REPORT
OF
FACT FINDING COMMITTEE
ON
POST POLL VIOLENCE
IN
WEST BENGAL
(02.05.2021 TO 05.05.2021)

Call *for* Justice
न्याय की पुकार

EXECUTIVE SUMMARY

1. 'Call for Justice' is a Delhi-based social and not-for-profit Trust, committed to zealously safeguarding human rights and organise every year International Human Rights Day and other important events on contemporary issues of national and people's interest. Call for Justice commissioned several Fact-Finding exercises in the past.

2. From the night of Sunday, i.e. 2nd May 2021, widespread post-poll violence was reported, in print as well as electronic media (including social media) from different parts of the State of West Bengal. Reports of arson, looting of shops, burning of houses, rapes, murders, brutal attack on individuals, destruction of moveable and immoveable properties and onslaughts by anti-social elements came to light through media, largely substantiated by eyewitness accounts. It is noteworthy that in most of the incidents, the leaders, followers, field-level functionaries, voters, family members belonging to a particular political party were targeted. According to Reports, more than 25 persons including women were murdered, over 15000 incidents of violence took place, 7000 women were molested, 16 districts out of 26 districts in the State were badly affected, a large number of people fearing death and further attacks migrated to neighbouring States of Assam, Jharkhand and Odisha. Violence continued unabated even many days after 2nd May 2021, and was turned into attacks by individual criminals.

3. Alarmed by such reports of widespread violence across length and breadth of the State, Hon'ble Governor of West Bengal

summoned senior officials of the State Government and also visited violence-hit areas. Union Ministry of Home Affairs (MHA) sent a four-member official team to look into post-poll violence, to assess the worsening violent situation and to submit detailed Report to Ministry. On the receipt of many letters and complaints of atrocities on people belonging to Scheduled Castes, Scheduled Tribes, Women and Children, teams from National Commission for Scheduled Castes (NCSC), National Commission for Women (NCW) and National Human Rights Commission (NHRC) visited West Bengal. It is pertinent to note that Government of West Bengal asked NCSC and other Commissions to cancel the visit, citing various reasons including COVID-19 restrictions and protocol. However, the official teams from these constitutional and statutory Commissions visited violence affected areas in West Bengal and assessed the ground situation. National Commission for Protection of Child Rights sought a report from State Government.

4. Recognising the spectrum of post-poll violent incidents widely reported in the media, Call for Justice, as a responsible Civil Society Organisation (CSO) constituted a Fact- Finding Committee consisting of following eminent persons namely:

1. Justice Permod Kohli, Former Chief Justice, High Court of Sikkim– Chairperson
2. Shri Anand Bose, IAS (Retired), Former Chief Secretary, Kerala– Member
3. Ms. Nirmal Kaur, IPS (Retired), Former DGP, Jharkhand– Member
4. Shri Nisar Ahmed, Past President, ICSI– Member
5. Shri M. Madan Gopal, IAS (Retired), Former Additional Chief Secretary, Karnataka– Member Secretary

5. In pursuant of the said decision, Member Secretary, Fact-Finding Committee addressed a letter through an email to Chief Secretary

to Government of West Bengal on 11th May 2021 requesting for necessary security cover and facilitation to the Committee along with all the background details. In response to this letter, Special Secretary to Government of West Bengal on 12th May 2021 replied through an email, requesting the Committee to cancel the visit, citing various reasons. As time is essence in all such circumstances, Member Secretary on 14th May 2021 sent an email to Chief Secretary, West Bengal, clarifying all the points clearly. No reply received from Chief Secretary till today.

6. Three members of the Fact-Finding Committee, namely Shri Anand Bose, Ms. Nirmal Kaur and Shri M. Madan Gopal visited West Bengal from 15th May 2021 and conducted field visits to violence-affected areas, strictly following the COVID-19 protocols and as the complete lockdown was declared by State Government with effect from 16th May 2021, they conducted online interactions with victims on 16th, 17th and 20th with victims from various districts of the State. The Committee collected information through discussions with victims, family members, others and gathered substantial and reliable evidence in the form of photographs, video clippings, media reports, written documents. Evidence so gathered is kept in a sealed envelope and is being submitted to authorities concerned. However, Justice Permod Kohli, Chairperson and Shri Nisar Ahmed, Member who were supposed to join the Committee on 16th May 2021 could not travel due to restrictions on account of total lockdown declared by the State Government.

7. Some of the complaints of victims are summed up as follows:

Mafia raj prevails in many areas, nurtured and protected by the ruling party. There are many notorious dons and goondas with dozens of cases of rape, murder and arson pending against them. Police are fully aware of these facts but no one dare to touch these hardcore criminals due to blatant political patronage. (Few

names mentioned are kept in sealed cover and being submitted to authorities concerned).

The violence commenced from the night of 2nd May 2021 when the announcement of results of counting coming to end and continued unabated for many days. The weeklong attacks, arson, murders, destruction of properties continued and people were totally helpless as there was no help either from Administration or Police.

In many areas, goons and rowdy elements looted the shops in prominent market places, targeting specifically those who canvassed or field workers of a particular political party.

Many of the victims were booth agents, office-bearers, voters, who supported a particular political party. Innocent people were also attacked on mere suspicion.

In many cases, the family members of those who supported a particular political party were brutally attacked and even children were not spared. There were repeated attacks in some areas to instill fear and panic.

The horrific atrocities on women cannot be described in any language as on the fateful night of 2nd May and on subsequent nights, groups of goondas, ruffians, supporters belonging to ruling party entered the homes and brutally raped and molested women.

Miscreants looted cash, jewelry from the houses and even the household items such as kitchenware, utensils were not spared. In most of the cases local police became a silent spectators and even refused to receive complaints from aggrieved people.

In a particular instance, a sole hand-pump, which catered to the drinking water needs of a community, was destroyed and the connecting bridge to the said village demolished by using a JCB to isolate the villagers who voted against the ruling party candidate.

This was done to teach a lesson not to vote or align with a particular political party

In some cases, community fines were imposed on those a particular voters at a polling booth or at a number of polling booths who voted for a particular political party. This was done targeting villages and specific areas in towns.

At many places, the commercial properties such as mobile repair shops, hair-cutting saloons, beauty parlors, belonging to people, who include field workers and office-bearers, voters, sympathizers of a particular political party, were vandalised totally and a huge ransom was demanded from those who wanted to restart their economic activity.

Many people complained that the leaders of ruling party were demanding a written statement from the supporters of a particular political party. In addition, the leaders demanded the victims to return the ex-gratia amounts, which was paid to them during earlier Tsunami that happened years ago.

At many places the Aadhar cards and ration cards of victims were snatched away by force by goons and their followers. Threats are continuing demanding that only if the victims give it in writing not to support a particular political party, these cards will be returned.

8. OBSERVATIONS/FINDINGS

a. Magnitude and reach of the post-poll violence touched many villages and towns all across the State simultaneously beginning from the night of 2nd May 2021. This is a clear indication that most of the incidents are not sporadic but premeditated, organised and conspiratorial.

b. The fact that some of the hardened criminals, mafia dons and

criminal gangs, who were already in the police records, led and carried the deadly attacks unhindered reveals that there is clear political patronage even before the elections and same being used to silence the political rivals.

c. The incidents of targeted destruction and vandalization of properties, residential and commercial, have a sole purpose to deprive the livelihoods and choking the victims economically. The worst-affected people are those who depend on day-to-day work or business, who are pushed into financial degradation and unmitigated misery.

d. In most of the cases, victims were afraid to lodge a complaint with the police either due to fear of reprisal or due to the lack of faith in the police. Those victims who gathered courage to went to received police were either turned away to settle the matter with the culprits or flat refusal to register the case. Many people left to fend themselves leaving their homes and villages to safer destinations, to shelter camps within and outside the State.

e. Forcibly taking away Aadhar cards, ration cards, demanding a written undertaking on not to support a particular political party, demanding for ransom and protection money (called *tolabazi*) to return to workplace or for reclaiming lands or for rebuilding the houses, removal from contractual employment and all such incidents are basically to instill a lasting political impact and fear psychosis at large.

f. The targeting of people from Scheduled Castes Scheduled Tribes, Women, Children and other vulnerable sections of society reflects the deep-rooted malaise that had set in the system.

g. Although the count on exact number of casualties, grievous injuries, extent of damage to property is yet to be known fully, the lumpenisation of public life nurtured and protected through powerful lobbies at every level is very clear.

h. The intensity and spread of post-poll violence could have been halted or controlled if the administration and police had acted in time. The assessment of ground situation reveals that no adequate or reasonable measures were taken, knowingly or unknowingly.

i. The fact that thousands of victims ran helter-skelter leaving their homes and villages to faraway places, wherever they felt safe and secure inside and outside the State is a sad reality.

9. RECOMMENDATIONS

i. Urgently initiate concerted and coordinated efforts to restore normalcy and instill confidence in all sections of society.

ii. Peace and reconciliation committees, at ward, village, mohalla, block, town, district, state levels must be set up immediately, drawing representatives from all sections of society to initiate confidence-building measures on priority. This process must be well planned and coordinated and implemented.

iii. A conducive atmosphere must be created through vigorous efforts to ensure the safe return of those victims who left their homes out of fear and insecurity. Free transport and adequate facilities should be provided in transparent manner so that victims muster courage and confidence as early as possible.

iv. The financial loss due to damage and destruction of moveable and immoveable properties affected during post-poll violence must be assessed by setting-up of official teams on war-footing. The information so gathered should be kept in public domain and ex-gratia be disbursed through cheques or through online transfer, wherever possible, to ensure total transparency.

v. A special relief package must be declared by the State Government immediately that include resettlement and rehabilitation, so that ample sense of security and safety returns amongst those who

were affected in the post-poll violence.

vi. Government should initiate disciplinary proceedings on those delinquent officers, including All-India Service Officers, who failed to discharge their duties in protecting lives and destruction of properties. The services of retired Judges of High Courts or Supreme Court should be sought to head this inquiry proceedings.

vii. The very concept of All India Services is that the officers from these services, particularly, IAS and IPS, are supposed to be neutral, objective and proactive. It may be recalled that AIS officers take oath of allegiance on Constitution of India at the time of joining Service and to serve the Nation to the best of their abilities without identifying with any political party or political formulation, ruling or otherwise. This is more imperative particularly during the times of crisis, be it post-poll violence or any such visible breakdown of constitutional machinery. Although the various Administrative Reforms Commissions (ARC) came out with various recommendations to rectify the situation, the deterioration and lowering the standards continue with impunity. Government of India as Cadre Control Authority for All India Service Officers should address these issues comprehensively, explore all viable legal possibilities and make mid-course corrections as some of these problems relate to other States as well.

viii. The police should register complaints immediately and after due investigation chargesheets be filed in the jurisdictional Courts.

xi. In order to ensure justice to all the victims within a specific time frame, special courts can be set up taluk and district levels. Free legal aid must be provided to the victims so that there will not be financial burden on those who already suffered immensely. All the accused in these cases be arrested immediately so that no one will be in a position to tamper with evidence, threaten the witnesses or coerce the victims.

ix. West Bengal shares borders with Bangladesh and other nations. The porous and long borders pose a major threat to internal security and definitely a lurking danger to sovereignty and integrity of our country. Therefore, NIA should investigate in order to check and suitably counter the involvement of cross-border terrorists and radical elements effectively. An Empowered Committee should be formed to study the demographic changes that have taken place over the past few decades, specifically in the border districts and the impact of demographic imbalance on post-poll violence and increased unlawful activities in these areas.

x. All the Reports prepared by MHA, NCSC, NCW, NHRC, NCPCR along with the Report of this Fact-Finding Committee must be placed before Hon'ble Supreme Court of India. In the light of overwhelming, ample, substantial and convincing evidence, Hon'ble Supreme Court may consider constituting a Special Investigation Team (SIT) immediately. Progress of the work of SIT should be monitored by Hon'ble Supreme Court of India to ensure impartial and professional manner, either through a sitting Judge or a retired Judge of Supreme Court for fair investigation and early justice. As an alternative, Government of India may constitute a Judicial Commission headed by a sitting or a retired Chief Justice or a Judge of Supreme Court or High Court.

10. The Member Secretary contacted the Chief Secretary to Government of West Bengal on 20th May 2021 to seek views of the State Government on post-poll violence and CS sent a reply requesting the Member Secretary to contact Home Secretary. On request, CS provided the mobile number of Shri H.K. Dwivedi, Additional Chief Secretary to Government of West Bengal. Accordingly, Member Secretary sent two messages through WhatsApp on 22nd, 23rd of May and reminder email on 25th May 2021 to ACS, Home Department, to seek the views of State

Government on post-poll violence. Unfortunately, the ACS, Home Department, has not responded to any of the messages and email till today.

11. Keeping in view this frightening factual field reality and also constraints of time, this Report of Fact-Finding Committee can be considered to be interim in nature. However, the Committee will continue and discharge its bounden duty whenever the lockdown restrictions are over and threat of COVID-19 pandemic comes to an end.

CAUSE AND CALL FOR JUSTICE

The trust is registered in the name and style of "Call for Justice", and has its office at New Delhi, The objects of the trust are as under–

i. To promote by all appropriate means within its purview the social, economic, and cultural development and uplift the socially, economically and educationally weak, disadvantaged and marginalized sections of society.

ii. To promote by all appropriate means within its purview and uplift citizens who are adversely affected or suffering in health, education, environment, human rights and any other incidental problems.

iii. To promote, protect and defend human rights and freedom, establish supremacy of law, to implement vigorously the concept of "Justice to All" (i.e. victims, accused, investigating agencies, persons concerned and involved in administration of justice and all related concerns) keeping in mind the principle "hate the sin but not the sinner".

iv. To spread awareness of law, health and education, environment, human rights by way of publications, media, seminars, lectures etc.

v. Without in any way limiting the generality of the main purposes stated above but always inconformity with the said main purpose, there are other objectives of the trust over and above referred herein above.

vi. One of the objects as can be seen is to take suitable steps for implementing justice and maintaining peace.

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1. INTRODUCTION

1.1. Call for Justice is a Delhi-based social and not-for-profit Trust.

The objects of the Trust are:

To promote by all appropriate means within its purview the social, economic, and cultural development and uplift socially, economically and educationally weak, disadvantaged and marginalised sections of society.

To promote by all appropriate means within its purview and uplift citizens, who are adversely affected or suffering in health, education, environment, human rights and any other incidental problems.

To promote, protect and defend human rights and freedom, establish supremacy of law, to implement vigorously the concept of "Justice to All (i.e. victims, accused, investigating agencies, persons concerned and involved in administration of justice and all related concerns) keeping in mind the principle "hate the sin but not the sinner", as quoted by Mahatma Gandhi in his Autobiography written in 1927:

"Hate the sin and not the sinner is a precept, which, though easy enough to understand, is rarely practiced, and that is why the poison of hatred spreads in the world... It is quite proper to resist and attack a system, but to resist and attack its author is tantamount to resisting and attacking oneself. For we are all tarred with the same brush, and are children of one and the same Creator, and as such the divine powers within us are infinite. To slight a single human being is to slight those divine powers, and thus to harm not only that being but with him the whole world."

To spread awareness of law, health and education, environment, human rights by way of publications, media, seminars, lectures, etc.

Without in any way limiting the generality of main purposes stated above but always in conformity with the said main purposes, there are other objectives of the Trust over and above referred herein above.

One of the objects can be seen is to take suitable steps for implementing justice and maintaining peace.

1.2. Call for Justice believes in zealously safeguarding human rights and organise every year International Human Rights Day and also organised several conclaves, conferences, symposia on contemporary issues of national and people's interest.

1.3. Call for Justice has commissioned several Fact-Finding exercises in the past including:

Political Violence in Kannur, Kerala in 2017 (Report submitted to Hon'ble President of India and Hon'ble Governor of Kerala);

Riots in North-East Delhi in 2019 (Report submitted to the Union Home Minister.

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2. BACKGROUND

2.1. Elections to Legislative Assemblies of Assam, Kerala, Tamil Nadu, West Bengal and Puducherry were declared by Election Commission of India (ECI) on 26th February 2021. Accordingly, the eight-phase polling for 294 Legislative Assembly Constituencies (LAC) in West Bengal commenced on 27th March 2021 and concluded on 29th April 2021. Elections were ably conducted free and fair except sporadic incidents of violence here and there. The counting of votes took place on 2nd May 2021. All India Trinamool Congress (AITC or TMC), the ruling party, returned to power capturing 213 seats followed by Bharatiya Janata Party (BJP) winning 77 seats.

2.2. From night of Sunday, i.e. 2nd May 2021, wide spread violence was reported, in print as well as electronic media (including social media), from different parts of the State of West Bengal. Photographs, videos, audio recordings were shared in various forums. Reports of arson, looting of shops, burning of houses, rapes, murders, brutal attack on individuals, destruction of moveable and immoveable properties and onslaughts by anti-social elements came to light through media, largely substantiated by eyewitness accounts. It is noteworthy that in most of the incidents, the leaders, followers, field level functionaries, voters, family members belonging to a particular political party were targeted. The gory details of such unprecedented post-poll violence were in public domain and shook the conscience of people across India as well as all over the world. According to Reports, more than 25 persons including women were murdered, over 15000 incidents of violence took place, 7000 women were molested, 16 districts out of 26 districts in the State were badly affected due to violence. Large number of people fearing death and further attacks migrated to neighbouring States of Assam, Jharkhand and Odisha. Reports

also highlighted that offences of rape, molestation, targeted attacks on people belonging to Scheduled Castes and Scheduled Tribes, sacrilege of places of worship belonging to a particular religion continued unabated even many days after 2nd May 2021. During the following days and weeks, the widespread violence started by groups of assailants targeting villages, towns and mohallas in an organised manner, is scattered to many parts of the State turning into violent attacks by individual criminals, partly to settle the old scores and partly as pure political vendetta.

2.3. Alarmed by such reports of widespread violence across the length and breadth of the State, Hon'ble Governor of West Bengal summoned the senior officials from State Government, including Home Secretary, DGP, Commissioner of Police, Kolkata, and directed them to maintain law and order and restore peace immediately. Hon'ble Governor also sought a detailed report on post-poll violence and vandalism in the State and measures taken to bring back normalcy. It was reported that Hon'ble Governor had also conferred with Ms. Mamta Banerjee, Chief Minister of the State, on how to address the serious issue on priority.

2.4. Taking notice of continued incidents of violence after the declaration of election results, Union Ministry of Home Affairs (MHA) has sought a Report from the State. As there was no response from State Government, Home Ministry sent a reminder urging immediate steps to curb the violence and take necessary measures to restore normalcy "without any loss of time." It was reported that Shri Narendra Modi, Prime Minister of India, called up the Governor of West Bengal and expressed his deep concern over post-poll violence in the State. MHA also sent a four-member team to look into post-poll violence, to assess the worsening violent situation and to submit a detailed Report to the Ministry. MHA also sought a Report from the Hon'ble Governor of the State on current law and order situation as violence and vandalism continued unabated. Media also highlighted that the convoy of a Union Minister was allegedly attacked by workers of the ruling party.

2.5. It was reported that the Hon'ble Governor on his official visit to meet victims of post-poll violence at Dinhata in Cooch Behar district of North Bengal had faced protests from workers of TMC and had expressed his anguish. "This is a serious security failure and there is total collapse of rule of law." It was also reported that the Hon'ble Governor visited Ranpagli refugee camp in Assam, where people, who were badly affected by the violence, were sheltered by Government of Assam. There were several incidents, where the Hon'ble Governor had to be protected by his security personnel, at places such as Sitalkuchi, (Dist. Cooch Bihar), Golokganj (Dhubri District of Assam), by setting up human chain on both sides of the road to prevent protesters indulging in unruly action. Media highlighted that the Hon'ble Governor and Chief Minister exchanged strongly worded letters making mutual allegations on disregard shown to Constitution and alleged violation of protocols.

2.6. On receiving many letters and complaints of atrocities against people belonging to Scheduled Castes and Scheduled Tribes, the National Commission for Scheduled Castes (NCSC), a constitutional body entrusted with protection of SC people (constituted Under Article 338 of Constitution of India) decided to visit the State particularly to inquire into the cases of atrocities in East Burdwan and 24-Parganas districts. It was reported that the State Government had asked NCSC to cancel the visit citing various reasons including COVID-19 restrictions and protocol.

However, the NCSC went ahead with the visit stating: "It is the mandate of the Commission to conduct spot visits, if there are cases of violence against Dalits anywhere in the country, we are entitled to set up an inquiry, seek reports, and even summon the state officials."

NCSC proceeded with the spot inspection, amidst non-cooperation from the State Government. As reported in leading newspapers and TV channels, the Chairman of NCSC, addressing the media, stated: "Rapes and murders are taking place in West Bengal with no protection and people from Scheduled Caste community are the worst affected by the violence."

He disclosed: "So far 1627 cases including 10-12 rapes, 15-20 murder cases of violence against SC community, 672 new cases have been reported."

He further alleged: "When people from SC community visited the police station to a file a complaint, they were attacked and their houses looted."

2.7. It was also reported that a three-member committee, set up by National Commission for Women (NCW which was set up under Act No. 20 of 1990 of GoI) also visited West Midnapore and met the family of a victim of rape and murder. Taking cognizance of post-poll violence in West Bengal, National Human Rights Commission (NHRC) considered the reports of widespread violence to be a "fit case of alleged violation of Right to Life of innocent citizens" and directed its DIG (Investigation) to constitute a team of officers from Investigation Division to conduct an on-the-spot fact-finding investigation and submit a report at the earliest, preferably within two weeks.

The official press release by NHRC sums up the urgency and seriousness of the prevailing situation: "The National Human Rights Commission, NHRC, India has come across several media reports published in various newspapers on 4th May 2021, regarding the death of some persons in the alleged post-poll violence in West Bengal on 3rd May 2021. The political workers allegedly clashed with each other, party offices were torched down and some homes were ransacked and valuables also looted. The District Administration and local Law & Order enforcement agencies appear not to have acted to stop such violation of human rights of the affected persons."

It was reported that National Commission for Protection of Child Rights (NCPCR) also raised serious concerns over the violence and sought report from the State Government. The political parties including BJP and CPI (M) condemned the post-poll violence.

While pointing out specific cases, leaders from CPI and CPI (M) lamented that "no justice can be expected" under the given circumstances.

2.8. The messages announcing global protests on 9th May 2021, against post-poll violence, atrocities and human rights violation in West Bengal

became viral and videos and photographs spreading across 50 cities from 30 countries from five continents appeared on social media Facebook, Twitter, WhatsApp. This shows how the national and international communities and individuals stood united against violence and vandalism.

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3. CONSTITUTION OF FACT-FINDING COMMITTEE

3.1. Democratic processes in India are robust and came out victorious on many occasions. Retributive violence, targeted intimidation, personal revenge, retaliation, coercion, aggression and mob frenzy defeat basic principles of informed participation and violate the sanctity of elections. India firmly believe and practise in political change, devoid of violence, and any aberrations were handled effectively in the past. Unfortunately, the spectrum of violent incidents widely reported in media and weak response from state machinery does not augur well for a mature democracy.

3.2. Call for Justice, strives to unearth truth, firmly believes in Indian democracy and has genuine respect for sacred institutions that stood test of time. As a responsible civil society organisation, Call for Justice cannot remain as a mute spectator to reported happenings in West Bengal, with specific reference to widespread post-poll violence. Therefore, in accordance with the mandate, mentioned in the objectives of the organisation, it decided to constitute a Fact-Finding Committee consisting of the following:

1. Justice Permod Kohli, Former Chief Justice, High Court of Sikkim-Chairperson
2. Shri Anand Bose, IAS (Retired), Former Chief Secretary, Kerala-Member
3. Ms. Nirmal Kaur, IPS (Retired), Former DGP, Jharkhand-Member
4. Shri Nisar Ahmed, Past President, ICSI, Member
5. Shri M. Madan Gopal, IAS (Retired), Former Additional Chief Secretary, Karnataka- Member Secretary.

Copy of the letter constituting the Fact-Finding Committee is enclosed as Annexure-I.

3.3. In pursuance of the said decision, the Member Secretary of Fact-Finding Committee addressed a letter, dated 11th May 2021, to Chief Secretary to Government of West Bengal requesting for a necessary security cover and facilitation to the Committee, so that the entire exercise can be completed smoothly and without any untoward occurrence. The letter was emailed to Chief Secretary providing all the details about Call for Justice, the credentials of Chairperson and members of the committee and proposed time frame of the visit. The copy of the letter, dated 11th May 2021, is enclosed with this Report as Annexure-II.

3.4. In response to the said letter, Member Secretary received a reply from Special Secretary to Government of West Bengal through email, dated 12th May 2021. The copy of the letter is in Annexure-III. requesting the Committee to cancel the visit citing the reasons such as:

a. "The content of body of your correspondence is sub judice in the Hon'ble High Court of Calcutta in W.P. A.(P) 143 of 2021, Anindya Sunder Das vs Union of India and others. A five-member bench of Hon'ble High Court of Kolkata has heard the matter on 10th May 2021 and further hearing on this will be taken up by Hon'ble High Court, Calcutta on 18th May 2021"
b. "A team of the Ministry of Home Affairs has visited many of the areas. Women Commission and Human Rights Commission has also visited. Also, the National Commission for Scheduled Castes will be visiting the State on 13th and 14th May, 2021 for the same purpose."
c. Covid surge is at its peak and the people of the State are facing huge problems and the State administration has mobilised all its resources and manpower to face this challenge and stand besides the people in distress."
d. "State Government has effectively dealt with the post-poll violence, which has drastically declined after the Model Code of Conduct, i.e.

on 3rd May 2021, with very few incidents being reported in the last three-four days."

3.5. After thorough discussions and analysing the situation, as time is an essence in all such circumstances, Fact-Finding Committee decided to visit West Bengal from 15th May 2021 to take stock of the situation and a reality check. A letter was emailed by Member Secretary of the Committee to Chief Secretary to Government of West Bengal on 14th May 2021 clarifying to the points raised in the letter of Special Secretary to Government of West Bengal, dated 12th May 2021. The contents of the letter of clarification are as follows;

"On perusal of the letter received from Special Secretary, Government of West Bengal, I would such as to clarify that 'Call for Justice' is a Civil Society Organisation (CSO) and not a Government Agency of Central or State. The fact to be noted is that neither 'Call for Justice' nor the Fact-Finding Committee is Party to the pending W.P. A (P) 143 of 2021 before Hon'ble High Court, Calcutta and therefore the question of 'sub-judice' doesn't arise. Moreover, there is no conflict of interest whatsoever and proposed deliberations of Fact-Finding Committee in no way violate any directions of Hon'ble High Court. The Committee is fully aware of legal provisions and will function strictly within the framework of Law."

"Important fact is that the magnitude of alleged violence and wide-spread unrest requires an unbiased and impartial enquiry without any further delay by a committee of eminent citizens that is headed by Former Chief Justice of a High Court, Former Chief Secretary, Former DGP, Former Additional Chief Secretary and former President of ICSI. It is noteworthy that in all such happenings, time is essence as it will provide true and real picture to the Committee in totality. I can assure you that the members of the Committee will adhere to the COVID-19 protocols and follow them without any deviation as responsible and law-abiding citizens."

" 'Call for Justice' is a reputed Civil Society Organisation and is working in the area of protection of human rights and other important matters of

public interest. The Fact-Finding Committee will be collecting views of victims and communities. It would have been appropriate if you had spared your time or instructed other officers of State Government for a healthy interaction. This would definitely help the Committee is incorporate the views of the State Government in the Report, as and when finalised, along with views of affected people."

"You would appreciate the fact that the members of the Committee have decades of experience in their respective field of work and understand the complexity of the situation. Our efforts will definitely strengthen the initiatives of State Government in dealing with the post-poll violence effectively and contribute to the return to normalcy at the earliest."

It is surprising that Chief Secretary to Government of West Bengal has not responded to this letter till today. Copy of the letter, dated 14th May 2021, is enclosed to this Report as Annexure-IV.

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4. FIELD VISITS AND ONLINE INTERACTIONS BY THE FACT-FINDING COMMITTEE (15TH, 16TH, 17TH MAY 2021 AND 20TH MAY 2021)

4.1. Three members of Fact-Finding Committee, namely Shri Anand Bose, Ms. Nirmal Kaur and Shri M. Madan Gopal visited the State from 15th May 2021 and collected information from various sources through field visits, online interactions and discussions with victims, family members and others. Substantial and reliable evidence in the form photographs, video clippings, media reports and written documents was gathered. However, Justice Permod Kohli, Chairperson and Shri Nisar Ahmed, Member, who were supposed to join the Committee next day, i.e. 16th May 2021, could not travel and join the Committee due to restrictions on account of total lockdown declared by the State Government.

It was shocking to the Committee that a good Samaritan (name withheld for security reasons), who helped us during the field visit on 15th May 2021, in locating victims of post-poll violence and recording evidence, at a hospital was brutally attacked on very next day, i.e. on 16th May 2021, by goons reportedly belonging ruling party and the house of said good Samaritan was vandalised.

Keeping in view, the prevailing tense situation, atmosphere of fear, also to protect the victims from further attacks, likely violent reprisals, Committee decided to keep the evidence so gathered in a sealed envelope and being submitted to authorities concerned.

4.2. On 15th May 2021, the Committee visited Gayeshpur, Kalyani, Nadia and Dum Dum areas, which were gripped by post-poll violence. During the visit, Committee met scores of victims, witnessed first hand the

destruction and damage to moveable and immoveable properties.

Some of the houses were bombed, set on fire and razed to the ground.

The Committee could sense a palpable fear and all-pervasive sense of loss among the people. There was tension all around, many victims expressed their utter helplessness and were still living in panic. There were many victims who left their homes out of fear and also as their houses were vandalised making them unfit for dwelling. Many of them ran away from their homes to Assam, far away from their villages. Some people were taking shelter at makeshift camp organised by a political party. Many of them sheltered at the camp were from Matua Scheduled Caste community.

We met one of the priests from Matua Mahasangha and heard the details of heart-breaking incidents that took place recently.

4.3. Committee visited Jawaharlal Nehru Memorial Hospital Kalyani Medical College. Some of the victims, who were injured due to physical attacks, belong to a particular political party and were still convalescing at the inpatient surgical ward. The brief interaction with the Nursing Superintendent and other medical staff revealed that the injuries and multiple fracture were due to murderous attacks and come under the category of medico-legal case.

In some cases, complaints were given to jurisdictional police but no person was arrested till now.

4.4. In view of the total lockdown declared by the State Government with effect from 16th May 2021, the Committee continued the meetings with victims through online on 16th, 17th and 20th May 2021. Many victims, family members from South 24 Parganas, North 24 Parganas, Canning, Nadia and Kolkata and other districts joined the online session amidst extreme difficulties and shared their agonizing experience in detail.

4.5. Some of the complaints of the victims are summed up as follows:

a. Mafia Raj prevails in many areas nurtured and protected by the ruling party. There are many notorious dons and goondas with dozens of cases of rape, murder and arson pending against them. Police are fully aware of these facts but no one dare to touch these

hardcore criminals due to blatant political patronage. These goons moved with impunity and took the lead during post-poll violence in attacks on supporters of a particular political party. (Few names mentioned are kept in a sealed cover and being submitted to authorities concerned).

b. The violence commenced from the night of 2nd May 2021 when the announcement of results of counting coming to end and continued unabated for many days. The weeklong attacks, arson, murders, destruction of properties continued and people were totally helpless as there was no help either from Administration or from Police.

c. In many areas, goons and rowdy elements looted the shops in prominent market places targeting specifically those who canvassed or field workers of a particular political party.

d. Many of the victims were booth agents, office-bearers, voters, who supported a particular political party. Even innocent people were also attacked on mere suspicion.

e. In many cases, the family members of those who supported a particular political party were brutally attacked and even children were not spared. There were repeated attacks in some areas to instill fear and panic.

f. The horrific atrocities on women cannot be described in any language as on the fateful night of 2nd May and on subsequent nights, groups of goondas, ruffians, supporters belonging to ruling party entered the homes and brutally raped and molested women. Tragically, even elderly women were also not spared.

g. Miscreants looted cash, jewelry from the houses and even the household items such as kitchenware, utensils were not spared. In most of the cases, the local police became a silent spectator and even refused to receive complaints from aggrieved people.

h. In a particular instance, a sole hand-pump that catered to the drinking water needs of a community was destroyed and the

connecting bridge to the said village demolished by using JCB to isolate the villagers, who voted against the ruling party candidate. This was done to teach a lesson not to vote or align with a particular political party.

i. In some cases, community fines were imposed on those a particular voters in a polling booth or number of polling booths who voted for a particular political party. This was done targeting villages and specific areas in towns.

j. Many people, who depend on daily wages, were prevented in taking up the work with clear intention to deprive them source of income. This economic intimidation and severing the financial support.

k. In at Kalyani, an Indane LPG bottling plant, though a Public Sector Undertaking, the contract workers, who belong to a particular political party or canvassed/voted for a particular political party, were terminated by labour contractor, who belong to ruling party. The complaint that was given to management was totally ignored.

l. At many places, the commercial properties such as mobile repair shops, hair-cutting saloons, beauty parlors belonging to people, who include field workers, office-bearers, voters and sympathizers of a particular political party, were vandalised totally and huge ransom was demanded from who want to restart their economic activity.

m. The electric rickshaws and pushcarts belonging to people supporting a particular political party were targeted and destroyed. Many of them not only lost their sole source of livelihood but also pushed into debt trap as they are unable to repay the loans availed from banks and other financial institutions.

n. Some complained of men from a particular community befriended the Hindu girls with fake identities and marrying and converting them to other faith by coercion. The individuals, who objected to this practice earlier, were targeted for attacks using the opportunity of insecure post-poll scenario.

o. In some villages, the lands and buildings were purchased en masse by those migrated from a neighbouring country and old tenants were evicted by force. The villagers, who opposed this earlier and reported to authorities, were now attacked with clear political patronage of elected representatives of ruling party.

p. Many people complained that the leaders of ruling party were demanding a written statement from the supporters of a particular political party. In addition, the leaders demanded the victims to return the ex-gratia amount that was paid to them during earlier Tsunami that happened years ago.

q. The amount of damage to property, household as well as commercial, looting of moveable items runs into lakhs of rupees in many cases. Despite request to local authorities to assess the damage and come to the rescue of victims, no one came for their rescue.

r. At some places, groups of vandals moved with country-made pistols, crude bombs and dangerous weapons such as machetes, butchering axes. This happened in day light, that too right in front of police stations.

s. At many places, Aadhar cards and ration cards of victims were snatched away by force by goons and their followers. Threats are continuing demanding that only if the victims give it in writing not to support a particular political party, these cards will be returned.

t. Victims from Phoolimari (1 and 2), Rampur left their homes out of fear and threat to their lives and taking shelter at Sri Rampur Hindu School at Kokrajhar district in Assam. Similarly, many victims of are at Pokalagi, Ronpagli and Chhagulia relief camps in Dhubri district and at Tamarhat camp in Kokrajhar district in Assam. There several relief camps mentioned during the online interaction that reflect the intensity of violence that triggered fear and insecurity.

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5. OBSERVATIONS/FINDINGS

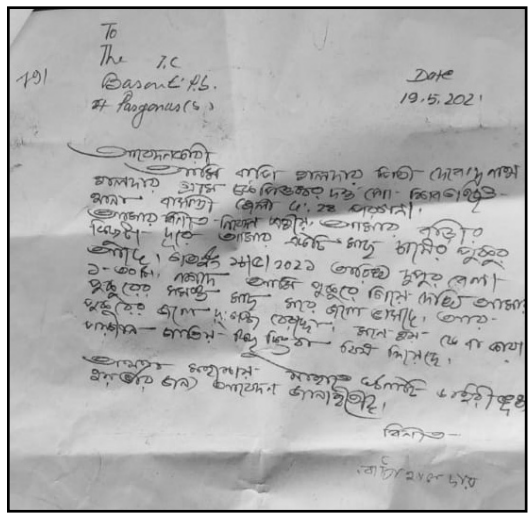
5.1. Magnitude and reach of the post-poll violence touched many villages and towns all across the State simultaneously beginning from the night of 2nd May 2021. This is a clear indication that most of the incidents are not sporadic but premeditated, organised and conspiratorial.

5.2. The fact that some of the hardened criminals, mafia dons and criminal gangs, who were already in the police records, led and carried the deadly attacks unhindered reveal that there is clear political patronage even before the elections and same being used to silence the political rivals.

5.3. The incidents of targeted destruction and vandalization of properties, residential and commercial, have a sole purpose to deprive the livelihoods and choking the victims economically. The worst affected people are those who depend on day-to-day work or business, who are pushed into financial degradation and unmitigated misery.

5.4. In most of the cases, victims were afraid to lodge complaint with police either due to fear of reprisal or due to the lack faith in the police. Those victims who gathered courage to went to police either turned away to settle the matter with the culprits or flat refusal to register the case. FIRs were

registered at some places as an exception treating the cases as a routine matter. Police turned a blind eye to violent incidents that happened within their jurisdiction and remained as a silent spectator, if not an outright



To
The I.C
Basanti P.S.
24 Parganas (S.)

Date
19.5.2021

accomplice. As no visible help or assistance was forthcoming, many people left to fend themselves leaving their homes and villages to safer destinations, to makeshift shelter camps within and outside the State, organised by good Samaritans or followers of a political party.

5.5. Forcibly taking away Aadhar cards, ration cards, demanding a written undertaking on not to support a particular political party, demanding for ransom and protection money (called tolabazi) to return to workplace or for reclaiming lands or rebuild the houses, removal from contractual employment and all such incidents are basically to instill a lasting political impact and fear psychosis at large. These incidents reveal a dangerous trend adversely affecting democratic rights of people and in clear violation of Rule of Law.

5.6. The targeting of people from Scheduled Castes, Scheduled Tribe, Women, Children and other vulnerable sections of society reflects the deep-rooted malaise that had set in the system. The brutalities, barbaric violence, senseless plunder and devastation are threat to the orderly society and deep scars that left on these people will remain for decades come.

5.7. Demolition of bridges, uprooting of borewells and destruction of common properties of public by using huge machinery such as JCB and diggers indicate an organised political lobby with financial support.

The malafide intention to cause permanent damage and adversely affect the living and working conditions of the victims is absolutely clear.

5.8. Although the count on exact number of casualties, grievous injuries, extent of damage to property is yet to be known fully, the lumpenisation of public life nurtured and protected through powerful lobbies at every level is very clear.

The diabolical intention of widespread post-poll violence appears to be to teach a lesson to those who supported a particular

political party and to prevent them from exercising their votes freely and fairly in future. The pervasive political vendetta and communal hatred, in some cases, is clearly visible, that happened mostly due to systemic failure and dereliction of duty by the concerned officers who were entrusted to maintain law and order.

5.9. The intensity and spread of post-poll violence could have been halted or controlled if the administration and police acted in time. The assessment of ground situation reveal that no adequate or reasonable measures were taken, knowingly or unknowingly. Generally, during the conduct of elections, the local administration is entrusted with the responsibility in identifying the vulnerable areas within their respective jurisdiction, based on past history, population profile, number of pending criminal cases in the area and other objective criteria. Accordingly, the polling stations are categorised as sensitive, hyper sensitive to take appropriate preemptive and preventive steps. Keeping this in view, the administration and police cannot take an excuse of ignorance or lack of intelligence inputs.

5.10. The fact that thousands of victims

ran helter-skelter leaving their homes and villages to faraway places, wherever they felt safe and secure inside and outside the State is sad reality. When their houses and properties were set on fire, when those near and dear ones were attacked and murdered, bombs and firearms freely used by goons and miscreants, when the administrative machinery including the police failed to come to the rescue, when fear gripped everyone, the only choice left to the victims was to escape and run away to safer destinations hurried and confused.

5.11. The reported use of crude bombs, country-made pistols and other murderous weapons indicate a well-established pre-existing network of criminals and their gangs. The fact that these offenders could lay their hands on such arms and ammunition with impunity indicates the inadequate preventive measures and complacency in assessing the alarming situation.

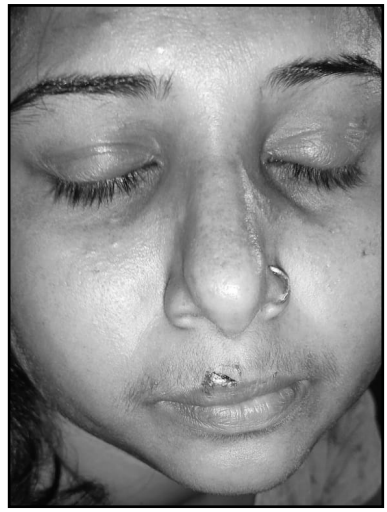
5.12. It is pertinent to note that when such barbaric and brutal incidents were taking place in many of the districts, the media, print as well as electronic—by and large, could not comprehend

the magnitude of the violence and they were unable to reach violence hit areas. Whenever any such incidents of violence happened anywhere in the country, media was active, sometimes, overactive, and reported the incidents widely at state, national and international levels.

It is pertinent to note that in the instant post-poll violence in West Bengal, the media, considered as fourth pillar of democracy could not do justice to their sacred role mainly due to restrictions in the field as well as uncontrolled disturbances.

When inquired from victims during our interactions, whether media persons visited the affected areas, the answer the Committee received was a big NO. Certainly, there was an exception that some newspapers and TV channels mustered courage in bringing out the facts to public domain.

5.13. The right to peaceful living with dignity along with his properties are fundamental right of every citizen as envisaged under Article 21 of Indian Constitution. As such, it's the duty of the Union of India and State of West Bengal to



protect such rights of every citizen of state without any reservation.

And hence immediate suitable actions need to be initiated by the Central and State machinery to being the situation to normalcy without fear or coercion.

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6. RECOMMENDATIONS

6.1. The first and the foremost measures to be taken up are to:

a. Urgently initiate concerted and coordinated efforts to restore normalcy and instill confidence in all sections of society.

b. By bringing law and order machinery in proper order in the State of West Bengal by issuing suitable imminent directions by Union of India. This responsibility and duty should be discharged, jointly as well as individually, by Union Government, State Government, Civil Society Organisations, NGOs, Community-Based Organisations, Media and Opinion-Makers. This exercise in right earnest should commence immediately, keeping aside political, affiliations and ideological formulations.

6.2. Peace and reconciliation committees at ward, village, mohalla, block, town, district, state levels must be set up immediately, drawing representatives from all sections of society to initiate confidence-building measures on priority. This process must be well planned and coordinated and implemented. These efforts should be monitored from time to time at the highest level.

6.3. A conducive atmosphere must be created through vigorous efforts to ensure the safe return of those victims who left their homes out of fear and insecurity. Government should set up official teams to visit shelter camps within and outside the State to instill the confidence of public in the Indian Constitution and Indian laws and to explain and convince the people to return their home, be it in villages, towns or cities. Free transport and adequate facilities should be provided in transparent manner so that victims muster courage and confidence as early as possible.

6.4. The financial loss due to damage and destruction of moveable and

immoveable properties affected during post-poll violence must be assessed by settin- up of official teams on war-footing. The standard and liberal rates should be fixed by the State Government so that the entire calculation and compilation can be completed within a month. The information so gathered should be kept in public domain and ex-gratia be disbursed through cheques or through online transfer wherever possible to ensure total transparency.

6.5. A special relief package must be declared by the State Government immediately, which include resettlement and rehabilitation, so that ample sense of security and safety returns amongst those who were affected in the post-poll violence. In addition to suitable ex-gratia to the families who lost the near and dear ones, Government should provide employment to at least one member of the family either in Government or in State PSUs. The children of those families affected during post-poll violence should be provided free quality education up to 10th standard in addition to providing free hostel facilities. Adequate attention should be devoted to Scheduled Castes, Scheduled Tribes and other vulnerable sections of society and facilitate early revival of their livelihoods.

6.6. Government should initiate disciplinary proceedings on those delinquent officers, including All-India Service Officers, who failed to discharge their duties in protecting lives and destruction of properties. The services of retired Judges of High Courts or Supreme Court should be sought to head this inquiry proceedings assisted by serving or retired Government officials as presenting officers. All such disciplinary proceedings should be completed within six months and appropriate penalties be imposed on those on whom the charges are proved.

6.7. The very concept of All India Services is that the officers from these services, particularly, IAS and IPS, are supposed to be neutral, objective and proactive. There are many shining examples in the past wherein IAS and IPS officers discharged their duties efficiently without any impartiality, bias, prejudice with utmost concern to people and the

Nation. It may be recalled that AIS officers take oath of allegiance on Constitution of India at the time of joining service and to serve the nation to the best of their abilities without identifying with any political party or political formulation, ruling or otherwise. This is more imperative particularly during the times of crisis, be it post-poll violence or any such visible breakdown of constitutional machinery. Any failure or dereliction of duty will not only adversely affect the good governance but also dilute the administrative accountability. It may be noted that the provisions in the Articles 309, 310 and 311 of Constitution of India clearly safeguard the IAS/IPS officers from arbitrary and unfair interference from political heads. Despite such protection and guarantee, it has become a trend in many States over a period of time diluting this basic principle. The culture of favouritism, nepotism, political influence in posting and promotions and misusing the pliable officers to serve a particular political agenda. Although the various Administrative Reforms Commissions (ARC) came out with various recommendations to rectify the situation, the deterioration and lowering the standards continue with impunity. It is noteworthy that as per the All India Service Rules, every State is supposed to send approximately 25 per cent of its cadre strength for central deputation, known as Central Deputation Reserve (CDR). As per reports in December 2020, West Bengal stands lowest in the country that sends IAS, IPS officers to Centre. Out of 307 IAS (present strength) officers from West Bengal cadre, there are just 8 IAS officers on Central Deputation as against the CDR of 78 officers. Similarly, out of 281 IPS (present strength) officers in West Bengal, only 12 IPS officers are sent on Central Deputation as against CDR of 86 officers. According to available data from Department of Personnel and Training (DoPT), Government of India, other States with large cadres such as Uttar Pradesh, Karnataka, Madhya Pradesh and Bihar have sent 44, 20, 27 and 36 IAS officers respectively to the Centre. Repeated representations by IAS, IPS officers in West Bengal cadre for Central Deputation, a crucial advancement in the professional career of an

officer, was consistently ignored by the State Government on some pretext or the other. This retrograde administrative policy practised in West Bengal obviously defeats the very spirit of All-India character of IAS and IPS. Such short-sighted practice has demoralising effect on officers with integrity and proven competency. In addition, this obviously promotes nepotism, arbitrariness and abject surrender by pliable officers to whims and fancies of political heads. Another important point to be noted that West Bengal is one the States where Civil Services Board (CSB) is yet to be constituted as prescribed by the Notification of Department of Personnel and Training, Government of India, way back on 30th January 2014. This Notification guaranteeing a "minimum assured tenure", as prescribed in the amended Rule 7 (3) of Indian Administrative Service (Cadre) Rules, 1954, and before such transfer, the prior recommendation of Civil Services Board headed by Chief Secretary, as required under amended Rule 7 (5) of Indian Administrative Service (Cadre) Rules, 1954 has not been taken. Amendment of said Rules in 2014, to officers is meant to deter politicians in using transfers as threatening weapon to harass upright officers, to halt ad hoc decisions and also to prevent the deterioration in administrative functioning. It may be recalled that Hon'ble Supreme Court of India, in its landmark judgment on 31st October 2013 (the Hon'ble Supreme Court of India by issuing notices to all the State Governments including the State of West Bengal was pleased to pass an order in matter of T.S.R. Subramanian & Ors Vs Union of India, Reported in AIR-2013-SC-263 and (2013) 15 SCC 732, for framing and amending the Indian Administrative Service (Cadre) Rules, 1954 within three months), issued directives to Union and State Governments to ensure "minimum assured tenure" to officers at a particular posting so that they can work effectively and further held that the civil servants were not having stability of tenure, particularly in State Governments, where transfers and postings were made frequently, at the whims and fancies of the executive head for political and other considerations and not in public interest.

This decision of Hon'ble Court understood the multiple malaises inflicted on All India Service Officers by short-sighted politicians as "Transfers are often used as instruments of reward and punishment, with officials being frequently transferred on whims and caprices as well as personal needs of local politicians and other vested interests" (from PIL filed by 83 retired bureaucrats). With this background, DoPT, GoI, issued the notification in right earnest but unfortunately Government of West Bengal chose to ignore the notification to perpetuate extant system with no concern to administrative propriety. The efficiency and impartiality of civil machinery and administrative team is sine que non for upholding the democratic values and ensuring prevalence of Rule of Law, irrespective of any political dispensation, whatever be the ideologies of that political party. Government of India as Cadre Control Authority for All India Service Officers should address these issues comprehensively, explore all viable legal possibilities and make mid-course corrections as some of these problems relate to other States as well.

6.8. The police should register complaints immediately and after due investigation chargesheets be filed in the jurisdictional Courts.

In order to ensure justice to all the victims within a specific time frame, special courts can be set up at taluk and district levels. Free legal aid must be provided to the victims so that there will not be financial burden on those who already suffered immensely. All the accused in these cases be arrested immediately so that no one will be in a position to tamper with evidence, threaten the witnesses or coerce the victims.

6.9. The well-known dons and goons involved in the arson, vandalism, violence, criminal acts must be externed from the state for at least one year and also should be taken into custody under anti-goonda Act and other legal provisions that will send a strong signal to society in preventing such incidents in future. Their properties be confiscated and bank accounts be frozen.

6.10. The loss to the public properties and community assets should

be recovered from those who were involved in such heinous crimes. The restoration and rebuilding of these properties should be completed in next three months.

6.11. As crude bombs, country-made pistols and other murderous weapons were used by the assailants in many parts of the State, the Government should set up special investigation teams to locate and destroy the source of manufactures and prevent supply of these arms in future.

6.12. West Bengal shares borders with Bangladesh and other nations. The porous and long borders pose a major threat to internal security and definitely a lurking danger to sovereignty and integrity of our country. Therefore, NIA should thoroughly investigate in order to check and suitably counter the involvement of cross-border terrorists and radical elements effectively. Role of illegal immigrants should be enquired and wherever such mischievous elements are found, they should be deported forthwith. An empowered committee should be formed to study the demographic changes that have taken place over the past few decades, specifically in the border districts and the impact of demographic imbalance on post-poll violence and increased unlawful activities in these areas.

6.13. In view of the reports on unprecedented and large-scale violence, rapes, murders, bombing and torching the properties, residential and commercial, criminal intimidation that happened across the State, an official team from MHA visited the State. Similarly, National Commission for Scheduled Castes, National Commission for Women, National Human Rights Commission sent teams to obtain first hand information from the field. National Commission for Protection of Child Rights sought report from State Government and officers concerned. All the reports so prepared by all these agencies along with the report of this Fact-Finding Committee must be placed before Hon'ble Supreme Court of India. In the light of overwhelming, ample, substantial and convincing evidence Hon'ble Supreme Court may consider constituting a Special Investigation Team (SIT) immediately. Progress of the work of SIT should be monitored

by Hon'ble Supreme Court of India, to ensure impartial and professional manner, either through a sitting Judge or a retired Judge of Supreme Court for fair investigation and early justice. As an alternative Government of India may constitute a Judicial Commission headed by a sitting or a retired Chief Justice or a Judge of Supreme Court or High Court.

INJUSTICE ANYWHERE IS A THREAT TO JUSTICE EVERYWHERE

As observed by Martin Luther King Jr.: "Injustice anywhere is a threat to justice everywhere, we are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly."

6.14. It is pertinent to notice that elections were held in five states—West Bengal, Tamil Nadu, Kerala, Assam and Puducherry. Despite abundant precaution in conducting eight-phase polling in West Bengal, there was an unprecedented and wide-spread post-poll violence that raises fundamental questions on concept and practice of good governance and able administration. It is a fact that political party that won majority of seats in Legislative Assembly had been ruling the State for past ten years. Being in power for a decade, said political party cannot absolve itself of and cannot shirk from the responsibility of the gory trial of death and destruction than happened in post-poll scenario. Deep-rooted and well-entrenched criminalisation and lumpenisation of political processes in the State is a clear indication of failure of system and abdication of responsibility by the said political party. The sequence incidents of violence cannot be justified as some historical legacy and party in power should introspect deeply on this issue for its own survival in the democratic system. If any political party, ruling or otherwise, is involved or abetted destruction of public or private prperties, that a particular party should be made accountable for it and damages to be recovered from them. Those political leaders, who led or instigated such violence, should be disqualified in contesting elections and be debarred in holding any political office permanently.

6.15. It is necessary to evolve constitutional and legal mechanisms to prevent recurrence of such events whenever there is a breakdown of law and order or failure of constitutional or stubborn defiance of established norms by the State Governments. When the State Governments, which are expected to protect life and properties of the people and maintain law and order, ignore or are reluctant to discharge their bounden duty, when the federal proprieties are floated deliberately, the Union Government should exercise its powers as envisaged in the Constitution of India with due regard to legal, ethical, administrative and political propriety. This constitutional option should be determined by Union Government, not in any cavalier fashion or as a kneejerk reaction but in a balanced and responsible manner. No doubt, the democratic ethos, mature electoral procedures and enlightened leadership, irrespective of political ideologies, understand relevance of this discourse and come with a consensus approach to resolve this issue and overcome the challenge as early as possible.

6.16. The significant feature of Indian Constitution is that it envisages judicious combination of federal and unitary features defining legislative, administrative and executive powers between Union Government and the State Governments. The learned and visionary debates in the Constitution Assembly explored these aspects in totality in the light of prevailing situation during those historical times. The experience of past decades reveals that several grey areas emerged in the realm of Centre-State relations and many larger issues are posing a challenge that have contemporary relevance. In this context, it is necessary for an in-depth study on this subject to address and resolve this crucial matter in a specific time frame.

6.17. Election Commission of India is fully aware of sensitivity of ground situation and vulnerability of areas to likelihood of violence. The very fact that large-scale deployment of security forces and eight-phase poling to ensure conduct of free and fair elections is a proof to this ground reality. Therefore, ECI should have special and emergency powers to prevent such post-poll crisis. The presence of security forces in those sensitive

and hyper-sensitive areas should be continued for a period as it deems fit. This is a necessity in a multi-party democracy as tempers run high during electioneering and gullible voters are likely to be immersed in emotional and charged atmosphere. All political parties may offer their considered suggestions in the interest of protecting the sanctity of elections and that of sacred democratic institutions.

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7. INPUTS FROM GOVERNMENT OF WEST BENGAL

7.1. The Member Secretary contacted the Chief Secretary to Government of West Bengal on 20th May 2021 to seek views of the State Government on post-poll violence and CS sent a reply, requesting the Member Secretary to contact Home Secretary. On request, CS provided the mobile number of Shri H.K. Dwivedi, Additional Chief Secretary to Government of West Bengal. Accordingly, Member Secretary sent two messages through WhatsApp on 22nd, 23rd of May and reminder email on 25th May 2021 to ACS, Home Department, to seek the views of State Government on post-poll violence. Unfortunately, the ACS, Home Department, has not responded to any of the messages and email till today. The copy of the messages and email is enclosed with this Report as Annexure V.

7.2. The members of Fact-Finding Committee followed COVID-19 protocols during the field visits strictly and also adhered to the lockdown restrictions without any deviation. As narrated earlier, the Committee could conduct field visits on 15th May 2021 and observed that there were many victims who were gripped with panic and were hesitant to come out for deposition as they are still in a trauma fearing another round of violent reprisals. Owing to lockdown restrictions that have come into force with effect from 16th May 2021, Committee held online interactions with victims on 16th, 17th and 20th of May 2021. Even during these online interactions, Committee could witness the indescribable agony, extreme fear and dreadful nervousness among many of the victims. Keeping in view this frightening factual field reality and also constraints of time, this Report of Fact-Finding Committee can be considered interim in nature. However,

the Committee will continue and discharge its bounden duty whenever the lockdown restrictions are over and threat of COVID-19 pandemic comes to an end.

1. Justice Permod Kohli, Former Chief Justice, High Court of Sikkim—Chairperson
2. Shri Anand Bose, IAS (Retired), Former Chief Secretary, Kerala—Member
3. Ms. Nirmal Kaur, IPS (Retired), Former DGP, Jharkhand—Member
4. Shri Nisar Ahmed, Past President, ICSI—Member
5. Shri M. Madan Gopal, IAS (Retired), Former Additional Chief Secretary, Karnataka—Member Secretary.

□

ANNEXURE-I

(A Registered Trust)

web: www.calljustice.in email: cfjindia@gmail.com

To

1. Justice Permod Kohli, Former Chief Justice, High Court of Sikkim
2. Sri Anand Bose, Former Chief Secretary, Kerala
3. Ms Nirmal Kaur, Former DGP, Jharkhand
4. Sri Nisar Ahmed, CS Past President, ICSI
5. Sri M. Madan Gopal, Former Addl Chief Secretary, Karnataka

Subject: Constitution of the Fact-Finding Committee on Violence in Bengal

Sir/Madam

On behalf of the Trust, I thank you for having accorded your consent for being part of the Fact-Finding Committee on Violence in Bengal. The final composition of the Committee is as

follows–

1. Justice Permod Kohli - Chairperson
2. Sri Anand Bose - Member
3. Ms Nirmal Kaur - Member
4. Sri Nisar Ahmed - Member
5. Sri M. Madan Gopal - Member Secretary

The Trust looks forward to receiving a Report from the Committee at an early date.

Yours sincerely

[Ravi M. Harjai]
Secretary
Call for Justice

ANNEXURE-II

11 May, 2021

Shri Alapan Bandyopadhyay, IAS
Chief Secretary, West Bengal
Nabanna (13th Floor)
325, Sarat Chatterjee Road,
Shibpur, Howrah-711102
Email: cs-westbengal@nic.in

Subject: Request for according Security and Facilitation

Sir,

Sections of the media have reported that the State of West Bengal is going through a turbulent situation, and incidents of violence have been reported by leading and reputed national dailies.[1] The grim situation concerned *Call for Justice*, a Delhi-based social and not-for-profit registered trust, with the objective to ensure that fair and impartial justice, free of propaganda, media influence and prejudged notions, is delivered.

Call for Justice has commissioned several fact-finding exercises in the past. Some of them include on the Political Violence in Kannur, Kerala in 2017 [Report submitted to the Hon'ble President of India and Hon'ble

1. The Hindu:
https://www.thehindu.com/news/national/other-states/west-bengal-violence-barrage-of-fake-videos-posts-surface-on-social-media/article34513532.ece
The Indian Express:
https://indianexpress.com/elections/pm-modi-anguish-bengal violence-says-governor-jagdeep-dhankar-7301631/

Governor of Kerala]; Riots in North-East Delhi in 2020 [Report submitted to the Hon'ble Union Home Minister]. *Call for Justice* also organises activities for awareness about human rights, including observing International Human Rights annually. The organisation is headed by a retired Chief Justice (Justice V.K. Gupta) and comprises eminent individuals, including Sh. Vidya Sagar Verma (former IFS and career diplomat) and Dr. T.D.Dogra (former Director, AIIMS and internationally renowned forensic expert).

Pursuant to a meeting of the Trustees of Call for Justice on May 9, 2021, in which it was resolved that a Fact-Finding Committee on Violence in Bengal (2021) comprising eminent individuals be constituted at the earliest, the Fact-Finding Committee was constituted with the following composition–

1. Justice Permod Kohli, Former Chief Justice, Sikkim–Chairperson
2. Sri Anand Bose, Former Chief Secretary, Kerala–Member
3. Ms Nirmal Kaur, Former DGP, Jharkhand–Member
4. Sri Nisar Ahmed, Past President, ICSI–Member
5. Sri M. Madan Gopal, Former Addl Chief Secretary, Karnataka–Member Secretary

As your goodself would realise, the credentials of the Chairperson and members of the Committee make it amply clear that there is a firm commitment to presenting the real truth at the earliest.

It is accordingly requested that necessary security cover and facilitation be provided for the above-mentioned members of our Fact-Finding Committee, so that the exercise is completed smoothly and without any untoward occurrence. For such kind of assignment, you would agree that time is of the essence. Therefore, the Committee intends to begin its work during this week, and would accordingly, request you to convey the necessary security cover and facilitation by Thursday (May 13, 2021), and in any event, during this week.

The Committee assures you that it would maintain all necessary Covid-19 protocol, while undertaking its work.

Thanking you,

Yours sincerely

[M. Madan Gopal]
Member-Secretary
Fact-Finding Committee

ANNEXURE-III

Government of West Bengal
Home & Hill Affairs Department
Internal Security Branch, Secret Section
Nabanna, HRBC Building, Shibpur, Howrah

No. 668 -1. S. S./PL/O/Secret/2M-09/2 l (Part-I) Dated, Howrah, the 12th May, 2021

To

Sri M.Madan Gopal, !AS (Retd)

Member Secretary,

Fact Finding Committee

Call for Justice

Email: madanl7@gmail.com

Subject: Request for according Security and Facilitation

Sir,

Kindly refer to your letter no. nil dated: 11th May, 2021 requesting security and facilitation for the members of the Fact-Finding Committee of your organisation, Call for Justice.

In this connection I am directed to inform you that the matter contained in the body of your correspondence is sub judice in the Hon'ble High Court Calcutta in W.P. A.(P) 143 of 2021, Anindya Sunder Das vs. Union of India & Others. A, 5-Member Bench of the Hon'ble High Court Kolkata has heard the matter on May 10, 2021 and further hearingon this will be taken by the Hon'ble High Court, Calcutta on May, 18, 2021.

I would like to inform you that in the meantime a team of the Ministry of Home Affairs have visited many of the areas. Women Commission and

Human Rights Commission have also visited. Also the National Commission for Schedule Castes will be visitingthe State on 13th & 14th May, 2021 for the same purpose.

You would appreciate when the Covid surge is at its peak and the people of the State are facing huge problems and the State administration has mobilized all its resources and manpower to face this challenge and stand besides the people in distress, the visit of the Commission teams could be avoidable.

The State Government has effectively dealt with the post-poll violence which has drastically declined after the Model Code of Conduct i.e. on 3rd of May, 2021, with very few incidents being reported in the last 3/4 days.

In view of the above, it is requested that you may kindly cancel your visit.

Yours faithfully

Special Secretary to the
Government of West Bengal

ANNEXURE-IV

To,

Sri Alapan Bandyopadhyay, IAS
Chief Secretary to Government of West Bengal
Nabama (13th Floor)
325, Sarat Chatterjee Road
Shibpur, Howrah-711102

Sub: Visit of Fact Finding Committee–Call for Justice–Regarding.

Ref: 1. Letter dated 11.05.2021 addressed to Chief Secretary to Govt of West Bengal
2. Letter dated 12.05.2021 received from Special Secretary to Govt of West Bengal

Dear Sir,

This is with reference to subject cited above. As you are aware Call for Justice, a Delhi based social and not- so-profit Trust, a well-known organization that commissioned several Fact Finding exercises in the past constituted a Fact Finding Committee to visit West Bengal to enquire into alleged wide-spread post-poll violence. A letter was addressed dated 11.05.2021 in this regard to you vide reference 1 above requesting you to accord security and facilitation to the visit of the Committee. Said letter provided you all the requisite details. In response to the letter, I have received a reply dated 12.05.2021 from Special Secretary to Government of West Bengal expressing inability with a request to cancel the visit.

2. On perusal of the letter received from Special Secretary, Govt of West Bengal, I would like to clarify that "Call for Justice" is a Civil Society Organization (CSO) and not a Goverment Agency, Central or State. The fact to be noted is that neither "Call for Justice" nor the Fact Finding Committee is Party to the pending WP.A (P) 143 of 2021 before Hon'ble High Court,

Kolkata and therefore the question of "Sub-judice" doesn't arise. Moreover, there is no conflict of interest whatsoever and proposed deliberations of Fact Finding Committee no way violate any directions of Hon'ble High Court. The Committee is fully aware of legal provisions and will function strictly within the framework of Law.

3. The important fact is that the magnitude of alleged violence and wide-spread unrest require an unbiased and impartial enquiry without any further delay by a Committee of eminent citizens that is headed by Former Chief Justice, Former Chief Secretary, Former DGP, Former Additional Chief Secretary and Past President of ICSI. It is note-worthy that in all such happenings, time is essence as it will provide true and real picture to the Committee in totality. I can assure you that the members of the Committee will adhere to the Covid19 protocols and follow SoPs without any deviation as responsible and law-abiding citizens.

4. As you are aware "Call for Justice" is a reputed Civil Society Organization and working in the area of protection of human rights and other important matters of public interest. The Fact Finding Committee will be collecting views of victims and communities. It would have been appropriate if you have spared your time or instructed other officers of State Government for a healthy interaction. This would definitely help the Committee to incorporate the views of the State Government in the Report, as and when finalised, along with views of affected people.

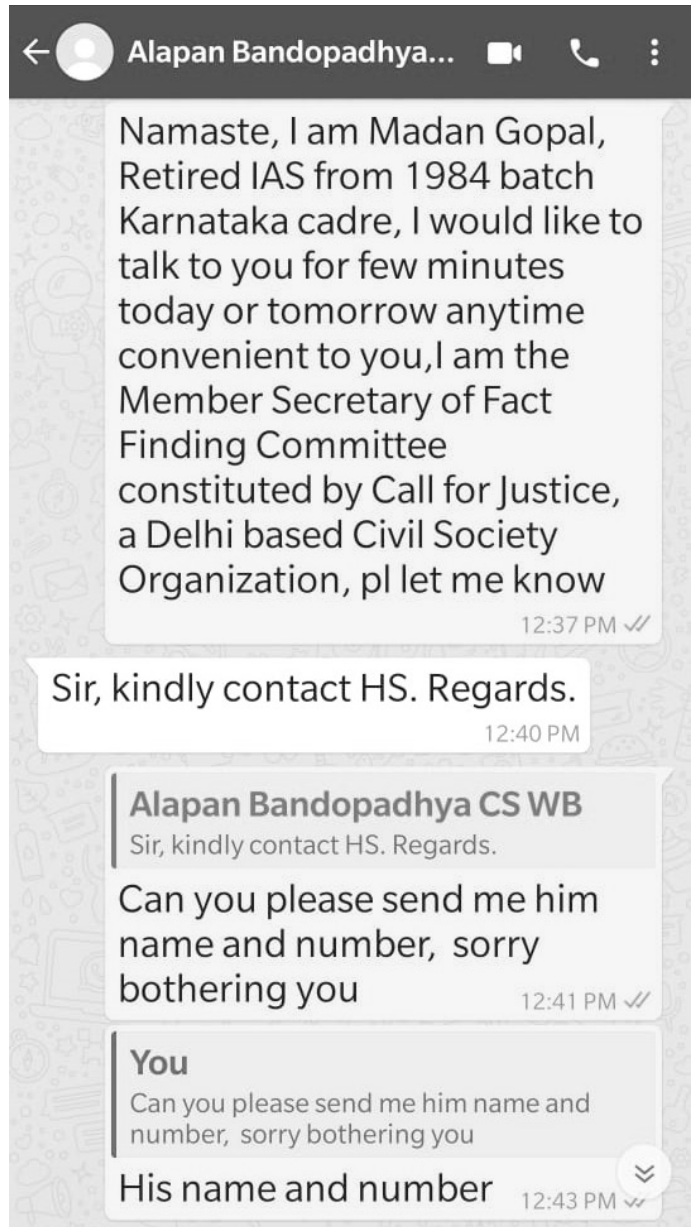
5. I am sure you would appreciate the fact that the members of the Committee have decades of experience in their respective field of work and understand the complexity of the situation. Our efforts will definitely strengthen the initiatives of State Government in dealing with the post-poll violence effectively and contribute to the return to normalcy at the earliest.

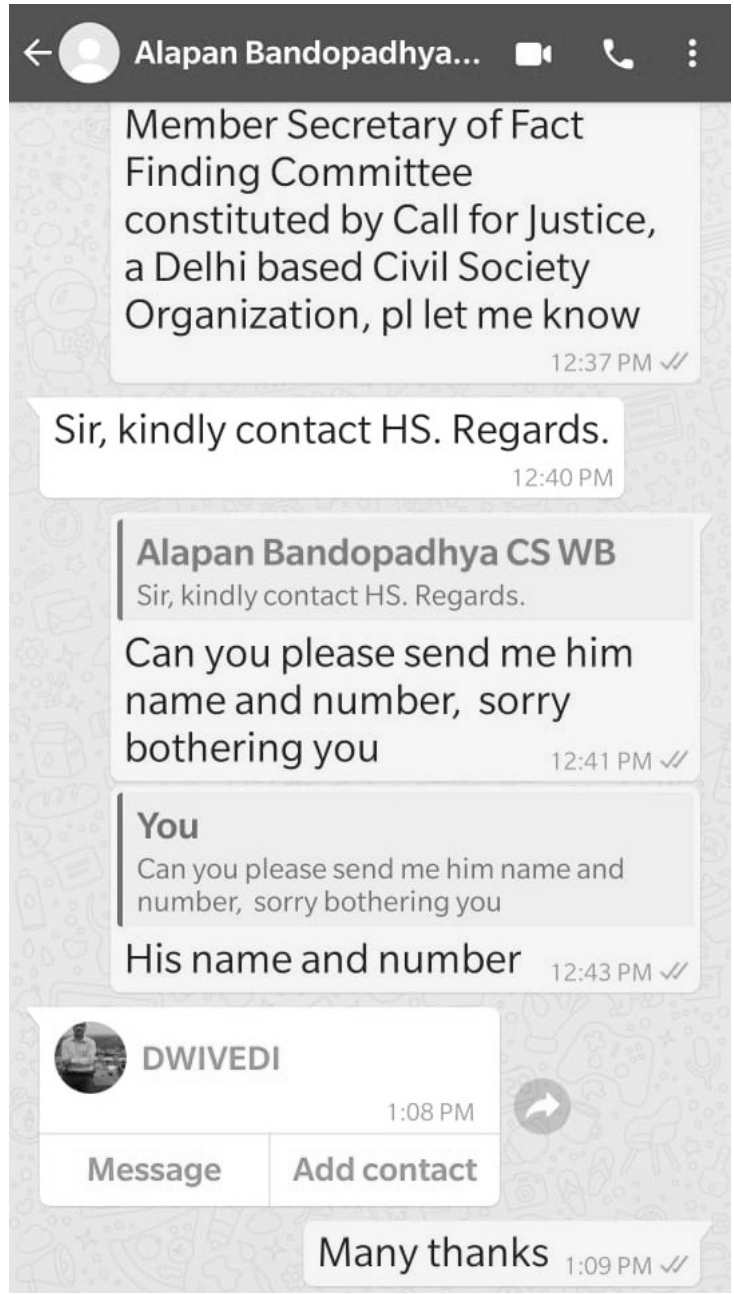
With Regards,

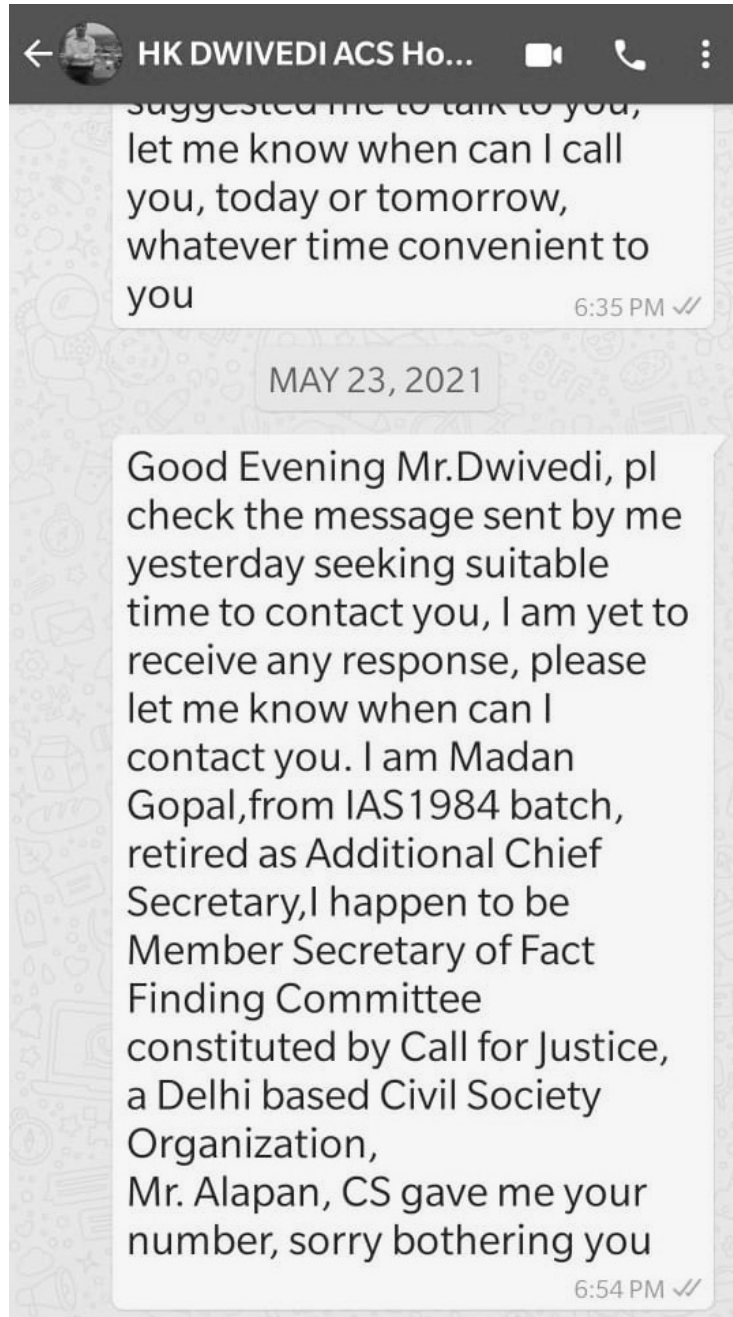
Date : 14.05.2021

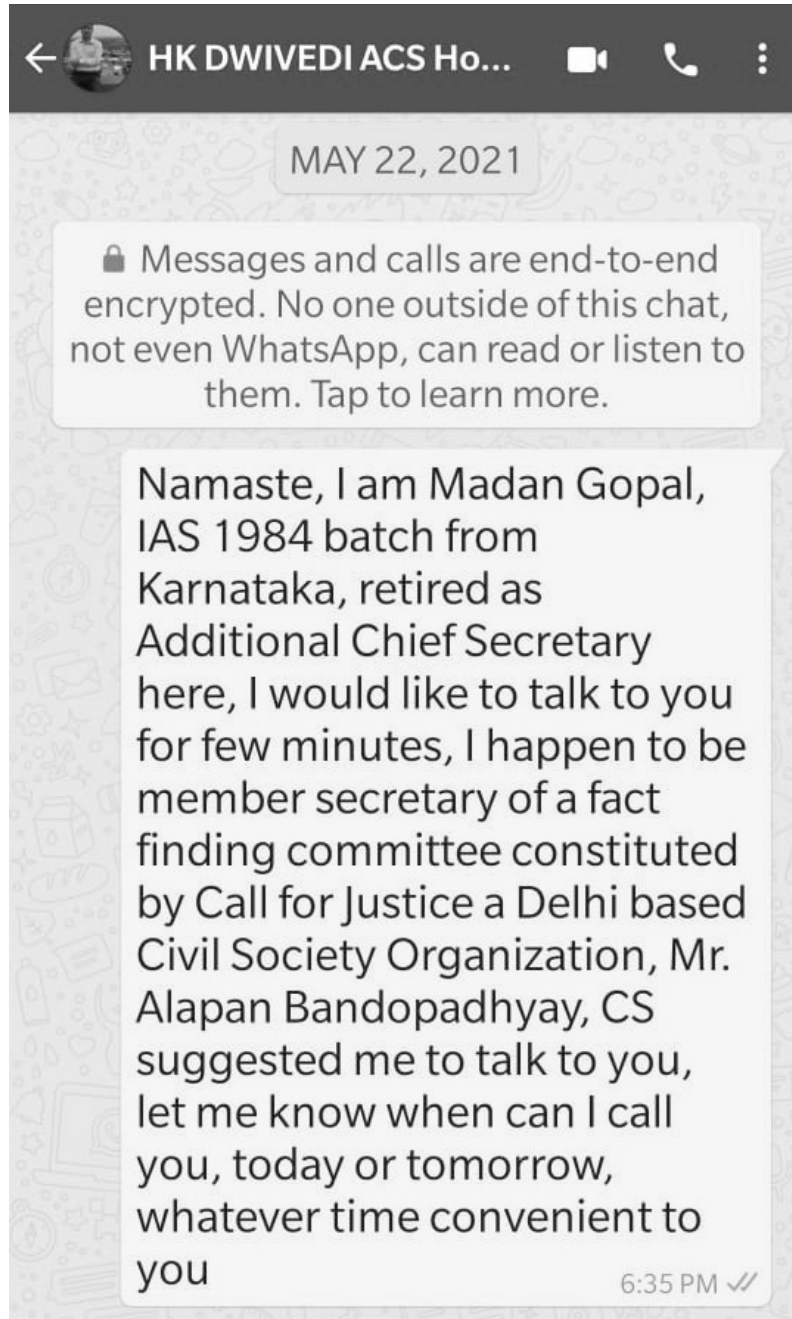
M. Madan Gopal, IAS (Retd)
Member Secretary,
Fact Finding Committee, Call for Justice

ANNEXURE-V


Alapan Bandopadhya...
Namaste, I am Madan Gopal, Retired IAS from 1984 batch Karnataka cadre, I would like to talk to you for few minutes today or tomorrow anytime convenient to you,I am the Member Secretary of Fact Finding Committee constituted by Call for Justice, a Delhi based Civil Society Organization, pl let me know
12:37 PM
Sir, kindly contact HS. Regards.
12:40 PM
Alapan Bandopadhya CS WB
Sir, kindly contact HS. Regards.
Can you please send me him name and number, sorry bothering you
12:41 PM
You
Can you please send me him name and number, sorry bothering you
His name and number
12:43 PM


Alapan Bandopadhya...
Member Secretary of Fact Finding Committee constituted by Call for Justice, a Delhi based Civil Society Organization, pl let me know
12:37 PM
Sir, kindly contact HS. Regards.
12:40 PM
Alapan Bandopadhya CS WB
Sir, kindly contact HS. Regards.
Can you please send me him name and number, sorry bothering you
12:41 PM
You
Can you please send me him name and number, sorry bothering you
His name and number
12:43 PM
DWIVEDI
1:08 PM
Message
Add contact
Many thanks
1:09 PM


HK DWIVEDI ACS Ho...
let me know when can I call you, today or tomorrow, whatever time convenient to you
6:35 PM
MAY 23, 2021
Good Evening Mr.Dwivedi, pl check the message sent by me yesterday seeking suitable time to contact you, I am yet to receive any response, please let me know when can I contact you. I am Madan Gopal,from IAS1984 batch, retired as Additional Chief Secretary,I happen to be Member Secretary of Fact Finding Committee constituted by Call for Justice, a Delhi based Civil Society Organization,
Mr. Alapan, CS gave me your number, sorry bothering you
6:54 PM


HK DWIVEDI ACS Ho...
MAY 22, 2021
Messages and calls are end-to-end encrypted. No one outside of this chat, not even WhatsApp, can read or listen to them. Tap to learn more.
Namaste, I am Madan Gopal, IAS 1984 batch from Karnataka, retired as Additional Chief Secretary here, I would like to talk to you for few minutes, I happen to be member secretary of a fact finding committee constituted by Call for Justice a Delhi based Civil Society Organization, Mr. Alapan Bandopadhyay, CS suggested me to talk to you, let me know when can I call you, today or tomorrow, whatever time convenient to you
6:35 PM

Fact Finding Committee

Add label

Madan Gopal Madab... 1:43 PM

to wb.secyhome

Namaste Sri. Dwivedi ji, pl recall the messages sent by me to you through whatsapp on 22nd and 23rd May 2021. As I mentioned in my messages, I am from IAS 1984 batch, retired as Additional Chief Secretary, in Govt of Karnataka. I am Member Secretary of Fact Finding Committee constituted by Call for Justice, a Delhi based Civil Society Organization. I contacted Sri. Alapan ji, Chief Secretary to Government, West Bengal seeking time but he requested me to contact you and gave me your contact details. Accordingly, I sent two messages to you through whatsapp. Unfortunately, I am yet to receive any response from you till today. Therefore, I request you once again to let me know when can I call you anytime convenient to you. Looking forward to hearing from you.
Regards...
M. Madan Gopal, IAS (Retired),
9945589999

□□□