

Gujarat Riots: The Apex Court denies Zakia Jafri's petition and maintains PM Narendra Modi's SIT clean chit

In the case of *Zakia Ahsan Jafri vs State of Gujarat*, The Special Investigation Team (SIT) cleared Prime Minister Narendra Modi of any wrongdoing in connection with the 2002 Gujarat riots, but Zakia Jafri, the wife of former Congress member Ehsan Jafri, appealed that decision. Her case, was dismissed by the Supreme Court on Friday.

According to the benche of Justices AM Khanwilkar, Dinesh Maheshwari, and CT Ravikumar, no evidence suggested a greater criminal plot on the side of the State that resulted in rioting.

The judgement noted, *"The materials collected during the investigation do not give rise to strong or grave suspicion regarding hatching of larger criminal conspiracy at the highest level for causing mass violence across the State against the minority community and more so, indicating involvement of the named offenders and their meeting of minds at some level in that regard."*

As a result, the Court decided that the SIT's report should be considered final.

"We are of the considered opinion that no fault can be found with the approach of the SIT in submitting final report dated 8.2.2012, which is backed by firm logic, expositing analytical mind and dealing with all aspects objectively for discarding the allegations regarding larger criminal conspiracy (at the highest level) for causing and precipitating mass violence across the State against the minority community during the relevant period. As aforementioned, the SIT has gone by the logic of falsity of the information or material and including the same remaining uncorroborated."

On December 8, 2021, the Court had reserved its decision.

The Bench commended the SIT members for their "indefatigable labour" and ability to "come out with flying colours unscathed." Additionally, it was directed at several Gujarati officials, notably the previous DGP of the State, RB Sreekumar, calling them "disgruntled".

Brief facts-

Ehshan Jafri was killed in the infamous Gulbarg Society Massacre during the Gujarat riots. The Gujarat High Court's 2017 verdict was contested in the appeal before the Supreme Court. The High Court dismissed Jafri's plea after upholding the Magistrate's decision to accept the closing report submitted by the SIT in the case.

Following the Gujarat riots, Zakia Jafri complained to the Gujarat police chief at the time, asking for the registration of a First Information Report (FIR) under many provisions of the Indian Penal Code (IPC), including Section 302. (Punishment for Murder). Modi, who was the Gujarat Chief Minister at the time, was one of several politicians and bureaucrats named in the complaint.

The top court established a SIT in 2008 to compile a report on a number of riot-related trials, and later ordered the SIT to look into the complaint made by Jafri.

The SIT investigation cleared Modi, and in 2011, the Supreme Court ordered the SIT to provide its closing report to the relevant Magistrate. The petitioner was then given the opportunity to address any objections she might have to the findings.

After receiving a copy of the closure report in 2013, the petitioner filed a petition objecting to it.

The Magistrate rejected Jafri's plea and affirmed the SIT's closure report. Outraged, the petitioner went to the Gujarat High Court, which, in 2017, affirmed the Magistrate's judgement and rejected the Jafri suit.

Jafri and activist Teesta Setalvad then petitioned the Supreme Court to overturn the decision to accept the SIT's clean chit. Senior Advocate Kapil Sibal, the petitioner's attorney, asserted at the hearing that the SIT's probe was biased and that it did not thoroughly review all of the material at hand. He said that the State encouraged the spread of hatred.

The Counsel stated, *"The point here is that the dead bodies were flashed on the TV channels in that state, that obviously led to the anger....Material was circulated to push for economic boycott of Muslims. Mutilated pictures of Sabarmati Express, pamphlets of do-it-yourself brutalities were circulated. The material was given to the SIT, they never looked at it,"*

In addition, Sibal suggested that the SIT be looked into for drawing conclusions that were unsupported by the evidence.

The SIT conducted a "collaborative exercise" rather than a "investigation," and their inquiry was riddled with omissions meant to cover the conspirators. Sibal said that there was proof of a plot in the form of technological documents, including call data records of senior police officers and mobs that identified Muslim homes. He said that the Magistrate and High Court also decided to ignore the same, while the SIT completely disregarded everything and made no further inquiries into the matter.

The assertions made by Sibal that dead bodies were carried around in a parade were denied by senior attorney Mukul Rohatgi.

Rohtagi claimed, *"All this is there in the report. Doctors were called to the platform. Bodies were moved in convoy including this Patel (VHP leader). Right or wrong, VHP is concerned because their supporters were killed. Can there be parading between 12 and 3 am when people are in their homes? 33 out of 58 dead belonged to Ahmedabad so a decision was taken to bring them to Ahmedabad so the transfer to kith and kin is easy."*

The State did "everything it could," according to Solicitor General Tushar Mehta of the State administration. He had questioned Teesta Setalvad, the petitioner listed as number 2, and Citizens for Justice, stating that they had misappropriated funds intended for the riot victims' benefit. He asserted that Setalvad was the driving force behind Zakia Jafri, using her predicament to encourage action.

Keywords- Gujarat Riots 2003, Ehsan Jafri, Prime Minister, SIT