

BRIEF NOTE ON THE STATUS OF GUJARAT CARNAGE 2002 CASES

In The

SUPREME COURT of INDIA

The cases pending before this Hon'ble Court are as follows:

	Number/Cause title	Nature	Status	Issues raised/pending
1.	W. P.(CrI.) No. 109 of 2003 National Human Rights Commission Versus State of Gujarat & Ors.	Filed by NHRC against the Best Bakery Trial Court judgement. (Originally filed as an S.L.P. but converted by the court into a writ petition.)	Notices issued. State of Gujarat and Union of India filed counter affidavits.	When the notice was issued, this Hon'ble Court had issued notices to the Union on witness protection program. This petition is pending and will discuss systemic issues like WITNESS PROTECTION, POLICE REFORM, ROLE of the PUBLIC PROSECUTOR etc
2.	T.P.(CrI.) No. 194-202 of 2003 & 326-329 of 2003 National Human Rights Commission Versus State of Gujarat & Ors.	Filed by NHRC for transfer of trials out of the state of Gujarat. An amended petition was subsequently filed pursuant to the orders of the court.	14 trials have been stayed under this petition, including Godhra arson, Gulberg, Sardarpura, Ode, Naroda Gaon and Naroda Patiya massacres. These trials were stayed pending hearing for reinvestigation	In effect this is the main case pending as the issue relates to transfer of trials outside the State of Gujarat. The transfer has been sought in respect of cases arising out of massive massacres in the case of Godhra, Gulberg (Meghaginagar), Sardarpura, Ode, Naroda Gaon and

			by CBI on November 21, 2003. It is in this Transfer petition that witnesses have, through the CJP filed affidavits directly in the Hon. SC.	Naroda Patiya.
3.	W.P. (CrI.) No. 37-52 Devendrabhai Pathak & Ors. Versus State of Gujarat & Ors.	This writ petition filed in May 2002 , relied on the FIRST report of the NHRC [May-July 2002] and urges for the transfer of the investigation of major incidents of riots in Gujarat to the C.B.I.	Matter come up for hearing several times but adjourned.	CJP is petitioner. Due to faulty investigations by the Gujarat police, the petitioners prayed that in seven cases, the investigation be transferred to CBI.
4.	W. P. (C) No. 221 of 2002 Mallika Sarabhai & Ors. Versus Union of India & Ors.	Asking for transfer of investigation, challenging the appointment of the Commission of inquiry; State has filed a reply. This was the first case filed after Gujarat riots	Pending since April 2002	Mallika Sarabhai and others and petitioners

5.	W.P.(Crl.) No. 11-15 of 2003 Aleque Padamse & Ors. Versus Union of India & Ors.	Petition filed in February 2003 for registering of cases against Narendra Modi and Ashok Singhal in view of the speeches made in various places which were against the muslim community.	Notice issued., still pending despite many dates of hearing	CJP is co-petitioner.
6.	S.L.P.(Crl.) No. 3770 of 2003 Citizen's for Justice & Peace Versus State of Gujarat & Ors.	S.L.P. filed against the Best Bakery Trial Court Judgement by Citizens for Justice & Peace and Zahira Sheikh (Victim and witness of the Best bakery incident)	This is the historic petition that was attached to the NHRC one and resulted in the matter first being heard by the Gujarat High Court. Former Chief Justice V.N. Khare had passed severe strictures against the Gujarat state asking them to observe their 'Raj Dharma'.	CJP is co-petitioner.
7.	Criminal Appeal No 6658-661 of 2004 in Criminal Appeal No 446-449/2004	Criminal Appeal in BEST Bakery Case Against Gujarat HC judgement and Application for High Level probe	Historic judgement by Sc delivered on 12-4-2004. Following re-trial when Ms Shaikh turned	Report of the high level Inquiry headed by Registrar General of the SC, on CJP petition was released on August 29, 2005. SC Verdict is

		into Zahira Shaikh turning hostile	hostile again, CJP demanded a High level Inquiry	pending.
8.	T.P.(Crl.) No. 66-72 of 2004 Citizens for Justice & Peace & Ors. Versus State of Gujarat & Ors.	Transfer petition filed under section 25 of POTA by Citizens for Justice & Peace and victims of the Godhra incident for transfer of the trial relating to the Godhra incident outside Gujarat	Notice have been issued to the respondents. State of Gujarat has prepared a parawise remark to the petition.	CJP is the petitioner. This is the only case under Section 25 of POTA seeking transfer of the trial outside Gujarat.
9.	S.L.P. (Crl) No. 5309 of 2003 Citizens for Justice & Peace Versus State of Gujarat & Ors.	Filed by Citizens for Justice & Peace against the trial court judgement of the Kidiad incident. In this grave incident 61 persons were burnt alive in two tempos in one of the terrible incidents of the post Godhra carnage	Notices have been issued to the respondents.	CJP is co-petitioner. This is another case like the Best Bakery where the trial court had acquitted all the accused and the State had not preferred an appeal. Rejoinder has to be filed.
10.	W.P.(C) No. 530 of 2002 Mahashweta Devi & Ors.			Case for civil compensation.

	Versus Union of India & Ors.			
11.	W.P.(Crl.) No. D17953 Umed Singh Gulia Versus Union of India & Anr.	Filed by petitioner in person	No orders passed by the court.	CJP is not a party.
12.	S.L.P.(C) No. 7951 of 2002 Viraj Tra Desai Versus State of Gujarat & Ors.			CJP is not a party.

To summarise, there are still several cases related to Gujarat pending before the Hon'ble Supreme Court. The first writ of the NHRC in the BEST Bakery case has been converted into a PIL (public interest litigation) on the issue of witness protection, police reform and role of the public prosecutor (Item 1 in the Table)

It is Item 2 and 3 of the table above that concern us *related to specifically the demand for transfer of investigation to CBI and transfer of trials out of state of Gujarat. It is in the Transfer Petition Filed by the National Human Rights Commission (NHRC) that the Citizens for Justice and Peace (CJP) has become a party and filed 65 odd affidavits of victims and eye witnesses. It is in this Transfer Petition [T.P.(Crl.) No. 194-202 of 2003 & 326-329 of 2003; National Human Rights Commission Versus State of Gujarat & Ors.—Item 2 in the Table above] that the Supreme Court has stayed the criminal trials on November 21, 2003.*

When these matters repeatedly came up for hearing, attention has been drawn to Item 3 [W.P. (CrI.) No. 37-52, Devendrabhai Pathak & Ors. Versus State of Gujarat & Ors.] supported by *the CJP*, **filed in May 2002 asking for transfer of investigation to the CBI**. This petition is also pending hearing.