

Before Hon'ble Shri Justice A.S. Naidu , Commission of Inquiry,  
Bhubaneswar  
Affidavit

I , Miss Jyotsna Rani Patro, aged about 70 years, D/o. late Parom patro, resident of Hill Patna, P.O.: Berhampur, P.S.: B.N. Pur, Dist.: Ganjam, Orissa at present working as the Secretary Utkal Christian Council (Regd.) do here by solemnly affirm and state as follows:-

1. That the Utkal Christian Council is a registered society consisting of the major protestant churches of the state of Orissa. Its head office is at Mission Road, Cuttack, Orissa. It is a regional body of the National Council of Churches of India.
2. That I am duly authorised by the Executive Committee of the Utkal Christian Council to swear this affidavit on behalf of the member churches who were victimized in the August 2008 Communal Violence in Orissa and more particularly in Kandhmal District.
3. That after the most unfortunate killing of Swami Laxmanananda Saraswati and some of his followers in the Jaleshpata Ashram, in the Tumudibandh area in the evening of 23<sup>rd</sup> August 2008, the situation was tense. Even if the Maoists claimed the said assassination of Swamijee , still the VHP and other fundamentalist organization campaigned against Christians for the said assassination of Swamijee. After the VHP blamed Christians for the assassination, a wave of violence swept across Kandhamal. More than one hundred Christians were killed, tens of thousands were forced from their homes, and hundreds of churches and other Christian institutions were vandalized or destroyed. The Crime Branch of the Orissa Police Department, which led the investigations into the events of 2008, and filed charge-sheet stating the involvement of Maoist in the killing of Saraswati .The Maoist leaders stated to set a militia to carry out their plan, which included the killing of the leader of the Viswa Hindu Parishad , Swami Laxmanananda Saraswati and some of his followers in the Jaleshpata Ashram, in the Tumudibandh area (Kandhamal District), on the evening of 23<sup>rd</sup> August 2008 . The supplementary charge sheet filed by the police clearly shows the planning and execution of the murder of VHP leader by senior Maoist leader Sabyasachi Panda and six others. After the VHP blamed

Christians for the assassination, a wave of violence swept across Kandhamal. This matter was reported in many leading news agencies. Copies of the news clippings are filed herewith as **Annexure –A**

4. That on 9<sup>th</sup> September 2008 the Maoists, who work underground, made an official press release claiming responsibility for the killing of Lakshmanananda. Communist Party of India (Maoist) leader Sabyasachi Panda claimed before the electronic media that they killed Swami Laxmanananda Saraswati and four of his disciples at his Jalespeta ashram on 23 August, for spreading hatred among people in the name of religion in the Kandhamal district and working against the principle of the said organization. A recorded CD of the interview of Maoist leader Sabyasachi Panda telecasted by electronics media is filed herewith as **Annexure –B.**
5. That the people resorted to road blockades from 23<sup>rd</sup> Aug 2008 night which continued for a week. Vehicular movements at various places of the state were affected due to the demonstration of the activists of Bajrangdal, Vishwa Hindu Parishad, RSS, Hindu Jagaran Mancha and supported by the BJP, a ruling coalition partner. More than one hundred Christians were killed, tens of thousands were forced from their homes, and hundreds of churches and other Christian institutions were vandalized or destroyed, which could have been prevented if the state would have taken preventive measure soon after the unfortunate killing of Swami Laxmanananda Saraswati by not allowing the illegal Bandh and imposing 144 Cr. P.C or Curfew as the per the situation. The District police should have immediately submitted the prosecution under section 107 and 108 of the Cr. P. C against all factions. This must have been followed up with the Executive magistrates and bonds could have been insisted upon and meticulous follow up action could have been invariably taken up undertaken U/s-113 and 116 of the Cr. P. C. in appropriate cases. Further it is to be noted that after the unfortunate killing of Swami Laxmanananda Saraswati when the "Bandh" call was given, the state did not declared it as illegal knowing fully aware about the consequence of such "Bandh". No such above mentioned preventive measures were taken to bring normalcy during "Bandh". If the whole circumstances are assessed then a prudent man will come to a conclusion that state has not responded properly and constitutional

obligation has not been discharged by the state. For this State is solely liable.

6. That it is relevant to mention here that a team headed by Shri P. Mishra, IPS, then Addl. DG of Police (Hdqrs.),Cuttack with Shri A. K. Ray, IPS,IG of Police and Shri Arun Bothra, IPS, an SP rank officer as members was constituted by the DG Police Orissa on 07.01.2008, just after the December 2007 Kandhamal Riot, to collect information about the incidents that took place under different police stations of the Kandhamal district, they were also directed to advise the district SP to take all possible measures to prevent recurrence of such incidents. The said committee after due enquiry submitted its report to the DGP . The said report reveals that "The rise of Hindu organizations such as RSS, Bajarang Dal and VHP has brought religious tension to the fore. They have taken a violent stand against conversion and other activities of Christian missionaries. Their presence and activities have come to light in various places of the district. At the fore of such activities is one Laxmanananda Saraswati who has been operating in the District since 1969. He started the Banabasi Kalyana Ashram at Chakapada under Tikabali PS. He is a professed member of the VHP.
7. The said committee of IPS officers, constituted by the DG Police Orissa have further observed & recommended that "**Going by the history of the District and the fluid ethno-communal situation, things have to keenly watched and monitored.**
8. Further the said committee of IPS officers constituted by the DG Police Orissa, have recommended that the following measures could be adopted to cope with such situations in the future, or more appropriately, to ensure that they do not happen again.
  - i. Expeditious investigation of all cases and arrest of hardcore communal elements.
  - ii. Identification of fundamentalists all over the District and keeping watch on their activities.
  - iii. Revamping of the DIB, with proper manpower.
  - iv. Revamping of the Special Branch unit Kandhamal.
  - v. Immediate filling up of all vacant posts and ensuring quality manpower to District.
  - vi. District APR should be increased in strength and properly trained. A striking force should be stationed at Balliguda under the SDPO.

- vii. Location of one IR Battalion at Phulbani with an ODRAF component.
- viii. The District police should immediately submit prosecution under section 107 and 108 of the Cr. P. C against all factions. This should be followed up with the Executive magistrates and bonds insisted upon. Follow up action under section 113 and 116 should be invariably taken up in appropriate cases.
- ix. Regular joint meetings with the leaders of various religious and ethnic groups by the DM and SP, preferably on a monthly basis.
- x. Watch over activities of NGOs and evangelist groups.
- xi. Move Govt. of India, to declare Kandhamal as a LWE affected district for allotment of funds under RSE scheme.
- xii. Upgrade Chakapada OP to a Police Station and Barakhama Beat House to an OP with a SI in-charge and at least 10 to 15 constables.

9. That even after receiving the said report of the committee constituted by the DGP, the state has neglected to implement the said report resulting irreparable loss of lives and properties of particularly from the Christian community. That because of this attitude of the state the flame of riot has spread alarmingly to other parts of the state and resulted in serious destruction of life and property of people including property of the Government. The life and liberty of the people was jeopardized and there is only an animal existence of riot victims. The state has failed to protect the life and liberty of minorities. Copy of the said report of the committee constituted by the Director General of Police, Orissa on 07.01.2008 is filed herewith as **Annexure –C**

10. That it is pertinent to mention here that the total population of Phulbani District was 8,63,903 as per the 1991 census. The population of Hindu in the Phulbani district was 7,86,327 and the population of Christians in the Phulbani district was 75,725 during 1991 census, in the undivided Phulbani District. However after the bifurcation Phulbani District in the year 1993, Kandhmal & Boud districts were created out of Phulbani District. The total population of Kandhmal District is 6,48,201 as per the census of 2001. Out of which the population of Hindu was 5,27,757 and the population of Christians 1,17,950 during 2001 census after creation of this new district. Similarly total population of Boud District was 3,73,372 as per the census of 2001. Out of which the population of Hindu was 3,72,070 and the population of Christians 1,17,950 during 2001 census after creation of this new district.

11. That the total population of Orissa as per 1991 census was 31,659,736, in comparison to the total population of 1991 census. Which was recorded as 26,360,271, having a increase of 20.06% . During 2001 census , the total population of Odisha was 3,68,04,660. According to the census the overall growth of Odisha population in 2001 in comparison to 1991 census was 15.94%. If the total population according to 2001 census of Boudh and Kandhmal is merged, then the total population of both the Districts will be 10,21,573. In that case the total population of Hindu of both the Districts as per the census report will be 8,99,827, and the total population of Christian of both the District is 1,18,189. A comparative study of religious population of 2001 census after merger if compared with 1991 census of the undivided Phulbani District, then there is a increase of 11.56% of Christian in the said to District which is much less than the growth of Odisha population of 2001 which is 15.95%. A careful perusal of census report will prove beyond doubt that there is no increase of Christian population in the District of Kandhmal. If a realistic view is taken on the basis of population of both the districts. Because the total Christian population in the newly created district of Boud which was carved out from Phulbani District is only 239 and the percentage of Christian population of Boud is 0.64%. Hence it will be wrong to say that the Christian population in the Boud district has decreased by re-conversion. The above sharp changes of increase or decrease of religious population in the newly created Kandhmal & Boud districts have occurred due to bifurcation on geographical basis and not on the basis of religious line. Hence the charges labeled of conversion in the district of Kandhmal without taking the cognizance of the craved out Boud district is totally baseless. The statement of state authority and fundamentalist groups are based on conjecture and surmise. The Hon'ble Commission may look out this aspect to clarify the doubt of people who are blindly making statement without getting in to the statics prepared by the Govt.

12. That the VHP leader Mr. Pravin Togadia carried out a procession with Saraswati's ashes after his cremation, an act that clearly inflamed further communal tension and rioting. However, it later emerged that Swami Saraswati Jee was never cremated in the first place (as a Hindu sannyasi, the holy man had already

symbolically cast his physical body into fire while alive by wearing saffron robes, and set the soul free). As is the tradition of sannyasis, Saraswati was not cremated but instead buried and entombed after death. Since no cremation ever took place, Mr. Prabin Togadia replied that there was no question of "ashes" being proposed to be carried in any procession at all, and therefore the claims of "Asthi kalash yatra" (carrying of the ashes) were untrue and the whole intension of carrying the ashes was a trick to spread a premeditated wave of violence against Christians which swept across the state of Orissa causing thousands of people as homeless destitute and left many children as orphan and women as widows.

13. That more than one hundred Christians were killed, nearly five thousand houses were burnt/damaged/destroyed , more than one hundred churches and other Christian institutions were vandalized / destroyed , more than hundred vehicles were damaged in the communally sensitive state during the Bandh. Several Christian Educational Institutions, Christian shops and houses were damaged and ransacked. Activists accompanying body of the slain leader defied curfew and held processions passing through Phulbani town, attacking churches, houses and vehicles of one community in the presence of the police. The place of worships were desecrated, women were burnt , raped and Christian priests were subjected to inhuman torture. Christians were burnt alive. Many villagers had to hide in the forests to save their lives. The Christian institutions had been closed down due to security reason. The law and order situation in the state was completely paralyzed. If the situation could have handled properly by the state ,then it would have prevented the unmanageable magnitude of law and order situation in the district .

14. That it is pertinent to mention that women were molested and the miscreant outraged the modesty of women in public. Miss Mina Barua a Catholic sister of Kanjamendi village under Baliguda PS was raped and a Catholic father C. Thomas of the same place was made half necked and both were paraded in the public. Another Nun of K.Nuagaon under Baliguda PS was gang raped in public. The matter was reported to the police station and trial of the same is going on. These kinds of atrocities to the women on the basis of religion are

not only violation of statute of the country but also violation of basic human rights of the women.

15. That more than hundred churches and prayer house have been ransacked leaving no place for the Christian congregation to worship. The furniture of these churches have been burnt, hymn books, bibles were burnt, sacred communion materials have been destroyed, the cross and other symbols of spiritual requirement have been broken and destroyed. The right to worship of these people have become meaningless as they have no place and no scripture to meet the spiritual require of the life.
16. That more than 100 educational institutions have been attacked and the school buses have been badly damaged. The District Administration is unable to provide security forces to the educational institutions to protect the properties and to maintain law and order situation. As a result many of these institutions were feeling insecure and were not dare enough to open the institutions.
17. That more than one hundred Christians have been killed and more than 500 people were injured during the communal riot . The victims had no option but to hide in the mountain and forest and many left the district and took asylum in different district of the state of Orissa and also outside the state to save their lives.
18. It will not be out of place to mention herein that the Christian Minority in the district had lost their basic human rights. Even though the Government has been assuring them all protection the extremists were moving about with lethal weapons threatening the Christians. The extremists went on their destructive activities even in the presence of the police force who often say that they are not enough to face such a crowd. The destruction goes on unabated. The Christians who are already attacked and those who are in great fear of being attacked feel with sufficient reason that they are left to the mercy of the extremists. The Christian Minority in the state doesn't see any where sufficient number of police forces; the senior police officers for maintenance of law and order have expressed their inability to contain the situation in absence of adequate force.

19. That, finding no other way out to protect the people from riots this the present deponent's organization has made representation to Chief Minister of Orissa, and Governor of Orissa. However the Governor of Orissa has allowed the delegation of Christian Community to visit him and discuss the situation. The Hon'ble Governor of Orissa also assured necessary steps will be taken.
20. That, the incident has also been reported in all leading newspaper of the state and these news coverage speaks the state of affairs prevailing in the state at present. On 5-10- 2008 , the Maoist Leader Mr. Sabya Sachi Panda gave Video statement in an interview with ETV/OTV which was telecasted in the electronics media that the Maoist group had planned and killed Swami Laxanananda Saraswati on Aug 2008. Though the statement made by said the Maoist Leader Mr. Sabya Sachi Panda was well circulated in all the electronics and print media repeatedly, but the police has failed to investigate on this vital aspect for the reason best known to them. For proper adjudication about the root cause of the riot, it is necessary to call for the media persons of ETV/OTV for examination on oath who interviewed the Maoist Leader Mr. Sabya Sachi Panda
21. That the state has played a double standard attitude. On one hand looking at the situation has proclaimed 144 Cr.P.C. in the area and imposed Curfew as the situation as it went out of control. At the same time allowed the "Bandh" called by some fundamentalist organizations to continue and further allowed them to carry a mass procession during the period of curfew with Lathis, tridents and other ammunitions and Mashals. It is not known how a procession with thousands of people armed with Lathis, tridents and other ammunitions and Mashals can be allowed during imposition of curfew. Further said procession was allowed to cover more than 70 Kms. and through sensitive areas Tikaballi, Raikia, Phulbani, Tumudibandh etc. and during that procession in presence of police communal violence took place.
22. That the police and the state administration were well aware of the fact regarding the recent riots took place during the December



2007 Christmas and which costs several lives and property of several innocent people. In spite of such information the state administration allowed the procession to move to such sensitive areas even during proclamation of 144 in the district of Kandhamal and during continuance of curfew the procession was also further allowed and Mob was allowed to attack minorities and their place of worship to which the police was a mute spectator. The reason for such illegal action can only be explained by the state.

23. It is profitable to mention here that the state is playing a hide and seek role in the matter and maintaining double standard. On one hand when the Minister of Home affairs, and members of National Commissions who are statutory in character were not allowed to go inside the areas affected by riot in Kandhamal district , where as the political and religious leaders from outside the state were allowed to enter such areas whose presence had created tension and also they were allowed to make antinational inflammatory statements, which has added fuel to the fire during riots. This conduct of the state has raised the eyebrow of the public at large as to whether the state is really impartial in the matter and had tried to restore peace and normalcy in the region.
24. That the financial assistance as announced by the government is unrealistic and inadequate in as much as with Rs.50,000/- a house cannot be rebuilt, needless to say the amount given for the partially damaged houses. A partially damaged house is a house with only the skeleton structure standing or with one or four sided wall with partially burnt roof etc. Theses houses cannot be re-built on the existing structure since the structure has become weak and ruinous as it can put one in more danger hence have to be pulled down. The instant cases are of arson, looting and thereafter burning of the houses, which even if physically it seems to be partially damaged no structure can be built over it. Hence the category of Fully and Partially damaged houses does not make sense and has no rationale behind it. Further the totality of evidence, the pattern of rate, the pattern of escalation and escalation of price has not been considered at all in determining the financial assistance. On a rough estimate according to the Petitioner the victims of the communal violence are eligible for an enhanced financial assistance amount to the tune of Rs

two lakhs for totally damaged houses and Rs 1 lakh for partially damaged houses.

25. That the communal violence of 2008 was pre planned in the endemic and communal sensitive Kandhmal district by the VHP leaders . The District-collector and Superintendent of police of Kandhamal distract and the local police had prior knowledge that most of the perpetrators of 2007 Kandhmal riot were not apprehended and will repeat the Communal riot taking the advantage of the death of Swamijee. However they opted to be silent instead of taking any preventive steps for the reason best known to them.
26. That on 29 June 2010, a fast-track court set up after the Kandhamal riots found Manoj Pradhan, a Bharatiya Janata Party politician and a Member of the Legislative Assembly of Orissa, guilty of murder of Parikhita Digal, a Christian from Budedi village who was killed by the mob on August 27, 2008. Manoj Pradhan who was nominated by the BJP while imprisoned pending trial, was sentenced to seven years rigorous imprisonment. However, pending his appeal, he was granted bail by the High court on July 6. A number of other perpetrator of riot have also been sentenced in riot-related cases. On 9<sup>th</sup> September 2010, in yet another case the First Tract Court on August 26, 2008 found Mr. Manoj Pradhan guilty in the committing offence which led to the death of Bikram Nayak from Budedipada.
27. That it is relevant to mention here that , the second Bandh that was called by VHP on -----2008. The Utkal Christian Council had filed a Writ Petition bearing Number WP(C) -----2008 to call the Bandh as illegal. As a result the state did not allow Mr. Togodia to enter the sensitive second time and the reoccurrence of the subsequent riot was prevented. If the state had taken this approach after the unfortunate killing of Swamiji and imposed curfew and 144 in the communal sensitive and the riot endemic district of Kandhmal, then the devastation that took place in August 2008 would have been prevented.
28. That the Christian Churches in Orissa had condemned the unfortunate killing of Swamiji. The Christian Community believes, and practices love, forgiveness and in the principle of non-violence which was demonstrated by Lord & Saviour Jesus Christ while He was in this earth. Even more than 50,000 Christians were affected

and displaced by the 2008 communal violence, yet not a single retaliation was restored by them which speaks volumes of their tolerance & non-violence.

29. That the medical help extended to the riot victims was inadequate. There were many post riot death took in Kandhmal district . This could have been prevented if the NGOs were allowed to operate freely in the district for rendering health services .

30. That most of the victims of the communal violence have lost all their certificates and government records like BPL card, Land Patta, Voter ID and certificates which has not been provided yet . That apart riot many victims who have taken bank soft loans from the banks for their income generation have lost their shops/equipments/ machines/ auto-rickshaws/tractors etc. As a result they are neither unable to earn their livelihood nor able to pay back the loan amount. Even the insurance companies have denied covering the said damage. Hence it is expedient that, the Hon'ble Commission may consider this vital aspect and recommend waiving the loans of the riot victims. This Hon'ble Commission should also recommend the state government for the proper rehabilitation of the victims of the communal violence and also for enhancing the financial assistance to Rs.1, 00,000/- for rebuilding of their damaged houses.

31. That the facts stated above in paragraph 1-30 are true to the best of my knowledge and belief.

Cuttack

Deponent

Identified By

Advocate