra Bose in the alleged plane crash as reality without there being any serious effort to establish by hard and genuine evidence.

The petition with the facts as above, however, is littered with the statement that the then Government of India (British) after the second world war declared Netaji a war criminal and following the independence and almost simultaneously to India's taking a seat/place in the United Nations organisation ratified and agreed that war criminals of friendly countries would be delivered by the country holding them; thus agreeing that India would deliver all war criminals of the second world war to the Government of Great Britain, and since Subhas Chandra Bose was declared a war criminal by the Great Britain and India ratified and agreed to do so, it still holds Subhas Chandra Bose as war criminal. The petitioner, in short, in this behalf has been agitating and asking - Does Government of India still hold Subhas Chandra Bose as a war criminal and thus does it behove the Government to treat Subhas shabbily as above, who while alive as well as in death is the embodiment of the ideals and images of a true Indian for all fellow Indians.

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We have summarised above the material facts upon which the petitioner has sought for the reliefs as indicated above and omitted to mention particulars of information in any detail with respect to either statements or works about the death of Netaji as alleged and the mysterious disappearance, or on the Government of India even unwittingly as alleged, still holding that Netaji is a war criminal. Narration of the facts, however, shall remain inconclusive if we do not refer to a recent case (W.P.No.1805 of 1997) which has been disposed of by a Bench of this court on 7th April, 1998. The said petition was filed as vox populi when newspapers like the Bartaman in its publication of 23rd August, 1997 and the Anandabazar in its publication of 27th August, 1997 published/reported that the then Defence Minister had stated that he would bring the ashes of Sri Subhas Chandra Bose from Kenkoji Temple of Japan, after referring to the judgement of the Supreme court in Union of India versus Bijon Ghosh [1998 W.B.L.R.(SC) page 97] and the publications aforementioned, this court in its judgement in the said case has stated as follows :-

"When the Government of India intended to honour him by conferring the Bharat Ratna Award and used in press communique the expression 'posthumously', a petition under article 226 of the constitution of India was moved and against an interlocutory order therein a special Leave petition was preferred before the Supreme court
***** We have no manner of doubt that a responsible Government of the people of India will do nothing which would undermine the stature and image of Netaji Subhas Chandra Bose. Except in such proceedings in which any legal presumption is available, for purposes as the acceptance of ashes as that of Netaji Subhas Chandra Bose,

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it is not possible to accept that he died on 18.8.1945 or at any time thereafter unless there is conclusive evidence. Any ashes of a dead person in the absence of such evidence cannot be accepted as that of Netaji by the people of India. It would be difficult to accept that the Defence Minister of the country has made a statement of such consequences without verification of the facts, yet responsible newspapers like Bartaman, Ananda Bazar have so reported and the petitioner has moved this court as he is, as stated, alarmed that the Government of India has intended to accept the factum of the death of Subhas Chandra Bose in the shape of ashes which are allegedly stacked and kept at Renkoji Temple, Japan. Before closing the proceedings, however, in view of the assurances 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, 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 the Renkoji Temple of Japan are that of Netaji Subhas Chandra Bose and take the people of India in confidence."

Thus, on the questions of death of Netaji, that he died in the plane crash, that his ashes are kept at Renkoji Temple of Japan, that Government of India is almost accepting that Netaji has died and that his ashes are being brought to India, in our view, are fully answered by the judgement in W.P.No.1805 of 1997 dated 7th April, 1998. What needs, however, to be clarified for all concerned (to bear in mind that Government of India did realise that full facts and evidence were required

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to be gathered from every person and place and it appointed first the Enquiry committee and next Enquiry Commission. After the reports of the committee and the commission were submitted, the then prime Minister made categorical statement in the Lok Sabha that since the reports, reasonable doubts have been cast on their correctness, various important contradictions are noticed in the testimony of the witnesses and further contemporary official documentary reports have become available, "in the light of those doubts and contradictions and those records, Government find it difficult to accept that the earlier conclusions are decisive."

(Official stand of the Government as expressed in the Lok Sabha on 28-8-1978 is reiterated on 11-4-1979 by the then Minister for state of Home Affairs. Two deviations/aberrations, however, occurred first when Government of India intended to honour Sri Subhas Chandra Bose by conferring 'Bharat Ratna' Award and used in the press communique the expression posthumously and secondly recount by defence Minister of the country made a statement that Government of India intended to accept the factum of death of Subhas Chandra Bose and bring the ashes which are stacked and kept at Kenkoji Temple in Japan.)

British quit India and the country got its independent but with Dominion status in the British Empire on 15th of August, 1947. The people of India, however, resolved to constitute it into a Republic and their constituent Assembly on 26th day of November 1949 adopted, enacted and gave to the people the constitution of India, to be effective on and from 26th of January 1950. on 15th of August 1947, India, indeed, achieved Independence and inherited the British sovereignty as well as British legacy. When the people, however, adopted the constitution and established the Republic, India unsaddled itself from the yoke of

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past to start afresh with the goal of justice, Social, Economic and political, Liberty of thought, expression belief, faith and worship, Equality of status and of opportunity and to promote among them all Fraternity assuring the dignity of the individual and the unity and integrity of the Nation and guaranteed Equality of law and equality before law to all persons and freedoms of speech and expression, assembly peaceably and without arms, of association or Union and of movement freely throughout the territory of India and to reside and settle at any part of the territory of India. Article 13 of the Constitution declared laws inconsistent with or in derogation of the Fundamental Rights in part-III of the constitution void and inhibited the State from making any law which took away or abridged the rights conferred by part III.

The status Netaji Subhas enjoys in the Indian Republic is that of a person who is a Bharat Ratna. He enjoys a greater status in the hearts and minds of the people of India than a mere title which the Government bound by the rules of procedure intended to confer upon him. The expression 'posthumously' in the communique of the Government of India when Bharat Ratna was to be conferred indeed was a sad and irresponsible act at some executive level of the Government which caused wide-spread resentment and as noticed by the Supreme Court in Union of India v. Bijon Ghosh (supra), "in deference to the feelings so eloquently expressed in this proceedings and which have no doubt conveyed to the Union of India, the award was in fact not conferred and the proposal was dropped." Another aberrative act caused the filing of W.P.No.1805 of 1997 and this court has ordered, "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

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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."

The two aberrations are outside the Lok Sabha, True, one which carried the express 'posthumously' was a communique of the Government of India which is deference to the popular feeling was withdrawn but the other, that is to say, the statement of the Defence Minister in respect of the ashes of Netaji was neither a statement in any of the Houses of parliament nor in any communique of the Government of India. That was out and out a statement most unwittingly made by the Defence Minister of the country. The official stand of the Government of India, thus, is that notwithstanding the reports of the Enquiry committee and the Commission of Enquiry aforementioned, there are doubts as to the death of Netaji in the manner as reports indicated and that there was/is a need to have further probe and enquiry to conclusively establish that Netaji has died, that he died in the plane crash, as alleged, and that his ashes are lying in some temple in Japan. With such specific stand when the Government has informed the parliament more than once as above and no further enquiry or probe has yet been held, it is beyond imagination that Government of India without further or fresh enquiry and/or probe would accept the factum of death of Netaji Subhas and/or of the alleged air-crash death and/or the ashes being kept at a temple in Japan.

Learned counsel for the respondents has categorically assured the court that the Government of India has been maintained and is maintaining even now that a further/fresh enquiry/probe is required and the information that Netaji died in the

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plane crash on August 18, 1945 is full of loopholes, contradictions and therefore inconclusive.

It is difficult to perceive why the petitioner has been harping on Netaji being a war criminal for the Indian Republic and its people as declared by the British Government in year 1945 or in year 1946. True people of India fought along with the British against Japan, German and Italy but they continued their way of Independence against them until they quit India on 15th of August 1947. For British, one who stood against their oppressive acts was a criminal. For Indians, he was a freedom fighter. For British, who supported their was efforts friends and allies. For India all who stood against aggression and subjugation were friends.

Netaji Subhas Chandra Bose had launched his own war for Independence of India, formed Indian National Army (I.N.A.) marched ahead to free the people of India from subjugation and reached Indian territory of the Andaman and Kohima, Manipur. His was an army of Indians, for the Indians and for the Independence of India. Such a hero however when India achieved its Independence was mysteriously missing. It (India) has been waiting to welcome its Hero. He has, however, not been found yet.

people in India are not going, it is clear from the aforementioned events, to accept that their hero who led the first National Army is dead unless they are convinced after seeing conclusive evidence in this regard. who then will call Netaji a war criminal? Any Indian public except a traitor, a person who does not have the defence and love for the country and its heroes alone can do so. We do not have any hesitation

in concluding that the statements in documents which are lying
 archives which are to the effect that Netaji is a war criminal
 and all persons who have been saying such a thing are relics of
 the British Raj. The petitioner shall be well advised to dis-
 § ✓ abuse himself of even remotest/faintest idea that the people
 of India, and the Government of India since it is the Govern-
 ment of the people of India, can ever in dreams would think of
 Netaji as a war criminal or a traitor. As we understand same
 and understanding people in Great Britain too take him as one
 of the ablest sons of India and one of the most loved by the
 people of India. We see thus no reason why any rule be issued
 to de-classify and disclose all documents relating to Netaji
 Subhas Chandra Bose including Indian National Army untill such
 inquiry as is desired is held. De-classification and disclosure
 of the contents of sensitive documents cannot be insisted upon
 unless one is satisfied that such disclosure would not be
 against the interest of the sovereignty and integrity of India,
 the security of the states, friendly relations with foreign
 states, public order, decency or morality or in relation to
 contempt of court or defamation or would not cause incitement
 to an offence (see article 19 of the constitution) and if made
 would not harm the public interest. In the instant case we have
 reasons to believe, any such disclosure would not held the cause
 of the public at all.

We see absolutely no reason for any statement from the
 respondents whether Netaji Subhas Chandra Bose is still in the
 list of war criminals drawn after the second world war. As
 we have indicated above, no one much less people of India, would
 allow any person to treat Netaji as a war criminal. For, Indians
 Netaji is one of the great patriots.

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It is difficult similarly to imagine how any Indian would think that Netaji would not be welcome on the Indian soil when Indians hold him amongst the best a few sons of India. The petitioner, as we have observed earlier, has been ill-advised to seek any disclosure from the Government of India or such information whether Government of India would welcome him or hand him over to the Allied Forces for trial as war criminal. Such misconceived ideas, in stead of helping the cause, as we have observed above, would cause dissensions and resentments and unnecessary bickerings. We are inclined however to take notice of one aspect of the matter ; There has been no positive attempt it seems after the statement by the prime Minister in the year 1978 and by the Minister of State for Home Affairs in 1979 that the findings in the reports of Netaji Enquiry committee and commission of Enquiry were not conclusive and decisive for any further or fresh enquiry and no serious effort in this behalf has been made. It seems lapses have occurred from time to time and public at large is dissatisfied. It is, therefore, necessary that respondents are told that their silence may not be appreciated in the matter and they for obvious reasons, as indicated above, should proceed in some effective manner to enquire into the circumstances of the death, whether Netaji has died and if he is alive where is he, with due despatch. Various publications some saying Netaji has died, some saying - No, he has not, some accepting the plane crash story, some not accepting it, some suggesting that the ashes in the temple in Japan are that of Netaji and others not accepting, some believing, and seriously, that Netaji is still alive and is available in some part of the world cause confusion and sometimes irritation and anger in public. No publication which would affect the friendly relations with foreign States, public order, the sovereignty and integrity of India, cause defamation or incitement to an offence should be

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permitted. We have reasons to think that such irresponsible publications do sometimes affect public order and cause incitement to violence.

Some publications in respect of which mention is made by the petitioners which are per se defamatory to the National Hero Subhas Chandra Bose. One of the most cherished rights of the Indians is the freedom of speech and expression, yet it is important that this right is not exercised to disturb public order or cause incitement to offence or defamation. We have not, however seen such publications as a whole except such excerpts which are quoted by the petitioner for forming any conclusive opinion that books already published need to be prescribed. Yet we are satisfied that there is a need to give a fresh look to such publications and prescribe such books or such portion of the books which spent one way or the other on the subject of the death of Netaji Subhas Chandra Bose's pre-independent activities in respect of which the Government of India is yet to complete enquiry. All fresh or new publications, in our view, shall also need a similar scrutiny and all such scrutiny shall be made keeping in view Article 19(1)(a) read with Article 19(2) of the Constitution of India and the observations made above.

For the reasons aforementioned, we are inclined to direct as follows :-

- (1) Respondents shall launch a vigorous enquiry & in accordance with law by appointing, if necessary, a Commission of Enquiry as a special case for the purpose of giving an end to the controversy
 - (a) whether Netaji Subhas Chandra Bose is dead or alive ;
 - (b) if he is dead whether he died in the plane crash, as alleged ;

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- (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 respondents shall follow for the said purpose the directions of this court given in W.P.No.1805 of 1997 namely, to take the people of India in confidence ;

(3) Respondents shall at appropriate level examine/scrutinise all publications pertaining to the matter as above and prescribe, if necessary, all such publications which appear to touch the question of death or otherwise of Netaji if the same has the effect of disturbing the public order and causing incitement of violence ;

HRD

(4) Respondents, if so advised, shall inform all publication Houses to take its prior permission before any publication on the subject above is made and before granting such permission, scrutinise in the manner as indicated above.

HRD

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This disposes of the writ application.

All parties are to act on a signed xerox copy of this judgement and order on the usual undertaking.

Sd/- prabha Shanker Mishra

B. Bhattacharya, J.:

I agree.

Sd/- B. Bhattacharya

Prd.

12/11/98
12/11/98
12/11/98

Noted this... 25/11/98
25/11/98
25/11/98

Per Registrar
High Court at Madras

L. Venkateshji

THROUGH SPECIAL MESSENGER

**SECRET/MOST IMMEDIATE
OUT TODAY**



संयुक्त सचिव
JOINT SECRETARY

**SANGITA GAIROLA
JOINT SECRETARY (IS-I)
Tel: 301 5736**

भारत सरकार
GOVERNMENT OF INDIA
गृह मंत्रालय
MINISTRY OF HOME AFFAIRS

4/c

25

D.O. No. VI/11034/i8/98-D.III

March 16, 1999

17/3
Dear Sir,

Kindly refer to my D.O. letter of even number dated March 12, 1999 requesting you to kindly attend a meeting on 24th of March, 1999 at 12 P.M. in the Chamber of Union Home Minister in North Block, Ministry of Home Affairs, New Delhi.

2. Due to unavoidable reasons this meeting has been **postponed** and will now be held on 25th of March at 12 P.M. The venue will remain the same. The inconvenience caused to you is deeply regretted.

With regards,

Yours sincerely,

Sangita Gairola
(Sangita Gairola)

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17/3
17/4
Shri Brajesh Mishra,
Principal Secretary to PM,
Prime Minister's Office,
South Block,
New Delhi.

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PRL. SECY. 10 PM.

DY. No. 575-6/99 Office of J. S. (J)

Date 17/3/99 Dy. No. 196-S

Date 7/4/99

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भारत सरकार
GOVERNMENT OF INDIA
प्रधान मंत्री कार्यालय
PRIME MINISTER'S OFFICE
नई दिल्ली-110011
NEW DELHI-110011

Forwarded to *Home Secretary*

M/o Home Affairs

को उचित कार्यवाही के लिए प्रेषित
for appropriate action
इस पत्र को प्राप्त सूचना नहीं भेजी गई है।
The Communications has not been
acknowledged.

of
(विष्णु कुमार ढल)
(B. K. DHAL)
(अवर सचिव)
Under Secretary
प्रधान मंत्री कार्यालय

प्रधान मंत्री कार्यालय गै० पत्र सं० Prime Minister's Office
दिनांक.....

Prime Minister's Office U.O. No. *915/11/19/99*
Dated *5/4/99*

(R.D.)
5/4

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28

Pratap
to (Pon) P III
MKD
1/11/98

1/11/98

भारत सरकार
GOVERNMENT OF INDIA
प्रधान मंत्री कार्यालय
PRIME MINISTER'S OFFICE
नई दिल्ली-110011
NEW DELHI-110011

(28)

1/c

Forwarded to.....*Home Secretary*.....

.....*M/o Home Affairs*.....

को उचित कार्यवाही के लिए प्रेषित
for appropriate action.....
इस पत्र को प्राप्त सूचना नहीं भेजी गई है।
The Communications has not been
acknowledged.

BK
(बिष्णु कुमार ढल)
(B. K. DHAL)

(अवर सचिव)
Under Secretary

प्रधान मंत्री कार्यालय
Prime Minister's Office

प्रधान मंत्री कार्यालय गै. पत्र सं.
दिनांक.....

Prime Minister's Office U.O. No. *11/1/1997*

Dated.....*5-4-97*.....

11/1/97
2/5/97

नेताजी चेतना यात्रा
NETAJI CHETNA YATRA

28, Gurdwara Rakabgunj Road, New Delhi-110001.

Tel.: 3714131/3739271

To

श्री अटल बेहारी वाजपेयी,
Prime Minister of India,
NEW DELHI

Sub:

A Memorandum on behalf of 'Netaji Chetana Yatris' culminated in New Delhi on 23rd March, 99 consisting of All India Forward Bloc activists, Ex. I.N.A. people and hundreds of millions of Netaji followers all over the world with a demand of instituting a High Power Committee/Commission with pleni-potentiary powers to probe into the events relating to the mysterious disappearance of Netaji Subhas Chandra Bose on and from 18th August, 1945 and subsequent happenings there to etc.

Respected Ataljee,

We, on behalf of All India Forward Bloc, Ex-I.N.A. people and hundreds of millions of Netaji followers of the country and abroad, do submit this memorandum along with the signatures of nearly 12 millions citizens of India, with a couple of demands, the epi-centre of which happens to be the fresh probe by appointing a high power Committee/Commission with pleni-potentiary powers to unravel the truth behind the mysterious disappearance of Netaji Subhas Chandra Bose since 18th August, 1945.

You might have recalled your earlier expression during our first meeting with you nearly a year back by admitting this mystery of disappearance of Netaji to be the biggest enigma of this century deserved to be unearthed as early as possible. But since then we find no positive step was initiated to this direction by the Government which ultimately shattered all our hopes and expectations. Still we do believe that Government of India officially, atleast, find no way other than to accept the position enunciated on 28th August,

Office of J. S. (J)

By. No. 728-6

Date 21/3/99

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Res. V.
to MHA

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1978 at the floor of the Lok Sabha by the then Prime Minister Morarji Desai. Therefore, it ought to be the National obligation of the Government of India to let the nation know about the truth behind the disappearance of its greatest son and Numero Uno Revolutionary – Statesman of the contemporary world history – Netaji Subhas Chandra Bose. There are sufficient reasons to believe on the basis of available informations and documents at hand to-day that a formidable force within the Government is very much reluctant to unearth this riddle, one-for all, because of some secret reasons best known to them.

In this connection may we remind you about the judgements of the High Courts in Calcutta and Orissa relating to the mystery of disappearance of Netaji and allied matters in recent times ?

However considering all the aspects and taking into account of the informations and documents already in hand and last but not least the documentary informations coming from different Archives across the world through scholars and researchers it supposed to be proved that Netaji did not die in the alleged plane crash of 18th August, 1945.

We, therefore, urge upon you to please concede to the following demands of the Nation and act upon positively on a historical necessity to fulfill the same at your earliest;

1. A High Powered Enquiry Commission with pleni-potentiary powers should be appointed to probe into the circumstances leading to the disappearance of Netaji Subhas Chandra Bose and the related developments since then.
2. The Government of India should make public all the classified documents in its custody, related to Netaji and I.N.A.
3. The Government of India should make written request to the Government of Russia, England, Japan, United States of America, Vietnam, Taiwan and other concerned countries to make public the classified documents, related to Netaji and I.N.A., in their custody.
4. The names of Andaman and Nicobar Islands should be changed to 'Shahid' and 'Swaraj' as announced by Netaji Subhas himself in 1943.

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5. An I.N.A. foundation should be established with the funds of provisional government of Azad-Hind which were brought to India from Bangkok. The details of I.N.A. assets and treasures recovered from South-East Asian countries, should be made public.
6. The birth place of Netaji at Cuttack, the House in Calcutta and the various other important places associated with him should be declared National Monuments and preserved gracefully.
7. Netaji Bhawan should be established in Delhi and the Capitals of all the States.
8. 'Netaji chairs' should be established in all the universities of India.
9. A befitting I.N.A. War Memorial should be constructed in Delhi.
10. The life, Dates, Political thoughts, Achievements should be given more space in the school and college text books.
11. Since most of the I.N.A. people had^s grown very old and have serious health problems, they should be given complete medical coverage.
12. A ^{statue} portrait of Shaheed-e-Azam Bhagat Singh would be installed in the Parliament House.
13. 8th April, the date on which Shaheed-e-Azam Bhagat Singh and Battukeshwar Dutt had^s threw bombs in the Central Assembly should be observed by the Parliament House.

An early action in this regard will be highly appreciated.

Jagantika
M.P.
Pradip Bose
Anare Roy Pradhan
M.P. (Woksalha)

Sincerely yours
(Debabrata Biswas
M.P.
U.P. SAHA
Chairman, Organising Committee)

Subrata Bose
(SUBRATA BOSE)



(32)

DEPUTY SPEAKER
LEGISLATIVE ASSEMBLY
WEST BENGAL
CALCUTTA

Dear *Sri Biswas*

You will be pleased to know that on 24.12.98 a unanimous motion was adopted in the West Bengal Legislative Assembly urging the Government of India to institute a fresh inquiry on the whereabouts of an epochal personality like Netaji Subhas Chandra Bose in order to dispel the suspicions from the people's mind that has still been sustained by them more than the period even after his birth centenary year, just being already over, and to make the records & documents within and outside India accessible to the Indian people and Scholars.

In this context, I express my feelings with my belief that perhaps you will agree with me that there is always a conspicuous lack of a political will except at some instances of set-up inquiry commissions in reacting to the popular demand and public interest petitions in the apex courts in India where some divergent views of statements and counter statements were made. But these failed to yield the transparency of the unvarnished truth. Some subsequent developments of disclosures and contradictions in the statements of scholars, Statesmen and War Veterans here and abroad and the placating of the plane crash theory did not lend any support to the conviction of people and scholars to the contrary. This part of our future history will be bluish, unless the disappearance of Netaji Subhas Chandra Bose is not looked back into retrogressively to unveil the truth.

So, I appeal to your goodness with a request you kindly to move ^{motion} to move ^{motion} to move a similar/or to elicit a move by any Hon'ble Member in your House in the line of the text of the motion (copy enclosed) adopted by the West Bengal Legislative Assembly so that the Government of India could be urged to proceed with the matter in the direction. In fine, I hope, you will kindly have a due consideration for it and help in emerging out a truth.

With warm greeting,

Thanking you,

Sri Debabrata Biswas
M. P. (Raj Sava)
28 Rukhmi Ganji Gurdwara
New Delhi

Yours sincerely,

Anil Mukherjee
(Anil Mukherjee)

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CONTENTS OF THE MOTION AS ADOPTED BY
THE WEST BENGAL LEGISLATIVE ASSEMBLY
ON 24,12.98.

This House notes with grave concern-
that the people and scholars of India are still in the dark
about the mysterious disappearance of Netaji Subhas
Chandra Bose during the Second World War;

that different statements were made on the floors of
Parliament at different times regarding whereabouts of
Netaji Subhas Chandra Bose;

that the judicial pronouncements of the Supreme Court
and High Court in India created more suspicions in the
minds of people of India regarding Netaji's alleged death
in the plane crash; and

that the records and documents in different countries
of Europe, America, Far East and South East Asia and also
India regarding the mysterious disappearance of Netaji
Subhas Chandra Bose after alleged plane crash have not been
made available to the people and scholars of India.

This House is of the opinion-

that the report of the death of Netaji Subhas Chandra
Bose on an alleged plane crash has not been proved beyond
doubt; and

that the report of the two Commissions of Enquiry set
up by the Government of India are not believed by the
people and scholars of India.

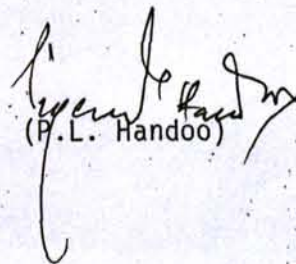
This House, therefore, through the State Government
demands that the Government of India should make necessary
arrangements for availability of records and documents in
and outside India so that the scholars and people could
have access to them and also to institute a fresh enquiry
commission in order to remove the mystery regarding the
whereabouts of Netaji Subhas Chandra Bose.

Anil Mukherji

34

RESOLUTION

Very recently Hon'ble Chief Minister and Leader of the House has endorsed to me a demi official letter addressed to him by Deputy Speaker, West Bengal Legislative Assembly. This communication relates to the fact of West Bengal Legislative Assembly having adopted a unanimous resolution urging the Government of India to institute an appropriate enquiry to enlighten the Indian nation about the ultimate fate of one of the ~~great~~ Indian^s son of the soil Neta Ji Subhash Chander Bose. It is true that this great son of the soil did not share with us the bright sun shine of dawn of freedom of 15th of August, 1947 or brighten^d sun shine thereafter. His disappearance from the horizon of Indian life of freedom and independence is almost a shrouding^g mystery. We associate with the view of the West Bengal Legislative Assembly and urge upon the Government of India to take necessary steps to dispel the clouds of mystery about the sudden disappearance of Neta Ji Subhash Chander Bose.


(P.L. Handoo)



31.10.98.

35

To

Shri Atal Bihari Vajpayee,
Prime Minister of India,
New, Delhi.

Subject: A memorandum for installation of a high powered Committee to investigate events relating to the disappearance of Netaji Subhas Chandra Bose on and from 18th August, 1945.

Dear Vajpayee ji,

We, the Members of both houses of Parliament place the following memorandum for setting up of a high-powered committee or commission with plenipotentiary power for investigating the matter of national importance relating to the disappearance of Netaji Subhas Chandra Bose on and from 18th August, 1945 that would stop nothing less than the truth. For your ready reference we have to mention particularly in this 50th year of India's independence that the controversy relating to the alleged plane crash deserve to be enquired into a fresh once for all as the then Prime Minister Shri Morar ji Desai on the floor of Lok Sabha on 28.8.78 specifically denied to accept the findings of Khosla Commission (1970) hold the report of Netaji Subhas Chandra Bose's death following a plane crash as true. Since then reasonable doubts have been cast on the correctness in the two reports and various important contradictions in the testimony of the witnesses have been noticed. Some further contemporary official documentary records have also become available. In the light of those doubts and contradictions Govt. of India find it difficult to accept that the earlier conclusions are decisive". Secondly you know that the Supreme Court Judgement cancelling the press communique conferring 'Bharat Ratna' posthumously to Netaji by the Govt. of India has further substantiated the long pending controversy over the matter.

Thirdly the recent judgement of Division Bench of the Calcutta High Court in a Public Interest Litigation matter on 30.4.98 has directed the Govt. of India to "launch a vigorous enquiry in accordance with law by appointing, if necessary, a commission of enquiry as a special case for purpose of giving an end to the controversy.

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- (26)
- (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, if so when and how;
 - (e) If he is alive in respect of his whereabouts.

Other parts of the judgement also corroborate the public opinion that the mystery relating to the disappearance of Netaji Subhas Chandra Bose should be unearthed with utter importance pending which none should be allowed to inscribe in any publication that Netaji Subhas Chandra Bose was died.

Fourthly, the press note on the materials collected from the Russian Archives by the Asiatic Society, Calcutta in its second phase of collaboration with the Institute of Oriental Studies, Moscow stated, "What appears to be most interesting is that the Scholars have traced materials hinting at Netaji Subhas Chandra Bose's contact with Soviet leaders. Some documents relating to Netaji are in the KGB and president's Archives which were not accessible to the scholars. Special permission is required to scrutinise them. It is believed that the examination of these materials may eventually clear the mystery of Netaji's disappearance".

Under these circumstances, we, on behalf of the people of India urge upon the Govt. to install an enquiry commission headed by one retired Chief Justice of India one or two senior judges of the Supreme Court with knowledge of International laws and with sound knowledge and conception of human rights. One military personnel with highest rank and have detail knowledge of military manoeuvring should be included in the Committee or commission.

[O. H. C. — 10-A]

3

TELEPHONE No.

Office—
Residence—

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9/4

Js (J) ch. 5/4

No. 6356 C

O.J.C.NO. 14400/98

FROM

SUPERINTENDENT
REGISTRAR (JUDICIAL), HIGH COURT OF ORISSA

To

1. THE Principal Secretary to the Prime Minister at- P.M. Office, New Delhi. ~~and~~
2. The Cabinet Secretary to the Govt. of India, New Delhi.

Dated Cuttack, the 20 219 98

SUBJECT—

SIR,

I am directed to forward herewith copy of Court's Order No. 2 dtd. 23.10.98 passed in O.J.C.NO. 14400/98 for information and necessary action.

Yours faithfully

[Signature]
Superintendent.

— 10/C

OGP—MP-XI (H. C.) 59—10,000—27-12-1997

Office of J. B. (J)

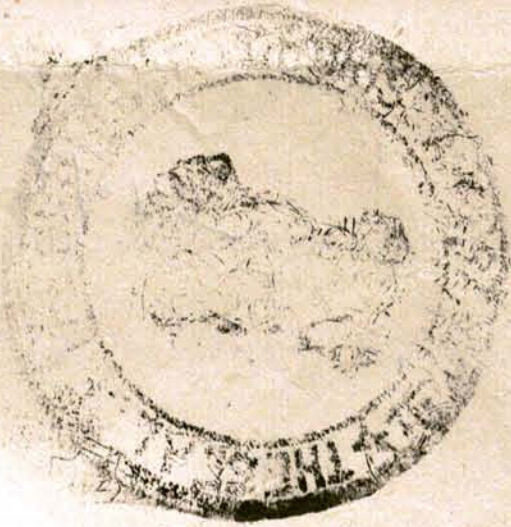
By. No. 798-6

Date 6/4/99

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Faint, mostly illegible text on aged paper, possibly bleed-through from the reverse side. Some words like "Office of U.S. (S)" and "By No." are visible at the bottom right.

Handwritten notes in the upper right corner, including the number "100" and some illegible scribbles.



Office of U.S. (S)
By No.
The

39

IN THE HIGH COURT OF ORISSA

O.J.C.NO. 14400 OF 1998

Dr. Shyam Sunder Mohapatra petitioner .

-Versus-

The Principal Secretary to the Prime Minister , at P.M. Officer New Delhi and another opp. parties .

Order No. 2 dtd. 23.10.1998.

Heard learned counsel for petitioner , and the learned Senior Standing Counsel (Central)

In the present writ application various prayers have been made concerning Netaji Subash Chandra Bose . ~~They~~ Though it is accepted by the learned counsel for petitioner that Netaji Subash Chandra Bose is no longer alive , prayer has made for a direction to the Government of India to publish all concerned documents relating to his death . The prayers made in the application are -

- (1) to produce all documents/records related to cause of death of Netaji Subash Chandra Bose;
- (2) to pass such order/orders directing the Government of India to notify the cause of death of Netaji , which is a National importance ;
- (3) to make some observation advising the Govt. of India to take possible step to remove the name of Netaji in the list of 'War Criminals' noted against him ;
- (4) to pass such other order/orders as this Hon'ble Court thinks proper in the interest of Nation .

2. It is conceded by the learned counsel for petitioner that substantial prayer involved is regarding removal of the name of Netaji Subash Chandra Bose from the list of War Criminal maintained by the British Government . Let the Government of India take up the matter, if not already so done , with the British Government to remove the name of Netaji Subash Chandra Bose from the list of War Criminals .

The application is disposed of .

Let a copy of the order be furnished to learned Sr. Standing Counsel (Central) for appropriate action in the matter .

True copy
FD 16/3
Sapat.

Sd/- S.N.PHUKAN (C.J.).

Sd/- A.PASAYAT (J).

PRIME MINISTER'S OFFICE

10/C
40

Subject: **Copy of the Order of High Court of Orissa.**

I am enclosing herewith a copy of the Order of Orissa High Court in O.J.C. No. 14400 of 1998 concerning Netaji Subash Chandra Bose for appropriate necessary action.

Jarnail Singh
(Jarnail Singh)
Jt. Secy. to PM
6/4/99
o/c

Home Secretary (Shri B.P. Singh), MHA, North Block, New Delhi.

PMO UO No. *915/111/C/9/99 Pol.* Date: 6.4.99

915/111/C/9/99 Pol.
3/6/99

For CSU PI.
US/PO1
P. 111
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o/c
(P)