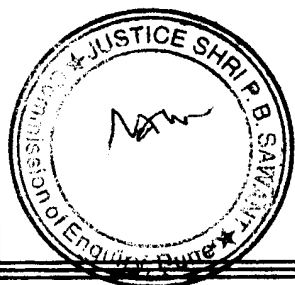


CHAPTER VII

ALLEGATIONS AGAINST SHRI. ANNA HAJARE



CHAPTER VII

THE ALLEGATIONS AGAINST SHRI. ANNA HAJARE

The notification dated 1.9.2003 by which the present Commission was appointed, had in Annexure B specified the matters to be inquired by the Commission against Shri. Anna Hajare. The matters were specified in entries 1 to 10, and they are the alleged corrupt practices and maladministration in the following institutions:-

- i) Hind Swaraj Trust, Pune;
- ii) Sant Yadhavbaba Shikshan Prasarak Mandal, Ralegan-Siddhi;
- iii) Bhrashtachar Virodhi Jana Andolan, Ralegan-Siddhi;
- iv) Parner Taluka Shikshan Prasarak Mandal, Ralegan-Siddhi;
- v) World Water Institute, Pune;
- vi) Sainik Bank-Parner Taluka Sainik Sahakari Bank Ltd., Parner, District Ahmednagar;



- vii) Adarsh Gramin Patsansatha, Ralegan-Siddhi;
- viii) Krishna Pani Puravtha Yojana Sahakari Sanstha, Ralegan-Siddhi;
- ix) Swami Anna Hazare Trust, Relegan-Siddhi; and
- x) Swami Vivekanand Krutadnyata Nidhi, Relegan-Siddhi.

2) Out of these 10 institutions, the allegations of maladministration and corruption were not pressed by Shri. Suresh Jain, the applicant, after inspection of the documents, against the four institutes, namely, World Water Institute, Pune; Swami Anna Hazare Trust, Ralegan-Siddhi, Swami Vivekanand Krutadnyata Nidhi, Ralegan-Siddhi and Sainik Bank-Parner Taluka Sainik Sahakari Bank Ltd., Parner. Similarly, Shri. Wadekar, the counsel for Shri. Jain, submitted to the Commission that he will not lead any evidence with regard to the Parner Taluka Shikshan Prasarak Mandal, Ralegan-Siddhi and will rely only on the allegations made by them and the reply given to them by that institute in his arguments. As regards the Adarsh Gramin Patasansatha, Ralegan-Siddhi, Shri. Wadekar stated that he would rely only on the Government Auditor's Reports for 3 years, namely, 2000 to 2003 in respect of the



allegations against the said institution and the institute's compliance report of the same, and no oral evidence would be led. He also stated that he will also not rely upon what was stated by the applicant, Shri. Jain, in his affidavit against that institute. Shri. Paralikar, the counsel for Shri. Hajare, stated that he will also not lead any oral evidence and will depend upon the Government Auditor's Reports and the institute's compliance report. No written submissions were made in respect of both these institutes, namely, Adarsh Gramin Patsanssatha, Ralegan-Siddhi and Parner Taluka Shikshan Prasarak Mandal, Ralegan-Siddhi, nor was any oral submission made in respect of them on behalf of Shri. Suresh Jain.

3) Thus, we have to deal in this report only with the allegations of the maladministration and corruption in four institutes, namely, Hind Swaraj Trust, Pune, Sant Yadhavbaba Shikshan Prasarak Mandal, Ralegan-Siddhi, Bhrashtachar Virodhi Jana Andalon, Ralegan-Siddhi and Krishna Pani Puravatha Yojana Sahakari Sansatha, Ralegan-Siddhi, referred to in the terms of reference.

A) HIND SWARAJ TRUST

4) This Trust was established in the year 1995. The main objects of the Trust as per its Trust Deed (exhibit 30) are:



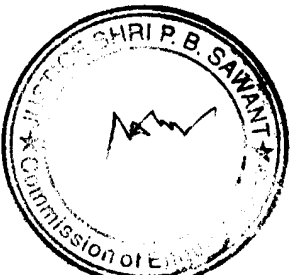
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- (i) To develop villages and rural area, economically and ecologically;
- (ii) To impart education - academic, scientific and moral.

5) According to the Trust Deed, the number of trustees were not to be less than 2 and not more than 9. Initially, there were five trustees, and Shri.N.K. Firodia was its president. Shri.Hajare became its president later and was the president at the relevant time, with which we are concerned.

6) The following allegations were made in respect of this institute:-

- i) Shri. Hajare had received grant from the Government even before the Trust was registered, and the expenditure from the grant was made for the purposes other than those for which the grant was sanctioned;
- ii) The unspent grants were transferred to the corpus of the trust unauthorisedly;
- iii) The price of the land purchased by the trust was not shown in the accounts of the trust;



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iv) The part of the land belonging to the Trust was given to the Zilla Parishad, Ahmednagar, without the sanction of the Charity Commissioner;

v) The funds belonging to the trust were spent on the celebration of the 60th Birthday of Shri. Hajare;

vi) The Drip Irrigation Set belonging to the Yadav Baba Trust was shown to have been purchased by this trust for Rs.60,000/- but in the accounts of the Yadav Baba Trust, the sale price of the same was shown to be the donation received from this trust;

vii) Negative cash balance was shown on some occasions in the accounts of the trust;

viii) The expenses incurred for the calls made by Shri. Hajare on his mobile phone were debited to the accounts of the trust.

7) We will deal with each of these allegations in the order, in which they are enumerated above.

8) As regards the first allegation, namely, that the trust had received grant before it's registration, the facts which have come on record show that the trust was established on 8.2.1995 and was registered on 6.4.1995. Although, the cheque for the grant given to the trust was dated 31.3.1995, it was



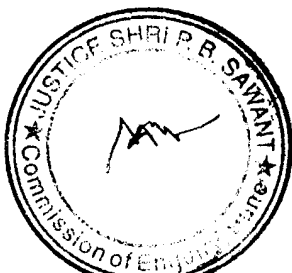
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deposited in the trust's bank account only after the trust was registered on 6.4.1995. It appears that the Central Government had issued the said cheque with 31.3.1995 as the date on it to account for the amount of the cheque as an expense for the year 1994-95, otherwise the funds for expenses for that year would have lapsed. The contention of the applicant that Shri. Munot, one of the trustees of the trust had not disclosed the receipt of the said cheque of Rs.45 lacs from the Central Government to the Charity Commissioner in the affidavit filed before the Charity Commissioner, is meaningless for the simple reason that the relevant affidavit was filed on 21.2.1995 (pages 34 to 37 of exhibit 5) at the time of making the application for the registration of the trust. The trust came to be registered, as stated above, on 6.4.1995. There was no cheque from the Central Government in existence on 21.2.1995. When the trust applied for registration on 21.2.1995, the trust had only Rs.500/- as its corpus. The affidavit filed was, therefore correct and the allegation is meaningless.

9) The second allegation in this connection was that the grant received from the Central Government was not properly utilised. In the first instance, the applicant has failed to show what part of the grant was mis-utilised or improperly



utilised. The only thing he has succeeded in proving is that the trust had in addition to the receipt of the grant from the Central Government, charged the trainees the fees, and for the years ended on 31.3.2001 and 31.3.2002 the fees so collected from the trainees amounted to Rs.10,32,612/- and Rs.8,80,845/- , respectively. The contention is that these amounts ought to have been sent to the Central Government since the grant was also for the fees of the trainees. In the first instance, the terms on which the Central Government gave the grant for the Training Centre does not contain any such condition. On the other hand, clause 7 of the agreement (exhibit 13) with the Central Government in that behalf, clearly permits the trust to charge fees to the trainees towards their training costs. There is no grievance that the accounts of the Training Centre were not sent to the Central Government, which showed as to how the grant received from the Central Government was utilised by the trust. There is also no query received by the trust from the Central Government as to whether the Training Centre had on hand as surplus, any amount from the Central Government grant at the end of the year. There is further no demand from the Central Government to pay the surplus amount to them. There is, therefore, no substance in this allegation. It must further be



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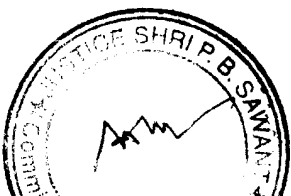
remembered that whatever had remained as surplus with the trust, has been shown in it's accounts, and there is no allegation that any amount from the surplus was either misappropriated or mis-utilised. We are concerned here with the allegation of maladministration and corruption in the trust and there is no whisper about them in the contention raised as above.

10) The next allegation of the applicant is that the amount of the grant of Rs.65.85 lacs received from the State Government for the Adarsh Gaon Yojana was not utilised as per the government-conditions. This contention is only partially true. It has to be remembered in this connection that the Government Resolution by which the said grant was sanctioned for the Adarsh Gaon Yojana, does not lay down item-wise expenses to be incurred by the trust. The only condition imposed, as per the resolution is that the total expenditure should not exceed the said amount of Rs.65.85 lacs. The reliance placed on behalf of the applicant on document exhibit 15 in that behalf is misconceived. Exhibit 15 consists of 2 parts. One part is of the utilisation certificate issued by the auditor in respect of the said grant. The other part consists of (i) the summary of the expenses incurred on different items and (ii) the estimate prepared by the Yadav Baba Trust at the time of



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sending the proposal for the grant. It has to be remembered in this connection that Yadav Baba Trust was originally handling this scheme, which came subsequently to be transferred to the present trust. The summary is not part of the utilisation certificate. That summary shows that on several items, expenses have been incurred much below the expenses estimated originally. Only on one item, namely, the printed pamphlets of the scheme, the original estimate was Rs.1,00,000/- and the actual expenses incurred of Rs.4,28,513/- , exceeded the estimate. The second item is of allowances to the trainees, which were not in the original estimate, and the third item is the expense of Rs.10 lacs for the construction of the building of the training centre. But the overall expenses, including those incurred on the construction of the building, are within the limits laid down by the government, namely, Rs.65.85 lacs. As regards the building expenses, it has come on record that the Government has subsequently sanctioned even that amount (exhibit 28). So, it will be apparent, that the trust had not violated the terms of the Government Resolution, though as pointed out above, the Resolution did not lay down any limits on the expenses itemwise. All that it had mentioned was that the total expenses should not exceed Rs.65.85 lacs.



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11) The applicant in this connection seems to have made two mistakes, one is to read the estimates originally made by the Yadav Baba Trust as the estimates made by the Government, and that the Government had desired that the itemwise expenses should not exceed this estimate. The second mistake, is to read the terms and conditions of the agreement dated 23.12.1996 (exhibit 14), as the terms and conditions laid down by the Government Resolution dated 9.5.1995, by which the amount of Rs.65.85 lacs was sanctioned to the trust. That agreement is obviously subsequent to the Government Resolution, and even subsequent to the utilisation of the said grant. Having made these obvious mistakes, the applicant is misled to make the said allegations.

12) The third allegation of the applicant is that an amount of Rs.3,18,535/- allegedly the balance out of the grant, which had remained unspent, was credited by the Trust to its corpus, when it was obligatory on the trust to return the said amount to the Central Government. It has to be noted in this connection that as has come on record, this amount had no relation to the grants received from the Central Government. The entire grant received from the Central Government together with the interest thereon was spent for the purposes



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for which the grant was received, and the utilisation certificate was duly submitted to the Central Government. This amount, in fact, represents the interest on the grant received from the State Government as has been pointed out in the contention advanced on behalf of Shri. Hajare, and this argument is not refuted. The State Government had imposed no condition that the said amount of interest or for that matter the unutilised amount of the grant should be returned to them. But as pointed out above, the said amount was of the interest earned on the grant. By mistake, the auditor of the trust has not explained the nature of the amount and has classified the amount under the specious head "unspent grants". It must be remembered in this connection that the grant received from the State Government was Rs.65.85 lacs. It was received in 1995 in a lump sum, and was kept in the bank till the entire amount was spent during the span of about 1 year and 5 months. It was to be expected that this amount would earn interest during this period and it is this interest which is represented by the said amount. There is no allegation that the amount was either misutilized or not accounted for. One would have expected that after taking the inspection of the relevant accounts, the applicant would have



noticed this obvious fact, and not persisted with the said allegation made in the original complaint.

13) Another allegation made against the trust was that the trust had not shown the land purchased by it in its assets, nor had it accounted for its purchase price. This allegation, it may be noted, was not in the original charter of allegations filed by the applicant against the trust. The subject matter transpired in the deposition of one Shri. Sharad Wani, (Witness No.2) examined on behalf of the applicant. The facts relating to the said land are that the land was purchased by the villagers from one lady Smt. Bhimabai Gajare and donated by them to the trust. It admeasured 89 Ares. A portion of the land to the extent of 11 Ares was gifted by the trust to the Zilla Parishad, Ahmednagar for construction of the Samaj Vikas Mandir, by a deed dated 12.8.1997 (exhibit 22). This deed executed by the trust in favour of the Zilla Parishad is signed by Shri. Hajare, and Sarvashri. Mapari and Awati, the social activists working with Shri. Hajare had attested the same.

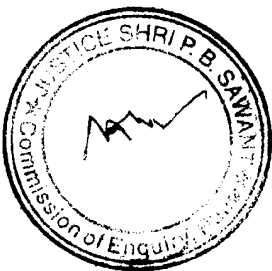
14) The contentions of Shri. Paralikar on behalf of Shri. Hajare for not accounting for this land from the inception, are not supported either by the facts or by the law. His first contention was that the land was purchased by the villagers in



the name of the Hind Swaraj Trust. It was not known to the trust, or to Shri. Hajare. The evidence contradicts this statement, since Shri. Hajare's activists Sarvashi. Mapari and Awati had identified Smt. Bhimabai Gajare and had attested the execution of the deed by her, respectively. Secondly, the trustees of the trust including Shri. Hajare were very much in the know of the fact that the land belonged to them. It is evidenced by the gift deed executed by Shri. Hajare in favour of the Zilla Parishad. His second contention that since the amount was not spent for the purchase of the land out of the funds of the trust, it was not accounted for in the accounts of the Trust, is also without substance. The principles of accountancy require that the land which was purchased, in fact, for Rs.45,000/- in the name of the Trust, though by the villagers from their funds, had to be shown in the accounts by making a double entry, one of the donation and the other of the purchase. Section 22 of the Bombay Public Trusts Act, 1950 requires that any changes in the position of the assets of a trust have to be reported to the Charity Commissioner within 90 days of the change. Admittedly, this has not been done till date. Thirdly, a portion of the land admeasuring 11 Ares was admittedly alienated by way of gift in favour of the Zilla Parishad without the permission of the



Charity Commission, contrary to section 36 of the said Act. Nor did the alienation reflect in the assets of the trust, which ought to have been updated till that time. We, therefore, find that there is a good deal of substance in the contention raised on behalf of the applicant, that the trust had committed an irregularity and also an illegality when it did not report both the acquisition of the land, admeasuring 89 Ares, and the alienation of 11 Ares out of it, to the Zilla Parishad, Ahmednagar. The alienation was also without the permission of the Charity Commissioner, which was illegal. However, the position in law remains that since no permission was taken from the Charity Commissioner for the alienation of the land, the land would not be deemed to have been validly transferred in favour of the Zilla Parishad, and it still remains the property of the trust. If this is so, the construction made on the land, will also become the property of the trust. There is, therefore, no loss to the trust. However, since the Trust did not take care to examine the provisions of law while alienating the land and induced the Zilla Parishad to take possession of the property and to construct thereon Samaj Mandir, there is apparent lack of care on the part of the trustees and to that extent there is maladministration.



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15) As regards the allegation that the funds belonging to the trust were spent for celebrating the 60th birth-anniversary of Shri. Hajare, we find that there is no valid defence of the trust to the said allegation. Admittedly, an amount of about Rs.2.20 lacs was spent in the year 1998-99 when Shri. Hajare was felicitated on his birthday. Shri. Abhay Firodia, a businessman, gifted an equivalent amount to the trust subsequently. A defence was sought to be raised that since the entire amount spent for the birthday was received by the trust subsequently, the trust cannot be said to have spent any of its funds for the birthday celebrations. The defence is deceptive. In the first instance, the amount was received from Shri. Abhay Firodia many days after it was spent for the birthday celebrations. Secondly, Shri. Abhay Firodia gave the said amount as "donation" to the trust. Therefore, even that amount belonged to the trust and no amount belonging to the trust could have been spent for the purpose concerned. When confronted with this situation, Shri. Paralikar relied upon one of the objects of the Trust, which reads as follows: -

"Clause 4(a) of the trust-deed: Appreciation and reward for advances in social and humanitarian services."



16) This clause in the object empowers the trustees to felicitate others for their praiseworthy services in the relevant fields. The trust has not been established to felicitate the trustees themselves, howsoever, laudable and unique the services they may render to the society. Nor can it be contended that the object of the trust was to felicitate the trustees for their services to the society. We wish that such an argument was not advanced. This is obviously an illegal utilisation of the trust's funds. It may further be noted here that the trust has obtained a certificate of exemption from the Income Tax Department to the donors, for the donations made by them to it. Shri. Abhay Firodia must have earned the requisite benefit in his tax liability, for the said donation. But that is beside the point for our purpose. All that can be said in this behalf is that the Trust was ill-advised for making the said expenses from its funds. It may be mentioned here that this allegation of the expenditure by the trust from its funds for the birthday celebration of Shri. Hajare was not one of the allegations in the original charter of allegations and appears to have been made only after the inspection of the accounts during the course of the inquiry proceedings before the Commission.



17) Coming now to the next allegation, viz., the purchase of a drip irrigation set from the Yadav Baba Trust, it is admitted that in the accounting year ending 31.3.1995, the trust had purchased a drip irrigation set from its' sister Trust - Sant Yadavbaba Shikshan Prasarak Mandal, Ralegan-Siddhi, for Rs.60,000/-. The bona fides of this purchase were questioned on behalf of the applicant, because of the misleading entries made in this behalf in the account books of the Yadavbaba Trust. The Yadavbaba Trust had not shown at any time in its assets, the drip irrigation set in question which according to them, was received as a gift from the villagers. Hence, although they received the amount of Rs.60,000/- by a cheque as the purchase price of the said set, for the first three years they showed it as an advance and in the accounting year of 1998, showed it as a donation from the present trust. If at all, the fault of making the wrong entries in their accounts lies with the Yadavbaba Trust. It is difficult to appreciate how the present trust can be held responsible for the said wrong entries made by the Yadavbaba Trust in its accounts. It is not disputed that the amount of Rs.60,000/- was paid to the Yadavbaba Trust by a cheque, and as far as the trust is concerned, it had shown the said expenses towards the purchase of the said set. That the



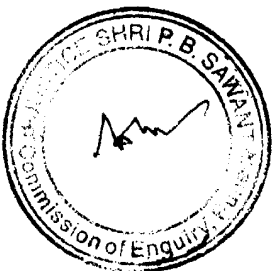
(273)

said set came in the possession of the trust in the accounting year 1995, and that it is still with the trust, is not disputed. We, therefore, find no substance in this allegation. This allegation also does not find place in the original charter of allegations and seems to have been made only after inspecting the accounts during the course of the Commission's proceedings.

18) As regards the allegations regarding the negative cash balances, on behalf of the applicant seven instances of such cash balances between 4.3.2002 and 29.3.2003 together amounting to Rs.27,273.50, are cited. The negative cash balances appear in the daily cashbooks as follows (exhibit 57): -

04.03.2002	Rs.6,585.00
13.03.2002	Rs.11,269.00
04.02.2003	Rs.2,303.90
03.03.2003	Rs.998.90
04.03.2003	Rs.1,268.90
05.03.2003	Rs.2,068.90
29.03.2003	Rs.2,778.90

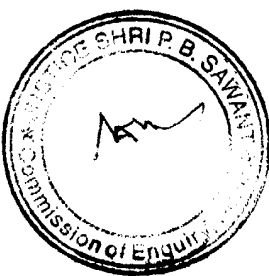
19) The allegation (not part of the original allegations) in this connection is replied to on behalf of Shri. Hajare as follows. The entries involving these amounts, were made on the respective dates by a non-professional accountant. It appears,



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that the relevant purchases were effected without making payment. The accountant had shown only on debit side the value of the purchases without showing on the credit side the value of the goods or services received. Since the corresponding amounts were not on hand on the respective days, the payments were made subsequently. Hence, the appearance of the negative cash balances on the respective dates. The explanation appears plausible. There is no reason otherwise for such entries to appear in the cashbook. It has further to be appreciated that beyond pointing out these instances, that too during a particular period, no contentions have been advanced in respect of them. The vague allegation made is that these expenses were made from unaccounted money. If this contention is to be accepted, it is difficult to appreciate that the amounts would at all be shown in the books of accounts. We are, therefore, unable to appreciate the allegation made in this behalf. Nor was any effort made on behalf of the applicant to connect these entries with any unaccounted money.

20) The allegation that the expenses of the calls on Shri. Hajare's mobile phone, were paid for by the trust, is answered on behalf of the trust as follows: -



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It is admitted that the mobile phone used by Shri. Hajare had incurred expenses of Rs.45,897/- during the years 1989-90 to 2002-03 and these expenses were paid out of the Trust's funds. It is not disputed that these amounts were paid by cheques against the bills received from the mobile company. It is, however, contended that Shri. Hajare used this mobile phone not for his personal work, but for the work of the Trust. It is explained that Shri. Hajare is always on the move from place to place. It is further pointed out that he receives calls when he is outside the State or even in towns where the incoming calls are also chargeable. He has innumerable callers, and has also to contact many persons for the work of the trust Hence, these expenses on the mobile phone cannot be said to have been incurred improperly or for improper purposes. Beyond pointing out the amounts which were spent on the mobile phone during the relevant period, no argument has been advanced on behalf of the applicant in respect of the said expenses. It is not contended that either the expenses were an instance of corruption or maladministration. No comments are, therefore, necessary on this allegation.

B) SANT YADAVBABA SHIKSHAN PRASARAK MANDAL



21) Sant Yadavbaba Shikshan Prasarak Mandal, Ralegan-Siddhi is registered both under the Societies Registration Act as well as the Bombay Public Trusts Act. It was established in 1980, for the purpose, as its name suggests, of spreading education. Shri. Hajare was associated with the trust from the very beginning as its trustee and secretary. It has eight divisions (paras 1 to 3 of Shri. Jain's deposition): -

- i) Shree Sant Nilobaray Vidyalaya.
- ii) Shree Sant Nilobaray Higher Secondary School.
- iii) Mandal Office.
- iv) Sant Yadav Baba Vasati Griha (Students' Hostel).
- v) Sant Yadav Baba Buildings Account.
- vi) Shree Achyutrao Patwardhan Gramin Vikas
- vii) Rashtriya Panlot Kendra (R.P.K.)
- viii) CAPART.

The last division has nine sub-divisions.

22) In all ten allegations were made in the original charter of allegations against the administration of this trust.

They were as follows: -

- i) Although the trust has sizeable income, its audited accounts for the years 1982 to 1994 were submitted to the Charity Commissioner only on 31.3.1995, and similarly its



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audited accounts for the years 1995 to 2002 were submitted only on 29.7.2003.

ii) Despite the objection of the auditor, construction worth crores of rupees was made without inviting tenders.

iii) No cash-book was maintained for 3 years viz. 1985, 1987 and 1988 during which period, a large expenditure was incurred for construction, and this, inspite of the objection of the auditor.

iv) Shri. Hajare and two other trustees, namely, Sarvashri. Mapari and Awate gave loans worth lacs of rupees to the trust in cash, between 1986 to 1994 without the permission of the Charity Commissioner and despite the objection of the auditor.

v) In spite of the fact that the trust had enough funds, the trust obtained grant during 1991-1992 from the Chief Minister's Relief Fund, and instead of spending it for the purpose for which it was received, the trust kept the amount in fixed deposit, for 3 years.

vi) Shri. Hajare was also the Chairman of the CAPART. He obtained funds for the trust of which he was a trustee, from CAPART for certain purposes, and instead of



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spending them for the said purposes, kept them in fixed deposit and thus deceived the Central Government.

vii) Despite taking grants of more than rupees three lacs, Shri. Hajare represented to the media that the trust had not received any grant and thus fooled the people.

viii) Shri. Hajare collected lacs of rupees as assistance by representing to the people that the trust was running the hostel free for the failed students from the rural areas, and charged the students hefty fees.

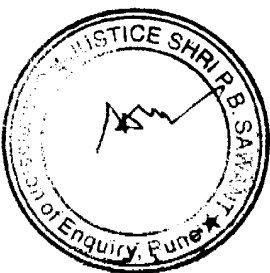
ix) The accounts of the trust showed Rs.79,27,282/- in the reserved fund. This amount was not carried forward to the next year. This shows that there was a large scale fraud.

x) The trust charged fees to the trainees inspite of receiving grants from the Central Government for free training to the students in the training centre run by the trust. The trust thus deceived the Central Government and the students.

23) Coming to the first allegation, namely, that the Trust had not submitted its audited accounts for the year 1982 to 1994 before 31.3.1995 and the accounts for the years 1995 to 2002 till 29.7.2003, the provisions of the Bombay Public Trusts



Act, 1950 (hereinafter referred to as the Act) relating to the submission of the audited accounts are contained in sections 32, 33 and 34 of the Act and Rule 21 of the Bombay Public Trusts Rules, 1953 (hereinafter referred to as the Rules). Section 32 of the Act requires that every trustee of a public trust shall keep regular accounts in such form as may be approved by the Charity Commissioner, and shall contain such particulars as may be prescribed. Section 33 states that the accounts so kept shall be balanced each year on the thirty-first day of March or such other day, as may be fixed by the Charity Commissioner, and shall be audited annually by a chartered accountant. The person auditing shall not in any way be interested in, or connected with, the concerned trust. Section 34 casts obligations both on the auditor and the trustee. The auditor is required to prepare balance sheet and income and expenditure account and to forward a copy of the same alongwith a copy of his report to the trustees, and to the Deputy or Assistant Charity Commissioner of the Region or sub-region or to the Charity Commissioner, if the Charity Commission requires him to do so. The trustee is required to file a copy of the balance sheet and income and expenditure account forwarded by the auditor before the Deputy or Assistant Charity Commissioner of the Region or sub-

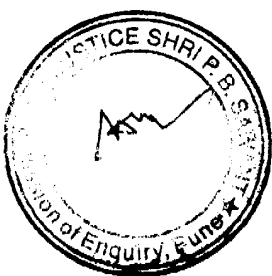


region or to the Charity Commissioner, if the Charity Commissioner required him to do so. The auditor shall in his report specify all cases of irregular, illegal or improper expenditure, or of the failure or omission to recover moneys or other property thereof, and state whether such expenditure, failure, omission, loss or waste was caused in consequence of the breach of trust, or misapplication or any other misconduct on the part of the trustees, or any other person. Rule 21 of the Rules states that the trustee shall get the accounts audited within six months of the date of balancing the accounts under sub-section (1) of section 33, and the auditor shall forward a copy of the balance sheet and the income and expenditure account along with his report to the Deputy or Assistant Charity Commissioner within a fortnight of the audit. The Deputy or Assistant Charity Commissioner may, however, for sufficient reasons, grant extension of time to do so. Section 67 of the Act states that failure to do so, shall be punishable with fine which may extend to Rs.1,000/-. Although it is true that while amending section 34 of the Act by adding sub-section 1A to it, casting obligation on the trust (alongwith the auditor) to file a copy of the balance sheet and the income and expenditure account before the Deputy or Assistant Charity Commissioner, as



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the case may be, there was no corresponding amendment to Rule 21(1) requiring the trustee to forward a copy of the balance sheet etc. to the Deputy or Assistant Charity Commissioner within a specified time, since section 67 deals with contravention by anyone of any of the provisions of the Act, it will cover a case of a trustee/s on whom an obligation is cast under section 34(1A) to file a copy of the balance sheet etc. before the Deputy or Assistant Charity Commissioner and who fails to do so. Looking at the aforesaid provisions of the law, there is no doubt that the trust and, therefore, the trustees of the trust committed illegalities when the accounts for the year 1982 to 1994 were submitted for the first time on 31.3.1995 and the accounts for the years 1995 to 2002 were submitted on 29.7.2003. Since this illegality is punishable under section 67 of the Act, they were liable to be punished under it. This allegation has, therefore, to be upheld against the trustees. It may be mentioned here that there was no defence to this allegation of the failure to submit the accounts to the office of the Charity Commissioner. The only excuse made was that it was out of ignorance that the accounts remained to be filed with that authority within time. Needless to say that, this cannot be a defence in law.



24) The second allegation is with respect to the objection allegedly pointed out by the auditor for not inviting tenders while undertaking construction worth lacs of rupees. The applicant has not pointed out anywhere whether a contract was given by the opponent trust for the execution of any of the construction work that it had undertaken, nor has the auditor in his report pointed out any work which was executed through the contractor or contractors. The auditor has merely stated against the relevant column in the prescribed form, that no tenders were invited for carrying out the construction work. It is not stated by him that the contractor or contractors were in fact engaged without inviting tenders. At some places, he has also mentioned that the work was done departmentally. As has been pointed out by the opponent, in no case they had engaged a contractor to execute any of their construction work. Either the work was done through voluntary labor or departmentally. When this was realised by the applicant, he did not press this allegation (para 42). Hence, no comments are necessary on the said allegation.

25) The third allegation made in the original charter of allegations was that no cashbook was maintained for three years - 1985, 1987 and 1988 during which period a large expenditure



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was incurred for the construction, and this, inspite of the objection of the auditor. It appears that this allegation made after the inspection of the accounts during the proceedings of the Commission, was expanded to include the period 1984 to 1991 and the year 2000 also, and it was contended that during all this period, no cashbook was maintained with a view to conceal corruption. The basis of this allegation is obviously the reports of the auditor for the relevant years. A perusal of the reports, shows that the auditor has not stated anywhere that no cashbook was maintained for any of these years, and this has been admitted by the applicant in paragraph 32 of his deposition. The basis of these allegations was the comments of the auditor against the relevant column in the prescribed form in which the accounts are submitted to the Charity Commissioner. The column and the comments may be reproduced here to appreciate the confusion: -

Column: - Whether the cash balance and the vouchers in the custody of the manager or trustee on the date of audit were in agreement with the accounts.

The remarks of the auditor against this column is as follows.

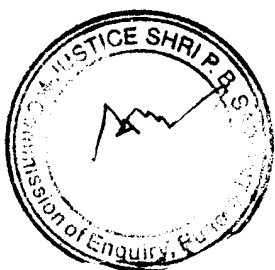
“Cashbook not written upto date.”



For some years against this column, the remark of the auditor is "cash on hand was Rs." and the further portion is kept blank or it is mentioned there as "rupees nil".

26) In the first instance, it will be noted that the auditor has remarked about the cashbook as on the date he audited the accounts. He has not remarked about the cashbook "for the year" under audit. Obviously, on the date the accounts are audited, cashbook would not be upto date because the cashbook is lying with him for some days for auditing the accounts, and as has been explained on behalf of the opponents in reply as well as in arguments, a rough cashbook was maintained for the period during which the cashbook was with the auditor, and since the cashbook was with the auditor, it could not be upto date till the date of the audit. This is not contradicted. There is, therefore, no substance in this allegation.

27) The fourth allegation was that Shri. Hajare and two other trustees, namely, Shri. Mapari and Shri. Awati gave loans worth lacs of rupees to the trust in cash, without the permission of the Charity Commissioner, and despite the objection of the auditor, between 1986 to 1990.



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28) The position with regard to the borrowings by way of hand loans by the trust, from the three trustees (para 7) is as follows:-

i) Shri. Hajare

1993-94	Rs.70,000/-
1994-95	Rs.50,122/-
1997-98	Rs.1,75,000/-
1998-99	Rs.5,000/-
2002-03	Rs. 54,810/- and Rs. 14,745/-

ii) Shri. Kisan Hari Mapari

1987-88	Rs.2,000/-
1989-90	Rs.13,400/-

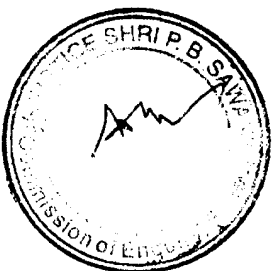
iii) Shri. Bhausahab Awati

1987-88	Rs.15,500/-
1988-89	Rs.13,500/-
1993-94	Rs.86,633/-

29) As has been explained by the opponent, these amounts were taken from the trustees themselves by way of handloans. No interest whatsoever was charged by the trustees or was paid to them nor is there any such allegation. If the trustees themselves give money to the trust by way of a



handloan and without charging any interest, it will be difficult to hold that the provisions of section 36A of the Act would be attracted to such loans. If the moneys, as stated by the trustees, were needed to meet contingencies, it will be impracticable for the trustees to obtain the Charity Commissioner's sanction before borrowing them by way of hand loans. These moneys, however, as has been explained on behalf of the opponent, were not unaccounted in the hands of the said trustees. In fact, the unaccounted money would never enter any account, much less the accounts of a public trust. The intention of giving the hand-loans was not to make any investment or to earn any profit therefrom. As has been explained, Shri. Hajare had this money saved from his pension as well as the cash awards, earned by him from time to time. Both Sarvashri Mapari and Awati are agriculturists and their money cannot be said to be unaccounted. In the circumstances, it is difficult to understand the purposes for which the allegation has been made. It is also not possible to accept the contention that since the amounts above Rs.20,000/- were given by these three trustees to the trust by cash, they would attract the prohibition contained in section 2695S of the Income Tax Act. In the first instance, as pointed out earlier, they were hand loans for



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temporary purposes. Secondly, they carried no interest. Thirdly, the three persons who had given the said amounts were not paying income-tax. All the three were also agriculturists for all practical purposes. As regards, the repayment in cash above Rs.20,000/-, there is no doubt that while repaying the amounts to these trustees, there was an infringement of the provisions of section 269T of the Income Tax Act and to that extent there is an illegality in as much as the Act requires that the repayment had to be made by a cross cheque or a demand draft. Instead it was made in cash. There is, however, no allegation that the said amounts were either misappropriated or siphoned off for some other purposes. It has to be realized in this connection that the expenditure incurred out of the said amounts is not questioned nor was the purpose of the expenses..

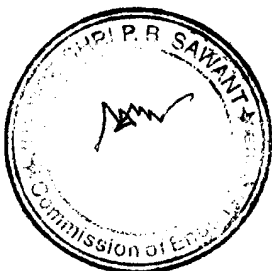
30) As regards the money borrowed as hand loans from the persons other than the trustees of the trust (para 7), the situation is as follows: -

Shri. Sahebrao Pathare	1987-88	Rs.11,520/-
	1993-94	Rs.1,870/-
Hind Swaraj Trust	2002-03	Rs. 53,000/-
Shri. Babu Genu Mapari	1995-96	Rs. 41,000/-
Shri. Bhau Nana Kadam	1995-96	Rs. 32,394/-



31) This allegation was not in the original allegations made by the applicant. The allegation was made for the first time after taking inspection of the accounts of the trust, and what is more the allegation was made by the applicant while he was in the witness box. To the extent that the amounts taken from the outsiders were without the permission of the Charity Commissioner, there was a violation of the Bombay Public Trusts Act. However, it is nobody's case that the said amounts were taken as "fixed period loans" or they bore any interest. No financial burden has thus been placed on the trust by taking the said loans. To the extent that these amounts were received from the outsiders in cash and were also refunded in cash without the permission of the Charity Commissioner, there is undoubtedly a violation of the provisions of Section 36A(3) of the Trust Act.

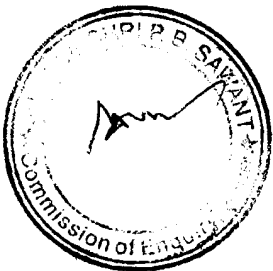
32) As regards the fifth allegation, the same relates to two amounts, namely, Rs.3,00,000/- and Rs.2,00,000/- received on different occasions in the years 1990-91 and 1991-92 from the Chief Minister's Relief Fund. There is no evidence led on behalf of the applicant that these amounts were taken from the Chief Minister's Fund by exercising pressure. This allegation is not further pressed on behalf of the applicant either in the oral



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or written arguments. In fact, there was no reference to the said allegation in the examination-in-chief of the applicant. All the same, his cross-examination on this point has brought on record that the amount of rupees three lacs was received for the purpose of the Guest House meant for the visitors to Ralegan-Siddhi and as has been argued by Shri. Paralikar on behalf of the Shri. Hajare, the amount was supposed to be kept in fixed deposit, and out of the interest earned thereon, the remuneration of the English Speaking Tourist Guide was to be paid. It may be mentioned in this connection that several people particularly from the other States, visit Ralegan-Siddhi to survey the work done by the trust at grassroot level and the trust needs a guide to explain to the tourists the various types of works, done by it. There is no allegation separately with regard to the amount of rupees two lacs received from the Chief Minister's Fund. But as stated above, the said allegation itself was not pressed by or on behalf of the applicant.

33) The sixth allegation was that Shri. Hajare was also the Chairman of CAPART, and in the said capacity he had obtained funds for the trust of which he was a trustee, from CAPART for certain purposes, and instead of spending the funds for the said purposes, he kept them in fixed deposit and thus

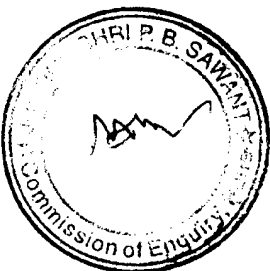


deceived the Central Government. The applicant while leading the evidence did not press this allegation and gave it up. His statement in para 47 of his deposition in that behalf is as follows: -

“It is correct to say that the CAPART does not give donations but only the grants, and Shri. Hajare was not the chairman of the CAPART during the relevant period. I have no complaints against the amounts granted by the CAPART to Yadavbaba Trust..... I have given up the allegations made in my affidavit at Point Nos. 7 and 9

The allegations in the affidavit at Point Nos. 7 and 9 relate to the grants received from the CAPART.

34) The seventh allegation was that although Shri. Hajare had received the grants worth more than rupees three crores, in his interview to the television on 2.8.2003, he stated that the Trust had not received any grants, and had thus deceived the people. However, this allegation was not pressed by the applicant either in his oral evidence or in the arguments either written or oral made on his behalf. As stated earlier, he had given up this point. (para 47 of his deposition).



35) Coming to the allegation (viii), namely, Shri. Hajare had collected lacs of rupees as assistance by representing to the people that the trust was running the hostel free for the failed students from the rural areas and by charging the students hefty fees, this allegation again was also not pressed by the applicant in his deposition, nor did he lead any evidence in support of it. The allegation was also not referred to either in the oral or written submissions. It is not, therefore, necessary to deal with it.

36) Coming now to allegation (ix), namely, that the accounts of the trust showed Rs.79,27,782/- received from CAPART, but was not shown in the accounts ending on 31.3.1999, so also an amount of Rs.54,11,878/- appearing as CAPART Project Capital Expenses shown in the balance-sheet ending 31.3.1998, does not appear in the balance-sheet for the year ending 31.3.1999. This allegation has been given up by the applicant. (Para 47 of his deposition.) No comments are, therefore, necessary on these allegations.

37) The last allegation was that the trust charged fees to the trainees' inspite of receiving grants from the Central Government for free training to the students in the training centre run by the trust. The trust thus deceived the Central

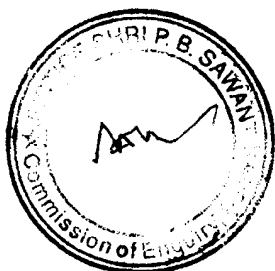


Government and the students. Shri. Jain as pointed out earlier had also given up this allegation. (Para 47 of his deposition.)

38) In addition to the above allegations, which were contained in the original charter of allegations, Shri. Jain also made the following allegations, some of which were made in the additional charter of allegations filed on 10.6.2004 (exhibit 5 in Hind Swaraj Trust) and in the deposition of Shri. Jain, and also in his written submissions.

These allegations may be listed as follows.

- a) The trust had not submitted the budgets contemplated by section 31A r.w. Rule 61(a) of the Trust Act, although its' annual income, admittedly, was in excess of rupees ten thousand.
- b) The trust did not account for the immovable properties purchased by it in 1984-85, namely, survey Nos. 602, admeasuring 3 Hectares 1 Are, survey No. 603, admeasuring 55 Ares, and part of survey No. 604, admeasuring 75 Ares of Ralegan-Siddhi.
- c) The trust had kept the amounts in fixed deposit in banks other than the nationalised and scheduled banks in contravention of Section 35 of the Trust Act.



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d) The trust had given finance to (i) Swami Vivekanand Kritadnyata Nidhi, rupees one lac and (ii) to Shri. Santosh Baban Dasar, Rs.5,000/- in contravention of Section 35 of the Act in the years 1998-99.

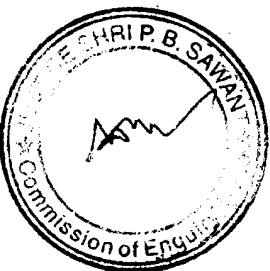
e) The trust spent Rs.46,374/- for renovating a temple in contravention of its objects, which is to impart secular education.

f) The trust has not explained how it received an amount of Rs.74,69,198/-, as grant under the CAPART's scheme, for the drip irrigation project, and also Rs.60,000/- from Hind Swaraj Trust as donation.

g) The trust has not explained as to how it has returned rupees four lacs received as donation from Ahmednagar Health Foundation.

h) The trust has not explained how it received Rs.1,50,000/- from the National West Land Development Board in 1986-87, when it was not one of its' objects to reclaim the waste lands.

i) The accounts of the trust for the years 1991-93 and 1993-94 are manipulated in as much as the transactions belonging to the financial years 1993-94 are shown in the accounts of 1991-92.



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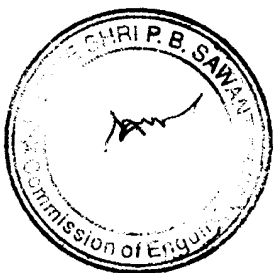
j) The trust has not explained as to how it received the amount of Rs. 3,63,790/- for the year 1992-93 from CAPART for the project of vermiculture. The trust has also not explained as to how it received money from CAPART for Ganesh Water Supply Scheme, Kohimi Project as loan, and without the permission of the Charity Commissioner, and when it was not even the object of the trust.

k) The accounts of the trust for the year 2003-04 are manipulated inasmuch as the transactions which belonged to the year 2003-2004 are shown as part of the transactions of the year 2002.

39) In addition to the above, the following additional allegations were made in the arguments before the commission:

i) Non-consolidation of the accounts of all the divisions of the trust and non-submission of the accounts of the trust as a whole, to the Charity Commissioner for the years 1996 to 2003.

ii) Falsification of accounts leading to the corrupt practice in respect of the fixed deposit of Rs.2,00,000/- in the year 1995-96.



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iii) Unexplained advances to the trust, in all to the tune of Rs.2,49,167.47 by Rajaram Gajare, the accountant of the trust.

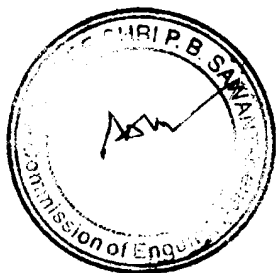
iv) The receipt of Rs.1,00,000/- in cash as a loan from Shri. Ganga Mapari in the year 2001-02 in the Hostel Division of the trust in violation of the provisions of the Income Tax Act as well as the Trust Act, and although the trust had a surplus cash of Rs.1,72,132/- on hand at the relevant time.

v) Evasion of sales tax on expenditure worth Rs.8,00,000/- on the purchase of the building material during the year 1989-2003.

vi) Illegal expenditure of Rs.17,85,000/- on hostel maintenance during the year 1996-2003 when the hostel did not belong to the trust.

vii) Non-reflection in the accounts, of the transactions of the other divisions.

viii) Although the Rashtriya Panlot Prashikshan Kendra (RPK) is one of the divisions of the trust, its' building is constructed by the Hind Swaraj Trust and all its activities are also carried out by that trust.

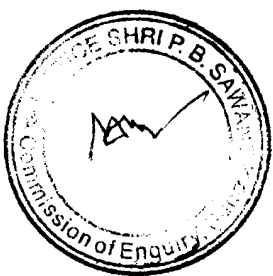


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ix) The unauthorised operation of Account No.38 with the Adarsha Gramin Co-operative Credit Society by Shri.Hajare and Shri. Dagadu Kisan Mapari from 11.6.1998 till date, although that account belongs to the trust.

40) Coming to the first allegation, namely, non-submission of the annual budget to the Charity Commissioner as required by Section 31A of the Trust Act, it has come on record that the opponent had submitted the budget as required by the said provision in the first year of the establishment of the trust, namely, during the year 1984. However, thereafter till date, as admitted by and on behalf of Shri. Hajare, no budget was sent to the Charity Commissioner. This irregularity has been admitted by and on behalf of the trust.

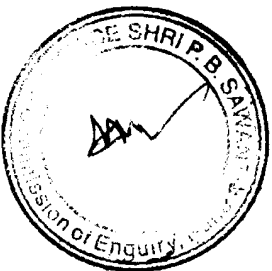
41) As regards the second allegation, namely, that the trust had not shown in the list of its properties, the properties purchased by it in the year 1980-81, as admitted by and on behalf of the trust, there is, no doubt, that the properties purchased by the trust, namely, Survey No. 602, admeasuring 1 Hectare 1 Ares, Survey No. 603, admeasuring 58 Ares and part of Survey No. 604, admeasuring 75 Ares and the construction made thereon from time to time are not shown in the schedule of properties of the trust as registered with the Charity



Commissioner. To that extent there is a breach of the provisions of Section 22 of the Trust Act. However, the purchase of the aforesaid pieces of land as also the construction made thereon has been duly reflected in the audited accounts of the trust.

42) The next grievance is that the trust had not, in breach of Section 35 of the Act, invested its moneys in the scheduled banks as defined by the Reserve Bank of India Act, 1934, or in the postal savings or in a co-operative bank approved by the State Government or invested them in the public securities. Instead, it had kept them in (i) Parner Taluka Sainik Sahakari Bank Ltd. and (ii) Adarsha Gramin Bigarsheti Patsanstha Maryadit. which was not permissible. To that extent the trust had committed irregularities.

43) The next allegation was that Rs.1,00,000/- were given by the trust as a loan to the Swami Vivekanand Kritadnyata Nidhi, and Rs.5,000/- were given by it to one Shri. Santosh Dasare, an employee of the trust, as an advance against his salary, in the year 1988-89. In the reply, the opponent has stated that the loan of Rs.1,00,000/- was given by the trust to the Swami Vivekanand Kritadnyata Nidhi for providing tap water to village Ralegan-Siddhi. No interest was charged on the said loan. As regards Rs.5,000/- paid to the employee, it was an



advance against his salary as he needed the amount for some emergency. While the amount of Rs.5,000/- given to Shri. Dasare, an employee of the Trust, was by way of advance against his salary and therefore, it is not a loan. The amount of Rs.1,00,000/- given to Swami Vivekanand Kritadnyata Nidhi is a loan, which is not permitted by the trust-deed. What is more, the loan was given without interest which also caused a loss of revenue to the Trust. The said loan was, therefore, being against the objects of the Trust, is illegal.

44) The further allegation is that an amount of Rs.46,374/- was spent by the trust for the renovation of the temple and the trust could not do so since its' object was to impart secular education. The defence taken on behalf of the trust that secularism does not exclude the expenses on temple is ill-conceived. To that extent the allegation of the applicant has substance in it. The second defence is that the hall belonging to the Yadavbaba Mandir on which moneys were spent for its' renovation, is used by the villagers as a meeting place and all decisions affecting the inhabitants of the Ralegan-Siddhi village, are taken by assembling in that hall. It is not denied that Ralegan-Siddhi has a Grampanchayat and if the villagers want to meet to take decisions affecting them, they can use the



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place belonging to the Grampanchayat. In any case, it is not an object of the trust to spend money on halls used by the villagers for their assembly. The trust is not authorised to spend money on every social object. It can spend money only on the objects, which fall strictly within its purview, and as pointed out above, the renovation of the hall in question for the purpose of the villagers' assembly, is not an object of the trust. Hence, this explanation appears to be without any basis and the contention of the applicant has to be upheld.

45) The further allegation that Rs.74,69,198/- were received by the Trust for drip irrigation scheme, is not pressed on behalf of the applicant, obviously because it could not be shown that the amount was received by the trust for the said purpose. On the other hand, as has been contended on behalf of the opponent this amount represents various amounts received as grants for various other purposes.

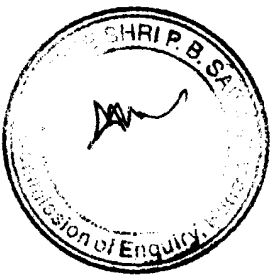
46) As regards Rs.60,000/- received by the trust for the drip irrigation set, as has been pointed out while discussing the allegations against the Hind Swaraj Trust, this trust had received the said set from the villagers as a gift, which was lying with them unused. The accountant of the trust did not know how to account for this, and had not shown it in its assets



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in the accounts. Ultimately, when it was sold to the Hind Swaraj Trust for Rs.60,000/-, the said amount was shown in the accounts as donation from that trust. There appears to be some substance in this contention in as much as it is not denied that the said set was given by the villagers to the trust and was lying in the school compound till it was purchased by the Hind Swaraj Trust. The trust cannot be said to have tampered with the set. On the other hand, in as much as it has cashed it by selling it to the Hind Swaraj Trust for Rs.60,000/- and showed the said amount in its' accounts, no charge either of corruption or maladministration can be made against it.

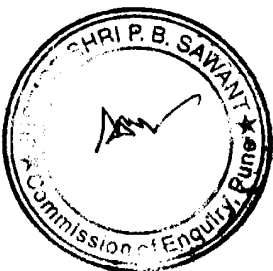
47) As regards the return of Rs.4,00,000/- to the Ahmednagar Health Foundation, as has been explained by the opponent, the villagers had constructed by their voluntary labour, the school building in Ralegan-Siddhi. They did not want any help either in cash or kind from any person or institution for that purpose. However, Shri. Naval K. Firodia, a trustee of the Hind Swaraj Trust desired to do something for the school, and sent on his own, steel worth Rs.6,47,223/- through the Ahmednagar Health Foundation, another trust, and Rs.3 lacs by cheque. Since the villagers had decided that the school should be built on self-help basis, and without taking any assistance of



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any kind from anyone as stated above, they decided to return the donation received from Shri.Naval Firodia through the Ahmednagar Health Foundation, and the amount was returned in two installments of Rs. 2 lacs each to the said Foundation. The balance is yet to be returned. That is how this donation has been returned to the Ahmednagar Health Foundation in part and that is the amount of Rs.4,00,000/- which appears in its accounts as donation returned to the Foundation. This has not been controverted. The point is also not pressed in the written or oral submissions before the Commission.

48) The next allegation is that Rs.1,50,000/- were received by the trust from the National Wasteland Development Board in 1986-87, when it was not the object of the trust to reclaim the wasteland. The opponent trust has pointed out that, in fact, only an amount of Rs.1,00,050/- and not the amount of Rs.1,50,000/- was received from the Wasteland Board. That amount was received for the purpose of the development of the nursery. The trust has developed the nursery and grown plants, which have been utilised for plantation through out the village and the proof of the same is there for any one to see. Since this point is not pressed, it is not necessary to comment on it any further.



49) As regards the allegations at (j) and (k), namely, that there is a difference between the balance as shown in the balance-sheet and the audited reports for the respective years, namely, 1991-92, 1992-93 and 2002-2003, the facts on record reveal that while the amounts shown in the balance-sheet are at the end of the respective years, the auditor has shown the amounts in his report as on the dates of the audit. This point is also not pressed and, therefore, needs no discussion.

50) As regards the allegation that the trust had received Rs.3,63,790/- for the project of vermiculture from CAPART, and a large amount from the same institution as a loan for the Ganesh Water Scheme, Kohimi Project, although the said scheme did not fall within the objects of the trust, and that the said loan was taken without the permission of the Charity Commissioner, the trust has explained that both the amounts were received as grants for the respective projects and no loan was taken for any of the two projects from CAPART. Secondly, as far as vermiculture project is concerned, it was completed successfully. However, as regards the Ganesh Water Supply Scheme, it could not be implemented and the amount of the grant was returned with interest to CAPART. This is not controverted.



51) Coming now to the charges for the first time advanced in arguments, as detailed and pointed out above, the first of these allegations is that the trust had not submitted to the Charity Commissioner the consolidated accounts of all the divisions of the trust by one document. Another argument was that the accounts of some divisions were not sent to the Charity Commissioner even separately. The divisions whose accounts were not sent and the years for which they were not sent, were as follows (Exhibit 5): -

31.3.1996 Hostel, R.P.K. & Achyutrao Patwardhan

31.3.1998 Hostel, R.P.K., Achyutrao Patwardhan and CAPART

31.3.1999 Hostel, Achyutrao Patwardhan and Media Centre.

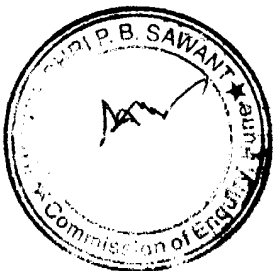
31.3.2000 Hostel, R.P.K., Achyutrao Patwardhan, Medical centre

and Building Fund.

31.3.2001 Achyutrao Patwardhan and Media Centre.

31.3.2002 Achyutrao Patwardhan, Media Centre and R.P.I.

52) It is contended on behalf of the applicant that these omissions were made to avoid payment of income tax on the consolidated income of the trust, and also to avoid payment of contribution to the public trust administration fund under the Bombay Public Trust Act. In the first instance, the trust is not



liable to pay income tax and it is also not liable to pay its contribution to the public trust administration fund, since as contended on behalf of Shri. Hajare, it is exempted from both the liabilities. However, it is true that the consolidated accounts of the trust comprising the accounts of all the divisions, were not sent during the years concerned to the Charity Commissioner. There is no explanation given for not sending the same. To that extent, there is illegality and this amounts to the maladministration of the trust.

53) The next contention is that the trust has not explained from where it had received Rs.2,00,000/- as donation on 1.4.1995 shown in the books of accounts. There is an entry of a fixed deposit made with the Parner Sainik Sahakari Bank of the equivalent amount. The accounts also show that this fixed deposit was prematurely encashed on 11.11.1995, and on the same day the amount of Rs.2,00,000/- is shown as having been given as handloan to the Hind Swaraj Trust, the sister trust. However, the interest, it must have earned for about 7 months on the said fixed deposit, has not been shown anywhere in the accounts of the trust. According to the applicant, this shows falsification of the accounts of the trust, with a reason to believe that many such transactions must have taken place and



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not reflected in the accounts of the trust. Shri. Hajare. has not explained as to how the amount of Rs.2,00,000/- came to be received by the trust on 11.4.1995 and, therefore, the entries pertaining to the said amount of Rs.2,00,000/- made in the accounts have remained unexplained. There is no doubt that some mystery surrounds the so-called donation of the said Rs.2,00,000/-. The record does not show as stated above, from where the said donation has been received. There is also no documentary evidence of the fixed deposit made in the Parner Sainik Sahakari Bank Ltd. and of what happened to the interest for 7 months earned on the so-called fixed deposit. These are thus two illegalities with regard to the said amount of Rs.2,00,000/-. In the first instance, the amount was deposited in the non-scheduled Bank viz. the Parner Sainik Sahakari Bank and although the amount is accounted for, the interest on the said amount for seven months is not accounted for. The Commission is, therefore, constrained to conclude that the trust has failed to give any explanation with regard to the receipt of the said amount of Rs.2 lacs and to account for the interest. To that extent there is definitely an illegality on the part of the trust.

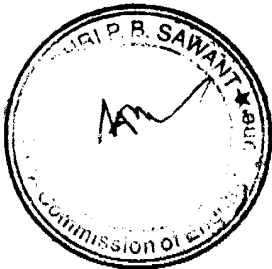


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54) The next allegation is that in all an amount of Rs.2,49,167.47 is shown in the books of accounts as having been received at different times from one Rajaram Gajare, who was admittedly a Superintendent of the hostel belonging to the trust. His monthly salary is Rs.2,000/-. It is not, therefore, possible to believe that this gentleman had from his own purse paid the said amount from time to time.

55) On behalf of Shri. Hajare it is explained that the advance amount of Rs. 1,00,000/- towards the mess charges of the trainees participating in the camp held by the Nilobaray division of the trust, from 27.5.2002 to 1.6.2002 was paid by the Education Officer of the Zilla Parishad in cash on 20.5.2002. Shri. Gajare deposited the said amount in the bank. A perusal of exhibit 8, which is the extract of the account books of the trust, reveals the following entries on 21.5.2002: -

<u>Particulars</u>	<u>Debit</u>	<u>Credit</u>
Opening balance	9,104.51	
Suresh Rajaram Pathare Tarun Mandal		8,325.00
Cash Deposit in Bank		1,00,000.00
Rajaram Gajare Anamat Khate (Mel Ghatala)	99,220.49	
	_____	_____



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1,08,325.00 1,08,325.00

56) These entries in the books show that the accountant has tried to tally the amounts as above in the books of accounts. What the accountant has done is to take the opening balance of Rs.9,104.51 as well as the deposit of Rs.1,00,000/- as the amount available with the trust on that day, and after deducting therefrom Rs. 8,325/-, has shown the net amount of Rs.99,220.49 as being received as advance from Shri. Gajare, which as pointed out above is, in fact, the amount received by Shri. Gajare from the Education Officer. But as explained earlier the accountant who is not a professional man has tried to tally the entries in the account books to the best of his understanding. The evidence of Shri. Gajare and the letter pertaining to Rs. 1,00,000/- are at exhibits 107 and 108, respectively, in the Hind Swaraj Trust proceedings.

57) As regards the rest of the amount of Rs. 2,49,167.47, they represent the value of the purchases made by Shri.Gajare on credit for the hostel, and the accountant has entered the said value as amounts received from Shri. Gajare. They are not, therefore, the amounts received from Shri. Gajare. It is the faulty procedure adopted by the accountant to show the said amounts in the manner in which he has done.

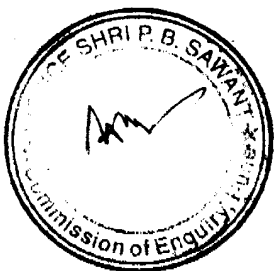


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That has created the confusion resulting into the present allegations by the applicant.

58) As regards the allegation that one Shri. Ganga Mapari, a trustee of the trust, had given a handloan of Rs. 1 lac, and the trust had taken the same from him on 3.8.2001, although the trust had on hand a cash balance of Rs.1,72,138/-, as has been stated on behalf of Shri. Hajare, at that time the construction work undertaken by the trust was under way. The loan taken from Shri. Ganga Mapari was by way of a handloan without interest. Merely because the trust had some money on hand, it did not prevent it from taking handloans from others, including its' own trustee Shri. Ganga Mapari. It has also been pointed out that Shri. Mapari is an agriculturist and the Income Tax Act does not prevent receiving money from the agriculturists in cash, whatever the amount. We do not find anything objectionable in this handloan when the trust had paid no interest to Shri. Mapari.

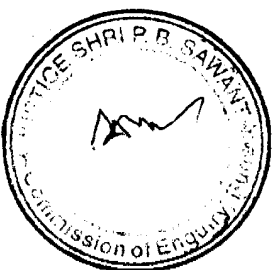
59) As regards the allegation that the amount of Rs.8 lacs as detailed in exhibit 18, was spent by the trust between 1989-2003 without corresponding bills. It is not disputed that, there are office-vouchers for the amounts and these vouchers are signed by the very persons who have received the amounts.



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These vouchers further indicate the purpose for which the money was received by the payees. We, therefore, find no merit in this contention.

60) The other aspect of the very same allegation is that the opponent had avoided to pay sales tax on the material purchased for the construction without bills, during the period 1989 to 2003. The reply on behalf of the opponent is that the construction was either done by voluntary labour or departmentally. The material was needed for such construction and there is no dispute that it was purchased on vouchers and most of it, from the local retailers. Secondly, the allegation made by the applicant in this behalf is vague inasmuch as he has not clarified as to which items purchased by the opponent were liable to pay the sales tax and whether any of these items were purchased from the vendors other than the local retail traders. The local retail vendors, being resellers, were not liable to pay sales tax. It was the vendors from whom the local retail traders had purchased the material, who had to bear the liability. The applicant has also not made it clear whether the price at which the opponent had purchased the material from the retail vendors had included the sales tax or not. This being



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the case, the contention cannot be upheld for want of the relevant evidence.

61) The next allegation is that the trust had spent Rs.17,85,000/- during the year 1996-2003 on hostel maintenance (exhibit 19) with a view to show a reduced income to avoid paying income tax. Further, as detailed in exhibit 19, the said amounts includes an amount of Rs.10,81,624/- spent on construction, furniture and fixtures in the hostel. The expenditure of this huge amount on the property belonging to another trust is clearly unjustified. No explanation has been given on behalf of the opponent and this contention has to be upheld.

62) The next allegation is in respect of (i) inter-division transfer of funds between R.P.K. and the Media Centre and (ii) between the hostel division and the building division. The main contentions relate to the dates of the transfer. There is no allegation that the divisional- transfers are not accounted for. The contention is that the dates of the entries in the respective divisions are not identical. There is no substance in this contention.

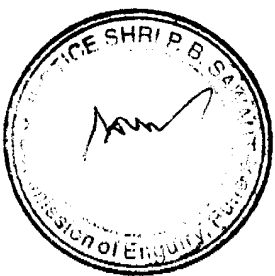
63) It is next alleged that both this trust as well as the Hind Swaraj Trust are running R.P.K. Centre. The further



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allegations on the subject are made on the basis of this premise. The facts are different. As has been made amply clear by the opponent, the R.P.K. is being run by the Hind Swaraj Trust and what is being looked after by the R.P.K. division of this trust, is the messing of the trainees in the R.P.K. centre. The other division of this trust, namely, the hostel division, looks after the hostel of the students studying in the educational institutions run by this trust, and the said educational institutions do not include the R.P.K. The contentions advanced on behalf of the applicant on this subject are the result of the basic misunderstanding or the confusion between the messing of the R.P.K. trainees looked after by this trust and the hostel run by this trust for its own educational institutions on one hand and the R.P.K. centre run by the Hind Swaraj Trust, on the other.

64) The last of the allegations is in respect of the alleged unauthorised account No.38 in the name of Shri. Anna Hajare and Shri. Dagadu Kisan Mapari from 11.6.1998 tilldate. This account is in the Adarsha Gramin Bigarsheti Sahakari Patsanstha Ltd. The further allegation is that the accounts of this account for the period 1998 to 2000 were not even shown in the hostel division of the trust or in the accounts of any other



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division of the trust. However, after 2000, the accounts are being shown in the hostel division of the trust.

65) The opponent has not explained as to why this account was opened in the personal name of Shri. Anna Hajare and Shri. Mapari. If it was the account of the hostel division, there was/is already a separate account of the hostel division of the trust. Secondly, there is no explanation as to why the accounts of this account were not shown even in the accounts of the hostel division of this trust for the period 1998-2000. The contention of the applicant that this was a secret account kept by Shri. Hajare and Shri. Mapari, is not borne out by the facts on record. This is so, firstly, because the account was maintained from 1998 onwards till date in the said credit society. Secondly, from the year 2000 onwards, this account is shown under the hostel division of the trust. This has been done since the year 2000, i.e. much before any allegations were even whispered in that connection. Thirdly, beyond making a bald allegation that this was a secret account kept by Shri. Hajare and Shri. Mapari, no evidence has been led to show in what manner the operation of the account was secret. There is no doubt that the maintenance of this account separately and in the personal names of the two persons was not shown to have been necessary



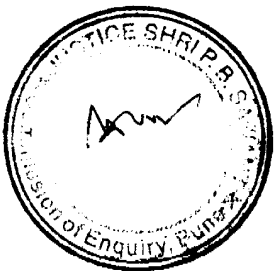
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for any purpose, and the reasons, if any, have not been explained. Such an account is bound to raise doubts about it. But as stated earlier, the applicant has not shown as to what secret operations were conducted through this account. This will, at the most, amount to an irregularity in the maintenance of the accounts.

C) BHRASHTACHAR VIRODHI JANANDOLAN TRUST

66) The following allegations were made by the applicant in respect of the affairs of this trust (hereinafter referred to as Janandolan also): -

- i) The society and the trust were registered illegally.
- ii) In the management of the trust, there is a large-scale corruption, and there are also irregularities as detailed at points 10 onwards below.
- iii) The expression "Bhrashtachar Virodh" (Anti-Corruption) in the name of the trust, is illegal.
- iv) The continuance of the trust without the requisite number of the trustees/members had been illegal.
- v) The documents submitted for the registration of the trust were irregular and deficient.



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vi) The appointment of the treasurer of the trust was illegal. Hence, the operation of the trust and its accounts was illegal.

vii) There were no meetings of the trust as required by law.

viii) The establishment of the trust itself was illegal.

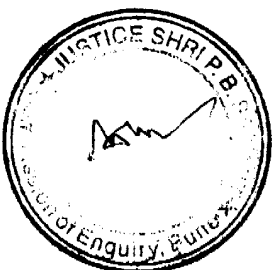
ix) The objects of the trust are not according to law.

x) The trust has not maintained regular accounts. The accounts are manipulated and the expenses shown to have been incurred by the trust are illegal. The trust has spent money on matters which are not even the objects of the trust. The reports of the auditor are incorrect.

xi) The trust had collected money a year in advance of its establishment. The moneys so collected were not all shown in its account and a large part of the amounts so collected was misappropriated.

xii) The District Committees of the trust collected large amounts in the name of the trust, but were not accounted for.

xiii) There was a misappropriation of the funds of the trust after it was established.



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xiv) The receipts of the trust do not mention the registration number of the trust as also the registration number under the Income Tax Act. There is also no signature of the donors on the receipts and the signature of the recipients of the amounts. By this device, Shri. Hajare has made large-scale defalcations.

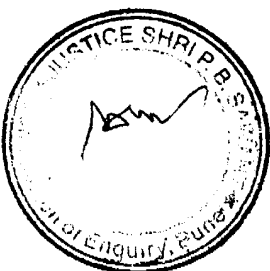
xv) Although by 31.3.1997, the trust had collected Rs.1,97,402/-, in the application for registration made by Shri. Hajare alongwith his affidavit, showed only an amount of Rs.500/- as the total funds of the trust.

xvi) The trust had not filed the audited statements of accounts for the years 1998-99 to 2001-02.

xvii) There is misappropriation of huge amount of the funds inasmuch as there is a vast difference in the amount actually collected by the trust and that shown in the accounts of the trust.

xviii) Shri. Hajare has not shown the moneys collected by him for the expenses of petrol.

xix) Shri. Hajare has handed over the trust to the people with criminal background after illegally removing the trustees associated with the trust from the beginning.



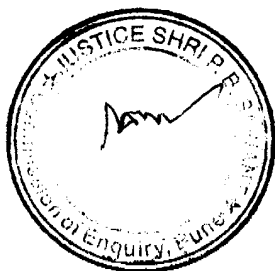
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xx) Individuals with criminal background have been made the heads of the District Committees of the trust for the purposes of collecting money from the members of the public by pressurising them.

xxi) The trust has violated the Income Tax Act and Bombay Public Trusts Act by collecting Rs.75,000/- from an institution which was not legally established.

Non compliance and the contravention of the law at the time of registration of the Janandolan and thereafter.

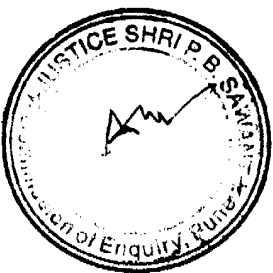
67) The lack of the requisite number of members while registering the Janandolan as a society. The allegation is that, the provisions of section 1 of the Societies Registration Act, 1860, require that any 7 or more persons have to subscribe their names to the memorandum of association for forming a society under the Act. According to the documentary evidence, which has come on record, there is no doubt that Father Debrato, who was supposed to be one of the seven members of the society, had not signed the memorandum of association at the time of the registration of the society. In fact, as it transpires now, he has not signed the same till date. However, the Registrar of the Societies had registered the institution as a society under the Act. That was clearly contrary to law.



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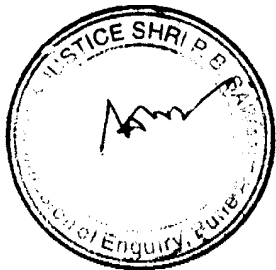
68) The record also shows that the Janandolan was registered as a trust under the Bombay Public Trusts Act, 1950 (hereinafter referred to as the Trust Act) after an inquiry under section 19 of that Act, by order dated 5.11.1997 passed by the Assistant Charity Commissioner. The memorandum of association with the rules of the society submitted by Shri. Hajare to the Assistant Charity Commissioner at the time of the registration of the Janandolan as a trust, has to be treated as the instrument of trust according to the provisions of Section 3(7A) of the Trust Act. The rules of the trust do not require any minimum number of members for its formation as a trust. The Trust Act also does not require any minimum number of the trustees for the establishment of the trust. Hence, it will have to be held that the Trust was legally registered on 5.11.1997, under the Trust Act. The rules which have to be treated as a part of the instrument of trust do require that there should be at any point of time minimum 7 trustees. The letter dated 10.11.2001 and the original affidavit of Father Debrato makes it clear that Father Debrato continued to be the trustee of the trust till 10.11.2001 from its inception.

69) However, Shri. Avinash Dharmadhikari, one of the trustees resigned in 1998, Shri. Govindbhai Shroff resigned on



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14.10.1999, Shri. G.P. Pradhan resigned on 8.12.1999, Father Debrato resigned on 10.11.2001, Shri. Baba Adhav resigned on 19.11.2001 and Smt. Pushpa Bhavé's term expired in 2002. It would, therefore, appear that since September, 1999, there were never 7 trustees in place. The quorum required for the meeting of the trust, however, was 5 trustees. The situation evidenced from the facts narrated above shows that after September/October, 1999 there were never more than 4 trustees. No meeting of the Board of trustees could have been called and no business could have been transacted in the meeting of the Board of Trustees after September/October, 1999. Under Clause 5 of the trust deed (rules to be treated as trust deed) there are four classes of members of the trust, namely, trustee members, life members, annual members and district representative members. Only the trustee members are entitled to be the members of the Board of Trustees (Executive Committee). Further, all categories of members can be enrolled only by the Board of Trustees, and as stated earlier, the Board of Trustees required for their meeting minimum 5 members as the quorum. Therefore, after September/October, 1999 no member, including the trustee member, could be enrolled,



since as stated earlier there were no more than four trustee members after September/October, 1999.

70) Therefore, it will have to be held that all transactions made by the trust after September/October, 1999 till date, were illegal in as much as they were neither according to the Trust Act nor according to the rules of the trust.

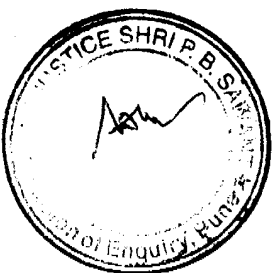
71) As regards the period between 5.11.1997 till September/October, 1999, Shri. Baba Adhav has stated that regular meetings of the trustees were being held till 14.10.1998, while Shri. Hajare has stated that till 29.11.2002, there were meetings of the trustees, but many of the trustees were not attending the said meetings. Shri. Hajare has further deposed as follows:-

“We were not appointing new trustees when the trustees resigned. However, it is only after all the trustees (except himself) resigned, that on 29.11.2002 a new Board of Trustees was appointed.”

72) He has further admitted that between 1998 to 2001 only three trustees were there. He has also admitted that after 1998, none attended the meetings of the Board of Trustees. He has also stated that between 1998 to 2001, the Secretary had not convened any meeting of the Board of Trustees (para 12).



73) As far as the District Committees and the District Presidents were concerned, there are contradictory statements made by Shri. Hajare. In para 5 of his deposition, he has stated that since 1998 they started holding meetings of the District Presidents alongwith the meetings of the trustees, and all the decisions were taken in such meetings. Although there is no provision in the rules/trust deed, since 1997 till 1999 they used to appoint District Conveners. He has further admitted that according to the constitution of the trust, the District Convenors and the District Presidents were not supposed to perform duties of the trustees. He has then stated that he started the practice of holding meetings of the District Representatives along with the meetings of the Board of Trustees when the trustees were not attending the meetings. All these statements made by him not only bristle with contradictions but raise certain legal questions. According to law, the trustee members could be appointed only by the Board of Trustees, and as pointed out above, even according to Shri. Hajare's admissions, from 1998 onwards there were no more than 3 trustees at any time. According to his admission, further, the meetings of the Board of Trustees were never convened by the Secretary from 1998 onwards, and after 2001 except himself, there were no other



trustees. The Board of Trustees had never appointed the District Committees and their Presidents, who alone are recognised by the constitution, but not as full pledged members. They were to be treated as members so long as they continued to hold the office of the Presidents of the District Committees. He has also admitted that no trustees were ever appointed to the Trust. This means that atleast since 1998 onwards till date, the Trust was not functioning legally and could not have done so. The above discussion disposes of allegation Nos.(i), (iv), (vii) and (viii).

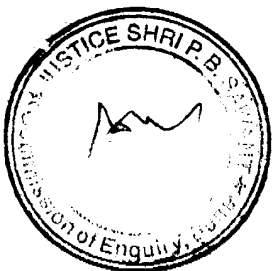
74) As regards the allegation that the expression "Bhrasthachar Virodh" (Anti Corruption) in the name of the trust is illegal, the applicant has relied upon a decision of the Assistant Charity Commissioner, dated 29.7.1999 and the decision of the Division Bench of the Aurangabad High Court in Writ Petition No.4610 of 1998 filed against it, and the subsequent circular of the Charity Commissioner, dated 6.12.1999 pointing out the said decision to the subordinate offices. The decision of the High Court rests on the contents of Section 20 of the Societies Registration Act, where the societies to which the Act is applicable are mentioned. However, the definition of "charitable purpose" under section 9 of the Trust



Act includes in sub-section 4 thereof “the advancement of any other object of general public utility”. The expression “general public utility” would include such activities as a movement for the eradication of corruption, for which certainly the trust was established. However, there is nothing on record to show that the order of the High Court was appealed against. Hence, as things stand to-day, the order of the High Court is binding, and the Trust cannot operate with that expression in its name, after the decision of the High Court, unless it gets the decision reversed. However, since the Trust could not operate legally after 1998 for want of the requisite number of trustees, the decision, has not made any difference to the legality of the functioning of the trust.

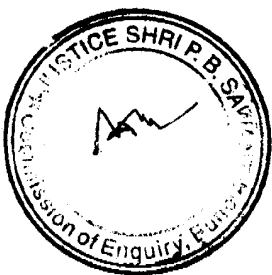
75) This discussion also disposes of allegation No.(ix).

76) The next allegation that the documents which are submitted for the registration of the trust and for keeping the accounts of the trust were illegal, is based on the fact that Father Debrato, who is named as the treasurer in the memorandum of association (which is to be treated as the trust deed for the purposes of the trust) was not available at the time of the registration of the trust, and had not signed the application for registration. Father Debrato has in so many

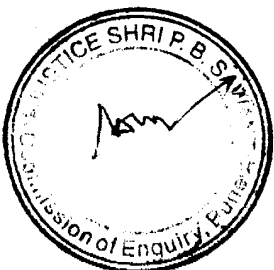


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words, as pointed out earlier, stated that he was associated with the trust from its inception till 10.11.2001. The Trust Act does not require that all the trustees should sign the application for registration. In fact, even one individual can apply for registration of the trust. Secondly, although Father Debrato was not there at the time of the registration of the trust, it is not suggested that when he was appointed as the treasurer, which must be before the application for registration, he was not with the trust. Therefore, it cannot be said that his appointment as the treasurer was illegal. There is no doubt that Father Debrato has, on affidavit filed before this Commission, stated in so many words that he could not work as a treasurer and somebody else worked as a treasurer. However, he has not disowned the work done by somebody else as a treasurer. The work done by others as a treasurer will therefore be binding on him. Hence, so far as the trust is concerned, it cannot be said that till 10.11.2001, the work done by the treasurer was illegal. The allegation has undoubtedly some substance so far as the work of the treasurer after 10.11.2001 is concerned, and to this part of the allegation there is no reply from the opponent. It will have, therefore, to be held that the maintenance and keeping of the accounts after 10.11.2001 has not been according to the rules of the trust.



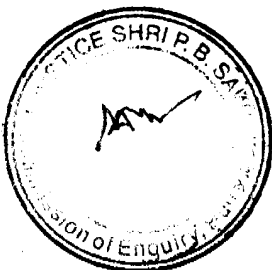
77) Coming now to the next allegation, namely, that the trust had collected money before its establishment, and all the moneys so collected were not shown in the accounts, the applicant has not furnished any details of the same. There is nothing on record to show that the opponent had collected a specific amount and that some portion of it was not shown in the accounts. On the other hand, it appears from the record that the opponent had shown Rs.1,97,44,402/- in the accounts of the year ending 31.3.1997 on the credit side. These accounts were of the period prior to the registration of the trust. The trust was registered, as has been pointed out earlier, on 5.11.1997. It appears that the opponent and others associated with the trust had taken the decision to start an Anti-Corruption Movement and had for that purpose started collecting money. After having collected some money, they had also decided to register the trust and for that purpose first they prepared the memorandum of association on 20.5.1997 and thereafter registered the trust on 5.11.1997. They had, however, started collecting the money the moment they had taken the decision to launch the movement. The opponent has got the accounts audited for the period from the date of the decision to start the movement, till 31.3.1997, and they have been duly accepted. If



the opponent did not want to show the amounts collected prior to the registration of the trust, it was not obligatory on him to get the accounts of the money so collected, audited and submitted to the Charity Commissioner, as he has done. As pointed out earlier, the applicant has also not alleged that a specific portion of the amount so collected was not shown by the opponent in the audited accounts. We, therefore, find no substance in this allegation. This also disposes of the allegations Nos.(xv) and (xvii).

78) The next set of allegations of the applicant was that the trust had not maintained regular accounts, that the accounts were manipulated, that the expenses made were illegal in as much as monies were spent on matters which were not the objects of the trust. He has also contended in this connection that the reports of the auditor to that extent are incorrect. These allegations are vague and do not point out as to how and why the expenses were illegal. However, these allegations were not pressed and, therefore, it is not necessary to deal with them further.

79) The allegation that the District Committees appointed by the trust had collected some donations in the name of the trust, but were not accounted to the head office of



the trust, appears to have substance in it inasmuch as Sarvashri Salve and Ghorpade who were appointed by the trust to look into such allegations, so far as Satara, Sangli and Kolhapur districts were concerned, have also stated so in their report. Although, therefore, the applicant has not given any specific instances of the amounts so collected, and not accounted for, we will have to uphold this allegation.

80) The allied allegation was that the moneys were being collected on receipts, which did not bear the number of the registration of the trust. The donors' signatures were also not taken on the receipts nor were the signatures of those who collected the donations. This allegation has also some substance in it in respect of some receipts used for collection of donations. However, how many such receipts were used, and how much amount was collected on such receipts has not come on record.

81) The allegation that the audited accounts of the trust for the years 1998-99 to 2001-02 were not submitted to the Charity Commissioner on time, has not been refuted by the opponent.

82) The allegation with regard to the collection of money for petrol is not substantiated. The allegation has also



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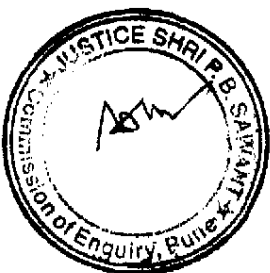
not been pressed, and hence, there is no need to deal with it further.

83) The next allegation is that in the accounts of the trust for the year ending 31.3.1998, an amount of Rs.75,000/- was shown as taken in cash from Ralegan-Siddhi Pariwar, and this amount was also returned to that institution in cash, both of which transactions are not according to law. Admittedly, the amount so taken was a loan without interest, and no interest was paid on the same. There is no doubt that the receipt of the amount as well as the payment of the amount in cash in excess of Rs.20,000/- is an illegality in view of the provisions of Section 26955 and 269T of the Income Tax Act. The transaction is also illegal since no permission from the Charity Commissioner was taken to take the loan as required by section 36A (3) of the Trust Act. The explanation given by the opponent is that there exists an informal organisation called Ralegan Siddhi Pariwar. It is neither registered as a trust nor as a society. This organisation has been formed by the villagers of Ralegan-Siddhi to give monetary assistance to who are needy, without charging interest. Accordingly, the trust was in need of money in the year 1998, and it was advanced the moneys by the said Pariwar. (Refer to the evidence of Shri. Tanurkar in Hind Swaraj Trust).



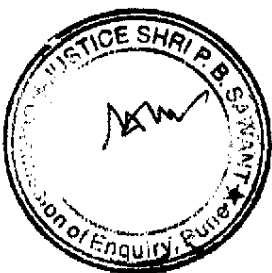
84) As regards the allegation that the opponent had removed the other founder-trustees illegally, it is not borne out by the evidence. On the other hand, it appears from the evidence that has come on record that the other trustees withdrew themselves from the trust for various reasons of their own and almost surrendered the institution to Shri. Hajare. Admittedly, the other trustees were in majority. As against one man, namely, Shri. Hajare, they had the majority. If they had acted unitedly, it was possible for them to run the institution according to their will. On the other hand, they allowed Shri. Hajare to run it. This is not a phenomenon, which can be called an illegal ouster of the other trustees by Shri. Hajare.

85) The other set of allegations relates to the constitution and working of the District Committees. Shri. Hajare has admitted in his deposition that it was for the first time that in the year 2000, the District Committees were formed and the District Presidents were appointed. As discussed above, it is evident that by the year 2000, only 4 trustees were left, namely, Father Debrato upto 10.11.2001, Shri. Baba Adhav upto 19.11.2001 and Smt. Pushpa Bhav upto 2002. This is also admitted by Shri. Hajare. The record also shows that no meetings of the trustees were held after 1998.



Therefore, the District Committees, District Presidents and Taluka Committees were obviously appointed by Shri. Hajare alone. In fact, when 4 trustees left in 2000, no meeting of the Board of Trustees of the trust could have been legally convened thereafter, and it is not Shri. Hajare's case that any meeting of the Board of Trustees was convened after 1998. That also strengthens the conclusion that the District Committees, Taluka Committees and the District Committee Presidents were the creation of one man, i.e. Shri. Hajare (para 12 of his deposition). The operation of the District Committees, District Presidents and Taluka Committees was, therefore, the sole responsibility of Shri. Hajare.

86) Shri. Hajare has admitted that the receipt books of the trust were distributed in the districts for collection of funds for the trust. The evidence further shows that most of them were lost. Although Shri. Hajare has stated that some money collected was received from the districts, there is nothing on record to show, how much money was collected at the district level and how much of it was received by the head office of the trust. Since, admittedly some receipt books were lost (exhibit 17 and 19) and as per Shri. Hajare's deposition in that behalf, the moneys collected as per the said receipt books are not

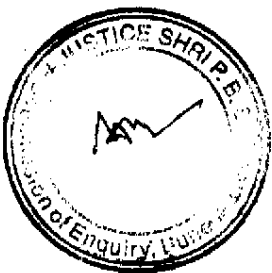


accounted for, the allegation will have to be accepted. It is also necessary to note in this connection that the persons who have filed the affidavits (exhibit 17) did so only when the observer sent by Shri. Hajare met them, and this was between September, 2003 to November, 2003 i.e. after the allegations in that respect were levelled against Shri. Hajare, and after the reference to the Commission was made. Therefore, it will have to be held that the conduct of the District Committees, in any case, so far as the collection of the fund was concerned, was not above board, and the report given by Shri. Salve, appointed by Shri. Hajare himself (exhibit 19), seems to have otherwise borne it out. That report together with the general complaints against the working of the District Heads of the trust, strengthen the allegation that it was not all well with the working of the trust in the districts. It is against this background that the allegations against some of the District Heads will have to be examined.

87) The allied allegation is that there were criminals in the District Committees, and some of them were also Heads of the Committees. To prove it, a list of the members of the District Committees with the details of the criminal cases against them is produced by the applicant (exhibit 20).



88) Shri. Balasaheb Nivruti Jagtap, the President of the Satara Taluka Committee was convicted of the offence of assaulting Shri. Pawar (Witness No.2, deposition exhibit 27), who was a bus conductor. Shri. Pawar himself was the office bearer of the Satara District Committee in the past. According to Shri. Pawar, Shri. Jagtap was working as a Linesman in Maharashtra State Electricity Board, and used to sign the muster for 7 to 8 days at a time and never attend the office. Since he was of a criminal tendency, his bosses did not ask explanation from him or take action against him. Shri. Jagtap used to visit the district and taluka government offices and tell the staff there, that he had received complaints of corruption against them and they should meet him in the evening to sort them out. Shri. Pawar has also stated that he had forwarded the complaints of the concerned staff to Shri. Hajare, but Shri. Hajare had not taken any action on them. He produced the copies of two letters, dated 1.4.1999 and 2.11.1998 (exhibit 28) written by him to Shri. Hajare against four persons, including Shri. Jagtap, complaining against their misconduct. He has also deposed that since Shri. Jagtap came to know of his complaints to Shri. Hajare, he assaulted him at the bus stand, for which he



was convicted by the Court. He has produced the decision of the Court at exhibit 29, in that behalf.

89) Shri. Pawar has stated that Shri. Mohan Sawant was the President of the District Committee and he was vending illicit liquor in his grocery shop. There were several cases filed by the police against him. However, though he promised to produce the record of the cases, he did not do so. On the other hand, he has admitted that Shri. Mohan Sawant had received 5 certificates (exhibit 33) for promotion of the cause of prohibition.

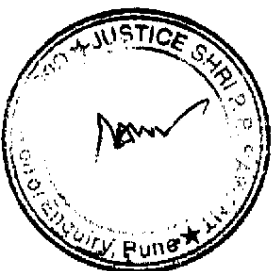
90) Shri. Pawar has also stated that one Shri. Sunil Gangadhar Naik was the head of the Satara City Committee. He was a sand- contractor and was arrested several times by the police for transporting more sand than was permitted to do. He has also produced the news appearing in daily newspaper "Aikya", dated 21.9.1998 (exhibit 30) in that behalf. However, it appears that this news relates to one Shri. Shailesh Naik, who is the brother of Sunil Naik.

91) Shri. Pawar has further stated that one Smt.Saphura Bhaladar was the president of the District Womens' Committee. She was dealing in kerosene, but was also doing black-market business in it.



92) It has, however, transpired in his deposition, that Shri. Pawar who is a bus-conductor was fined about 10 times by the superior authorities for short cash as well as for surplus cash in his hand. It has to be remembered that Shri. Pawar was the President of the Satara District Committee before Shri. Mohan Sawant was inducted in his place. Shri. Pawar has also admitted that he is an active worker of the Nationalist Congress Party since 1999, and knew Shri. Suresh Jain and had also felicitated Shri. Jain on his becoming the minister. He has also admitted that after he came out of Shri.Hajare's Anti-Corruption Movement, he had started his own Anti Corruption Movement, in the name of "Bhrashtachar Virodhi Yuvakkranti Jankalyan Samiti."

93) The next person against whom allegation is made is the President of the District Committee of Jalna, namely, Parasnand. There are two witnesses who have deposed about his criminal activities, one of them is Smt.Shakuntala Nandkishore Sharma (Witness No.16). She was a Member of the Legislative Assembly of Maharashtra during the year 1980 to 1995. Since January, 2003 she is a member of the Nationalist Congress Party. She has stated that the traders in Jalna City had complained to her several times that Parasnand was extorting



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money from them under the threat of complaining against them to the police. According to her, she had forwarded the traders' complaint to Shri.Hajare, and had also asked the traders to lodge complaint against Shri. Parasnand with the police. She had also talked to Shri. Hajare twice on telephone about the traders' complaint. She had further complained to Shri. Jain on 9.5.2003 against Shri. Parasnand (exhibit 96). According to her deposition, there were atleast 30 to 35 criminal complaints filed against Shri. Parasnand, and in two or three of them, he was fined by the Court. She has also stated that Shri. Parasnand had encroached upon the land of the Babulnath Shiv Mandir, which land admeasures about 7 to 8 acres.

94) On the point of the grabbing of the land in question, we have the direct evidence of the priest of the temple, Shri.Dayashankar Sharma Salwala (Witness No.18). His wife lodged a complaint with the police on 10.10.1996 against Shri. Parasnand for having forcibly entered the temple. Shri.Dayashankar Sharma himself had also lodged a complaint with the police (exhibit 101) and filed a case before the Sub Divisional Officer against Shri. Parasnand and 12 others for the said offence. In that case, the S.D.O. has given a decision on 18.12.2001 (exhibit 100), by which he has referred the charges



with regard to the dispute about the land to the Civil Court, but has permitted him i.e. Shri. Dayashankar Sharma to perform the duties of the temple and to look after its management. It appears that inspite of this decision, Shri. Parasnand obstructed Dayashankar Sharma, and the witness has filed a complaint on 7.2.2002 to the police in that behalf (exhibit 109) and has asked for protection. It was suggested to the witnesses both, Smt. Shakuntala Sharma as well as Shri. Dayashankar Sharma, that Shri. Parasnand was not connected with Shri. Hajare's Anti-Corruption Movement. The witnesses, however, have asserted that according to their information collected from the newspapers, Shri. Parasnand was connected with the said movement.

95) Shri. B.D. Patil was Head at the relevant time of the Atapadi Taluka Committee of the Movement in District Sangli. Shri. Patangrao Gaikwad (Witness No.19) has deposed that he had sent complaint against Shri. B.D. Patil, both to Shri. Hajare and to the District Collector on 31.7.2003 (exhibit 103). The complaint was that Shri. Gaikwad had a dispute with his neighbour Kisan Sidram Gaikwad with regard to the sharing of water from the common-well. To resolve that dispute, Shri. B.D.Patil demanded Rs.15,000/- from him, and also represented



to him that he being the Chairman of the Taluka Committee of Shri. Hajare's Anti-Corruption Movement, he could also take action against him. It was suggested to the witness that there was a personal enmity between him and Shri.B.D. Patil because Shri. B.D. Patil had assaulted him. The complaint of the witness against Shri. Patil to the police made on 30.7.2003 in that behalf, is produced on record (exhibit 104).

96) Shri. Mdhav Kkacheshwar Sanap was, at the relevant time the president of the Niphad Taluka Committee, District Nasik. Shri. Balasaheb Wagh (Witness No.12) had secured a one-room tenement under the Indira Awas Yojajna. Shri. Sanap represented to him that it is he who had secured the tenement for him through the Janandolan Committee, and demanded Rs.2,000/-. Since Shri. Wagh refused to pay him the money, Shri. Sanap threatened him with an assault by a pair of scissors. Thereafter Shri. Wagh put the facts on record on a stamp paper on 24.2.21999 (exhibit 71).

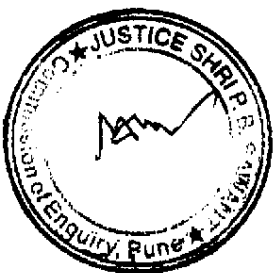
97) This witness is suggested that Shri. Sanap was never declared publicly as the President of the Niphad Taluka Committee by Shri. Hajare. However, the witness has denied the suggestion. On the other hand, according to the witness, a public meeting was held at Niphad in which Shri. Hajare himself



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had declared Shri. Sanap as the President of the Niphad Taluka Committee.

98) Shri. Tekchand Sonadia was the General Secretary of the Nagpur District Committee of the Andolan. According to the witness Shri. Bhudev Wande (Witness No.11), Shri. Sonadia had in his capacity as such General Secretary, complained to the police on 16.4.2002 and 23.5.2002 against the traders (exhibit 65). Shri. Wande is the President of the Traders' Association of Mahadula (Koradi). According to him, the first complaint against the trader was that they sold adulterated goods, and the complaint was directed against 13 traders, whereas the second complaint was against 4 traders that they had sold kerosene illegally. According to Shri.Wande, Shri. Sonadia used to collect from him frequently Rs.200/- to Rs.400/- and he gave them to him as a friendly gesture. After he became the General Secretary of the Nagpur Committee, he started demanding Rs.5,000/- per month, and told him to collect the said amount from the traders. The witness, therefore, held a meeting of all the traders, and the traders declined to contribute any money for giving it to Shri. Sonadia, and when he told Shri. Sonadia accordingly, the next day a news-item appeared in the local daily newspaper "Lokmat Samachar" against the said traders. It



was stated therein that there was a demand for death penalty to the traders who were selling adulterated stuff. The news item further stated that the said demand of death penalty was made by the President of Nagpur Committee, one Shri. Koshor Chaduhary. The witness has deposed that on Shri. Sonadia's complaints, dated 16.4.2002 and 23.5.2002, the police had made investigation, but nothing wrong was found. Hence, he again made a complaint to the District Collector on 1.7.2002 (exhibit 66). Nothing came out of this complaint either. The traders' association thereafter, on 22.8.2002 gave an application (exhibit 67) to one Smt.Kumbhare, who was the Minister of State, Maharashtra Government. Smt. Kumbhare wrote five letters to five different persons in that behalf, and also to Shri. Hajare (exhibit 68) on 16.5.2003. Thereafter, it appears that Shri. Hajare had come to Nagpur, and the traders' delegation gave a representation to Shri. Hajare against Shri. Sonadia (exhibit 58), and Shri. Hajare assured the delegation that he would look into the matter. The news of the assurance given by Shri. Hajare appeared in the daily newspaper "Bhaskar" on 17.5.2003 (exhibit 59). According to the witness, nothing came out of this assurance given by Shri. Hajare, and in



the meanwhile he wrote a letter to Shri. Suresh Jain on 16.5.2003 (exhibit 69) in the matter.

99) The only suggestion made to this witness was that the witness is giving false evidence only to help Shri. Suresh Jain in his dispute with Shri. Hajare. It is not suggested to the witness that Shri. Sanodia was not connected with the Anti-Corruption Movement of Shri. Hajare.

100) The other witness examined on the same point is Shri. Dinesh Todwal (witness No.10). This witness is one of the traders belonging to that traders' association. He had made complaint to the police against Shri. Sanodia (exhibit 54). He has produced on record the letter dated 1.3.2002 written by the President of the Grocery Traders Association to the Police Inspector (exhibit 55). He has also produced the complaint made by him and others, to the Nagpur District Collector against Shri. Sanodia on 12.5.2003 (exhibit 52).

101) It is suggested to him, on behalf of the opponent that Shri. Sanodia was not the office bearer of the Janandolan. It was also suggested to him that Shri. Sanodia prepared his false letter-heads frequently. The witness admitted that on such false letter-heads, Shri. Sanodia made complaint against him and others to different authorities. The witness also admitted



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that Shri. Sanodia had filed a criminal complaint against him and his brother with the police, for having assaulted him i.e. Shri. Sanodia, but the witness stated that the complaint was false. He has further himself brought on record a copy of the plaint (exhibit 61), in the suit which his brother has filed against Shri. Sanodia and Shri. Kishor Chaudhary for defamation, which suit is still pending. In the plaint (exhibit 61), the brother of the witness has stated that Shri. Sanodia was taking undue advantage of his self-created post of the General Secretary of the Andolan. Hence, the contention raised on behalf of Shri. Hajare that Shri. Sanodia was not the office bearer of the Andolan, appears to be correct.

102) Shri. Meghalal Shivanna Afasalwar (witness No.7) deposed before the Commission that one Shri. Kese Patil of Nanded had extorted from him Rs.10,000/- by representing to him that he was the President of the Maharashtra Branch of Akhil Bharatiya Bhrashtachar Nirmulan Samiti, and in that connection he has also produced the complaint (exhibit 46) made by him to the police against Shri. Kese Patil. It was suggested to him on behalf of the opponent that Shri. Kese Patil was not connected with this Andolan, and he was asked whether the organisation to which Shri. Kese Patil belonged, and Shri.



Hajare's organisation, were not different? To this question, he pleaded ignorance. It is doubtful whether Shri. Kese Patil belongs to the opponent's organisation.

103) It is not disputed that one Shri. Hemchandra Kale is the President of the Jalgaon District Committee of the Andolan. In all four witnesses, including Shri. Suresh Jain, have deposed against Shri. Hemchandra Kale, that he is a blackmailer and extortionists, who had fleeced the people by representing himself to be the office bearer of the Andolan. The first witness in this behalf is Shri. Suresh Jain himself. Shri. Suresh Jain has brought on record two letters written by Shri. G.P. Pradhan, to Shri. Hajare (exhibit 11), in which Shri. G.P. Pradhan after pointing out that Shri. Kale had made wild allegations against the North Maharashtra University, Jalgaon, had recommended his removal from the District Committee. However, he was never removed.

104) The other witness examined is Shri. Purushottam Patil (Witness No.6), the Chairman of the Jalgaon Peoples Co-operative Bank. He has produced two complaints filed by Shri. Kale against him in the Court of the Chief Judicial Magistrate, Jalgaon (exhibit 40) and the order passed by the Magistrate on both of them, dismissing them for default in appearance as well



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as on merits, without issuing process. He has also produced the copies of six complaints made by Shri. Kale against the Bank to different authorities (exhibit 41). According to him, in view of these complaints, the concerned authorities made a thorough investigation of their bank and nothing irregular or illegal was found in the affairs of the bank. He has further deposed that he wrote a letter to Shri. Hajare (exhibit 43) complaining against the activities of Shri. Kale and also asking Shri. Hajare to let him know whether Shri. Kale was given an authority to make false allegations and complaint against any institution. No reply was received from Shri. Hajare to this communication. The witness also produced a copy of the complaint against the Commissioner of Co-operation and his inward clerk (exhibit 44) filed by Shri. Kale before the Chief Judicial Magistrate, and the decision on it. The complaint was dismissed for default in appearance of Shri. Kale as well as for want of sanction for the prosecution against the two government servants.

105) It is interesting to note that as deposed to by this witness, one Shri. Tripathi had sometime at the end of the year 1998, given him a telephonic call and asked him to give a loan of Rs.5 lacs to Shri. Kale. The witness told Shri. Tripathi that Shri. Kale should make a regular application for loan, and it will



be considered on merits. Upon this, Shri. Tripathi told him that if the witness gave a loan of Rs. 2 lacs to Shri. Kale, all the cases filed against him will all be withdrawn. The witness declined to do so, and upon this Shri. Tripathi threatened him with more cases against him i.e. the witness. In the cross-examination, the witness was asked as to whether he had made complaint about the phone received from Shri. Tripathi to the police, and the witness stated that he did not do so, as he did not feel it necessary to do it. It was then suggested to him that Shri. Kale had made complaints against him in his capacity as a member of his bank and not as an office bearer of the Andolan. This suggestion was denied by the witness, and he asserted that Shri. Kale had made complaint as an office bearer of the Andolan. It may be noted here that out of six complaints comprised in exhibit 41, two are signed by Shri. Kale among others, also as the President of the District Committee of the Andolan, whereas the rest of the complaints are on the letterhead showing Shri. Kale as the President of the District Committee of the Andolan.

106) The other witness examined against Shri. Kale is Shri. Ramesh Rajaram Patil (witness No.8). He has produced at exhibit 48, a press statement given by Shri. Kale as published in



the daily newspaper "Lokmat" on 17.1.1998 and also the reply given by the witness in the issue dated 30.1.1998 of the same newspaper. The statement given by Shri. Kale shows that Shri. Kale had alleged that one Umraosing Diwansing Patil, a member of the community organisation of the witness, had secured promotion in the Maharashtra Rajya Krishi Gramin Vikas Bank by representing that he was a Rajput-Bhamata, which is classified as a Nomadic Tribe, when, in fact, he was a Hindu Rajput, which caste falls in the general category. It was suggested that the witness had complained against Shri. Kale for the said statement. It appears, according to the witness, that Shri. Kale had thereafter filed a complaint for defamation against the witness in the Court of the Chief Judicial Magistrate, Jalgaon. The witness has produced a copy of the said complaint alongwith the order passed thereon (exhibit 49). According to the order passed by the Magistrate, the complaint was dismissed after issue of the process, for default of the appearance of Shri. Kale.

107) The next witness examined against Shri. Kale was Shri. Pandurang Govinddas Patil (Witness No.9). He had sent a letter dated 10.6.1998 to Shri. Hajare complaining against Shri. Kale (exhibit 51). He is the President of the Erandol Branch of



Rajput-Bhamata Samaj. In this letter, he had complained that Shri. Kale was making complaints against the members of his community for giving allegedly false caste certificates for securing employment etc. and this had brought his community in disrepute. He had, therefore, requested in the letter, that Shri. Hajare should warn Shri. Kale properly. He had also filed a criminal complaint (exhibit 52) against Shri. Kale for personal defamation, and the defamation of his community. That complaint is still pending before the Judicial Magistrate, Erandol. In his examination by the Commission the witness stated that Shri. Kale had demanded rupees one lac from one Shri. Umraosing Patil of his community after the witness had made complaint to Shri. Hajare, and had filed the complaint in the Court. To the question whether he had made a complaint to Shri. Hajare against Shri. Kale's demand of rupees one lac, he stated that since the President of the District Committee of their community had made a complaint to Shri. Hajare, he did not do so.

108) Another witness examined against Shri. Kale was Shri. Balasaheb Saindane of Jalgaon. He is the President of the Adivasi Tokari Koli Samaj, which is a scheduled tribe. He has produced at exhibit 78, (collectively), the copies of the



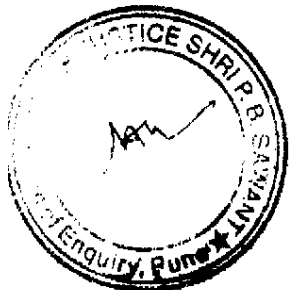
complaints filed by Shri. Kale against five persons belonging to his community and the decision in the said complaint as well as the decision in the revision. These complaints filed by Shri. Kale were in respect of the alleged false caste certificates obtained by the said five persons. It appears that this complaint was dismissed for want of sanction of the government for prosecution and also in default for appearance of the applicant. The revision filed against the order was withdrawn by Shri. Kale.

109) The witness had written a letter to Shri. Hajare in that matter on 12.6.2003 (exhibit 79). This letter was not replied to by Shri. Hajare. He has also produced a news report appearing in the issue dated 5.2.2000 of the daily newspaper "Deshdoot" in which a part of the press statement issued by the vice-chancellor of the North Maharashtra University is published alongwith the statement made by the witness to the effect that the defamation of the vice-chancellor would not be tolerated and a mass agitation would be launched against it. He has further produced the letter dated 17.2.2001 written by the vice-chancellor of the said University to him (exhibit 81). The letter thanks the witness for taking up the matter of his defamation. It was suggested to him that he was deposing before the Commission at the instance of Shri. Suresh Jain, which, of



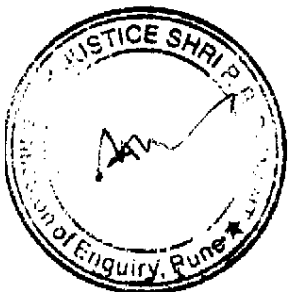
course, he denied. However, he admitted that he belonged to the Nationalist Congress Party.

110) Shri. Kale was examined on behalf of Shri. Hajare in the inquiry proceedings against Shri. Suresh Jain and was cross examined at length. The evidence that has come on record in that examination, in so far as it is relevant for our present purpose, is worth reproducing here. In his examination, he has admitted that he takes for contract-farming about 10 to 20 acres of land every year, and makes a net earning between Rs. 1/- to Rs.1.5 lacs. He has stated there that he had never made any complaint against the vice-chancellor of the university, but had complained against the Registrar of the University, first to the vice-chancellor and then to the Governor (para 5). He has further deposed that on the basis of the complaint made by Shri. G.P. Pradhan against him, Shri. Hajare had appointed an inquiry committee. However, he has not told us as to what was the result of the said inquiry. He has admitted that he had filed in all 6 to 7 complaints before the Magistrate and about 3 to 4 cases in the High Court, and all the cases filed before the Magistrate were dismissed for default in his appearance. According to him, the cases before the Magistrate were dismissed because the co-operation from the lawyer was not



forthcoming and also because the purpose for which the cases were filed, was otherwise fulfilled. He, told the Commission that he was twice honoured as the "Ideal Worker" by Shri. Hajare.

111) Shri. Sanjay Surve was prominent worker associated with the Andolan in New Mumbai. Two witnesses have deposed against his illegal/irregular activities as such worker. The first witness is Shri. Manohar Madvi (Witness No.3, exhibit 31). He is the Corporator of New Mumbai Municipal Corporation and also a contractor by business. From his evidence it appears that Shri. Sanjay Surve had secured a building- contract from the Central Government, and Shri. Madvi was the sub contractor in the said contract. Shri. Surve had issued 10 cheques, each of Rs.1.70 lacs, five of them were dishonored and the payment of the rest five was stopped, obviously by Shri. Surve. Shri. Surve's uncle Shri. Papa Surve, according to this witness, belongs to Shri. Arun Gavli's group and Shri. Papa Surve threatened him on mobile phone against taking action against Shri. Sanjay Surve. He also asked him to forget about his moneys, or otherwise his life was in danger. The witness, therefore, complained to the police. The police gave him protection of an armed guard, for which he has to pay Rs.18,000/- per month. He then filed a criminal



complaint against Shri. Sanjay Surve in the Court. In that complaint, Shri. Surve was arrested and released on bail. Shri. Surve then started threatening the witness that he being an office bearer of the Andolan, he would get the witness involved in other cases. He, therefore, approached the police and the police told him to make compromise with Shri. Surve since he was an activist of the Andolan. He then made complaint to the Magistrate against the said threats, and the Magistrate directed the police to investigate the matter. The police then arrested Shri. Sanjay Surve and released him on bail. The complaint filed by the witness before the Magistrate and the direction given by the Magistrate on the same, are at exhibit 32. The witness has further deposed that he had made complaint in the matter to Shri. Hajare. He has further stated that Shri. Surve had produced a false bank guarantee of the Bank of Maharashtra for an amount of Rs.5 lacs, and had furnished the same to C.P.W.D. at the time of securing the building contract. When C.P.W.D. made inquiry with the Bank of Maharashtra, they denied having issued any such bank guarantee to Shri. Surve's company "Vishwakarma Construction Company". He had reported this incident also to Shri. Hajare. However, Shri. Surve still continues to be the active worker of the Andolan.



112) It was suggested to this witness on behalf of the opponent, that Shri. Surve was never appointed as an office bearer or worker of the Andolan. The witness denied the suggestion. To the Commission's question, however, the witness admitted that he had no evidence to show that Shri. Surve was the activist of the Andolan beyond what was appearing with regard to Shri. Surve in the newspaper, and amongst the information which was appearing in the newspaper was one which showed that Shri. Surve was sitting with Shri. Hajare, when Shri. Hajare was on fast. He has further stated that he was elected as a corporator of the New Mumbai Municipal Corporation in March, 2000, and 6 months before the election, he had joined the Nationalist Congress Party. He has also admitted that in the complaint, which he had filed before the Magistrate, he had not stated that the police was not accepting his complaint because Shri. Surve was the activist of Shri. Hajare. He has stated that he had friendly relations with Shri. Surve, and yet when he had taken the sub-contract under Shri. Surve, he i.e. Shri. Surve had not told him that he was the activist of the Andolan. He has also stated that he had complained against Shri. Surve, also to Shri. Suresh Jain, while the latter was on fast.



113) The other witness against Shri.Surve is one Shri. Vivek Rajprasad (Witness No.5). He is an agent of the Life Insurance Corporation, Housing Finance. He came to be acquainted with Shri.Surve, and Shri. Surve approached him for a housing loan in November, 2002. He wanted a loan of Rs. 7 to 9 lacs from the L.I.C. Housing Finance. On scrutinising the papers submitted by Shri. Surve for securing the loan, the documents were found to be bogus and, therefore, the loan was not sanctioned. Shri. Surve had given this witness a cheque of Rs.7,000/-, which bounced, and when he approached Shri. Surve for the amount, Shri. Surve threatened him saying that he is the President of the Andolan. He (Surve) also told him that if he made any more demand, he would be arrested as he had enough influence for the purpose. Thereafter, the witness filed a complaint against Shri. Surve in the Court of the Magistrate under sections 420, 465, 466, 467, and 468 of the Indian Penal Code. The copy of the complaint is on record at exhibit 38.

114) In his cross-examination, the witness admitted that he had not verified whether Shri. Surve was the President of the Andolan. He also admitted that in the complaint filed before the Magistrate, he had not stated that Shri. Surve was threatening him in the name of the Andolan.



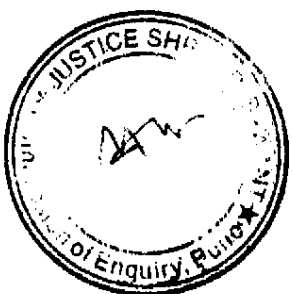
115) The other activist of the Andolan was Shri. A.K. Patil i.e. Appasaheb Kalgude. He was, according to witness Shri. Suresh Anant Thorat, the President of Hatkanangale Taluka Committee of the Andolan. Shri. A.K. Patil had made a complaint against Shri. Salokhe, the Range Forest Officer, Kolhapur, for his alleged corruption, and for having got executed a low quality work in constructing bunds. The other allegation made against Shri. Salokhe by Shri. Patil was that Shri. Salokhe had presented vouchers for the purchase of cement worth Rs.6 lacs, although no cement was purchased. Shri. Thorat caused the inquiry to be made by a Deputy Conservator of Forest, Shri. G.K. Prakash, into the said allegations. In that inquiry, Shri. A.K. Patil stated in writing that the complaint in question was not made by him nor had he signed it. Thereafter the complaint was dropped. Shri. Thorat then complained to Shri.Hajare about the bogus complaint and also to the Police Superintendent, Kolhapur. The report of the Deputy Conservator of Forest dated 31.12.2002 is at exhibit 74. In his cross-examination, Shri. Thorat has stated that they had ascertained that Shri. A.K. Patil was the Chairman of the Hatkangale Committee of the Andolan. He has also stated that some employees of the department had made complaint against



Shri. Salokhe on account of their internal enmity. It appears that the complaint made to Shri. Hajare did not draw any response from him, whereas there is no information with regard to the progress of the complaint made by the witness to the Superintendent of Police, Kolhapur.

116) This shows that the Andolan was being abused by some persons to settle their private scores.

117) According to Shri. Vijay Dabhade (Witness No.15), one Shri. Satish Shetty was the organiser of the Pune District Committee of the Andolan. According to Shri.Dabhade, he is a practising lawyer and resides at Talegaon-Dabhade. He practices in the courts of Pune and Vadgaon-Maval. He had filed two criminal complaints and one suit against Shri. Shetty, on behalf of his client Shri. Padwal, for his defamation. Angered by this, Shri. Shetty abused him by visiting his office and also assaulted him with stones, on 27.11.2001. He immediately went to the police station at Talelgaon-Dabhade and tried to lodge complaint against Shri. Shetty. Initially, the police officer incharge was not willing to register the complaint and he told him that he would have to face heavy weather if he filed complaint against Shri. Shetty since Shri.Shetty was an activist of the Bhrashtachar Virodhi Andolan. On persuasion, the officer



registered a non-cognizable offence and about 13 days thereafter the police registered a cognizable offence against Shri.Shetty and arrested him. He was later released by the Court on bail. About a month and a quarter thereafter, the police station registered a complaint against Shri.Dabhade on behalf of Shri.Shetty. Thereafter, on 30.5.2002, the Assistant Police Inspector Shri. Gaikwad attached to that police station, came to the Vadgaon-Maval Court and abused Shri.Dabhade, and therefore, Shri.Dabhade lodged a complaint against Shri. Gaikwad at the police station of Vadgaon-Maval and also made a complaint to the Court.

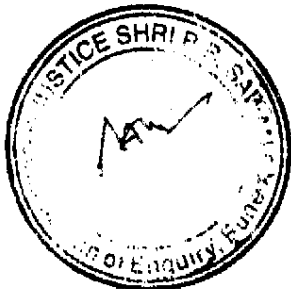
118) Shri. Shetty had lodged a complaint against the witness in the Bar Council (exhibit 83). The witness had also made a complaint to Shri. Hajare against Shri.Shetty on 5.6.2002 (exhibit 84). The witness also sent to Shri.Hajare the documents relating to the offences committed by Shri.Shetty (exhibit 86, collectively).

119) The witness has deposed that the Bar Council of Maharashtra dismissed the complaint filed by Shri. Shetty against him. The witness produced the letter dated 8.4.2004 (exhibit 85) written to him by one Shri.Jagtap, the Joint Secretary of the Pune District Committee of the Andolan, in



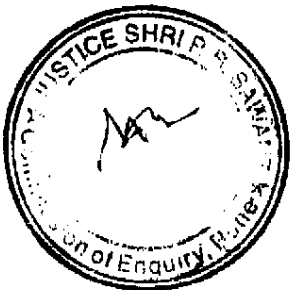
which he had stated that Shri. Shetty was the organiser of the Pune District Committee of the Andolan for one year in 2002. He was removed as such organiser on 9.4.2003, but he is a member of the Taluka Committee of the Andolan since 1.1.2003.

120) It further appears that the witness had written two letters, dated 28.3.2004 and 5.5.2004 to Shri.Hajare against Shri. Shetty (exhibit 87). It was brought on record that on 18.3.2004, Talegaon-Dabhade Municipal Council filed a complaint against the witness with the police, at the instance of Shri.Shetty (exhibit 88) for an unauthorised construction made by his wife. The witness, however, denied any knowledge of this complaint. The Municipal Council on 17.3.2004 sent a notice on the application of Shri.Shetty, to the witness's wife for illegal water connection. The witness replied to the said notice, and pointed out that the construction was legal, and thereafter no further action was taken in this connection. The witness was confronted with the letter dated 21.1.2004 (exhibit 90) written by the Municipal Council for the unauthorised construction. The witness denied knowledge of any such notice. The witness was shown the complaint dated 31.1.2004 filed by the Chief Officer of the Council with the Police Sub-Inspector against the witness, in which it was alleged that the witness had abused him and



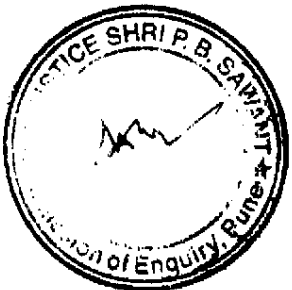
threatened him with killing. According to the witness, this complaint was made because earlier the witness had made complaint against the Chief Officer of the Municipal Council, to the Collector, for non-payment of his legal fees. The witness was also shown a letter by the Maharashtra State Electricity Board to his wife written on 16.1.2004 (exhibit 92) for having taken electricity connection in her house which was constructed unauthorizely. The witness replied that he had obtained a stay from the Court against the M.S.E.B. The witness was also shown a letter (exhibit 93), dated 3.6.2002, whereby the Assistant Police Inspector of Talegaon-Dabhade Police Station had made a complaint to the President of the Bar Association of Vadgaon-Maval with copies to the Bar Council, complaining against him that he was not co-operating in the investigation in an offence registered against him. According to the witness, he was never informed of any such complaint made against him and registered in the police station, nor was he ever called to the police station for the purpose of investigation in the matter.

121) It has come on record that in the complaint filed by the witness against Shri.Shetty for assault on him, Shri. Shetty was acquitted. However, according to the witness, a revision against the said order of acquittal is pending in the High Court.

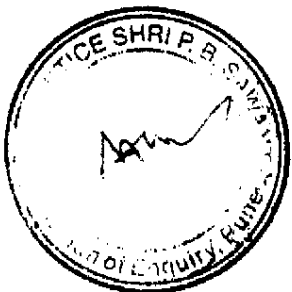


122) Shri. Dabhade's evidence shows that the land on which his house stands is shown in the records, in the name of the Railways. If this is so, then obviously the construction of his house is unauthorised. It is not Shri.Dabhade's contention that for constructing the house either old or new (as renovated by him), a sanction was obtained from the Municipal Council. If this is so, then the relevant complaints made by Shri. Shetty to the Municipal Council, to the M.S.E.B. and to the police, cannot be said to be unjustified. It cannot also be alleged that Shri.Shetty as an organiser of the Andolan was doing anything illegal when he made the said complaints. It may be that as stated by Shri.Dabhade, all these complaints were motivated by the fact that as an advocate, he had filed on behalf of his client, two criminal complaints and a suit for defamation, against Shri. Shetty and thereafter the whole process of notices by the various authorities against him and his wife started. But, certainly Shri.Shetty's action in that behalf cannot be held to be objectionable.

123) It is not denied that one Shri. Ganpatrao Awati of Ralegan-Siddhi is an activist of Shri. Hajare's Andolan. Shri.Laxman Damodar Ingale of villalge Charangaon, Taluka - Patur, District - Akola (witness No.4) has stated that on reading



about the proceedings before the Commission, he had come to depose before the Commission, against the said Awati. According to him, he was working as a helper in Century Rayon Company, situated in Thane district. He was laid off by the company in the year 1984 on account of the lock out declared by the company. Thereafter, the company started re-functioning and, therefore, he approached the company for employing his son as a labourer. His son was not given employment, and he suspected that it was on account of corruption. He, therefore, approached Shri. Hajare. On the day he visited Ralegan-Siddhi for the purpose of complaining to Shri.Hajare, he found that Shri.Hajare was observing "Maunvrat" (Day of silence) on that day. Shri. Hajare was, however, present in Yadavbaba Mandir amongst about 30-40 persons who had come to visit him. He handed over his written complaint to Shri. Hajare. Shri. Hajare signed in acknowledgement of the receipt of the copy of the said letter and pointed him to Shri. Awati who was at that time standing opposite the door of the temple, regulating the incoming visitors. Shri. Awati took the witness to a corner of the temple and told him that he should give him Rs.25,000/- and thereafter he would get the work done from "Saheb" i.e. Shri. Hajare. The



copy of the letter handed over by him to Shri. Hajare addressed to Shri. Ajit Pawar, is part of his affidavit (exhibit 36) filed before this Commission. Shri. Ingale thereafter complained to Shri. G.P. Pradhan about this incident, and the demand of Rs.25,000/- by Shri. Awati. To that, Shri. Pradhan replied by his letter 21.5.2003. This reply received from Shri. Pradhan is part of the affidavit. It is not denied on behalf of Shri. Hajare that Shri. Awati is the activist of Shri. Hajare's Andolan. All that has been put to Shri. Ingale is that he had not met Shri. Awati on that day at Ralegan-Siddhi nor had Shri. Awati demanded the said amount. It is also sought to be suggested that Shri. Hajare was not observing Maunvrat on that day.

124) Looking at the contemporaneous documentary evidence on record, the demeanour of the witness and the version given by him of the entire episode, it will have to be concluded that his version that Shri. Awati had asked him for the amount of Rs.25,000/- to process his application, has a good deal of substance in it. Shri. Hajare has admitted that Shri. Awati was his associate and was also the activist of the Andolan. In fact, according to Shri. Hajare, he used to be with him on his tours. This only shows that even those activists who were nearer to Shri. Hajare were indulging in corruption and demanding



money from the supplicants who came for relief to Shri. Hajare. Shri. Ingale was a manual worker. He had come all the way to the Commission to depose before it in respect of his own personal experience. He had no axe to grind nor is it suggested that he had come at the instance of anyone. The Commission, therefore, has to accept his version that Shri. Awati had demanded the moneys from him as stated by him.

125) When asked about the allegation made by Shri. Ingale, Shri. Hajare only stated that he had asked about it to Shri. Awati, and Shri. Awati had denied it. He admitted that he had not called Shri. Ingale for the purpose of the inquiry into Shri. Ingale's complaint against Shri. Awati.

126) In this connection, it is also necessary to note that Shri. Hajare has admitted that on the complaint received against the Kolhapur District Committee, he had appointed an observer, Shri. Salve, and on Shri. Salve's report, the whole committee was dissolved. Shri. Hajare, however, did not take any action against Shri. Hemchandra Kale of Jalgaon inspite of several complaints against him. In this connection, the letter written by Shri. Saindane (Witness No.14) to Shri. Hajare (exhibit 79), with which letter Shri. Saindane had forwarded all the copies of the various complaints filed by Shri. Hemchandra



Kale against different persons, was not even seen by Shri. Hajare. He stated that the said letter was not shown to him. This shows that from time to time the complaints against his activists were brought to his notice, and he was alerted about their activities. But he had failed to act upon the said complaints, which appears to have given some activists a free hand for misconduct.

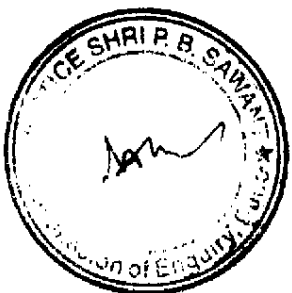
D) KRISHNA PANI PURAVATHA YOJANA SAHAKARI SANSTHA

127) The institution was a co-operative society registered under the Maharashtra Co-operative Societies Act, 1960. It was established on 17.6.1986 with the primary object of supplying water to its member- agriculturists. According to the bye-laws of the society, the water could be supplied for the purpose of agriculture and also for the consumption of cattle and human beings. In the arguments advanced on behalf of the applicant against the operation of this society, three points were pressed. The first was that Shri. Hajare remained on the committee of the society, although he was not qualified to remain on it after he sold his land in the year 2001 and continued to be without land till 2003, when he repurchased a part of the land which he had sold. The qualification for the



(362)

membership of the society laid down in bye-law No. 4 of the Society is that the member must possess land within the jurisdiction of the society and that he must undertake to wet the land with the water supplied by the society. The further condition was that the members' land would be chargeable as a security for the loan taken by the society for the project of the supply of water. It is admitted on behalf of Shri. Hajare, that Shri. Hajare had ceased to hold any land within the jurisdiction of the society for 2 years from 2001 to 2003, although initially he held the land, and it is only after 2003 that he again become the holder of some agricultural land. The dispute is with regard to the eligibility of Shri. Hajare as a member for the period 2001 to 2003. He was also the Chairman of the society during the said period. There is no explanation from Shri. Hajare as to how he remained Chairman of the Society when he had ceased to be an agriculturist within the jurisdiction of the society during the said period, and when he could not have remained even a primary member of the society during the said period. His functioning as a Chairman of the society during that period was, therefore, clearly illegal, being against the bye-laws of the society. It is true, as contended on his behalf, that the activities and operations of the committee could not be held to be invalid



on that count only, in view of the provisions of Section 77 of the Act. But these provisions are by way of a saving clause, and that cannot be held as a shield for the lapse on the part of Shri. Hajare to observe the provisions of law.

128) The applicant's second contention was that the society had supplied water to Mahila Mandal and the students' hostels, one run by the Yadavbaba School and another by the trainees' hostel, belonging to the Yadavbaba Trust, contrary to the rules, and without charging any money for the same. The Mahila Mandal required water for its nursery, whereas the students' hostels required water for human consumption. The objection is to the supply of water for two months to these institutes, to be specific, in April and May, 2002 free of charge. The auditor of the society has pointed out that Rs.1,50,000/- were received from the Yadavbaba Trust for the use of water for the Training Centre, and Rs.70,000/- were received from the school-hostel. However, he has not mentioned any amount received from the Mahila Mandal, although Shri. Paralikar for Hajare, points out in his argument that Rs.21,000/- were, in fact, received from the Mahila Mandal for the water supplied to it. The amounts from the two hostels were received on 16.9.2003 and 17.9.2003. Although, Shri. Paralikar in his



argument has stated that these amounts were received as per the resolution of the general body of the society, he has not placed the resolution on record to support his contention. Further, there is nothing on record to show that even the general body had determined this amount according to any criterion. It, therefore, appears that the amounts were determined ad-hoc, if at all. It was necessary for the general body, even according to the auditor, to fix some guidelines for the supply of water to such institutes. To the extent that the water was supplied to these three institutes, though for a worthy purpose without fixing the criteria for determining the charges, it was done without following the bye-laws of the society. Atleast the managing committee of the society could have fixed the charges. However, looking to the purpose for which the water was supplied, the irregularity can be described as only a technical one. The month of April and May, 2002, were admittedly experiencing scarcity of water at the place. The monies received by the society for the supply of water from the two institutes for the two months cannot also be said to be inadequate taking all things into consideration.

129) As regards the third allegation that the society had not sent the compliance report of the objections raised by the



auditor for the period 1986 to 1993, there is no denial from Shri. Hajare that this was so. No document has also been produced before the Commission to suggest that the compliance was made. The allegation, therefore, will be deemed to have been proved. Undoubtedly, it is an irregularity on the part of the society. The applicant did not press any other allegation against this society, though they were made in the original charter of allegations.

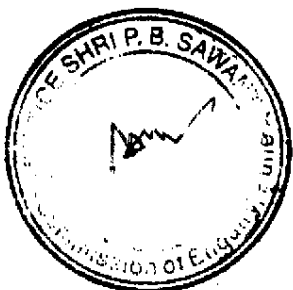
CONCLUSIONS:-

Hind Swaraj Trust

(i) The expenditure of Rs.2.20 lacs from the funds of the Hind Swaraj Trust for the birthday celebrations of Shri. Hajare was clearly illegal and amounted to a corrupt practice.

(ii) The alienation of the land admeasuring 11 Ares out of the land belonging to the Trust in favour of the Zilla Parishad without the permission of the Charity Commissioner, in contravention of Section 36 of the Bombay Public Trusts Act, though the alienation is invalid, was a case of maladministration.

Sant Yadavbaba Shikshan Prasarak Mandal

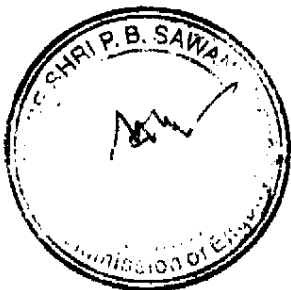


(iii) The non-submission of the budget of the Trust for all the years, except for the first year i.e. 1984, was a contravention of Section 31A of the Bombay Public Trusts Act and the non- submission of the audited accounts in time for the years 1982 to 2002 was a contravention of Sections 32, 33, 34 of the said Act r.w. Rule 21 of the Rules made thereunder. They are the instances of maladministration.

(iv) The repayments of the handloans taken from the trustees, above Rs.20,000/-, in cash, were in contravention of Section 269T of the Income Tax Act and were, therefore, acts of maladministration.

(v) The acceptance of the handloans, in cash, from the parties other than the trustees, and their repayment in cash were both against law and, therefore, were acts of maladministration.

(vi) The purchase of the three pieces of land, namely, Survey Nos. 602, 603 and part of Survey No. 604 of village Ralegan-Siddhi and the construction made thereon, were not reported to the Charity Commissioner as required by Section 22 of the Bombay Public Trusts Act. This was an irregular act amounting to maladministration.



(vii) The amount of Rs.1,00,000/- given to the Swami Vivekanand Krutadnyata Nidhi as loan and without interest was contrary to the objects of the Trust and, therefore, an illegality.

(viii) The amount of Rs.46,374/- spent on the renovation of Yadav Baba temple was contrary to the objects of the Trust. The amount would be spent only on education and that too secular education. Both the objects were defied by the said expenses incurred on renovation of Yadav Baba temple and therefore, constituted illegalities.

(ix) In as much as, the Trust was depositing its amounts in the non-scheduled banks, namely, Parner Taluka Sainik Sahakari Bank and Adarsha Gramin Bigar Sheti Patsanstha Maryadit, in contravention of Section 35 of the Bombay Public Trusts Act, the Trust was guilty of maladministration.

(x) Since the accounts of all the divisions of the Trust were not consolidated and submitted to the Charity Commissioner for some of the years as pointed out above, the Trust was guilty of maladministration.

(xi) In as much as the source of the amount of Rs.2 lacs which was invested in a fixed deposit with the Parner Sainik



Sahakari Bank Maryadit has not been explained, the transaction is a case of maladministration.

The Trust is also unable to explain where the interest on the said fixed deposit of Rs.2 lacs for about 7 months has disappeared. This is also a case of maladministration.

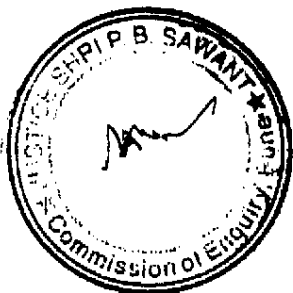
(xii) To the extent that the Trust has spent Rs.17.85 lacs from its own funds on the hostel belonging to the Hind Swaraj Trust, it has clearly committed a violation of law. This act also amounts to maladministration.

(xiii) Shri.Hajare has not explained as to why a separate joint account in his name and in the name of one Dagdu Kisan Mapari was kept in the Adarsha Gramin Bigarsheti Sahakari Patsanstha. This amounts to a clear irregularity and is, therefore, an act of maladministration.

Bhrashtachar Virodhi Janandolan Trust

(xiv) The Andolan was not registered legally as a Society under the Societies Registration Act. This is an act of maladministration.

(xv) The Andolan could not act as Trust legally after 1998, since it did not have the minimum number of trustees, according to the trust deed, to operate as the Trust. It also did not have the minimum number of trustees to form the quorum



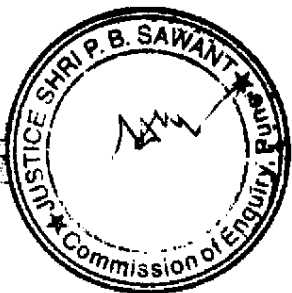
since October,1999. All the acts of the Andolan as the Trust, after 1998 were, therefore, illegal. There was thus a patent maladministration in the functioning of the Trust.

(xvi) After Father Debrato resigned as a treasurer on 10.11.2001, the maintenance of the accounts of the Trust has not been according to the rules. This was an act of maladministration.

(xvii) There was no control over the collection of funds by the District Committees, their expenditure and the contribution they were supposed to make to the headquarters. This amounted to maladministration.

(xviii) The non-submission of the audited accounts of the Trust to the Charity Commissioner in time, for the years 1998-99 to 2001-02 was violative of Sections 32, 33 and 34 of the Bombay Public Trusts Act and hence amounted to maladministration.

(xix) The receipt of Rs.75,000/- as a loan, in cash, from Ralegan-Sididhi Pariwar and the repayment of the said loan to them, again in cash, were both acts contrary to the provisions of the Income Tax Act. The receipt of the loan without the permission of the Charity Commissioner was contrary to the



Bombay Public Trusts Act and hence both constituted illegalities and acts of maladministration.

(xx) The appointments of the District Committees by Shri.Hajare after 1998 and the operation of the said District Committees as the Committees of the Trust, were both illegal, and were acts of maladministration.

(xxi) The most of the receipt books issued to the District Committees were lost. There was also no account of the funds collected by the District Committees. This was a case of patent maladministration.

(xxii) Some of the workers in the Andolan were abusing the platform of the Andolan for anti-social activities, such as, extortion of money, blackmailing, grabbing the properties of others, harassment, goondaism, corruption etc. Although Shri.Hajare denied that some of them were his workers, he could not deny that the others atleast were his own workers. These acts on their part were clearly criminal.

When the complaints were made against some of them, Shri. Hajare did not care to investigate them, and when he did inquire into some of them, he only heard his own workers without calling the complainants for the inquiry. This was highly unjust and irregular and amounted to patent maladministration

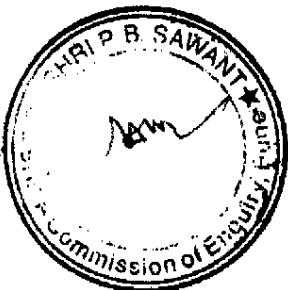


of the Andolan. It only shows that he did not take care to keep control over the anti-social forces, which his Andolan had released.

The Krishna Pani Puravatha Yojana Sahakari Sanstha

(xxiii) Although Shri.Hajare was not qualified to remain a member of the Society during the period 2001 to 2003 since he did not hold any land within the jurisdiction of the Society during that period, he continued to be the Chairman of the Society. This was patently illegal.

(xxiv) The supply of water to Mahila Mandal and two hostels, namely, Students' Hostel and RPK Hostel, in April and May, 2002 and not fixing the charges either before or after the supply, was irregular. The charges could have been fixed by the Managing Committee before the monies were received from the three institutions. That was not done, and instead ad-hoc sums of Rs.1.50 lacs and Rs.70,000/- were received from the two hostels respectively and a sum of Rs.21,000/- was received from the Mahila Mandal, which was irregular. This irregularity has not been cured till date by getting the approval atleast of the Managing Committee of the Society to the charges received from the three institutions, or by fixing the charges.



(372)

(xxv) There was no compliance of the objections pointed out by the auditor for the accounts of the period 1986 to 1993. This is an irregularity and amounted to maladministration.

Thus Shri. Hajare was guilty of the corrupt practice mentioned at (i) above and of the acts of maladministration mentioned in the rest of the conclusions.

Place: Pune

Date: 22nd February, 2005



[Justice P.B.Sawant (Retd.)]
Commission of Inquiry

