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असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 4105] नई दिल्ली, बृहस्पतिवार, सितम्बर 18, 2025/भाद्र 27, 1947
No. 4105] NEW DELHI, THURSDAY, SEPTEMBER 18, 2025/BHADRA 27, 1947

गृह मंत्रालय

अधिसूचना

नई दिल्ली, 18 सितम्बर, 2025

का.आ. 4222(अ).—केंद्रीय सरकार ने, विधिविरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967 (1967 का 37) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (ii), तारीख 11 मार्च, 2024 में प्रकाशित अधिसूचना संख्यांक का.आ. 1114(अ), तारीख 11 मार्च, 2025 (जिसे इसमें इसके पश्चात उक्त अधिसूचना कहा गया है) द्वारा जम्मू और कश्मीर इत्तिहादुल मुस्लिमीन (जेकेआईएम) को विधिविरुद्ध संगम के रूप में घोषित किया था;

और, केंद्रीय सरकार ने, उक्त अधिनियम की धारा 4 की उपधारा (1) के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की भारत के राजपत्र, असाधारण, भाग II,

खंड 3, उपखंड (ii), तारीख 3 अप्रैल, 2025 में प्रकाशित अधिसूचना संख्यांक का.आ. 1577(अ), तारीख 3 अप्रैल, 2025 द्वारा विधिविरुद्ध क्रियाकलाप (निवारण) अधिकरण (जिसे इसमें इसके पश्चात उक्त अधिकरण कहा गया है) का गठन किया था, जिसमें दिल्ली उच्च न्यायालय के न्यायाधीश, न्यायमूर्ति सचिन दत्ता थे;

और, केंद्रीय सरकार ने उक्त अधिनियम की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिसूचना को न्यायनिर्णयन के प्रयोजन के लिए कि क्या जम्मू और कश्मीर इत्तिहादुल मुस्लिमीन (जेकेआईएम) को विधिविरुद्ध संगम के रूप में घोषित किए जाने का पर्याप्त कारण था या नहीं, तारीख 8 अप्रैल, 2025 को उक्त अधिकरण को निर्दिष्ट किया गया था;

और, उक्त अधिकरण ने, उक्त अधिनियम की धारा 4 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिसूचना में की गई घोषणा की पुष्टि करते हुए तारीख 3 सितंबर, 2025 को एक आदेश पारित किया था।

अत:, अब, केंद्रीय सरकार उक्त अधिनियम की धारा 4 की उपधारा (4) के अनुसरण में, उक्त अधिकरण के आदेश को प्रकाशित करती है, अर्थात्:-

"

---: अधिकरण का आदेश अंग्रेजी भाग में छपा है :---

(न्यायमूर्ति सचिन दत्ता)
विधिविरुद्ध क्रियाकलाप (निवारण) अधिकरण"

[फा. सं. 14017/12/2025-एन.आई.-एम.एफ.ओ.]

राजीव कुमार, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 18th September, 2025

S.O. 4222(E).—Whereas, the Central Government in exercise of the powers conferred by sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967) (hereinafter referred to as the said Act), declared the Jammu and Kashmir Ittihadul Muslimeen (JKIM) as an unlawful association, *vide* notification of the Government of India in the Ministry of Home Affairs, number S.O. 1114(E), dated the 11th March, 2025 (hereinafter referred to as the said notification) published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 11th March, 2025;

And, whereas, the Central Government in exercise of the powers conferred by sub-section (1) of section 5 read with sub-section (1) of section 4 of the said Act constituted the Unlawful Activities (Prevention) Tribunal (hereinafter referred to as the said Tribunal) consisting of Justice Sachin Datta, Judge, High Court of Delhi *vide* notification of the Government of India in the Ministry of Home Affairs, number S.O. 1577(E), dated the 3rd April, 2025, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 3rd April, 2025;

And, whereas, the Central Government in exercise of the powers conferred by sub-section (1) of section 4 of the said Act referred the said notification to the said Tribunal on 8th April, 2025 for the purpose of adjudicating whether or not there was sufficient cause for declaring the Jammu and Kashmir Ittihadul Muslimeen (JKIM) as an unlawful association;

And, whereas, the said Tribunal in exercise of the powers conferred by sub-section (3) of section 4 of the said Act, passed an order on 3rd September, 2025, confirming the declaration made in the said notification.

Now, therefore, in pursuance of sub-section (4) of section 4 of the said Act, the Central Government hereby publishes the order of the said Tribunal, namely: -

" UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL, NEW DELHI

Date of Decision: 03rd September, 2025

IN THE MATTER OF:

Gazette Notification No. S.O. 1114(E) dated 11th March, 2025 declaring the Jammu and Kashmir Ittihadul Muslimeen (JKIM) as unlawful association under the Unlawful Activities (Prevention) Act, 1967.

AND IN THE MATTER OF:

Reference under Section 4(1) of the Unlawful Activities (Prevention) Act, 1967 made to this Tribunal by the Government of India through Ministry of Home Affairs vide Gazette Notification No. S.O. 1577 (E) dated 3rd April, 2025.

Present: Ms. Aishwarya Bhati (ASG) along with Ms. Poornima Singh, Ms.Shreya Jain, Mr. Ketan Paul, Mr. Sharath N. Nambiar, Mr. Shantnu Sharma, Mr. Aakarsh Mishra and Mr. Arkaj Kumar, Advocates for Union of India.

Mr. Parth Awasthi, Advocate, Advocate for Union Territory of Jammu & Kashmir along with Mr. Suhaib Ashraf, Chief Prosecuting Officer, J&K.

Mr. Ibrahim Hussain Wani and Ms. Divya Tripathi, Advocates for JKIM.

Dr. Sumedh Kumar Sethi, Registrar (DHJS) Unlawful Activities (Prevention) Tribunal.

Ms. Samridhi Vats, Ms. Sanjana Lal and Ms. Sanya Sikri, Law Researchers.

Mr. Manoj Kumar Singh, Asstt. Director, Mr. Antariksh Singh Rathore, Asstt. Commandant and Mr. Sameer Shukla, Asstt. Section Officer, Ministry of Home Affairs.

ORDER

1. This order answers reference under Section 4(3) read with Section 3(3) of the Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as the '**Act**' or '**UAPA**', for short) made to this Tribunal constituted *vide* Gazette Notification No. S.O.1577 (E) dated 3rd April, 2025 under Section 5(1) of the Act issued by the Government of India, Ministry of Home Affairs, for adjudicating whether or not there is sufficient cause for declaring Jammu and Kashmir Ittihadul Muslimeen, (hereinafter referred to as **'JKIM'** or **'association'** or '**organization**' in short) as an "unlawful association".

I. THE NOTIFICATION

2. The Central Government published Gazette Notification (extra-ordinary) No. S.O. 1114 (E) dated 11th March, 2025 in exercise of powers conferred under Section 3(1) of the Act and declared JKIM to be an "unlawful association". A copy of the said notification has been sent to this Tribunal, as contemplated under Rule 5(i) of the Unlawful Activities (Prevention) Rules, 1968 ('**UAP Rules**' in short). The said notification dated 11th March, 2025 reads as under:-

> *"**S.O. 1114(E).—** Whereas, the Jammu and Kashmir Ittihadul Muslimeen (hereinafter referred to as the JKIM), chaired by Masroor Abbas Ansari is indulging in unlawful activities, which are prejudicial to the integrity, sovereignty and security of the country;*
>
> ***And, whereas**, members of the JKIM have remained involved in supporting terrorist activities and anti-India propaganda for fuelling secessionism in Jammu and Kashmir;*
>
> ***And, whereas,** the leaders and members of JKIM have been involved in mobilising funds for perpetrating unlawful activities, including supporting secessionist, separatist and terrorist activities in Jammu and Kashmir;*
>
> ***And, whereas**, the JKIM and its members by their activities show sheer disrespect towards the constitutional authority and constitutional set up of the country;*
>
> ***And whereas**, JKIM is involved in promoting and aiding the secession of Jammu and Kashmir from India by indulging in anti-national and subversive activities; sowing seeds of discontent among the people; inciting people to destabilise law and order; encouraging the use of arms to cause secession of Jammu and Kashmir from the Union of India and promoting hatred against the established Government;*
>
> ***And, whereas**, the Central Government is of the opinion that if there is no immediate curb or control of unlawful activities of the Jammu and Kashmir Ittihadul Muslimeen (JKIM), it will use this opportunity to –*
>
> *(i) continue with the anti-national activities which are detrimental to the territorial integrity, security and sovereignty of the country;*

(ii) continue advocating the secession of Jammu and Kashmir from the Union of India while disputing its accession to the Union of India; and

(iii) continue propagating false narrative and anti-national sentiments among the people of Jammu and Kashmir with the intention to cause disaffection against India and disrupt public order;

***And, whereas**, the Central Government for the above-mentioned reasons is firmly of the opinion that having regard to the activities of the Jammu and Kashmir Ittihadul Muslimeen (JKIM), it is necessary to declare the Jammu and Kashmir Ittihadul Muslimeen (JKIM) as an unlawful association with immediate effect;*

***Now, therefore**, in exercise of the powers conferred by sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), the Central Government hereby declares the Jammu and Kashmir Ittihadul Muslimeen (JKIM) as an unlawful association.*

***The Central Government**, having regard to the above circumstances, is of firm opinion that it is necessary to declare the Jammu and Kashmir Ittihadul Muslimeen (JKIM) as an unlawful association with immediate effect, and accordingly, in exercise of the powers conferred by the proviso to sub-section (3) of section 3 of the said Act, the Central Government hereby directs that this notification shall, subject to any order that may be made under section 4 of the said Act, have effect for a period of five years from the date of its publication in the Official Gazette."*

3. As can be seen, the notification also enumerates the reasons/ circumstances, as contemplated under proviso to Section 3(3) of the Act, for declaring the association as unlawful, with immediate effect.

II. THE BACKGROUND NOTE

4. Along with the reference to this Tribunal under Section 4 of the UAPA, the Central Government has submitted and filed before this Tribunal a background note, as contemplated under Rule 5(ii) of the UAP Rules, 1968.

5. The background note states that JKIM is a Pakistan backed separatist organisation, currently headed by Masroor Abbas Ansari. JKIM has been a founder constituent of All Party Hurriyat Conference (hereinafter referred to as '**APHC**' for short) (conglomerate of separatist outfits) and very proactive in fuelling secessionism and organizing separatist activities in Jammu and Kashmir (hereinafter referred to as '**J & K**' for short).

6. The background note gives a brief summary of the association and its activities which has been duly classified/ categorized hereunder.

i. Organisational History

7. As per the background note, JKIM was founded by a religious cleric Abbas Ansari in 1962. JKIM's founder Abbas Ansari was at the forefront in fueling and organizing anti-India protests in December 1963, which had erupted after the alleged theft of holy relic from Hazratbal shrine, Srinagar. Because of his participation in anti-India demonstrations, Abbas Ansari was detained for a short period. After release, he continued to propagate secessionist views to mobilize Kashmiris in favour of the 'right of self-determination'. It is also mentioned that Abbas Ansari was Chairman of APHC in 2003 and after the split, JKIM remained with All Party Hurriyat Conference- Ansari (APHC-A) faction. Further, representative of JKIM in Pakistanis Mir Tahir Masood. After the death of Abbas Ansari, his son, Masroor Abbas Ansari became the full-fledged president of the association.

ii. Leadership/Office Bearers of JKIM

8. As per the background note, JKIM has its central office located at Al-abbas Building, Medical College Road, Karanagar, Srinagar 190010, Jammu & Kashmir. Details of JKIM's important prominent executives and office bearers are as under:

Sl. No.	Name	Designation	Address	Present whereabouts
i.	Masroor Abbas Ansari (56yrs)	President	Khan Kai Sokhta, Nawakadal, Police Station-Safakadal, Srinagar	Presently, he is residing at his own home.
ii.	Aga Syed Yousuf	Vice President (However, Ittihadul Muslimeen has now dismantled its core committee)	Bota Kadal, Lal Bazaar, Srinagar o/r/o Devar, Parihaspora, Pattan, Baramulla	He is residing at Lal Bazaar, Srinagar.

iii.	Syed Muzaffar Rizvi	Ex-General Secretary & spokesperson, [(He has joined Jammu Kashmir Apni Party (JKAP)] in October, 2023)	Mir Mohalla, Gundi Khawaja Qasim, Pattan, Baramulla	He is residing at his own home.
iv.	Ghulam Ahmad Malla	District President, Baramulla	Hanziyara, Pattan, Baramulla.	He is residing at his own home.
v.	Mohd. Qasim Kawa	District President, Bandipora	Gulabpora, Kawapora Bala, Police StationSumbal, Bandipora	He is residing at his own home.
vi.	Mohd. Shafi Wani	Office caretaker, Ex-District President, Srinagar	Chattabal, Safakadal, Srinagar	He is residing at his own home.
vii.	Ghulam Hassan Mir	District President, Budgam	Panzoo, Beerwah, Police Station Khag, Budgam	Currently at his own home.

iii. Separatist Activities Indicating Minacious Nexus with Cross-border Agencies /Establishments

9. The background note further states that JKIM has been giving impetus to the Pakistani narrative of propagating hatred and disaffection among the public of Jammu and Kashmir (hereinafter referred to as '**J & K**' for short), against Indian state and perpetuating so called 'resistance movement' by spreading false narrative through literature, open letters, memoranda, press conferences, conferences,

seminars and meetings etc. and by arranging, organizing and coordinating rallies, protest demonstrations, hartals, stone-pelting and other violent means with a larger objective to secede J & K from Union of India (hereinafter referred to as '**UOI**', for short). It continues to call Kashmir as an 'International dispute', terms Kashmir as 'Indian Occupied Kashmir' and brands so called 'Kashmir resistance' as a religious movement, maintaining India as a 'foreign occupant'.

10. As per the background note, JKIM advocates Shia-Sunni unity for getting 'independence' of Jammu & Kashmir from India. Association's prime objective has been to secure so called 'liberation' and re-unification of Jammu & Kashmir, as it existed before 1947. In pursuance of its objective, the association in 1993 joined APHC as a founder member and continued separatist activities to fulfill the Pakistani agenda of generating feeling of hatred and disaffection against India; and severing Jammu & Kashmir from UOI.

11. Further, according to JKIM, J & K is a disputed territory and requires UN intervention. It considers Kashmir as the 'unfinished agenda of partition' and is working on the strategy to favour Pakistan's claim on J&K.

iv. Anti-national Activities indicating Terrorist Linkages

12. The background note further states that the people associated with this association have been glorifying terrorists, providing background support to terrorist outfits, propagating false narrative among masses, boycotting elections and inciting youth for violent activities.

13. Further, JKIM was opposed to the move of the Government of India to hold political process in Jammu & Kashmir. The association was involved in anti-election campaign along with other constituents of APHC. Abbas Ansari along with other Hurriyat leaders renewed their pledge to take forward the APHC's separatist agenda towards so called 'liberation' of Jammu & Kashmir from India.

14. As per the background note, on the instruction of Mirwaiz Umar Farooq (Chairman, APHC-A), Abbas Ansari was at the fore front in organizing demonstrations of Shia solidarity with the 'Separatist movement' in September 2018 during celebration of Muharram where banners of Burhan Wani (Hizb-ul-

Mujahideen Commander, who was killed in July 2016) were displayed by the Shia mourners. The banners were provided by Masroor Abbas Ansari with active support of Mirwaiz Umar Farooq.

15. It is stated that JKIM through various media outlets has been involved in anti-India and secessionist propaganda. Association's 'LinkedIn' profile while promoting 'freedom of Kashmir' narrative calls for religion-based unity of masses. It further maintains that the people of the state are the sole masters of their mother land and are competent to determine the future status of their state. The profile stated that 'freedom' means people's resistance to 'forcible occupation' of the State.

16. JKIM declares Kashmir issue as an unsettled international dispute which has threatened the very existence of Kashmiris as a nation besides endangering the peace and stability in South Asia. JKIM maintains that Jammu Kashmir State comprising 'Indian occupied Kashmir', Pakistani controlled parts i.e., 'Azad Kashmir' and Gilgit-Baltistan is geographically and politically one unit and no part of the state is constitutionally or legally a part of any country. While justifying the 'Right to self-determination of Kashmiris', JKIM quotes the UN resolutions on its posts reaffirming the right of people living under foreign occupation for self-determination in accordance with UN Charter and international law.

17. It is stated that the association has created its YouTube channel on 7th April 2009, available at http://www.youtube.com/@lttihadul, mostly containing video speeches by Masroor Abbas Ansari, through which JKIM continues to perpetuate secessionism, extends support to terrorists, incites the youth of Kashmir against India and vilifies India and its security forces.

v. Criminal Cases against JKIM's activists

18. As per the background note, complicity of JKIM cadres in criminal and anti-national activities is evident from the series of criminal cases that stand registered against them. Further, the cases registered against the JKIM activists/ members provide clinching evidence regarding their involvement in various unlawful activities. Details of the cases registered by the Government of J & K against JKIM, as mentioned in the background note, are given as under:-

Sl. No.	FIR No. with section of law	Name of accused in FIR	Brief of the FIR	Status of the case
1.	FIR No. 123/1987 u/s 4(2) TADA (P) Act, Police Station Sheragarhi, Srinagar.	Abbas Ansari (Patron, JKIM)	On 04/07/1987 at Iqbal Park, Syed Ali Shah Geelani, Prof Abdul Gani Bhat, Abbas Ansar and others addressed a gathering and introduced MUF (Muslim United Front) candidates and provoked towards creating differences between communities and challenged the Indian Union. They also requested voters to vote for independent Kashmir etc.	Charge sheeted on 22/04/1997 before Addl. TADA Court Srinagar. Under Trial
2.	37/1998 u/s 188, 132 RPC 132 at Police Station Nishat, Srinagar.	Abbas Ansari	On 21.2.1998, accused persons namely Yasin Malik, Gh. Nabi Sumji, Prof. Abdul Gani Lone and Zayed Mir addressed a gathering at new Theed Harwan and exhorted people to boycott elections. They also raised anti-national slogans.	Charge sheeted on 12/02/1998 in Srinagar District Court Under Trial.
3.	61/2000 u/s 153-B, 120B RPC, Police Station	Abbas Ansari	On the Occasion of Eid-e-Milad-un-Nabi, accused persons SAS	Charged Sheeted on 28.12.2022 Under Trial

	Shaheed Gunj, Srinagar		Geelani and Abbas Ansari delivered anti-national speeches in the mosque at the Jehium Market Srinagar. They instigated people against the integrity and sovereignty of the country and asked them to be a part of the ongoing movement.	
4.	FIR No. 99/2011 u/s 148, 149, 336, 188, 152 RPC Police Station Shaheedgunj, Srinagar	Masroor Abbas Ansari (Chairman JKIM) and few others- a) Shafiq Ah Dar s/o Ali Mohd Dar r/o Khankah Moula, Srinagar b) Waseem Asgar Khan s/o Shabbir Hussain Khan r/o Khankah Moula, Srinagar c) Abid Hussain Dar s/o Shabir Hussain r/o Sharifabad Srinagar d) Amir khan s/o Mohd Afzal khan r/o Saribal Srinagar Masroor Abbas Ansari (Chairman JKIM)	A mob led by Masroor Abbas Ansari and others at Jehangir Chowk Srinagar pelted stones on Security Forces deployed for Law and Order duties. The stone pelting resulted in the damage of government vehicles.	Charge Sheeted on 8/12/2011 before Principal District Session Judge Srinagar. Under Trial

19. Referring to the above facts, circumstances and acts of the JKIM, it is stated that the same leads to the conclusion that this organisation is unceasingly working towards secession and separation of the State of J & K from the UOI. As per the background note, the association has glorified terrorists and provided background support to them and has continuously and actively encouraged separatist activities aimed at causing disaffection, disloyalty, dis-harmony by promoting feelings of enmity and hatred against the lawful government and is indulging and acting in a manner prejudicial to the territorial integrity and sovereignty of the Indian Union and therefore, the activities of JKIM fall within the purview of unlawful activities.

vi. Declaration of JKIM as an Unlawful Association

20. The background note states that keeping in view the severity of the situation and the unlawful activities by the organisation, the Central Government decided to declare JKIM as an unlawful association under the provisions of the Unlawful Activities (Prevention) Act, 1967.

III. REPLY ON BEHALF OF THE ASSOCIATION

21. JKIM has filed a reply to the background note filed by the UOI. The allegations made in the background note are denied by the association on the following grounds:-

i. JKIM is a religious organization

22. It is stated that JKIM is a religious orginasation, dealing exclusively with the religious matters as per Shia Sect of Islam and believes in peace and tranquility and above all, love and affection towards motherland (India). It is stated that JKIM never believed and does not indulge in any act of violence, intolerance, secessionist activities and it has never ever played any role against the integrity and sovereignty of India and it has faith in the Constitution and laws governing the field.

ii. No extraordinary circumstances exist to issue the Notification

23. It is stated that JKIM has been declared unlawful by the Central Government while exercising powers under proviso to Section 3 of UAPA. The said proviso, it

is stated, deals with extraordinary circumstances and the reasons given in the Notice for invoking the said proviso are non-existent and irrelevant. Further, the object of JKIM has always remained lawful and means adopted for achieving such object has been and are legal and lawful. It is stated that there were no extraordinary circumstances which would have called for immediate action for declaring the association as unlawful association without affording any opportunity of being heard and without following the principles of natural justice.

24. It is stated that the reasons mentioned in the notification are prejudicial to integrity, sovereignty and security of the country. The grounds mentioned in the notification, it is stated, are vague, unjustified and irrelevant as being without specific details and/ or without any supporting material.

iii. Non-supply of relevant material/ documents

25. A reference has been made to Rule 5 of the UAP Rules 1968 to state that all the facts forming the grounds specified on the basis of which the notification has been issued are to be supplied to the association. However, no such facts have been supplied or made available to the association. In the absence of furnishing the grounds on which the notification is based, the association is incapable of furnishing a detailed reply.

26. It is stated that the claim of privilege claimed is misplaced. Blanket refusal to disclose any material is 'to seek shield from disclosing material'. It is simply a case of no material against the association or material which is manipulated and unsustainable. It is stated that the association is being sought to be punished without supplying any relevant material. This, it is stated, is against the letter and spirit of constitutional guarantees and the principle of *audi-alteram-partem* and cannot be sustained in the eyes of law.

27. Reliance is placed on the judgment of the Supreme Court in the case of ***Jamaat-e-Islami Hind vs. Union of India, (1995) 1 SCC 428*** to state that it is not all material which can be withheld by the central government. The purport of the judgment is that only the material which the central government considers against public interests to disclose, be withheld. It is stated that given the nature of the association, there would exist no material against the organisation which can be made basis for the impugned action, nor can disclosure of any alleged material be "against public interest".

28. Reliance is also placed on the judgment of the Supreme Court in the case of ***Maneka Gandhi vs. UOI, (1978) 1 SCC 248,*** to state that the designated authority cannot 'take shield under "against public interest" and it cannot be the sole judge to state what is against "public interest to disclose"'. In this regard reference is made to para 13 of the reply of UOI to the application filed by the association seeking supply of material.

29. It is stated that in the absence of providing any material to the association except background note and notification dated 11.03.2025, the association is not in a position to furnish/ give proper and effective reply.

iv. Brief History of JKIM

30. It is stated that after completing religious studies in Najaf Iraq in Shia Islam, Late M. Abbas returned to Kashmir in 1960 and founded monthly magazine "SAFEENA" to provide platform to all educated class and intellectuals, writers of Shia Community to express their views on socio-religious and economic problems faced in the community. It is stated that all these scholars, intellectuals and other well wishers of the Shia Community felt need to form an organisation and accordingly, in March 1962, JKIM was founded by Late Moulana Mohammad Abbas Ansari (in short "M.A. Ansari"). The association was created after adopting a constitution which was completely democratic in nature and it also dabbled into politics to safeguard the rights of the Shia Community of Kashmir.

31. It is stated that Shia and Sunni Unity was the main object of JKIM and also unity within Shia Community. JKIM mainly focused on the social and religious needs of the Shia Community and worked for introducing reforms in the Community in these fields.

32. On the political front, it is stated, Late M.A. Ansari fought against the 'divisive' policies of Govt. of J& K. He raised voice against Sheikh Mohammad Abdullah for ignoring Shia Community which led to his arrest. After a long drawn legal battle, Late M.A. Ansari was released and acquitted of all charges.

v. JKIM's activities are not anti-national in nature

33. It is stated that it is wrong to characterize JKIM as Anti-peace as Late M.A. Asnari was consistent in rejecting/opposing violence and called for dialogue for peaceful solution of the problems. The following facts have been referred to demonstrate the same:

(i) M. A. Ansari was one of the first Hurriyat Leaders to call for and lead formal talks with the Central Government, breaking a long-standing deadlock. In January 2004, M.A. Ansari led a five member Hurriyat delegation to New Delhi to meet the then Deputy Prime Minister Sh. L.K. Advani, marking the first official meeting between **'separatist leaders'** and the Indian stage (sic) without preconditions. This move was hailed nationally and internationally as a watershed moment in Kashmir's political landscape.

(Emphasis Supplied)

(ii) It is stated that M.A. Ansari's peace-oriented politics earned him sharp criticism/backlash from pro-Pakistan factions and radical separatists/hardliners and effigies of M.A. Ansari were also burnt accusing him of "selling out" and "betraying the resistance". Also, M.A. Ansari's moderate approach drew sharp criticism from Syed Ali Shah Geelani, causing deep fissures within **'the separatist camp'.**

(Emphasis Supplied)

(iii) It is stated that although the Hurriyat had a general policy of boycotting election, M.A. Ansari consistently called for reviewing this stance. **He floated the idea of 'conditional participation in election' as a means to reassert political agency**, which was again viciously attacked by hardliners.

(Emphasis Supplied)

(iv) **M.A. Ansari's role in defusing Hazratbal Crisis**- It is stated that in October 1993, the Hazratbal Shrine in Srinagar became the focal point of a tense standoff as approx. 50-70 armed militants had taken refuge within the shrine complex. In response, the Indian security forces laid siege to the area,

aiming to flush out the militants without causing damage to the sacred site. Amidst this precarious situation, M.A. Ansari emerged as a key figure to help to defuse the crisis. It is stated that his efforts averted a potential disaster.

(v) **Track II Diplomacy and civil Society Engagement-**It is stated that in 2002, Sh. Ram Jethmalani, senior lawyer, launched an informal peace initiative through the Kashmir Committee/Most Hurriyat leaders refused to engage but M.A. Ansari made a different choice. He welcomed Sh. Jethmalani and held frank, open discussions on the possibilities of peace and reconciliation. He defended his move, stating: *"How can dialogue harm us? **Dialogue is not surrender**. It is the only way to **explore solutions**."*

(Emphasis Supplied)

(vi) In 2008, Amarnath Land Transfer 'Controversy' and during 2010 killing of 120 people, it was M.A. Ansari who clearly stated that stone pelting is not beneficial for anybody and gave a religious decree (Fatwa).

34. It is stated that the above actions of M.A. Ansari were criticized by hardliners. Despite being pilloried by 'hardliners', M.A. Ansari never retracted his stance. Instead, he reiterated his belief in dialogue as the only route to justice and resolution. He often quoted Islamic teachings that emphasize peace over chaos, dialogue over violence, and dignity over blood shed. It is stated that his position invited not just verbal attacks, but significant political isolation **'within the separatist ecosystem.'**

(Emphasis Supplied)

35. It is stated that from the above facts, it is clear that M.A. Ansari was not a stooge of anyone and that he rejected the radical ideology. It is stated that he belonged to a rare class of leaders who would always speak truth and support it at all costs. The allegation of being anti-peace or anti-national is not only unjust, unfair, the same is profoundly ironic, for it was M.A. Ansari who stuck his neck out in the most volatile political environment to pursue peace and dialogue. Reference in this regard has been made to the following publications:-

"1. Hurriyat names teams for talks with Advani "Times of India, 15th January 2004.

2. "Five member Huriyat team for talks with Advani" Rediff News, 15 January 2004

3. "First ever-talks between Hurriyat, L.K. Advani end on positive note." India Today, 2 February 2004

4. "Geelani warns against Hurriyat Chairman Maulana Abbas Ansari's move to meet L.K. Advani." India Today, 8 Deccember 2003.

5. "Dialogue Details," Kashmir Life, 27 December, 2004

6. "The battle within." Frontline, 1 August 2003."

36. It is stated that **after August 2019, all political activities of the association led by Late Molvi Abbas Ansari were stopped** and after his death, in August, 2022, JKIM has functioned solely as a religious organisation without any political activity. It is stated that the present Acting President of the association- Maulana Masroor Abbas Ansari, who is son of M.A. Ansari, is a religious scholar who has never indulged in any anti-national or anti social activity.

(Emphasis Supplied)

37. It is further stated that in September 2023, JKIM was dissolved as some of its members were not following the objectives of the organisation and were indulging in anti party activities. It is stated that from September 2023, there is no association structure, as all its functions are performed by the Acting President Maulana Masroor Abbas Ansari till democratic body for association is elected. It is stated that to label the association as unlawful, when no association exists because of the dissolution in September 2023 is in fact abuse of process of law, which is quite strange and ironic and bereft of any factual position.

38. At the end, it is prayed that after going through the material collected/filed by the UOI against the association, this Tribunal may direct the same to be supplied to the association for effective response/reply.

vi. Concept of Shia School of Thoughts

39. It is pointed out that under Shia School of Thought, there is a concept of *VillaytiFaqui* whereby religious scholars are to be approached by the common Shia population for their religious issues i.e. guidelines regarding marriage, sermons,

mehar, divorce, hibba and other related matters. These religious scholars provide guidance to common masses in accordance with teachings of Ahlulbait (a.s.), Shia School of Thought. The connection of common masses with religious scholars is not any political activity and any act against the country.

vii. No Cross-border connection

40. It is submitted that the association is a Socio-religious and political organisation working for upliftment of Shia Community. It is denied that Tahir Masood is representative of JKIM in Pakistan and the association has any cross-border connection. In fact, association has always been target of pro-Pakistan elements. Several workers of the association have been assassinated by Pakistan based organisations.

viii. No Linked In Profile

41. It is denied that the association has any LinkedIn profile. It is stated that one profile listed as 'Media Coordinator at JKIM' appears to be a fake personal profile.

ix. No anti-national video on YouTube Channel of JKIM

42. It is stated that in conformity with applicable laws and adhering to content regulations, YouTube channel for the association has been created. The said channel has never been banned or designated as illegal or anti-national. It is stated that this YouTube channel provides information about religious sermons, political activities and social work of the association.

x. Cases referred to in the background note are irrelevant

43. It is stated that the three out of total four FIRs referred to in the background note, were against Late Molvi Abbas Ansari, and the same are very old. It is stated that these cases are irrelevant and stale for the purposes of the present proceedings. It is stated that due to death of Molvi Abbas Ansari in August 2022, all these cases stand abated.

44. It is stated that one FIR which was registered against the present Acting President stands disposed off and no conclusion can be drawn that the association is unlawful.

IV. STATUTORY PROVISIONS

45. Section 2 (o) and (p) of the UAPA, read as follows:-

> *"2.* ***Definitions.*** *– (1) In this Act, unless the context otherwise requires,-*
>
> *xxx xxx xxx*
>
> *(o) "unlawful activity", in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise),-*
>
> *(i) Which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or, the secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or secession; or*
>
> *(ii) Which disclaims, questions, disrupts, or is intended to disrupt the sovereignty and territorial integrity of India; or*
>
> *(iii) Which causes or is intended to cause disaffection against India;*
>
> *(p) "unlawful association" means any association,-*
>
> *(i) which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity; or*
>
> *(ii) which has for its object any activity which is punishable under Section 153-A or Section 153-B of the Indian Penal Code (45 of 1860), or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity:*
>
> *Provided that nothing contained in sub-clause (ii), shall apply to the State of Jammu and Kashmir".*

46. Section 2(o) of the Act defines 'unlawful activity'. It means "any action taken" by an association or an individual of the kind mentioned in clauses (i), (ii) and (iii) of the said sub-section. Any action taken has reference to and must be of the kind stipulated in and covered by clauses (i), (ii) or (iii). Action can be either written or spoken, by sign or by visible representation or even otherwise. Clause (i) refers to "action taken" with the intent or which supports any claim for secession or cession of any part of India or incites any individual or group of individuals to bring about secession or cession. Clause (ii) refers to "action taken" which has the effect of disclaiming, questioning, disrupting or intending to disrupt the sovereignty and territorial integrity of India. Clause (iii) refers to "action taken" which causes or is intended to cause disaffection against India.

47. Unlawful association has been defined in Section 2(p) of the Act and consists of two parts; (i) and (ii). Part (i) refers to unlawful activity defined in Section 2(o) and encompasses associations which have the object that encourages or even aids persons to undertake the said activity. The last part of Part (i) widens the definition of the term "unlawful association" to include an association of which members undertake unlawful activity. In a way, therefore, the association is vicariously liable and can be regarded as an unlawful association if members of an association undertake unlawful activity.

V. NATURE AND SCOPE OF PROCEEDINGS BEFORE THE PRESENT TRIBUNAL

48. The nature of the proceedings before this Tribunal and the scope of inquiry in the present proceedings have been laid down by the Supreme Court in ***Jamaat-e-Islami Hind vs. Union of India, (1995) 1 SCC 428*** in the specific context of the provisions of the UAPA, 1967. The proceedings before this Tribunal are governed by the Code of Civil Procedure as set out in Section 9 of UAPA, 1967. The standard of proof is the standard prescribed by the Supreme Court in ***Jamaat-e- Islami Hind (Supra)***. This *lis* has to be decided by objectively examining which version is more acceptable and credible. In this regard, reference may be made to following observations in ***Jamaat-e-Islami Hind (Supra)***:

> *"11. Section 4 deals with reference to the Tribunal. Sub-section (1) requires the Central Government to refer the notification issued under sub-section (1) of Section 3 to the Tribunal "for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful". The purpose of making the reference to the Tribunal is an adjudication by the Tribunal of the existence of sufficient cause for making the declaration. The words 'adjudicating' and "sufficient cause" in the context are of significance. Sub-section (2) requires the Tribunal, on receipt of the reference, to call upon the association affected "by notice in writing to show cause" why the association should not be declared unlawful. This requirement would be meaningless unless there is effective notice of the basis on which the declaration is made and a reasonable opportunity to show cause against the same. Sub-section (3) prescribes an inquiry by the Tribunal, in the manner specified, after considering the cause shown to the said notice. The Tribunal may also call for such other information as it may consider necessary from the Central*

Government or the association to decide whether or not there is sufficient cause for declaring the association to be unlawful. The Tribunal is required to make an order which it may deem fit "either confirming the declaration made in the notification or cancelling the same". The nature of inquiry contemplated by the Tribunal requires it to weigh the material on which the notification under sub-section (1) of Section 3 is issued by the Central Government, the cause shown by the Association in reply to the notice issued to it and take into consideration such further information which it may call for, to decide the existence of sufficient cause for declaring the Association to be unlawful. The entire procedure contemplates an objective determination made on the basis of material placed before the Tribunal by the two sides; and the inquiry is in the nature of adjudication of a lis between two parties, the outcome of which depends on the weight of the material produced by them. Credibility of the material should, ordinarily, be capable of objective assessment. The decision to be made by the Tribunal is "whether or not there is sufficient cause for declaring the Association unlawful". Such a determination requires the Tribunal to reach the conclusion that the material to support the declaration outweighs the material against it and the additional weight to support the declaration is sufficient to sustain it. The test of greater probability appears to be the pragmatic test applicable in the context."

(emphasis supplied)

49. On the question of confidential information that is sought to be withheld, the Supreme Court emphasized that the Tribunal can look into the same for the purpose of assessing credibility of the information and the Tribunal should satisfy itself whether it can safely rely upon it. This was necessary as in certain situations, source of information or disclosure of full particulars may be against public interest. Such a modified procedure while ensuring confidentiality of information and its source in public interest, enables the Tribunal to test the credibility of confidential information for objectively deciding the reference. It was emphasized that the unlawful activities of an association may quite often be clandestine in nature and, therefore, material or information for various reasons may require confidentiality. Disclosure, it was held, can jeopardize criminal cases pending investigation and trial.

50. On the question of nature and type of evidence, which can be relied upon by the Tribunal, the Supreme Court referred to Rule 3 of UAP Rules, 1968. Rule 3(1) stipulates that the Tribunal subject to sub-rule (2) shall follow, "as far as practicable", the rules of evidence laid down in Indian Evidence Act.

51. With regard to confidentiality and with regard to nature of evidence, reference can be made to the following observations in ***Jamaat-e-Islami Hind (Supra)***:-

> *"22. ...The materials need not be confined only to legal evidence in the strict sense. Such a procedure would ensure that the decision of the Tribunal is an adjudication made on the points in controversy after assessing the credibility of the material it has chosen to accept, without abdicating its function by merely acting on the ipse dixit of the Central Government. Such a course would satisfy the minimum requirement of natural justice tailored to suit the circumstances of each case, while protecting the rights of the association and its members, without jeopardizing the public interest. This would also ensure that the process of adjudication is not denuded of its content and the decision ultimately rendered by the Tribunal is reached by it on all points in controversy after adjudication and not by mere acceptance of the opinion already formed by the Central Government.*
> *23. In John J. Morrissey and G. Donald Booher v. Lou B. Brewer [408 US 471: 33 L Ed 2d 484 (1972)] the United States Supreme Court, in a case of parole revocation, indicated the minimum requirements to be followed, as under: (L Ed pp. 498-99)*
>
> *"Our task is limited to deciding the minimum requirements of due process. They include (a) written notice of the claimed violations of parole; (b) disclosure to the parolee of evidence against him; (c) opportunity to be heard in person and to present witnesses and documentary evidence; (d) the right to confront and cross-examine adverse witnesses (unless the hearing officer specifically finds good cause for not allowing confrontation); (e) a 'neutral and detached' hearing body such as a traditional parole board, members of which need not be judicial officers or lawyers; and (f) a written statement by the factfinders as to the evidence relied on and reasons for revoking parole. We emphasise there is no thought to equate this second stage of parole revocation to a criminal prosecution in any sense. It is a narrow inquiry; the process should be flexible enough to consider evidence including letters, affidavits, and other material that would not be admissible in an adversary criminal trial.".*
>
> *xxx xxx xxx*
>
> *26. The provision for adjudication by judicial scrutiny, after a show-cause notice, of existence of sufficient cause to justify the declaration must necessarily imply and import into the inquiry, the minimum requirement of natural justice to ensure that the decision of the Tribunal is its own opinion, formed on the entire available material, and not a mere imprimatur of the Tribunal affixed to the opinion of the Central Government. Judicial scrutiny implies a fair procedure to prevent the vitiating element of arbitrariness. What is the fair procedure in a given case, would depend on the materials constituting the factual foundation of the notification and the manner*

in which the Tribunal can assess its true worth. This has to be determined by the Tribunal keeping in view the nature of its scrutiny, the minimum requirement of natural justice, the fact that the materials in such matters are not confined to legal evidence in the strict sense, and that the scrutiny is not a criminal trial. ***The Tribunal should form its opinion on all the points in controversy after assessing for itself the credibility of the material relating to it, even though it may not be disclosed to the association, if the public interest so requires****."*

(Emphasis supplied)

52. The present Tribunal, constituted under the UAPA, has been vested with certain powers and the procedure to be adopted by it under Section 5 read with Section 9 of the said Act, which are reproduced as under:

"5. ***Tribunal****. (1) The Central Government may, by notification in the Official Gazette, constitute, as and when necessary, a tribunal to be known as the "Unlawful Activities (Prevention) Tribunal" consisting of one person, to be appointed by the Central Government: Provided that no person shall be so appointed unless he is a Judge of a High Court.*

(2) If, for any reason, a vacancy (other than a temporary absence) occurs in the office of the presiding officer of the Tribunal, then, the Central Government shall appoint another person in accordance with the provisions of this section to fill the vacancy and the proceedings may be continued before the Tribunal from the stage at which the vacancy is filled.

(3) The Central Government shall make available to the Tribunal such staff as may be necessary for the discharge of its functions under this Act.

(4) All expenses incurred in connection with the Tribunal shall be defrayed out of the Consolidated Fund of India.

(5) Subject to the provisions of section 9, the Tribunal shall have power to regulate its own procedure in all matters arising out of the discharge of its functions including the place or places at which it will hold its sittings.

(6) The Tribunal shall, for the purpose of making an inquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:-

(a) the summoning and enforcing the attendance of any witness and examining him on oath;

(b) the discovery and production of any document or other material object producible as evidence;

(c)the reception of evidence on affidavits;

(d) the requisitioning of any public record from any court or office;

(e)the issuing of any commission for the examination of witnesses.

(7) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860) and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1898 (5 of 1898).”

“9. Procedure to be followed in the disposal of applications under this Act.*–Subject to any rules that may be made under this Act, the procedure to be followed by the Tribunal in holding any inquiry under sub-section (3) of section 4 or by a Court of the District Judge in disposing of any application under sub-section*

(4) of section 7 or sub-section (8) of section 8 shall, so far as may be, be the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908), for the investigation of claims and the decision of the Tribunal or the Court of the District Judge, as the case may be, shall be final.”

53. Further, under Section 4(1) of Act, the Central Government refers the notification (issued under Section 3(1) of the Act) to the Tribunal for “adjudicating” whether or not there is “sufficient cause” for declaring the association unlawful. Section 4(2) requires issuance of notice to the association affected to show cause why the association should not be declared as unlawful. Section 4(3) mandates an inquiry in the manner specified in Section 9 after calling for such information as may be necessary from Central Government or from office bearers or members of the association. The Tribunal under Section 4(3) is required to adjudicate and make an order, as it may deem fit, either confirming the declaration made in the notification or cancelling the same.

54. As regards the evidentiary standards, reference is apposite to the observations in a report under Section 4(3) of UAPA, authored by ***Hon’ble Mr. Justice Sanjiv Khanna*** in the context of ban on SIMI (dated 04.08.2010), the same is as under**:**

“62. Section 9 uses the words "so far as may be” The words signify that the Legislature's intent does-not mandate that the Code should be followed in its entirety, section by section, order by order or. Word by word. Use of the words "so far as may be" ensure sufficient flexibility and freedom to the Tribunal to follow and regulate its own procedure which should be in consonance with, the procedure stipulated as per the- Code. The procedure prescribed in the Code can be modified and changed keeping in view the practical requirements, need and necessity. This may be required in view of the object and purpose of

the Act and practical problems which may be faced in case the requirements of the Code are strictly and entirely followed, in ***Abdul Haji Mohd. Versus R. R. Naik AIR 1951 Bom, 440****, it was held that the, words "as far as practicable" must be construed to mean to the extent it is practicable. Bombay, High Court in a subsequent decision* ***Keshrimal Jeevli Shah and another versus Bank of Maharashira and others, 2004 (122) Company cases 831*** *has held that whenever words like "as far as possible" or as far as practicable etc. are used, the legislative intent is not to apply all the provisions in their entirety, but the provision have to be applied as far "as possible" and subject to such modifications as the context as well as the object and purpose of the enactment require. The setting in which the words occur, the statute in which they occur, the object and purpose behind the enactment and mischief which is sought to be taken care of and remedy which are relevant in determining to what extent and subject to what modifications the required enactment should be applied.*

63. Section 5(5) of the Act states that the Tribunal shall have power to regulate its procedure in matters' arising out of discharge of its functions including the place/places at which it will hold sittings. Therefore, the aforesaid sub-Section gives flexibility and freedom to the Tribunal to fix and regulate the procedure. To be followed subject of course to the requirement of fair and just hearing. Sub-section (6) to Section 5 further stipulates that the Tribunal while making the enquiry will have the power of a civil court in respect of matters stipulated in clauses (a)to (e). As per Section 4(3) of the Act, the Tribunal has to hold an enquiry within a period of six months from the date of issue of Notification under sub-section (1) of Section 3. There is no provision under which this time can be extended. The use of the expression "as far as may be" in Section 9 of the Act and the power given to the Tribunal to regulate its own procedure in Section 5(5) of the Act indicates that the strict procedure as stipulated and applicable to trial of civil suits is not envisaged or required. One will also have to keep in mind the time limit of six months within which the Tribunal is required to complete the enquiry and answer the reference: A summary procedure or a hybrid procedure which may be akin or similar to and in consonance with the procedure for adjudication of claims in the Code can be followed.

64.The above ratio and reasoning will equally apply to Rule 3(1) which uses the expression "as far as practicable" the rules of evidence, as laid down in the Indian Evidence Act, will apply. ***It may be noticed that Rule 3(1) uses the words "rules of evidence" and does not use the words "provisions of the Indian Evidence Act, 1872 would apply". Therefore general principles or rules of evidence underlying the Evidence Act are applicable to the extent practicable****. In these circumstances, I do not think that the Act or the Rules envisage and require an elaborate, and a detailed procedure for summoning of each and every witness mentioned in the charge-sheets, presence and examination of witnesses present at the time of preparation of panchanama or all police officers who were involved in the investigation. Summoning of record will be counter-productive, cumbersome and time consuming. There will be concerns about safety and security of the persons appearing as well as the records which may have to be summoned or produced. Normally, cases relied upon*

by the central government will be cases of serious cases and the chargesheet etc. will be voluminous and number of witnesses also substantial. The nature of material in-most-cases where unlawful activity is alleged would include oral evidence, documentary evidence; as well as confidential inputs based on information received from intelligence. These cases can have inter-State or trans-border involvement and a-large number of persons are normally involved in conspiracy. ***This aspect cannot be ignored as proceedings before the Tribunal have to be pragmatic and the provisions of the Code and the Evidence Act have to be applied to the extent possible and practicable.****"*

(Emphasis supplied)

55. It is in the light of the aforesaid principles that this Tribunal is to examine whether there is sufficient cause for declaring JKIM as an unlawful association. It needs to be borne in mind that the inquiry before this Tribunal does not entail adjudicating the guilt of the accused but rather assessing the adequacy of material before the Central Government to designate JKIM as an unlawful association.

VI. PROCEDURE FOLLOWED BY THIS TRIBUNAL

56. Consequently, upon due consideration of the aforesaid Notification No. S.O. 1114(E) dated 11.03.2025 and Notification No.S.O. 1577(E) dated 03.04.2025, this Tribunal held a preliminary hearing on 16.04.2025, whereupon on a consideration of the material placed on record by the Central Government, notice under Section 4(2) of the Act was issued to the association-JKIM to show cause, within a period of 30 days, as to why it should not be declared as an unlawful association. The notices issued were given due publicity as required under Section 3(4) of the Act.

57. The Gazette Notification dated 11.03.2025 was also published in a National Newspapers (all India Edition), in English. The said notification was also published in local newspaper/s in vernacular language having wide circulation in the Union Territory of J & K where the activities of the JKIM were or are believed to be ordinarily carried out. The method of affixation and proclamation by beating of drums, as well as loudspeakers, was also adopted. Proclamation was made at the last known address of the JKIM along with all their leaders, members, factions, wings and front organisation as well as that of their principal office bearers.

58. The notice issued by the Tribunal along with the Gazette Notification dated 11.03.2025 was displayed on the notice board of the Deputy Commissioner/District Magistrate/Tehsildar in all the district headquarters of the U.T. where the activities of the association were or are believed to be ordinarily carried on. Help of All-India Radio and electronic media of the State edition was also taken. Announcements were made through radio/electronic media at prime time. Notices were also pasted at the prominent places in the U.T. where the activities of the association were or are believed to be carried on.

59. Apart from above, notices were also issued to the Union Territory of J & K through its Chief Secretary.

60. The Registrar attached to the Tribunal was directed to ensure the compliance of the service of notice issued to JKIM in the manner indicated. The Registrar was directed to file an independent report in that behalf before the next date of hearing i.e. 16.05.2025.

61. Accordingly, the Union Territory of J & K filed its affidavit along with supporting documents contained in Envelopes-H1 to H7 containing therein Annexures G1 to G7 as proof of service, affirming that service had been effected as directed by the Tribunal on 16.04.2025 affirming that service had been affected as directed by the Tribunal. On 16.05.2025, learned Additional Solicitor General (hereinafter referred to as '**ASG**' for short) for the UOI and learned counsel for the Union Territory of J & K were heard and this Tribunal recorded the satisfaction as regards effecting of service in compliance of the order dated 16.04.2025.

62. The Registrar, vide his report dated 15.05.2025, also confirmed service of notice issued by the Tribunal.

63. During the course of hearing on 16.05.2025, Mr. Ibrahim Hussain Wani, Advocate entered appearance on behalf of the association stated to be authorised by Masroor Abbas Ansari, Chairperson of the association. He also filed his *vakalatnama.* He pointed out that he had moved an application on behalf of the association praying as under:

> *"this Hon'ble Tribunal may be pleased to direct the Registry of this Hon'ble Tribunal to supply/make available/furnish to Jammu and Kashmir Itehadul Muslimeen (JKIM) the material/copy of reference submitted by the Central Government before this Hon'ble Tribunal alongwith all documents/copies, which has been made basis for issuance of Notification No. S.O. 1114 (E) dated 11.03.2025, alongwith other connected material, so that the affected Organization*

is able to respond/submit reply effectively as directed vide Order (supra). The material be supplied through the Counsel engaged on payment of the requisite fee/costs."

64. However, since the copy of the aforesaid application was not supplied to the learned counsel for the UOI/U.T. of J & K, Mr. Wani was directed to supply the same and the learned counsel for the UOI and the Union Territory of J & K were directed to file their reply. Accordingly, the matter was fixed on 23.05.2025 for further proceedings.

65. The matter was taken up on 23.05.2025 to decide the application filed on behalf of the association seeking supply of the copy of reference submitted by the Central Government alongwith all documents/copies, which has been made basis for issuance of the notification alongwith other connected material. Vide order dated 23.05.2025, the said application was disposed of by this Tribunal passing a detailed order, and the Registrar of the Tribunal was directed to supply the copy of the background note as also a copy of the notification issued under Section 3(1) of the UAPA, 1967 to the counsel for the concerned association.

66. Learned counsel for the association sought time to file its reply/response to the show cause notice issued under Section 4(2) of UAPA, 1967 within a period of 10 days. The UOI was directed to file its affidavit/s along with documents in support of the grounds on which the concerned association was declared as unlawful. Learned ASG submitted that the affidavits of all the witnesses from the Union Territory of Jammu & Kashmir would be filed on or before 20.06.2025. The matter was posted for 20.06.2025 for directions.

67. On 20.06.2025, as directed, the association through its counsel filed its reply, along with annexures, to the show cause notice issued under Section 4(2) of UAPA, 1967. The same was directed to be taken on record and the UOI was directed to file its rejoinder, if any, within one week. Further, the UOI filed two affidavits of evidence of the following two officers from the Union Territory of J & K:

PW-1 – Mr. Parvaiz Ahmad, Inspector, SHO, PS Nishat, Srinagar, Kashmir.

PW-2 – Mr. Dheeraj Kumar, SDPO, Shaheed Gunj, Srinagar, Kashmir.

68. The said affidavits were directed to be taken on record. Learned counsel for the UOI stated that affidavits of remaining witnesses (including an official of the Ministry of Home Affairs) would be filed on or before 01.07.2025. Learned counsel for the association was also directed to file its list of witnesses, positively before the next date of hearing. Learned counsel for the association submitted that affidavits of evidence on behalf of its witnesses would also be filed on or before 11.07.2025. The matter was fixed for directions and for fixing schedule of examination of the respective witnesses of the parties on 01.07.2025.

69. On 01.07.2025, as per the directions, the UOI filed affidavit of one more witness i.e. PW-3 Mr. Liyaqat Ali, Inspector, CID, J & K, Srinagar alongwith supporting documents and a pen drive. It was submitted on behalf of the UOI that apart from the affidavits of three witnesses that had already been filed, the UOI would produce one witness from the Ministry of Home Affairs (MHA). It was submitted that the affidavit of the said witness would be filed after the recording of the evidence of the other witnesses. The UOI was directed to file affidavit of the said witness from MHA latest by 14.07.2025.

70. However, neither any list of witnesses nor any affidavit of evidence was filed on behalf of the association. Learned counsel for the association submitted that the list of witnesses along with evidence affidavits of such witnesses would be filed/emailed latest by 07.07.2025. Accordingly, with the consent of the counsel for the parties, the proceedings were fixed for recording of evidence of the parties at Srinagar for 11.07.2025 and 12.07.2025. Accordingly, a public notice was issued for the hearing at Srinagar.

71. On 11.07.2025, the following three witnesses of the UOI were examined and cross-examined at Srinagar:

1.	Mr. Parvaiz. Ahmad, Inspector, SHO, PS Nishat, Srinagar, Kashmir.	PW-1
2.	Mr. Dheeraj Kumar, SDPO, Shaheed Gunj, Srinagar, Kashmir.	PW-2
3.	Mr. Liyaqat Ali, Inspector, CID, J & K, Srinagar	PW-3

72. As directed, learned counsel for the association emailed/filed a list of four (04) witnesses along with evidence affidavits of the said witnesses.

73. On the directions of this Tribunal, e-mail and postal address at which any interested party could contact the Tribunal, was published in the public notice with regard to the hearing of the Tribunal on 11.07.2025 and 12.07.2025 at Srinagar. In terms thereof, two emails dated 09.07.2025 were received from email ID <dangertiger09@gmail.com> and email ID <advishraf@gmail.com> attaching same PDF file containing around 24 affidavits. However, none of the deponents of the said affidavits was present before the Tribunal on 11.07.2025. Accordingly, the deponents of the said affidavits were directed to remain present on 12.07.2025 at 11:00 AM.

74. The Registrar of this Tribunal was directed to send a reply to the said emails dated 09.07.2025, enclosing the copy of the order dated 11.07.2025 containing the relevant directions to apprise the senders. The Registrar was also directed to supply copies of these affidavits to the learned counsel for the UOI and the learned counsel for J & K as well as the learned counsel for the association.

75. With the consent of the parties, the matter was fixed for examination and cross-examination of the witnesses of the association on 12.07.2025 at 11.00 A.M. at Srinagar.

76. On 12.07.2025, the following four (04) witnesses of the association were examined and cross-examined at Srinagar:

1.	Mr. Masroor Abbass Ansari s/o Mohd. Abbass Ansari r/o Srinagar, J&K	RW-1
2.	Master Ghulam Hassan Ganai s/o Ghulam Ahmad Ganai r/o Srinagar, J&K	RW-2
3.	Mr. Syed Muzaffar Rizvi s/o Late Syed Ibrahim Rizvi r/o Magam, J&K	RW-3
4.	Haji Mohammad Shafi Ganai s/o Late Abul Rehman Ganai r/o Srinagar, J&K	RW-4

77. With the consent of the parties, it was recorded that the aforesaid witnesses of the association had been examined and cross-examined with the understanding that in case, after recording of evidence of the remaining witness/es from the Ministry of Home Affairs, if any additional evidence would be required to be adduced by the association, it would be at liberty to move an appropriate application in this regard.

78. As directed vide order dated 11.07.2025, out of total 24 public witnesses, 21 public witnesses were present on 12.07.2025. Details of the said public witnesses are as follows-

Sl. No.	**Name**
1.	Mohammad Akbar Dar
2.	Zawar Mohd. Yusuf Sofi
3.	Ghulam Hassan Sofi
4.	Hakim Mohd. Yousuf
5.	Zahid Hussain Khwaja
6.	Hakim Mohd. Maqbool
7.	Nasir Ali Dar
8.	Ishfaq Hussain Parray
9.	Haji Mohd. Ameen Ashraf
10.	Mohammad Yousuf Dar
11.	Ghulam Mohd. Joo
12.	Inaam Hussain
13.	Haji Ghulam Mohuddin Sofi
14.	Mohd. Mohsin Sofi
15.	Mohammad Abass Parray
16.	Amjad Ali Malik
17.	Mohammad Qasim Dar
18.	Ghulam Mustafa Bhat
19.	Ali Mohammad Malik
20.	Shabir Hussain Dar
21.	Ghulam Hassan Dar

79. The aforesaid 21 public witnesses were directed to appear before the Registrar of the Tribunal on that day itself after completion of the proceedings. The Registrar was directed to check/ verify their affidavit/s and their photo identity card/s and submit a report. In view thereof, the Registrar filed his report dated 12.07.2025 pointing out discrepancies in the affidavits/photo identity cards.

80. Following three public witnesses were not present on 12.07.2025:

22.	Mudasir Ahmad Sofi
23.	Hakim Masood Ul Hassan
24.	Shabeer Hussain Bhat

81. Since perusal of the affidavits of the aforesaid deponents revealed that each affidavit was just a two-page affidavit containing similar averments, the aforesaid 24 deponents/public witnesses were directed to file supplementary affidavit/s, within a period of two weeks, specifically disclosing:-

(i) Whether they are/have been members of JKIM? If so, during what period?

(ii) Whether they have had any connection with JKIM or its Office Bearers?

(iii) Whether they are/have been actively involved in the activities of JKIM and if so, in what capacity?

(iv) Whether they have been receiving any correspondence or instructions from JKIM or from its Office Bearers?

82. Learned ASG submitted that the UOI would not cross-examine the aforesaid deponents. However, the UOI sought to reserve its right to make appropriate submissions as regards the relevance of the said affidavits.

83. At request of learned counsel for the association, the next date fixed for recording of evidence of the remaining witness from the Ministry of Home Affairs (PW-4) i.e. 16.07.2025, was cancelled and the matter was fixed for the recordal of statement and cross-examination of the said witness on 28.07.2025.

84. On 28.07.2025, PW-4 Mr. Atul Kumar Shahi, Commandant (CT), CTCR Division, MHA was examined and cross-examined and the evidence stood concluded. In compliance of order dated 12.07.2025, 21 public witnesses/ deponents who had appeared before the Tribunal on the said date, filed their supplementary affidavits. The said supplementary affidavits were taken on record.

85. Learned ASG appearing for UOI submitted that she would make appropriate submissions as regards the relevance of the affidavits/supplementary affidavits of the public witnesses at the time of final arguments.

86. With the consent of the parties, the matter was listed for arguments on 05.08.2025.

87. On 05.08.2025, learned ASG for the UOI concluded her arguments. The matter was listed on 06.08.2025 for fixing dates/ schedule for arguments on behalf of the association.

88. On 06.08.2025, with the consent of the parties, the matter was fixed for 22.08.2025 and 23.08.2025 at Srinagar to hear arguments on behalf of the association and for rejoinder arguments, if any.

89. On 22.08.2025, learned counsel for the association concluded his arguments. On 23.08.2025, rejoinder arguments were heard on behalf of the UOI and the association. The matter was reserved for orders.

VII. EVIDENCE ADDUCED BEFORE THE TRIBUNAL ON BEHALF OF THE CENTRAL GOVERNMENT, INCLUDING CROSS EXAMINATION OF THE CONCERNED WITNESSES

PW-1

90. **Inspector Parvaiz Ahmad (PW-1)** tendered his affidavit as **Ex.PW-1/A**; deposed that he is posted as a Station House Officer at Police Station Nishat, Jammu & Kashmir and is the Holding Investigating Officer in respect of FIR No.37/1998.

91. He stated that FIR No.37/1998 was registered on 25.02.1998 at P.S. Nishat, Srinagar, J&K, u/S 132-B of the Jammu and Kashmir Representative of the People Act, 1957, Section 17 of Criminal Law Amendment Act, Section 13 of the Unlawful Activities (Prevention) Act, 1967 and Section 188 of Ranbir Penal Code, 1989. The said FIR was constituted on account of the fact that on 21.02.1998, a specially designated official (Kaar-e- Khas) posted at P. S. Nishat, Srinagar, J&K, as

part of his government duty went to New Theed Harwan for observing the situation and witnessed that the founder of JKIM, namely, Mohammad Abbas Ansari along with other separatist leaders of the APHC, namely, Mohammad Yaseen Malik, Professor Ab Ghani Bhat, Ghulam Nabi Sumji and Javid Ahmad Mir arrived at New Theed Harwan and delivered speeches exhorting the masses to boycott the parliamentary elections and undertook actions to stop the electoral candidates and their workers from holding the electoral process with an objective to overthrow the incumbent Government. They raised anti-India slogans and exhorted the public for maintaining unity against the Government till the freedom of J & K is achieved, ending the dominance of India in J & K. Further, they instigated the general public to create law and order situation to foil the upcoming elections and asked the public to use their own resources and resort to the use of force to restrain the electoral candidates and their workers from holding election campaigns regardless of the party. These individuals also asked the public to work shoulder to shoulder with them to end the alleged 'illegal occupation' of J & K. The aim of the speech was to instigate the public against India and spread hate amongst the people to propagate separatist and secessionist sentiments.

92. He relied upon the true copies of FIR No.37/1998; the statements of the relevant witnesses recorded under Section 161 of Cr.P.C. and the charge-sheet dated 05.04.2005 filed pursuant to FIR No. 37/1998alongwith their true English Translations which have been exhibited as Ex. PW1/1 to PW1/4A in the present proceedings.

93. He stated that the delay in filing of chargesheet was attributable to the significant challenges faced while investigating the case against the prominent separatist leaders of J & K and due to volatile situation in the valley orchestrated by the said separatist leaders and their affiliated groups, who received unwavering support from across the border and terrorist organisations and any attempt to probe these separatist organisations and their leaders triggered widespread unrest and turmoil in the affected regions, causing delays in concluding the investigations.

94. He stated from his personal experience, gained during the course of his service that, it is manifest that JKIM and its leaders have been actively and continuously but covertly and discreetly working for secession of J & K from the UOI and Cession of the territory to Pakistan by promoting and orchestrating feelings of enemity and hatred in the masses against the Government of India. Evidently, the aforesaid is against the interest and integreity of the nation. The said conduct is prejudicial to the territorial integrity and sovereignty of Union of India and hence the ban upon the association is necessary and correct.

95. Mr. Ibrahim Hussain Wani, learned counsel for the association cross examined PW-1 on 11.07.2025. The same is reproduced hereunder:

> "*I joined the Police Department in the year 2002. I have been serving in the Police Department for more than 22 years. The organization with regard to which I have deposed in my affidavit, was born in 1961.*
>
> *In para 2 of my affidavit, I have stated that I have read the background note on JKIM prepared by the Central Government. I have also referred to the fact that I have perused the "material available". The "material" referred to by me includes the records of the FIR with regard to which I have deposed as also the information gathered by me during the course of my service in the Police Department. My deposition is also on the basis of knowledge derived by me during the course of my service. The said material is not available with me in the form of a written document as such.*
>
> *I was never a member of JKIM.*
>
> *Before joining the police department, I did not personally attend any meetings (public or private) or seminars or gatherings of the organization. However, I acquired an idea of the activities of the association through newspaper reports, books and other writings. Currently, I do not have copies of those newspapers, books or writings. I cannot give the exact date of the newspapers and writings referred to by me. However, information about the association was reported in newspapers on a recurring basis.*
>
> *After joining the service of the Police Department, I have not attended any meetings (public or private) or any seminars or gatherings of JKIM. I have not personally filed any complaint with regard to the activities of the association based on the newspaper reports and writings which I came across during the course of my responsibility as a Police Officer. (Vol.) The situation prevalent in Jammu and Kashmir, particularly, in the aftermath of 1988was such that it was not possible for any member of the public to file a complaint in the Police Station with regard to the activities of the association.*
>
> *After joining the Police Department, also, I did not file any complaint against the association in my personal capacity.*

I have had occasions to brief my senior officers on different issues from time to time. However, there has been no occasion for me to file a specific complaint or submit any specific written report to my senior officers with regard to the association in question. None of the senior officers has ever issued any specific direction to me to lodge any complaint or FIR against the association.

I am not aware of the official constitution of the association.

The members of the association as referred to by me in my affidavit are Late Mohammad Abbas Ansari and his son i.e. Masroor Abbas Ansari. Apart from that, as of now, I cannot name any other member of the association.

***Question**: Are you aware that this association had lakhs of members immediately before banning?*

***Answer**: I am not aware.*

***Question**: During the course of your entire service, have you ever given any statement before any court or authority against the association?*

***Answer**: I have nothad any occasion to deposebefore any court with regard to the association or its members in any case during the course of my career.*

I am not aware of the addressesof the head office / zonal office / tehsil office of the association. (Vol.) I am aware that the same are in Srinagar, I do not agree that the organization is a religious organization. (Vol.) This organization is part of Hurriyat Conference and my understanding of the activities of the association is in that context.

I agree that the association in question is essentially a Shia Muslim Organization. I am not aware of the concept of "Doctrine of FIQH". Generally speaking, I agree that Shia muslims follow a religious leader in all religious and day to day activities.

I am not aware if Late Mohammad Abbas Ansari was a religious leader of 'FIQH'. I have never seen Late Mohammad Abbas Ansari leading a religious procession. I have not seen the son of late Mohmmad Abbas Ansari i.e. Masroor Abbas Ansari leading a religious procession on the occasion of Moharram this year.

I am not aware of the exact numbers of cases registered against JKIM. I agree that Hurriyat Conference was not banned before 2019. (Vol.) Some constituents of the Hurriyat Conference were banned even prior to 2019.

The statement made by me in Para 5 of my affidavit to the effect that the JKIM played a vital role in providing support to different terrorist organizationsis on the basis that some constituents of the Hurriyat have been engaged in such activities and the association in question has played a supportive role in that regard.

Apart from this FIR with regard to which I have deposed, I cannot refer to any specific incident in which JKIM was involved. I cannot refer to any specific incidenton the basis of which averments have been made by me in para 6 of my affidavit. (Vol.) The same are based on the activities of certain elements of the Hurriyat which are engaged in such activities.

It is wrong to suggest that the statement made by me in para 6 of my affidavit is based on any assumption.

Question: *In para 6 of your affidavit, you have stated that JKIM has supported Pakistan and glorified terrorists or supported terrorism. Can you provide any details of any specific incident/date/time as regards the same?*

Answer: *As of now, I cannot give details of any specific incident. (Attention of the witness has been drawn to para 7 of his affidavit.)*

I am aware that Mir Tahir Masood, referred to in para 7 of my affidavit, is based in Pakistan. However, I cannot say about his nationality. I am not aware of any specific communication between Mir Tahir Masood and JKIM. The statement made by me is based on the inputs received from different agencies. I have not registered any FIR against Mir Tahir Masood.

In FIR No. 37/1998, the only member of the JKIM who had been made an accused, was Late Mohammad Abbas Ansari. At no stage, I was the investigating officeror was a witness in the said case.

It is correct that the concerned witnesses whose statements are referred to in para 11 of my affidavit, have not deposed before any court. The reasons thereof are mentioned in subsequent portion of my affidavit. It is correct that no statement was recorded under Section 164 of CrPC in respect of FIR No. 37/1998.

I agree that when a chargesheet is filed before a court, a receipt is furnished by the concerned court. As of now, I am not able to produce the receipt furnished by the Court at the time of filing the chargesheet in the present case. (Vol.) As per the records of the concerned Police Station, the chargesheet has been duly filed. It is incorrect to suggest that the chargesheet has not been filed in respect of FIR No.37/1998.

At present, I cannot tell the date on which charges were framed by the Court in the matter. (Vol.) The concerned records were unfortunately destroyed during the flash floods that occurred in Kashmir in the year 2014. To my recollection, the charges have been framed under Section 132(B) of the People's Representation Act and Section 188 of RPC. I cannot say, as of now, whether any charges were framed under Section 13 of the UAPA.The concerned investigating officer who had filed the chargesheet may be able to apprise about the same.

It is correct that Late Mohammad Abbas Ansari was around 85 years of age when he died.

As I have mentioned, I have not personally investigated the case, therefore, I cannot say whether Late Mohammad Abbas Ansari was cooperative during the investigation or not.

I cannot conclusively say whether the witnesses referred to in the chargesheet filed in respect of FIR No. 37/1998 are alive/available or not.

I agree that my knowledge as regards FIR No.37/1998 and subsequent chargesheet filed in this case is derived exclusively from the records. I do not recall at this stage, the exact court where the chargesheet was filed.

I do not specifically remember the concerned court where the records were sought to be re-constructed. I am not aware of any official communication from the Court stating that the records have not been reconstructed. I am not personally aware as to whether any application for reconstruction of the relevant records has been filed in the concerned Court and/or the details thereof.

It is correct that the statements made by me in my affidavit are based on the records/information gathered by me from the concerned Police Station. I do not have any personal knowledge as regards thereto, apart from the records of the case.
At present, I am unable to produce any specific material or document on the basis of which I have made statements in Para 15(a) to 15(b) of my affidavit. (Vol.) The same is based on the reports received from various agencies.
I cannot say whether JKIM had a militant wing or not. (Vol.) Other elements of the Hurriyat with which JKIM was associated had militant wings.
***Question**: Do you know that Late Mohammad Abbas Ansari was elected as Chairman of Hurriyat Conference in 2003 and that election was not liked by any of the hardline parties of Hurriyat, and he was later expelled from Hurriyat Conference at the behest of Syed Ali Shah Geelani?*
***Answer**: I am not aware of this.*
***Suggestion:** I suggest to you that there are no inputs that you have received, contrary to what you have stated hereinabove.*
***Answer:** It is incorrect to suggest that I havenot received any inputs from different agencies from time to time. However, at present, the inputs are not available with me.*
***Question:** Are you aware of the exact utterings of Late Mohammad Abbas Ansari which are subject matter of FIR No.37/1998?*
***Answer:** No. (Vol.) The concerned witness who had deposed in thiscasehas referred to, and elaborated the same. I am not personally aware of the exact utterings.*
***Question:** Did you personally prepare any report recommending the banon the association?*
***Answer:** I have not personally made any such report. (Vol.) In view of my postings at the relevant stage, there was no occasion for me to prepare any such report.*
I have not personally conducted any verification exercise for any intelligence report. I have not played any personal role in declaring the association as an unlawful association. I have not personally interacted with any member of the association which has been banned by the impugned notification No. S.O, 1114 (E) dated 11.03.2025.
I am not aware whether any member of the association has been convicted under the provisions of UAPA.
The translations of the documents enclosed along with my affidavit have been done by me.
***Question:** Have you done any course in 'translation'?*
Answer: No.
***Suggestion:** I suggestthat you have deposed falsely.*
Answer: It is wrong."

96. Opportunity for re-examination was given, but not availed of.

PW-2

97. Dheeraj Kumar **(PW-2)** tendered his affidavit as **Ex.PW2/A;** deposed that he is posted as Sub-Divisional Police Officer at Shaheed Gunj, J&K and is the Supervisory Officer in respect of FIR No.61/2000.

98. It is stated that FIR No.61/2000 was registered on 23.06.2000 at Police Station Shaheed Gunj, Srinagar, J&K under Sections 153A/120B/121(B) of Ranbir Penal Code, 1989 when a docket was received at PS Shaheed Gunj through SPO Naseer Ahmad No.81/SPO informing that on the occasion of Eid-e-Milad-un Nabi and Friday Prayer, while on official duty, he saw Syed Ali Shah Geelani (the then Chairman of APHC) and Moulvi Abbas Ansari and others delivering Anti-National Speech in Masjid Hamdaniya at Jhelum Market, Batmaloo. The said separatist leaders denied to the accession of Kashmir with India and asked the youth of Kashmir to continue their struggle against India, Indian Army and Police. The separatist leaders through their provocative speeches stirred emotions of youth to maintain a bloody war and tried to harm the integrity of India. Resultantly, the FIR was registered, the investigation was carried out.

99. He relied upon the true copies of FIR No.61/2000; the statements of witnesses recorded under Section 161 of Cr.P.C and the charge-sheet dated 28.12.2022 filed pursuant FIR No.61/2000 along with their true English Translations which have been exhibited as Ex. PW2/1 to PW2/4A in the present proceedings.

100. It is stated that both the accused persons have passed away and as such the case against them has also been abated.

101. It is further stated that the delay caused in filing of chargesheet is attributed to significant challenges faced while investigating the case against the prominent separatist leaders of J & K and due to volatile situation in the valley orchestrated by the said separatist leaders and their affiliated groups, who received unwavering support from across the border and terrorist organisations and any attempt to probe these separatist organizations and their leaders triggered widespread unrest and turmoil in the affected regions, causing delays in concluding the investigations.

102. He stated from his personal experience, gained during the course of his service, that it is manifest that JKIM and its leaders have been actively and continuously but covertly and discreetly working for secession of J&K from the

UOI and Cession of the territory to Pakistan by promoting and orchestrating feelings of enemity and hatred in the masses against the Government of India. Evidently, the aforesaid is against the interest and integrity of the nation. The said conduct is prejudicial to the territorial integrity and sovereignty of the Union of India and hence, the ban imposed upon the association is necessary and correct.

103. During the course of deposition, a question posed to PW-2 by the learned counsel for UOI, was answered as under:

> *"**Question. (On behalf of UOI)**: After imposition of the ban on the concerned association, does the association continue to carry out its activities?*
>
> ***Answer**. After the ban on the concerned organization, we got the information from reliable sources that the concerned organization is working under the guise of Al Abbas Relief Trust, Karan Nagar, Srinagar. We registered an FIR i.e. FIR No. 02/2025, PS Karan Nagar and thereafter, we searched the concerned premises after getting search warrants from the concerned court, where we found letter-pad, envelopesand receipt books of the organization from the office. A copy of the FIR and the seizure memo prepared therein has been submitted by PW-2 in Court today.*
>
> ***[Per Tribunal:** The aforesaid documents are taken on record, subject to objections of the learned counsel for the organization that (i) The said documents have been filed belatedly; and (ii) The said documents have no relevance inasmuch as they pertain to the period after banning of the concerned organization. There was no reasonable cause given for banning the organization, in the first place. The above objection/s shall be decided at the stage of final adjudication.]*

104. Mr. Ibrahim Hussain Wani, learned counsel for the association cross examined PW-2 on 11.07.2025. The same is reproduced hereunder:

> *"I joined the Police Department in September, 2019. It is correct to say that the Association was born in 1961. In Para 2 of my affidavit, I have referred to "material available with regard to the prime objects of JKIM". The "material available" refers to the statements of the concerned witnesses in FIR No. 61/2000 with regard to which I have deposed. Reference to"Various cases registered against the said organization" in para 2 of my affidavit refers to FIR 61/2000and also FIR No. 37/1998, PS Nishat. I am not personally aware of any other cases in respect of the said organization before the ban. I am not aware whether the concerned organization is essentially a "Shia Muslim" organization. I am not aware of "Doctrine of FIQH" of Shia School of thought. I am not aware that in Shia School of thought, general masses pursue the lines and/or abide by a particular religious*

leader. ***(Vol.)*** *All these aspects are beyond the scope of my affidavit. It is correct that till 2019, Hurriyat Conference had not been banned under any law. I am not aware whether Lt. Molvi Mohd. Abbas Ansari led a delegation on behalf of the Hurriyat in 2004 to hold talks with the then Prime Minister Late Atal Bihari Vajpayee and other political leaders thereafter.*

I am not aware whether Lt. Molvi Mohd. Abbas Ansari was provided security by the Government at any point of time. Statement made by me in para 4 of my affidavit is based on FIR No. 61/2000with regard to which I have deposed. The same is also corroborated by certain videos available on You-tube (a social media platform). I have not personally verified any of those videos. I cannot say who has uploaded those videos on the said platform.

The statement made by me in para 5 of my affidavit is based on the inference derived by me from FIR No. 61/2000.

It is correct that Lt. Molvi Mohd. Abbas Ansari was around 85 years of age when he passed away.

I am not aware whether Lt. Molvi Mohd. Abbas Ansari was ever underground at any stage. He was never arrested inFIR No. 61/2000. ***(Vol.)*** *In view of the prevalent situation in Kashmir, it was not considered feasible to arrest him as elaborated in para 14 of my affidavit. I am not aware whetherLt. Molvi Mohd. Abbas Ansari was prosecuted under Sections 82, 83 & 84 of the Cr.P.C. I am not aware whether Lt. Molvi Mohd. Abbas Ansari was ever declared as proclaimed offender.*

It is correct that I have never been the investigating officer in FIR No. 61/2000 nor am I a witness in the said case.

It is correct that no statements under Section 164 of Cr.P.C. with regard to FIR No. 61/2000 were recorded. It is correct that the chargesheet in the present FIR was filed after 22 years and the same included the name of Lt. Molvi Mohd. Abbas Ansari as an accused person even though he had already passed away by the time the chargesheet was filed.

Till the banning of the concerned organization, as a police officer I have had no occasion to personally deal with/investigate any case pertaining to the Association. ***(Vol.)*** *However, after imposition of ban, I have had an occasion to deal with the case where the activities of the association have come to light. The same has been referred to in my examination- in-chief.*

I am not aware of the further course of proceedings after submission of chargesheet in respect of FIR no. 61/2000. ***(Vol.)*** *After filing of the chargesheet, the case was disposed of since the accused person had died and this fact has been mentioned in para 13 of my affidavit.*

It is correct that since the case was abated, there was no occasion to take cognizance against the accused persons.

Thereason for the delay in filing the chargesheet has been mentioned by me in para 14 of my affidavit.

Question. *Did the chargesheet disclose any reason for the delayed submission thereof?*

Answer.*I am not aware.*

I am not aware of any other case where there has been delay in filing the chargesheet to the same extent as in the case of FIR No. 61/2000.

I have had no occasion to personally prepare and send any report pertaining to ban of the concerned organization to central government or state agencies.

I have not personally participated in any meeting (public or private), seminar or rally of the concerned organization.

Suggestion: *I suggest to you that recently on the occasion of Muharram, a religious procession was led by Masroor Abbas Ansari on 04.07.2025 corresponding to 8th Muharram. The said religious procession was allowed by the Government in which lakhs of people had participated.*

Answer: *It is correct that the above procession was permitted by the Government after a hiatus of 30 years. I am not aware whether the said procession was purely a religious procession.* ***(Vol.)*** *In the aftermath of the procession, an FIR was registered. I am not sure if the members of the group led by Masroor Abbas Ansariwere mentioned as the accused persons therein.*

It is correct that I have not personally witnessed any unlawful activity of the concerned organization (JKIM). During the course of my responsibility as a Police Officer, there was no occasion for me to report about any activities of the JKIM to any of my superior officers. However, after the issuance of the banning notification No. S.O. 1114(E) dated 11.03.2025, I reported to my superior officers about the activities of the concerned organization, pursuant to FIR No. 02/2025. My briefings to my superior officers as aforesaid have been verbal in nature.

I have had no occasion to personally go through any written communications addressed by the organization or by any third party to the organization which reveal any unlawful activities of the organization.

I have had no occasion, during the course ofdischarge of my official responsibilities to take action against any member of JKIM. ***(Vol.)*** *This is not a part of my affidavit.*

Question. *Apart from the religious procession on 04.07.2025, are you aware of any other religious procession led by Masroor Abbas Ansari?* ***Answer.*** *I am not aware.*

I have not personally gone through the official constitution of JKIM. I cannot personally name/recollect the names of the members of JKIM. ***(Vol.)*** *Off hand, I can refer to Mr. Ghulam Hasan, Lt. Molvi Mohd. Abbas Ansari and Masroor Abbas Ansari as members of the organization.*

Although, FIR No. 61/2000 is registered against individual persons, there is reference therein to the activities of the both the organizations

i.e. JKIM and Hurriyat Conference. I am not aware of the names of the members of the organization who are accused in the said FIR No. 61/2000.

I have seen videos of Mir Tahir Masood, reference of whom has been made in para 7 of my affidavit is based in Pakistan. I am aware that he is based in Pakistan, however, I am not aware of his nationality.

I have had no occasion to see any written communication addressed to Mir. Tahir Masood orvice versa.

I have had no occasion to verify any of the said videos of Mir. Tahir Masood. It is beyond the scope of my affidavit to speak about the possibility of deep faking or morphing of the said videos.

It is beyond the scope of my affidavit to say that there is a possibility of deepfaking of the videos.

Apart from FIR Nos. 61/2000 &37/1998 as referred to above, I have no personal knowledge about the activities of JKIM, except through social media.

I have not been personally involved in the decision-making process to declare the concerned organisation (JKIM) as an unlawful organization. ***Suggestion****: I suggest to you that you have deposed falsely.*

Answer: *It is wrong."*

105. Opportunity for re-examination was given, but not availed of.

PW-3

106. **Inspector Liyaqat Ali (PW-3)** tendered his affidavit as **Ex.PW-3/A**; deposed that he is presently posted as an Inspector in Crime Investigation Department (CID), Srinagar, Jammu & Kashmir and is working as In-charge of Social Media Cell at CID Headquarters and having investigated the activites of JKIM, as such he is conversant with the activities of JKIM and competent to depose before this Tribunal.

107. It is stated that it is borne out from the records and materials that Mohammad Abbas Ansari, Chairman of JKIM till 25.10.2022 was also one of the founding members of APHC, a conglomerate of 26 separatist organisations and had also been its Chairman in the year 2003. After demise of Moulvi Abbas Ansari, his son Masroor Abbas Ansari became its chairman, who is still the President of JKIM and that out of the 26 parties who formed the conglomerate of APHC, ten (10) number of organisations have been banned by the Central Government vide separate notifications which were already upheld by the respective Hon'ble Tribunals.

108. It is further stated that it is also clear from the records, investigation conducted by CID, J & K and the inputs received by it with regard to JKIM that the prime objective of JKIM was to promote separatist ideas and to get the secession of J & K from India by way of provoking the masses by using different means and cession of the constitutional authority of India.

109. Further, it is borne out from the records that Moulvi Abbas Ansari, his son Masroor Abbas Ansari and other officer bearers and leaders of JKIM have a long history of separatist activities in criminal conspiracy with various secessionist and terror groups. JKIM plays vital role in covertly providing support to different terror organisations for spreading terror in the erstwhile State of J & K and also in supporting the Over Ground Workers (hereinafter referred to as the 'OGW's') who provide logistical and all other inputs and supports to the terrorist and terror organisations who are active in J & K and make all efforts to disrupt the peace of the State for keeping the same volatile in the interest of Pakistan.

110. He stated that JKIM and its leaders glorified and supported terrorist outfits propagated false narratives amongst masses, boycotted elections and incited youth for violent activities. The same is apparent from speeches of their leaders and that JKIM is a Pakistan backed separatist organisation having extensive links in Pakistan which is represented there by Mir Tahir Masood.

111. It is stated that it is apparent from the records that between 1987 and 2016, the leaders of JKIM including its Chairman and other prime leaders have been accused of committing offences of rioting, stone pelting, unlawful activities, unlawful assemblies, causing disruptive activities by way of hate speeches, in this regard, numerous FIRs have been registered against them under different provisions of law andthat Moulvi Abbas Ansari has delivered various secessionist speeches for Kashmir and has also given interviews to the media channels to that effect, out of which CID had obtained one such speech and three interviews which are preserved in a Compact Disk ('CD') and were provided to Central Government through proper channel before preparing of the brief note. In this regard, it is submitted that JKIM operates its Youtube channel where it has uploaded at least three videos of Moulvi Masroor Abbas Ansari delivering hate speeches against the

nation and in favour of secession of J & K and also glorifying terror and terrorist in J & K. The links of the said provocative speeches delivered in vernacular are asunder:-

https://youtu.be/6znqNkeDIKo;

https://youtu.be/oLxV1C8uqvg;

https://youtu.be/pmodR604MfA;

112. He stated that as the interviews were in vernacular language i.e. Kashmiri, a transcript of the same has been prepared and translated in English; further, JKIM has uploaded an interview of its former Chairman Moulana Abbas Ansari with BBC and also various write-ups, schedules etc. on its website which are downloaded by him and his senior officers in the department and which was later on provided to the Central Government during preparation of the background note.

113. He has stated, from the investigations and input received and from personal experience gained during the course of service, that it is manifest that JKIM and its leaders have been actively and continuously but covertly and discreetly working for the secession of J & K from the UOI and Cession of the territory of J & K to Pakistan which is obviously against the national interest and integrity by promoting feelings of enmity and hatred in the masses against the Government of India and hence are acting in a manner prejudicial to the territorial integrity and sovereignty of the UOI and hence the ban imposed upon the organisation is necessary and correct.

114. He relied upon various material, including:

i. A pen drive containing 4 videos of Lt. Moulvi Mohd. Abbas Ansari delivering secessionist speeches and giving interviews and 3 videos of Masroor Abbas Ansari delivering provocative speeches in Kashmiri language which is exhibited as Ex. PW3/1 & Ex.PW3/3.

ii. True transcripts of the speeches and interviews of Lt. Moulvi Mohd. Abbas Ansari which are exhibited as Ex.PW3/2.

iii. True transcripts of the speeches delivered by Masroor Abbas Ansari along with their true English translation which are exhibited as Ex.PW3/4.

iv. True copy of interview of Lt. Moulvi Mohd. Abbas Ansari with BBC which is exhibited as Ex.PW3/5.

v. True copy of various write-ups, schedules etc. uploaded on the website of JKIM which are downloaded by the witness and his senior officers in the department which are exhibited as Ex.PW3/6.

115. During the course of deposition, learned counsel for the UOI examined PW-3, the same is reproduced hereunder:

> ***"Question:*** *Have you brought any certificate under Section 64 of the Bhartiya SakshyaAdhiniyam, 2023?*
>
> ***Answer:*** *I have brought the relevant recordwith me. Apart from exhibits filed along with my affidavit, I would like to file a certificate by way of an affidavit under Section 64 of the Bhartiya SakshyaAdhiniyam, 2023 in support of the enclosures of my affidavit. [**Per Tribunal**: The same are taken on record and marked as **Mark 'A'**, subject to the objections of the learned counsel for the Association on the ground of (i) delay in filing; and (ii) relevance. The said objection shall be decided along with the final adjudication.]"*

116. Mr. Ibrahim Hussain Wani, learned counsel for the association cross examined PW-3 on 11.07.2025. The same is reproduced hereunder:

> *"I have been working in the Police Department for the last 15 years. I have been working in CID Headquarters for the past 10 years. None of the videos referred to and enclosed along with and forming part of the Exhibits have been recorded by me personally. None of the communication / interviews referred to in the said videos have been recorded by me personally.*
>
> *It is correct that I have never personally interviewed Lt. Moulvi Mohd. Abbas Ansari and Masroor Abbas Ansari. It is correct that I am not a journalist or a camera person.*
>
> *It is correct that I have not communicated in writing with any authorized representative of the concerned channel or the platforms through which the concerned videos have been uploaded and from where the same have been perused by me.*
>
> *I am not a"Government approved examiner" for examination of electronic videos or electronic records. The material downloaded by me and referred to in my affidavit has not been examined by me or by any forensic expert.*
>
> *I am not an eyewitness to the speeches referred to in paragraphs8, 9 and 10 of my affidavit.*
>
> *In my official capacity, I have not received any communication or complaint from any person or Government Agency regarding the videos referred to by me. In my official capacity, I have not "taken cognizance" or suo motu action in respect of the said videos referred to in my affidavit. (Vol.) During the course of discharge of my official duties, I have downloaded the videos and apprised my senior officers of the same. I am not aware whether these videos which have been referred to are the subject matter of any complaint/FIR or proceedings before a court of law. I am not an "expert or certified translator".*
>
> *I am not aware of the apparatus used to prepare the videos.*
> ***Question**: For the purpose of reliance onthe videos referred to in your*

affidavit, did you follow the provisions of Section 65B of the Evidence Actor Section 64B of BSA?

***Answer**: As referred to in my examination in chief, I have furnished a certificate by way of an affidavit under 64B of the BSA.*

(Attention of the witness is drawn to paragraph 14 of his affidavit)

***Question**: As a police officer, have you ever filed any complaint or lodged any FIR against JKIM?*

***Answer**: No.*

Before imposition of the ban on the concerned Association vide impugned notification dated 11.03.2025, no agency specifically sought any material specifically for the purpose of banning the organisation. (Vol.) The videos in question were already available with the senior officers and have been forwarded by me in my usual course of official responsibilities. I have personally not played any role in banning the organisation. (Vol.) I had merely downloaded the videos and apprised the concerned superior officers about the same.

***Question**: Have you personally prepared any report or supplied any specific information to the Ministry of Home Affairs or to any other Ministry of the Central or State Government for the specific purpose of banning of the concerned Association?*

***Answer**: I have forwarded the videos referred to in my affidavit to my superior officers in the due course of discharge of my responsibilities. I have not specifically made any report for the purpose of banning of the organisation.*

***Question**: Do you know that the report you have submitted to the superior officers has become ground for banning this organisation?*

***Answer**: I forwarded the concerned videos to my superior officers and I am not personally aware as to how the said videos were analyzed by my superior officers and for what purpose and to what extent they were used in any decision making process.*

With reference to the averments made in paragraph 13 of my affidavit, I state that the videos in question were sent by me to the superior officers and they analyzed the same and sent their report to the concerned Ministry on the basis thereof. My senior officers verbally apprised me about sending a report to the Ministry of Home Affairs, Govt. of India.There is no official covering letter / enclosing communication that was issued while sending the videos to the superior officers.

The concerned videos were sent by me to the superior officers in the current year. I do not remember the exact date on which I sent the videos to my superior officers, however, the same was done before March, 2025.

My senior officers asked me to download the videos and forward the same. The concerned officers who asked for the videos to be sent was Sh. Zaffar, S.P., CID HQs. He did not send any communication to me in writing.

***Question**: Are you aware of any case registered against the concerned organisation?*

***Answer**: Yes. I cannot give any details of the cases, however, I am aware that PW-1 and PW-2 have deposed regarding them. Personally, I am not aware of any case registered on the basis of or referring to the videos referred to in my affidavit.*

The reference in paragraph 2 of my affidavit to "various cases registered against the said organisation" is based on my knowledge. I

am specifically aware of atleast two cases, however, I do not remember the FIR numbers. I am not aware whether any inquiry was directed to be conducted with regard to the videos referred to in my affidavit.
***Question**: Is there a possibility that the videos referred to by you are morphed or in the nature of deepfake?*
***Answer**: I do not think so. (Vol.) I know the person who has been depicted in the videos.*
***Question**: Is it possible that in the videos referred by you, somebody else's voice has been superimposed/tampered?*
***Answer**: I have been in the Department for the last 15 years. On the basis of my experience and knowledge, I can say with confidence that no such thing has happened in the present case. The videos and the voice of the concerned person have not been doctored or tampered with.*
I do not have any degree in the Science of Forensics.
In my official capacity, I have not received any complaint regarding any fake videos referred to in my affidavit, being uploaded.
I did not conduct or verify the veracity of the videos from the person who was interviewing or making the videos. (Vol.) The interviewer in one of the videos was in Pakistan and it could not have been possible to contact the said person.
I state that one of the videos referred in Ex.PW3/1 was recorded in Pakistan when Lt. Moulvi Mohd. Abbas Ansari was there and this was an interview on Geo TV (Pakistan based News Channel) in 2005.
The factum of Lt. Moulvi Mohd. Abbas Ansari being in Pakistan at that time is evident from multiple news reports of the relevant period. The said fact was very much in public domain. I did not apply to any court for authentication of any videos. There was no occasion for me to take any such course of action in my official capacity.

*I have prepared my affidavit (Ex. PW3/A) on my own accord. The affidavit furnished by me today i.e.**Mark A**, was for the purpose of giving details of devices through which the videos were downloaded. These devices were controlled by me at the time of downloading.*
***Suggestion:** I suggest to you that since you are neither a forensic expert nor a technical expert, the statement made by you are based on your personal subjective knowledge.*

***Answer:** It is incorrect. The views expressed by me are not subjective views. They are based on knowledge derived during the course of my official service and analysis of the concerned videos. I neither personally know nor have I met Lt. Moulvi Mohd. Abbas Ansari. I have not personally attended any meeting or seminar organized by JKIM. It is incorrect to say that prior to my joining the service, I was an active member of the JKIM at any point of time.*
***Suggestion:** I suggest to you that at the processions organized by JKIM, you were providing sharbat to the participants.*
***Answer:** It is incorrect.*

I came to know about the various videos referred to in my affidavit in the aftermath of 2015. During the period 2015 to 2025, as and when I came across the incriminating videos, I forwarded the same to my senior officers in the routine course. I did not write to any social media

platform for taking down these videos as the same was not within the scope of the official responsibility entrusted to me.
It is incorrect to say that the statement made by me in the affidavit in Paragraphs 2, 3 and 4 are based on my personal subjective knowledge or that the same have been stated by me based on hearsay.
Having been in service since 2010, I have received many inputs during the course of discharge of my official responsibilities. Whatever has been said in the paragraphs 2, 3 and 4 is based on the inferences derived by me during the course of discharge of my official functions.
I cannot cite any statement that has been made in paragraph 5 of my affidavit whichis borne out from the video of Masroor Abbas Ansari where he was seen chanting slogans with regard to Burhan Wani.
I can say that Mir Tahir Masood whose reference was made in my affidavit is based in Pakistan and he was the spokesperson of APHC POJK. I am not aware about his nationality. (Vol.) JKIM was part of APHC and Lt. Moulvi Mohd. Abbas Ansari was the founding member of the APHC. I am familiar with newspaper reports which stated that Lt. Moulvi Mohd. Abbas Ansari was expelled from APHC.
I cannot say whether hardline factions of APHC led by Syed Ali Shah Geelani wereresponsible for the same. I am not aware whether any delegation led by Lt. Moulvi Mohd. Abbas Ansari met with Late Prime Minister Atal Bihari Vajpayee.
I am also not aware whether or not Lt. Moulvi Mohd. Abbas Ansari was part of the delegation that met Late Prime Minister Manmohan Singh.
I am also not aware whether or not Lt. Moulvi Mohd. Abbas Ansari met ex-Home Minister, Govt. of India, Mr. L. K. Advani. I cannot say whether JKIM was Shia Muslim organisation. (Vol.) It is a separatist organisation. I have not read the constitution of JKIM.
***Question**: Are you aware that several workers of the JKIM were killed by militants for the reason that Lt. Moulvi Mohd. Abbas Ansari was having a soft stand and was a believer in holding talks with the Government of India rather than taking recourse to militancy?*
***Answer**: I am not aware of the same. (Vol.) According to me, JKIM was openly supporting terrorism and was part of APHC.*
I am not aware whether or not APHC was not banned before 2019.
***Question**: Although you have downloaded the videos, are you or are you not in a position to say that the contents of the videos are correct or not?*
***Answer**: I have downloaded the videos and to my belief, the contents of the same are correct.*
***Question**: Is it correct to say that the affidavit submitted by you today during the course of examination in chief which is marked as **Mark A**, is only based on your belief and that in the affidavit, the reference made by you by way of the certificate to the effect that the videos are authentic is merely based on yourpersonal belief?*
***Answer**: It is wrong. It is not merely a matter of my personal belief. It is based on the knowledge acquired by me during the course of discharge of my official functions.*
I suggest to you that you have deposed falsely.
It is incorrect."

PW-4

117. **Atul Kumar Shahi (PW-4)** tendered his affidavit as **Ex.PW-4/A**; he deposed that he is presently posted as Commandant (CT) in the Government of India, Ministry of Home Affairs, New Delhi and is authorized to depose before this Tribunal as he has been dealing with all the relevant files/records in his official capacity. He stated that the notification No.S.O.1114(E) dated 11th March, 2025 issued by the Central Government is based on the information and material received from the central intelligence agency and Criminal Investigation Department of Government of Union Territory of Jammu & Kashmir, with regard to the unlawful activities of JKIM and that based on this information, a note was prepared for the consideration of the Cabinet Committee on Security and a draft notification was also annexed to the said note and was sent to the Cabinet Secretariat and thereafter, the Cabinet Committee on Security took the decision and approved the proposal contained in the above note in the meeting held on 5th March, 2025 and accordingly, the declaration was made and published vide notification dated 11th March, 2025, bearing No. S.O.1114(E).

118. He further stated that that in terms of sub-section (1) of Section 5 of the Unlawful Activities (Prevention) Act, 1967 and vide notification dated 3rd April 2025, bearing No.S.O.1577(E), this Tribunal was constituted and the background note was submitted to this Tribunal in terms of Rule 5 of the Unlawful Activities Prevention Rules 1968, vide letter dated 8th April, 2025 based upon the material/information as contained in the concerned files and that the various cases registered by the J & K Police throw light on the unlawful and subversive activities of its Chairman and members of JKIM.

119. He further stated that the officers concerned of the Union Territory of J & K have filed affidavits before this Tribunal in respect of cases registered in Union Territory of J & K against the Chairman and the members of JKIM under various provisions of law including the Terrorist and Disruptive Activities (Prevention) Act, 1987, Ranbir Penal Code, 1989, etc.

120. It is further stated that various witnesses have already adduced evidence during the course of proceedings before this Tribunal in support of the declaration

as contained in notification No. S.O.1114(E) dated 11th March, 2025 and that the evidence so adduced clearly establishes that JKIM is continuously indulging in unlawful activities which pose a serious threat to the internal security of the country and that in addition to the above adduced evidence, various intelligence inputs show that JKIM is continuing its unlawful activities which are prejudicial to the security of the country. Considering all these facts, circumstances and evidences, which have been adduced before this Tribunal also, the JKIM has been banned under Section 3(1) of the UAPA, 1967.

121. He further stated that as per the information received from various agencies, the Chairman and members of the JKIM have been indulged in radicalizing and brainwashing the minds, and indoctrination of youth through provocative speeches for separation of J & K from the UOI and that they have indulged in unlawful activities aimed at disrupting the sovereignty and integrity of India, peace, communal harmony, internal security and secular fabric of the Indian Society and hence, it is justified that banning of JKIM is necessary in the interest of national security, sovereignty and territorial integrity of India.

122. During the course of deposition, he submitted original files containing central intelligence reports/inputs, referred to in paragraph 10 of the affidavit in a sealed cover for the perusal of this Tribunal which is exhibited as Ex. PW-4/3. The said submission of documents in the sealed cover was objected to by the learned counsel for the Association.

123. He further stated that the Central Government is seeking the privilege for the original files mentioned as Ex. PW-4/3 to the affidavit relying upon Section 129 of the Bharatiya Sakshya Adhiniyam, 2023 (Section 123 of the Evidence Act) r/w Rule 3(2) and proviso to Rule 5 of the Unlawful Activities (Prevention) Rules, 1968 and stating that the contents of the same are privileged and confidential in nature and the same cannot be made available to the banned association or to any third party as the Government considers it against the public interest to disclose the same to either the banned association or to any third-party inter-alia in terms of the provisions of Section 5 of the Unlawful Activities (Prevention) Rules, 1968.

124. He then stated that the nature of the proceedings and the scope of inquiry before the Tribunal and the treatment which has to be given to documents in respect of which privilege has been claimed by the government or its nodal agency has been authoritatively laid down under paras 20-22 by the Hon'ble Supreme Court in ***Jamaat-e-Islami Hind (Supra)*** in the specific context of the provisions of the

Unlawful Activities (Prevention) Act, 1967 and that vide the said judgment of the Hon'ble Supreme Court, after interpreting the scheme of the UAPA and the Rules framed thereunder, has unequivocally upheld the right of the government/prosecution/nodal agencies to claim privilege in respect of confidential documents in public interest. It is further stated that the documents for which claim of privilege is being sought, by their very nature, are confidential and sensitive in nature and, therefore, cannot be supplied as a public document as dissemination of the same to public at large may impede/impeach the ongoing investigations/prosecutions against the incumbent banned organisation or its members and can also entail cross border national security concerns and therefore, the said documents can be verified by the Tribunal only.

125. It is further stated that JKIM is promoting anti-national and separatist sentiments prejudicial to the integrity and security of the country and is tacitly supporting militancy and incitement of violence and is seeking secession of J & K from the UOI and that from the cogent and irrefutable evidences, which have emerged till now, that JKIM is continuously encouraging a veiled armed insurgency and is openly advocating and inciting people to bring about a secession of a part of the territory of India from the Union and that it is also established that the activities of JKIM are aimed at causing disaffection, disloyalty and dis-harmony by promoting feeling of enmity and hatred against the lawful government and the members of JKIM are indulging and acting in a manner prejudicial to the territorial integrity and sovereignty of the India.

126. He further deposed that from the above, it is evident that JKIM is indulging in anti-national activities posing a serious threat to the sovereignty and integrity of India and if the JKIM is not banned, the activists and sympathizers of JKIM will pose a serious threat to the communal harmony, internal security & integrity of the country.

127. He lastly deposed that in view of the submissions made herein above, the declaration made by the Central Government vide Notification No. S.O.1114 (E) dated 11th March, 2025 may please be confirmed and upheld in public interest as well as national interest.

128. Mr. Ibrahim Hussain Wani, learned counsel for the association cross examined PW-4 on 28.07.2025. The same is reproduced hereunder:

> *"I have been working in my present assignment since 25.11.2024. It is correct that my deposition is entirely based on the records and no part*

of it, is based on my personal knowledge.
It is correct that the Association with regard to which I am deposing has been in existence since 1962.
The record produced by me alongwith my affidavit pertains to the activities of Association since its inception.
Question: *Whether prior to issuance of the Notification, banning the Association, had there been any action ever taken against the Association at any point of time in the past?*
Answer: *I cannot reply.*
Suggestion: *I put it to you that your inability to answer the above question is on account of the fact that there are no records available revealing any unlawful activities of the Association in the past? What do you have to say?*
Answer: *It is incorrect to suggest.*
Question: *Can you elaborate: What is the "material received from the central intelligence agency and Criminal Investigation Department (CID) of the Government of Union Territory of Jammu and Kashmir", as referred to in paragraph 2 of your affidavit and on what date and time, this material has been received by the Ministry of Home Affairs (MHA)?*
Answer: *I do not remember the date and time when the said material was received by the Ministry of Home Affairs.*
Question: *The material which you have received from central intelligence agency and Criminal Investigation Department (CID) of the Government of Union Territory of Jammu and Kashmir, asreferred to in paragraph 2 of your affidavit, whether the same has been duly incorporated in your affidavit and the background note (annexed as Ex. PW4/2to your affidavit)?*
Answer: *I state that the information received from central intelligence agency and CID, J& K has already been reflected in my affidavit and the background note (annexed as Ex. PW4/2 to my affidavit), except the information which was sensitive in nature and which has consequently been left out.*
Question: *In Paragraph 3 of your affidavit, you have mentioned that a note was prepared for the consideration of the Cabinet Committee on security. Has that note been submitted before this Tribunal in the sealed cover submitted by you today?*
Answer: *Yes.*
Question: *Whether the draft notification as referred to in Paragraph 3 of your affidavit, has also been submitted before this Tribunal in the sealed cover submitted by you today?*
Answer: *Yes.*
Question*: Were you a part of the process of drafting the draft notification referred to in Paragraph 3 of your affidavit?*
Answer*: Yes.*
Question: *Was there any material in support of the draft notification that you perused personally?*
Answer: *Yes.*
Question: *Have you made any mention in your affidavit about the nature of the material on the basis of which the draft notification was prepared?*
Answer: *The draft notification was prepared on the basis of the material received from the central intelligence agency and Criminal Investigation Department (CID) of the Government of Union Territory*

of Jammu and Kashmir as mentioned in Paragraph 2 of my affidavit. Due to sensitive nature of the information which forms basis fordrafting the draft notification, specific reference thereto has not been made in my affidavit.

Question: *Whether the material/information as referred to in Paragraph*

5 of your affidavit, was duly referred to in the background note (annexed as Ex. PW4/2 to your affidavit) or not?

Answer: *As I mentioned earlier, the sensitive material/information isnot referred to in the background note. However, the non-sensitive material/information has duly been referred to in the background note.*

I do not remember how many cases have been registered against the JKIM or its Chairman.

It is incorrect to suggest that since the inception of the Association, no case has ever been registered against the Association itself.

Question: *Can you refer to even a single case registered against the JKIM eversince its inception?*

Answer: *There are cases which have been lodged against the Chairman/Members of the Association.*

Question: *How many cases have been registered against the Chairman of the Association?*

Answer: *The background note refers to four (4) cases registered against Late Molvi Abbas Ansari and Molvi Masroor Abbas Ansari.*

Suggestion: *I put it to you that no case has ever been registered where the Association itself is an accused of any offence? What do you have to say?*

Answer*: I can only say that as per background note, four (4) cases have been registered against the Chairman of the Association.*

I do not remember the cases registered against the Chairman and the members of the Association under the Terrorist and Disruptive Activities (Prevention) Act, 1987 (TADA) as referred to in Paragraph 7 of my affidavit.

Question*: To which period, did the intelligence inputs referred to in Paragraph 8 of your affidavit pertain to?*

Answer*: Since the inception of the Association.*

In Paragraph 8 of my affidavit, the reference to "JKIM is continuously indulging in activities of separation of Jammu and Kashmir" is on the basis of the inputs received prior to the banning notification.

Question: *Is it correct to say that even as per your record, JKIM has lakhs of members?*

Answer: *I cannot say.*

Question*: How many FIRs have been registered against the members of Association?*

Answer*: I cannot name any member of the Association.*

As regards the objectionable activities of the members of the Association, the same has been referred to in the background note.

I cannot say as to what percentage of population of Union Territory of Jammu and Kashmir comprises of Shia Muslims.

Suggestion: *I suggest to you that 4 to 4.5% of the entire population of*

India comprises of Shia Muslims? What do you have to say?
***Answer**: I am not aware.*
***Question**: Can you mention the number of people/extent of population which has been brainwashed and indoctrinated as referred to in Paragraph 9 of your affidavit?*
***Answer**: I cannot say.*
***Question:** Can you mention names of any 5 people who have been brainwashed or indoctrinated?*
***Answer:** No, I cannot say.*
***Question:** As per the information available with you, how many persons from Shia Muslim population have been charged or convicted of terrorism related activities?*
***Answer:** I cannot say.*
***Suggestion:** I put it to you that no youth belonging to Shia Muslim Community has been charged or convicted or involved in terrorism related activities?*
***Answer:** It is incorrect to suggest.*
***Question:** Can you name any person of youth population of Shia Muslim Community who has been involved in terrorism relating cases?*
***Answer:** I cannot take any particular name.*
***Question:** Can you name any person belonging to Shia Muslim Community who has beenindoctrinated by JKIM and/or who has got involved in spreading communal disharmony?*
***Answer:** I cannot take any particular name.*
***Suggestion:** Is it correct that the background note is in essence summary of all the material/reports/inputs referred to in Paragraph 10 of your affidavit?*
***Answer:** It is incorrect to suggest**. (Vol.)** The background note is based on the most of the material/information received from the central intelligence agency and Criminal Investigation Department of the Government of Union Territory of Jammu & Kashmir, except sensitive information.*
***Question:** Can you cite any instance in support of the assertions made by you in Paragraph 15 of your affidavit?*
***Answer:** I cannot cite any specific instance.*
***Question:** What is "cogent and irrefutable evidences" referred to in Paragraph 16 of your affidavit?*
***Answer:** The evidence is sensitive in nature. Therefore, I cannot give any specific details.*
***Question**: Can you cite any specific instance in support of your assertionsmade in Paragraph 16 of your affidavit that the activities of JKIM are aimed at causing disaffection, disloyalty and disharmony?*
***Answer:** I cannot cite any specific instance.*
The statement made in Paragraph 17 of my affidavit is based on my belief.
***Question:** What is the proof in support of the assertions made in Paragraph 17 of your affidavit that the activists and sympathizers of JKIM will pose a serious threat to the communal harmony, internal security and integrity of the country?*
***Answer:** The relevant proof has been submitted before this Tribunal in the sealed cover (Ex. PW4/3).*
***Question:** Are you aware that in the deposition of the witnesses on behalf of Association who have adduced evidence before this Tribunal, it has been categorically stated by them that Jammu & Kashmir is an*

integral and inseparable part of India.
Answer: *Yes, I am aware of their depositions.*
Question: *What are the "various agencies" referred to in Paragraph 17 of your affidavit?*
Answer: *I cannot name the agencies referred to in Paragraph 17 of my affidavit due to confidentiality.*
Question: *Can you name the parentage of the members of Association referred to in Paragraph 5 of the background note?*
Answer: *No. I cannot say.*
Question: *Are you aware of any cases being registered against the seven (7) persons mentioned in the table of Paragraph 5 of the background note?*
Answer*: I cannot say.*
Question: *Have you gone through the constitution of the JKIM?*
Answer: *Yes, I have partly gone through it.*
Question: *Is there anything in the constitution of the JKIM which is objectionable?*
Answer: *In fact, I have not read the constitution of the JKIM.*
Question: *Can you cite any specific document in support of the assertions made in Paragraph 6 of the background note to the effect that the people associated with the Association have been glorifying terrorists, providing background support to terrorist outfits, propagating false narrative among masses, boycotting elections and inciting youth for violent activities?*
Answer: *As I mentioned earlier, the background note has been prepared on the basis of the information received from the intelligence agencies.*
Suggestion: *Is it correct to say that JKIM has always taken part in democratic elections conducted under the aegis of Election Commission of India in Jammu & Kashmir?*
Answer: *I cannot say.*
Question: *Are you aware that JKIM had participated in the recently held Parliamentary and Assembly elections?*
Answer: *I cannot say.*
Question: *Are you aware that in the recently concluded Parliamentary elections in the Union Territory of Jammu & Kashmir and Ladakh, 2 out of the 4 elected candidates belong to Shia Muslim Community?*
Answer: *I am not aware.*
Question: *Are you aware that the aforesaid elected candidates were supported by the JKIM?*
Answer: *I cannot say.*
Question: *On what basis, it has been stated in Paragraphs 6 and 7 of the background note that JKIM and/or its members have been boycotting elections?*
Answer*: It is on the basis of information received from intelligence agencies.*
Question: *Are you aware of any statement of Molvi Masroor Abbas Ansari stating that the said person or the Association is desirous of boycotting elections?*

Answer: *I cannot say.*

Question: *Whether any FIR has been registered against the Association or its members for boycotting elections?*

Answer: *I cannot say.*

Question: *Can you elaborate as to what is the methodology adopted by the JKIM to allegedly engage in anti-India or secessionist propaganda through media channels as referred to in Paragraph 9 of the background note?*

Answer: *This paragraph as well as the other paragraphs of the background note has been drafted based on the inputs received from intelligence agencies.*

Question: *Can you say: who created the mechanism for the alleged anti-India or secessionist propaganda?*

Answer: *I cannot give any specific details.*

I cannot say whether any exercise was carried out to verify the statements made in Paragraph 9 of the background note.

Question: *Is it possible that the videos referred to in the background note, particularly in Paragraphs 9 and 10, can be morphed or deep-faked?*

Answer: *The agencies would have verified the same and that is why reference has been made in Paragraphs 9 and 10 of the background note.*

Suggestion: *I put it to you that the statement made in Paragraph 9 of the background is contrary to the stand of the JKIM that the entire Kashmir including so called Azad Kashmir-Gilgit-Baltistanis an integral part of Jammu and Kashmir and is part of Union of India? What do you have to say?*

Answer*: The assertions made in Paragraph 9 of the background note are based on the credible reports of the intelligence agencies.*

Question: *Is FIR No. 123/1987 referred to in the table atParagraph 11 of the background note is subjudice/under trial before the concerned Court?*

Answer: *Yes.*

Suggestion: *I suggest to you that it is incorrect to say that the said FIR No. 123/1987 is subject matter of any pending proceedings before any Court.*

Answer: *The statement made is based on the information received by the Ministry of Home Affairs from the intelligence agencies.*

Suggestion: *I suggest to you that upon entering the details of FIR No. 123/1987 on the e-Court Website, the same reveals "no record present". Are you aware of the same?*

Answer: *I cannot say.*

Suggestion: *I suggest to you that FIR No. 37/1998 referred to in the table at Paragraph 11 of the background note is not under trial and contrary to what has been stated in the table, instead the said FIR has been disposed of, rather proceedings before the trial court has been disposed of.*

Answer: *I cannot say. As I have stated that the contents of the background note are based on the inputs received from the intelligence agencies.*

Suggestion*: I suggest to you that FIR No. 61/2000 referred to at Sl. No. 3 in the table at Paragraph 11 of the background note is also not under trial and this fact is evident from the deposition of PW2-Dheeraj Kumar, SDPO, Shaheed Gunj, Srinagar, Kashmir?*

Answer: *I cannot say about the deposition of PW2-Dheeraj Kumar.*
Suggestion: *I suggest to you that in FIR No. 99/2011, all the accused persons have been acquitted long back and yet the background note refers to this FIR being under trial? What do you have to say?*
Answer: *I am not aware about the acquittal of the accused persons in the said FIR.*
Question: *Are you aware that the Government of India invited Late Molvi Abbas Ansari for a dialogue?*
Answer: *I am not aware.*
Question: *Are you aware about any meeting that took place between Late Molvi Abbas Ansari and Late Prime Minister Atal Vihari Bajpai or Late Prime Minister Dr. Manmohan Singh?*
Answer: I cannot say.
Question: *Are you aware that Late Molvi Abbas Ansari was provided 'Y-category' security upto his demise?*
Answer: I am not aware.
Suggestion: *Is it correct to say that you have prepared the background note mechanically, based on the inputs received from the intelligence agencies without independently applying your mind?*
Answer: *The background note is not only based on the inputs received from the intelligence agencies but also based on the independent application of mind by me and other officials in Ministry of Home Affairs.*
Question: *Are you aware that JKIM has been a victim of militancy in Jammu and Kashmir?*
Answer: *I cannot say.*
Suggestion: *Is it correct to suggest that the contents of the background note are incorrect?*
Answer: *It is incorrect to suggest.*
Suggestion: *I suggest to you that the contents of your affidavit are also incorrect?*
Answer: *The suggestion is denied.*
Cross-examination concluded.
Re-examination by Ms. Poornima Singh, Advocate on behalf of UOI:
"Question*: Were you a part of the official team which was involved in drafting the background note for consideration of the Cabinet Committee on Security regarding banning of the JKIM?*
Answer: Yes.
Tribunal Question: *Who were the other members of the said official team who were involved in drafting the note?*
Answer: *The Joint Secretary, CTCR, myself and other officials in the Ministry of Home Affairs were members of the said team."*

VIII. EVIDENCE ADDUCED BEFORE THE TRIBUNAL ON BEHALF OF THE JKIM INCLUDING CROSS EXAMINATION OF THE CONCERNED WITNESSES

RW-1

129. **Masroor Abbass Ansari (RW-1)** tendered his affidavit as Ex.RW-1/A and deposed that immediately before declaration of the Organisation as 'Unlawful', he was the acting President of Jammu and Kashmir Ittehadul Muslimeen (JKIM). He deposed that in addition to what he has stated in his affidavit, he would like to add that this year, he participated in a procession on 04.07.2025, on the occasion of Moharram (which corresponds to 8th Moharram). Lakhs of people participated in the said procession. The Government had duly given permission for the same. The procession was also attended by many police officials and political leaders. Certain other processions were also held around the same period in which also he actively participated. Again, many Government officials and political leaders also attended the said processions. All these processions were religious in nature and had nothing to do with any political activity; all these were widely attended. He deposed that he is involved in largely religious work and that his association and bond with the people is on account of the fact that heendeavours to provide religious and spiritual guidance to the people.

130. In his affidavit, RW1-Masroor Abbas Ansari reiterated the facts which have been enumerated in the reply to the background note filed on behalf of the association. It is also stated that the detailed reply has been filed before this Tribunal and the same may be treated as part and parcel of his deposition. No documents were filed along with the affidavit. However, it is stated that the documentary proof as regards the facts mentioned in the affidavit are annexed with the reply/objections submitted by the association.

131. Ms. Poornima Singh, advocate on behalf of UOI cross-examined RW-1 on 12.07.2025. the same is reproduced hereunder:

> *"I Joined JKIM in 2004. When I joined JKIM, I did not join as office bearer, I was only an ordinary worker. My father used to be the Chief Patron of JKIM. I decided to join JKIM after completing my religious studies from Iran.* ***In 2008, I became an office bearer of JKIM. After the banning of the JKIM, there is no existence of JKIM but I personify JKIM.***
> *After banning of JKIM, it was sought to be disseminated to the worker/ members of the JKIM that the said association has been banned and therefore, would no longer be in existence. This news was spread*

through word of mouth and also through social media. In fact, the decision to dissolve JKIM was taken as far back as in September, 2023. The decision was taken because JKIM did not have any political space. Apart from JKIM, I am not a member of any other organisation or association.

I am familiar with Al Abbas Relief Trust. The said Trust has nothing to do with JKIM. The said Trust was constituted by my father and it is engaged in educational and humanitarian activities. I am not a trustee or a member of that Trust.

I have not personally participated or contested in any election, however, at the level of panchayat and DDC, members of JKIM have, in the past, contested elections as independent candidates. Some of them have succeeded also and occupied positions of Sarpanch and DDC Members etc.

APHC was a forum of which JKIM was a part.

In my affidavit, I have referred to the fact that in January, 2004, Moulvi Abbas Ansari led a five member Hurriyat Delegation to New Delhi to meet the then Deputy Prime Minister Shri. L. K. Advani. Since I was not actively involved in the affairs of JKIM, nor an office bearer at that point of time, ***I am not personally aware of the agenda of the meeting****, however, I have gathered that the purpose of the meeting was to have peace talks and generally engage in discussions with the Government of India for improving the conditions in Jammu and Kashmir. JKIM has always believed in peace and engaged in discussions/ peace talks with the Central Government.*

Suggestion*: I put to you that Moulvi Abbas Ansari was a separatist leader.*

Answer*:* ***I deny that Moulvi Abbas Ansari was a separatist leader.***

*Question****: Are you aware of the social media platforms where JKIM has a presence or which are used by the JKIM?***

Answer*: JKIM had a page on facebook and also a youtube channel.*

I have attended many meetings or seminars where late Moulvi Mohammad Abbas Ansari gave speeches.

I have seen the affidavit of PW-3. From the perusal of the transcripts of the speeches attached with the affidavit of the PW-3, ***I say that the speeches which are alleged to be mine are actually not so; it appears that they have been tampered****.*

Question*: Do you know who is Burhan Wani?*

Answer*: I know who is Burhan Wani. Although, he was perceived to be a terrorist since he was engaged in militancy, he had some support amongst the locals. Neither I nor JKIM ever subscribed to his ideology and never had any close association or terms with him. He belongs to an organisation (Hizbul Mujahideen) which gave many threats to my father.* ***I believe that Burhan Wani was a Martyr****. I did not participate in the procession that was taken out on the occasion of the demise of Burhan Wani.*

A survey was conducted sometimes in 2014-2015 in which it transpired that there may have been 1 lakh members of JKIM. JKIM is not statutorily registered under the Societies Registration Act or under any other statute. (Vol.) It is a religious organisation.

Earlier we used to maintain data of membership. However, currently there is no such data since JKIM stands dissolved.
I have never been arrested in any criminal case.
***Suggestion**: I suggest to you that you have been arrested several times in the past few years in Jammu and Kashmir for anti-national activities.*
***Answer**: I deny the suggestion. It is true that I have been arrested but the same was in connection with the Muharram processions that I tried to participate in, from time to time.*
I have never been to Pakistan. (Vol.) Again said: I went once to Pakistan in 1990s, may be in the year 1994, because some of my relations are there. I have relatives both on the paternal and maternal side in Pakistan (Chacha and Mama).
***Question**. Does JKIM pledges its allegiance to the Constitution of India?*
***Answer**: Yes.*
***Question**: Does JKIM believe in the idea of plebiscite in Jammu and Kashmir?*
***Answer**: No.*

***Tribunal Question**: Do you believe that Jammu and Kashmir is an integral and inseparable part of India?*
***Answer**: Yes.*
***Tribunal Question**: Do you believe in the supremacy of the Indian Constitution?*
***Answer**: Yes.*
***Suggestion:** I suggest to you that in your affidavit you have made false averments and you have not deposed truthfully.*
***Answer:** The suggestion is denied."*

(Emphasis supplied)

RW-2

132. **Ghulam Hassan Ganai (RW-2)** tendered his affidavit as **Ex.RW-2/A** and deposed that he was democratically elected as General Secretary of the Association way back in April 2015 and remained as such till April 2018.

133. It is stated that during his tenure as Secretary in the organisation or prior to it and thereafter, the organisation has never indulged in any anti-national or illegal/unlawful activities and that the basic purpose of the association was/is clearly mentioned in the Constitution of the Association. The Association has been taking steps for distribution of knowledge through books, speeches, literature etc. It has also been highlighting socio-economic and political problems faced by the minority community. It has been taking part in all democratic exercises of the country from the date of its inception till date. In case of any natural disaster, organisation's members would extend all help to needy people/population. Several workers of the organisation have been killed by militants during last 35 years for taking stand against militancy and for participating in democratic activities.

134. That none of the erstwhile members of the organisation or its present acting president has any link or connection with anti-national or secessionist activities. No FIRs have been registered against the association, for any anti-national or secessionist or any other illegal activities.

135. That even during peak of militancy Late M.A. Ansari has raised voice against violence and that even religious verdict (Fatwa) was pronounced against stone pelting and militancy activities. He was moderate voice and was always treated as main bridge in connecting the Government with common masses of the Kashmir. In case of any emergency, the Government of India and State Government would approach him for defusing the situation. He held meeting with top leadership of the country including then Prime Minister of Country Shri Atal Bihari Vajpayee, Prime Minister Dr. Manmohan Singh, Home Minister Shri L.K. Advani and other high ranking political figures/politicians for bringing/establishing peace and tranquility in the then State of J & K. It is also stated that the Government of India allowed him to visit Pakistan for strengthening the relationship between the two neighboring countries. All these activities cannot by any stretch of imagination be said to be antinational or anti India or illegal activities. That whatever allegations have been labeled/mentioned in the background note and the notification no. S.O. 1114(E) dated 11.03.2025 are totally irrelevant, unsubstantiated, thus devoid of any merit or substance/material much less sufficient material.

136. It is stated that all activities of the organisation have been within constitutional limits/ parameters and in conformity with laws of the land. Declaring the organisation as unlawful is in violation of laws of land and without any basis. During last more than six decades the organisation has been functioning without any objections from the authorities; Labelling the organisation unlawful has huge impact on religious, social and political activities of organisation.

137. Mr. Ketan Palon, Advocate on behalf of UOI cross examined RW-2 on 12.07.2025. The same is reproduced hereunder:

> *"I have been associated with JKIM since childhood. My father was also a member of JKIM. I became an office bearer of JKIM in the year 2015, when I was elected as General Secretary. As General Secretary, I used to communicate with the members and the officer bearers of the JKIM. I am not familiar with any social media/ internet presence of*

JKIM. When I was the General Secretary of JKIM, JKIM did not organise any procession or public meeting etc., except religious processions.
I do not have any personal knowledge as regards the aspects referred to in Para 4 of my affidavit. The same are based on my conversation with Late Maulvi Abbas Ansari.
I developed close and intimate personal relations with Lt. Maulvi Abbas Ansari after the demise of my father in the year 2012.
JKIM was earlier a part of the APHC.
***Tribunal Question**: Did JKIM believe in the ideology of any militant constituents of APHC?*
***Answer**: JKIM had differences with those members of APHC which had political or militant agenda.*
I am not aware of any FIRs being registered against the members of JKIM.
In 2014/2015, when a membership survey was conducted, it transpired that the number of members of JKIM was in the range of around one lakh. This survey was conducted immediately after the flood in Jammu and Kashmir in 2014.
***I ceased to be a member of JKIM after 2018**. I do not know whether JKIM remained active after 2018. **I am not aware whether JKIM had any links with any external agencies or countries after 2018**.*
Whatever I have deposed in my affidavit is with regard to the state of affairs of JKIM till 2018. I am not aware of the status of the JKIM and its activities after 2018.
I state that JKIM did not organise any procession in favour of Burhan Wani. (Vol.) I state that after the death of Burhan Wani, Lt. Maulvi Abbas Ansari issued a Fatwa against stone pelting in Jammu and Kashmir; as a result of which, his own house was subjected to stone pelting and his effigies were also burnt.
I cannot say whether Burhan Wani was a martyr or not.
I believe in the supremacy of the Constitution of India. (Vol.) JKIM has actively participated in the electoral process in Jammu and Kashmir. In the year 2014, one member of JKIM stood as an independent candidate from Baramulla in parliamentary elections.
JKIM has also actively participated in the electoral process at the level of local government (Panchayat), etc. On many occasions, members of JKIM were elected to various posts.
I have never been to Pakistan. None of my family members went to Pakistan. None of myfamily members has ever been involved in incidents of armed violence.
***Suggestion:** I suggest to you that in your affidavit you have made false averments and you have not deposed truthfully.*
***Answer:** The suggestion is denied."*

(Emphasis supplied)

RW-3

138. **Syed Muzaffar Rizvi (RW-3)** tendered his affidavit as Ex.RW-3/A and deposed that he was democratically elected as Secretary of the Association way back in the year April 2000 and remained Secretary till September, 2023, when the organisation was dissolved. It is stated that thereafter, RW3 joined political party- "Apni Party" as Vice President.

139. It is stated that during his tenure as Secretary in the organisation or prior to it and thereafter, the organisation has never indulged in any antinational or illegal/unlawful activities and that the basic purpose of the association was/is clearly mentioned in the Constitution of the Association. The Association has been taking steps for distribution of knowledge through books, speeches, literature etc. It has also been highlighting socio-economic and political problems faced by the minority community. It has been taking part in all democratic exercises of the country from the date of its inception till date. It is stated that the association fielded its candidates in Parliamentary Elections and in DDC elections and also supported the regional party.

140. It is stated that none of the erstwhile members of the association or its present acting president has any link or connection with antinational or secessionist activities. Neither any FIRs have been registered against the association, for any antinational/ secessionist or any other illegal activities nor any member of the association has ever been detained under preventive detention laws. It is further stated that so many members of the organisation have lost their lives for opposing militancy and for taking part in elections.

141. It is further stated that even during peak of militancy Late M.A. Ansari has raised voice against violence and that even religious verdict (Fatwa) was pronounced against stone pelting and militancy activities. He was moderate voice and was always treated as main bridge in connecting the Government with common masses of the Kashmir. In case of any emergency, the Government of India and State Government would approach him for defusing the situation. He held meeting with top leadership of the country including then Prime Minister of Country-Shri Atal Bihari Vajpayee, Prime Minister Dr. Manmohan Singh, Home Minister Shri L.K. Advani and other high ranking political figures / politicians for bringing / establishing peace and tranquility in the then State of J & K. It is also stated that the Government of India allowed him to visit Pakistan for strengthening the relationship between the two neighboring countries. All these activities cannot by any stretch of imagination be said to be antinational or anti India or illegal activities. That whatever allegations have been labeled / mentioned in the background note and

the notification no. S.O. 1114(E) dated 11.03.2025 are totally irrelevant, unsubstantiated, thus devoid of any merit or substance/material much less sufficient material.

142. It is stated that all activities of the association have been within constitutional limits/parameters and in conformity with laws of the land. Declaring the organisation as unlawful is in violation of laws of land and without any basis. During last more than six decades the organisation has been functioning without any objections from the authorities.; Labelling the organisation unlawful has huge impact on religious, social and political activities of organisation.

143. Mr. Arkaj Kumar, Advocate on behalf of UOI cross examined RW-3 on 12.07.2025. The same is reproduced hereunder:

> *"I was Secretary of JKIM during the period from April 2000 till September 2023. I took membership of JKIM in 2000. Soon after I became a member, I was elected as Secretary of the JKIM. Perhaps this was on account of recognition of my abilities by Late Mohd. Abbas Ansari. In September 2023, JKIM was dissolved by its then President i.e. Masroor Abbas Ansari. In September 2023, I resigned as Secretary to join main stream politics (Apni Party). The JKIM got dissolved soon after my resignation. It is incorrect to say that Apni Party is close to JKIM.*
>
> ***While I was Secretary of JKIM, I was not handling the social media activities of JKIM. The same were directly being handled by the President of JKIM***.
>
> *I was familiar with the social media posts of JKIM on facebook as I used to check the same for any discrepancies in the language, etc. However, I was not directly handling the same.*
>
> *The President himself used to upload the relevant posts on facebook.*
>
> ***Till September 2023, there was no YouTube channel of JKIM.***
>
> ***I have not seen the video links which have been referred to in the background note submitted before this Tribunal***. *I say that there was no difference between me and Late Mohd. Abbas Ansari as far as religious ideology and philosophy is concerned. Broadly, I agreed with his political views.*
>
> *The minor differences that I had with Late Mohd. Abbas Ansari was as regards the association with APHC. It is wrong to say that JKIM believes that Kashmir is allegedly a 'disputed territory' between India and Pakistan.*
>
> *I have never ever participated in any procession or rally which has propagated independence or cessation of J&K.*
>
> *I do not personally know Burhan Wani. I am aware that he was fairly well known in J&K. I believe Burhan Wani does not qualify to be a martyr (shaheed).*
>
> ***Suggestion****: I put it to you that Burhan Wani was a terrorist.*
>
> ***Answer****: I can neither declare Burhan Wani a shaheed nor a terrorist.*
>
> ***Suggestion****: I put it to you that Kashmir is an integral and inseparable part of India.*
>
> ***Answer****: I agree.*

Suggestion*: I put it to you that the Constitution of India is supreme in India including Kashmir*
Answer: *I agree.*
I am not awareabout the membership of JKIM as on date. (Vol.) When I was a member of JKIM, membership of JKIM comprised of several lakhs of members/followers.
Suggestion: *I suggest to you that in your affidavit you have made false averments and you have not deposed truthfully.*
Answer: *The suggestion is denied."*

(Emphasis supplied)

RW-4

144. **Haji Mohammad Shafi Ganai (RW-4)** tendered his affidavit as Ex.RW-4/A and deposed that he was democratically elected as President of the Association way back in the year 2006 and remained President till 2008.

145. It is stated that during his tenure as Secretary in the organisation or prior to it and thereafter, the organisation has never indulged in any anti national or illegal/unlawful activities and that the basic purpose of the association was/is clearly mentioned in the Constitution of the Association. The Association has been taking steps for distribution of knowledge through books, speeches, literature etc. It has also been highlighting socio-economic and political problems faced by the minority community. It has been taking part in all democratic exercises of the country from the date of its inception till date.

146. It is further stated that none of the members of the association or its present acting president has any link or connection with anti national or secessionist activities. No FIRs have been registered against the association, for any anti-national or secessionist or any other illegal activities.

147. That even during peak of militancy Late M.A. Ansari has raised voice against violence and that even religious verdict (Fatwa) was pronounced against stone pelting and militancy activities. He was moderate voice and was always treated as main bridge in connecting the Government with common masses of the Kashmir. In case of any emergency, the Government of India and State Government would approach him for defusing the situation. He held meeting with top leadership of the country including then Prime Minister of Country-Shri Atal Bihari Vajpayee, Prime Minister Dr. Manmohan Singh, Home Minister Shri L.K. Advani and other high

ranking political figures/politicians for bringing/establishing peace and tranquility in the then State of J & K. It is also stated that the Government of India allowed him to visit Pakistan for strengthening the relationship between the two neighboring countries. All these activities cannot by any stretch of imagination be said to be antinational or anti India or illegal activities. That whatever allegations have been labeled/mentioned in the background note and the notification no. S.O. 1114(E) dated 11.03.2025 are totally irrelevant, unsubstantiated, thus devoid of any merit or substance/material much less sufficient material.

148. It is stated that all activities of the association have been within constitutional limits/parameters and in conformity with laws of the land. Declaring the organisation as unlawful is in violation of laws of land. It is stated that during last more than six decades the organisation has been functioning without any objections from the authorities. Labelling the organisation unlawful has huge impact on religious, social and political activities of organisation.

149. It is also stated that the association has been taking part in all democratic exercises of the country from the date of its inception till date and it also fielded its candidates in Parliamentary Elections and in DDC elections and supported the regional party. It is stated that several workers of the party were targeted for taking part in these activities and have suffered loss of property at the hands of hooligans and undemocratic elements.

150. Mr. Sharath Nambiar, Advocate on behalf of UOI cross examined RW-2 on 12.07.2025. The same is reproduced hereunder:

> *"Prior to my becoming the President of JKIM in 2006, I was not holding any position in JKIM nor was I an office bearer of JKIM. I was an ordinary member of this association during the period prior to my becoming the President. I was elected as a President of JKIM by the General Body.*
> *After I demitted the office as President, to the best of my recollection, one Mr. Gulam Mohammad became the President of JKIM. At the time when I was the President, there was no social medial channel being used by JKIM.*
> *Although I have heard the name of Burhan Wani, I do not know him personally.*
> *During the period when I was President of JKIM, we did not hold any political Hartal or rally. (Vol.) The organisation is purely a religious organisation.*
> *JKIM was a part of the APHC.*
> ***Tribunal Question:** What kind of organisation or forum was APHC?*
> ***Answer:** APHC was a platform having a mix of religious and political organisations.*
> ***Question:** Does JKIM believe that Jammu &Kashmir is an inseparable*

part of India.
Answer: *Yes.*
Suggestion: *I suggest to you that in your affidavit you have made false averments and you have not deposed truthfully.*
Answer: *The suggestion is denied.*
Cross-examination concluded ***Re-Examination:***
Question: *During which period was JKIM a part of APHC?*
Answer: *I can say that JKIM was definitely a constituent of APHC till 2005. However, later on, APHC led by Syed Ali Shah Geelani removed JKIM from APHC. I do not remember the year. Thereafter, JKIM ceased to be a part of APHC."*

151. 24 public witnesses have filed their affidavits in support of the association and against the ban imposed on the association. As already noted, contents of all the affidavits are same which read as under:

"That this Hon'ble Tribunal vide Public Notice dated 07.07.2025, has directed the interested persons to give evidence as regards non-involvement of JKIM, which organization has been declared as unlawful by the Central Government vide Notification No. S.O. 1114(E) dated 11th March 2025. Being one of the well-wisher and having faith in Shia Sect of Islam and having affiliation with the said Organization, I hereby state on oath that the organization being the religious organization and having faith to remain loyal with the motherland since the date of its inception by its founder namely Late Moulana Abbass Ansari till date has never indulged in any antinational or illegal/unlawful activities and that the basic purpose of the association was/is clearly mentioned in the Constitution of the Association.
I am aware of the fact that the Association has been taking steps for distribution of knowledge through books, speeches, literature etc. It has also been highlighting socio-economic and political problems faced by the minority community. It has been taking part in all democratic exercises of the country from the date of its inception till date.
That I am also aware of the fact that none of the members of the organization or its present acting president has any link or connection with antinational or secessionist activities. No FIRs have been registered against the association, for any antinational or secessionist or any other illegal activities.
That as far as my personal knowledge whatever allegations have been labeled/mentioned in the Background Note and the Notification No. S.O. 1114(E) dated 11th March 2025 are totally irrelevant, unsubstantiated, thus devoid of any merit or substance/material much less sufficient material.
I hereby state that all activities of the Organization have been within constitutional limits/parameters and in conformity with laws of the land. Declaring the organization as unlawful is in violation of constitution and laws of the land. During last more than six decades the organization has been functioning without any objections from the authorities. Labeling the organization unlawful has huge impact on

religious, social and political activities of organization. Further it is submitted that several workers/ members of party were targeted for taking part in these activities and have suffered loss of property at the hands of hooligans and undemocratic elements. Hence this Witness Affidavit."

152. On the directions of this Tribunal, the aforesaid 24 public witnesses have filed their supplementary affidavit stating as follows:-

"1) That I have been associated with Late Molvi Mohammad Abass Ansari (ra), from my childhood as follower (mureed). I have not been member of JKIM. However, as follower of Late Moulvi Abass Ansari, I had associated with organization as a common person. My association with Late Molvi Abass Ansari and after his death with Molvi Masroor Abass Ansari has been in religious affairs as follower/disciple (mureed).

2) *That I had no connection with JKIM or its office bearers, except as mentioned in para 1 of this Affidavit.*

3) *That I have been disciple/follower (mureed) of religious leader Late Molvi Abass Ansari and thereafter his death Molvi Masroor Abass Ansari and have not been involved in activities of JKIM.*

4) *I have been receiving guidance from religious leader Late Molvi Abass Ansari and thereafter from Molvi Masroor Abass Ansari in religious affairs and have been receiving such guidance throughout my life in accordance with Shia sect Islam."*

IX. SUBMISSIONS ON BEHALF OF THE UOI

153. Ms. Aishwarya Bhati, learned ASG of India, appearing on behalf of the Central Government, submitted, at the outset, that the ban imposed by the central government on the instant proscribed association i.e. JKIM is liable to be confirmed for the following reasons:-

(i) The assertions and allegation made by the central government in the 'Background Note' submitted before this Tribunal; the material adduced in support of the said "Background Note" has remained uncontroverted and has not been disproved by the proscribed association;

(ii) The proscribed association in its response to the express charge of indulging into secessionist activities has not made any positive assertion or statement and has not expressly declared that JKIM or its members and office bearers Honour the Constitution of India, do not advocate separation of territory of Kashmir from the UOI or merger of territory of Kashmir with Pakistan or declaration of it as an Independent State;

(iii) There was overwhelming evidence/material with the central government at the time of declaring JKIM as proscribed association under the provisions of UAPA;

(iv) The factum of existence and relevancy of the material on the basis of which central government had declared JKIM as a proscribed association has not been disproved by the proscribed association;

(v) The afore-referred material which was available with the central government has been duly adduced before this Tribunal, on oath;

(vi) The authenticity, veracity, existence and relevancy of the afore-referred material, which is nature of FIRs registered against the members and office bearers of the proscribed association for indulging in secessionist activities in the territory of Kashmir, has been duly testified on oath by the respective competent officers of the various investigating agencies;

(vii) The proscribed association has not been able to disprove the authenticity, veracity, existence and relevancy of respective FIRs which has been relied upon by the Central Government to ban JKIM under the provisions of UAPA;

(viii) Evidence adduced by the proscribed association before this Tribunal in support of non-confirmation of ban cannot be said to outweigh the material/evidence adduced by the Central Government manifesting sufficient cause to declare JKIM as an "Unlawful Association";

(ix) In fact, no cause has been shown by the proscribed association or its members or office bearers as per section 4(3) of UAPA which can be legally adjudicated to decide that there was no sufficient cause for declaring JKIM as an unlawful association.

154. Learned ASG, therefore, argued that for the aforesaid reasons and grounds, the ban imposed on the instant association i.e. JKIM is liable to be confirmed. Besides above, she founded her arguments on the following points:-

i Reasoning given in the Background Note for declaring JKIM as an Unlawful Association

155. It is submitted that elaborate reasons and incidents have been narrated in the background note for declaring JKIM as an Unlawful Association. It is submitted

that prior to issuance of the aforesaid Notification, all the relevant records including information received from J&K investigating agency and the inputs received from intelligence agencies regarding unlawful activities of JKIM were compiled and, thereupon, a note was prepared for the consideration of the Cabinet Committee on Security. It is further submitted that a draft notification was also annexed to the said note and sent to the Cabinet. Thereafter, the Cabinet Committee took the decision and approved the proposal contained in the above note. It is submitted that the background note submitted to this Tribunal in terms of Rule 5 of the Unlawful Activities Prevention Rules 1968, vide letter dated 8th April, 2025 contained the material/information as contained in the note for the Cabinet Committee on Security.

ii. Analysis of the evidence and material on record

A. **Unlawful Activities in the Background note and Evidence against the Organisation**

156. It is stated that the complicity of JKIM cadres in criminal and anti-national activitiesis is evident from the criminal cases that stand registered against them and the secessionist activities are cogently evident from their website content and the provocative speeches of its leaders. Details of few cases registered against the JKIM Chairman/ members provide clinching evidence regarding their involvement in various unlawful activities are given which is as under:

Sr. No.	Name of the Accused	Cases registered before the Ban of JKIM on 11.03.2025
1.	Abbas Ansari (founder of JKIM)	**FIR No. 37/1998 dated 25.02.1998** u/s 132-B of J & K Representotion of People Act, 1957, Section 17 of Criminal Law Amendment Act, and Section 13 of UA(P) Act, 1967
2.	Abbas Ansari	**FIR No. 61/2000 dated 23.06.2000** u/s 153A/120B/ and 121(B) of RPC.

157. It was submitted by the learned ASG that the authenticity, veracity, existence and relevancy of the aforereferred material, which is in the nature of FIRs registered against the members and office bearers of the proscribed organisation for indulging in secessionist activities in the territory of Kashmir and the hatred Speeches/Interviews or anti-national propaganda adopted by the Organisation

through its official website and social media platforms, has been duly testified on oath by the respective competent officers of the Jammu & Kashmir investigating agency and Intelligent inputs received through various sources. The details of the same are annexed as the Evidence Chart of the Prosecution witnesses establishing the same as **Appendix A.**

B. **Admitted Facts by the Proscribed Organisation in their Statements before the Ld. Tribunal**

158. It is submitted that the Organisation through its Chairman and other members have admitted in their reply dated 30.05.2025 and depositions before the Ld. Tribunal that JKIM has been a core member of APHC and Maulana Ansari (the founding chairman of JKIM) was one of the founding member of APHC. It is stated that out of 26 parties that formed the conglomerate of APHC, 12 member organisations have been banned by the Central Organisation vide separate notifications under UAPA which have already been upheld by the respective Tribunals notified from time to time. The main objective of several member organisations joining APHC was to further the separatist approach and to fulfil the agenda of generating hatred and disaffection against India and to severe Jammu & Kashmir from the UOI. Attention was invited to Exhibit P-6 in affidavit produced by PW-03 to show that JKIM strongly believed while associating with APHC that *The Kashmiri leadership have formed a united front, the APHC (Unlawful Association),* which represents the alleged combined political will of the Kashmiri people seeking *a peaceful and negotiated settlement through a tripartite agreement. (Inclusion of Pakistan).* It was further submitted that therefore, it shall be correct to submit that JKIM, originated with the above said ideology and continued to hold the same till its ban on 11.03.2025 by the Central Government should also be banned under UAA for advocating cessionist and secessionist activities in the Kashmir Valley.

159. Further, it was submitted that all the respondent's witnesses have admitted to the political ideology of the Organisation by stating that many of its members including the present Chairman had actively participated in the local level election processes. Moreover, JKIM has admitted to be a constituent member of APHC.

However, it is pertinent to note that APHC when formed, was never a religious organisation. It was further stated that PW-03 vide Exhibit 06 @ Pg 20 of his affidavit had deposed to the effect of the speeches and interview of Maulana Abbas Ansari, the founding chairman of JKIM who believed that religion and politics are inseparable and for a clean politics Islam provides the best teachings. Maulana was among the founder members of the "*State Plebiscite Front"*. It was stated that it was he who vehemently opposed the holding state political convention in 1967-68 and described it as deviation from the path of truth and reminded the participants that real solution to Kashmir Problem is in the right of *self-determination.* Therefore, it is stated, the stand taken by JKIM now in its reply dated 30.05.2025 and the deposition of RW-01 that JKIM has only been a religious Organisation is clearly erroneous and devoid of any merit and an afterthought.

160. It is submitted that the RW-01 and RW-02 in their statements deposed before the Ld. Tribunal have admitted to subscription of around one lakh members of JKIM till the last survey conducted by the Organisation way back in 2014-2015. It was stated that as per the statement of RW-1, no record or data of membership was maintained by JKIM ever since it informally dissolved in 2023. Therefore, it was submitted that such huge number of members of JKIM could be actively involved in number of anti- national activities till date throughout the Kashmir valley and therefore there cannot be a bare denial of no cases being registered against the members of the Organisation. Learned ASG also submitted that instead of controverting and disproving the allegation mentioned in the background note, the Chairman of the proscribed organisation, in its reply dated 30.05.2025 and during his examination before the Ld. Tribunal dated 11.07.2025 at Srinagar had expressly admitted to believe Burhan Wani (a terrorist of Hizbul Mujhahideen) as a *martyr* and stated that though JKIM had been dissolved informally by him in 2023 but he still personifies JKIM till date. It was further stated that the Chairman in his deposition could not refute to incriminating and anti-national speeches delivered by him being uploaded on his website and produced as evidence by the UOI before the Tribunal. He admitted to personally operate and supervise the Social media handle of the Organisation which has around one lakh followers.

161. Further, that the Chairman and other members of the proscribed organisation in their depositions before the Ld. Tribunal in response to the express charge of indulging into secessionist activities have not made any positive assertion or

statement and have not expressly declared that the proscribed organisation i.e. JKIM or its members and office bearers do not advocate for declaration of J & K as an Independent State**. It has been argued that** all of the witnesses on behalf of the association accepted that JKIM being an integral part of APHC which advocated for separatist approach

162. It was submitted that the RW-1 had deposed to the fact the JKIM was a Shia religious organisation before its informal dissolution in 2023. However, the UOI produced clinching evidence through the affidavit of PW-3 wherein the official website of JKIM on the contrary shows that JIKM had always advocated for an 'Independent Kashmir' separate from India and had never advocated for allegiance to the Constitution of India. It was stated that PW- 3 in his Affidavit vide Exhibit – P6 had produced before the Ld. Tribunal the BASIC PRINCIPLES OF JKIM which read as under:

> *"i. Religion and politics are inseparable and for clean politics islam provides the best teachings.*
>
> ii. Definite goal of JKIM is a *strong and united Muslim community as we believe that freedom requires unity of all masses* and a support of all classes. We have made it a main purpose of our struggle to bring Muslims on a single platform.
>
> *iii. The freedom struggle of the State of Jammu and Kashmir* is a religion-based peaceful and non-violent national liberation struggle. By describing it a non- religious or secular movement or any type of communal agitation means ...sentiments of the majority of the State. *Our party considers the freedom struggle in the Stateas people's struggle for freedom against the foreign occupants* and in contravention of international principles. *That the people of the state only, as sole masters of their motherland are competent to determine the future status of the state*. "

163. Learned ASG inviting attention to the evidence adduced by the association submitted that the admissions made by the witnesses produced by the association prove the secessionist and cessionist ideology of the banned assocation. A chart to the same effect has been annexed with the written submission. The same is reproduced as under:

Sl. No.	Name of Defense Witness	Statement deposed
1.	RW-1 Masoor Abbass Ansari, President JKIM	1. The Witness stated that the News of JKIM being banned was disseminated to its workers/ members through word of mouth and Social Media. ***(Page 26)*** 2. The Witness admitted that JKIM has a page on Facebook and a Channel on YouTube ***(Page 27)*** 3. The Witness asserted that Burhan Wani, was a martyr ***(Page 27)*** 4. The Witness stated that a survey was conducted sometimes in 2014-2015 in which it transpired that there may have been 1 lakh members of JKIM. JKIM is not statutorily registered under the Societies Registration Act or under any other statute. (Vol.) It is a religious organisation. 5. The Witness first stated that he had never been to Pakistan and then volunteered a completely contrary assertion, stating that he had family in Pakistan and had previously visited Pakistan. ***(Page 28)*** 6. **JKIM was a part of APHC.** 7. **The Witness personifies JKIM**
2.	RW-2 Master Ghulam Hassan Ganai Elected General Secretary of the Association from 2015 to 2018	1. The Witness Stated that JKIM was part of APHC ***(Page 30)*** 2. The Witness Stated that I ceased to be a member of JKIM after 2018. I do not know whether JKIM remained active after 2018. I am not aware whether JKIM had any links with any external agencies or countries after 2018. ***(Page 30)*** 3. The Witness Stated that I cannot say whether Burhan Wani was a martyr or not. (***Page 30)*** 4. The Witness could not state whether JKIM has any relations with foreign states post 2018 ***(Page 30)***
3.	RW-3 Syed Muzaffar Rizvi Currently, Vice President of Political Party, "Apni Party" Elected Secretary of the Assocationfrom	1. The Witness served as Secretary of JKIM from 2000 to 2023 and he was handpicked for this role by the Late Moulvi in recognition of his abilities ***(Page 32)*** 2. The Witness stated that he resigned from JKIM to join mainstream politics in (Apni Party).***(Page 32)***

	2000 to 2023.	3. The Witness stated that the Social Media Activities during his tenure as secretary, were being directly handled by the President of the Organisation. ***(Page 33)*** 4. The Witness stated that while he was familiar with such social media posts and would check the posts for discrepancies in language, the uploading of such posts was done directly by the President ***(Page 33)*** 5. Till September 2023, there was no You-Tube channel of JKIM. ***(Page 33)*** 6. The Witness stated that his only point of ideological difference with the Late Moulvi, was as regards the association of JKIM with APHC. ***(Page 33)*** 7. The Witness refused to agree with the suggestion that Burhan Wani is a Terrorist ***(Page 33)*** 8. I am not aware about the membership of JKIM as on date. (Vol.) When I was a member of JKIM, membership of JKIM comprised of several lakhs of members/followers. ***(Page 34)***
4.	RW4- Haji Mohammad Shafi Ganai Elected President of JKIM from 206 to 2008	1. Witness deposed that while he was president of association from 2006 to 2008 there was no social media presence. ***(Page 35)*** 2. JKIM was part of APHC ***(Page 36)*** 3. APHC was a platform having a mix of religious and political organisations. ***(Page 36)***

164. It was stated that the opportunity to lead material has been misused by the organisation. The organisation has instead used the said opportunity, by using the forum of present Tribunal, to conduct a *mini trial*. It was submitted that the cross-examination of the public witnesses was not done to refute the authenticity and the veracity of the FIRs filed by the Investigating agency but only an unwarranted attempt to take the Tribunal to look into the merits of the case which is not under the jurisdiction and domain of proceedings before this Tribunal.

165. It was submitted that therefore, none of these individuals has provided any details of their association with or knowledge of JKIM and no material has been placed by these individuals in respect of the judicial threshold required to be met in

order to adjudicate the present matter under Section 4(1) UAPA. It was stated that in view of the lack of any locus, the suspicious nature of the affidavits in being identically worded and notarized by the same notary public on the same day, and being entirely vague and irrelevant in the statements made therein, the 24 affidavits submitted by members of the public do not deserve any consideration by this Tribunal and ought to be disregarded in its entirety.

C. <u>Material not refuted by the Organisation in Defense</u>

166. Learned ASG stated that that there was overwhelming evidence/material with the Central government at the time of declaring JKIM as proscribed organisation under the provisions of UAPA; the material adduced as evidence by PW-3 in his Affidavit and deposition on oath before the Ld. Tribunal forms *inter-alia* a part on the basis of which Central government had declared JKIM as Proscribed organisation which could not be repelled or controverted by the proscribed organisation in rebuttal. A chart has been enclosed with the written submission of UOI as Appendix B being the extracts from the affidavit of PW-03, which as per the UOI is relevant and cogent material to show that JKIM since its inception till the date of banning by the Central Government has been engaged in unlawful activities in the Kashmir Valley. The same is reproduced as under:

Sl. No.	**Name of Police Officer & Police Station**	**Particulars**
1.	**PW-3** – LIYAQAT ALI, INSPECTOR, CID, SRINAGAR	**1. SPEECHES AND INTERVIEW** **A. EXHIBIT P2 – @Pg. 8** i) Video 1 – Plebiscite was favored in the video ii) Video 2 – Kashmir neither remains with India nor Pakistan. iii) Video 3 – GeoTv (Pakistan Channel) Interview – Kashmiris of both sides i.e. J&K and POK need to co-ordinate and don't need to

		follow the road maps of India or Pakistan. iv) Video 4 – On Abrogation of Art. 370 – India had promised the Right of Plebiscite and until it is not realized the "*RESISTANCE MOVEMENT*" will continue. **B.EXHIBIT P4 - @Pg. 10** i) The people of Kashmir are "*MAZLOOMS*". ii) "YAHAN KYA CHALAYGA NIZAME MUSTAFA" – meaning <u>THE LAND WILL ONLY BE RULED UNDER SHARIA LAW.</u> iii) Praising the Kashmiri militants as martyrs of the freedom struggle. iv) Burhan Wani was a martyr v) Not to succumb before the oppressors (Government) even if his head is removed from his shoulders. vi) Told the public that they are ready to die for Islam and Freedom. vii)The mothers have raised their sons like Lions who do not surrender but prefer martyrdom. viii) The chairman of JKIM wants to replicate the model

		adopted by Ayatullah Khomeni to forward the cause of freedom struggle. @Pg. 13 **2. EXHIBIT P5 - @PG. 14 (BBC INTERVIEW OF ABBAS ANSARI (founding chairman of JKIM as Hurriyat Chief)** i. Pg. 16 – When asked by the interviewer about Ansari levelling charges of electoral malpractices. Had he participated, didn't he think that his support would have been known worldwide? □ To which he answered that it would have *been hypocritical on his part that on one hand he would had accepted an Oath declaring Kashmir as an integral part of India and on the other hand they are fighting for it's independence*. They represent the wishes of the people and *they would only participate if when candidates are not required to sign an oath in this regard*. They do not adopt a dual policy on this matter and they are clear on this issue. ii. A listener from Jaipur posed a question to Ansari that he is talking about the independence of Kashmir from India, "why don't you demand independence of Kashmir which is under the control of

		Pakistan?" @Pg.16 □ To which Ansari responded, that is what he is saying that Indian Kashmir is referred to as heaven on earth, so is the *INDEPENDENT KASHMIR*. **3. BASIC PRINCIPLES OF JKIM** **A. EXHIBIT – P6 @Pg. 18** ***i.*** *Religion and politics are inseparable and for clean politics islam provides the best teachings.* ***ii.*** Definite goal of JKIM is a *strong and united Muslim community as we believe that freedom requires unity of all masses* and a support of all classes. We have made it a main purpose of our struggle to bring Muslims on a single platform. ***iii.*** *The freedom struggle of the State of Jammu and Kashmir* is a religion-based peaceful and non- violent national liberation struggle. By describing it a non- religious or secular movement or any type of communal agitation means ...sentiments of the majority of the State. *Our party considers the freedom struggle in the State as people's struggle for freedom against the foreign occupants* and in contravention of international principles.

		v. That the people of the state only, as sole masters of their motherland are competent to determine the future status of the state. But the govt. of India and Pakistan, even without having any locus stand in the matter of determining the future status of the state, do in view of the geo-political realities prevailing, practically emerge as parties involved and effected by the problem and thereby their concurrence becomes necessary for a practical, peaceful and lasting political settlement of the future status of the state. *In no case however can the J&K problem are deemed to be a border dispute between the two or more countries of this region. The interpretation of "azaadi" is that the forcible occupation of the State is to be resisted by the people of all the five units of the State by organizing civil disobedience movement and demonstration of public power based* on the principle of non-violence and through democratic process. *The State is to be liberated from occupational forces and a society based on the concept of peoples power is to be established* in which (a) every man and woman will have the freedom to pursue his or her economic, religious and political beliefs (b) the governing system will be based on the principles of democratic justice

		and religious harmony and tolerance (c) the state will be responsible for providing the people their basic needs, education, sustenance and medical facilities (d) no person belonging to the State will be forcibly deprived of his right to life and residence on the basis of his religious beliefs, ethnicity, caste, creed or language. vi. Patriotism means faithfulness towards one's country, towards its people, towards the history and culture of the community and safety and security of its borders and preservation of its sovereignty. *Anybody or any party rejecting the internationally accepted interpretation of patriotism is not a patriot from our party's point of view.* **4. (FREEDOM STRUGGLE) EXHIBIT – P6 @Pg. 19** ***i.****The freedom struggle of Kashmir involves the principle of the right of self-determination. They want to be free of military occupation and to decide their future by a democratic vote, impartially supervised (Third party intervention).* *ii. According to them India pursues a policy of terror and the Kashmiri people and their leadership hopes for*

		peace. *iii. The Kashmiri leadership have formed a united front, the APHC (Unlawful Association),* which represents the combined political will of the Kashmiri people seeking *a peaceful and negotiated settlement through a tripartite agreement. (Inclusion of Pakistan).* iv. The solution of Kashmir is urgent and vital. It has far more populous and strategic area than other trouble spots in the world. *The arson and mass human rights violations by the Indian occupation forces are no less humiliating in Kashmir that in Bosnia. The torture and imprisonment in India-occupied Kashmir is no less intense as it is in Burma. The pain, suffering and humiliation in Kashmir is intensified because the people of Kashmir have been under Indian Occupation for nearly half a century.* **5. (LEADER PROFILE)** **EXHIBIT – P6 @ Pg. 20** i. It states that the people (Kashmiris) are being hunted, hounded and humiliated in their own land by the Indian security forces, Indiscriminate killings, Torture, Rape, Molestation, Plunder, Arson, Custodial killings besides illegal and unlawful arrests, have become the order of the day over since January 1990 when people of

		Kashmir started an open revolt against India to press their demand for the achievement of the right of self-determination. ii. The Indian occupation continues and Indian authorities continue to brutalize the people of Jammu & Kashmir. iii. JKIM also worked for the political, Social and economic welfare of the Muslims and demanded a UN supervised plebiscite in Kashmir. iv. Maulana Abbas believes that religion and politics are inseparable and for a clean politics Islam provides the best teachings. v. Maulana was among the founder members of the "State Plebiscite Front". It was he who vehemently opposed the holding state political convention in 1967- 68 and described it as deviation from the path of truth and reminded the participants that real solution to Kashmir Problem is in the right of self-determination. State political convention was called at Mujahid Manzil, Srinagar to deliberate the future of Jammu & Kashmir. *vi. Abbas Ansari led many public gatherings in which he promoted Anti-India sentiment in the people and*

		encouraged the armed terrorists. vii. Abbas Ansari established Muslim United Front (MUF) with a clear stance that Kashmir was occupied by *fraud and brute force and its people were yet to exercise their right to self-determination*. viii. Abbas Ansari held a press conference in Srinagar in which he said *that the State of J&K is disputed territory and has been occupied by force and they are fighting against alien domination.* ix. According to Abbas Ansari he was fighting for the *Independence Movement* of Kashmir. x. After the Kargil War in September,1999 Ansari with other leaders of APHC were arrested and sent to prison. They were released after 8 months, following which *Ansari visited various countries like U.K., Iran and Saudi Arabia in attempt to garner support for his stand on the Kashmir issue as to repression caused by the Indian security forces and the struggles of the people of Kashmir*. xi. Ansari met erstwhile President of Pakistan, Musharraf when he visited India to discuss the Kashmir issue despite strong objections from the UOI.

		6. CALENDAR **EXHIBIT – P6 @Pg. 21&22** **i. 19th March– Martyrdom Anniversary of Shabir Siddique-** **Shabir Siddique was a leader of a faction of JKLF who was neutralized by the Indian Army in an operation conducted at the Headquarters of the faction after the militants led by Siddique opened fired at the forces when asked to surrender**. This date as per the Calendar issued by JKIM has been marked to observe full day mourning in support of this person. **Same date –** **Martyrdom of S Hameed of People League** S. Hameed was another militant for whom JKIM observes mourning on the said date for the full day. **ii. 23rd March – PAKISTAN DAY** As the date suggests this date is marked in the calendar issued by JKIM for celebrating PAKISTAN DAY. **iii. 30th March – Martyrdom of Ishfaq Majeed** **Ishfaq Majeed @ Ashfaq Majeed Wani** was the First Commander-in-Chief of JKLF who was involved in the kidnapping of Rubiya Sayed daughter of late Mufti

		Mohammed Sayeed the then Home Minister of India. This date has been marked as martyrdom day of this militant in calendar issue by JKIM. It is pertinent to note that Yaseen Malik succeeded him after he was killed in the encounter. iv. 26th January- INDIAN REPUBLIC DAY (BLACKDAY) **iv. 27th October – INDIAN INVASION OF KASHMIR (BLACK DAY)** On this date, Indian Army landed in Kashmir to secure the borders and fight the Pashtuns who were invading the territories of Jammu & Kashmir. This date has been marked as Black Day in the calendar issued by JKIM.

167. It is submitted that no substantive or concrete material/ evidence has been adduced by the proscribed organisation before this Tribunal to rebut the clinching evidences produced by the UOI and to support their case of non-confirmation of ban which can be said to outweigh the material/evidence adduced by the Central Government manifesting sufficient cause to declare JKIM as unlawful association.

168. It was hence submitted that for the aforesaid reasons and grounds; the ban imposed on the instant association i.e. JKIM is liable to be confirmed.

D. Intelligence Reports Produced before the Ld. Tribunal in Sealed Cover

169. It was stated that the sealed cover documents produced as Exhibit PW-4/4 before the Ld Tribunal establishes the fact that JKIM through its Chairman and other members have been indulging in radicalizing and brainwashing the minds, indoctrinating the people of Jammu & Kashmir through provocative speeches for separation of J & K from UOI; the inputs received from various intel reports will prove that the stand of JKIM has always been secessionist since inception and continues to carry forward its anti-India ideology through its varied activities

throughout all these years in the valley of Kashmir; the Intel report will further establish that JKIM has always been advocating for the establishment of 'Independent Kashmir" which has also been established through the deposition of its chairman and other members before the Ld. Tribunal.

170. It was also submitted that the witness of the Central Government authorized to depose on behalf of the Ministry of Home Affairs i.e. PW-4 who notified the banning of the said Organisation is a competent officer who has been involved in the drafting of the said notification no. SO 1114(E) dated 11.03.2025 based on the various Intel inputs received to the Central Government from time to time and was personally involved in the making and movement of the draft notification and background note for the Cabinet Security meeting on the said issue.

iii. The Relevance of the Public Witnesses who are not part of the Proscribed Organisation.

171. It was stated that this Tribunal vide order dated 01.07.2025 directed the issuance of a public notice calling upon persons interested/ willing to participate in the inquiry, to file their affidavits with the Registrar of this Tribunal before the next date of hearing held in Srinagar on 11.07.2025. It was submitted that the above direction called upon interested / willing persons to participate in the inquiry being held by this Tribunal by way of the present reference under Section 4(1), UAPA. Reliance was made on Section 4 (1) of UAPA, which reads as under:-

> *"4. Reference to Tribunal – (1) Where any association has been declared unlawful by a notification issued under sub-section (1) of section 3, the Central Government shall, within thirty days from the date of the publication of the notification under the said sub-section, refer the notification to the Tribunal for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful."*

172. Relying upon Section 4(1) of UAPA Act, it was submitted that the scope of inquiry before this Tribunal under the above provision is only to adjudicate whether there is 'sufficient cause' for declaring JKIM an unlawful association under Section 3 UAPA.

173. It was stated that in furtherance of order dated 01.07.2025, 24 individuals had filed affidavits in support of the association before this Tribunal but none of these 24 individuals is a member of the association or has provided any other

details of their association / affiliation with JKIM; all 24 affidavits are identical in their content, are notarized by the same notary public on the same day, i.e. 09.07.2025 and appear to be planted testimonies which merely give vague statements in support of the association. It was further stated that the affidavits are entirely bereft of any personal details of the individuals themselves and do not explain the locus of these individuals in filing affidavits in support of the association.

174. It was submitted that the assertions and averments of 24 pubic witnesses even otherwise specifically states that they are not and had never been members of the association. It was submitted that in that view of the matter, their knowledge of the functioning and ideology of the Association can at best be a truncated outside view bereft of any comprehensive knowledge and the affinity and motive of so called public witnesses also has not been established before this tribunal and therefore, their affidavits have no relevance to the determination of sufficient cause as to the unlawful activity of the Organisation. A table enumerating these public witnesses has been enclosed with the written submission as Appendix C which is reproduced as under:

"**PUBLIC WITNESSES**

S. NO	NAME	**FACTS STATED**

1.	Mohammad Akbar Dar	Being one of the well-wisher and having faith in Shia Sect of Islam and having affiliation with the said Organisation (Para 1 @pg 1). That I am also aware of the fact that none of the members of the organisation or its present acting president has any link or connection with antinational or secessionist activities. No FIRs have been registered against the association, for any antinational or secessionist or any other illegal activities. (Para 3 @pg1).

2.	ZawarMohd. Yusuf Sofi	----------do----------
3.	Ghulam Hassan Sofi	----------do----------
4.	Hakim Mohd. Yousuf	----------do----------
5.	Zahid Hussain Khwaja	----------do----------
6.	Hakim Mohd.Maqbood	----------do----------
7.	Nasir Ali Dar	----------do----------
8.	Ishfaq Hussain Parray	----------do----------
9.	Haji Mohd. Ameen Ashraf	----------do----------
10.	Mohammad Yousuf Dar	----------do----------
11.	Ghulam Mohd. Joo	----------do----------
12.	Inaam Hussain	
13.	Haji Ghulam	----------do----------

	MohuddinSofi	----------
14.	Mohd. MohsinSofi	----------do----------
15.	Mohammad AbassParray	----------do----------
16.	Amjad Ali Malik	----------do----------
17.	Mohammad Qasim Dar	----------do----------
18.	Ghulam Mustafa Bhat	----------do----------
19.	Ali Mohammad Malik	----------do----------
20.	Shabir Hussain Dar	----------do----------
21.	Ghulam Hassan Dar **(different name on notarised stamp)**	----------do----------
22.	Mudasir Ahmad Sofi	----------do----------
23.	Hakim Masood Ul Hassan	----------do----------
24.	Shabeer Hussain Bhat	----------do----------

iv. The Definition of Unlawful Activity under UAPA

175. Relying upon the definition of 'Unlawful Activity' given under the UAPA, it was submitted that the objection behind the enactment of UAPA is as under:

> *"An Act to provide for the more effective prevention of certain unlawful activities of individuals and associations, [and for dealing with terrorist activities,] and for matters connected therewith."*

176. It was submitted that the provisions of the aforesaid Act came for consideration before the Hon'ble Supreme Court in ***Arup Bhuyan v. State of Assam, (2023) 8 SCC 745*** wherein the Supreme Court held as under:

> ***"86. Now let us consider the Preamble to the UAPA, 1967. As per Preamble, the UAPA has been enacted to provide for the more effective prevention of certain unlawful activities of individuals and associations and dealing with terrorist activities and for matters connected therewith. Therefore the aim and object of enactment of the UAPA is also to provide for more effective prevention of certain unlawful activities. That is why and to achieve the said object and purpose of effective prevention of certain unlawful activities Parliament in its wisdom has provided that where an association is declared unlawful by a notification issued under Section 3,*** *a person, who is and continues to be a member of such association shall be punishable with imprisonment for a term which may extend to 2 years, and shall also be liable to fine. Therefore, Parliament in its wisdom had thought it fit that once an association is declared unlawful after following due procedure as required under Section 3 and subject to the approval by the Tribunal still a person continues to be a member of such association is liable to be punished/penalise."*
>
> **(Emphasis Supplied)**

177. Reliance was placed on the following definitions/provisions as contemplated under UAPA:

> *"Definitions.—(1) In this Act, unless the context otherwise requires,—*
> *(a) "association" means any combination or body of individuals;*
> *(b)* ***"cession*** *of a part of the territory of India" includes admission of the claim of any foreign country to any such part; xxx*
>
> *xxx xxx*
>
> ***(i) "secession*** *of a part of the territory of India from the Union" includes the assertion of any claim to determine whether such part will remain a part of the territory of India;*
>
> *xxx xxx xxx*
>
> *(o)* ***"unlawful activity****", in relation to an individual or association, means any action taken by such individual or association (whether by committing*

an act or by words, either spoken or written, or by signs or by visible representation or otherwise),—

(i) which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or secession; or

(ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India; or

(iii) which causes or is intended to cause disaffection against India;

*(p) **"unlawful association**" means any association,— (i) which has for its object any unlawful activity, or which encourages or aidspersons to undertake any unlawful activity, or of which the members undertake such activity; or*

(ii) which has for its object any activity which is punishable under section 153A (45 of 1860) or section 153B of the Indian Penal Code, or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity:

*Provided that nothing contained in sub-clause (ii) shall apply to the State of Jammu and Kashmir; **

xxx xxx xxx

*3. **Declaration of an association as unlawful**. — (1) If the Central Government is of opinion that any association is, or has become, an unlawful association, it may, by notification in the Official Gazette, declare such association to be unlawful.*

(2) Every such notification shall specify the grounds on which it is issued and such other particulars as the Central Government may consider necessary: Provided that nothing in this sub-section shall require the Central Government to disclose any fact which it considers to be against the public interest to disclose.

(3) No such notification shall have effect until the Tribunal has, by an order made under section 4, confirmed the declaration made therein and the order is published in the Official Gazette:

Provided that if the Central Government is of opinion that circumstances exist which render it necessary for that Government to declare an association to be unlawful with immediate effect, it may, for reasons to be stated in writing, direct that the notification shall,subject to any order that may be made under section 4, have effect from the date of its publication in the Official Gazette……"

178. Relying upon the aforesaid provisions, it was submitted that the declaration of an association to be 'unlawful' by the Central Government under Section 3 of the said Act is after forming of the opinion that the said association is, or has become

unlawful. Such a declaration can be issued in respect of an association which is already unlawful or in respect of an association which, initially being lawful, has become unlawful. It was further stated that the definition of an 'unlawful association' in section 2(1)(p) of the UAPA is in two parts *viz.* an association being involved in 'unlawful activity' and / or an association involved in activity / offences punishable under section 153A or section 153B of the IPC. It was stated that the provisions of the Central legislation UAPA had now been made applicable in toto to the UT of J & K vide Jammu and Kashmir Reorganisation (Removal of Difficulties) Order, 2019 dated 30.10.2019 which is reproduced as under:

> *"2. Removal of difficulties.—The difficulties arising in giving effect to the provisions of the principal Act have been removed in the following manner, namely: -*
> *(1) The Judges of the High Court of Jammu and Kashmir for the existing State of Jammu and Kashmir holding office immediately before the appointed day shall be deemed to have been appointed under article 217 of the Constitution and they shall be deemed to have taken oath or affirmation under article 219 of the Constitution and shall continue to function as Judges of common High Court of the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh from the appointed day.*
> .....
> *(5) All those Central laws, Ordinance and rules which are applicable to the whole of India except the existing State of Jammu and Kashmir immediately before the appointed day, shall now be applicable to the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh in addition to the Central laws specified in TABLE -1 of the of Fifth Schedule to the principal Act;*
> …. "

179. It was submitted that the association for the purposes of UAPA can be termed as 'unlawful association' in case either of the situations comprises of three categories i.e.

a. where the association has for its object any such unlawful activities,
b. or the association encourages or aids persons to undertake any of such unlawful activities or
c. where the members of such association undertake such unlawful activities.

And, if the activities of any association fall in any of these three categories, such an association will be liable to be declared as an unlawful association.

180. It was submitted that the 'activity' by an unlawful association can be termed as 'unlawful' as defined under Section 2(1)(o) if either of the ingredients under the given definition meets the objective satisfaction of the Tribunal. The use of the word 'or' makes it explicit that the intention of the legislature is that if an individual or association who commits any act by word either spoken or written or by sign or visible representation, any of such acts is sufficient to bring that activity within the sphere of unlawful activity. It was submitted that the Ld. Tribunal presided by Hon'ble Justice Dinesh Kumar Sharma in the matter of declaring Popular Front of India (PF) as unlawful Association vide its judgment dated 21st March, 2023 held that *"The concept of 'sovereignty', 'territorial integrity' of a country and 'dissatisfaction' are very subjective terms."*. Reliance is placed on para 336-337 of said judgment**.**

v. Nature of proceedings and standard of proof before the UAPA Tribunal for declaring as association as unlawful

181. In this regard, it was submitted that the standard of proof in civil and criminal proceedings is entirely different, i.e., of the preponderance of the probability and proof beyond reasonable doubt, respectively. Reference can be made to the case of ***Iqbal Singh Marwah vs. Meenakshi Marwah, (2005) 4 SCC 370***, wherein it was *inter alia* held as under:-

> "*32. Coming to the last contention that an effort should be made to avoid conflict of findings between the civil and criminal Courts, it is necessary to point out that the standard of proof required in the two proceedings are entirely different. Civil cases are decided on the basis of preponderance of evidence while in a criminal case the entire burden lies on the prosecution and proof beyond reasonable doubt has to be given. There is neither any statutory provision nor any legal principle that the findings recorded in one proceeding may be treated as final or binding in the other, as both the cases have to be decided on the basis of the evidence adduced therein*."

182. The nature of the present proceedings and the scope of inquiry in the present proceedings have been laid down by the Hon'ble Supreme Court in ***Jamaat-e-Islami Hind (Supra)*** in the specific context of the provisions of the UAPA.

183. It was further submitted that the Supreme Court emphasized that Section 4 (1) uses the expression "*for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful*". Reference was made to Section 4 (2) which requires issue of notice in writing to show cause to the association and sub-section (3) which mandates inquiry in the manner specified in Section 9 after calling for such information as may be necessary from Central Government or from office bearers or members of the association. The Tribunal under Section 4(3) is required to adjudicate and make an order, as it may deem fit, either confirming the declaration made in the notification or cancelling the same. After interpreting the said provisions of the Act, it was held by the Hon'ble Supreme Court in ***Jamaat-e-Islami Hind (Supra)*** as under:-

> *"11.... The entire procedure contemplates an objective determination made on the basis of material placed before the Hon'ble Tribunal by the two sides; and the inquiry is in the nature of adjudication of a lis between two parties, the outcome of which depends on the weight of the material produced by them. Credibility of the material should, ordinarily, be capable of objective assessment. The decision to be made by the Hon'ble Tribunal is "whether or not there is sufficient cause for declaring the Association unlawful". Such a determination requires the Hon'ble Tribunal to reach the conclusion that the material to support the declaration outweighs the material against it and the additional weight to support the declaration is sufficient to sustain it. The test of greater probability appears to be the pragmatic test application in the context*."

184. It was submitted by Learned ASG that the aforesaid ratio was affirmed after making reference to Section 5, which stipulates that the Tribunal shall be headed by a Judge of the High Court and proceedings will be deemed to be judicial proceedings and the Tribunal shall be deemed to be a civil court for the purpose specified. It was accordingly held that the opinion given by the Tribunal under Section 5 has binding effect and has been given a characteristic of judicial determination as distinguished from an opinion of an Advisory Board under the preventive detention laws. Section 4 of the Act requires issue of notice by giving opportunity to show cause to the association. Accordingly, the Supreme Court held that the objective findings by the Tribunal must be based upon materials required to support the judicial determination. It was submitted that while deciding the reference, the Tribunal does

not act or exercise power of judicial review under Article 226 of the Constitution of India on whether or not declaration under Section 3(1) should have been made but goes into the factual existence of the grounds by objective determination of the *lis* between the Government and the association.

185. Learned ASG pointed out that after referring to the nature of evidence and the procedure which a Tribunal should adopt it was held by the Supreme Court that the minimum requirements of natural justice must be satisfied to ensure that there is meaningful adjudication. However, the requirements of natural justice have to be tailored to safeguard public interest which must outweigh every lesser interest. In this connection, reference was made to Section 3 (2) of the Act and Rule 3 (2) and proviso to Rule 5 of UAP Rules for withholding/non-disclosure of facts which the Central Government considers against public interest, and non-disclosure of confidential documents and information which the Government considers against public interest to disclose.

186. On the question of nature and type of evidence, which can be relied upon by the Tribunal, the Supreme Court referred to Rule 3(1) which stipulates that the Tribunal subject to sub-rule (2) shall follow, as far as practicable, the rules of evidence laid down in Indian Evidence Act. Therefore, the rules of evidence as far as practicable as laid down in the Evidence Act, should be followed. In this regard, reference was made by the Learned ASG to the following observations in ***Jamaat-e-Islami Hind (Supra)***:-

> *"22. ... The materials need not be confined only to legal evidence in the strict sense. Such a procedure would ensure that the decision of the Hon'ble Tribunal is an adjudication made on the points in controversy after assessing the credibility of the material it has chosen to accept, without abdicating its function by merely acting on the* ipse dixit *of the Central Government. Such a course would satisfy the minimum requirement of natural justice tailored to suit the circumstances of each case, while protecting the rights of the association and its members, without jeopardizing the public interest. This would also ensure that the process of adjudication is not denuded to its content and the decision ultimately rendered by the Hon'ble Tribunal is reached by it on all points in controversy after adjudication and not by mere acceptance of the opinion already formed by the Central Government.*

23. In John J. Morrisey and G. Donald Booher v. Lou B. Brewer, the United States Supreme Court, in a case of parole revocation, indicated the minimum requirements to be followed, as under:

> *"Our task is limited to deciding the minimum requirements of due process. They include (a) written notice of the claimed violations of parole; (b) disclosure to the parolee of evidence against him; (c) opportunity to be heard in person and to present witnesses and documentary evidence; (d) the right to confront and cross-examine adverse witnesses (Unless the hearing officer specifically finds good cause for not allowing confrontation); (e) a 'neutral and detached' hearing body such as a traditional parole board, members of which need not be judicial officers or lawyers; and (f) a written statement by the fact finders as to the evidence relied on and reasons for revoking parole. We emphasize there is no thought to equate this second stage of parole revocation to a criminal prosecution in any sense. It is anarrow inquiry; the process should be flexible enough to consider evidence including letters, affidavits, and other material that would not be admissible in n adversary criminal trial".*

24. xxxxx xxxxx xxxxx xxxxx

25. xxxx xxxxx xxxxx xxxxx

26…..The provision for adjudication by judicial scrutiny, after a show-cause notice of existence of sufficient cause to justify the declaration must necessarily imply and import into the inquiry, the minimum requirement of natural justice to ensure that the decision of the Hon'ble Tribunal is its own opinion, formed on the entire available material, and not a mere imprimatur of the Hon'ble Tribunal affixed to the opinion of the Central Government. Judicial scrutiny implies a fair procedure to prevent the vitiating element of arbitrariness. What is the fair procedure in a given case, would depend on the materials constituting the factual foundation of the notification and the manner in which the Hon'ble Tribunal can assess its true worth. ***This has to be determined by the Hon'ble Tribunal keeping in view the nature of its scrutiny, the minimum requirement of natural justice, the fact that the materials in such matters are not confined to legal evidence in the strict, sense, and that the scrutiny is not a criminal trial.*** *The Hon'ble Tribunal should form its opinion on all the points in controversy after assessing for itself the credibility of the material relating to it, even though it may not be disclosed to the association, if the public interest so requires."*

(Emphasis Supplied)

187. Learned ASG submitted that a reading of Section 9 of the Act read with Section 3(1) of the Unlawful Activities (Prevention) Act, 1967 makes it clear that the Tribunal shall follow the procedure laid down in the Code of Civil Procedure

for investigations of the claims before it and that the opinion formed by the Tribunal will be governed by the principles applicable to Civil Law and accordingly, the principles of preponderance of probabilities apply and not proof beyond reasonable doubt.

188. By referring to the decision of the Supreme Court in ***Jamaat-e-Islami Hind (Supra)***, learned ASG submitted that the Supreme Court has observed that the test of greater probability as given below will apply:-

i) the proceedings before the Tribunal are in the nature of a *lis* between two parties;

ii) the proceedings are governed by the Code of Civil Procedure and the principles are applicable to civil cases;

iii) the Tribunal is to adopt a procedure conforming to minimum requirement of natural justice;

iv) the Tribunal shall follow, as far as practicable, the rules laid down in the Evidence Act. However, the material need not be confined to legal evidence in strict sense.

189. It was further submitted by learned ASG that the ingredients of 'unlawful activity' as defined under Section 2(o) of the said Act requires the objective consideration of the Tribunal to reach at the conclusion of declaring an association as "unlawful' under the UAPA Act. Reference was again made to the Supreme Court decision in ***Jamaat-e-Islami Hind (Supra)*** to the following effect:-

> ***"9.*** *Clauses (f) and (g) of Section 2 contain definitions of "unlawful activity" and "unlawful association" respectively. An "unlawfulactivity", defined in clause (f), means "any action taken" of the kind specified therein and having the consequence mentioned. In other words, "any action taken" by such individual or association constituting an "unlawful activity" must have the potential specified in the definition. Determination of these facts constitutes the foundation for declaring an association to be unlawful under sub- section (1) of Section 3 of the Act. Clause (g) defines "unlawful association" with reference to "unlawful activity" in sub-clause (i) thereof, and in sub-clause (ii) the reference is to the offences punishable under Section 153-A or Section 153-B of the Penal*

Code, 1860. In sub-clause (ii), the objective determination is with reference to the offences punishable under Section 153-A or Section 153-B of the IPC while in sub-clause (i) it is with reference to "unlawful activity" as defined in clause (f). ***These definitions make it clear that the determination of the question whether any association is, or has become, an unlawful association to justify such declaration under sub-section (1) of Section 3 must be based on an objective decision; and the determination should be that "any action taken" by such association constitutes an "unlawful activity" which is the object of the association or the object is any activity punishable under Section 153-A or Section 153-B IPC. It is only on the conclusion so reached in an objective determination that a declaration can be made by the Central Government under sub-section (1) of Section 3."***

190. It was further submitted by the learned ASG that the Tribunals constituted under the UAPA, 1967 for the declaration of several organisations as unlawful association have decided over the nature of proceedings and admissibility of statements under Section 161 CrPC under the Evidence Act and are mentioned as under:-

A. Paragraph Nos.24 to 65 of Judgment (Report) of Hon'ble Justice Sanjiv Khanna in SIMI Matter are relevant. *(Internal Page Nos. 08 to 18);*

B. Paragraph No.336 of Judgments of Hon'ble Justice Sanjiv Khanna is relevant;

C. Paragraph Nos.7.1 (Part-VII Legal issues) to 7.30 (internal page Nos. 42 to 55) of Judgment (Report) of Hon'ble Justice Mukta Gupta in SIMI Matter;

D. Paragraph Nos.271 to 325 (internal page nos 64 to 83) of Judgment of Hon'ble Justice Dinesh Kumar Sharma in PFI MATTER. (paragraph Nos.285, 288, 312, 313 & 315 are more relevant).

191. Accordingly, it was submitted that the decision of the Central Government to declare JKIM as 'unlawful association' is entirely on the documentary evidences and testimonies of the witnesses/protected witnesses filed during the course of investigation by different Investigating Agencies as stated in the above paragraphs.

vii. Claim of privilege for producing documents in sealed cover

192. Sh. Atul Kumar Shahi (PW-4), Commandant (CT) (Counter Terrorism CR) Division, MHA was examined on behalf of the UOI on 28.07.2025. Besides his examination and cross-examination conducted by learned counsel for the association, this witness had produced original files containing the central intelligence reports/inputs in a sealed cover for the perusal of this Tribunal.

193. Learned ASG for the UOI, while arguing for claiming privilege for producing documents in sealed cover, had referred to Section 123 of the Evidence Act/ Section 129 of the Bhartiya Sakshya Adhiniyam, 2023 read with Section 3(2) of the UAP Rules, 1968, which are reproduced as under:-

INDIAN EVIDENCE ACT, 1872

"123. Evidence as to affairs of State – No one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, except with the permission of the officer at the head of the department concerned, who shall give or withhold such permission as he thinks fit."

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"Section 129.**Evidence as to affairs of State.-***No one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, except with the permission of the officer at the head of the department concerned, who shall give or withhold such permission as he thinks fit."*

THE UNLAWFUL ACTIVITIES (PREVENTION) RULES, 1968

3. Tribunal and District Judge to follow rules of evidence .-(*1) In holding an inquiry under sub-section (3) of section 4 or disposing of any application under sub-section (4) of section 7 or sub-section (8) of section 8, the Tribunal or the District Judge, as the case may be, shall, subject to the provisions of sub-rule (2), follow,* ***as far as practicable****, the rules of evidence laid down in the Indian Evidence Act, 1872 (1 of 1872).*

[(2) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), where any books of account or other documents have been produced before the Tribunal or the Court of the District Judge by the Central Government and such books of account or other documents are claimed by that Government to be of a confidential nature then, the Tribunal or the Court of the District Judge, as the case may be, ***shall not****,-*

(a) make such books of account or other documents a part of the records of the proceedings before it; or

(b) allow inspection of, or grant a copy of, the whole of or any extract from, such books of account or other documents by or to any person other than a party to the proceedings before it.]"

"5. Documents which should accompany a reference to the Tribunal— *Every reference made to the Tribunal under sub-section (1) of section 4 shall be accompanied by—*
(i) a copy of the notification mod e undr sub-section (1) of section 3, and
(ii) all the facts on which the grounds specified in the said notification are based:
Provided that nothing In this rue shall require the Central Government to disclose any fact to the Tribunal which that Government considers against the public interest to disclose."

(Emphasis Supplied)

194. It was submitted that from a bare reading of the aforesaid provisions the following propositions emerge:-

(i) Rule 3(2) read with Rule 5 provides that the Tribunal shall not make the documents etc. part of the proceedings or allow inspection if the said documents are claimed to be of confidential nature; [this tribunal being a creature of statute would therefore would be bound by the mandate of Rule 3(2) which are expressly tailor made for the purpose of functioning of the tribunal]

(ii) Rule is silent as to in what manner and format or content said claim of confidentiality is to be made;

(iii) In absence of any format prescribed under the UAPA and the Rules framed thereunder reference will have to be made to the general civil law;

(iv) Claim of privilege under the general civil law is provided under Section 123 of the Evidence Act.

(v) Section 123 of the Evidence Act provides that claim of privilege i.r.o unpublished official records relating to any affairs of State has to be made with the permission of the officer at the head of the department concerned.

[**Note**:-Section 123 does not mandate that the claim of privilege is to be made by the head of the department but only provides for his/her permission.]

(vi) Rule 3(1) provides that the tribunal shall follow the rules of evidence laid down in the Indian Evidence Act, 1872 as far as practicable;

(vii) Thus, the procedural vigour of form and content of Evidence Act will not be applicable in the proceedings before the tribunal – The principles analogous to the Evidence Act or for that matter CPC will be applicable;

(viii) Analogical principle underlining section 123 of the Evidence Act is that the claim of privilege should be made with the permission of the head of the department. The head of the department should examine the document, apply his mind and then mark the documents disclosure of which would not be in public interest;

(ix) Once the evidence comes on record that the head of the department has examined the document, applied his mind and then has marked the documents for claiming privilege, any direction issued by him to any officer subordinate to him to move the claim of privilege will be sufficient compliance of Section 123 r/w Rule 3 (1) & (2).

195. Reliance in this regard was placed on the judgment of the Hon'ble Supreme Court in ***Jamaat-e-Islami Hind (Supra)*** wherein it has been held as under:

> *"19. ...the proviso to sub-section (2) of Section 3 of the Act itself permits the Central Government to withhold the disclosure of acts which it considers to be against the public interest to disclose. Similarly, Rule 3(2) and the proviso to Rule 5 of the Unlawful Activities (Prevention) Rules, 1968 also permit nondisclosure of confidential documents and information which the Government considers against the public interest to disclose…*
>
> *20…*
>
> *21. It is obvious that the unlawful activities of an association may quite often be clandestine in nature and, therefore, the source of evidence of the unlawful activities may require continued confidentiality in public interest. In such a situation, disclosure of the source of such information, and, may be, also full particulars thereof, is likely to be against the public interest. The scheme of the Act and the procedure for inquiry indicated by the Rules framed thereunder provide for maintenance of confidentiality, whenever required in public interest. However, the non-disclosure of sensitive information and evidence to the association and its office-bearers, whenever justified in public interest, does not necessarily imply its non-*

disclosure to the Tribunal as well. In such cases where the Tribunal is satisfied that non-disclosure of such information to the association or its office- bearers is in public interest, it may permit its non- disclosure to the association or its office-bearers, but in order to perform its task of adjudication as required by the Act, the Tribunal can look into the same for the purpose of assessing the credibility of the information and satisfying itself that it can safely act on the same. In such a situation, the Tribunal can devise a suitable procedure whereby it can itself examine and test the credibility of such material before it decides to accept the same for determining the existence of sufficient cause for declaring the association to be unlawful. The materials need not be confined only to legal evidence in the strict sense. Such a procedure would ensure that the decision of the Tribunal is an adjudication made on the points in controversy after assessing the credibility of the material it has chosen to accept, without abdicating its function by merely acting on the ipse dixit of the Central Government. Such a course would satisfy the minimum requirement of natural justice tailored to suit the circumstances of each case, while protecting the rights of the association and its members, without jeopardising the public interest. This would also ensure that the process of adjudication is not denuded of its content and the decision ultimately rendered by the Tribunal is reached by it on all points in controversy after adjudication and not by mere acceptance of the opinion already formed by the Central Government.

.....

24. In Paul Ivan Birzon v. Edward S. King[469 F 2d 1241, 1244- 45 (1972)] placing reliance on Morrissey [408 US 471 : 33 L Ed 2d 484 (1972)] , while dealing with a similar situation, when confidential information had to be acted on, it was indicated that the credibility issue could be resolved by the Board retaining confidentiality of the information but assessing the credibility itself, and a modified procedure was indicated as under:

> *"... the board was required to decide whether it would believe the informants or the parolee and his witnesses. The infirmity that we see in the hearing and determination by the parole board is that it resolved the credibility issue solely on the basis of the State report, without itself taking the statements from the informants. Thus the board had no way of knowing how reliable the informants were and had no real basis on which to resolve the credibility issue against the parolee....*

We do not mean to intimate that the board should have taken testimony from the informants at the hearing and given the parolee the opportunity to cross-examine. What we do mean is that the board should have received the information directly from the informants (although not necessarily in the presence of the parolee), instead of relying solely on the State report. The board could then have reached its own conclusions about the relative reliability of the informants' statements and those of the parolee and his

witnesses.

Similarly, the board could then have made its own decision about how realistic were the claims of potential danger to the informants or to State parole officers if their identity was disclosed, instead of placing exclusive reliance on the State report. Thus, we hold that, in relying exclusively on the written synopsis in the State report, which was the only evidence of a parole violation, in the face of the parolee's denial and his presentation of the testimony of other witnesses, the revocation of Satz's parole was fundamentally unfair to him and was
a denial of due process of law."

25. Such a modified procedure while ensuring confidentiality of such information and its source, in public interest, also enables the adjudicating authority to test the credibility of the confidential information for the purpose of deciding whether it has to be preferred to the conflicting evidence of the other side. This modified procedure satisfies the minimum requirements of natural justice and also retains the basic element of an adjudicatory process which involves objective determination of the factual basis of the action taken."

196. It was submitted that a bare perusal of the aforesaid judgment which interprets the provisions of UAPA manifests that there is neither any form or content for claiming privilege for. The said judgment instead provides for a modified procedure and holds that in cases of privilege, the tribunal has to itself look into the content and satisfy itself that that non-disclosure of such information to the association or its office-bearers is in public interest. The said judgment further mandates that for this purpose the "*Tribunal can devise a suitable procedure whereby it can itself examine and test the credibility of such material before it decides to accept the same for determining the existence of sufficient cause for declaring the association to be unlawful."*

197. Thus, it was argued that as per the provisions of UAPA and the rules framed thereunder, there is no set format in which claim of privilege is to made and further as per ***Jamaat-e-Islami Hind (Supra)***, this Tribunal can device its own procedure to look into the documents on which privilege is claimed and adjudicate whether it falls within a class of documents disclosure of which will not be in public interest. It was further submitted that the claim of privilege by the UOI for the documents

placed is made as the documents are also of such a nature that the non-disclosure of which are in public interest.

198. Reliance was placed on the judgment of the Supreme Court in ***State of U.P. v. Raj Narain, (1975) 4 SCC 428***, wherein the Constitutional Bench of the Supreme Court had upheld the claim of privilege by the Government while holding as under:

> *"41. The several decisions to which reference has already been made establish that the foundation of the law behind Sections 123 and 162 of the Evidence Act is the same as in English law. It is that injury to public interest is the reason for the exclusion from disclosure of documents whose contents if disclosed would injure public and national interest. Public interest which demands that evidence be withheld is to be weighed against the public interest in the administration of justice that courts should have the fullest possible access to all relevant materials. When public interest outweighs the latter, the evidence cannot be admitted. The Court will proprio motu exclude evidence the production of which is contrary to public interest. It is in public interest that confidentiality shall be safeguarded. The reason is that such documents become subject to privilege by reason of their contents. Confidentiality is not a head of privilege. It is a consideration to bear in mind. It is not that the contents contain material which it would be damaging to the national interest to divulge but rather that the documents would be of class which demand protection. (See Rogers v. Home Secretary at p. 405). To illustrate the class of documents would embrace Cabinet papers, Foreign Office despatches, papers regarding the security of the State and high level inter-departmental minutes. In the ultimate analysis the contents of the document are so described that it could be seen at once that in the public interest the documents are to be withheld. (See Merricks v. Nott Bower [(1964) 1 AER 717])."*
>
> **(Emphasis Supplied)**

199. Learned counsel for the UOI submitted that the claim of privilege by the UOI for the documents placed is made as the documents are of such a nature that the non-disclosure of which would be in the interest of the public. It was submitted that this concept of public interest is taken into account even in the criminal proceedings *qua* the accused, whereas in juxtaposition, the present matter stands at a much higher pedestal and involves the issue of sovereignty and integrity of the country and that in the cases concerning national security, sovereignty and integrity, the tribunal has to interpret and analyse the material differently. It must also take into account the fact that the decisions taken by the Central Government in such manner are based on highly sensitive information and inputs. The effects of such decisions

are not confined to the boundaries of the nation. In fact, in the present scenario when the terrorist activities and national insurgency is on rise, the global boundaries have become meaningless. The insurgency in a State or activities of any association which is suspected to be unlawful has bearing effect on the credibility of the nation itself.

200. Reliance was placed on the judgment of the Supreme Court in ***Raj Kumar Singh vs. State of Bihar, (1986) 4 SCC 407*** in a case of preventive detention wherein the Supreme Court inter alia held as under:

> *"The executive authority is not the sole judge of what is required for national security or public order. But the court cannot substitute its decision if the executive authority or the appropriate authority acts on proper materials and reasonably and rationally comes to that conclusion even though a conclusion with which the court might not be in agreement. It is not for the court to put itself in the position of the detaining authority and to satisfy itself that untested facts reveal a path of crime provided these facts are relevant. See in this connection the observations of O. Chinnappa Reddy, J. in Vijay Narain Singh case [(1984) 3 SCC 14 : 1984 SCC (Cri) 361 : AIR 1984 SC 1334 : (1984) 3*
> *SCR 435] at p. 440 and 441. (SCC p. 19, para 1)‖ 346. Similarly, in the case of Union of India vs. Rajasthan High Court, (2017) 2 SCC 599: 2016 SCC Online 1468 —. It was not for the Court in the exercise of*
> *its power of judicial review to suggest a policy which it considered fit. The formulation of suggestions by the High Court for framing a National Security Policy travelled far beyond the legitimate domain of judicial review. Formulation of such a policy is based on information and inputs which are not available to the court. The court is not an expert in such matters. Judicial review is concerned with the legality of executive action and the court can interfere only where there is a breach of law or a violation of the Constitution.*"

201. Reliance was also placed upon ***Ex-Armymen's Protection Services (P) Ltd. v. Union of India, (2014) 5 SCC 409***, wherein it has been inter alia held as under:

> *"15. It is difficult to define in exact terms as to what is "national security". However, the same would generally include socio-political stability, territorial integrity, economic solidarity and strength, ecological balance, cultural cohesiveness, external peace, etc. 16. What is in the interest of national security is not a question of law. It is a matter of policy. It is not for the court to decide whether something is in the interest of the State or not. It should be left to the executive.*

202. It was submitted that the Supreme Court in ***Digi Cable Network (India) (P) Ltd. v. Union of India, (2019) 4 SCC 451*** had also strongly relied *upon* ***Ex-Armymen's (Supra)*** and held as under:

> ***"15.*** *In somewhat similar circumstances, this Court while repelling this submission laid down the following principles of law in Ex-Armymen's Protection Services (P) Ltd. v. Union of India [Ex-Armymen's Protection Services (P) Ltd. v. Union of India, (2014) 5 SCC 409] in paras 16 and 17 which read as under: (SCC p. 416)*
>
> > *"16. What is in the interest of national security is not a question of law. It is a matter of policy. It is not for the court to decide whether something is in the interest of the State or not. It should be left to the executive. To quote Lord Hoffman in Secy. of State for Home Deptt. v. Rehman [Secy. of State for Home Deptt. v. Rehman, (2003) 1 AC 153 : (2001) 3 WLR 877 (HL)]*
> > *: (AC p. 192C)*
> >
> > > *'50. ... [in the matter] of national security is not a question of law. It is a matter of judgment and policy. Under the Constitution of the United Kingdom and most other countries, decisions as to whether something is or is not in the interests of national security are not a matter for judicial decision. They are entrusted to the executive.'*
> >
> > *17. Thus, in a situation of national security, a party cannot insist for the strict observance of the principles of natural justice. In such cases, it is the duty of the court to read into and provide for statutory exclusion, if not expressly provided in the rules governing the field. Depending on the facts of the particular case, it will however be open to the court to satisfy itself whether there were justifiable facts, and in that regard, the court is entitled to call for the files and see whether it is a case where the interest of national security is involved. Once the State is of the stand that the issue involves national security,*
> > *the court shall not disclose the reasons to the affected party."*

203. It was submitted that the documents for which claim of privilege, by their very nature, are confidential and sensitive in nature and, therefore, cannot be supplied as a public document. It was further submitted that the document forms part of the evidence collected by the intelligence agencies which pertains to secessionist and unlawful activities of the Banned Organisations and those associated with it. The said documents are confidential and secret in nature and the same can be verified by the Tribunal only.

204. It was submitted that the rigors of ***Madhayamam Broadcasting Ltd. v.***

Union of India 2023 SCC Online 366 "as claimed and relied upon by the Objectors" cannot be strictly applied in the present case as the facts and circumstances for the constitution of the present Tribunal is different from the issue that emerged in aforesaid cases; therefore the claim of privilege sought by the Union in the present case cannot be denied keeping in view the nature of sensitive information contained in the intel reports, the disclosure of which could affect the larger public interest of the nation by jeopardizing the safety and sovereignty of the country.

205. Further, the Hon'ble Supreme Court in ***Madhayamam (Supra)*** while balancing the right of the execution claiming privileged of sealed documents on one hand and the principle of natural justice on the other, had held as under:

> *" 84. The contention of the respondent that the judgment of this Court in Ex-Armymen's Protection Services (supra) held that the principles of natural justice shall be excluded when concerns of national security are involved is erroneous.The principle that was expounded in that case was that the principles of natural justice may be excluded when on the facts of the case, national security concerns outweigh the duty of fairness. Thus, national security is one of the few grounds on which the right to a reasonable procedural guarantee may be restricted. The mere involvement of issues concerning national security would not preclude the state's duty to act fairly. If the State discards its duty to act fairly, then it must be justified before the court on the facts of the case. Firstly, the State must satisfy the Court that national security concerns are involved. Secondly, the State must satisfy the court that an abrogation of the principle(s) of natural justice is justified. These two standards that have emerged from the jurisprudence abroad resemble the proportionality standard. The first test resembles the legitimate aim prong, and the second test of justification resembles the necessity and the balancing prongs."*
>
> *(emphasis supplied)*

206. It was further submitted that decision of the previous Tribunals constituted under section 4 of the UAPA in which the claim of privilege by the Central Govt had been allowed holding that the same satisfied the requirement of Section 123 of the Evidence Act have persuasive precedential value before this Tribunal in view of the provisions of Section 5(7) of the UAPA which provide that the proceedings

before this Tribunal are judicial proceedings. The UOI therefore places reliance on the following: -

1. Part-VIII of Judgment of Hon'ble Justice Mukta Gupta Para No. 8.1 to 8.12 (*Internal Page Nos. 55 to 58) in SIMI MATTER.*
2. Paragraphs no. 326 to 330 of Judgment of Hon'ble Justice Dinesh Kumar Sharma in PFI MATTER.
3. Paragraphs no. 325 of Judgment in MLJK MATTER.

207. In view of the aforesaid facts and circumstances it was submitted that the notification No. S.O. 1114 (E); dated 11.03.2025, issued by the Central Government declaring JKIM as an unlawful association is liable to be confirmed as there is sufficient evidence/cause on record justifying the ban on JKIM.

X. SUBMISSIONS ON BEHALF OF THE ASSOCIATION

208. The Learned Counsel for the association made reference to following definitions and provisions of UAPA:

"2. Definitions.—(1) In this Act, unless the context otherwise requires,—

(a) —"association" means any combination or body of individuals;

xxx xxx xxx

(o) "unlawful activity", in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise),—

(i) *which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or secession; or*

(ii) *which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India; or*

(iii) *which causes or is intended to cause disaffection against India;*

(p) "unlawful association" means any association —

(i) *which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity; or*

(ii) *which has for its object any activity which is punishable under section 153A (45 of 1860) or section 153B of the Indian Penal Code, or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity: Provided that nothing contained in sub-clause (ii) shall apply to the State of Jammu and Kashmir;*

(q) words and expressions used but not defined in thig Act and defined in the Code shall have the meanings respectively assigned to them in the Code.

(2) Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area."

209. It was submitted that bare perusal of the definition of 'unlawful activity' and 'unlawful association' makes it evident and clear that certain actions as defined are 'unlawful activities' can be distinguished from definition of 'unlawful assembly' provided under Criminal Procedure Code/Bhartiya Nargrik Suraksha Sanhita (BNSS).

I. Applicability of CPC and Evidence Act

210. It was further submitted that so far as scheme of the UAPA is concerned, after definition clause in Section 2, Chapter II and Chapter III of the Act deal with 'Unlawful Association' and 'punishment' thereof. Chapter II deals with declaration of an organization as 'Unlawful', constitution of 'Tribunal', reference to the Tribunal and adjudication by the Tribunal. It was submitted that adjudication by the Tribunal is for all purposes civil in nature which is different from adjudication of complaint or adjudication in criminal cases and hence, provisions of CPC will apply.

211. Reference in this regard was made to Section 5(6), Section 9 of the UAPA and Rule 15 of the UAP Rules which are as under:-

> *"5 ……*
> *(6) The Tribunal shall, for the purpose of making an inquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, (5 of 1908) while trying a suit, in respect of the following matters, namely:*
>
> *(a) the summoning and enforcing the attendance of any witness and examining him on oath;*
> *(b) the discovery and production of any document or other material object producible as evidence;*
> *(c) the reception of evidence on affidavits;*
> *(d) the requisitioning of any public record from any court or office;*
> *(e) the issuing of any commission for the examination of witnesses."*

> *"9- Procedure to be followed in the disposal of Applications under this Act—Subject to any rules that may be made under this Act, the procedure to be followed by the Tribunal in holding any inquiry under sub-section (3) of section 4 or by a Court of the District Judge in disposing of any application under sub-section (4) of section 7 or sub- section (8) of section 8 shall, so far as may be, be the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908), for the investigation Of claims and the decision of the Tribunal or the Court of the District Judge, as the case may be, shall be final."*

> *"15. Other Provisions of Civil Procedure Code 1908, to apply.— The provisions of the Civil Procedure Code, 1908 (5 of 1908), shall, insofar as they relate to any other matter with regard to the service of summons, shall, as far as may be, apply to the service of any summons issued by any Tribunal or District Judge under the Act."*

212. It was contended that a conjoint reading of provisions of Section 5(6), Section 9 of UAPA and Rule 15 of UAP Rules makes it evident and manifest that provisions of CPC will apply to all proceedings under Chapter II of UAPA. Hence, this Tribunal has to apply the various provisions of CPC for disposal of the civil suit which are applicable for disposal of inquiry for ascertaining as to whether there is 'sufficient cause' for declaring the organisation as 'unlawful association'.

213. It was further contended that there is elaborate procedure in CPC to decide a civil suit i.e. from the stage of institution of suit till its disposal. It was stated that

the procedure, not in a strict form but in a broader sense, as contained in CPC has to be applied for inquiry by the Ld. Tribunal.

214. In this context it was submitted that reference to the Tribunal by the Central Government and the detailed reasons for making reference have to be treated similar/ equal to a plaint; the procedure for notice is prescribed under section 5(6) of the Act and thereafter, reply is to be filed as in the case of written statement. However, timeline is fixed in the Chapter for making reference, for filing the reply, by association, for confirming the declaration or cancelling the same.

215. It was further submitted that the legal position that the provisions of CPC will apply is also evident from perusal of Section 5(7) of the Act which is as under:-

> *"5. Tribunal ....*
> *(7) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860) and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code."*

ii. Non-existence of sufficient cause for immediate action

216. It was submitted by the learned counsel for the association that the question before this Tribunal is as to whether on the date of notification declaring the association as unlawful there was sufficient cause or not for taking such immediate urgent action.

217. It was contended that the normal course for declaring the organisation as unlawful is to issue notification in the official gazette, make reference to the Tribunal under Section 4 and wait for decision of the Tribunal for confirmation of declaration. However, imposition of immediate ban is needed under extraordinary circumstances in case of grave emergency.

218. It was contended that in the instant case, the organisation was not created in near past but has been in existence and functional for last 63 years right from 1962 and during these 63 years, at no point of time any restriction or ban or declaration for declaring the organisation as unlawful was ever made.

219. It was further submitted that the notification in question does not give any special reasons for imposing immediate ban and that the immediate ban has been imposed without giving any opportunity to the organisation and without there being any urgency. The same is to be considered by this Tribunal.

iii. Infringement of right guaranteed under A. 19 of the Constitution.

220. It was submitted that as per Shia Fiqa/school of thought, the common shia population has to follow their learned scholars/Ullamas.

221. It was submitted that this ban will effect lakhs of members/followers and well-wishers of the religious leader which is a serious case where constitutional guarantee under Article 19 of the Constitution of lakhs of members/ followers of the Shia leader are being infringed.

222. It was contended that JKIM is not a political organisation of 10 or 100 or 1000 members/ followers. There are lakhs of followers of the present chairman of the organisation namely Moulana Masroor Abass Ansari. It is claimed that this fact has been admitted by witnesses produced by the UOI i.e. PW-1 to PW-3.

iv. Objections regarding material placed before the Tribunal

223. Learned counsel for the association submitted that material against the association before this Tribunal is contained in two forms i.e. Background Note and Notification dated 11.03.2025. The contents of the Background Note are the sum and substance of all material which is against the organisation. It is only the Background Note which was supplied to the Organisation on the directions of this Tribunal.

224. It was contended that when the contents of the Background Note is examined, so far the acts done by the Chairman of the Organisation for last 63 years are concerned, for those alleged illegal acts, 4 FIRs have been registered as mentioned in para 5 of the Background Note. Rest of the allegations in the Background Note which have led to the passing of order are words spoken/ published through different modes or uploaded on social platform like Instagram, Facebook, YouTube channels etc.

225. Learned counsel for the association submitted in this regard that first of all, the FIRs which have led to the passing of ban are concerned, whether sufficient material is in these FIRs or whether these FIRs constitute sufficient cause for declaring the organisation as unlawful has to be discussed. Out of 4 FIRs, 3 FIRs i.e. FIR Nos.123/1987, 37/1998 and 61/2000 are all against ex-chairman who had died in October, 2022.

226. Learned Counsel for the Association submitted that **FIR No.123/1987**, is stated to be under trial in the Court of Additional TADA Court Srinagar. It was submitted that the record on National Judicial Data Grid and E-Court record shows that "no record found" neither pending nor disposed of. It was argued that this case is 37 years old and even till date, no challan was produced. It was stated that ex-chairman Molvi Abass Ansari is now dead, therefore, this case which is 37 years old cannot form basis or material for declaring the organisation as unlawful in the year 2025. Even no record of this case produced before this Tribunal, E-Courts record is annexed as **Annexure-P1**.

227. It was submitted that as regards case **FIR No. 37/ 1998 is concerned,** during proceedings before this Tribunal no evidence or record was produced by the UOI or UT of J & K in respect of this FIR, no oral or documentary evidence was produced with regard to contents, Status or pendency of the present FIR. This FIR was registered on 25.02.1998. It was stated that PW-1 in his evidence has stated that record of the case was destroyed in floods of September, 2014 and is yet to be reconstructed. Further, the record on judicial data grid and E-Courts record shows that "no record found" in this case also, neither pending nor disposed of. It was stated that the SHO could not produce even a single document to prove about the pendency of the case before any Court of Law. It was stated that this case too has been registered 27 years ago and is presently non-existent on record. Even if it would have been pending or under trial, the alleged accused Molvi Abas Ansari is now dead. After his demise and after the period of 27 years whether this case be made basis for declaring the Organisation as unlawful, is to be considered by this

Tribunal. E-court record is annexed with the submissions as **Annexure-P2**.

228. Learned counsel for the association submitted that 3rd case **FIR No. 61/2000** pertains to year 2000 which remained under investigation for a period of more than 22 years; the Chargesheet was not presented during the lifetime of the alleged accused Molvi Abass Ansari. In this regard, reliance was placed on the evidence of Dy. SP Dheeraj Kumar to the effect that the case is more than 25 years old and was not presented during the lifetime of Molvi Abass Ansari, the alleged accused. Whether it forms material or basis for declaring the organisation as unlawful is to be examined by this Tribunal.

229. It was further submitted that with respect to **FIR No. 99 of 2011** registered under Section 148, 149, 336, 188, 152 RPC stated to be under trial, it was submitted that there is total non-application of mind by the concerned authorities, who have stated that this case is under trial. It was stated that this case has been finally disposed of and accused persons acquitted by the Ld. Court of 4th Additional Sessions Judge Srinagar vide Judgment and Order dated 21.06.2018. Certified copy of the Judgment and Order is annexed with the Reply/Objections as Folio AB. Certified copy is annexed with the submissions as **Annexure-P3**.

230. The learned counsel for the association further submitted that even if this case would not have been finally disposed of, the question before this Tribunal would be whether the case which is 14 years old can form basis or is relevant for declaring the organisation as unlawful.

231. It was stated that these cases which are 37 years, 27 years, 25 years and 14 years old respectively, cannot form basis for declaring the organisation as unlawful. It was argued that the Supreme Court in ***Mohammad Jafar v. UOI, 1994 AIR SCW 2839***, has dealt with this issue; cases which were instituted two years before the notification were found stale and it was held that these cannot justify imposition of the immediate ban. Reliance was placed on para 4 of the Judgment which is reproduced hereunder:-

> "….
> *4. The notification in question admittedly does not give any reasons for the immediate ban in exercise of the power under the proviso to Section*

3(3). The reasons given as stated above are the same as are meant for imposing ban under sub-section (1) of Section 3. Those reasons, as quoted above, are (a) that Shri Sirajul Hasan, Amir of Jamaat-e-Islami Hind declared in a meeting at Delhi held on the 27th May, 1990 that the separation of Kashmir from India was inevitable, (b) that Shri Abdul Aziz, Naib Amir of JEIH, addressing a meeting at Malerkotla on the 1st August, 1991, observed that the Government of India should hold plebiscite on Kashmir, (c) that the JEIH has been disclaiming and questioning the sovereignty and territorial integrity of India, and (d) other facts and materials in the possession of the Central Government which it considers to be against the public interest to disclose. As regards the first two grounds, they are obviously stale – one of 27.5.1990 and the other of 1.8.1991 and they cannot justify immediately on 10.12.1992 when the impugned notification was issued. The language of the third ground shows that the association has been indulging in the acts stated therein publicly from its inception or at least for a long time which again negatives the need for immediate ban. As for the last ground, viz. other facts and material in the possession of the association which the Central Government considers to be against the public interest to disclose, no privilege is claimed before us, against such other facts and material. If it was claimed, the Court would have looked into them and decided the question of privilege."

232. It was submitted that PW-1 and PW-2 are witnesses in case FIR No.37/1998 and 61/2000. Their evidence, therefore, loses significance in so far these FIRS are concerned. Regarding other two remaining FIRS no witness has been produced by UOI.

v. Submission regarding material in the form of speeches and interviews

233. Learned Counsel for the association submitted that **t**he third witness in this case is Inspector Liyakat Ali, who is witness in respect of downloading of the contents of the speeches and interviews downloaded from different digital platforms whose evidence needs close scrutiny. It was stated that he himself has not heard any such speeches or interviews and has simply downloaded these speeches and interviews from these platforms. It is submitted that the said statement is clear to the extent that he is neither a computer expert nor a forensic expert. He has not been appointed or designated as expert by any authority, He has only downloaded the speeches and interviews from media platforms. He has not himself recorded any

of these speeches, videos or interviews. As to admissibility of his evidence, reference was made to **Section 79A** of Information Technology Act 2000 which provides as under:-

> ***"Section 79 A of Information Technology Act, 2000***
> *79A. Central Government to notify Examiner of Electronic Evidence.-*
>
> *The Central Government may, for the purposes of providing expert opinion on electronic form evidence before any court or other authority specify, by notification in the Official Gazette, any Department, body or agency of the Central Government or a State Government as an Examiner of Electronic Evidence.*
> *Explanation.-For the purposes of this section, —electronic form evidence means any information of probative value that is either stored or transmitted in electronic form and includes computer evidence, digital audio, digital video, cell phones, digital fax machines.*
> *……"*

234. Learned Counsel for the association submitted that the electronic evidence is manipulated and fabricated and no forensic examination of such evidence has been produced, therefore, no reliance can be placed on such material. Learned Counsel for the association further submitted that Electronic Evidence produced in the case is not legally admissible under the Evidence Act. Reliance was placed on para 59 of judgment of the Supreme Court in ***Ajrun Pandit Rao case, 2020 SCC Online SC 571*** which is reproduced hereunder:

> *"59. We may reiterate, therefore, that the certificate required under Section 65B (4) is a condition precedent to the admissibility of evidence by way of electronic record, as correctly held in Anvar P.V. (Supra), and incorrectly "clarified" in Shaffi Mohammad (Supra). Oral evidence in the place of such certificate cannot possibly suffice as Section 65B(4) is a mandatory requirement of the law. Indeed, the hallowed principle in Taylor v. Taylor (1876) 1 Ch.D 426, which has been followed in a number of the judgments of this Court, can also be applied. Section 65B (4) of the Evidence Act clearly states that secondary evidence is admissible only if lead in the manner stated and not otherwise. To hold otherwise would render Section 65B(4) otiose.*
> *……."*

235. Learned Counsel for the association submitted that in the light of Judgment of Supreme Court, it becomes evident that the statement of Liyaqat Ali (PW-3), Inspector who is not authorized examiner of Electronic Evidence is not admissible. Moreover, Certificate required under Section 65-B (4) of Evidence Act having not

been produced, the whole electronic evidence becomes inadmissible. In case UOI would have produced admissible evidence, the organisation would have in that case gone through the evidence produced to show that no offensive material is in the electronic record.

vi. Absence of sufficient cause/material/evidence to impose ban

236. It was further submitted that this Tribunal has to consider whether the declaration was a necessary or proportionate measure, and whether the evidence produced by the Government constitutes 'sufficient cause' for declaring the organisation as unlawful. From the material on record in the form of statement of witnesses of both sides it is evident that the association is lawful and its objectives are also lawful. He further submits that the activities are lawfully transparent and purely for welfare of Society and the organisation from time to time has issued public statement condemning violence. Documents evidencing the said fact are part of reply filed by the association before this Tribunal.

237. Learned Counsel for the association submitted that there is no evidence of any unauthorized activity of any individual member as is evident from the examination and cross examination of the witnesses produced before this Tribunal. In the present case there was no pre-declaration notice. It was contended that the fact that 'punishment' by way of declaring the organisation as unlawful was imposed and thereafter show cause notice was issued to the Organisation; this resort to immediate ban against the association which is functional since last 63 years is uncalled for and without any basis.

238. Learned Counsel for the association submitted that the ban appears to be retaliatory for criticizing against the policies/actions of the Government of J & K; the organisation has been cooperating with the Government for last 63 years and there has been positive and constructive approach between the Government and the Organisation for easing out the tensions from time to time.

Learned Counsel for the association submitted that there was no material which

would indicate about ongoing threat and no past activity can be remotely connected or linked to the ban imposed. It was contended that the Government has resorted to 'collective punishment'. There has been no occasion for the Government even to resort to individual prosecution of any member of the organisation, not to speak of collective prosecution of the Organisation. No written document or any material of the organisation has been produced by the Government which would come under 'unlawful activities'. Learned Counsel for the association submitted that Government has sought to rely upon un-verified intelligence or information from anonymous sources which are vague, irrelevant and comprise of un-substantiated allegations. Evidence produced in sealed cover lacks cross-examination and such un-verified information cannot be relied upon and cannot form "sufficient cause" for declaring the organisation unlawful. Reliance is placed on following authorities of Hon'ble Supreme Court:-

i. ***AK. Koul v. Union of India***, 1995 (4) SCC 73
ii. ***Peoples Union for Civil Liberties Vs. Union of India***, 2004 (2) SCC 476
iii. ***Jamaat-e-Islami Hind (Supra)***, Para 27 & 30.

vii. Of Ties with the Hurriyat Conference

239. Learned Counsel for the association submitted that evidence of witness PW-4 Atul Kumar Shahi in cross-examination may be considered in its entirety. It was contended that All Parties Hurriyat Conference (APHC) was declared unlawful in January 2023. Late Molvi Abass Ansari ceased to be its member in 2013 when he was expelled from APHC. This allegation of being the member of APHC before 12 years is not in any way "sufficient cause" to declare JKIM as unlawful organisation. Allegations that the organisation is part of APHC is denied. Learned Counsel for the association submitted that from a perusal of the material produced by the Government, the organisation is sought to be declared unlawful on three counts.

(i) Act done as mentioned in four FIRS.

(ii) The posts made or speeches delivered or interview given on social media platforms.

(iii) Vague, unrelated, unsubstantiated, routine other charges which have been made in the notification and in the Background note.

240. He submitted that the allegations of these all three counts stands explained by the Organisation and are not proved. Hence, there was no reason, cause or occasion for the Government to issue the declaration made under Section 3 of UAPA.

viii. Apprehension regarding impact on religious activities

241. Learned Counsel for the association submitted that the Organisation would request this Tribunal to take notice of consequences of continuation of declaration. It is contended that this organisation is Shia Muslim Organisation which has got genesis or basis in Shia School of thought/jurisprudence *(Fiqa)*. It has already come from the evidence, even produced by the Government that this organisation has lakhs of members (followers). As a religious leader i.e. Aalim Din, people remain associated with Late Molvi Abass Ansari and are now associated with present acting president Molvi Masroor Abass Ansari. It is submitted that People are bound under religious doctrine to associate with religious leaders. Learned Counsel for the association has submitted that tomorrow, when people come in contact with present chairman Molvi Masroor Abass Ansari, in connection with day-to-day religious activities, it will give freehand to the Government to label such members of Shia Society as being associated with an “unlawful association” and take action against them under Chapter Ill of UAPA. The consequences would be serious and unimaginable; it would create havoc and chaos in the Shia School of thought. Needful to mention here that every year during Muharram and other religious gatherings/occasions, processions and gatherings are organized where people participate as per their religious faith. Continuation of ban would otherwise deprive the common masses from performing their essential religious rituals and functions.

242. Learned Counsel for the association has further submitted that this is the first occasion since the independence of the country that any Shia Organisation has been declared as unlawful. The contention that ban will not affect religious activities/ functions is also not correct. In recent past, two orders have been passed by District Magistrates wherein religious functions conducted by the organisation was banned.

ix. Regarding existence of 'sufficient cause' for ban

243. Learned Counsel for the association has submitted that Under UAPA, for declaration of the organisation as unlawful there must be "Sufficient Cause". Sufficient cause requires cogent cause, specific evidence and not evidence of generalization character. The requirement is that State has to present tangible and credible evidence. To demonstrate that the organisation is unlawful, it must show that the organisation engages/abets unlawful acts. There must be evidence that the organisation possesses real and imminent danger/threat to security of the State or public order. "Sufficient cause" is more than suspicion. As to what constitutes "sufficient cause", the law is laid down by the Hon'ble Supreme Court in the following authorities:

i. ***Kedarnath Singh v. State of Bihar***. 1962 SCC OnLIne SC 6
ii. ***Balwant Singh v. State of Punjab, (***1995) 3 SCC 214
iii. ***Union of India v. Association of Democratic Reforms,*** *2002 (5) SCC 294*
iv. ***Shreya Singhal v. Union of India , (***2015) 5 SCC 1

244. Learned Counsel for the association accordingly submitted that this Tribunal, while taking holistic view of all facts and circumstances, considering the case of the Government in its entirety and the defence submitted by the Organisation and the legal precedents, may set aside the impugned Notification and issue orders for cancellation of the ban imposed on the peaceful organisation under Section 4(3) of the UAPA.

XII. ADDITIONAL AFFIDAVIT OF THE CHAIRPERSON OF THE ASSOCIATION REGARDING DELETION OF CONTENT

245. It is noteworthy that during the course of rejoinder arguments in this matter, the learned counsel for the UOI had sought to refer to the videos sought to be relied upon on behalf of the UOI and and an attempt was made (during the hearing itself) to access the same from the "YouTube channel" purportedly belonging to the association/ chairperson. While doing that it was found that the video/s in question had been deleted by the association. A query was put to the learned counsel for the association in this regard and pursuant to the same, an additional affidavit of Masroor Abbas Ansari, the chairperson of the association was filed with the following averments:

> *".....*
>
> *1) That this Hon'ble Tribunal has passed directions for filing Supplementary Affidavit regarding deletion of video from the Utube Channel of the deponent,*
>
> *2)* ***That it is submitted that the said video of my late father namely Molvi Mohammad Abass Ansari was recorded way back on 12.09.2008 and remained uploaded on the U-tube channel. Considering the fact that the video was about 17 years old and not relevant, and was deleted from the U-tube channel only on 22.08.2025****.*
>
> *3) That the deletion of the said video was in routine manner and was not with any oblique motive or purpose.* ***The said video is already part of the record of this Hon'ble Tribunal in sealed pen-drive. (Exhibit P1) submitted by the witness namely Inspector Liyakat Ali. Its English translated version is also before this Hon'ble Tribunal in first para of Exibit-P2****. The English translation however is not true and correct version of the interview of Late Molvi Abass Ansari.*
>
> *4) That it is however, submitted that the deletion of the video was not intended to remove or destroy any evidence, as hard copy of the said video is already part of the record of this Hon'ble Tribunal as Exhibit P1 & P2 with the witness affidavit of Inspector Liyakat Ali.*
>
> ***5)*** *That I solemnly declare that the deletion of the said video on 22.08.2025 was not intentional or for any oblique motive or purpose.* ***Moreover, there was no order from this Hon'ble Tribunal or from any authority for not deleting the said video from my U-tube channel.***

*6) **That in order to remove any misconception, the deponent have again uploaded the said video on my U-tube channel immediately on very next day i.e. 23.08.2025**.*
7) It is further submitted that all videos on the channel which are subject matter of enquiry will remain on the channel subject to any orders from this Hon'ble Tribunal.
Hence, this Supplementary Affidavit for and on behalf of the deponent above named in compliance with the Order of this Hon'ble Tribunal."

(Emphasis supplied)

XII. ADDITIONAL SUBMISSIONS ON BEHALF OF THE ASSOCIATION

246. Additional written submissions were filed on behalf of the association on 26.08.2025. It is submitted therein that the statement of PW-3 Inspector Liyakat Ali, when perused as a whole, makes it evident and manifest that he has acted as prosecutor, jury and judge. He has only downloaded the video of the interview. He has also translated it into English, however, the translation is not true and correct, as he has omitted the part of electronic documents which were favouring the organisation for proving that no sufficient cause exists for declaring the organisation as "unlawful association".

247. Learned Counsel for the association has submitted that on directions of this Tribunal, he enquired from the acting Chairman Molvi Masroor Abass Ansari as to whether any video stands deleted from the YouTube channel of Molvi Abbas Ansari on 22.08.2025. It was submitted that one video of Late Molvi Abbas Ansari dated 12.09.2008 was deleted in routine manner as this video was more than 17 years old and was thus obsolete. This video was in Urdu language on Hard-disk in the form of Pen-drive and its translation into English is already available on file with the statement of Inspector Liyakat Ali as Exhibit P1 – P2. However, the translation is not true and correct. The word 'Plebiscite' mentioned in first para of Exhibit P-2 is non-existing in the original video. Similarly other contents of English version of translation from Urdu to English are from Kashmiri language to English are devoid of actual and correct meaning.

248. Learned Counsel for the association has submitted that PW No.3, Inspector

Liyakat Ali in his statement has deposed that he is not a certified and trained translator. He is neither computer expert nor forensic expert. His translation from Urdu to English or Kashmiri to English are not true and correct versions of original videos. True and correct version of translation from Urdu or Kashmiri to English can be made by certified or trained translator and not by ordinary language speaking person. It is further submitted that Section 63(4) of THE BHARATIYA SAKSHYA ADHINIYAM, 2023, provides as under:-

> *"Section 63-(4): In any proceeding where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things shall be submitted along with the electronic record at each instance where it is being submitted for admission, namely:—*
> *(a) identifying the electronic record containing the statement and describing the manner in which it was produced;*
> *(b) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer or a communication device referred to in clauses*
> *(a) to (e) of sub-section (3);*
> *(c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate, and purporting to be signed by a person in charge of the computer or communication device or the management of the relevant activities (whichever is appropriate) and an expert shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of theknowledge and belief of the person stating it in the certificate specified in the Schedule."*

249. Learned Counsel for the association has submitted that bare perusal of the said Section 63(4) makes it evident that the deposition of the said Inspector Liyaqat Ali (PW-3) is to the extent that he was incharge of the Computer on which electronic documents were downloaded. He is not an expert. He cannot testify to the authenticity of the video. He is at the best a person who has testified as to when and where he found the videos and the steps he has taken. It is only a digital forensic expert who can examine videos metadata, creation date, Hash-value, edit story to opine on its authenticity and whether it has been altered.

250. Learned Counsel for the association has submitted that Inspector Liyakat Ali

is not the Government approved examiner of electronic record. He has no degree in computer science and as such is not computer expert. He is not forensic expert. Hence, he cannot confirm the date integrity or authenticity and integrity of records.

251. Learned Counsel for the association has further submitted that Respondent Witness No.1, Molvi Masroor Abass Ansari has clearly stated that these videos are doctored. No expert witness as required under Section 63 of BSA, 2023 has been produced before this Tribunal, therefore, in absence of expert evidence, the evidence of this witness becomes inadmissible.

252. It is further submitted that the Central Government has already notified the agencies under Section 79A of Information Technology Act. These agencies are Indian Computer Response Team (CERT), State Forensic Laboratory (SFL), Central Forensic Laboratory, Cyber Crime Cells and Law Enforcement Agencies. Witness Liyakat Ali (Inspector) does not fall within any of the notified agencies. His evidence regarding downloading of documents may be considered but his evidence claiming to be an expert is inadmissible.

253. It is further submitted that even if these videos are considered, they pertain to year 2005, 2008, 2017, 2018 and 2019. These videos being obsolete at the material point in time and not relevant there is no such current activity. There is no cogent and specific proof. There is no tangible or credible evidence. Whether the same constitutes sufficient cause? The speeches made before 20 year, 15 years, or 10 years without any link of any current activity will not form sufficient cause within the meaning and contemplation of ‘unlawful activity’. Hence, the organisation does not possess the real and imminent threat/danger to security of State or public order.

XIII. REJOINDER ARGUMENTS ON BEHALF OF THE CENTRAL GOVERNMENT

254. Learned ASG while making rejoinder arguments stated that JKIM objected to the electronic evidence produced before this Tribunal by way of the evidence by way of affidavit dated 19.06.2025 by Mr. Liyaqat Ali (PW-3), Inspector, Crime Investigation Department, J & K Police on two grounds, *viz.* (i) the electronic

evidence was not supported by an expert witness such as an Examiner of Electronic Evidence under Section 79A of the Information Technology Act 2000 ('IT Act'), and (ii) the electronic evidence is doctored.

255. Learned ASG submitted that while this Tribunal is guided by the general principles of civil procedure, in terms of Sections 5(5) and 9 UAP Act 1967 r/w Rule 15 of UAP Rules 1968, the strict rigours of the same are inapplicable and this Tribunal has the power to regulate its own procedure in the discharge of its functions. Accordingly, the admissibility of the electronic evidence produced before this Tribunal ought to be considered on the general principles of procedure and evidence enshrined in relevant laws. Reliance was placed on the following sections of the BSA which read as under:

> *"61. Electronic or digital record - Nothing in this Adhiniyam shall apply to deny the admissibility of an electronic or digital record in the evidence on the ground that it is an electronic or digital record and such record shall, subject to section 63, have the same legal effect, validity and enforceability as other document."*
>
> *"62. Special provisions as to evidence relating to electronic record - he contents of electronic records may be proved in accordance with the provisions of section 63."*
>
> *"63. Admissibility of electronic records - (1) Notwithstanding anything contained in this Adhiniyam, any information contained in an electronic record which is printed on paper, stored, recorded or copied in optical or magnetic media or semiconductor memory which is produced by a computer or any communication device or otherwise stored, recorded or copied in any electronic form (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence or any contents of the original or of any fact stated therein of which direct evidence would be admissible.*
>
> *....*
>
> *(4) In any proceeding where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things shall be submitted along with the electronic record at each instance where it is being submitted for admission, namely:-*
>
> > *(a) identifying the electronic record containing the statement and describing the manner in which it was produced;*
> >
> > *(b) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer or a*

communication device referred to in clauses (a) to (e) of sub- section (3);

(c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate,

and purporting to be signed by a person in charge of the computer or communication device or the management of the relevant activities (whichever is appropriate) and an expert shall be evidence of any matter stated in the certificate; and for the purposes of this subsection it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it in the certificate specified in the Schedule."

256. It was further stated that if electronic evidence is produced as primary evidence, the above provisions are not applicable, and such evidence, if produced in original before this Tribunal, will be proved in terms of Sections 56 and 57 BSA which state as under:

"56. Proof of contents of documents - The contents of documents may be proved either by primary or by secondary evidence."

"57. Primary evidence - Primary evidence means the document itself produced for the inspection of the Court.

...

Explanation 6 - Where a video recording is simultaneously stored in electronic form and transmitted or broadcast or transferred to another, each of the stored recordings is primary evidence."

i. Electronic evidence in the present case

257. It was submitted that the affidavit of PW-3 produced electronic evidence before this Tribunal and in terms of Section 63 BSA, the same is admissible as secondary evidence. A certificate in terms of Section 63(4) BSA has been submitted before this Tribunal which constitutes substantial compliance of this provision. It was further submitted that on 23.08.2025, the electronic evidence was directly produced for inspection by this Tribunal, in the presence of the parties. The details of the electronic evidence produced for direct inspection before this is annexed to additional written submission as **Annexure A-1**.

258. It was submitted that the electronic evidence mentioned in Annexure A-1, while also produced by way of the affidavit by PW-3 as secondary evidence, was directly inspected by this Tribunal on 23.08.2025 on the computer device of the Tribunal and thus, forms primary evidence in terms of Section 57 BSA. As such,

under Sections 56 and 57 of BSA, the above electronic evidence produced before this Tribunal, being primary evidence produced before this Tribunal, stands proved without the need for any additional statutory requirements. Reliance was placed on the judgment of the Supreme Court in ***Anvar PV v. PK Basheer, (2014) 10 SCC 473*** which, upon a discussion of similar provisions of the then applicable Indian Evidence Act 1872, held as under:

> *"24. The situation would have been different had the appellant adduced primary evidence, by making available in evidence, the CDs used for announcement and songs. Had those CDs used for objectionable songs or announcements been duly got seized through the police or Election Commission and had the same been used as primary evidence, the High Court could have played the same in court to see whether the allegations were true. That is not the situation in this case. The speeches, songs and announcements were recorded using other instruments and by feeding them into a computer, CDs were made therefrom which were produced in court, without due certification. Those CDs cannot be admitted in evidence since the mandatory requirements of Section 65B of the Evidence Act are not satisfied. It is clarified that notwithstanding what we have stated herein in the preceding paragraphs on the secondary evidence on electronic record with reference to Section 59, 65A and 65B of the Evidence Act, if an electronic record as such is used as primary evidence under Section 62 of the Evidence Act, the same is admissible in evidence, without compliance of the conditions in Section 65B of the Evidence Act."*

259. It was submitted that this position was further clarified by a three Judges Bench of Hon'ble Supreme Court in ***Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal,*** **(2020) 7 SCC 1** as under:

> *"34. Quite obviously, the requisite certificate in sub-section (4) is unnecessary if the original document itself is produced. This can be done by the owner of a laptop computer, a computer tablet or even a mobile phone, by stepping into the witness box and proving that the concerned device, on which the original information is Girst stored, is owned and/or operated by him. In cases where "the computer", as defined, happens to be a part of a "computer system" or "computer network" (as defined in the Information Technology Act, 2000) and it becomes impossible to physically bring such network or system to the Court, then the only means of proving information contained in such electronic record can be in accordance with Section 65B(1), together with the requisite certificate under Section 65B(4). This being the case, it is necessary to clarify what is contained in the last sentence in paragraph 24 of Anvar P.V. (supra) which reads as "...if an*

> *electronic record as such is used as primary evidence under Section 62 of the Evidence Act…". This may more appropriately be read without the words "under Section 62 of the Evidence Act,…". With this minor clarification, the law stated in paragraph 24 of Anvar P.V. (supra) does not need to be revisited."*

260. Thus, it was stated that as the electronic evidence detailed in **Annexure A-1** has been produced before this Tribunal as primary evidence, no further statutory requirements are required to be met. Moreover, most of the electronic evidence produced in the affidavit of PW-3 is from publicly available links of the JKIM website and the official YouTube channel of JKIM President/Chairman. In such circumstances, this evidence cannot be rejected as its genuineness can always be checked. It was argued that under similar circumstances, the High Court of Delhi in ***Excitel Pvt. Ltd. v. Registrar of Trade Marks,*** **2022 SCC OnLine Del 2097,** held as under:

> *"14. This Court is of the opinion that rejecting the evidence extracted hereinabove, on the ground that it does not constitute primary evidence would be an incorrect approach inasmuch as the genuineness of the printout can be easily checked by the examiner by accessing the internet at the time of hearing. Moreover, if there is any doubt in respect of printouts that have been filed by the Appellant, at best, the examiner can call for an affidavit under Section 65B of the Information Technology Act, 2000, (hereinafter "IT Act"). Simply rejecting the website printouts would be contrary to law as the law permits reliance on website printouts, so long as they can be they can be accompanied with a certificate under Section 65B of the IT Act."*

261. Additionally, it is stated, the electronic evidence produced as secondary evidence in the affidavit is supported by a certificate in terms of Section 63(4) BSA and the same is admissible in terms of Sections 61, 62 and 63 BSA.

262. The learned ASG strongly refuted the contention on behalf of the JKIM that for the electronic evidence to be admissible, it ought to be supported with an opinion of an expert witness such as an Examiner of Electronic Evidence under Section 79A of the IT Act 2000.

263. It was stated that the provision for an Examiner of Electronic Evidence under Section 79A of the IT Act 2000 is relatable to Section 39(2) BSA which reads as under:

> *"39. Opinions of experts -*
> *...*
> *(2) When in a proceeding, the court has to form an opinion on any matter relating to any information transmitted or stored in any computer resource or any other electronic or digital form, the opinion of the Examiner of Electronic Evidence referred to in section 79A of the Information Technology Act, 2000 (21 of 2000), is a relevant fact. Explanation.--For the purposes of this sub-section, an Examiner of Electronic Evidence shall be an expert."*

264. It was stated that under the above provision, the opinion of the Examiner of Electronic Evidence referred to in Section 79A of the IT Act 2000 is deemed to be a relevant fact when a court is called upon to form an opinion on any electronic evidence. This provision does not relate to the admissibility of the electronic evidence produced by a party, nor forms a condition precedent for the production of the same before this Tribunal. In essence, while forming an opinion on any electronic evidence, this provision provides that if an opinion is produced by an Examiner of Electronic Evidence under Section 79A of the IT Act 2000 by the parties or if the court warrants the opinion of such an expert, such opinion shall be a relevant fact. It does not preclude the court from forming an opinion on electronic evidence without the aid of such an opinion, nor does the lack of such opinion render the evidence inadmissible.

265. Section 63 BSA does not require an expert witness to be produced before the Tribunal as contended by JKIM. The requirement of an 'expert' to provide a certificate under Section 63(4) BSA should also be construed in light of Section 39(2) BSA as one that may be produced if the opinion of an expert is warranted. The certificate required to be produced by the person in charge of the computer/device which has been used to produce the electronic record under Section 63(4) BSA, i.e. PW-03 Mr. Liyaqat Ali, has already been submitted before this Tribunal and accordingly, there is substantial compliance with this provision. Moreover, the Hon'ble Supreme Court in ***Jamaat-e-Islami (Supra)*** in Para 17-18 had emphasised on the need of only **objective determination** of the points in controversy in a judicial scrutiny conducted by a Tribunal constituted under the Act.

266. Further, the contention advanced by JKIM on the electronic evidence being doctored is a bald assertion, without any positive evidence led to support such a claim. As such, having substantially complied with the statutory framework governing electronic evidence, it is submitted that the electronic evidence produced in the Affidavit is admissible and ought to be considered by this Tribunal.

267. It was stated that in respect of the first video in Exhibit I to the affidavit, JKIM has in its additional written submission (served upon the UOI vide email dated 26.08.2025) has admitted specifically to deleting the said video from its YouTube channel on 22.08.2025 and upon the same being pointed out at the hearing of the present matter on 23.08.2025, the said video was re-uploaded on 23.08.2025.

268. It is submitted that the above conduct makes it evident that JKIM is making efforts to conceal its true secessionist and cessionist ideology and agenda from this Tribunal and it is respectfully submitted that such conduct may be considered in adjudicating the present matter.

ii. In re: Impact of the declaration of JKIM as an Unlawful Association on religious activity of its members

269. JKIM contends that the declaration of JKIM as an unlawful association under UAPA will result in action against its members in conducting religious activities.

270. In this regard, it is most respectfully submitted that religious activities which are not within the purview of 'unlawful activity' under Section 2(o), UAPA are not prohibited under UAPA. Members of JKIM who undertake such legitimate activities in their personal capacity for religious purposes will not be impacted by an order under Section 4 by this Tribunal.

271. It may also be noted that Mr. Masroor Abbass Ansari (RW-01), the Chairman of banned Organisation JKIM stated in his deposition before this Tribunal that he had participated in a procession on 04.07.2025 on the occasion of Moharram in which lakhs of people participated and the Government gave due permission for the same. He further stated that certain other processions were also held around the same period in which he participated. Thus, it is evident that legitimate religious activities undertaken by any member of JKIM **in their personal capacity** are

proceeding unhindered by the present action against JKIM under UAPA, 1967. As such, any apprehension that the declaration of JKIM as an unlawful association will impact legitimate religious activities undertaken by its members **in their personal capacity** is unfounded.

XIV. JUSTIFICATION OF UOI's CLAIM FOR PRIVILEGE

272. On 11.08.2025, when Mr. Atul Kumar Shahi, Commandant (CT), CTCR Division, MHA (PW-4) was examined on behalf of the UOI, this witness had produced original files containing the central intelligence reports/ inputs in a **sealed cover** for the perusal of this Tribunal (**Ex.PW-4/3**) and learned counsel for the UOI, advanced arguments for claiming privilege for the documents produced in sealed cover.

273. The issue regarding privilege by the Central Government in respect of the documents disclosure whereof is injurious to public interest is specifically envisaged in the UAP Rules. Rule 3 of the said UAP Rules, is in the following terms:-

> ***"3. Tribunal and District Judge to follow rules of evidence**.—(1) In holding an enquiry under sub-section (3) of Section 4 or disposing of any application under sub-section (4) of Section 7 or sub-section (8) of Section 8, the Tribunal or the District Judge, as the case may be, shall, subject to the provisions of sub-rule (2), follow, as far as practicable, the rules of evidence laid down in the Indian Evidence Act, 1872 (1 of 1872).*
> *(2) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), where any books of account or other documents have been produced before the Tribunal or the Court of the District Judge by the Central Government and such books of account or other documents are claimed by that Government to be a confidential nature then, the Tribunal or the Court of the District Judge, as the case may be, shall not, --*
> *(a) make such books of account or other documents a part of the records of the proceedings before it; or*
> *(b) allow inspection of, or grant a copy of, the whole of or any extract from, such books of account or other documents by or to any person other than a party to the proceedings before it."*

274. It can be seen that the Rule 3 (2) starts with a non-obstante clause providing that notwithstanding anything contained in the Indian Evidence Act, 1872, where any books of account or other documents are sought to be produced by the Central Government and these documents are claimed to be of a confidential nature, then the Tribunal shall not make such documents a part of the records of the proceedings before it or allow inspection of or grant a copy of the same to any person other than the parties to the proceedings before it.

275. Rule 5 of the UAP Rules provides for the documents which should accompany a reference to the Tribunal viz. a copy of the notification and all facts on which grounds specified in the notification are based, further provides that nothing in the said Rule shall require the Central Government to disclose any fact to the Tribunal which it considers against public interest to disclose. The said rule is in the following terms:-

> *"5.* ***Documents which should accompany a reference to the Tribunal.*** *– Every reference made to the Tribunal under sub-section (1) of Section 4 shall be accompanied by –*
>
> *(i) a copy of the notification made under sub-section (1) of Section 3, and*
>
> *(ii) all the facts on which the grounds specified in the said notification are based:*
>
> *Provided that nothing in this rule shall require the Central Government to disclose any fact to the Tribunal which that Government considers against the public interest to disclose."*

276. The aforementioned provisions and the requirement of maintaining confidentiality of certain documents specifically came to be considered by the Supreme Court in the case of ***Jamaat-e-Islami Hind (Supra)***, wherein it was held as under:-

> *"22. It is obvious that the unlawful activities of an association may quite often be clandestine in nature and, therefore, the source of evidence of the unlawful activities may require continued confidentiality in public interest. In such a situation, disclosure of the source of such information, and, may be, also full particulars thereof, is likely to be against the public interest. The scheme of the Act and the procedure for inquiry indicated by the Rules framed thereunder provide for maintenance of confidentiality, whenever required in*

public interest. However, the non-disclosure of sensitive information and evidence to the association and its office-bearers, whenever justified in public interest, does not necessarily imply its non-disclosure to the Tribunal as well. In such cases where the Tribunal is satisfied that non-disclosure of such information to the association or its office-bearers is in public interest, it may permit its non- disclosure to the association or its office-bearers, but in order to perform its task of adjudication as required by the Act, the Tribunal can look into the same for the purpose of assessing the credibility of the information and satisfying itself that it can safely act on the same. In such a situation, the Tribunal can devise a suitable procedure whereby it can itself examine and test the credibility of such material before it decides to accept the same for determining the existence of sufficient cause for declaring the association to be unlawful. The materials need not be confined only to legal evidence in the strict sense. Such a procedure would ensure that the decision of the Tribunal is an adjudication made on the points in controversy after assessing the credibility of the material it has chosen to accept, without abdicating its function by merely acting on the ipse dixit of the Central Government. Such a course would satisfy the minimum requirement of natural justice tailored to suit the circumstances of each case, while protecting the rights of the association and its members, without jeopardising the public interest. This would also ensure that the process of adjudication is not denuded of its content and the decision ultimately rendered by the Tribunal is reached by it on all points in controversy after adjudication and not by mere acceptance of the opinion already formed by the Central Government.

23. In John J. Morrissey and G. Donald Booher v. Lou B. Brewer the United States Supreme Court, in a case of parole revocation, indicated the minimum requirements to be followed, as under: (L Ed pp. 498-99)

> *"Our task is limited to deciding the minimum requirements of due process. They include (a) written notice of the claimed violations of parole; (b) disclosure to the parolee of evidence against him; (c) opportunity to be heard in person and to present witnesses and documentary evidence; (d) the right to confront and cross-examine adverse witnesses (unless the hearing officer specifically finds good cause for not allowing confrontation); (e) a 'neutral and detached' hearing body such as a traditional parole board, members of which need not be judicial officers or lawyers; and (f) a written statement by the fact finders as to the evidence relied on and reasons for revoking parole. We emphasise there is no thought to equate this second stage of parole revocation to a criminal prosecution in any sense. It is a narrow inquiry; the process should be flexible enough to consider evidence including letters, affidavits, and other material that would not be admissible in*

an adversary criminal trial."

24. In Paul Ivan Barzun v. Edward S. King placing reliance on Morrissey, while dealing with a similar situation, when confidential information had to be acted on, it was indicated that the credibility issue could be resolved by the Board retaining confidentiality of the information but assessing the credibility itself, and a modified procedure was indicated as under:

> *"... the board was required to decide whether it would believe the informants or the parolee and his witnesses. The infirmity that we see in the hearing and determination by the parole board is that it resolved the credibility issue solely on the basis of the State report, without itself taking the statements from the informants. Thus the board had no way of knowing how reliable the informants were and had no real basis on which to resolve the credibility issue against the parolee....*
>
> *We do not mean to intimate that the board should have taken testimony from the informants at the hearing and given the parolee the opportunity to cross-examine. What we do mean is that the board should have received the information directly from the informants (although not necessarily in the presence of the parolee), instead of relying solely on the State report. The board could then have reached its own conclusions about the relative reliability of the informants' statements and those of the parolee and his witnesses.*
>
> *Similarly, the board could then have made its own decision about how realistic were the claims of potential danger to the informants or to State parole officers if their identity was disclosed, instead of placing exclusive reliance on the State report. Thus, we hold that, in relying exclusively on the written synopsis in the State report, which was the only evidence of a parole violation, in the face of the parolee's denial and his presentation of the testimony of other witnesses, the revocation of Satz's parole was fundamentally unfair to him and was a denial of due process of law."*

25. Such a modified procedure while ensuring confidentiality of such information and its source, in public interest, also enables the adjudicating authority to test the credibility of the confidential information for the purpose of deciding whether it has to be preferred to the conflicting evidence of the other side. This modified procedure satisfies the minimum requirements of natural justice and also retains the basic element of an adjudicatory process which involves objective determination of the factual basis of the action taken.

26. An authorised restriction saved by Article 19(4) on the freedom conferred by Article 19(1)(c) of the Constitution has to be

reasonable. In this statute, provision is made for the notification to become effective on its confirmation by a Tribunal constituted by a sitting High Court Judge, on adjudication, after a show-cause notice to the association, that sufficient cause exists for declaring it to be unlawful. The provision for adjudication by judicial scrutiny, after a show-cause notice, of existence of sufficient cause to justify the declaration must necessarily imply and import into the inquiry, the minimum requirement of natural justice to ensure that the decision of the Tribunal is its own opinion, formed on the entire available material, and not a mere imprimatur of the Tribunal affixed to the opinion of the Central Government. Judicial scrutiny implies a fair procedure to prevent the vitiating element of arbitrariness. What is the fair procedure in a given case, would depend on the materials constituting the factual foundation of the notification and the manner in which the Tribunal can assess its true worth. This has to be determined by the Tribunal keeping in view the nature of its scrutiny, the minimum requirement of natural justice, the fact that the materials in such matters are not confined to legal evidence in the strict sense, and that the scrutiny is not a criminal trial. The Tribunal should form its opinion on all the points in controversy after assessing for itself the credibility of the material relating to it, even though it may not be disclosed to the association, if the public interest so requires.

27. It follows that, ordinarily, the material on which the Tribunal can place reliance for deciding the existence of sufficient cause to support the declaration, must be of the kind which is capable of judicial scrutiny. In this context, the claim of privilege on the ground of public interest by the Central Government would be permissible and the Tribunal is empowered to devise a procedure by which it can satisfy itself of the credibility of the material without disclosing the same to the association, when public interest so requires. The requirements of natural justice can be suitably modified by the Tribunal to examine the material itself in the manner it considers appropriate, to assess its credibility without disclosing the same to the association. This modified procedure would satisfy the minimum requirement of natural justice and judicial scrutiny. The decision would then be that of the Tribunal itself."

277. The High Court of Andhra Pradesh in ***Deendar Anjuman vs. Government of India, 2001 SCC OnLine AP 663*** after applying the test laid down in ***Jamaat-e-Islami Hind (Supra)*** upheld the ban imposed and further held that the entire material available on record itself need not be published or made available to the aggrieved person but what is required is disclosure of reasons and the grounds. Relevant extract of the said judgment is as under:-

"19. ***The expression "for reasons to be stated in writing" did not necessarily mean that the entire material available on record itself is to be published or made available to the aggrieved person****. What is required is disclosure of reasons. The grounds must be disclosed. The notification issued under sub-section (1) of Section 3 alone is required to be referred to the Tribunal "for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful." The Tribunal after such reference is required to issue notice to the affected association to show cause, why the association should not be declared unlawful. The Tribunal is required to hold an enquiry in the manner specified in Section 9 and after calling for such further information as it may consider necessary from the Central Government or from the association and then decide whether or not there is sufficient cause for declaring the association to be unlawful. The Tribunal is require "to adjudicate whether or not there is sufficient cause for declaring the association unlawful." As held by the Supreme Court in Jamaat-e-Islami Hind v. Union of India*[2] *the Tribunal is required to weigh the material on which the notification under sub- section (1) of Sec. 3 is issued by the Central Government after taking into account the cause shown by the Association in reply to the notice issued to it and by taking into consideration such further information which it may call for, to decide the existence of sufficient cause for declaring the action to be unlawful. The Tribunal is required to objectively determine the points in controversy. The Supreme Court further held that subject to non-disclosure of information which the Central Government considers to be against the public interest to disclose, all information and evidence relied on by the Central Government to support the declaration made by it of an association to be unlawful, has to be disclosed to the association to enable it to show cause against the same. The Tribunal is entitled to ascertain the credibility of conflicting evidence relating to the points in controversy. It is observed by the Supreme Court:*

> *"To satisfy the minimum requirements of a proper adjudication, it is necessary that the Tribunal should have the means to ascertain the credibility of conflicting evidence relating to the points in controversy. Unless such a means is available to the Tribunal to determine the credibility of the material before it, it cannot choose*
>
> *between conflicting material and decide which one to prefer and accept. In such a situation, the only option to it would be to accept the opinion of the Central Government, without any means to test the credibility of the material on which it is based. The adjudication made would cease to be an objective determination and be meaningless, equating the process with mere acceptance of the ipse dixit of the Central Government. The requirement of adjudication by the Tribunal contemplated under the Act does not permit abdication of its function by the Tribunal to the Central Government providing merely its stamp of approval to the opinion of the Central Government.*

The procedure to be followed by the Tribunal must, therefore, be such which enables the Tribunal to itself assess the credibility of conflicting material on any point in controversy and evolve a process by which it can decide whether to accept the version of the Central Government or to reject it in the light of the other view asserted by the association. The difficulty in this sphere is likely to arise in relation to the evidence of material in respect of which the Central Government claims nondisclosure on the ground of public interest."

20. It is, therefore, evident that disclosure of all the facts and material available on record subject to the claim of any privilege in this regard by the Central Government is only after the reference of the notification issued under sub-section (1) of Section 3 of the Act to the Tribunal for the purpose of adjudication whether or not there is sufficient cause for declaring the association unlawful. The material available on record may have to be revealed to the association or its members. In a case wherever any privilege is claimed, the Tribunal has to examine the material itself in the manner it considers appropriate, to assess its credibility without disclosing the same to the association. Therefore, there is no requirement to disclose the material itself and publish the same in the notification or provide to the association along with the notification issued in exercise of the power under proviso to sub-section

(3) of Section 3 declaring the association to be unlawful with immediate effect. The requirement is disclosure of additional reasons and grounds and not the material. The notification issued in exercise of the power under proviso to sub-sec. (3) of Section 3 cannot be set aside on the ground that the material relied upon for stating the reasons is not communicated to the association concerned declaring it to be an unlawful association with immediate effect. Such notification would become vulnerable only when the reasons are not notified: The record should contain the reasons in writing and the same is required to be revealed and published in the notification or communicated to the association concerned. Such reasons are required to be distinct and different and cannot be the same for imposing ban under Section 3 of the Act. The reasons are required to be communicated but not the entire material. Disclosure of the material is only after reference of the notification issued under Section 3 of the Act to the Tribunal."

(Emphasis supplied)

278. The legal position, that emerges, can be succinctly put in the following terms:-

i. The scheme of the Act and the procedure for inquiry indicated by the Rules framed thereunder contemplates maintenance of confidentiality whenever required in public interest;

ii. The Tribunal can look into the confidential material without the same being disclosed to the Association or its office-bearers, for the purpose of assessing the credibility of the information and satisfying itself that the same is reliable;

iii. The Tribunal can devise a suitable procedure for itself for examining and testing the credibility of such material

iv. The requirement of natural justice can be suitably modified by the Tribunal in the manner it considers appropriate for the purpose of assessing/examining the confidential material/documents, and arriving at a conclusion based on a perusal thereof.

279. Further, the rigors prescribed by the Supreme Court in the case of ***S.P. Gupta vs. Union of India*** (1981) Supp SCC 87 have to be read in the context of the provisions of the UAPA and the Rules framed thereunder. In particular, it needs to be borne in mind that Rule 3(1) of the UAP Rules expressly provides that in holding any inquiry under Sub-Section (3) of Section 4 of the UAPA, the Tribunal shall follow "as far as practicable", the rules of evidence laid down in the Indian Evidence Act. Thus, the rigors that have been contemplated in the context of Section 129 of the Bhartiya Sakshya Adhiniyam, 2023 [1] (which is in *pari materia* with the erstwhile Section 123 of the Indian Evidence Act), cannot *ipso-facto* be made applicable to these proceedings. The legislative intent was clearly to make the provisions of the Evidence Act applicable only "as far as practicable" and the same is borne out from the express provisions of the Act and the relevant judicial pronouncements (as noticed in the foregoing portion of this report), particularly the observations in ***Jamaat-e-Islami Hind*** (supra). The same reads as under:

[1] A reference to the Evidence Act in the UAPA must be necessarily construed as a reference to the Bhartiya Sakshya Adhiniyam, 2023 as well.

> ***"22.*** *It is obvious that the unlawful activities of an association may quite often be clandestine in nature and, therefore, the source of evidence of the unlawful activities may require continued confidentiality in public interest. In such a situation, disclosure of the source of such information, and, may be, also full particulars thereof, is likely to be against the public interest. The scheme of the Act and the procedure for inquiry indicated by the Rules framed thereunder provide for maintenance of confidentiality, whenever required in public interest. However, the non-disclosure of sensitive information and evidence to the association and its office-bearers, whenever justified in public interest, does not necessarily imply its non-disclosure to the Tribunal as well. In such cases where the Tribunal is satisfied that non-disclosure of such information to the association or its office-bearers is in public interest, it may permit its non-disclosure to the association or its office-bearers, but in order to perform its task of adjudication as required by the Act, the Tribunal can look into the same for the purpose of assessing the credibility of the information and satisfying itself that it can safely act on the same. In such a situation, the Tribunal can devise a suitable procedure whereby it can itself examine and test the credibility of such material before it decides to accept the same for determining the existence of sufficient cause for declaring the association to be unlawful. The materials need not be confined only to legal evidence in the strict sense. Such a procedure would ensure that the decision of the Tribunal is an adjudication made on the points in controversy after assessing the credibility of the material it has chosen to accept, without abdicating its function by merely acting on the ipse dixit of the Central Government. Such a course would satisfy the minimum requirement of natural justice tailored to suit the circumstances of each case, while protecting the rights of the association and its members, without jeopardising the public interest. This would also ensure that the process of adjudication is not denuded of its content and the decision ultimately rendered by the Tribunal is reached by it on all points in controversy after adjudication and not by mere acceptance of the opinion already formed by the Central Government."*

280. On perusal of the documents submitted by the Central Government in a sealed cover, it is found that the same contains intelligence reports, details of secret information collected from time to time by the investigating and intelligence agencies, notes/ memos prepared by the investigating and intelligence agencies, information revealed on investigation including information as to the clandestine nature of the activities of the concerned association and its office-bearers and linkage of the association and its office-bearers with organisations and individuals outside of India.

281. This Tribunal finds from the perusal of these documents that the disclosure of these documents would be detrimental to the larger public interest and security of the State. One of the documents which is contained in the sealed cover, is a note prepared for consideration of the cabinet committee on security, which contains sensitive information about activities of the Association and its inimical impact on national security. Clearly, the nature of these documents is such that it would be in public interest and in the interest of the security of the State, to maintain confidentiality as regard thereto.

282. It is also to be noted that the claim for privilege has been expressly stated by the concerned witness from the Ministry of Home Affairs (PW-4) to be based on a specific approval/ direction of the Union Home Secretary (The head of the Department). The said position is also borne out from the relevant official/ noting files shared with this Tribunal.

283. In these circumstances, this Tribunal allows the claim for privilege in respect of the documents submitted in a sealed cover by the concerned witness from the Ministry of Home Affairs (PW-4). Consequently, the Tribunal has proceeded to peruse the said documents, as contemplated in the Judgment of the Supreme Court in ***Jamaat-e-Islami Hind (Supra)*** and to assess the credibility thereof and the implications flowing therefrom for the purpose of the present inquiry.

XV. FINDINGS AND CONCLUSION

284. It is noticed that the evidence / material relied upon by the Central Government in support of the ban comprises of the following:

(i) evidence in the form of FIRs registered in Jammu & Kashmir against members / senior office-bearers of the Association which gives an insight into the nature of their activities;

(ii) the ideology and activities of the Association as revealed from material / videos hosted by the chairperson of the Association on his "youtube channel" and / or as is evident from various other social media posts / videos, *inter alia* containing videos / speeches of its former president

Moulvi Abbas Ansari and its current president Masroor Abbas Ansari;

(iii) evidence in the form of intelligence reports / inputs from various agencies, both central and local.

285. As opposed to the above, learned counsel for the Association has broadly contended as under:

(i) That the banning is based on stale FIRs. It is submitted that even if the material / allegations forming the subject matter of the FIRs are presumed to be true, the same do not constitute sufficient basis for declaring the Association as 'unlawful'.

(ii) It is submitted that the evidence as regards the alleged social media posts / videos, as referred to in the deposition of PW-3 (Liyakat Ali, Inspector, Crime Investigation Department, J & K at Srinagar) is liable to be disregarded altogether inasmuch as the same has not been proved in accordance with the provisions of the Code of Civil Procedure / Bharatiya Sakshya Adhiniyam, 2023 and the same is also inadmissible for non-compliance with Section 79A of the Information Technology Act, 2000 (IT Act). It is submitted that the social media posts / videos do not constitute any authentic "data" which can be relied upon for the purpose of these proceedings. It has been further emphasized that some of the social media posts / videos are of an old vintage, for example, an interview given by its former President Moulvi Abbas Ansari to a Pakistani news channel viz. Geo TV, as far back as in 2009.

(iii) It is vehemently emphasized that the Association is primarily engaged in religious activities being a socio-religious organization. It is emphasized that the Association is a predominantly "Shia Organization" canvassing the religious interest of the Shia community in Jammu & Kashmir. It is submitted that not a single member of the Association has ever been involved in any militant / terrorist activities or in fomenting trouble in the region of Jammu & Kashmir. It is submitted that the

Association, although initially a constituent of All Party Hurriyat Conference (APHC), is different from the other militants / extremists constituents of the APHC inasmuch as it canvasses / professes a moderate ideology and has been pursuing dialogue/s with the Government of India; it has not carried out any activity which undermines the sovereignty and integrity of India nor does it question that Jammu & Kashmir is an integral part thereof.

(iv) It is emphasized that the association has stated on oath that it does not have any separatist ideology and the same has also been affirmed by its witnesses, who have deposed before this Tribunal. Public witnesses have also affirmed that the association is largely a socio-religious organization.

(v) It is submitted that even if it is assumed that certain views of the association have been controversial, the mere factum of holding a controversial view cannot entail the extreme measure of declaring the Association to be an "unlawful association" in terms of the UAPA.

286. Having given my anxious consideration to the material/evidence placed on record by the Central Government and by the Association, I find that there exists cogent basis for issuing the notification under Section 3(1) of the UAPA.

287. At the outset, it is noticed that in the reply filed on behalf of the Association, there is a tacit admission that the Association has been truly a part of the "separatist camp". The following averments in the reply filed on behalf of the Association are instructive in this regard:

> *"In January 2004, M.A. Ansari led a five member Hurriyat delegation to New Delhi to meet the then Deputy Prime Minister Sh. L.K. Advani, marking the first official meeting between* ***'separatist leaders'*** *and the Indian stage (sic) without preconditions."*
>
> *"M.A. Ansari's moderate approach drew sharp criticism from Syed Ali Shah Geelani, causing deep fissures* ***"within 'the separatist camp'."***

288. As such, there is a tacit admission that M. A. Ansari, the former president of JKIM was a "separatist leader", and that the association was part of the "separatist camp". Further, the reply also contains the following statement:

> *"iv. Opposition to Electoral Participation*
> *Although the Hurriyat had a general policy of boycotting elections, Maulana Abbas Ansari consistently called for reviewing this stance, especially during his tenure as Chairman. When voices within the Hurriyat, including Maulana Abbas Ansari, floated the idea of conditional participation in elections as a means to reassert political agency, it was again viciously attacked by hardliners at the behest of Pakistani establishment."*

289. Thus, the association's alleged participation in the electoral/political process was hedged with conditions, which betray a lack of faith in the democratic polity.

290. The fact that the Association seeks to project itself as being "moderate" *vis-à-vis* other constituents of the APHC does not necessarily detract from its separatist ideology.

291. A perusal of the statutory definition of "unlawful association" under Section 2(p) of the UAPA reveals that it includes any association which (i) has for its object any "unlawful activity" or which encourages or aids person to undertake "unlawful activity", or of which the members undertake such activities.

292. "Unlawful activity", as statutorily defined under Section 2(o) refers to any action: (i) which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or secession; (ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India; or (iii) which causes or is intended to cause disaffection against India.

293. It can be seen that by statutory definition itself, any action by any association, which questions/disrupts or is intending to disrupt the sovereignty and integrity of India, amounts to an "unlawful activity". Any association which has for its object any unlawful activity is an unlawful association under Section 2(p) of the UAPA.

294. Thus, in terms of the UAPA, an association would qualify as an "unlawful association", which has its object for any unlawful activity *viz*. which is supportive

of any claim to bring about the cession of a part of the territory of India or the secession of a part of the territory of India and on which it claims or questions the sovereignty and territorial integrity of India. It is not necessary that the association should be a "militant organization". Thus, the emphasis by the association on it being a "moderate association" has no bearing on the issue whether it should be declared as an unlawful association or not; what is relevant is whether activities of the association constitute "unlawful activity" in the statutory sense.

295. The UAPA was enacted pursuant to the Constitution (Sixteenth Amendment) Act,1963 which itself was enacted to impose, by law, reasonable restrictions on the rights mention in clauses (2), (3), and (4) of Article19 of the Constitution of India, in the interest of sovereignty and integrity of India. It was noticed by Delhi High Court in ***Union of India v. Satnam Singh***, ***AIR 2018 Del 72*** that the said Constitution (Sixteenth Amendment) Act was brought about in order to combat secessionist agitations by organizations with the purpose to guard against the freedom of speech and expression being used to assail the territorial integrity and sovereignty of the Union.

296. The Introduction and the Statement of Objects and Reasons of UAPA specifically states as under:-

> *"Introduction:*
> *The National Integration Council appointed a Committee on National Integration and Regionalisation to look into, inter alia, the aspect of putting reasonable restrictions in the interests of the sovereignty and integrity of India. Pursuant to the acceptance of recommendations of the Committee the Constitution (Sixteenth Amendment) Act, 1963 was enacted to impose, by law, reasonable restrictions in the interests of the sovereignty and integrity of India. In order to implement the provisions of 1963 Act the Unlawful Activities (Prevention) Bill was introduced in the Parliament.*
>
> *Statement of Objects and Reasons.—Pursuant to the acceptance by Government of a unanimous recommendation of the Committee on National Integration and Regionalism appointed by the National Integration Council, the Constitution (Sixth Amendment) Act, 1963, was enacted empowering Parliament to impose, by law, reasonable restrictions in the interests of the sovereignty and integrity of India, on the—*
> *(i) Freedom of speech and expression;*

(ii) Right to assemble peaceably and without arms;and
(iii) Right to form associations or unions.

2. The object of this Bill is to make powers available for dealing with activities directed against the integrity and sovereignty of India."

297. In ***Satnam Singh (Supra)***, it has been observed as under:-

"14.It thus becomes crucial to determine the meaning of the phrase 'prejudicial to the sovereignty and integrity of India' used in the Act. Apart from the Act, the phrase finds mention in clauses (2),(3),and (4) of Article 19 of the Constitution of India,where it was added as a ground for restriction on the freedom of expression. This was inserted by the Constitution (Sixteenth Amendment) Act, 1963, in order to combat secessionist agitation and conduct from organizations such as DMK in the South and Plebiscite Front in Kashmir, and activities in pursuance thereof which might not possibly be brought within the purview of the expression 'security of the State'. It was made to guard the freedom of speech and expression being used to assail the territorial integrity and sovereignty of the Union.

15. It was pointed out that any legislation that is undertaken in this behalf, ought to be comprehensive and effective enough to check indirect devices to carry on such movements, such as the burning of the Constitution of India or the refusal to take the oath of allegiance, or the raising of flags in any way simulating the flag of a foreign State with a view to encouraging feelings of allegiance to such State and gathering people having such allegiance. [Vide Question in Parliament re. hoisting of the Plebiscite Front Flag in Kashmir (Statements,11.12.64)].It is to curb the same menace that the Unlawful Activities (Prevention) Act, 1967 was subsequently enacted which under Section 2(o) provides as follows:

"(o) "unlawful activity", in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise),—

(i) which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of India from the Union,or which incites any individual or group of individuals to bring about such cession or secession; or

(ii) which disclaims, questions, disrupts or is

> *intended to disrupt the sovereignty and territorial integrity of India; or*
> *(iii) which causes or is intended to cause disaffection against India;"*

298. It has been judicially recognized that the sovereignty, unity and territorial integrity of India is inviolable and is a basic feature of Indian Constitution. In the celebrated judgment of the Supreme Court in the case of ***Kesavananda Bharati vs. State of Kerala***, ***(1973) 4 SCC 225*** it has been expressly recognized in one of the majority judgments, rendered by J.M. Shelat and A.N. Grover, JJ., that "the unity and the integrity of the nation" (which includes territorial integrity) is a basic feature of the Indian constitution. The relevant extracts from the said judgment are as under:-

> *"582. The basic structure of the Constitution is not a vague concept and the apprehensions expressed on behalf of the respondents that neither the citizen nor the Parliament would be able to understand it are unfounded. If the historical background, the preamble, the entire scheme of the Constitution, relevant provisions thereof including Article 368 are kept in mind there can be no difficulty in discerning that the following can be regarded as the basic elements of the constitutional structure. (These cannot be catalogued but can only be illustrated):*
> *(1) The supremacy of the Constitution.*
> *(2) Republican and Democratic form of government and sovereignty of the country.*
> *(3) Secular and federal character of the Constitution.*
> *(4) Demarcation of power between the Legislature, the executive and the judiciary.*
> *(5) The dignity of the individual secured by the various freedoms and basic rights in Part III and the mandate to build a welfare State contained in Part IV.*
> *(6) The unity and the integrity of the Nation."*

299. In ***Arup Bhuyan vs. State of Assam***, ***(2023) 8 SCC 745***, the Supreme Court has also taken note of the fact that the UAPA was enacted pursuant to the amendment brought about in Article 19(2), (3) and (4) *vide* the Constitution (Sixteenth Amendment) Act, 1963. It has been noticed therein that the main objective of UAPA is to make powers available for dealing with activities directed against the integrity and sovereignty of India. The relevant observations in the said judgment are as under:-

"80. *Thus, the rights guaranteed under Article 19(1)(a) (right to freedom of speech and expression) and under Article 19(1)(c) (Right to form association or unions) are not absolute rights, but are subject to reasonable restrictions as per Articles 19(2) and 19(4) of the Constitution of India. Articles 19(2), (3) and (4) have been amended vide the Constitution (Sixteenth Amendment) Act, 1963 and the words "sovereignty and integrity of India" have been inserted.*

81. *Therefore, as per Articles 19(2), (3) and (4) nothing in sub-clauses (a), (b) and (c) of clause (1) of Article 19 shall affect the operation of any existing law or prevent the State from making any law insofar as such law imposes reasonable restrictions on the exercises of the right conferred by the said sub-clauses in the interests of sovereignty and integrity of India, the security of State ... . As per Article 19(4) nothing in sub-clause (c) (Right to form Associations or Unions) shall affect the operation of any existing law insofar as it imposes, or prevents the State from making any law imposing, in the interests of sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.*

82. *At this stage the Statement of Objects and Reasons for amending Articles 19(2), (3) and (4) are required to be referred to and considered.*

83*. The Statements of Objects and Reasons appended to the Constitution (Sixteenth Amendment) Bill, 1963 which was enacted as the Constitution (Sixteenth Amendment) Act, 1963 reads as under:*

"Statement of Objects and Reasons

The Committee on National Integration and Regionalism appointed by the National Integration Council recommended that Article 19 of the Constitution be so amended that adequate powers become available for the preservation and maintenance of the integrity, and sovereignty of the Union. The Committee were further of the view that every candidate for the membership of a State Legislature or Parliament, and every aspirant to, and incumbent of, public office should pledge himself to uphold the Constitution and to preserve the integrity and sovereignty of the Union and that forms of oath in the Third Schedule to the Constitution should be suitably amended for the purpose. It is proposed to give effect to these recommendations by amending clauses (2), (3) and (4) of Article 19 for enabling the State to make any law imposing reasonable restrictions on the exercise of the rights conferred by sub-clauses (a), (b) and

(c) of clause (1) of that article in the interests of the sovereignty and integrity of India."

84. *The UAPA, 1967 has been enacted in exercise of powers conferred under Articles 19(2) and (4) of the Constitution of India. At this stage, it is required to be noted that exceptions to the freedom to form associations under Article 19(1) was inserted in the form of sovereignty and integrity of India under Article 19(4), after the National Integration Council ("NIC") appointed a Committee on National Integration and Regionalisation. The said Committee was to look into the aspect of putting reasonable restrictions in the interests of the sovereignty and integrity of India. Pursuant to the acceptance of the recommendations of the said Committee, the Constitution (Sixteenth Amendment) Act, 1963 came to be enacted to impose by law, reasonable restrictions in the interests of sovereignty and integrity of India. In order to implement the provisions of the 1963 Act, the Unlawful Activities (Prevention) Bill was introduced in Parliament.*

85. *The main objective of the UAPA is to make powers available for dealing with activities directed against the integrity and sovereignty of India. It is also required to be noted that pursuant to the recommendation of the Committee on National Integration and Regionalisation appointed by the National Integration Council Act on whose recommendation the Constitution (Sixteenth Amendment) Act, 1963 was enacted, UAPA has been enacted. It appears that the National Integration Council appointed a Committee on National Integration and Regionalisation to look into, inter alia, the aspect of putting reasonable restrictions in the interests of sovereignty and integrity of India and thereafter the UAPA has been enacted. Therefore, the UAPA has been enacted to make powers available for dealing with the activities directed against integrity and sovereignty of India."*

300. ***In Re: Article 370 of the Constitution***, ***2023 SCC OnLine SC 1647***, it has been specifically noted that on 26 January 1950, when the Constitution was adopted, the State of J & K became an integral part of the territory of India and this was a matter of "permanence and unalterable". It has been noted as under:-

"153.4 ....

This is a reiteration of the understanding of the members of the Constituent Assembly of Jammu and Kashmir that accession to India was complete and that sovereignty was surrendered.

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161. These provisions are significant. The power of amending the State Constitution which was entrusted to the Legislative Assembly (subject to the assent of the Governor) had thus three major qualifications: firstly, the position that the State of Jammu and Kashmir is and shall be an integral part of the Union of India was unamendable; secondly, the executive and legislative domain of the State which depended upon the domain entrusted to Parliament under the provisions of the Constitution of India over which it would make laws for the State of Jammu and Kashmir was unamendable by the State Legislative Assembly; and thirdly, the provisions of the Constitution of India as applicable in relation to the State of Jammu and Kashmir were unamendable by the State Legislative Assembly. These restraints which were imposed on the amending power of the State Legislative Assembly made it abundantly clear that Jammu and Kashmir being an integral part of the Union of India was a matter of permanence and unalterable. Moreover, any modification in the relationship of the State of Jammu and Kashmir with the Union of India would have to be brought about within the framework of the Constitution of India and that Constitution alone.

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332. On 26-1-1950, when the Constitution was adopted, the State of Jammu and Kashmir became an integral part of the territory of India. The mandate of Article 1 is that "India, that is, Bharat shall be a Union of States". The States and their territories would be those specified in Parts A, B and C of the First Schedule. The State of Jammu and Kashmir was a Part B State on the date of the adoption of the Constitution. With the adoption of the Seventh Amendment to the Constitution which obliterated the distinction between Parts A, B and C States, Jammu and Kashmir became a State in the Union of States. In other words, Article 370 of the Constitution read together with Article 1 leaves no manner of doubt that the integration of Jammu and Kashmir as a part of the nation, which in itself was a Union of States was complete. Any interpretation of Article 370 cannot postulate that the integration of Jammu and Kashmir with India was temporary."

301. The gravamen of the case of the Union of India is that JKIM is essentially a separatist organization which has been fuelling secessionism in Jammu & Kashmir. Additionally, it is also alleged that the association has been lending direct and indirect support to terrorists activities and for this purpose has also been collaborating with inimical elements from across the border. It is in this conspectus that the evidence adduced by the Central Government is to be examined.

302. The evidence concerning the FIRs against the senior members of the association formS subject matter of deposition of PW-1 and PW-2. The summary of the same is as under:

PW	Name of PW	Incident/ Gist of the evidence deposed by PW's	Case Crime No.	Exhibit	161/164 Cr.P.C Statement	Material Facts stated in affidavit	Facts stated during cross examination (Pages cited in accordance with Compiled Testimonies)
1.	**PW-1** **Sh. Parvaiz Ahmed,** Station House officer, Police Station Nishat, Srinagar, Kashmir	On 21.02.1998 the specially designated officer (Kaar-e-Khas) posted in P.S Nishat went to New Theed Harwan for observing the situation and witnessed that the Founder of JKIM along with other separatist leaders arrived at New Theed Harwan and gave speeches urging people of the area to boycott	**FIR No. 37/1998 dated 25.02.1998** u/s 132-B of J & K Representation of People Act, 1957, Section 17 of Criminal Law Amendment Act, Section 13 of UA(P) Act, 1967 & Section 188 of Ranbir Penal Code,	**PW-1/A-** Copy of affidavit of evidence. **PW-1/1-** Copy of FIR No. 37/1998 **PW-1/2 to 1/3-** Copies of statements of two witnesses recorded under Section 161 Cr.P.C.	Statements of witnesses recorded u/s 161 Cr.P.C.	**Para 3@Pg2-** JKIM was founded in 1962 by Md. Abbas Ansari and was one of the founding members of APHC. **Para 7@Pg3-** JKIM is a Pak backed separatist org. having extensive links in Pakistan, where it is represented by Mir Tahir Masood. **Para9@Pg3-** FIR 37/1998 Founder of JKIM and other separatist leader of APHC gave	The Witness Stated that he had over 22 Years of Policing Experience and that a part of the Affidavit is based upon the knowledge derived by him during the course of his service. ***(Page No 3)*** As regards the Statements in the Affidavit regarding the activities of the organization, the Witness has cited the newspapers, books and writings which were publicly available. ***(Page No 3)*** The Witness cited the situation in the valley since 1988 to assert that it was not possible for any member of public to file a complaint with regard to activities of the association. ***(Page No 3)***

		the Parliamentary elections and take action to stop the candidates and their workers in conducting election process so that there is no hindrance in overthrowing the present Government.	1989	**PW-1/4-** True Copy of Chargesheet dated 05.04.2005.		speeches urging people to boycott parliamentary elections. **Para 11@Pg 4-**He has stated that during investigation several witnesses were examined and a perusal of who corroborated that the members of JKIM and APHC were present at the scene and that they gave speeches to instigate anti-India sentiments in public, propagate separatist and secessionist ideas and instigate public to use their own resources and to foil the election and overthrow the Govt. **Para12@Pg5-** Chargesheet dated 05.04.2005 was filed. **Para 14@Pg 5-** Delay in filing chargesheet reasons.	The Witness in response to a direct question posed during cross examination stated under oath that JKIM is not a religious organisation. ***(Page No 4)*** The Witness reiterated paragraph 5 of his Affidavit and stated that JKIM was a member of the Hurriyat Conference and had played a pivotal role in providing support to terrorist organizations. ***(Page No 5)***
2.	**PW-2** **Sh. Dheeraj Kumar,** Sub-Divisional, Police officer, Shaheedgunj, Srinagar, Kashmir.	On 23.06.2000, a docket was received informing that on the occasion of Eid-e-Milad-un Nabi and Friday prayer, SPO Naseer Ahmad alonwith with his colleagues saw Syed Ali Shah Geelani (the then Chairman of APHC) and Moulvi Abbas Ansari and others delivering an anti- national speech in Masjid Hamdaniya at Jhelum Market, Batmaloo. The separatist leaders through their provocative speeches stirred emotions of youth to maintain a war and harm intergrity of	**FIR No. 61/2000 dated 23.06.2000** u/s 153A/120B/ 121(B) of RPC.	**PW-2/A-** Copy of affidavit of evidence. **PW-2/1-** Copy of FIR No. 61/2000 **PW-2/2 to 2/3-** Copies of statements of two witnesses recorded under Section 161 Cr.P.C. **PW-2/4-** True Copy of Chargesheet dated 28.12.2002.	Statements of witnesses recorded u/s 161 Cr.P.C.	**Para 4@Pg2-**Prime object JKIM to promote separatist ideas and get secession of J&K from India. **Para 9@Pg3-** FIR 61/2000, On occasion of Eid-e-Milad-un Nabi and friday prayer APHC Chairman and abbas Ansari delivered anti national speech. **Para 11@Pg 4-** He has stated that investigation several reveals that the Chairman of JKIM and AHPC present there gave speeches to instigate anti-India sentiments in public, propagate separatist and secessionist ideas and instigate public at large for secession of J&K from UOI. **Para 13 @Pg4-** Both accused persons have died and as such case	The Witness cited that even after the banning, the organization continued with its activities and accordingly FIR No 02/2025 came to be registered at PS Karan Nagar. ***(Page No 10)*** The Witness stated that the contents of FIR No 61/2000 can be corroborated by videos available on YouTube ***(Page No 12)*** The Witness stated am not aware whether Lt. Molvi Mohd. Abbas Ansari was ever underground at any stage. He was never arrested in FIR No. 61/2000. (Vol.) In view of the prevalent situation in Kashmir, it was not considered feasible to arrest him as elaborated in para 14 of my affidavit. ***(Page No 12)*** The Witness Stated that while FIR No 61/2000 was against individual persons, the FIR makes references to the activities of both JKIM as well as Hurriyat. ***(Page No 14)***
		India.				against them has also been abated.	

303. The deposition of PW-1 concern FIR No. 37/1998 which was occasioned on account of the fact that the founder of JKIM Mohd. Abbas Ansari, alongwith other separatist leaders of the APHC namely Mohd. Yasin Malik (who has been convicted in NIA case No. RC 10/2017, Professor Ab Gani Bhat, Gh. Nabi Sumji and Javid Ahmad Mir gave speeches urging the people of the area to boycott parliamentary elections. They raised anti-India slogans and referred to the "illegal occupation" of J&K.

304. The evidence of PW-2 concerns FIR No. 61/2000. Again, the gist of the allegation is that Moulvi Abbas Ansari (former president of JKIM) alongwith other separatist leaders who have gave inflammatory speeches *inter alia* containing statements which undermine the territorial integrity of India, adverting to the Accession of Kashmir with India as being "impartial and insincere" and, exhorting youth of Kashmir to "continue their struggle against India, Indian Army and Police till their return from Kashmir". The separatist leaders through their provocative speeches had stirred emotions of youth to maintain a bloody war and tried to harm the integrity of India.

305. While it is true that FIR No. 37/1998 and FIR No. 60/2000 were registered quite some time ago, the same cannot be characterized as being altogether irrelevant for the purpose of these proceedings. The said FIRs, though dated, give an insight as to the ideology propagated by the association and its collaboration/sympathies with separatist elements in the region of Jammu & Kashmir. As regards the relevance of these dated FIRs, the observations rendered in the report under Section 4(3) of the UAPA authored by Hon'ble Justice Navin Chawla in the context of ban on Jammat-E-Islami, Jammu & Kashmir are instructive. In the said case also, one of the contentions raised before the Tribunal was that the notification under Section 3 was based on "stale material". It was observed by the Tribunal as under:

> *"517.**The submission of the learned counsel for the Objectors that most of the FIRs, being of March 2019, are stale and could not have acted as material for the opinion of the Central Government, though on first blush appeared attractive, cannot be accepted as it is the totality of circumstances and the material as a whole that needs to be considered. The material cannot be compartmentlised and seen in isolation. They, in the facts of the present reference, act as a chain** and show the*

continuation of the illegal activities of the Association even post its ban in 2018."

(Emphasis supplied)

In the present case as well, the FIRs relied upon, although dated, give an insight of the nature of activities/ideology of the association.

306. The FIRs and the material collected during investigation bring out that the association in question, through its erstwhile chief protagonist, has been supportive of secessionist activities, preaching disaffection against the Indian state, openly organising protest/s, raising slogans in which the status of J & K as integral part of India is disputed.

307. Reliance sought to be placed by the association on the judgment of the Supreme Court in ***Mohd. Jafar (supra)*** is misconceived. In the said case, the Supreme Court was concerned with the issue whether there was justification (in that case), for banning the concerned association with immediate effect (from the date of publication of the concerned notification in the official gazette). The court did not pronounce upon the issue as to whether the concerned FIRs ceased to be relevant material for the purpose of assessing "sufficient cause" just because the said FIRs are dated. The scope and import of the judgment in ***Mohd. Jafar (supra)***, as also the relevance of FIRs which reveal the activities of the association was also touched upon in the judgment of the Delhi High Court in ***Islamic Research Foundation v. Union of India decided on 16 March, 2017 in W.P.(C) 264/2017, 2017 SCC OnLine Del 7489*** and it was observed as under:

"5. *Learned Senior Counsel for the petitioner submitted that speeches and FIRs based on which the ban has been imposed constitute stale material and such material could not have been used to impose the ban with immediate effect. He further submitted that there is nothing stated in the notification with regard to the organisation and the allegations in the notifications are vis a vis its president, members and employees. It is submitted that the notification is also based on incorrect facts in as much as it states that Dr. Zakir Naik has been chargesheeted, whereas no such chargesheet has been filed till date.*

xxx *xxx* *xxx*

22. *In contra-distinction, in the impugned notification, as noticed above the additional reason is specifically stated. The impugned notification, in my view, satisfies the test laid down by Supreme Court in MOHAMMAD JAFAR (supra).*

23. *The contention of learned Senior Counsel for the petitioner that the ban has been imposed based on stale material and that there is nothing stated in the notification with regard to the organisation and the allegations are vis a vis its president, members and employees and that the notification is based on incorrect facts, in my view is unsubstantiated.*

24. *The reason stated in the notification is that the petitioner organisation and its members, particularly, the founder and President of the said Association, Dr. Zakir Naik, have been encouraging and aiding its followers to promote or attempt to promote, on grounds of religion, disharmony or feelings of enmity, hatred or ill-will between different religious communities and groups. Reference made to the cases registered against Dr. Zakir Naik and other members of the organisation under various sections of the Act and the Penal Code, 1860 is to show that the kind of activities the members are alleged to be indulging in. The statements and speeches made by Dr. Zakir Naik, the President of the organisation are stated to be objectionable and subversive in nature and that he has been extolling the known terrorists like Osama Bin Laden and proclaiming that every Muslim should be a terrorist and claiming that if Islam had indeed wanted, eighty percent of Indian population would not have remained Hindus as they could have been converted "if we wanted" by sword, justifying the suicide bombings, posting objectionable comments against Hindu gods, claiming that Golden Temple may not be as sacred as Mecca and Medina and making other statements which are derogatory to other religions.*

25. *Dr. Zakir Naik, by his speeches and statements, is stated to have been promoting enmity and hatred between different religious groups and inspiring muslim youths and terrorists in India and abroad to commit terrorist acts. Material is stated to contain statements of some terrorists arrested in the terrorist attack incidents or arrested ISIS sympathisers which have revealed that they were inspired by the fundamentalist statements of Dr. Zakir Naik, which was indicative of the subversive nature of his preachings and speeches. In addition, the notification records that the activities of the organisation and its President Dr. Zakir Naik are highly inflammatory in nature and prejudicial to the maintenance of harmony between various religious groups and communities and there is every possibility of many youth being motivated and radicalized to commit terrorist acts leading to promoting enmity between different religious groups.*

26. *An "unlawful association" has been defined by Section 2(g) of the Act to mean an association which, inter alia, encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity. "Unlawful activity" has been defined under section 2(f) of the Act to means any action taken which is intended, or supports any claim, to bring*

about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or secession or which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India.

27. *The activities which the petitioner organisation and its president and members are alleged to have indulged in, would clearly come within the purview of "unlawful activity" and since the petitioner organisation and its members are alleged to have been indulging in the said activities it would come within the definition of "unlawful association".*

28. *Thus, it cannot be held that the impugned notification insofar as it relates to, the exercise of power under proviso to section 3(3) of the Act and the declaration of the petitioner association to be an unlawful association with immediate effect, is an arbitrary and unreasonable exercise of power. Not only is the material available on the record of the Central Government but the reasons for exercise of the said power have been disclosed in the notification. The record, that was made available for the perusal of the court, discloses material for exercise of such power. The action of the Central Government would be covered under the exception of Article 19 (4) of the Constitution of India. The immediate action appears to have been taken in the interest of sovereignty and integrity of India and public order."*

(Emphasis supplied)

308. As such, it is incorrect to state that the concerned FIRs in the present case, with regard to which senior police officials from the Union Territory of Jammu & Kashmir have deposed in these proceedings, are wholly irrelevant. Moreover, this Tribunal is unable to countenance the attempt on the part of the association to trivialize the allegations which constitute the underlying basis of the FIR/s.

309. It is also pertinent to note that the concerned officials (PW-1 and PW-2), while deposing with regard to the FIRs, stated, on the basis of their personal experience as police officers that :

"it is manifest that JKIM and its leaders have been actively and continuously but covertly and discreetly working for secession of J & K from the UOI and Cession of the territory of J & K to Pakistan which is obviously against the national interest and integrity of the nation by promoting feelings of enmity and hatred in the masses against the Government of India and hence, are acting in a manner prejudicial to the territorial integrity and sovereignty of the UOI and hence, the ban imposed upon the association is necessary and correct. …."

310. It also needs to be appreciated in these proceedings that this Tribunal is not concerned with the guilt or otherwise of the accused in the concerned FIRs. The ambit of these proceedings is not to conduct a mini trial in respect thereof. Also, the FIRs only constitute one set of material/evidence which this Tribunal is bound to consider for the purpose of adjudging existence of "sufficient cause" for the purpose of issuing the notification under Section 3(1) of the UAPA. The same has to be considered in the context of, and in conjuction with other material/evidence on record. As held by the Supreme Court in ***Jamaat-E-Islami Hind (supra)***, it is incumbent on this Tribunal to examine the totality of material/evidence cited in support of the ban on the association.

311. It has also been held by successive Tribunals constituted under Section 4 of the UAPA that for the purpose of these proceedings, even statements recorded under Section 161 CrPC is in the nature of relevant material which is liable to be considered. The same flows from the dicta laid down by the Supreme Court in ***Vinay D. Nagar vs. State of Rajasthan, (2008) 5 SCC 597*** and ***Jamaat-E-Islami Hind (supra).***

312. Thus, the FIRs with regard to which PW-1 and PW-2 have deposed, is one of the material/evidence which gives an insight of the ideology and activities of the association. The contention that the same ought to be completely discarded/ignored, cannot be accepted.

313. This Tribunal is also unable to accept the contention of the association that the rigors of the Code of Civil Procedure and the Indian Evidence Act shall apply with full vigor in the context of the present proceedings. The legal position as regards the procedure to be followed by this Tribunal has been succinctly explained by the Supreme Court in ***Jamaat-E-Islami Hind (supra).*** The relevant observations are once again reproduced as under:

> ***"11.*** *Section 4 deals with reference to the Tribunal. Sub-section (1) requires the Central Government to refer the notification issued under sub-section (1) of Section 3 to the Tribunal "for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful". The purpose of making the reference to the Tribunal is an adjudication by the Tribunal of the existence of*

sufficient cause for making the declaration. The words 'adjudicating' and "sufficient cause" in the context are of significance. Sub-section (2) requires the Tribunal, on receipt of the reference, to call upon the association affected "by notice in writing to show cause" why the association should not be declared unlawful. This requirement would be meaningless unless there is effective notice of the basis on which the declaration is made and a reasonable opportunity to show cause against the same. Sub-section (3) prescribes an inquiry by the Tribunal, in the manner specified, after considering the cause shown to the said notice. The Tribunal may also call for such other information as it may consider necessary from the Central Government or the association to decide whether or not there is sufficient cause for declaring the association to be unlawful. The Tribunal is required to make an order which it may deem fit "either confirming the declaration made in the notification or cancelling the same". The nature of inquiry contemplated by the Tribunal requires it to weigh the material on which the notification under sub-section (1) of Section 3 is issued by the Central Government, the cause shown by the Association in reply to the notice issued to it and take into consideration such further information which it may call for, to decide the existence of sufficient cause for declaring the Association to be unlawful. The entire procedure contemplates an objective determination made on the basis of material placed before the Tribunal by the two sides; and the inquiry is in the nature of adjudication of a lis between two parties, the outcome of which depends on the weight of the material produced by them. Credibility of the material should, ordinarily, be capable of objective assessment. The decision to be made by the Tribunal is "whether or not there is sufficient cause for declaring the Association unlawful". Such a determination requires the Tribunal to reach the conclusion that the material to support the declaration outweighs the material against it and the additional weight to support the declaration is sufficient to sustain it. The test of greater probability appears to be the pragmatic test applicable in the context.

***12.** Section 5 relates to constitution of the Tribunal and its powers. Sub-section (1) of Section 5 clearly provides that no person would be appointed "unless he is a Judge of a High Court". Requirement of a sitting Judge of a High Court to constitute the Tribunal also suggests that the function is judicial in nature. Sub-section (7) says that any proceeding before the Tribunal shall be deemed to be a "judicial proceeding" and the Tribunal shall be deemed to be a "Civil Court" for the purposes specified. Section 6 deals with the period of operation and cancellation of notification. Section 8 has some significance in this context. Sub-section (8) of Section 8 provides the remedy to any person aggrieved by a notification issued in respect of a place under sub-section (1) or by an order made under sub-section (3) or sub-*

section 4, by an application made to the District Judge who is required to decide the same after giving the parties an opportunity of being heard. This also indicates the judicial character of the proceeding even under Section 8. Section 9 prescribes the procedure to be followed in the disposal of applications under the Act. Provisions of Section 9 of the Act lay down that the procedure to be followed by the Tribunal in holding an inquiry under sub-section (3) of Section 4 or by the District Judge under Section 8 shall, so far as may be, be the procedure prescribed by the Code of Civil Procedure for the investigation of claims……..

XXX XXX XXX

***20.** As earlier mentioned, the requirement of specifying the grounds together with the disclosure of the facts on which they are based and an adjudication of the existence of sufficient cause for declaring the association to be unlawful in the form of decision after considering the cause, if any, shown by the association in response to the show-cause notice issued to it, are all consistent only with an objective determination of the points in controversy in a judicial scrutiny conducted by a Tribunal constituted by a sitting High Court Judge, which distinguishes the scheme under this Act with the requirement under the preventive detention laws to justify the anticipatory action of preventive detention based on suspicion reached by a process of subjective satisfaction. The scheme under this Act requiring adjudication of the controversy in this manner makes it implicit that the minimum requirement of natural justice must be satisfied, to make the adjudication meaningful……*

21…….The procedure to be followed by the Tribunal must, therefore, be such which enables the Tribunal to itself assess the credibility of conflicting material on any point in controversy and evolve a process by which it can decide whether to accept the version of the Central Government or to reject it in the light of the other view asserted by the association. The difficulty in this sphere is likely to arise in relation to the evidence or material in respect of which the Central Government claims non-disclosure on the ground of public interest."

314. On the question of nature and type of evidence, which can be relied upon by the Tribunal, the Supreme Court referred to Rule 3 of UAP Rules, 1968. Rule 3(1) stipulates that the Tribunal subject to sub-rule (2) shall follow, "as far as practicable", the rules of evidence laid down in Indian Evidence Act.

315. As regards the evidentiary standard/s applicable to these proceedings, it has been observed in Jamaat-***e-Islami*** (supra), that the Tribunal shall evolve a procedure in consonance with the principles of natural justice, to determine whether the

material to support the declaration outrights the material against it. The test of greater probability is the pragmatic test. Further, the procedure shall conform to procedure prescribed by the Code of Civil Procedure, for investigation of claims only "as far as may be".

316. As regards the evidentiary standards and the applicability of the Code of Civil Procedure, it is also instructive to refer to the legal position enunciated in a report under Section 4(3) of the UAPA authored by Justice Sanjiv Khanna, for the purpose of adjudicating the ban on 'Students Islamic Movement of India' (SIMI) (also referred to in the foregoing portions of this report). The same is as follows:

> *"62. Section 9 uses the words "so far as may be" The words signify that the Legislature's intent does-not mandate that the Code should be followed in its entirety, section by section, order by order or. Word by word. Use of the words "so far as may be" ensure sufficient flexibility and freedom to the Tribunal to follow and regulate its own procedure which should be in consonance with, the procedure stipulated as per the- Code. The procedure prescribed in the Code can be modified and changed keeping in view the practical requirements, need and necessity. This may be required in view of the object and purpose of the Act and practical problems which may be faced in case the requirements of the Code are strictly and entirely followed, in* ***Abdul Haji Mohd. Versus R. R. Naik AIR 1951 Bom, 440****, it was held that the, words "as far as practicable" must be construed to mean to the extent it is practicable. Bombay, High Court in a subsequent decision* ***Keshrimal Jeevli Shah and another versus Bank of Maharashira and others, 2004 (122) Company cases 831*** *has held that whenever words like "as far as possible" or as far as practicable etc. are used, the legislative intent is not to apply all the provisions in their entirety, but the provision have to be applied as far "as possible" and subject to such modifications as the context as well as the object and purpose of the enactment require. The setting in which the words occur, the statute in which they occur, the object and purpose behind the enactment and mischief which is sought to be taken care of and remedy which are relevant in determining to what extent and subject to what modifications the required enactment should be applied.*
>
> *63. Section 5(5) of the Act states that the Tribunal shall have power to regulate its procedure in matters' arising out of discharge of its functions including the place/places at which it will hold sittings. Therefore, the aforesaid sub-Section gives flexibility and freedom to the Tribunal to fix and regulate the procedure. to be followed subject of course to the requirement of fair and just hearing. Sub-section (6)*

to Section 5 further stipulates that the Tribunal while making the enquiry will have the power of a civil court in respect of matters stipulated in clauses (a)to (e). As per Section 4(3) of the Act, the Tribunal has to hold an enquiry within a period of six months from the date of issue of Notification under sub-section (1) of Section 3. There is no provision under which this time can be extended. The use of the expression "as far as may be" in Section 9 of the Act and the power given to the Tribunal to regulate its own procedure in Section 5(5) of the Act indicates that the strict procedure as stipulated and applicable to trial of civil suits is not envisaged or required. One will also have to keep in mind the time limit of six months within which the Tribunal is required to complete the enquiry and answer the reference: A summary procedure or a hybrid procedure which may be akin or similar to and in consonance with the procedure for adjudication of claims in the Code can be followed.

64. The above ratio and reasoning will equally apply to Rule 3(1) which uses the expression "as far as practicable" the rules of evidence, as laid down in the Indian Evidence Act, will apply. ***It may be noticed that Rule 3(1) uses the words "rules of evidence" and does not use the words "provisions of the Indian Evidence Act, 1872 would apply". Therefore general principles or rules of evidence underlying the Evidence Act are applicable to the extent practicable****. In these circumstances, I do not think that the Act or the Rules envisage and require an elaborate, and a detailed procedure for summoning of each and every witness mentioned in the charge-sheets, presence and examination of witnesses present at the time of preparation of panchanama or all police officers who were involved in the investigation. Summoning of record will be counter-productive, cumbersome and time consuming. There will be concerns about safety and security of the persons appearing as well as the records which may have to be summoned or produced. Normally, cases relied upon by the central government will be cases of serious cases and the chargesheet etc. will be voluminous and number of witnesses also substantial. The nature of material in-most-cases where unlawful activity is alleged would include oral evidence, documentary evidence; as well as confidential inputs based on information received from intelligence. These cases can have inter-State or trans-border involvement and a-large number of persons are normally involved in conspiracy.* ***This aspect cannot be ignored as proceedings before the Tribunal have to be pragmatic and the provisions of the Code and the Evidence Act have to be applied to the extent possible and practicable.****"*

(Emphasis supplied)

317. The above observations also apply for the purpose of the evidence adduced by PW-3 (Liyakat Ali) who is working as "incharge" of the Social media cell at Crime Investigation Department, Jammu & Kashmir. The said witness has deposed

about the activities of the association as reflected in social media posts/videos. It has been stated in the affidavit that Moulvi Abbas Ansari, the former president of JKIM had delivered various secessionist speeches and had also given interviews to media channels wherein the secessionist ideology of the association has been articulated. The said affidavit encloses a pendrive containing one speech and three interviews of M.A. Ansari which had been marked as Ex.PW-3/1 and Ex. PW-3/3. The copies of the transcript of these videos are marked as Ex. PW-3/2. The same reads as under:

- *Video recorded on 12.09.2008 (uploaded on 16th Jun 2009 on Itthadul Muslimeen): Moulvi Mohammad Abass Ansari (MAA) can be heard and seen, as saying that there can be no solution to 'Kashmir Issue' nor peace in the sub-continent unless Kashmiris are taken on board by India* ***and its promise of 'plebiscite' in Kashmir is realized****.*
- *Interview video uploaded on 'Concept Today' on 24th Oct 2017: MAA can be heard saying that Modi isn't ready for the talks with Kashmiris either in India or in 'Azad Kashmir' (PoJK) or with Pakistan.* ***He says that Kashmiris won't remain with either India or Pakistan, neither it belongs to Pakistan nor to Inida. And unless India, Pakistan and Kashmiris together sit, there can be no solution****.*
- *Interview of MAA in a 'GEO TV', Pakistani News channel, taken on 6th June 2005 (uploaded on 8th Nov, 2009, on Ittihadul-Muslimeen): MAA can be heard saying there is a need of coordination between Kashmiri leaders based in India and Pakistan.* ***He said we have road-maps, and that we don't need to follow the road-maps either of India or Pakistan. The road map cannot be disclosed to the India or Pakistan unless Kashmiri brothers from both sides are taken into confidence.*** *We aren't against Indo-Pak talks, but we want to be heard as we are caught between guns of Mujahideen and Indian security forces.*
- *Interview of MAA on article 25A and 370 abrogation (uploaded on 24th Jan 2019);* ***India has promised Kashmir of his right to plebiscite recognized by UN and until and unless that right is realized the 'resistance movement' will continue****. High court or Supreme court cannot decide the future people but Kashmiris alone, whom he terms as those living in* ***'Indian occupied'*** *and Pakistan occupied Kashmir."*

318. It has also been brought out that the current Chairman of JKIM Masroor Abbas Ansari has a "youtube channel" which also contains various objectionable speeches, advocating secessionism and also tacitly glorifying terror and terrorist activities in Jammu & Kashmir. The links of the said provocative speeches as

referred to in the affidavit are as under:

"https://youtu.be/6znqNkeDIKo;
https://youtu.be/oLxV1C8uqvg;
https://youtu.be/pmodR604MfA;"

319. The concerned videos have been submitted in a pen drive and marked as Ex. PW-3/1 & Ex. PW-3/3. The English transcript/translations of the videos have been furnished as Ex. PW-3/2 and Ex. PW-3/4.

320. It has also been brought out in the said affidavit that in an interview with BBC, the previous chairman of JKIM Moulvi Abbas Ansari made certain incendiary statements. The same has been placed on record as Ex. PW-3/1 & 3/3. A transcript of the interview has been furnished as Ex. PW-3/5.

321. PW3 alongwith his affidavit has enclosed screeshots of the website of JKIM (hosted on www.tripod.com), the relevant extract of which has been appended alongwith the affidavit and which contains various objectionable statements. The same also contains a webpage, being a "Calendar of Events". The same, *inter alia*, highlights following dates:

JAMMU & KASHMIR ITTIHADUL MUSLIMEEN

Calender of Events

Here we may list activities that are scheduled for the next couple of months. Things could change frequently, so it is good idea to visit this page as often as possible to keep up to date.

…….

January 04 15:00 pm- Procession from Gulshan Bagh Sgr
January 05 (1949) – UN adopts resolution for Kashmir issue
January 05 13:00 pm- Procession from Androon Kathidarwaza (Rainawari)
January 06 14:00 pm- Procession from Guru Bazar, Behind Shali Store Srinagar
January 07 15:00 pm – Procession from Momin Abad, Mandibal (Nowshera)
January 08 Full Day- Day of Ashura 19th Moharram
January 08 11:00 am- Ashoora Procession from Abiguzar to Zadibal
Janauary 12 Full Day- Majlis Hussaini & Procession at Chek Hanjiwera Pattan

January 21 (1990) - Gowkadal Massacre
January 23 Full Day- Majlis Hussain & Procession at Mirgund, Pattan
January 23 Full Day – Majlis Hussaini & Procession at Garend, Budgam.
January 26 (1950)- Indian Republic Day (Black Day)
…….
October 27, (1947) - Indian Invasion on Kashmir (Black Day)
……..
March 23, (1945) – Pakistan Day

322. As can be seen, Indian Republic Day (January 26) has been referred to as "black day"; there is also a reference to "Indian invasion of Kashmir".

323. Notably, during the proceedings held on 23.08.2025, the factum of Masroor Abbas Ansari hosting a "youtube channel" was admitted. The videos hosted therein were elaborately perused by this Tribunal in the presence of respective counsel by accessing the internet. It was noted that the same included the interview given by Moulvi Abbas Ansari to a Pakistani channel *viz.* "Geo Tv". The statements therein tally with the transcripts forming part of Ex. PW-3/5. The details of the videos/websites perused by the Tribunal during the hearing on 23.08.2025 are as under:

Sl No.	DETAILS	REMARKS
1.	HOME PAGE OF WEBSITE - https://ittihadul.tripod.com/	The website contains at the footer the copyright of the website under the name of the Association i.e.**"@ Copyright 2008 – Itthihadul Muslimeen, Karanagar, Srinagar, Kashmir, 190010"** **Thus the copyright in respect of the content hosted there at, is stated to be owned by the Association.** The homepage of the website describes the association as a religio-political organisation. A perusal of the homepage unfurls the secessionist ideologies of the association. Further the homepage explicitly mentions the association's stand on Kashmir issue inter-alia as under: "….(4) JKIM believes that the accession of Kashmir state with India is inchoate. Government of India cannot hold people of Kashmir. It must and in fact is under an obligation to ascertain the

		will of the people. People of our state have absolute choice in the matter of their continuing with Government of India or to annual the arrangement. But under no circumstance Govt. of India can refuse to ascertain the political will of the people. In last 60 years holding of referendum on the question of accession has been avoided. JKIM believes that govt. of India is first interested in altering the community composition of our people purely on the basis of religion and then hold the plebiscite as and when the present majority community is reduced to minority. We won't let this happen. We want referendum now and we will leave no stone unturned in our efforts to pressurize Govt. of India and Pakistan to hold plebiscite in the whole state so that the commitment made to the people of Kashmir on October 27, 1947 is fulfilled. …. (6) JKIM believes that for the purpose whatever means we may have to employ in achieving our political objective, will be adopted. Failure on the part of India to hold plebiscite provides complete morale basis to our movement and on going struggle. Our movement has roots in our conscience. It can never lie. Our generation after the other will fight. With every day the movement will become more intense and effective. Our movement has ideological basis. It cannot be suppressed no matter what the cost is. We are determined to alter the status quo and put an end to Indian occupation on our soil.
2.	CALENDAR ON JKIM WEBSITE - https://ittihadul.tripod.com/id85.html	Webpage depicting "calendar of events" as hosted conspicuously marks the Indian Republic Day (26.01.1950) as "Black Day". Further, the calendar mentions 27.10.1947 as "Indian invasion on Kashmir Black Day"
3.	FREEDOM STRUGGLE PAGE ON JKIM WEBSITE - https://ittihadul.tripod.com/id7.html	Under the garb of freedom struggle the website incites hostility towards the Government of India and equates

		the administration of India Government in Kashmir to that of Bosnia and Burma, portraying the struggle of Kashmir far worse than that faced by people in Bosnia and Burma.
4.	CONTACT US PAGE ON JKIM WEBSITE - https://ittihadul.tripod.com/id9.html	The webpage also contain Head office address and personal details of the office bearers (contact number, email address, etc.) mentioned on the "contact us" page of the website. These are the office bearers who have deposed as witnesses for the Association before this Tribunal. This fact was also admitted during the course of hearing on 23.08.2025.
5.	BBC INTERVIEW OF ABBAS ANSARI ON JKIM WEBSITE - https://ittihadul.tripod.com/id85.html	Interview by Abbas Ansari, transcripts of which form part of several webpages hosted at this link, and which contains several incendiary and objectionable statements as also brought out by PW-3.
6.	YOUTUBE CHANNEL "Maulana Masroor Abbas Ansari Kashmiri**@MasroorAnsari-786**" - https://www.youtube.com/@MasroorAnsari-786	The fact that this Youtube Channel is that of Masroor Abbas Ansari (RW-1) has been admitted during the course of hearing on 23.08.2025. The videos uploaded on the said Youtube Channel have been perused by this Tribunal on 23.08.2025 in the presence of the respective counsel for the parties.
7.	VIDEO MENTIONED IN EXHIBIT P1 IN THE AFFIDAVIT OF PW3 – LIYAQAT ALI, INSP., CID, JKP TITLED "**Maulana Abbas Ansari in Geo TV Debate**" UPLOADED ON 08/11/2009 on OFFICIAL YOUTUBE CHANNEL "Maulana Masroor Abbas Ansari Kashmiri**@MasroorAnsari-786**"- https://www.youtube.com/watch?v=GG5mv4_Ux90	This is the video of the interview given by Abbas Ansari to Pakistani news channel 'Geo TV' on 06/06/2005 and uploaded on THE OFFICIAL YOUTUBE CHANNEL "Maulana Masroor Abbas Ansari Kashmiri**@MasroorAnsari-786**" on 08/11/2009
8.	VIDEO MENTIONED IN EXHIBIT P1 IN THE AFFIDAVIT OF PW3 – LIYAQAT ALI, INSP., CID, JKP TITLED **"Maulana Abbas Ansari on Article 35A & 370"** UPLOADED ON 24/01/2019 on YOUTUBE CHANNEL "Maulana Masroor Abbas Ansari Kashmiri**@MasroorAnsari-786**" - https://www.youtube.com/watch?v=UtTAU-PCMbg	Interview of Molvi Abbas Ansari on article 35A and 370 abrogation stating that India has promised Kashmir of its right as recognized by UN and until and unless that right is realized the 'resistance movement' will continue.

324. From the speeches/interviews of Molvi Abbas Ansari (the erstwhile chairman) and Masroor Abbas Ansari (the current chief protagonist of the Association), it is apparent that the Association advocates /endorses /seeks to legitimize the separatist ideology. Further, the same undermines the sovereignty and territorial integrity of India and foments discontent/dissatisfaction towards India. The video/ interviews speak of "right of self-determination"/ plebiscite etc. The sloganeering in the videos is also illustrative of the manner in which dissatisfaction towards India is fomented.

325. It is also notable that in the interview given by Moulvi Abbas Ansari to BBC [transcript of which (Ex.PW3/5) has also been perused by the Tribunal], there is extensive and repeated reference to the "right of self-determination" and the same reveals the concerted attempt to undermine the legitimacy of the Indian State.

326. The objection/s raised by learned counsel for the association as regards the authenticity of the videos/social media posts do not survive in view of the admission made during the course of hearing on 22.08.2025 and 23.08.2025 that the aforesaid "youtube channel" is being hosted by Masroor Abbas Ansari, wherein various videos are uploaded. A perusal of the videos leaves no manner of doubt as to the secessionist agenda of the association. Paradoxically, although learned counsel for the association refers to some of the videos referred to in the affidavit of PW-3 as "stale", it is noteworthy that those very videos continue to be uploaded on the said "youtube channel" of Masroor Abbas Ansari. A gist of some of the videos hosted on the "youtube channel" of Masroor Abbas Ansari as referred to in the deposition of PW-3 are as under:-

Sl.. No.	**Name of document & Original Exhibit No.**	**Particulars**		
		Video Name	**Transcript (relevant portion) (Ex. PW3/4)**	
1.	3 videos of Masroor Abbas Ansari delivering provocative speeches / interview in Kashmiri language	Videos of Masroor Abbas Ansari	***(1) 21.09.2018*** ***Video on YouTube is titled as "Kashmir ki Azadi aur Moharam ka Dars" on YouTube Channel "Er Mohammad Rafiq"*** ***(duration- 04.20 minutes)*** ***At 00:03 to 00:49 - ". I support the people who pasted photographs of killed terrorist Burhan Muzaffar Wani. If authorities want to register case against Masroor Abbas Wani, I am ready for ever consequences. Peopleof Kashmir are*** *'Mazloom'.* *At 00:05 to 01:02 -* *"...Yahan kya chalega nizame Mustafa (land will only be ruled under Sharia Law)"* *At 01:20 to 02:45- "... we the people are indispensable part of freedom struggle. I and you people want freedom…* *…not to succumb before the oppressor even if my head is removed from shoulders."* *(Slogan) Masoor se Jo Takrayega ,Choor Choor Hojayega.* *At 03:20 to 03: 44 -* *"…we are ready to die for the cause of freedom and Islam,*	

			our mothers have produced lions for the cause…." **(Mentioned in Ex.PW3/4)** *(2)* ***29.08.2010*** *Duration – 02:06 minutes* *(Slogan) "La Tahino wala Tahzanoo" (means-Don't be lazy and gloomy, you will be victorious but only precondition is that you have to be firm in your faith).* *At 00:31 to 01:27-* *..The Kashmiri people started freedom struggle in 1931 and the struggle is for "Azadi Barai Islam (means freedom for Islam). Kashmir people gave sacrifices for the cause of freedom…"* **(Mentioned in Ex.PW3/4)** *(3)* ***12.06.2011*** ***Duration: 01:26 minutes*** ***At 00:30 to 01:26*** *"JKIM want that unless and until Kashmiri people will not unite in one platform we cannot fight against our common enemy. In this regard what so ever forum for freedom struggle was formed, JKIM always extended its support. Being Shia cleric wants to replicate the model of their spiritual Iranian learder Ayotollah Khumani in J & K to forward the cause of freedom struggle. The freedom struggle shall continue till its culmination.* **(Mentioned in Ex.PW3/4)**	

327. It is also notable that apart from the videos referred to in the affidavit of PW-3, the youtube channel of Masroor Abbas Ansari also contains various other videos containing highly objectionable material. For instance, the video/s, hosted at https://www.youtube.com/watch?v=evo01fi7xKk refers to Masrat Alam and Shahid Ul Islam, who are protagonists/members of APHC, as "political prisoners". There are other videos which have hightly objectionable material, for instance, the video / speech hosted at https://www.youtube.com/watch?v=c5GmAyykUGA which is interspersed with slogans for "azadi", and refers to the alleged killing of civilions by "Indian forces".

328. The said objectionable videos continue to be hosted/uploaded on the youtube channel of Masroor Abbas Ansari i.e. https://www.youtube.com/@MasroorAnsari-786. These also give an insight into the nature of activities, ideology and agenda of the association, and clearly corroborate the case set up by the central government.

329. There is also little doubt as regards the authenticity of the website of the association hosted at https://ittihadul.tripod.com**.** It is notable that the footnote of the concerned webpages hosted therein contained the following endorsement:

> "*@ Copyright 2008 – Itthihadul Muslimeen, Karanagar, Srinagar, Kashmir, 190010"*

330. This aspect, and the other inferences which flow from a perusal of the webpages hosted at the aforesaid link, have been referred to at the table set out in paragraph 323 above.

331. There is another aspect of the matter. During the proceedings on 22.08.2025, this Tribunal made it clear that the relevant videos hosted on the "youtuble channel" of Masroor Abbas Ansari would be perused by the Tribunal on 23.08.2025. It transpires that in the intervening period between 22.08.2025 and 23.08.2025, one of the videos referred to in the affidavit of PW-3 was deleted. This was admitted by the association in additional rejoinder. RW1 has also admitted this fact in his supplementary affidavit. The same is also a pointer to the fact that the association sought to disguise/conceal the true nature of its activities/ideology from this

Tribunal. Details of the deleted video are as under:-

1	VIDEO RECORDED ON 12.09.2008 OF M.A. ANSARI CONTAINED IN A PENDRIVE WHICH IS EX.PW3/1 AND PW3/3 ANNEXED WITH THE AFFIDAVIT OF PW3 – LIYAQAT ALI, INSP., CID, JKP. WITH TIME STAMP UPLOADED ON THE OFFICIAL YOUTUBE CHANNEL "Maulana Masroor Abbas Ansari Kashmiri **@MasroorAnsari-786**" - https://youtu.be/dLZ35Zgry3k?si=DtGyEF8_WwLijJFk	i. Video was available on the Youtube channel till 22/08/2025. i. Video was found to be deleted when the same link was used to access the video on 23.08.2025 on the youtube channel of "Maulana Masroor Abbas Ansari Kashmiri@**MasroorAnsari-786**". ii. PW-3 has furnished the English Translation of the gist of the statements made in the said video. The said translation has been placed on record and marked as Ex. PW-3/2. The same, *inter alia*, reads as under: *"that there can be no solution to 'Kashmir Issue' nor peace in the sub-continent unless Kashmiris are taken on board by India and its promise of "plebiscite" in Kashmir is realized."* **iii. JKIM has in its additional written submission (served upon the UOI vide email dated 26.08.2025) has admitted specifically to deleting the said video from its Youtube channel on 22.08.2025 and upon the same being pointed out at the hearing of the present matter on 23.08.2025, the said video was re-uploaded thereafter.**
2	VIDEO RECORDED ON 12.09.2008 OF M.A. ANSARI BEING RE-UPLOADED ON 23/08/2025 ON THE OFFICIAL YOUTUBE CHANNEL "Maulana Masroor Abbas Ansari Kashmiri**@MasroorAnsari-786**" - https://www.youtube.com/watch?v=-c4_UIMIY20	The video was re-uploaded on 23/08/2025 on the youtube channel "Maulana Masroor Abbas Ansari Kashmiri**@MasroorAnsari-786**".

332. Quite apart from the admissions that were made during the course of the proceedings on 23.08.2025, the objections raised by learned counsel for the association as regards the legal admissibility of the exhibits enclosed along with the affidavit of PW-3, are untenable. It hardly bears any reiteration that while this Tribunal is guided by the general principles underlying the Code of Civil Procedure, the strict rigors of the same are inapplicable to these proceedings. The legal position in this regard has been discussed in detail in the foregoing paras of this report. Also, as discussed hereinabove, the provisions of the Evidence Act/Bharatiya Sakshya

Adhiniyam, 2023, shall also apply only "to the extent practicable".

333. Learned ASG is right in contending that in consonance with Section 63 of the Bharatiya Sakshya Adhiniyam, 2023 (BSA), the affidavit of PW-3 produced the electronic evidence which is admissible as secondary evidence; a certificate in terms of Section 63(4) of BSA was submitted by the concerned witness before this Tribunal which constitutes substantial compliance with the said provision.

334. In any event, during the hearing on 23.08.2025, the primary electronic evidence was directly perused by the Tribunal by accessing the internet. Section 57 of the BSA provides as under:

> *"57. **Primary Evidence**.—Primary evidence means the document itself produced for the inspection of the Court.*
>
> *Explanation 1.—Where a document is executed in several parts, each part is primary evidence of the document.*
>
> *Explanation 2.—Where a document is executed in counterpart, each counterpart being executed by one or some of the parties only, each counterpart is primary evidence as against the parties executing it.*
>
> *Explanation 3.—Where a number of documents are all made by one uniform process, as in the case of printing, lithography or photography, each is primary evidence of the contents of the rest; but, where they are all copies of a common original, they are not primary evidence of the contents of the original.*
>
> *Explanation 4.—Where an electronic or digital record is created or stored, and such storage occurs simultaneously or sequentially in multiple files, each such file is primary evidence.*
>
> *Explanation 5.—Where an electronic or digital record is produced from proper custody, such electronic and digital record is primary evidence unless it is disputed.*
>
> *Explanation 6.—Where a video recording is simultaneously stored in electronic form and transmitted or broadcast or transferred to another, each of the stored recordings is primary evidence.*
>
> *Explanation 7.—Where an electronic or digital record is stored in multiple storage spaces in a computer resource, each such automated storage, including temporary files, is primary evidence."*

335. Reliance has been rightly placed on ***Anvar PV v. PK Basheer,*** **(2014) 10 SCC 473** which, after taking note of similar provisions of the then-applicable Indian Evidence Act 1872, held as under:

> *"24. The situation would have been different had the appellant adduced primary evidence, by making available in evidence, the CDs used for announcement and songs. Had those CDs used for objectionable songs or announcements been duly got seized through the police or Election Commission and had the same been used as primary evidence, the High Court could have played the same in court to see whether the allegations were true. That is not the situation in this case. The speeches, songs and announcements were recorded using other instruments and by feeding them into a computer, CDs were made therefrom which were produced in court, without due certification. Those CDs cannot be admitted in evidence since the mandatory requirements of Section 65B of the Evidence Act are not satisfied. It is clarified that notwithstanding what we have stated herein in the preceding paragraphs on the secondary evidence on electronic record with reference to Section 59, 65A and 65B of the Evidence Act, if an electronic record as such is used as primary evidence under Section 62 of the Evidence Act, the same is admissible in evidence, without compliance of the conditions in Section 65B of the Evidence Act."*

336. Again, In ***Arjun*** Panditrao ***Khotkar v. Kailash Kushanrao Gorantyal,*** **(2020) 7 SCC 1** it was held as under:

> *"34. Quite obviously, the requisite certificate in sub-section (4) is unnecessary if the original document itself is produced. This can be done by the owner of a laptop computer, a computer tablet or even a mobile phone, by stepping into the witness box and proving that the concerned device, on which the original information is first stored, is owned and/or operated by him. In cases where "the computer", as defined, happens to be a part of a "computer system" or "computer network" (as defined in the Information Technology Act, 2000) and it becomes impossible to physically bring such network or system to the Court, then the only means of proving information contained in such electronic record can be in accordance with Section 65B(1), together with the requisite certificate under Section 65B(4). This being the case, it is necessary to clarify what is contained in the last sentence in paragraph 24 of Anvar P.V. (supra) which reads as "…if an electronic record as such is used as primary evidence under Section 62 of the Evidence Act…". This may more appropriately be read without the words "under Section 62 of the Evidence Act,…". With this minor clarification, the law stated in paragraph 24 of Anvar P.V. (supra) does not need to be revisited."*

337. During the course of final arguments, learned counsel for JKIM contended that for the electronic evidence to be admissible, it ought to be supported with an opinion of an expert witness such as an Examiner of Electronic Evidence under Section 79A of the IT Act 2000.

338. The provision for an Examiner of Electronic Evidence under Section 79A of the IT Act 2000 is relatable to Section 39(2) BSA which reads as under:

> *"39. Opinions of experts* -
> ...
> *(2) When in a proceeding, the court has to form an opinion on any matter relating to any information transmitted or stored in any computer resource or any other electronic or digital form, the opinion of the Examiner of Electronic Evidence referred to in section 79A of the Information Technology Act, 2000 (21 of 2000), is a relevant fact.*
>
> *Explanation.--For the purposes of this sub-section, an Examiner of Electronic Evidence shall be an expert."*

339. Upon conjoint reading of Section 79A of IT Act 2000, together with other provisions of BSA, including Section 39(2) thereof, the opinion of the Examiner of Electronic Evidence referred to in Section 79A of the IT Act 2000 is relevant where "expert opinion" is necessitated as regards electronic evidence. This provision does not affect to the admissibility of the electronic evidence produced by a party, nor forms a condition precedent for the production of the same before this Tribunal. In essence, the provision/s contemplate that if an opinion is produced by an Examiner of Electronic Evidence under Section 79A of the IT Act 2000 by the parties or if the court warrants the opinion of such an expert, such opinion shall be a relevant fact. It does not preclude the court from forming an opinion on electronic evidence without the aid of such an opinion, nor does the lack of such opinion render the evidence inadmissible.

340. Section 63 BSA does not require an "expert witness" to be produced before the Tribunal as contended by JKIM. The requirement of an 'expert' to provide a certificate under Section 63(4) BSA should also be construed in light of Section

39(2) of BSA as one that may be produced if the opinion of an expert is required. The certificate required to be produced by the person in charge of the computer/device which has been used to produce the electronic record under Section 63(4) BSA, i.e. the certificate of PW-03 Mr. Liyaqat Ali, has already been submitted before this Tribunal and accordingly, there is substantial compliance with this provision. It is again re-emphasised that even otherwise, in terms of the judgment of the Supreme Court in ***Jamaat-e-Islami Hind (supra),*** the strict rigors of all these provisions are not applicable.

341. There is, *ex-facie*, no merit in the contention of learned counsel for JKIM that the "electronic evidence" relied upon by the Central Government, is "doctored". The same is a bald assertion, without any cogent basis. Thus, the electronic evidence produced in the affidavit is admissible and is required to be considered by this Tribunal. In the circumstances, this Tribunal is not inclined to accept the contention of the learned counsel for the association that the evidence adduced by the Central Government in the form of social media posts/videos, as also referred to in the deposition of PW3, is liable to be discarded. The said social media posts/videos are in the nature of relevant material that is required to be considered. The same, undoubtedly, gives an insight as to the nature of the secessionist ideology propagated by the association. The fact that the association describes itself as a 'moderate' organization, does not detract from the same.

342. While the learned counsel for the association is at pains to urge that the association has no separatist moorings and/or it is distinct from the other constituents of APHC in this respect, (as also vehemently emphasized by the witnesses on behalf of the association), the same does not inspire confidence and is negated by the manner in which the association has been propagating the separatist views through posts/videos on social media. The same undoubtedly, seeks to undermine the credibility of the Indian State; makes reference to "plebiscite" in Kashmir/right to self determination etc. Some of the videos speak of India and Pakistan in the same vein with reference to Kashmir (for instance, in the interview of Masroor Abbas Ansari, RW-1, to a Pakistani News Channel *viz*., 'Geo Tv'). All

these aspects negate the picture which has been sought to be projected through statements of the witnesses, who have deposed on behalf of the association.

343. There are also some inconsistencies/incongruities in the depositions of the witnesses of the association. Thus, for instance, on one hand, learned counsel for the association is at pains to emphasis that the association has no linkage with any extremist/separatist element in Jammu and Kashmir, yet, on the other hand, in the cross-examination of RW1/Masroor Abbas Ansari, he acceded to that according to him, 'Burhan Wani' is a Martyr. Relevant portion of the cross-examination reads as under:

> *"I know who is Burhan Wani. Although, he was perceived to be a terrorist since he was engaged in militancy, he had some support amongst the locals. Neither I nor JKIM ever subscribed to his ideology and never had any close association or terms with him. He belongs to an organization (Hizbul Mujahideen) which gave many threats to my father. I believe that Burhan Wani was a Martyr. I did not participate in the procession that was taken out on the occasion of the demise of Burhan Wani."*

344. There is also incongruity in the stand taken as regards the very existence of the association. In this regard, it is pertinent to note that RW1 has stated in his affidavit as under:-

> *"13. Here it is submitted that in September 2023 the JKIM was dissolved by deponent as some of its members were not following the objectives of the organization and were indulging in antiparty activities.*
>
> *From September 2023, there is no association structure, as all its functions were being performed the deponent till democratic body for association is elected. To label the Answering Respondent as unlawful, when no association exists because of the Dissolution in September, 2023 is in fact abuse of process of law, which is quite strange and ironic and bereft of any factual position."*

345. Even the learned counsel for the association has, on the one hand, submitted that JKIM was dissolved, however, in the same breath, it has also been asserted that presently there is no association structure, and all its functions are performed by the Acting President Maulana Masroor Abbas Ansari till a democratic body for the association is elected.

346. It is again noted that it is incumbent on this Tribunal to ascertain existence of "sufficient cause" from the totality of circumstances and overall perusal of the material/evidence placed on record by the respective parties. Such overall consideration, in the totality of circumstances, reveals that there is credence in the version put forth by the Central Government.

Public Witnesses

347. It is noted that some 'public witnesses' have submitted their affidavits during the course of these proceedings. The same contain generic statement/s, are identically worded and notarized by the same notary public on the same day. *Vide* order dated 12.07.2025, this Tribunal called upon the public witnesses to disclose the following:

> *"(i) Whether they are/have been members of JKIM? If so, during what period?*
> *(ii) Whether they have had any connection with JKIM or its Office Bearers?*
> *(iii) Whether they are/have been actively involved in the activities of JKIM and if so, in what capacity?*
> *(iv) Whether they have been receiving any correspondence or instructions from JKIM or from its Office Bearers?*

348. Subsequently, in compliance of the order dated 12.07.2025, 21 out of the 24 public witnesses, filed their supplementary affidavits, which are again, identical in terms. The same state as follows:

> *"1) That I have been associated with Late Molvi Mhammad Abass Ansari (ra), from my childhood as follower (mureed). I have not been member of JKIM. However, as follower of Late Moulve Abass Ansari, I had associated with organization as a common person. My association with Late Molvi Abass Ansari and after his death with Molvi Masroor Abass Ansari has been in religious affairs as follower/disciple (mureed).*
> *2) That I had no connection with JKIM or its office bearers, except as mentioned in para 1 of this affidavit.*
> *3) That I have been disciple/follower (mureed) of religious leader Late Molvi Abass Ansari and thereafter his death Molvi Masroor Abass Ansari and have not been involved in activities of JKIM.*
> *4) I have been receiving guidance from religious leader Late Molvi Abass Ansari and thereafter from Molvi Masroor Abass Ansari in religious affairs and have been receiving such guidance throughout my life in accordance with Shia sect of Islam."*

As such, the said public witnesses, evidently, apart from avowedly being "followers" of the association, have no direct connection with the association, much less do they have any knowledge about the inner workings / activities of the association. As such, no inference can be derived from these affidavit/s of "public witnesses" for the purpose of these proceedings.

Material/Evidence in the form of Report/Inputs of Intelligence Agencies (furnished in Sealed Cover)

349. The confidential materials/reports furnished by the PW4 in a sealed cover have been examined threadbare by this Tribunal, the same, undoubtedly, corroborates the necessity for proscribing the association. A perusal of the same validates and corroborates each and every aspect of the activities of the association as referred to in the notification and elaborated in the background note. A perusal of the same leads to inexorable and definitive conclusion that the ban on the association is legal and justified in view of the material/report referred to, being of confidential nature, the same is not being reproduced herein. However, the same has been taken into consideration strictly in line with the parameters laid down by the Supreme Court in ***Jamaat-e-Islami*** (supra).

350. The documents/material which have been submitted in a sealed cover gives comprehensive insight and details as to the unlawful activities and separatist endeavours of JKIM and its collaborations with inimical elements from across the border.

351. Thus, the Central Government has been able to make out a cogent case in support of impugned notification dated 11.03.2025 for declaring the association i.e. JKIM as banned association. As noted, the evidence adduced by the Central Government is elaborate and extensive, and *inter alia* comprises (i) evidence of 3 officers from the State of J & K, who have deposed in respect of 2 FIRs against the chief protagonist of the association and other members, on account of his various incidents/actions as referred to hereinabove; (ii) Evidence in the form of social

media posts/videos, which brings out the secessionist agenda of the association and the fact that the association has sought to seriously undermine the sovereignty and integrity of India; (iii) excerpts from website/s (ittihadul.tripod.com); (iv) Evidence in the form of intelligence reports/memo furnished by the security agencies regarding the activities of the association, with precise details as to the inimical and unlawful activities. As opposed to this, the evidence adduced by the association is lacking in credibility and is not borne out by cogent material.

352. During the course of arguments, an apprehension has been expressed by learned counsel for the association that in case the ban on the concerned association is upheld, the religious activities being carried out by Masroor Abbas Ansari (and other persons who have been associated with the association) shall be impeded. The said apprehension is misconceived. To allay this apprehension, learned ASG has made a statement that that religious activities which are not within the purview of 'unlawful activity' under Section 2(o) of the UAPA are not prohibited under UAPA. It has been categorically stated that (ex) members of JKIM who undertake such legitimate activities in their personal capacity, for religious purposes, will not be impacted by the proscription of the association[1]. The said statement is taken on record. It is also noted that Masroor Abbas Ansari, the chairman of JKIM himself stated in his deposition that he was permitted to take out a procession on 04.07.2025 on the occasion of Moharram in which lakhs of people participated and the government gave due permission for the same. He further stated that certain other processions were also held around the same period in which he participated. Thus, it is evident that legitimate religious activities undertaken by member/s of JKIM in their personal capacity, shall remain unimpacted by the present action against JKIM under UAPA, 1967.

[1] Following submission has been made in the additional written submissions of the Union of India:
"In this regard, it is most respectfully submitted **that religious activities which are not within the purview of 'unlawful activity' under Section 2(o), UAPA are not prohibited under UAPA. Members of JKIM who undertake such legitimate activities in their personal capacity for religious purposes will not be impacted by an order under Section 4 by this Hon'ble Tribunal."**

CONCLUSION

353. From the elaborate material /evidence placed on record in these proceedings, this Tribunal finds that there is ample justification to declare JKIM as an unlawful association under the UAPA. Moreover, given the nature of activities of the association, the Central Government was justified in taking recourse to the proviso to Section 3 (3) of the UAPA for the reasons given in the notification.

354. Thus, this Tribunal having followed the procedure laid down in the UAPA and its Rules and having independently and objectively appreciated and evaluated the material and evidence on record, is of the firm and considered view that there exists sufficient cause for declaring JKIM as an unlawful association under Section 3(1) of the UAPA, 1967, vide the notification dated 11.03.2025. Thus, an order is passed under Section 4 (3) of the UAPA, 1967, confirming the declaration made in the notification bearing no.S.O.1114(E), published in the official gazette on 11.03.2025 issued under Section 3(1) of the UAPA, 1967.

(JUSTICE SACHIN DATTA)
UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL

SEPTEMBER 03, 2025 ”

[F. No.14017/12/2025-NI-MFO]
RAJEEV KUMAR, Jt. Secy.

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