

DISSECTING THE GUJARAT VERDICT

THE FACT THAT the BJP's share of votes in the Gujarat elections crossed the 50 per cent threshold — for the first time in the State — should be seen as significant and is perhaps the fallout of the bi-polar nature of the contest that was witnessed in the State. But beneath the apparent indicators is the fact that at least 12 nominees of the ruling party, including a former Chief Minister, Suresh Mehta, were defeated. Mr. Mehta's defeat in Kutch, from where the Congress managed to win four of the six Assembly seats, is a clear message that the people in this region were not swayed by the majoritarian slogans — the mainstay of the BJP's election agenda — and instead decided to punish the incumbent (and his party) for mismanaging relief operations after the devastating earthquake that struck in January 2001. The same holds true for several other members of the Narendra Modi Cabinet. Anti-incumbency, certainly, was a factor that guided the choice of voters in several constituencies across Gujarat leading to the defeat of at least ten former Ministers and also the Speaker and the Deputy Speaker of the dissolved House. That the Congress as a party managed to wrest all these seats despite the poor overall performance is a factor that cannot be glossed over.

This, in turn, should lead to the logical question: why were the results different elsewhere in the State? In Saurashtra, for instance, from where the BJP had secured 45 of the 52 seats in the last elections, the ruling party was down to just 37 this time. This is a region where Godhra had no impact at all. But then, Saurashtra was also a region where the Congress was expected to inflict a lot more damage this time (for a variety of reasons) but this did not happen. The inability (or refusal) of the Congress to put in place a strategy guided by the social chemistry — KHAM — that had kept the party afloat across Gujarat (and particularly in Saurashtra) in this election was perhaps behind the party's tally being restricted to just 14. The Congress, it

now appears, had refrained from putting the KHAM strategy to work because its leaders were guided by the consideration that the party could make inroads this time among the Kurmis (the Patels), a numerically strong caste group, there after the BJP had marginalised Keshubhai Patel. The fact is that this assumption did not work in Saurashtra. It is another matter that the BJP too suffered a considerable setback in Saurashtra and this could be attributed to the fact that the region as a whole did not witness the kind of mobilisation by the BJP and its Sangh Parivar associates post-Godhra. The strategy adopted by the BJP to conjure up fears about the Hindu faith being in danger was not played out in Saurashtra.

It is in this context that the outcome of the December 12 polls in the districts of Panchmahals (of which Godhra is the district headquarters), Dahod and Vadodara is significant. The 26 seats from these three districts have been bagged by the BJP and these were places where the post-Godhra violence went on unabated for days on end. Similarly, the Dangs, once again the place where the Sangh Parivar outfits had engaged in a violent campaign against the Christian missionaries and their institutions (even before Godhra), is another region where the BJP nominees seem to have done well. What is evident from the outcome in Panchmahals and adjoining districts and also from the Dangs is that the Sangh Parivar's strategy to terrorise the members of the minority communities had helped it draw into its fold a substantial section of the Dalits and the Adivasis (two important constituents of the KHAM factor) over the past few years and this helped the BJP improve its tally both in terms of the number of seats and vote percentage in this election despite the scale of discontent against the performance of the Government revealed in the defeat of several prominent members of the Cabinet. These are, indeed, the pointers that need to be internalised to understand the verdict in Gujarat.

17 DEC 2002

Modi sworn in as CM

22/12 J. B. Chaudhary 571
Statesman News Service

GANDHINAGAR, Dec. 22. — Mr Narendra Modi was sworn in as chief minister of Gujarat at a 20-minute ceremony at Sardar Patel Stadium in Ahmedabad today.

Mr Modi was administered the oath of office and secrecy by the Governor, Mr Sunder Singh Bhandari. The Prime Minister and the Deputy Prime Minister were present. Chief ministers of Tamil Nadu, Goa, Jharkhand and Haryana attended the programme. Several Union ministers were present. For the first time, a Prime Minister attended the swearing-in of a chief minister.

Nine Cabinet ministers and six ministers of state were sworn in. There are four new faces in the Cabinet. The Cabinet ministers are Mr Vajubhai Vala, Mr Ashok Patel, Mr Narottam Patel, Mrs Anandiben Patel, Mr Bhupendrasinh Chaddasama, Mr Kaushik Patel, Mr IK Jadeja, Mr Ramanlal Vohra and Mr Mangubhai Patel.

Mr Amit Shah, Mr Saurab Patel, Mr Dilip Thakore, Mr Bavaku Ughad, Mr Anil Patel and Mr Prabhatsinh Chauhan took oath as ministers of state.

Mr Modi, who began his political innings as an RSS *pracharak*, took oath at 1.58 p.m. as per auspicious *Pushya Nakshatra* and was lustily cheered by BJP workers. They displayed banners reading "Narendra Modi today CM, then PM of Hindu *rashtra*".

Immediately after his swearing-in, Mr Modi sought blessings from Mr Atal Behari Vajpayee, Mr LK Advani and Mr Murli Manohar Joshi by touching their feet.

The chief minister did a "victory lap" of the stadium in an open jeep amid huge cheers. Party chief Mr M Venkaiah Naidu and state party chief Mr Rajendrasinh Rana accompanied him.

Filmstars Vinod Khanna and Juhi Chawla attended the programme. Industrialist Mr Anil Ambani was present. The Congress boycotted the swearing-in protesting against "extravagance" in a drought-hit state.

● 'MODI MAGIC' WORKS ● MORE GAINS IN RIOT-HIT AREAS ● 51 SEATS FOR CONG.

7 sheets
(8 stars)

Landslide win for BJP in Gujarat

By Manas Dasgupta

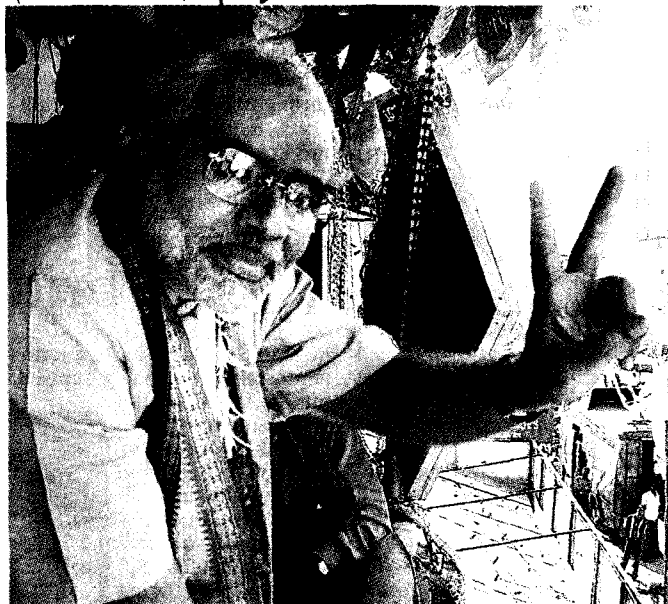
GANDHINAGAR, DEC. 15. The Bharatiya Janata Party today scored a resounding victory in the Gujarat Assembly elections with a record haul of 126 seats in the 182-member House, totally crushing the Congress challenge.

The Congress, which hoped to give at least a close fight to the ruling party, was left way behind with only 51 seats, two less than what it had won in 1998 and 12 less than its strength when the Assembly was dissolved in July. The Janata Dal (United) and independents won two seats each. The elections for Surat West, countermanded following the death of the BJP candidate, will be held on January 9.

Under the spell of the "Modi magic," the BJP not only improved its earlier best of two-thirds majority with 121 seats in the 1995 elections, but also crossed the 50 per cent threshold in its vote share for the first time, registering an absolute majority both in terms of the seats won and the votes polled by the party.

The BJP legislature party will meet here tomorrow to formally elect the caretaker Chief Minister, Narendra Modi, as the leader of the new Assembly. The date for the swearing-in of the new Ministry will be decided later in consultation with Mr. Modi, an official spokesman said.

The State Congress president, Shankarsinh Waghela, accepting moral responsibility for the party's rout, described the BJP's performance as a "victory over the Godhra dead bodies" and said the ruling party had proved successful in its politics of "di-



The caretaker Chief Minister of Gujarat, Narendra Modi, flashing the victory sign after the BJP's victory in the Assembly elections, in Ahmedabad on Sunday. — PTI

It is a victory for the self-respect of the five crore people of Gujarat

— Narendra Modi

viding society on communal lines." He accepted the "people's verdict" but, unfortunately, the people had been carried away by the BJP's "Goebbels propaganda."

Congress sources said that Mr. Waghela was likely to leave for Delhi soon to offer his resignation to the national president, Sonia Gandhi. Mr. Waghela, however, declined to comment on his resignation.

A beaming Mr. Modi said that it was the victory for the "self-respect" of the five-crore people of Gujarat and a "slap" in the face for "pseudo-secular-

ists" who were out to defame them nationally and internationally. Thanking the people for reposing their faith in the BJP, he said "kamal ne kamaal kar diya" — the lotus (the BJP election symbol) has performed wonders.

Mr. Modi, who celebrated the "hat-trick" of the BJP, himself won the Maninagar seat in Ahmedabad city by a record margin of over 75,000 votes while the highest victory margin of over 1.58 lakh votes was recorded by his close confidant, Amit Shah, in Sarkhej, also in Ahmedabad.

Ten sitting and former Ministers were defeated, besides the Speaker, Dhirubhai Shah, and the Deputy Speaker of the dissolved Assembly.

As for the Congress, with the exception of Amarsinh Chaudhary and his son, Tushar, and the veteran leader, Madhavsinh Solanki's son, Bharat Solanki, all other "sons and relatives" of the leaders, including Mr. Waghela's son, lost.

The election outcome made it clear that the BJP's gains were more in those areas which witnessed communal riots in the aftermath of the Godhra carnage. The party not only won Godhra, from where the former State Bajrang Dal chief, Haresh Bhatt, was declared elected, but also swept the entire Panchmahals, of which Godhra is the district headquarter, and Dahod district as well as the neighbouring Vadodara district.

The Congress could not claim any of the 26 seats in the three districts. The party, however, performed marginally better in the Saurashtra and south Gujarat regions. The quake-hit Kutch district rejected the BJP, giving four of the six seats to the Congress.

Among the BJP losers in the district were the former Chief Minister and the number two in the Modi Cabinet, Suresh Meh-ta. In the seven districts of the Saurashtra region, the BJP, which held sway in the last elections with 45 seats, suffered losses in eight seats while the Congress tally went up from five to 14.

In north Gujarat, another riot-hit region, the situation remained almost unchanged. The BJP's strength came down from 37 to 35 and the Congress' went up from 13 to 16 with one seat

going to an independent. In south Gujarat, the BJP lost four seats to the Congress, which improved its strength from eight seats to 12, while two seats were taken by the JD (U).

The BJP, which had won 18 of the 29 seats in the region last time won only 14 while the election for one of the seats was countermanded.

The anti-incumbency factor also seemed to have had an effect on the election outcome. Some prominent BJP leaders, including the former Cabinet

spokesman, Purshottam Rupala, the Finance Minister, Nitin Patel, the Forest Minister, Kanjibhai Patel, the Social Welfare Minister, Fakirbhai Waghela, the Cooperatives Minister, Vadilal Patel, and the Ministers of State, Babubhai Bokhariya, Mukesh Jhaveri, and the Water Resources Development Corporation chairman, Gordhanbhai Mali, were also defeated.

The Gujarat Mineral Development Corporation chairman, Mukesh Jhaveri, and the Water Resources Development Corporation chairman, Gordhanbhai Mali, were also defeated.

Violence in Vadodara

By Our Special Correspondent

AHMEDABAD, DEC. 15. An indefinite curfew has been clamped on the areas under Raopura and Karelibagh police stations in Vadodara city as group clashes were witnessed following the victory processions taken out by the winning BJP candidates.

There were reports of a murder in Rajkot and incidents of stone-throwing, arson and minor clashes in Kalupur locality in Ahmedabad city, as well as Broach, Petlad, Dabhoi and some other towns.

In Vadodara, the trouble started when the victory procession of Yogesh Patel, who won from Raopura, was passing through the minority-dominated Machhipith locality. A few stones were hurled at the processionists who retaliated. Trouble spread to the neighbouring Karelibagh locality, and the police burst about two-dozen teargas shells before imposing curfew. Late in the evening, the situation was said to be tense but under control.

In Ahmedabad, the procession taken out by the Energy Minister, Kaushik Patel, who emerged victorious from Shahpur, was reportedly stoned in Kalupur, also a minority-dominated area. This led to group clashes and a few shops were set on fire. Police burst 39 teargas shells to disperse the clashing groups.

The house and the shop of the losing Congress candidate for the Petlad seat, Niranjani Patel, was reportedly torched by the BJP workers celebrating their nominee's victory. Two teargas shells were burst in Dabhoi town to disperse the clashing groups while in Broach the mobs indulged in heavy stone-throwing.

The body of a BJP supporter was recovered from a riverbed after a clash between BJP-Congress supporters in Mafatiapara locality. Police, however, could not say if the killing was directly connected with the victory processions or was due to previous enmity.

Muslims worried: Page 11

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THE HINDU

9.6.2002
(Date)

Gains in byelections too

By K.V. Prasad

NEW DELHI, DEC. 15. The electoral tide turned in favour of the Bharatiya Janata Party in a majority of the three Lok Sabha and five Assembly byelections held across six States. The party emerged victorious in two Parliamentary constituencies — Mehsana (Gujarat) and Godda (Jharkhand) — and bagged all the three Assembly constituencies in Rajasthan.

The Congress party's reversal in Rajasthan was countered with the party retaining the Nainital Lok Sabha seat through

Manendra Pal Singh who defeated Balraj Passi of the BJP.

However, the BJP wrested the Mehsana seat from the Congress with Punjaji Thakore trouncing Maneklal Patel. In Jharkhand, the BJP retained the Godda Lok Sabha seat with Pra-deep Yadav defeating Hussain Ansari of the Jharkhand Mukti Morcha. The Congress received a jolt in Rajasthan, where it lost all the three Assembly seats — Sagwara, Bansur and Bali. The BJP wrested Sagwara from the Congress and Bansur from its ally, the Bahujan Samaj Party. In Bali, Pushpendra Singh de-

89-1 16/12
feated Bheemraj Bhatt of the Congress. The Bali seat fell vacant after the resignation of Bhairon Singh Shekhawat's election as the Vice-President.

The Congress faced a setback in Assam where its rival, the Asom Gana Parishad wrested the Khumtai Assembly seat with Prabin Gogoi defeating Lachit Phukan of the Congress.

In Arunachal Pradesh, the party retained the Daporijo Assembly seat in bypoll. The State Minister, Yari Dulom, widow of the Congress leader, Tadak Dulom, defeated Daklo Nidak of the Arunachal Congress.

59 per cent turnout in by-elections

13/12/02

Press Trust of India

NEW DELHI, Dec. 12. — Amid tight security, an estimated 59 per cent voters today exercised their franchise in the by-elections to three Lok Sabha and five Assembly constituencies spread across six states. Polling was peaceful in three Lok Sabha constituencies of Mehsana in Gujarat, Godda in Jharkhand and Nainital in Uttaranchal and Assembly constituencies of Daporiji (Arunachal Pradesh), Khumtai (Assam) and Bansur, Sagwara and Bali (in Rajasthan). Daporiji

recorded the highest turnout of 70 per cent while Nainital witnessed the lowest of 33 per cent. Ailing Uttaranchal chief minister Mr ND Tiwari could not cast his vote in Nainital, the seat vacated by him after election to the state Assembly.

Godda registered a 59 per cent turnout, SNS adds from Ranchi. No untoward incident was reported from any part of the constituency.

There are 19 candidates in the fray for the seat which fell vacant following the death of BJP MP, Jagadambi Prasad Yadav. Prominent candidates include Mr Pradeep Yadav (BJP), Mr Hussain Ansari (JMM).

Poll Reforms Bill passed

NEW DELHI, Dec. 12. — The electoral reforms bill (Representation of People Act amendment Bill 2002) was passed by Lok Sabha today. Earlier, some Opposition members expressed reservations on the effectiveness of the law to eliminate, let alone curb, criminalisation of politics. Mr Somnath Chatterjee, Mr Mulyam Singh Yadav and Mr Raghuvans Prasad Singh wondered if the law alone could stop criminals from entering Parliament. — SNS

THE STATESMAN

13 DEC 2002

COMPLAINTS OF MISSING NAMES, STRAY INCIDENTS

63 p.c. polling in Gujarat

By Manas Dasgupta

GANDHINAGAR, DEC. 12. Barring stray incidents and the imposition of curfew in Jambusar town, the polling ended by and large peacefully in Gujarat today with 63 per cent of the 3.28 crore electorate exercising their franchise in the elections to the 181-member Assembly.

The election for Surat West was countermanded following the death of the BJP candidate and Minister of State for Law and Judiciary, Hemant Chapatwala.

Large-scale complaints of missing names from the voters' list was the only irritant in today's polling. Thousands of people in almost every constituency returned disappointed on not finding their names in the voters list though they carried valid identity cards and claimed that they had cast their votes from the same address in the past.

Neither the Election Commission office nor the political parties had any answer to their queries as to how their names disappeared from the list which had been revised after the communal riots.

Strict security arrangements had been made for peaceful polling in view of the recent communal violence in the State. Besides arranging for separate polling booths for the scared minority voters who had to pass through the majority community-dominated areas to cast their votes, special police bandobust was also provided in the areas to instil confidence in them.

At the end of the day, a relaxed Home Secretary, K. Nityanandam, commented, "I have not seen such peaceful polling in the past."

Despite the fact that over 14,700 polling booths were declared "sensitive" against about 7,000 booths in the past, no untoward incident was reported, barring a scuffle between two communities in Jambusar and a stabbing incident in Narsandha village in Anand district.

Curfew imposed

In Jambusar, the disturbance was sparked by the teasing of a woman waiting in the queue for her turn to vote. Soon, rival groups attacked each other with stones and set a couple of shops on fire.

Police burst teargas shells and later opened fire to disperse the mobs and imposed an indefinite curfew at 5.30 p.m. The polling in the booth, however, had ended on time.

A pipe bomb was found in



The Gujarat Congress chief, Shankersinh Waghela, after casting his vote at a polling station in his native village, Vasanya, during the Assembly election on Thursday. — Photo : Rajeev Bhatt



A cutout of the Gujarat Chief Minister, Narendra Modi, offering a friendly hand, near Godhra town. — AP

Bosmia school in Jetpur town in Rajkot district hours before polling started. Alert Central Reserve Police Force personnel removed the bomb which however, did not carry any charger.

In another incident, some people enraged over not finding their names in the list broke the seals of the voting machines in

two booths in Anand district, forcing the returning officer to suspend polling. Besides these two booths, re-polling has also been ordered in one booth each in Dholka and Patan constituencies. Stray incidents of stone-throwing were reported in Sabarmati, Shahpur and Dariapur areas.

A large number of complaints

of missing names were received from Maninagar in Ahmedabad city, from where the BJP Chief Minister, Narendra Modi, is seeking election.

At least 13,000 names were said to have disappeared from the revised list. An irate mob complained to Mr. Modi about the missing names, but he advised them to be patient and not to take the law into their own hands.

A BJP spokesman alleged that the names of party supporters had been struck off the revised list at the behest of the Chief Election Commissioner, J.M. Lyngdoh, who was working as an "agent of the Congress."

The AICC general secretary, Kamal Nath, who is in charge of the party's Gujarat affairs, however, described the accusations against the CEC as an "expression of the BJP's frustration."

He said the responsibility of preparing the voters list rested with the State Government and not the Election Commission. The names of Congress supporters too had been missing.

The counting of votes will be taken up on Sunday.

Lyngdoh rejects charges: Page 11

BJP set to win, say exit polls

NEW DELHI, DEC. 12. The Bharatiya Janata Party is set to retain power in Gujarat, according to the exit polls conducted by television news channels today. It was likely to get between 93 and 109 seats in the 182-member State Assembly, the Congress 72-88 seats, the independents and others between one and five seats, the Aaj Tak exit poll said.

The Zee News exit poll, however, predicted 101 seats for the BJP, 70 for the Congress and 11 for the independents and others.

The exit polls were conducted just after voting closed at 5.00 p.m. Aaj Tak said that the Gujarat Chief Minister, Narendra Modi, who polled 57 per cent votes, was the favourite candidate for Chief Ministership while the Congress leader, Shankersinh Waghela, secured 43 per cent votes in a nationwide survey.

Conceding a three per cent margin of error, the Aaj Tak exit poll said that the BJP could get 20-25 seats more even if there was one per cent swing in

voting. In the Saurashtra and Kutch regions, accounting for 58 seats, the BJP would suffer nominal losses because of the "unhappiness" in the Patel community over the ouster of the former Gujarat Chief Minister, Keshubhai Patel.

In Central Gujarat, which includes Godhra and other sensitive areas rocked by the recent communal violence, and which accounts for 50 seats in the Assembly, the BJP was poised to get 24 to 28 seats with a percentage of 43 (plus six), and the Congress 27 to 31 seats with the voting percentage of 21 (plus one).

In south Gujarat, there was a keen contest with the BJP slated to get 24 to 28 seats and the Congress 27 to 31.

In north Gujarat, from where Mr. Modi hails, the BJP had kept its vote bank intact at 46 per cent, and the Congress was likely to register an upswing of 11 per cent because of its merger with Mr. Waghela's party. — UNI

Gujarat bars Togadia's way to block yatra's passage

TIMES NEWS NETWORK

Gandhinagar \ Vadodara: In the first signs of the bureaucracy trying to unshackle itself from the political leadership since the announcement of the polls, the Godhra administration on Saturday clamped down on Sunday's proposed yatra of the Vishwa Hindu Parishad.

It banned the entry of VHP leaders Pravin Togadia and Acharya Dharmendra into the district, set up checkpoints at all entry points to prevent VHP workers from entering Godhra and dismantled the dais erected by the VHP for the launch of Sunday's yatra. However, the VHP appeared adamant about going ahead with its plans. "The yatra will go as per schedule. We decide our own programme and do not consult bureaucrats,"

Acharya Dharmendra said. Taking pot-shots at Chief Election Commissioner J.M. Lyngdoh, he said the 'sants' would not bow to directives given by a "Vatican-controlled CEC".

He said the 'sants' would assemble for the yatra at Vijay Chowk in the Bahapur area of Ahmedabad at 9 a.m. before leaving for Godhra. When told that prohibitory orders had been issued in Godhra, he said the VHP had every right to perform Hindu rituals.

"It depends how the administration behaves," he said when asked what would be the VHP's reaction if its workers were arrested in Ahmedabad. He said the VHP workers would behave in a "disciplined and responsible manner". However, he added that "if somebody tries to provoke us we are not going to pardon him."

(Prime Minister) Atal Behari Vaj-

PM now says VHP is just doing its duty

TIMES NEWS NETWORK

New Delhi: Less than 24 hours after he publicly rebuked the VHP, Prime Minister A.B. Vajpayee, in answer to a question on the VHP's activities, said, "*Sab apna apna kartavya nibha rahe hain*" (Everyone is just performing their own duties). And, when asked to explain why he differed from his party, which had criticised the EC for banning the VHP's proposed yatra, he said, "*Maine bhi ghuma phira kar woh hi kaha tha*" (I said the same thing in a roundabout way).

payee has no confidence in us, and we too have lost trust in him after he sided with Mr Lyngdoh," he said.

Earlier, chief minister Narendra Modi met senior home department officials to find a solution to the tension building up, but officials, afraid of incurring the wrath of the Election Commission, reportedly told him that they would have strictly to abide by the directive of the poll panel, which has already asked the state government to ensure that the yatra does not roll.

Mr Modi is understood to have had sharp exchanges with additional chief secretary for home Ashok Narayan who, later addressing a meeting of police officials from all over the state, told them to act independently and strictly in accordance with the EC's directives.

It is learnt that the political leadership wanted the 'dharma sabha' of the

VHP before the launch of the yatra to be allowed even as it suggested that the VHP leaders could court arrest after the meeting. However, the proposal was shot down by officialdom, which has now posted a select group of police officers with proven credentials to Godhra for the Sunday showdown. A massive police force has swooped down on Godhra and top officials are overseeing operations like sealing entry points to the district and preventing any activity related to the 'dharma sabha'.

The top officials camping in Godhra included additional DGP O.P. Mathur, IGP (Surat range) M.K. Tandon and four SPs—R. Bhargav, V. Srivastav, A. Karwal and N. Komar. Also posted are 15 DSPs, 42 inspectors, 80 sub-inspectors, 800 constables, eight companies of the State Reserve Police and two companies of the Rapid Action Force.

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No action yet despite EC strictures

Vinay Menon
Ahmedabad, November 15

DESPITE VHP'S haughty show-down with the Election Commission and the Parishad's defiant attitude, the Gujarat Government has taken no action to defuse the situation.

Although the VHP yatra has been officially banned and a letter to this effect was delivered to the VHP office at Godhra last night, not a single directive calling for preventive arrests of the VHP workers moving into Godhra for the yatra has been issued by either the chief secretary or the Director General of Police. "We will take action at the ap-

propriate time," replied the Gujarat police chief K Chakravarti when asked what the authority is adopting to prevent influx of hundreds of VHP workers pouring into Godhra town from the five to six odd neighbouring districts near Godhra.

The VHP workers are pouring into the communally sensitive town in batches of two's and three's, making it difficult for the district administration to identify or halt them either at the railway station or bus stand.

Asked what plans the Government had regarding detainment of the VHP activists the State additional chief secretary (Home) Ashok Narayan confessed: "I

have no information regarding preventive arrests of any VHP workers. But let me tell you our policy will remain to not allow anyone take law and order into their hands." He, however, refused to comment on the policy details.

Godhra SP Narasimha Komar also was candid enough: "We don't have any information with us regarding the VHP activities. As and when we do we will definitely take action."

Even the Ahmedabad city police, where the yatra ends on December 6, has neither received any directives, nor taken any action to clamp down on VHP activities. This is despite the fact

J. Bhatia (State)

My party's said it all, says Advani

LK ADVANI on Friday said the Gujarat polls wouldn't be a referendum on the Centre. He was speaking to reporters at Raj Bhavan on the second anniversary of Jharkhand's Statehood. On the VHP's determination to continue with the yatra despite the ban, Advani said, "My party

has already commented on the issue and it's for the State Government to tackle the issue". Pakistan has launched a proxy war with India after suffering three successive defeats, he said, criticising India's decision to go to the UN during the 1947 war.

HTC, New Delhi

munal riots.

Gujarat Police has not even bothered to search and seize the S6 replica the VHP has prepared to use in the yatra.

that the VHP will end the yatra with a rally at the Bapunagar area of Ahmedabad city, a highly communal sensitive locality which had witnessed fierce com-

1 5 NOV 2002

'TAKE PREVENTIVE AND PUNITIVE ACTION'

EC bans VHP yatra citing Gujarat Govt. report

By J. Venkatesan

1107
14/11

NEW DELHI, NOV. 13. Apprehending large-scale communal violence and disturbance to communal harmony, on the basis of the Gujarat Government's assessment, the Election Commission today imposed a ban on the proposed "Vijay yatra" by the Vishwa Hindu Parishad in Gujarat from Friday, November 15.

In a communication sent to the Gujarat Government today, the Commission noted with concern that the proposed yatra would use the replicas of the S-6 coach of the Sabarmati Express that was torched by miscreants on February 27. There was also the likelihood of communally provocative and intemperate speeches being made during the yatra.

The Commission referred to a report sent by the State administration saying that there was the likelihood of communal tensions and passions getting exacerbated by the proposed yatra. The report had unequivocally stated that the possibility of a law and order situation arising in the wake of the yatra could not be ruled out.

Considering all these factors, the Commission made it clear to the Gujarat Government that the "VHP yatra should not be allowed to take place".

Further, it said that "any activity which may aggravate existing differences or create mutual hatred, disharmony, ill-will or cause tension between different castes and communities, religious or linguistic, will not only vitiate the election process and tarnish the fair democratic traditions of the country, but will also seriously jeopardise the law and order situation conducive for the conduct of free and fair elections in the State".

Pointing out that maintenance

of law and order was the responsibility of the State Government, the Commission said "it expects the State administration to take all such measures under the existing laws as are considered appropriate for maintaining an atmosphere for the conduct of peaceful, free and fair poll even during the run-up period to the elections".

The State was also directed to take all such measures under the existing laws at its disposal to prevent any yatra, procession, etc. and display and use of such images as these could incite communal tensions and passions and disrupt the law and order situation, thereby af-

fecting the conduct of free and fair elections.

Similarly, preventive and punitive action should be taken against individuals/parties/organisations indulging in communally incendiary and provocative speeches, posters and pamphlets that could incite communal tensions, the Commission said.

In its action-taken report sent to the Commission, the State Government said that as per the Commission's earlier directive, it had transferred all the officials who had served in a particular place for more than four years. Also, all the communal posters, banners and hoardings had

been removed as ordered. PTI reports:

The Congress welcomed the Election Commission's decision, saying the EC was performing its duty to ensure free and fair elections in Gujarat.

"This is a welcome step by the Commission. It is performing its duty to ensure free and fair elections by eliminating all causes of tensions which could lead to violence," the AICC general secretary, Ambika Soni, said. The Commission, during its recent visit to Gujarat, had witnessed violence, she said and added that the ban was to check such violence by the communal forces.

VHP criticises Lyngdoh, discusses 'alternative'

AHMEDABAD, NOV. 13. Leaders of the Gujarat unit of the Vishwa Hindu Parishad tonight discussed a possible alternative to its proposed controversial 'Vijay yatra' across the State in the light of the Election Commission's ban on it.

The VHP International general secretary, Praveen Togadia, told PTI here that "we held talks among ourselves but have not decided as yet in what form the yatra will proceed," after the EC directive to the State Government to ban it.

The meeting, also attended by the Bajrang Dal leaders, would discuss the religious rights of Hindu society "that the Chief Election Commissioner, J. M. Lyngdoh, has violated", Mr. Togadia said.

He said that "if Mr. Lyngdoh has taken action based on a report, then he has violated the freedom of Dharmic (religious) choice of taking out a yatra."

'Lyngdoh anti-Hindu'

Earlier, in New Delhi, the VHP senior vice-president, Acharya Giriraj Kishore, described Mr. Lyngdoh as "anti-Hindu" and announced that VHP activists would defy the

ban and court arrest.

Terming as "unfortunate" the decision of the three-member Election Commission, Acharya Kishore, said that "it is an infringement of our fundamental right. Mr. Lyngdoh's actions show his anti-Hindu bias. Up to now, we have decided to defy the ban order and court arrest."

Asked about the Gujarat Government report, which prompted the Commission to ban the yatra, he said the report was "influenced" by Mr. Lyngdoh.

The BJP, on the other hand, sought to play it safe saying that the party was committed to holding free and peaceful polls in the State. Its spokesman, Mukhtar Abbas Naqvi, said the party would formulate its view after studying the Commission's decision.

Apparently with an eye on the Gujarat polls, the VHP had announced on Tuesday plans to celebrate the 10th anniversary of the demolition of the disputed structure at Ayodhya on December 6 as 'vijay diwas' (victory day) in a "big way".

14 NOV 2002

THE HINDU

Observers will monitor polls in Gujarat: EC

TIMES NEWS NETWORK

Ahmedabad\Godhra: Two teenaged brothers were stabbed to death in Mahudha town of Kheda district, sparking fresh communal riots on Monday morning even as Chief Election Commissioner J.M. Lyngdoh arrived in Gujarat to review the arrangements for the December 12 polls.

A tiff during a cricket match played in the town on Sunday night is said to be the reason for the brothers' murder. The situation in Mahudha went out of control as news of the murder spread. Nearly 20 shops were looted in the arson and violence that followed. The police had to fire 12 rounds and lob six tear-gas shells to disperse the rioters. However, curfew was not imposed in the town, which is about 25 km from Dakor, where chief minister Narendra Modi began the ninth segment of the gaurav yatra on Monday with a blistering attack on Congress president Sonia Gandhi.

Mr Lyngdoh, who met a cross-section of people, NGOs and politicians later in the day, said that the government had been asked to submit a report on the proposed Hindu Pad Padshahi Yatra to be taken out by the VHP from November 15. The Election Commission will then decide whether to allow the yatra or not. The VHP yatra is scheduled to start from Akshard-

ham on November 15 and end on December 6, the anniversary of the Babri masjid demolition.

The CEC, who arrived in Ahmedabad on a two-day visit along with his fellow commissioners B.B. Tandon and T.S. Krishnamurty, held detailed discussions with the state's top bureaucracy on the conduct of free and fair elections on December 12.

Mr Lyngdoh has asked the district collectors to ensure full protection to the minorities, especially in the riot-affected areas. "The international community is as interested in the Gujarat polls as it was in the Jammu and Kashmir elections," he said. "The credibility of Indian democracy will be under the scanner," Mr Lyngdoh later told newsmen.

Special observers will be deputed for the December 12 polling, as was the case with the J&K polls. "The situation in Gujarat may not be as dangerous as in J&K," he said, "but it is nasty here."

The state director general of police, who told the CEC that they had identified 8,000 sensitive booths, has been asked to prepare a detailed map of the areas worst-affected by the recent communal violence. It will show how paramilitary forces have been deployed. Special polling booths will also be set up in riot-affected areas so that the people there won't have to go too far to cast their votes.

EC tells Gujarat: remove communal hoardings

HD-1
By J. Venkatesan

NEW DELHI, NOV. 1. In a strong indictment of the Narendra Modi Government in Gujarat, the Election Commission today directed the removal forthwith of all hoardings and posters displayed in the State "on communal lines".

According to Commission sources, a letter was today sent to the Gujarat Chief Electoral Officer, drawing his attention to the display of such posters and hoardings which had been highlighted by the media also.

The sources said that such a display would amount to an offence under Sections 153 A, 153 B and 505 (2) of the Indian Penal Code and Sec. 125 of the Representation of the People Act and also a violation of the

model code of conduct.

The Commission directed the CEO to have all such posters and hoardings removed forthwith and take action against the authorities concerned for displaying them.

In another letter to the CEO, the Commission, according to the sources, expressed serious concern over the display of hoardings and advertisements in the media highlighting the achievements of the "Modi Government" issued at the cost of the State exchequer.

The letter pointed out that such advertisements were a violation of the model code of conduct for political parties and candidates.

The code prohibits the party in power at the Centre or in the State to ensure that there is no

complaint of misuse of official position for the purpose of its election campaign.

Further, such advertisements in the mass media, including the electronic media, with regard to the achievements, during election period for partisan coverage to further the prospects of the party in power should be scrupulously avoided.

The letter said that even though the advertisements and hoardings might have been displayed before the notification to elections was issued, these had to be removed as they amounted to a violation of the model code. The Commission asked the authorities to inform the CEO of the action taken. He, in turn, would send a compliance report to the Commission.

Cong. complaint: Page 11

NOV 2002

Court backs EC on Gujarat

28/10

OUR SPECIAL
CORRESPONDENT

New Delhi, Oct. 28: The Supreme Court today held that the power to decide the poll schedule was within the "exclusive domain" of the Election Commission and neither Parliament nor an Assembly could interfere with this right.

This means the Centre's contention under Article 174 that elections had to be held in Gujarat within six months of the last sitting of the House, and therefore before October, stands dismissed.

The court also observed that there was no time-limit for holding elections after premature dissolution of the House, as in Gujarat. But it added the rider that polls "should" be held within six months.

"Under the Constitution, the power to frame the calendar or schedule for elections for constituting the legislative Assembly is within the exclusive domain of the Election Commission and such a power is not subject to any law either made by Parliament or state legislature," Justice V.N. Khare, writing the unanimous judgment, said.

The five-judge Constitution bench was answering a presidential reference made to it after the EC declined to hold elections in Gujarat before October on the plea that the situation was not "conductive".

The court's observation was an indirect message to the political establishment that the law could not be applied in the same manner in two distinct situations: where legislatures complete their full term and where they are dissolved prematurely.

Citing Article 174, the Centre

CENTRE ASKS, SC REPLIES

◆ Is the EC's right (Article 324) to decide poll dates overridden by a clause (Article 174) that election has to be held within six months of an Assembly's last sitting?

◆ No. The power to fix dates is the EC's exclusive domain. Such power is not subject to any law. Besides, Article 174 does not apply when an Assembly is dissolved prematurely

◆ Is the EC's view correct that since Article 174 does not apply, the state may be put under President's rule on expiry of six months?

◆ No. Since it is not necessary to hold elections within six months in case of a prematurely dissolved House, there is no question of President's rule

◆ Does the EC have a duty to carry out the Article 174 stipulation to hold polls within six months?

◆ Elections should be held within six months of dissolution of an Assembly

◆ Notification: Nov 18
◆ Nomination deadline: Nov 25
◆ Polling: Dec 12
◆ Counting: Dec 15



Graphic: RAJ

"I do not think the solution suggested by the EC is appropriate or justified," Justice Arijit Pasayat, one of the five judges, said.

The observation will help the BJP counter the Congress' insistence on President's rule before the elections. Narendra Modi

can continue as caretaker chief minister.

BJP general secretary Arun Jaitley said: "It is a sensible verdict and vindicates our stand on the imposition of Central rule."

The BJP may try to find some satisfaction in another observation of the court. "Ordinarily,

law and order or public disorder should not be occasion for postponing the elections," it said.

Concern over law and order was the reason offered by the EC for deferring the elections.

Congress spokesman Kapil Sibal claimed that the court had accepted his party's position

that Article 174 did not apply in this case and that its application did not circumscribe the use of Article 324. "It shows ministers should be more careful and should not act against a constitutional authority like the EC," Sibal said.

■ See Page 6

TUESDAY, OCTOBER 29, 2002

119-10
J. Steadman
(8/2002)

REFERENCE AND REPLY

29/10
J. Steadman

THE SUPREME COURT'S answer to the Presidential reference on the Election Commission's Gujarat order is notable for the complete rejection of the Central Government's contention that holding early elections in the State was a constitutionally mandated requirement. By ruling that elections to a prematurely dissolved Assembly can be held even more than six months after the last sitting of the House, the Court has upheld the E.C.'s Gujarat order, which deferred the election by a couple of months on the ground that the circumstances made it impossible to hold a free and fair poll in the State. Interestingly though, while the Court has upheld the constitutionality of the deferral, it has not accepted the E.C.'s reasoning for doing so. In defence of its decision, the E.C. had argued that in extraordinary situations such as Gujarat, Article 174 (which mandates that a Legislative Assembly meets at least once every six months) gives way to Article 324 (which gives the Commission the complete responsibility for the conduct of free and fair elections). The Court, however, has adopted the view that Article 174 does not apply in the Gujarat case at all. The scope of this Article is limited to existing Assemblies, not to those which have been dissolved. In plain language, what this means is that while the E.C. was fully empowered to defer the election in Gujarat, it misunderstood exactly how this power devolved on it.

Overall, the Supreme Court's reply bears a close resemblance to the position staked out by the Congress, which had argued from the very beginning that Article 174 did not apply in cases where Houses had been dissolved and was intended only to ensure that existing legislative assemblies were convened at least twice a year. Having interpreted the scope of Article 174 in this manner, the answers to the other questions related to the Presidential reference followed automatically or by implication. For instance, questions about the possible conflict between Articles 174 and 324 and about which takes precedence over which become irrele-

vant. The Court's view suggests that since the two Articles operate in different spheres, one is not subject to the other. The issue about whether President's Rule should be imposed in the event that elections are not held six months after the last sitting of an Assembly is also rendered irrelevant. The question of the applicability of Article 356 simply does not arise since there is no constitutional crisis in the event of the six-month period being breached.

While the E.C. has the untrammelled power to determine when elections should be held, the Court has made it clear that the Commission must ensure that they are held at the earliest. In other words, while early elections are not a strict legal requirement, it is something that the Commission should strive for and attach a lot of importance to. Presidential references are made to clarify complex questions of fact or law, but the Centre has every reason to be extremely embarrassed about the outcome of this one. The entire set of circumstances around which the BJP-led Government sought a Presidential reference suggested that it had little to do with settling issues of constitutional import and more to do with things of a political nature — to be specific, it seemed like a tetchy and combative response to the Election Commission's refusal to hold early polls in Gujarat. Hopes that the E.C. may be forced by the Court to advance the dates of the election were dashed when it refused to directly link the Presidential reference with Gujarat. Now the entire set of legal arguments which the Centre had used to criticise the E.C. has been demolished too. The Court's reply has shown that the Chief Election Commissioner, J.M. Lyngdoh, did not transgress his jurisdiction by declaring it was not possible to hold an early election in riot-hit and traumatised Gujarat. If anything, it was those who attacked him personally for this — in their frustration at being unable to use the communally charged situation to reap an electoral harvest — who transgressed the limits of political decency.

Cong, PDP set to share spoils in J&K

By Siddharth Varadarajan
TIMES NEWS NETWORK

Srinagar: With the National Conference making it clear that it will not attempt to form the next government in Jammu and Kashmir, all eyes are on the Congress and the People's Democratic Party. Though the arithmetic favours a coalition between them and smaller parties and independents, there are several issues the two need to sort out before they can establish a stable, coherent government.

Having won more seats than the PDP, thanks mainly to its showing in Jammu, the Congress would be keen to assume the chief ministership. And having spearheaded the Congress resurgence in the state, Ghulam Nabi Azad would be the logical candidate for the top job. The state has never had a chief minister from Jammu, but party workers here say someone like Mr Azad—who is from the Chhota Kashmir region of Doda—would be equally acceptable in the Valley.

However, PDP leader Mufti Mohammed Sayeed, a former

Union home minister in the V.P. Singh government, is also a strong contender. The PDP's spectacular showing in the Valley—which was largely responsible for the NC government being shunted out—has put the party in a commanding position. The Mufti's supporters also argue that as a regional rather than national party, the PDP is well placed to deal with deep-rooted local grievances.

Perhaps aware of the high stakes involved, both Mr Azad and Mr Sayeed were at their diplomatic best on Thursday, parrying questions from journalists on who should be the CM. "There are lots of competent people in the Congress and the PDP," said Mr Sayeed. "Anyone of them can be CM but the main thing is that the NC has been defeated."

Analysts and officials say that if Mr Azad does become CM, it is almost certain that Mr Sayeed's daughter, Mehbooba Mufti, who has been instrumental in building up the PDP, would be deputy CM. And if Mr Sayeed emerges as head of the coalition, Mr Azad would want Mangat Ram Sharma, the senior Congress leader from Jammu, to be inducted as deputy CM.

The Congress and the PDP will also have to evolve a common policy framework since the two are ideologically and politically quite distinct. Though the Congress attacked the NC on the human rights issues, the PDP's campaign was rather more strident.

The party wants the Special Operations Group disbanded, it favours an immediate dialogue process with Pakistan and the Hurriyat and also describes the Kashmir problem as an international dispute.

And then the PDP and the Congress will also have to reckon with a very diverse set of independents—from the pro-azadi People's Conference proxies to Bhim Singh's Panthers Party in Jammu.

● Related reports on Page 7
● See Edit: New Beginning, Page 16



Qazi Mohammad Afzal is felicitated in Srinagar after winning the Ganderbal seat, defeating Omar Abdullah by 2,000 votes, on Thursday.

Kashmir thumbs down dynastic rule

TIMES NEWS NETWORK

Srinagar: In a stunning verdict, the National Conference (NC), including its young president Omar Abdullah, was voted out of power on Thursday with the Congress and local People's Democratic Party (PDP) making surprisingly spectacular gains in the Jammu and Kashmir assembly polls. The hung verdict in the 87-member house is expected to bring these two parties together to cobble a coalition government.

The NC bagged 28 seats while the Congress won 20. The PDP bagged 16 while the BJP got only one seat. The CPI(M) won two seats and the BSP one. The small parties and independents are expected to play a crucial role in government formation by the Congress-PDP com-

bine, which fell short of the half-way mark of 44 by a few seats. For the first time in the history of the J&K assembly, the CPI(M) bagged two seats with its nominees winning the Wachi and Kulgam constituencies.

Conceding defeat, chief minister Farooq Abdullah, who returned from a trip to South Africa on Thursday, said he accepted the verdict and would be submitting his resignation on Friday. Mr Omar Abdullah, who contested from Ganderbal, which, hitherto had been considered a safe constituency for the NC, lost to PDP candidate Qazi Mohammad Afzal by about 2,000 votes. He left the counting centre in a hurry after he received the news of his defeat.

Sixty-year-old Mr Qazi Afzal who was a former associate of Sheikh Abdullah in the

Plebiscite Front had thrice lost to NC candidates in the past.

Among other senior NC leaders who lost are education minister Mohd Shafi Uri, Sheikh Mustafa Kamal, younger brother of Farooq Abdullah, and industries minister, Abdul Ahad Vakil, state assembly speaker, and Sakina Itoo, tourism minister. There had been four attempts on Ms Itoo's life in the run-up to the election.

The frontier district of Kupwara was the only silver lining for the NC where it managed to bag four out of five seats. The sympathy wave worked in Lolab where NC candidate Qaiser Ahmed Lone, nephew of assassinated J&K minister Mushtaq Lone, defeated independent candidate Abdul Haq Khan.

Valley voices

- The people of J&K have given their verdict. And the winner, clearly, is India's democracy.
—Prime Minister A.B. Vajpayee
- I bow my head to the verdict of the people
—CM Farooq Abdullah
- There will be self-introspection and we will try to figure out where things went wrong
—NC leader Omar Abdullah
- This is a vote against the government of India.
—Hurriyat chairman Abdul Ghani Bhat
- We felicitate the people for showing the door to the dynasty and admire their political sagacity for punishing the NC for its opportunistic and unprincipled alliance with the BJP.
—All-India Muslim Majlis-e-Mushawarat
- It is a clear mandate against the NC. We welcome it.
—RSS spokesman Ram Madhav

Terrorists may up the ante: Army

TIMES NEWS NETWORK

New Delhi: Though the electoral process in J&K may now be over, the army can ill-afford to lower its guard since "a major increase" in terrorist activity is anticipated in the post-election phase as well. The stepped-up violence was evident on Thursday, with as many as 16 terrorists being killed in four encounters.

Army troops, armed with electronic sensors and hand-held thermal imagers, are keeping an alert vigil along the 740-km Line of Control.

Doda defies the gun, records 52 pc turnout

TIMES NEWS NETWORK AND PTI

Doda\New Delhi: Unbowed by violent attacks at some places and threats in the hotbed of militancy, about 52 per cent of Doda's electorate on Tuesday voted in the six constituencies in the fourth and final phase of assembly elections in Jammu and Kashmir. In the Lolab constituency in Kupwara district of the Kashmir valley, where polling was put off following the assassination of National Conference candidate and law minister Mushtaq Ahmed Lone, a significant 41 per cent of voters cast their votes deputy election commissioner Sayan Chatterjee said in New Delhi.

Of the four phases, the turnout in Doda district was the highest, despite an attack by a suicide squad of Lashkar-e-Toiba militants in the heart of Doda town that killed two CRPF personnel and injured four. One of the two militants was killed by the security forces. Militants also detonated three improvised explosive devices near polling booths in the Banihal and Doda constituencies.

Mr Chatterjee, who said the voter turnout in all the four phases was an estimated 44 per cent, declared the EC was satisfied with the total election process given the circumstances and "considering the situation under which elections were held...when militants constantly dissuaded the voters."

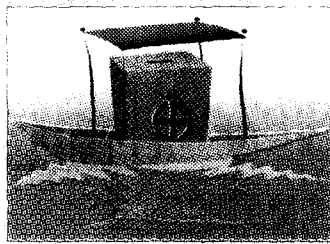
Counting will begin on October 10. Mr Chatterjee said that the EC has issued meticulous instructions to the poll staff. Sixty senior officials from outside the state, who were sent as the EC's observers, will oversee the functions of the 87 returning officers.

The EC observer will have to attest the result of each round of counting before the next begins. The returning officer may not declare the final result till the observer certifies his agreement with the tally.

According to reports last received, the four polling stations in Pahalgam segment of south Kashmir's Anantnag district where repolling had been ordered, recorded 25 per cent voter turnout.

Minister of state for home Khalid

Countdown to the count



- Of all four phases, Doda's turnout on Monday is the highest
- Overall turnout in J&K is 44 pc
- EC says it is satisfied with the election process
- Prohibitory orders imposed in Budgam for a month

Najeeb Suhrawardy, state chiefs of BJP and BSP, Daya Kishan Kotwal and Sheikh Abdul Rehman, PCC chief Ghulam Nabi Azad's relative Mohammad Sharief Niyaz and former advocate general Mohammad Aslam Goni are among those whose political fate was sealed on Tuesday.

Fifty-six candidates are in the fray in Banihal, Inderwal, Doda, Badherwah, Ramban and Kishtwar constituencies in Doda and Lolab.

The district election office in Doda said the highest turnout of voters among the six constituencies was recorded in Ramban at 57.87 per cent followed by Inderwal with 56.72 per cent, Kishtwar (55.88), Badherwah (54.51), Doda (47.62) and Banihal (40.56). Repolling on Wednesday has been ordered in one polling station in Doda constituency.

In Srinagar, police detained acting chairman of the J&K Liberation Front Javed Ahmad Mir and four party activists scuttling the Hurriyat's plan to stage an anti-poll demonstration.

In Budgam district, prohibitory orders were imposed for a month as a precautionary measure.

On the border, a heavy barrage of fire from across the Line of Control began on Monday evening and continued till the early hours of Tuesday. Pakistani troops fired heavy mortar shells in Kargil and Nowshera sectors, defence sources said.

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Tension as Doda goes to the polls

By Shujaat Bukhari

KISHTWAR (DODA), OCT. 7. Tension mounted in this mountainous region today when militants detonated an improvised explosive device near Doda town killing one policeman and injuring four others.

Amid unprecedented security arrangements, six segments of Doda district go to the polls tomorrow in the fourth and last phase of elections to the Jammu and Kashmir Assembly.

Police said militants detonated an IED near Baigra village when a police party was passing through the area to oversee the poll arrangements. The blast killed a policeman

on the spot. Three militants were killed in an encounter elsewhere in the district, police said. However, a top police official told *The Hindu* that these incidents would not have any impact on the elections. "We have made all arrangements and the security forces have taken over all the 534 polling stations across the district," he said.

All the polling staff have been despatched to their destinations. At 46 polling stations in the remote and hilly areas, the authorities have airlifted the forces and the polling staff. Since this last phase is seen as crucial, security has been beefed up and the para-military forces and the Army have stepped up patrolling. The security forces

have launched area-domination and sanitisation operations to ensure peaceful balloting. About 18,000 additional para-troopers have been deployed in the six constituencies. An estimated 485,000 voters are expected to choose their representatives from 56 candidates in the six segments of Doda, Banihal, Inderwal, Bhaderwah, Kishtwar and Ramban, besides one segment of Lolab in Kupwara district.

In other developments, a general strike was observed in Srinagar and other parts of the valley today in protest against the alleged blasphemous remarks of an American minister of the church, Rev. Jerry Falwell, against Prophet Mohammed.

8 OCT 2009

THE HINDU

INDEPENDENT CANDIDATE ESCAPES BID ON LIFE

Campaigning for final phase of J&K poll ends

By Shujaat Bukhari

DODA, OCT. 6. Barring minor incidents, the campaigning for the fourth and last phase of elections in Jammu and Kashmir ended today. A total of 56 candidates are in the fray for the six Assembly segments of Doda district, which will go to the polls on Tuesday.

According to official sources, militants lobbed a grenade on BSF and CRPF personnel in the Doda market. The grenade exploded in a drain without causing any damage.

In Bhaderwah, militants fired on the motorcade of an Independent candidate, Abdul Hafiz Wani, when he was going to Deracha village for campaigning. He, however, escaped unhurt.

Campaigning ended on a low key with the candidates limiting their campaigning due to fears of militant attacks. Vehicles carrying party workers were seen in Batote, Banihal, Doda, Kishtwar and Bhaderwah.

In recent weeks, the Chief Minister, Farooq Abdullah, the National Conference president, Omar Abdullah, the Pradesh Congress Committee president, Ghulam Nabi Azad, the People's Democratic Party president, Mufti Mohammad Saeed, and the Union Minister of State, Chaman Lal Gupta, have campaigned in the district, which has six Assembly segments.

The fourth phase of elections in the State are seen as crucial as areas with a large militant presence will go to the polls.

As Doda is a mountainous area, militants have found safe havens in the hillocks and have



A rally in Batote, Doda district, which goes to the polls on Tuesday, in the last phase of the Jammu and Kashmir elections. — Photo: Nissar Ahmad.

been striking at will. Army and paramilitary forces have been deployed in large numbers in the district for this reason.

Air Force helicopters carried out many sorties to transport officials and polling material to remote areas of the district. "All the staff are in place and necessary arrangements have been made for the smooth conduct of the polling," the Doda Deputy Commissioner and District Election Officer, Basharat Ahmed Dhar, said. No polling station in the district comes under the normal category. Out of the 534 polling stations in Banihal, Ramban, Inderwal, Kisht-

war, Bhaderwah and Doda, 243 are hyper-sensitive and 291 sensitive.

The elections in Doda are being keenly watched as prominent leaders such as the Minister of State for Home, Khalid Suhrawardy, the former Advocate-General, Aslam Goni, the State BJP president, D.K. Kotwal, and the State BSP chief, Sheikh Abdur Rehman, are among the candidates.

Prove your identity

PTI reports from Srinagar:

In order to prevent impersonation, the Election Commission has ordered that voters

would have to establish their identity at the polling stations by means of electors' identity cards or any of the 21 documentary evidence as notified earlier.

The Commission has notified that the poll time will be from 7 a.m. to 4 p.m. All government offices, public sector undertakings and business establishments in Doda district and Lolab constituency shall remain closed on Tuesday, the day of polling.

The re-polling in four polling stations of Pahalgam and one booth in Kathua would also be conducted the same day from 7 a.m. to 4 p.m., it said.

SC reserves opinion on Presidential reference on Gujarat elections

2/10 TIMES NEWS NETWORK

New Delhi: The supreme court on Tuesday reserved its opinion on the three-point presidential reference on the Gujarat polls and hoped that the elections would bring peace in Jammu and Kashmir too as it had done in the case of Punjab.

A five-judge bench, comprising Chief Justice B. N. Kirpal and Justices V. N. Khare, K. G. Balakrishnan, Ashok Bhan and Arijit Pasayat, will pronounce its opinion on whether Article 324 of the Constitution entrusting the conduct of the elections to the Election Commission would prevail over Article 174 mandating two sittings of an assembly within six months.

EC's counsel K K Venugopal and S Murlidhar said the commission, as of today, believed that polls should be held in November-December.

Counsel also urged the court not to fix an outer time limit for holding of elections saying an assessment of the ground situation played an important role in the holding of free and fair polls and that job was entrusted to the EC, which alone could find a suitable time for holding them.

"If after 52 years of independence, we

are proud of anything, it is the democracy of this country, which is like a big banyan tree," the bench said.

It said, "We understand the difficulty in holding immediate elections in Gujarat. But no one can argue that for months together, the EC would sit tight and say that it cannot hold elections within the stipulated time."

The bench further said: "Elections play a pivotal role in a democracy. We must do everything to ensure that elections are held on time. We do not want democracy to be hijacked. If elections are not held in time, it will lead to ordinance raj."

Emphasising the importance of elections in a parliamentary democracy, the bench said: "We have seen that elections have brought about peace in the troubled state of Punjab and hope to see the same situation in J&K."

Referring to the arguments that the reference was political as the assembly had been dissolved with an aim to get popular votes in a polarised atmosphere, the bench said: "The Prime Minister or the chief minister may have the prerogative to dissolve the house to reap the advantage of a situation but many a times they have got pleasant surprises.."

THE TIMES OF INDIA

2012

J&K poll toll 18, voter turnout 41%

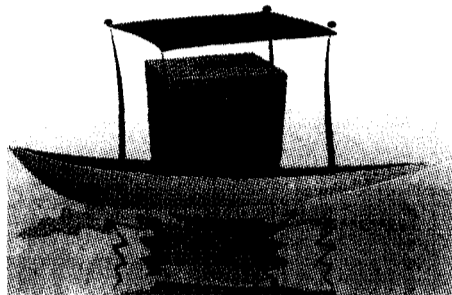
Militants attack bus, blow up BSF vehicle

TIMES NEWS NETWORK AND AGENCIES

Anantnag\Jammu: Despite a series of violent incidents across Jammu and Kashmir, resulting in the deaths of 18 people, the turnout in the third phase of the elections to the state assembly, at 41 per cent, was identical to that of the second phase. The two Valley districts of Pulwama and Anantnag polled 28 and 25 per cent respectively, while Kathua and Udhampur saw nearly 60 per cent of the electorate turning out to vote. However, in some regions of Pulwama, like Pampore, more than 90 per cent of the electorate boycotted the elections.

The day began with militants in Kathua district killing five passengers of a mini-bus and injuring 15 of another bus coming from Delhi on the national highway near Hiranagar town. When last reports came in, security forces had encircled a sweet shop on the highway, trying to make the terrorists holed up inside emerge.

Militants struck in the Valley as well. IEDs were detonated in two polling stations at Litter and Ghat Tokna in Pulwama, injuring three BSF soldiers on Tuesday morning be-



fore voting started. The attacks added a deadly edge to the boycott call issued by militant groups and ensured that many stayed away from the polls. In Pinjora village, where Lashkar-e-Toiba posters calling for a boycott had been pasted, only one person had cast his vote by mid-afternoon.

In the militant stronghold of Tral, a terrorist attack on a polling booth early in the day ensured that voters stayed away almost completely. Soon after polling closed, militants blew up a BSF vehicle returning after election duty, killing six jawans on the spot and seriously injuring two others in the Avantipura area of Pulwama district.

"After the very successful and violence-free first two phases of polling, our friends from across the border desperately tried to disrupt the polling today," chief electoral officer Pramod Jain told reporters.

He said many of Tuesday's incidents in the state were minor and some were not connected with the poll process.

As with the first phase, voters in several villages accused the security forces of compelling them to vote. At Checki-Shermal in Shopian constituency, voters made this accusation against the army. Rafiq Bano accused the local army officer of forcibly taking voters to the polling stations. "They will be harassed later if they do not vote," she alleged.

In Malangpora village, Pulwama, similar charges were levelled against the army. One Abdul Bhat said an army major had forcibly taken voters to the booth. Asked for his opinion, however, the major denied this and said he was in the area only for the protection of voters. 'The Times of India' also met villagers who said they were being forced to vote at Kund Waripura village in Kazigund.

Voting was seen to be brisk at Kadalbal and Lethipora in Pampore constituency, where National Conference workers were seen bringing in voters from nearby villages in hired transport.

The Hurriyat Conference claimed that voters in the state had boycotted the poll process as they were not interested in the elections.

"The people of Jammu and Kashmir deserve to be congratulated for showing courage in defying the pressure and threats from security forces and not coming out to vote today," a statement issued by the separatist conglomerate said.

Insurgents' writ runs large in Tral

By Mahendra Ved
TIMES NEWS NETWORK

Tral: In this 'zero vote' constituency, located amidst high mountains, intermittent firing by separatists scared away the few who intended to vote.

There was no voters' queue. No candidate turned up. Surjit Singh, the BSP candidate, who is also his own polling agent, also failed to show up. Such was the hostility that the polling staff was even refused tea by the locals because they were "all government employees".

Known to be a hub of separatists, Tral town wore a deserted look. The only people visible were the security personnel. But there was a sudden spurt of a dozen or so voters, emerging as if from nowhere. With the media, especially television crew arriving to cover the 'action', the voters protested loudly that they had been brought out of their homes "zabardasti se" and forced to the polling station.

However, they dutifully lined up, I-cards in hand, ready to be frisked by the security personnel.

Watching this with mixed feelings of irritation and amusement were the security personnel. Were the voters being forced? A senior security official denied this. "I can get the entire town to come to vote and register a cent per cent vote. But that is not my job. That is not why I am here," he said.

● See Edit: Terror Trail, Page 12

J&K third phase polls today

By Shujaat Bukhari

SRINAGAR, SEPT. 30. Amid tight security and fear of violence, 27 segments in Anantnag, Pulwama, Udhampur and Kathua districts go to the polls tomorrow in the third phase of the Jammu and Kashmir Assembly elections. Militants have attacked three polling stations injuring four since Sunday evening. Police confirm the presence of a large number of militants in south Kashmir.

The Chief Electoral Officer, Pramod Jain, said a heavy deployment of security forces had reduced fears. Noorabad, Wachi, Homeshalibugh and Kulgam segments of Anantnag and Pulwama districts had hypersensitive polling stations.

An estimated 17.78 lakh voters will decide the fate of 228 candidates, 16 of whom are women. Re-polls are to be held in nine polling stations in Budgam, Rajouri and Poonch.

Militants are continuing their anti-election activities. In Pampore, they hurled a grenade at a polling station injuring four officials. In Norpora of Kokernag, an improvised explosive device planted by militants was defused. At Halan in the same area, a police station was set on fire. A grenade was thrown at a BSF patrol party in Awan-

tipora, injuring two civilians. In Satoora Tral militants attacked security forces and two were injured. While Baramulla, Kupwara, Rajouri, Poonch, Srinagar, Budgam and Jammu went to the polls in the first and second phases, the fourth phase is confined to six segments in Doda district besides the Lolab segment where the polling was countermanded after the killing of the Law Minister, Mushtaq Lone.

Omar to quit Ministry

PTI reports:

Upset over the "bitter" attack against the National Conference by BJP leaders during electioneering, the party president, Omar Abdullah, today spoke of fresh strains in the party's relationship with the NDA and announced that he would resign from the Vajpayee Government after the Assembly elections.

"I will resign from the Union Ministry irrespective of whether my party comes to power or sits in the Opposition. I will meet the Prime Minister and submit my resignation after the completion of the poll process on October 8," he told reporters.

Hurriyat for talks: Page 12

THE HINDU

SEP 30 2008

Poll panel push for President's rule

R. VENKATARAMAN

New Delhi, Sept. 18: Another bout erupted in the Supreme Court today over the Gujarat polls, with the Election Commission contending that President's rule was the only way out and the BJP countering that if polls were not held, Narendra Modi would continue as caretaker chief minister.

"Return the (presidential) reference, m'lords, there is nothing in it... imposition of President's rule is the only way

out," senior counsel K.K. Venugopal said, speaking for the election panel.

"Your lordships, this view of the EC is wholly erroneous and contrary to the constitutional mandate," countered another senior counsel Arun Jaitley, pushing the case for the BJP.

Venugopal argued that President's rule should be clamped on October 2, the date by which a new Assembly should have been sworn in. He said the presidential reference should be returned "without giving any opinion" as

it had only raised "hypothetical" questions.

But Jaitley pushed for the continuance of Modi as chief minister. "If the legislature of a state stands dissolved and elections are not being held, the requirement of Article 164(4) would not apply," he said.

This provision stipulates that a minister or chief minister who is not a member of the legislature for six months automatically ceases to be in office at the expiry of that period. In Gujarat, the Assembly

has been dissolved.

Venugopal cited several earlier references, which were returned without any opinion. Of them, the most visible one was the presidential reference on Ayodhya.

He said the election panel felt that elections in Gujarat could be held in November-December as rolls had to be revised. There were major errors "due to the migration of a vast chunk of population in the wake of the recent communal riots", he said.

Jaitley countered: "If the EC is armed with unlimited and arbitrary powers and if the person manning the commission shares or is wedded to a particular ideology, he could, by giving odd directions, cause a political havoc or bring about a constitutional crisis, setting at naught the integrity and independence of the electoral process, so important and indispensable to the democratic system."

The State of Gujarat concluded its arguments in court today.

It contended that the panel had a constitutional duty to conduct elections and negation of that was not its job.

It argued that the panel's powers under Article 324 of the Constitution to conduct polls was subject to the mandate in Article 174 that a gap of six months should not intervene between two Assembly sessions.

Jaitley will continue his argument tomorrow. Congress member Kapil Sibal is scheduled to begin his arguments after that.

SIX-MONTH LIMIT MUST NOT BE EXCEEDED: JAITLEY

President's rule the only option in Gujarat: Cong.

By J. Venkatesan

NEW DELHI, SEPT. 19. The Congress today maintained in the Supreme Court that the three-point Presidential reference was an "exercise in futility" as it would not serve any purpose. But at the same time, the party fully endorsed the Election Commission's stand that President's rule was the option in Gujarat after October 3.

Making his submissions before a five-judge Constitution Bench, comprising the Chief Justice B.N. Kirpal, Justice V.N. Khare, Justice K.G. Balakrishnan, Justice Ashok Bhan and Justice Arijit Pasayat, senior counsel, Kapil Sibal, said there was no express provision in the Constitution for fixing a limit for holding elections and more so in Article 174.

He said Article 324, which was not subject to any other provisions, was the heart and soul of democracy and if the Election Commission in an extraordinary situation felt that it could not hold free and fair elections within the six-month time-frame, it could defer the process beyond this.

Justifying the Commission's order, Mr. Sibal said polls could not be held in Gujarat before the October 3 deadline as the revised electoral rolls were rendered "inoperable" due to the post-Godhra incidents. As the Commission had indicated that the revised rolls would be ready only by October 15, it was justified in stating that polls could be held in November-December.

The Commission's finding that free and fair elections could not be held in Gujarat in the prevailing circumstances was a relevant factor. This, he said, was a relevant factor to come to the conclusion that there was breakdown of constitutional machinery in the State and Article 356 was the answer after October 3. When the Bench asked Mr. Sibal whether the Commission could suggest imposition of President's rule, he said in this case the Commission did not say it could not hold elections for an indefinite period; it only said polls could be postponed to November-December and if Article 174 could not be complied with, President's rule could be imposed after October 3.

When the Bench wanted to know whether it was mandatory to impose President's rule in such situations, he answered in the affirmative.

Asserting that President's rule was the only option available in Gujarat, he said "in Uttar Pradesh, you imposed President's rule when no party could muster strength to form the Government; in Bihar, you invoked Article 356 after the expiry of the five-year tenure. If there is any other party ruling in Gujarat you would have imposed President's rule long back". At one stage, when Mr. Sibal was referring to the Commission's order, the Bench told him: "We are not going to enter the political arena" and said President's rule was not the answer for all situations.

When the Bench observed

that "our concern is this provision should not be misused", Mr. Sibal shared the concern and said "we have made a mockery of Article 356 and the caretaker Government". The Bench quipped "caretaker Government means taking care to come back".

When Mr. Sibal said that there was a "slant" in the Presidential reference, the Solicitor-General, Harish Salve, took strong exception on the use of the word "slant".

The Bench reminded Mr. Sibal that the reference had been signed by the highest constitutional authority. Mr. Sibal said was not attributing any motive to the President, for whom he and his party had the highest regard.

Earlier, continuing his arguments for the second day today, the former Union Law Minister, Arun Jaitley, appearing for the BJP, contended that under Article 174 (1), there shall not be a gap of more than six months between two sessions of an Assembly, which might be the last session of one Assembly and the first session of another.

In any event the six-month time-limit should not be exceeded.

If the Commission were to defer elections to Parliament indefinitely, a situation might come when the Council of Ministers would be answerable only to the Rajya Sabha, which would mean that States would be indirectly governing the Centre and such a situation was dangerous for democracy.

T.N. submission: Page 11

2 0 SEP 2003

SC HEARING ON PRESIDENTIAL REFERENCE

Elections within six months rule mandatory: Centre

By Our Legal Correspondent

NEW DELHI, SEPT. 17. The Centre today submitted in the Supreme Court, hearing the three-point Presidential reference on Gujarat, that Article 174 (1) of the Constitution — which provides that there should not be a gap of more than six months between two sessions of an Assembly — was mandatory and to be complied with strictly.

Appearing for the Centre, the Solicitor-General, Harish Salve, told a five-judge Bench, headed by Chief Justice B. N. Kirpal, that if, for some reasons, Article 174 could not be complied with, the Council of Ministers could continue in office for six months from the date of dissolution of the Assembly as per Article 164 (according to which any Minister could remain in office for six months without being elected).

Mr. Salve also referred to the Election Commission's stand that its order dated August 16 (that the President would then step in ... if Article 174 could not be complied with) was passed without any reference to Article 356 and it was just a passing reference.

(The Commission, in its written submissions, had made it clear that it was merely pointed out that there need be no apprehension that there would be a constitutional impasse as Article 356 could provide a solution in such a situation).

Mr. Salve told the Bench, which included

Justice V. N. Khare, Justice K.G. Balakrishnan, Justice Ashok Bhan and Justice Arijit Pasayat, that the intent of the framers of the Constitution was that all the functionaries must work in harmony to implement the provisions. And non-implementation of the provisions by any of the authorities or creation of a situation in which the provisions could not be complied with, would be dangerous for democracy.

Mr. Salve also cited a hypothetical situation wherein, after the dissolution of the Lok Sabha, the caretaker Prime Minister, "in collusion with the Chief Election Commissioner, decided not to hold elections for two years."

When he said that democracy would perish if the constitutional authorities engineered an "unholy cooperation" to subvert the Constitution, the Bench said that "we are here to insulate democracy... We fully agree with the proposition. But the President would dismiss the Prime Minister."

Mr. Salve refuted the contention that Article 174 would apply only to an existing Assembly and not to a dissolved one. Such an interpretation would introduce undue rigidity in the system. Referring to the Election Commission's order, he said the Commission had no authority to make reference to Article 356 while considering holding elections in a State. "This is not to be seen in the light of Gujarat only. If such a situation arises at the Centre, will the Com-

mission say that it is not able to hold elections," he asked.

Mr. Salve also maintained that the imposition of President's rule was no answer for non-compliance with Article 174. The power to recommend President's rule was vested with the executive branch of the government and this discretion could not be controlled, much less compelled, by any other authority — executive or judicial.

On the continuance of a caretaker Chief Minister, Mr. Salve said that as per convention, he could continue in office for six months after dissolution of the State Assembly but the only condition was that he should not take any major policy decision. Article 356 need not be applied, he argued.

He also submitted that the Commission, under Article 324, could not schedule the elections in a State in a manner which "would be inconsistent with the constitutional scheme of representative government itself," even if it was satisfied that free and fair elections could not be held in a prevalent situation.

Senior counsel for the Commission, K. K. Venugopal, submitted that the court should not traverse itself beyond the scope of the reference. And that certain situations and provisions referred to by Mr. Salve were not part of the reference.

Mr. Venugopal will continue with his submissions tomorrow.

Court nail in Modi poll plank

OUR BUREAU

New Delhi, Sept. 2: The BJP-led government suffered another setback in the Gujarat standoff as the Supreme Court refused to interfere with the Election Commission's timetable and expressed its inability to give an early verdict as the Centre wanted.

The court indicated that it agreed with the commission's proposal for elections in either November or December. **(Details on Page 6)**

The Supreme Court bench, headed by Chief Justice B.N. Kirpal, dealt another blow to the BJP by hinting that a final ruling will not be delivered by October 2 — four days before a controversial constitutional deadline for recon-

tuting the Gujarat Assembly.

But the Centre cut a brave front and stonewalled Opposition calls for President's rule in Gujarat, saying it is "anxiously" awaiting the court's interpretation of Article 174, which holds that the gap between Assembly sessions should not exceed six months.

Election Commission sources, however, claimed that the court's observation was a "vindication" of the panel's stand against early polls.

"The Supreme Court proceedings were meant for laying down a timetable for hearing and this has been done," said BJP spokesperson Arun Jaitley. "The party does not respond to oral arguments during the hearing."

Law minister Jana Krishna-

murthi pitched in, saying: "As far as I am concerned, the court order was not altogether unexpected". But party sources had earlier indicated that they were hopeful of a quick court verdict on Article 174.

Jaitley's case was that the Election Commission had no choice but to call for polls in September as the Gujarat Assembly last met on April 6. Six months from then means its term will end on October 6.

But the Congress contested Jaitley's interpretation of Article 174 and maintained that it applied to two sittings of a live Assembly and not a dissolved House. The Assembly was dissolved on July 23.

While accepting Article 174 in the present context, the poll

panel had said its use was circumscribed by Article 324, which gives the commission absolute powers for holding elections.

The ruling BJP at the Centre as well as the state had mounted intense pressure on the commission to schedule polls before October 6. After the commission dashed the BJP's hopes, the Centre approached the apex court through a presidential reference, which sought three clarifications.

Welcoming the Supreme Court's observation, Congress spokesperson Abhishek Singhvi said: "The court has accepted as factual position the situation described by the Election Commission in Gujarat. The court and the commission share the same views in this matter."

Gujarat poll hearing date on Monday

Statesman News Service

NEW DELHI, Aug. 29. — With the process of serving notice to all parties concerned yet to be completed, the Supreme Court has deferred till 2 September the fixation of a schedule for dealing with the presidential reference on Gujarat elections.

Observing that the issues raised in the reference ought to be dealt with expeditiously, the court not only asked Solicitor-General Mr Harish Salve to ensure the service of notice by the next hearing, but also called upon the counsels for various parties to informally work out a schedule and present it to the court.

On Monday, the five-member Constitution Bench (coram Kirpal, CJ, Khare, Balakrishnan, Bhan, Pasayat, JJ) had ordered the issue of notice to the Election Commission, six

national political parties and all state governments on the reference. The notice was returnable today, but when the matter was taken up this morning the court was informed that not all states had been served the notice.

While informing the court of that, the Solicitor-General expressed himself in favour of the schedule being worked out today itself, since several of the parties had received the notice. This was not a matter in which it was necessary for notice to have been physically served on all parties, he said.

Objection to that was immediately raised by Mr Kapil Sibal, senior counsel for the Congress. It would be improper to draw up a time-schedule for the hearing without the court record having reflected the due service of notice, he said.

Accepting that view, the Chief Justice fixed 2 September for finalising the schedule. Mr

Justice BN Kirpal proceeded to make his observation about the need for an expeditious process and asked the counsel to try and work out a tentative schedule among themselves.

The President, under Article 143, has sought the opinion of the apex court on three issues flowing from the EC's decision on the polls:

■ Is Article 174 subject to the decision of the EC under Article 324 as to the schedule of elections of the Assembly?

■ Can the EC frame a schedule for the elections to an Assembly on the premise that any infraction of the mandate of Article 174 would be remedied by a resort to Article 356 by the President?

■ Is the EC under a duty to carry out the mandate of Article 174 of the Constitution, by drawing upon all requisite resources of the Union and the state to ensure free and fair election?

30 AUG 2002

TUESDAY, AUGUST 27, 2002

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DREADFUL DIATRIBE

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REFERRING TO THE abhorrent personal attack he launched on the Chief Election Commissioner, the unrepentant and unashamed Gujarat Chief Minister, Narendra Modi, now quips that "the controversy is over". But why did it begin in the first place? Surely, what is relevant about the so-called Narendra Modi-J.M. Lyngdoh face-off is not that it has been 'skillfully' tidied up by the intervention of the Prime Minister but the squalid and totally unforgivable nature of the former's diatribe against the latter. In a litany of insults, the Gujarat Chief Minister linked Mr. Lyngdoh's decision ruling out early polls in the State with the fact that he is a Christian and with the fiction that he is a closet Congressman. Remarks which suggest the Chief Election Commissioner is a 'foreigner' or biased against the majority community cannot be explained away merely in terms of resentment against an Election Commission order which strongly criticised the Gujarat Government for its failure to restore normality in the riot-hit State in the context of its announcement that it would be impossible to conduct a free and fair election there immediately. Mr. Modi's statements reflect more than anger at being denied the opportunity of using the existing and communally polarised situation to his party's advantage in the election. His utterances reek of communalism and xenophobia — bad enough by themselves but even more dangerous when one considers this is a reflection of not merely his pique but his very philosophy.

In so much as it has persuaded Mr. Modi to call off low and personal attacks against a high Constitutional dignitary such as the Chief Election Commissioner, the intervention of the Prime Minister to end what he referred to as an "unseemly controversy" is a welcome one. But the Prime Minister has been much too mild when dealing with the errant Chief Minister. In

expressing his distress about the "undignified remarks" made about the Chief Election Commissioner, Mr. Vajpayee's statement made no direct reference to Mr. Modi. The tenor of the Prime Minister's remarks were more oblique than even that of his senior Cabinet colleague, Murli Manohar Joshi, whose reprimand of Mr. Modi was relatively more blunt and straightforward. Given the scurrilous nature of the Chief Minister's remarks, what Mr. Modi really deserved was a direct dressing down and not merely a response couched in the language of an appeal.

Mr. Modi's attack on Mr. Lyngdoh comes at a time when a Constitution Bench of the Supreme Court is examining the legal validity of the Chief Election Commissioner's decision to defer the Gujarat polls. Among the questions the Court will consider is whether the Election Commission had violated Article 174 (1), which stipulates that not more than six months must elapse between the end of the sitting of one session of a Legislative Assembly and the commencement of another. When the very issue that agitates Mr. Modi and his political fellow travellers in Gujarat — namely, the delay in holding the polls — is under the scrutiny of the Supreme Court, attacking Mr. Lyngdoh is an affront not only to the office of the Election Commission but also an affront to the highest court in the land. It is doubtful whether Mr. Modi, whose insensitivity during the Gujarat carnage plumbed new depths, is concerned about such niceties. If he was, he was unlikely to have launched such a tasteless and offensive attack against Mr. Lyngdoh. Rubbishing a Constitutional dignitary such as the Chief Election Commissioner in such a manner is unacceptable at any time. But doing so when the Supreme Court is seized of the Gujarat election matter is even worse. It reflects not merely indecorousness but also a contempt for the law.

Modi's remarks draw flak

By Our New Delhi Bureau

9 Section (State)
NEW DELHI, AUG. 23. The Gujarat Chief Minister, Narendra Modi's "intemperate attack" on the Chief Election Commissioner, J. M. Lyngdoh, today drew flak from most Opposition parties and the Human Resource Development Minister, Murli Manohar Joshi, also criticised it. An agency report from Nagpur quoted Dr. Joshi as saying that "it did not behove on the part of Mr. Modi to make such remarks against a high Constitutional authority".

The Opposition was particularly peeved at the way in which Mr. Modi singled out Mr. Lyngdoh and his religion for attack. The Congress chief spokesman, S. Jaipal Reddy, said the Chief Minister's diatribe was misplaced as the decision on Gujarat elections was not the CEC's alone but that of the three-member Commission. "It was an institutional decision, and not an individual one."

Stating that the Prime Minister was supposed to protect and defend the dignity of Constitutional organs, the Congress said Mr. Vajpayee was "guilty of the sins of omission" for disregarding the objectionable conduct of Mr. Modi. The CPI(M) said that it was "shocking though revealing" that the BJP national leadership which acted as the mentor of Mr. Modi should remain silent and refuse to condemn his remarks. In a statement, the party politburo said the episode exposed Mr. Modi's "fascist mentality towards minorities".

The former Prime Minister, V. P Singh, objected to Mr. Modi's remarks and said: "How can Narendra Modi call him (Lyngdoh), a foreigner? Just because you do not agree...this is fascism, they pick on religion," he said.

24 AUG 2002

Lyngdoh lashes out at 'gossip menials'

KAY BENEDICT

New Delhi, Aug. 23: Chief election commissioner J.M. Lyngdoh today said religion was "responsible" for the "despicable" references that Narendra Modi made while criticising the poll panel's stand on Gujarat elections.

"These remarks reflected how cruel the polity is," he said. "I don't have any religion. I couldn't care less." Religions, he added, have created all these problems. "It is despicable and it comes from gossip menials," the poll panel chief told a television channel. "I think the politics today is dirty, vitiated and tententious," he said.

Modi stuck to his stand and continued to attack Lyngdoh despite senior BJP leader Murl Manohar Joshi's criticism.

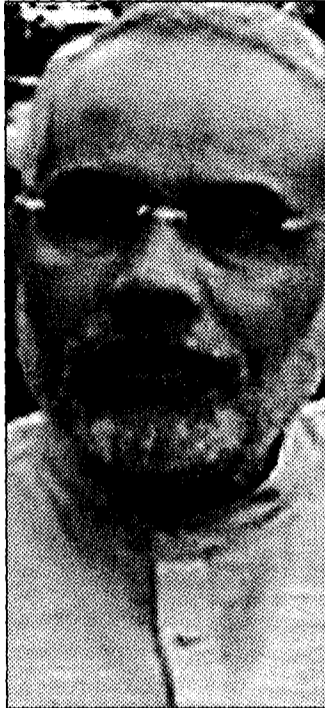
Lyngdoh said he agreed with the views of his predecessor M.S. Gill that Governor's rule should be imposed in states two months before they go to polls, subject to good choice of Governors.

To another query on whether the commission was on firm legal ground on its stand on the Gujarat polls, he said: "The more the criticism, the more I think it is the right decision."

Lyngdoh dismissed speculation that the commission's order on Gujarat was not unanimous. "I do not do karate on my colleagues," the black belt holder said.

Commission officials who spoke to **The Telegraph** today not only charged Modi with trying to polarise voters along religious lines but also accused him of trying to drive a wedge between the three commissioners, the others being B.B. Tandon and T.S. Krishnamurthy.

"It is a three-member commission, why only target Lyngdoh? He may be a Christian. The other two are Hindus who did not utter a single word of dissent. The full commission visited Gujarat and all the three recorded the same observations," said an official who ac-



Modi

panied the team to the riot-scarred state.

The officials pointed out that the Modi government itself has been seeking postponement of panchayat polls in two districts, 15 taluka panchayats and elections in 81 municipalities for the past two years.

Modi today maintained that he had no intention of showing "disrespect" to the constitutional body. "I am repeating what I have said earlier... Five crore people of Gujarat have the right to know why James Michael Lyngdoh is applying different yardstick for Kashmir and Gujarat," he said while answering questions from reporters in Mumbai, says PTI.

Cong reminder

The Congress today urged Prime Minister Atal Bihari Vajpayee to uphold his "*rajdharm* (ethics of governance)" and rein in Modi for his "utter irresponsible and reprehensible" attack on Lyngdoh.

Spokesman Jaipal Reddy,

while wondering why Vajpayee has chosen to remain silent so far, said such an attack on a constitutional institution would seriously jeopardise democracy in the country.

"We severely condemn Modi's outrageously indecent targeting of Lyngdoh in person... The Prime Minister of India is supposed to ensure the dignity of India's constitutional organisation is protected and defended," Reddy said.

He said the nation wanted Vajpayee to observe his "*rajdharm*" — an advice the Prime Minister had given to Modi in the wake of the Gujarat carnage. "If Modi was not reined in, the BJP at the national level would be completely responsible for his obnoxious behaviour," he said.

Reddy said Vajpayee should come forward and defend Lyngdoh. "Where is the Prime Minister of India? Has he gone underground?" he asked.

Reddy said Modi's attack was "reprehensible" on a number of counts. First, the decision to delay elections in Gujarat was not taken by Lyngdoh alone but by the three-member Election Commission.

He also alleged that the Centre's decision to refer the matter to Supreme Court had "emboldened" Modi to indulge in this kind of vicious campaign. "If the trend continues, democracy in our country would be thrown into jeopardy," he said, urging the NDA allies to clarify their stand on Gujarat.

The CPM also condemned Modi's remarks. In a statement, the party said the remarks exposed the Gujarat chief minister's "fascist" mentality towards minorities.

"It is shocking, though revealing, that the national leaders of the BJP, who act as the mentors of Modi, should remain silent and refuse to condemn his remarks," it said.

"If any further proof is required about the unsuitability of Modi continuing as chief minister, it is this outburst", the Congress said.

Gujarat imbroglio — some reflections

By V.R. Krishna Iyer

The Gujarat imbroglio brings to mind Dr. Ambedkar's pensive caution about the Constitution: I feel that it is workable, it is flexible and it is strong enough to hold the country together both in peace time and in war time. Indeed, if I may say so, if things go wrong under the new Constitution, the reason will not be that we had a bad Constitution. What we will have to say is, that Man was vile.

In the rapidly unedifying scenario in Gujarat, we have a political contretemps where constitutional functionaries are in avoidable operational conflict. The Election Commission has the plenary jurisdiction to decide on free and fair elections. After making a careful study and acting within its powers, the Commission has come to the conclusion that the conditions in the State warrant a date for the polls beyond early October. This decision being within Article 324 is prima facie valid. But a jurally bizarre impossible situation has been created by the astute action of the Chief Minister, with a majority in the House, to advise a pliant Governor to accept his hasty resignation and dissolve the Assembly. This having been accomplished, a conundrum confrontation has sprung up because of Article 174 which lays down that six months shall not intervene between its (House) last sitting in one session and the date for its first sitting in the next session. This six months span — a parliamentary parameter — is the maximum gap between two sittings of the House and inevitably the House having been dissolved, the newly-elected House has to become functional by October — an impossible feat since the Election Commission declines to hold Election within the period. The only obvious constitutional solution would be to bridge the gap by the imposition of President's rule by proclamation under Article 356. Such a proclamation must have constitutional foundation on the score "that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of the Constitution". The Central Cabinet, on whose advice alone the President can act, is politically hesitant to exercise the powers under Article 356. There was perhaps political, communal mileage and vantage in hasty hustings, the very motive for the dissolution of the House. But the Commission, after an on-the-spot study conscientiously, was not in a mood to agree. Surely, if the six

months rule is mandatory, a gap without a Ministry and a

House would arise. This means that the obligatory provision under Article 174 will not be fulfilled. (Article 164 (4) which insists on Ministers being members of the Legislature within six months also may cause a headache.) In short, a breakdown of the Constitution would arise and the President would be obligated to impose President's rule under Article 356 unless the dubious argument of a 'dead' House sound. The escape route proposed by the Union Cabinet is to refer the implication of Article 174 and the interpretation of the six months rule to the Supreme Court under Article 143 for its advisory opinion. The Supreme Court may possibly hold either that the six months rule does not apply to the situation where the House has been dissolved and a new House has not come into existence or that the six

OPINION

months span is a constitutionally inviolable mandate even in cases where the House has been dissolved. In the latter event, constitutional governance compels Presidential proclamation. Taking a realistic view of the functional limitation of the Supreme Court (adopting its usual hearing procedure) it may find it hard to produce a 'blitz' verdict within the brief time available. Subject to wiser counsel or sharper strategy, constitutional pragmatism and statesmanly prudence would constrain the Central Cabinet to impose President's rule for a short break to facilitate fair but early polls by the Commission. Is this not without precedents? This alternative, however, would defeat the Modi Ministry being in office while the poll process is under way.

Another factor must be noticed. The Supreme Court may not agree to give an advisory opinion and, in any case, may not be hustled into a judgment. No one can speculate. My point is that if the six months were to be counted from the last session, the court opinion possibly may not be forthcoming before time runs out. It is a high risk to take since the Apex Court's verdict may be a guessing game. The safest course, therefore, is to save the constitutional order by a Presidential proclamation.

What is the fundamental idea of the six months' rule? It is the very foundation of Democracy. Responsible Government is a basic feature. The Governor, if allowed to rule by himself alone, will be a Constitu-

tional autocrat. Article 163 mandates that his Government must be aided and advised by Ministers who, in turn, must be answerable to the Legislature elected on adult franchise. Sans Ministers, parliamentarism stands paralysed. Sans an elected House, Ministers become monarchs. Sans elections, constitutional accountability to the Legislature is absent. So the cornerstone of democracy is periodic poll process. If franchise is fundamental, legislatures a basic structure of the Constitution, Article 174 inviolably mandates elections within six months. Of course, Article 356 is a reserve power where for the rarest of rare cases, parliamentary control has to take the place of the State legislature. Hold elections as early as fair political weather prevails and people have a free option to ballot without fear.

From news reports it is seen that the Commission, realising the crisis consequent on its postponing the elections, has tendered gratuitous constitutional advice recommending President's rule. But this otiose excess does not detract from the substantive decision to adjourn the polls which is within his jurisdiction. Now that the whole matter has gone to the court, the correct jurisprudence will be declared. We are governed by the Constitution but the Constitution is what the judges say it is — provided they choose to make an advisory pronouncement. The advisory wisdom of the Supreme Court has been invoked. But advisory opinions are optional. That is the marginal gamble of Article 143. Moreover, the Court takes time while October is round the corner. True, the Election Commission must have considered, with holistic vision, Article 174 and the six months imperative. If by commanding all the resources of the State and the Centre the poll process could have been worked, not to do so would be arbitrary dereliction and therefore unconstitutional. But if by no reasonable measure a fair election, without a fraud on people's franchise, could be held — this is an objective assessment — then the President must avert a breakdown using Article 356. Arbitrary power and the rule of the Constitution are antagonistic and incompatible forces. Now that the Court is in session, let us abide by the light of its binding verdict, "according to the oaths and consciences of the justices and their best understanding of the laws' commands". The hour is late. The issue is grave. A creative court and judicial statesmen are the last constitutional refuge.

Text of Presidential reference

By Our Legal Correspondent

NEW DELHI, AUG. 21. The following is the text of the three-page reference sent by the President, A.P.J. Abdul Kalam, to the Supreme Court for its opinion.

"Whereas the Legislative Assembly of the State of Gujarat was dissolved on July 19 before the expiration of its normal duration on March 18, 2003:

And whereas Article 174 (1) of the Constitution provides that six months shall not intervene between the last sitting of the Legislative Assembly in one session and the date appointed for its first sitting in the next session:

And whereas the Election Commission has also noted that the mandate of Article 174 would require that the Assembly should meet every six months even after the dissolution of the House, and that the Commission has all along been consistent that normally a Legislative Assembly should meet at least every six months as contemplated by Article 174, even where it has been dissolved;

And whereas under Section

15 of the Representation of the People Act, 1951, for the purpose of holding general elections on the expiry of the duration of the Legislative Assembly or its dissolution, the Governor shall, by notification, call upon all Assembly constituencies in the State to elect members on such date or dates as may be recommended by the Election Commission;

And whereas the last sitting of the Legislative Assembly of the State of Gujarat was held on April 3 and as such the newly constituted Legislative Assembly should sit on or before October 3;

And whereas the Election Commission by its order dated August 16, has not recommended any date for holding general election for constituting a new Legislative Assembly for Gujarat and observed that the Commission will consider framing a suitable schedule for the general election to the State Assembly in November-December.

And whereas owing to the aforesaid decision of the Election Commission, a new Legislative Assembly cannot come into

existence so as to meet within the stipulated period of six months as provided under Article 174 (1) of the Constitution.

And whereas the Election Commission has held that the non-observance of the provisions of Article 174 (1) in the present situation mean that the Government of the State cannot be carried in accordance with the provisions of the Constitution within the meaning of Article 356 (1) of the

Constitution and the President would then step in;

And whereas doubts have arisen with regard to the Constitutional validity of the said order of the Election Commission as it would result in a non-compliance with the mandatory requirement envisaged under Article 174 (1) of the Constitution. And whereas in view of what has been herein before stated, it appears to me that the questions of law hereinafter set out have arisen which are of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court on the three-point reference.

27 AUG 2002

Gujarat is no Kashmir

A COMMON complaint of those upset by criticism of the Narendra Modi government's handling of the Gujarat riots is that equal concern is not always shown about the victims of the Kashmir problem. Any comparison of the two tragic situations to ascertain which is more grievous is unfortunate. But since the two are frequently equated at present, it may be worthwhile to examine the issue. The first point to note is that Gujarat is purely an internal matter unlike Kashmir, in the sense that it does not face an insurgency encouraged by a neighbouring country. Second, although New Delhi describes Kashmir as an inseparable part of India — '*atoot ang'* — it is nevertheless willing to discuss the future of the state with Pakistan once there is an end to cross-border terrorism. This condition does not apply to Gujarat.

But these are not the only differences between the two states which make any comparison between the two verge on the ridiculous. Where the plight of the minorities is concerned, it is undeniable that the exodus of pandits from Kashmir was the

result of the cross-border terrorism sponsored by Pakistan. That a large section of this hapless community is still living in camps is the consequence of the 'proxy war' waged by Pakistan in Kashmir since 1989. There is obviously no parallel between their plight and what happened in Gujarat. In the latter state, the minorities had to take shelter in relief camps not because of a proxy war, but because of an outbreak of violent clashes between two communities.

However, that is not all. In Kashmir, the Farooq Abdullah government may have been ineffectual in the matter of either saving the pandits in the first place or of assuring them of safety if they returned. Its failure, therefore, is a case of omission. In Gujarat, on the other hand, not only is the Modi government charged with conniving with the rioters, but even today, as the Election Commission has noted, the 'non-arrest and non-punishment of the guilty' point to subterranean links between the ruling establishment and those responsible for the violence. Evidently, there is a vast difference between the situation in Kashmir and in Gujarat.

21 AUG 2002

MUST ART. 356 BE READ WITH ART. 174, ASKS PRESIDENT

Kalam sends 3 queries to SC

Mohan Sahay and Srinjoy Chowdhury
in New Delhi

Aug. 20. — The President has asked the Supreme Court to opine on three specific Constitutional issues flowing out of the Election Commission's decision not to conduct early polls in Gujarat.

In a reference to the Supreme Court under Article 143, the President has asked it to consider and report on:

(i) Is Article 174 subject to the decision of the Election Commission under Article 324 as to the schedule of the elections to an Assembly?

(ii) Can the Election Commission frame a schedule for the elections to an Assembly on the premise that any infraction of the mandate of Article 174 would be remedied by a resort to Article 356 by the President?

(iii) Is the Election Commission under duty to carry out the mandate of Article 174 of the Constitution by drawing upon all the requisite resources of the Union and the state to ensure free and fair elections?

The Supreme Court today confirmed receipt of the reference from the President, and an official of the registry said it would be placed before the Chief Justice of India for determining the manner and procedure the court would adopt to deal with the matter.

With the Chief Justice of India, Mr Justice BN Kirpal, out of the country, the senior-most Supreme Court judge, Mr Justice GB Pattanaik, could deal with the reference, some legal experts believe. He could set up a Constitution Bench and issue notice to the Election Commission, the Centre and other parties. Another view was that the

matter would await the return of the Chief Justice on 26 August.

Experts said the Centre was very hopeful of the Supreme Court coming up with an answer to the query, positive or negative, by 10 September. If that happens, and the Supreme Court upholds the Centre's point of view, then, the Election Commission would have to issue a notification by 11 September and elections can be held within six months of the dissolution of the Assembly.

Another section of legal observers, however, do not see an early conclusion of the judicial process. A number of political parties and state governments could seek to present their view to the court. That process could actually involve a thorough review of the relevant Constitutional provisions, which could be time-consuming, they said.

In the past, the Centre had made references under Article 143 (1) to the Supreme Court on issues ranging from Ayodhya (the court declined), on Jammu and Kashmir and on the judges' appointment case.

Modi's yatra

GANDHINAGAR, Aug. 20 — Mr Narendra Modi's *Gaurav Yatra* is set to roll out from Phaprel in Kheda on 3 September. Mr Modi and Mr Rajendrasinh Rana, state BJP chief, will lead the yatra on a specially-designed "rath" mini-bus with a public address system and a hydraulic platform.

Mr Rana said the yatra will highlight the Gujarat government's achievements and the BJP's policies. The yatra will cover all 182 Assembly constituencies. "In the first week, we will cover six districts and 12 Assembly segments," Mr Rana said. — SNS

Details on page 6

PM meets President: Mr AB Vajpayee met Dr APJ Abdul Kalam in Delhi for 45 minutes today. This is his third formal meeting with the President since the latter assumed office.

BJP dares Cong: The BJP today challenged the Congress to an open debate on all issues facing the party instead of levelling "malicious and baseless" allegations against the ruling coalition, party spokesman Mr Mukhtar Abbas Naqvi said.

Editorial: BJP in trouble, page 4
Another report on page 6

21 AUG 2002

In Lyngdoh wake, special revision of poll rolls

BASHIR PATHAN
GANDHINAGAR, AUGUST 19

THE office of Gujarat's Chief Electoral Officer (CEO) has issued instructions to district collectors to initiate the process of a "special" revision of the electoral rolls in the riot-affected cities, towns and villages, as directed by the Election Commission.

Sources in the CEO office said collectors of as many as 20 riot-hit districts had been asked to requisition adequate staff from revenue and education department to conduct a house-to-house verification in order to make the electoral rolls as "accurate and up-to-date as humanly possible".

For this special revision, the existing electoral rolls, which were published on May 15 this year, will be published as draft electoral rolls on August 28 for inviting claims and objections for which a time of three weeks



Refugees at a relief camp in Ahmedabad. Express file photo

(upto September 18) will be given, the sources said.

Official enumerators will also undertake house-to-house surveys in cities, towns and vil-

lages of the 20 riot-hit districts.

The list of the areas will be drawn by the CEO in consultation with the District Election Officers and other relevant au-

thorities by Wednesday. On the basis of this, enumerators will prepare three separate lists of deletions, inclusions and corrections in the existing rolls.

The final electoral rolls will be published on October 15. The EC has also directed the CEO to launch a programme to issue electors' photo identity cards (EPICs) from October 1 once the verification is over.

At each place recently visited by the commission and its team, there was a common grievance that some electors displaced in the riots had lost the EPICs, along with their belongings.

An official said that of the 3.24 crore voters listed in the electoral rolls as published in May, about one crore were yet to be issued EPICs. "As directed by the EC, we may launch a special drive soon to issue identity cards to as many remaining voters as possible," he said.

In J-K, 'free, fair' discrepancies

ARUN SHARMA
JAMMU, AUGUST 19

PUTTING a question mark on Prime Minister A.B. Vajpayee's commitment to free and fair Assembly polls, Jammu and Kashmir has registered an unexplainable 17.94 per cent increase in the number of electorates over the last six years.

The growth has been higher than the average rise (five-six per cent) at the national level during the period, despite the fact that over one lakh people have died of violence or natural causes and over two lakh have migrated to other parts of the country during the 12-year long turmoil.

The number of electorates has increased by 4.67 lakh over the last 20 months, say political leaders. Voter numbers have risen from 51.33 lakh in January 2001 to over 56 lakh as of now. Those in the office of the Chief Electoral Officer say this is likely to rise as voter registration is open till the last date for filing nomination papers.

The CEO Pramod Jain's deputy B.S. Jamwal said: "We have deleted 1.91 lakh names from the rolls in the last year. At the same time, we received 3.65 lakh fresh claims. Of them, nearly 2.4 lakh were registered as new voters," he added.

Union Minister of State for Defence and se-

'No count of 50,000 Pandits'

■ NEW DELHI: The Kashmir Samiti, an apex body of migrant Kashmiri Pandit organisations, has claimed that about 50,000 members of the community remain un-registered as either migrants or voters. The samiti has been spearheading a campaign to link J-K elections with the community's return. It has also rejected the offer of the CEC to install EVMs in migrant camps in Delhi and Jammu to enable the displaced people to cast their votes. — **ENS**

nior BJP leader Professor Chaman Lal Gupta says he has apprised the party high command of it. "I have told Jain the PM has been assuring free and fair polls in J-K. How is it possible if the electoral rolls are not genuine?" he added.

Sources said there were discrepancies in the rolls and census figures — the census puts the population in the Valley at 54.41 lakh, the rolls show 25.46 lakh. Census officials say this could be because security and paramilitary forces in the state were counted. Opposition parties find intriguing the 43.2 per cent rise in electorates in Gool-Arnas constituency in Udhampur district, where there has been a lot of migration.

EC sticks to its guns on J&K polls

TIMES NEWS NETWORK & AGENCIES

New Delhi\Jammu: The Centre and the Election Commission on Monday ruled out the postponement of elections to the Jammu and Kashmir assembly, a demand made by the Kashmir committee headed by Ram Jethmalani.

The demand was rejected both by deputy Prime Minister L.K. Advani and Chief Election Commissioner J.M. Lyngdoh.

Asserting that the Hurriyat Conference's participation in the ensuing elections had always been in doubt, Mr Advani said Gen Pervez Musharraf's recent statements were a "direction" to pro-Pak elements not to participate in the polls.

Mr Advani also said that those organisations with an affinity for Pakistan would not take part in the elections. "I don't think that the postponement of the polls will ensure wider participation because it is clear that there are elements under Pakistan's influence due to financial reasons or fear. They will not participate."

Earlier, Mr Lyngdoh said in Srinagar that the EC had no "intention" of postponing the polls.

Mr Lyngdoh, accompanied by the two election commissioners T.S. Krishnamurthy and B.B. Tandon arrived here on a three-day visit on Sunday to review the arrangements for the assembly polls.

Terming the suggestion for the postponement of elections as politically motivated, Mr Lyngdoh told reporters that the EC was prepared to hold the polls on time. Mr Lyngdoh said the poll schedule had already been issued and there was no change in it. The notification for the first of the four-phased elections would be issued on August 22 as per the schedule, he said.

Asked about the demands for postponing the polls, Mr Lyngdoh said, "We are not concerned with that. That is the political side."

Mr Lyngdoh said he was satisfied with the security arrangements made for the upcoming elections.

Pramod Jain, state chief electoral officer, told reporters that the CEC had presided over a meeting of deputy commissioners and police officers to learn about the steps taken for free and fair polls.

To eliminate bias, the EC had requisitioned about 5,000 employees from Uttar Pradesh and Punjab, who had already functioned as polling officers, Mr Jain said.

Mr Jain said over 13 lakh applications for photo-identity cards had

Hurriyat rubbishes Jethmalani's comment

Srinagar: The Hurriyat Conference on Monday termed Kashmir Committee chief Ram Jethmalani's statement on its refusal to participate in the assembly elections in Jammu and Kashmir as rubbish.

"I don't know what prompted his (Jethmalani's) statement in Delhi after he accepted that a dialogue was necessary for the resolution of Kashmir issue in Srinagar. He might have been under pressure," the Hurriyat said. PTI

been received throughout the state, of which six lakh cards had already been issued and another two lakhs were being readied.

In a related development, the BJP took strong exception to the Kashmir Committee's demand for postponing the polls, saying this "does not subserve the purpose of either Indian democracy or sovereignty".

Party spokesman Mukhtar Abbas Naqvi told reporters that "the deferment of the elections to appease those who are unwilling to have faith in India's constitution and sovereignty is not the need of the hour".

Referring to the statement of Mr Jethmalani that a major demand had come from various parties in Jammu and Kashmir, except the ruling National Conference, that the elections "ought to be postponed for some time", Mr Naqvi said "this would not help serve the cause of democracy".

Meanwhile, Jammu and Kashmir chief minister Farooq Abdullah is unlikely to contest the forthcoming elections while his son, Omar, who is president of the National Conference, will be testing the electoral waters from their traditional seat on the outskirts of Kashmir valley.

Situation conducive to polls: Bhandari

NEW DELHI, AUG.19. In sharp contrast to the Election Commission's view on the Gujarat Assembly polls, the Governor, S.S. Bhandari, today asserted that a "normal situation prevailed in the State for holding elections", and said that President's rule "is not a remedy".

Mr. Bhandari, who met the Prime Minister, Atal Behari Vajpayee, and the Deputy Prime Minister, L.K. Advani, said, "The new Assembly has to be constituted by October, which is the six-month period stipulated for this purpose. We have to await now the verdict of the Supreme Court."

On the imposition of President's rule rec-

ommended by the Election Commission, he said "President's rule is a consequential step. It will depend on the political activities going on. So President's rule is not a remedy; it is a stop-gap arrangement and it does depend on the normality or otherwise in the State," he said.

On the situation in the State, he said, "Hindus and Muslims are living in the same 'mohallas' where they used to live before. Even then, if Muslims in certain localities feel that the area polling booth is unsafe for them, special arrangements can be made easily for casting their votes."

Saying that life was normal in the State,

Mr. Bhandari said, "I am in contact with every section of society and I attend their programmes not only in Ahmedabad but also in other places in Gujarat."

"Communal harmony is not complete. I agree but there is no communal divide," he said. The Governor said that except in three camps in Ahmedabad which too were in residential areas of the affected people, "the situation is normal. Some compensation claims have not yet been finalised and the process is being speeded up."

On the incidents of violence, he said that barring a few stray cases, the situation was normal. — PTI

20 AUG 2002

Cabinet refers EC order to President

J. B. Lohia (8/11-1) 1918

Govt seeks SC intervention on Gujarat

TIMES NEWS NETWORK AND AGENCIES

New Delhi: In a clear expression of disagreement with the Election Commission, the Union cabinet on Sunday decided to refer to the President the poll panel's order ruling out early elections in Gujarat.

The reference, made under Article 143 of the Constitution, empowers President A.P.J. Abdul Kalam to forward the matter to the supreme court.

Information and broadcasting minister Sushma Swaraj said the apex court's opinion would be in the nature of advisory jurisdiction. She said it was not a question of the BJP or the NDA taking a stand but one that involved constitutional issues.

While the Left parties criticised the cabinet decision, the Congress maintained an ambiguous stand. Party general secretary Kamal Nath said the Congress agreed with the decision as it was the only option left with the BJP and the NDA government. "If the government wants to refer it (to the President), we have no problem with that. We have full faith that the supreme court will take the right decision," he said, assuming that the President will refer the matter to the apex court.

But at the same time, Congress spokesman Anand Sharma castigated the decision, saying it tantamounted to "an assault on the constitutional authority and dignity" of the poll panel.

Ms Swaraj conceded that the EC had the powers to conclude whether the atmosphere was conducive to hold elections, but said law and order came under the jurisdiction of the home ministry. She denied that the government was adopting a path of confrontation with the EC. Asked what would happen if the apex court declined to accept the presidential reference, she said, "We will cross the bridge when we come to it."

On Friday, the EC had decided to frame a schedule for assembly polls in Gujarat in November-December. It said the law and order situation in the state "is still far from normal" and that it was not in a position to conduct a free and fair election at present. The EC had also said the situation on the ground in relation to electoral rolls, photo identity cards and relief and rehabilitation measures were far from satisfactory and had ordered a special revision of the rolls in 20 riot-affected districts.

Contesting the EC's stand that it was not in a position to hold polls before October 6—when the constitutionally-man-

dated six-month gap between two sittings of the assembly expires, necessitating President's rule—Ms Swaraj said the cabinet felt it raised a question of "far-reaching consequences and issue of public importance".

The reference was being drafted in the light of the "elaborate" discussion in the cabinet and would be sent to the President on Monday, she said, adding that the time-frame for the apex court to give its opinion would be guided by the urgency of the situation—expiry of the six-month gap.

At the meeting—which solicitor-general Harish Salve and additional solicitor-general Kirit Rawal attended as special invitees—there was a strong demand from several ministers for challenging the EC ruling in the supreme court but was vetoed by Prime Minister Vajpayee, who is said to have pleaded for a "restrained and dignified and not a confrontationist approach".

- Experts question decision, Page 7
- See Edit: Respite for Gujarat, Page 14

Modi hits out at EC

TIMES NEWS NETWORK

Rajkot: Gujarat chief minister



N. Modi

Narendra Modi on Sunday said that the Election Commission was deliberately denying the people of Gujarat the right to elect its own government. He said the EC had decided not to hold the assembly elections despite the fact that peace had prevailed in the state since May.

Talking to mediapersons, Mr Modi said, "The 40-page order issued by the EC has raised serious doubts in the minds of the people of Gujarat about the commissions's intentions. While violence continued unabated in Jammu and Kashmir, the election dates were announced there. However, in Gujarat the EC has denied the people to elect its own government," he said

Gujarat had been singled out on the issue of communal violence and the EC owed an answer to the people of the state, the CM said, adding that it was not the function of the EC to say whether President's rule should be imposed in the state or not.

MONDAY, AUGUST 19, 2002

110-12
19/8

BETTER LATER THAN SOONER

g- Election (State)

AS ANYONE WHO goes through the detailed 40-page note issued by the Election Commission will realise, its decision to rule out an early poll in Gujarat could not have been easy to arrive at. But, viewed in terms of the larger issues involved and considering the entirety of the circumstances in that troubled State, the decision was essentially the correct one to make. The Commission's conclusion that free and fair elections could not be conducted in Gujarat before November-December (as opposed to one or two months before that) stemmed mainly from two reasons. First, the communal carnage that shook Gujarat over a period of three months earlier this year had rendered the electoral rolls grossly defective. The large-scale displacement of people and their inability to return to their original homes where they were registered as electors necessitated a "special revision" of electoral rolls in 20 riot-affected districts. Second, the law and order situation in the State is far from normal and the wounds of the communal divide following the riots are still raw. An election at this juncture, when many people in the State are gripped by a fear psychosis would, as the Commission observed, only "shatter the fragile peace". In the course of pointing this out, the E.C.'s observations read like a damning indictment of the Gujarat administration — for its complicity in the riots, for its neglect of effective relief and rehabilitation measures and for the false picture of normalcy it portrays.

In arriving at its decision, the Commission has resisted considerable pressure from the ruling BJP, which had calculated that it could use the inflamed and communally polarised post-riot situation to reap a rich electoral harvest. But its real challenge perhaps lay in squaring practical wisdom (which firmly suggested that elections are better a little later than sooner) with the Constitutional requirement under Article 174 (1), which suggests that

normally a Legislative Assembly should meet at least every six months. Interestingly, the E.C. has accepted the applicability of the six month rule to all situations — in fact, it specifically contradicts the Opposition parties' oft-repeated claim that the scope of Article 174 (1) applies only to existing Assemblies and has no application to those which have been dissolved (such as that of Gujarat). What the E.C. has done, however, is to conclude that Article 174 (1) cannot be looked at in isolation and must be read along with the other provisions of the Constitution, particularly Article 324 which vests the Election Commission with the complete power over the superintendence and conduct of (free and fair) elections. In short, the E.C.'s position is that if an extraordinary circumstance (example: Gujarat) exists which prevents the holding of free and fair elections, then Article 324 (which reflects "the interests of democracy and the purity of elections") must prevail over Article 174 (1).

However, issues which relate to the bare letter of the Constitution are not the only important matters in this context. The decision of the E.C. must also be assessed in terms of larger issues — by asking, among other things, whether it is wise to plunge a traumatised and unstable Gujarat into an election at this juncture and whether such an election will be genuinely free and fair. Another way of looking at the E.C.'s decision is to ask what is lost if Gujarat goes to the polls at the end of this year as opposed to, say, a couple of months before this. Not a lot. On the other hand, there is plenty to be gained. It will give the E.C. enough time to conduct a special revision of the electoral roll and also enough time to reissue the large numbers of voting identity cards lost during the riots. Just as importantly, it will give Gujarat a little extra time to limp along on its slow and painful journey back to a measure of normalcy.

19 AUG 02

5-8 EC GET IT RIGHT 18/8

Gujarat decision can be trend-setter

CUT through all the noise in and around the Election Commission's decision on Gujarat elections and you will hear the first notes of a truly historic decision. For, the EC has not merely laid to rest Narendra Modi's cynical attempts to carve a mandate out of a gory body politic, it has also created an enormously significant precedent for future Commissioners to follow — whenever they are confronted with political manipulations of this kind. By citing Article 324 and interpreting it as having precedence over all other related provisions, including Article 174 (1), the EC has posted notice that not only the technicalities of elections but also, and more important, their political and popular context will be up for scrutiny. The EC has postponed Gujarat elections because it has assessed that "freedom from fear" has still not come back in Gujarat. That plus tardy relief and rehabilitation work crystallised the decision to put off polls. In advancing these arguments the Commission has rightly taken an all-embracing view of every government's decision to call midterm elections. The right of an incumbent regime to ask for a mid-way mandate remains, and should remain. But a statutory check on whether that right was being abused was missing. The EC's Gujarat decision fills that gap. Today it is the BJP which wanted to bend a polarised Gujarat its way. Tomorrow it will be the Congress for some other equally ghastly reason. Day after, West Bengal's arrogant Leftists. As long as future election commissioners are as independent as JM Lyngdoh and his two colleagues, they can have no problem making Indian democracy meaningful.

The BJP's aggressive Gujarat strategists, of course, won't agree. They will refer to the elections in Jammu and Kashmir, which is, of course, a troubled state. But there's a difference. Kashmir is troubled in spite of government, Gujarat is troubled because of deliberate and cynical government action. J&K is due for elections, its assembly's five-year tenure is coming to an end. Gujarat's assembly continues till March 2003. Given what had happened in the state, the government should have taken as long as possible within that deadline to restore normalcy. That is the EC's view, and they are entirely right to hold it. The liberal wing of the BJP should find this argument palatable. In fact, they should have reasons to be happy about the verdict, and should take this opportunity to reclaim lost ground.

The Prime Minister, the most important liberal in the party, and whose deft touch was seen in the cancellation of petrol pump allotments, must produce another of his easily and popularly appreciated "moral" responses. This time, by asking the party to agree to remove Modi from chief ministership and impose President's rule. There can be constitutional quibbles about whether Modi can continue as caretaker chief minister till the elections. But the BJP bet its case on constitutional quibbles — Arun Jaitley championing Article 174 (1) to the exclusion of all else — and ended up with more than egg on its face. In any case, the response now calls for a political substance and political theatre, not TV-friendly BJP leaders shouting against TV-friendly Congressmen. Asking Narendra Modi to leave will be just such a political move. True, that should have come long ago and if the Prime Minister had his way, or was stronger in exercising his will, Modi probably would have been back to being an undistinguished pracharak by now. But as morality is ever shifting in politics, so is opportunity. The Prime Minister has a chance now to do the right thing, using the EC's verdict as both a reason and a justification — depending on his audience. He will need to be firm, however. For inspiration, he can always look at JM Lyngdoh! The Election Commission have stood their ground and have earned our respect.

'RIOTS WOUNDS HAVE NOT YET HEALED'

EC rules out early polls in Gujarat

By J. Venkatesan

*9/6/02
(8/16/02)*

NEW DELHI, AUG. 16. The Bharatiya Janata Party (BJP) today suffered a major setback with the Election Commission rejecting its demand for holding the Gujarat Assembly elections in October, saying that the law-and-order situation in the State "is still far from normal" and that the "wounds of communal divide following the riots have not yet healed".

The Commission meeting, presided over by the Chief Election Commissioner, J.M. Lyngdoh, and the two Election Commissioners, T.S. Krishnamurthy and B.B. Tandon, unanimously decided that it was not mandatory to hold the Assembly polls before October 6 as the "six months" outer limit (between two Assembly sessions) envisaged in Article 174 (1) of the Constitution would not apply to a dissolved Assembly.

The Commission, which released a 40-page press note at the end of the meeting, however, said that it would consider framing a suitable schedule for the Assembly polls in November-December after the situation improved and the electoral rolls were updated.

The Commission did not agree with the BJP's claim that the situation in Gujarat "is quite normal and conducive to the holding of free and fair elections". It asserted that the Commission alone was empowered to decide when an election could be held.

In its perception, the slow progress in relief and rehabilitation work, on the one hand, and the non-arrest and non-punishment of the guilty and the fear of a communal backlash,



J. M. Lyngdoh

on the other hampered the process of restoration of normality.

It said that "similar feelings are shared by persons from the majority community living in minority-dominated areas. The people have lost confidence in the local police, civil administration and political executive."

"In this environment, election campaigns evoking passions will only shatter the fragile peace unless adequate confidence-building measures are taken up in earnestness and with urgency. Foremost among these would be to arrest and punish the guilty, irrespective of their status and rank for their crimes," it said.

Justifying its decision not to hold the elections soon, the Commission said its nine-member team which visited Gujarat early this month found that there was still a sense of insecurity pervading the minds of the displaced persons and in such a fear psychosis they could not be expected to go to the polling stations.

Thereafter, when the full Commission visited the State it could gather first-hand infor-

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mation on the extent of the affected areas. Out of 25 districts, 20 "are affected areas" in which about 27 lakhs and 12,000 below-poverty-line families were in receipt of free rations.

The Commission referred to the statement of the Additional Director-General of Police, R.B. Sreekumar, that 151 towns and 993 villages, covering 154 out of 182 Assembly constituencies in the State and 284 police stations out of 464 were affected by the riots. "This evidently falsifies the claims of the other authorities that the riots were localised only in certain pockets of the State," the Commission observed.

Regarding the electoral rolls, the Commission said that on-the-spot inspections had showed that a substantial majority of electors who had perforce to leave their houses and, in many cases, flee from their villages to save themselves from the arson and carnage in the wake of the Godhra massacre of February 27 had not yet returned to their houses or villages and hence the rolls were not up-to-date.

On the issue of photo identity cards, the Commission said that before the revision of the electoral rolls, it was 71.37 per cent and after the revision, it was about 61 per cent. Therefore, a special drive had to be made to issue these cards.

Also, when the drought situation was widespread and serious, "it is difficult to understand which would be a greater priority for the State Government — holding Assembly elections in the midst of drought and thereby disrupting relief work or relief work," the Commission added.

BJP trying to denigrate EC, say Left parties

By Our Special Correspondent

NEW DELHI, AUG. 13. The Left parties today condemned the stand of the Bharatiya Janata Party with regard to the Election Commission and said it was an attempt to "denigrate" the Commission even as the BJP tried to soften its stance in an attempt to undo the damage done by the harsh words used by the party spokesperson, V.K. Malhotra, yesterday.

In a statement, the CPI (M) said the BJP charge that the Chief Election Commissioner was acting at the behest of the Congress and the Opposition parties was an "insult to the Election Commission". It said Mr. Malhotra's statement was "nothing but an attempt to denigrate the Commission" since the EC was not willing to accept the dictates of the ruling party.

"This is for the first time that political motives have been imputed to the Chief Election Commissioner by a party ruling at the Centre," the statement said. It said the decision on when to hold elections in Gujarat was the prerogative of the Election Commission and the BJP cannot have any say in the matter after the dissolution of the State Assembly. While condemning the stance of the BJP, the politburo warned that the BJP should know that the party could not get away with attempts to undermine institutions which have the authority of the Constitution.

However, the BJP general secretary and former Law Minister, Arun Jaitley, today asserted that his party had no intention of "lowering the dignity of any Constitutional authority". But he continued to maintain that under Article 174 of the Constitution, the Commission had no option but to hold elections in time to allow the meeting of the new Assembly within six months of the last Assembly session — before October 10.

When asked whether the BJP would approach the courts if the Election Commission took a different view, Mr. Jaitley said that he would prefer to wait and see what decision the Commission took. "There is a Constitutional mandate under Article

174 under which elections must be held expeditiously."

The timing of the dissolution had given the Commission "enough time" to prepare for holding elections, he added. He also warned that a different interpretation of the Constitution would mean continuation of a Chief Minister in office without any accountability to an elected Assembly and that would be a bad precedent.

In a separate statement, the CPI Central Secretariat said the "intemperate language" used by the BJP spokesperson was a "brazen attempt to browbeat and intimidate" the Election Commission on the issue of holding early elections in the State.

EC apologises for wrong display of tricolour

By Our Legal Correspondent

NEW DELHI, AUG. 13. The Election Commission has expressed its "unqualified regret and apologies" to the people of the country for the wrong display of the national flag during a press conference addressed by the Chief Election Commissioner, J.M. Lyngdoh, and the two Election Commissioners, T.S. Krishnamurthy and B. B. Tandon, on August 2.

In a statement today, the Commission said the 'wrong display' of the national flag was inadvertently caused by the action of the cleaning staff, who had taken out the flag to clean the stand and thereafter placed it upside down.

When this was noticed, the Commission directed the officers to rectify the mistake and ensure correct and respectful display of the national flag at all times in future.

EC adopting double standards: BJP

By Neena Vyas

NEW DELHI, AUG. 12. The Election Commission and the ruling BJP could be heading for a confrontation on the issue of elections in Gujarat.

The BJP spokesperson, V.K. Malhotra, today directly charged the Chief Election Commissioner, J.M. Lyngdoh, with using "intemperate language" during his recent visit to the State.

He also suggested that the Constitutional authority (Mr. Lyngdoh) would be guilty of "undermining the Constitution" if Assembly elections in the State were not held in time for the new Assembly to meet before October 10 (when six months would have elapsed since the last Assembly session).

The BJP's interpretation of Article 174 of the Constitution is that the EC "must" hold elections to enable the new Assembly to meet before October 10.

The party is well aware that if the elections are delayed the Government may

have no option but to impose President's rule in the State.

The BJP rejected the view that the so-called six-month clause was a "grey area" and that it applied only to the same Assembly, not in the case of a dissolved Assembly and a newly elected one.

The party claimed that work on revision of voters' lists in the State had started in February and ended in May this year. And as was done in the case of Jammu and Kashmir, the EC could well have decided that voters were free to register till the date of filing of nominations begins.

The BJP charged that Mr. Lyngdoh had created "uncertainty" about elections in Gujarat when in fact his business was to announce the election schedule. If some riot victims were still in refugee camps, special arrangements should have been made by him to ensure that they would be able to cast their votes, Mr. Malhotra added.

Yet another charge levelled by the party was that it had adopted double standards,

one for Jammu and Kashmir and another for Gujarat.

The rather aggressive tone used by Mr. Malhotra against the EC with Mr. Lyngdoh as the special target is being seen as an attempt to virtually intimidate the EC and force it to announce an early date for elections in Gujarat. Even some of the NDA allies are not too happy with this stance. "If the Government does not respect important institutions, who will" asked Mr. Digvijay Singh, Samata Party leader, who is the Minister of State for External Affairs.

It was pointed out to Mr. Malhotra that some of BJP's "friends" like the Andhra Pradesh Chief Minister, Chandrababu Naidu, had also opposed early elections in Gujarat and the Prime Minister had stated in Parliament that there was no move to hold early elections. "That was several months ago," Mr. Malhotra responded.

The BJP rejected the charge that it had become "nervous" because the dates for elections had not been announced.

POLLS BEFORE DECEMBER UNLIKELY

Election Commission decision on Gujarat in 'a few days'

By Neena Vyas

17/8
NEW DELHI, AUG. 11. The three-member Election Commission, back here after a tour of Gujarat, has indicated that it will reveal its mind in "a few days" — on whether the situation is conducive to holding Assembly polls in the State or not.

The Chief Election Commissioner, J.M. Lyngdoh, and the Commissioners, T.S. Krishnamurthy and B.B. Tandon, refused to say anything more when contacted by presspersons.

After the Gujarat visit by a nine-member team last week and reports of the full Commission's visit in the last two days, it is unlikely that the Commission will immediately announce a poll schedule. The Commission may also like to pay all its attention to the four-phase Jammu and Kashmir elections, scheduled from September 16 to October 8.

J. Election (Gale) H10-1
It now seems that the earliest that elections in Gujarat could take place is after the first week of December, when Id-ul-Fitr is celebrated after a month of fasting by Muslims during Ramadan.

After the first week of October, the auspicious 'navratras' will be celebrated in Gujarat, leading to Dussehra and then Diwali in early November. The festival of lights will be followed closely by the start of the holy month of Ramadan.

Normally, the Commission announces the schedule three weeks before the date of notification to allow time to political parties to prepare for the start of nominations, and the notification itself is about three weeks ahead of polling. With just about eight weeks left for the start of 'navratras', the only "window" for elections is the last week of September to the first few days of October.

Mr. Lyngdoh's remarks in



J.M. Lyngdoh

Gujarat make it highly unlikely that the schedule will be announced almost immediately to enable the elections to take place in the last week of September. They are more likely to be held in the second week of December.

The ruling BJP had earlier let

it be known that it wanted (and expected) the elections to take place before the 'navratras' and in time to enable the newly-elected Assembly to meet by October 10 to prevent a gap of more than six months from its last meeting. The former Law Minister and BJP spokesperson, Arun Jaitely, has said that this was a constitutional requirement, which "must" be fulfilled.

However, several eminent lawyers favoured the Opposition view that the six-month requirement is for the same Assembly; it does not apply in this case where the old Assembly stands dissolved and the new one is yet to be elected.

The argument is that if the BJP had chosen to dissolve the Assembly in late-September, would the Election Commission be forced to hold the polls within days to meet the so-called "not more than six month gap between Assembly sessions" requirement?

EC asks for cards, gets pictures of the dead

10/8
OUR CORRESPONDENT

Ahmedabad, Aug. 9: Eyes burning with anger, he flashes photographs of his dead son, daughter-in-law and grandson at the election commissioners.

"I lost all six members of my family in the riots. How do you expect me to vote?" cries 70-year-old Khaliq Noor Mohammed Shaikh, a resident of Naroda Patia whose home was razed by rioters.

His co-inmates at the Shah-e-Alam relief camp rub it in: asked for their voter ID cards, they pull out the yellow cards issued by the camp organisers as the only proof of their identity.

Having lost their families and homes in the riots, elections are the last thing on the minds of people in this camp. Their priorities are very clear: they want their houses rebuilt and compensation disbursed first. Elections can come later.

"Elections have no meaning for me," Shaikh sobs as he relives what he has gone through in the last six months.

The banners put up by the camp organisers ahead of the recce by J.M. Lyngdoh and Co. say it all: Elections *nahin*,

makaan chahiye (We want houses, not elections). As the poll panel begins its survey, some victims raise similar slogans.

Others say they are against elections because they will not be able to vote. To vote they will have to return to their homes. And their homes are not safe.

Fourteen-year-old Javed Hussain refuses to return to his home in Naroda Patia, one of the

to the camp in fear. They complain that miscreants are threatening them. But police are taking little action on the FIRs they have lodged.

Sarif Khan Pathan, one of the two in charge of the camp, says around 10,000 victims are still putting up in relief camps. Those who have left have not returned home — they are staying with relatives or have migrated.

His colleague, Safibhai Memon, points out that things cannot be "normal" considering that there have been large-scale migrations from nearly 75 Assembly segments. If elections are held in such circumstances, one particular party stands to gain, he says.

Early polls, therefore, will neither be free nor fair. So, the best option is to put them off, Memon concludes.

The election panel this morning began its poll-worthiness survey from the Gulbarg society in Naroda Patia before its 30-minute recce of the Shah-e-Alam camp. They then visited a residential apartment building in front of the RSS headquarters. Eleven Muslim families have allegedly been barred from returning to the building.

Kalam visit

New Delhi, Aug. 9: President A.P.J. Abdul Kalam will visit Mahatma Gandhi's Sabarmati Ashram on August 12. He also plans to meet members of NGOs and riot victims, including children.

■ See Page 8

areas worst hit by the communal violence. So do his friends Razia Begam Shaikh and Nazir Khan. "It is not safe there. Second, we have not got compensation," Hussain says.

Some people who returned home thinking things were "normal", as the ruling BJP has been claiming, have rushed back

VOTING CAN BE FACILITATED IN CAMPS: BJP

Riot victims, NGOs not for early polls in Gujarat

By Manas Dasgupta

AHMEDABAD, AUG. 9. Barring the ruling Bharatiya Janata Party, almost all the political parties, non-government organisations, prominent citizens and riot victims whom the Chief Election Commissioner, J. M. Lyngdoh, and the two Election Commissioners, T. S. Krishnamurthy and B. B. Tandon, met here today opposed early elections to the Gujarat Assembly.

A BJP delegation, however, maintained that the situation in the State was conducive to holding elections and that the people should not be denied their democratic right to elect a popular government at the earliest. As for the 6,000 voters still living in the seven relief camps, it suggested creating facilities within the camps to enable them to exercise their franchise if they were apprehensive of doing so from their original places of residence.

Mr. Lyngdoh and his two deputies, who arrived here on Thursday night, began their on-the-spot study this morning with visits to the riot-hit areas of the Naroda-Patiya and Chamapura Gulmarg Society — two worst affected areas where more than 150 persons were burnt alive on the day of the Gujarat bandh, called after the Godhra train carnage.

They also visited Kasaini-Chali in Behrampura and the relief camps in Shah Alam Roza and Sankaltnagar in Juhapura. Later, they met senior Government officials, representatives of political parties and voluntary organisations, prominent

citizens and others to elicit their views on early elections.

The CEC and his team met many riot victims and asked them about their views on elections, their status of rehabilitation and the amount of relief received from the Government. They also asked the victims whether they had the documents to establish their identity in the elections and were willing

to cast their votes if polling booths set up in their camps.

Invariably, the victims said that elections could be held only after proper rehabilitation. They hardly possessed any documents for proof of identity and they were still haunted by a fear psychosis, they claimed.

The Commission was visibly moved on seeing Khaled Noor-miya at the Shah Alam Roza

camp, who showed photographs of his seven family members who had perished in the riots and broke down. Many others narrated their tale of woe and told the authorities that rehabilitation, not participation in the elections, was their priority. Some victims also raised slogans against elections.

Asked whether they were prepared to return to their homes, the inmates said that neither the Government had provided adequate compensation to them nor was the situation conducive to their return.

Particularly in some rural areas, they were still being threatened.

The representatives of the Citizens' Initiative, We the People, the Socialist Unity Centre of India, the Concerned Citizens and other voluntary organisations, and some prominent citizens also told Mr. Lyngdoh that priority should be given to rehabilitation.

Asim Roy of the Citizens' Initiative maintained that the elections should be delayed as long as legally permissible to help the affected get over the trauma.

The EC team also took note of his suggestion that the Government and police officials named by the victims or indicted by the National Human Rights Commission for their alleged role in the riots should be kept out of the election machinery.

The leader of Concerned Citizens, Girish Patel, said that the BJP, by dissolving the Assembly, could not force early elections and alleged that the party was trying to "impose normality." Kirit Shah of We the People claimed that elections could not be held now when the rehabilitation of last year's quake victims and this year's riot victims were yet to be completed and the State was facing a severe drought.

The BJP in its memorandum, however, argued that the threat of a possible drought made it all the more necessary for elections to be held early because around February or March, when the elections were due, the situation would further deteriorate engaging the entire Government machinery for drought-relief operations.

It would be easier for a popular government to take necessary steps to provide relief to the drought-affected.

The Congress and most other political parties maintained that the riots were politically motivated and that the BJP was demanding early elections to try to cash on the communal sentiment generated by the riots. However, they were ready to face the elections whenever the Commission decided to hold them.

President to visit Gujarat on Monday

By Our Special Correspondent

NEW DELHI, AUG. 9. The President, A.P.J. Abdul Kalam, is to visit Gujarat on Monday. According to a Rashtrapati Bhavan press release, the President "will use the opportunity to learn personally about the rehabilitation measures undertaken by the Government of Gujarat and non-government organisations in the wake of recent disturbances."

He will also visit the Sabarmati Ashram, as well as fly out to Kutch which experienced a devastating earthquake in January 2001.

Being the first presidential visit outside the capital, the Gujarat trip acquires a symbolic dimension.

Dr. Kalam will get to see for himself the horrors of



communal violence and will hear the charges of governmental complicity.

In political terms, Dr. Kalam's Gujarat trip should serve a notice on all those who thought they had got a pliable President.

THE HINDU

Gujarat is not yet ready for polls: EC team

BJP to revive gaurav yatra

TIMES NEWS NETWORK & AGENCIES

New Delhi/Ahmedabad: Ahead of the visit by chief election commissioner J.M. Lyngdoh and his two colleagues to Gujarat on Thursday night, the official Election Commission team, which had earlier toured the state to assess the ground reality, has said that the situation is "not conducive" to holding elections immediately.

In its report submitted to the full commission on Thursday, the nine-member team is understood to have said that the minority community—which constitutes 12 per cent of the population, including around five per cent still living in relief camps—may not participate in the electoral process in the prevailing situation out of fear.

EC sources said that Mr Lyngdoh and election commissioners T.S. Krishnamurthy and B.B. Tandon are likely to return to the national capital on Sunday and the commission may firm up its opinion on holding the assembly polls in the state by next week.

Meanwhile, the BJP and the Congress are going full steam ahead in their bid to woo the electorate. Hours before the election commissioners landed in Ahmedabad, the BJP announced that it would revive chief minister Narendra Modi's plans for a 'gaurav yatra', which had been dropped last month. The yatra was postponed under mounting pressure from various quarters, including the National Human Rights Commission, which feared that it would upset the peace in a state where nearly 1,000 persons were killed in communal riots earlier this year.

The BJP's central observer for Gujarat, Ramdas Aggrawal, told newsmen on

Thursday, "We had abandoned the programme for certain reasons but now we will take out the yatra and kick off our election campaign".

He said that the state unit would work out the details of the places to be covered by the yatra and also its route over the next three to four days. The mechanised chariot prepared for the gaurav yatra would be used by the chief minister to travel across the state over the next few days.

The Congress, which had expressed its reservations about early elections, is not waiting for the EC to announce the poll dates. It has unleashed a series of public rallies in the state, forcing the ruling BJP to sit up and take notice.

Worried BJP summons Modi to Delhi

TIMES NEWS NETWORK

Ahmedabad: Chief minister Narendra Modi was summoned to New Delhi by the BJP leadership on Thursday evening amid growing concerns in the party about the Congress offensive and signs of dissidence within the BJP.

Mr Modi met party chief Venkaiah Naidu and general secretary Arun Jaitley. Party sources said that the leadership was worried over wrong signals emanating from the state in the run-up to the elections, particularly after Mr Haren Pandya's resignation. Mr Keshubhai Patel was also called to the meeting to be told that any show of dissidence could harm the party at this juncture.

MONDAY, AUGUST 5, 2002

9- Election (State)

A SENSITIVE EXERCISE

110-10/8

THE ANNOUNCEMENT, BY the Election Commission, of the timetable for Assembly elections in Jammu and Kashmir signals the start of a democratic process that is widely seen as holding the key to the Kashmir conundrum, both in its national and international dimensions. At stake, more than ever before, is the credibility of the exercise, in terms of its transparency, fairness, voter participation and so on. If the four-phase polling spread over three weeks in September-October is largely patterned on the 1996 schedule, dictated as it is by the logistical imperatives on the security front, the poll panel has taken several new initiatives this time around by way of fine-tuning the mechanics and procedures, all aimed at reducing the scope for malpractices and facilitating free exercise of the franchise. Witness for example its proposals for the deployment of handpicked high-level bureaucrats from outside the State — and with a reputation for personal integrity — to function as observers, the use of electronic voting machines in all the constituencies and the setting up of special polling booths for the Kashmiri migrants living in Jammu, Udhampur and New Delhi. The Chief Election Commissioner, J. M. Lyngdoh, has for his part rejected — as firmly and forthrightly as the Deputy Prime Minister, L. K. Advani, did the other day — the suggestion of allowing foreigners to act as “monitors” or “(officially authorised or recognised) observers”, even while making it clear they would be welcome to visit the State during the elections in their “individual” capacities. Indeed, given India’s enviable record in conducting elections, the nation, as Mr. Advani would say, needs no “certificate” from others. Yet, it should not be difficult to appreciate the beneficial impact of providing neutral observers and international media an opportunity to watch and evaluate the poll process.

Politically speaking, the announcement of the election schedule has in effect meant the State would be going to the polls with the basic con-

cerns related to the pervasive sense of alienation of the Kashmiri population remaining substantially unaddressed. The ‘Track II initiatives’, apparently aimed at facilitating the participation of separatist groups of various hues in the electoral process through backroom parleys, have made little headway and for obvious reasons. There has been a proliferation of such interlocutors going about the job with no definite brief, something that is symptomatic of the lack of clarity and cohesiveness that has characterised the administration’s approach to ‘Kashmir’. Another example was of course the officially set up but conceptually flawed ‘K. C. Pant mission’, which was born more out of an urge to marginalise the All-Party Hurriyat Conference. On the question of ‘autonomy’, an area of critical concern for the nationalist-minded but now alienated sections, the ruling establishment has been calculatedly prevaricating, its position depending on the exigencies of coalition politics at any given point in time. The ‘Arun Jaitley initiative’ on the devolution of powers, launched just a fortnight ago, seems to have been overtaken by the poll process. The Jethmalani Committee that is to start a dialogue with separatist groups has probably come too late in the day and will be racing against time.

Still, there can be no denying the fact that the elections now under way provide the best opportunity for those who claim to speak for the people to demonstrate their representative credentials. It is for the ‘alienated’ nationalist groups — as also the separatist elements that genuinely believe in a political solution to the Kashmir problem — to enter the fray and secure popular support for their ideological viewpoint. With the event attracting global and national scrutiny as never before, and with the Election Commission’s safeguards in place, the poll process should turn out to be free and fair and untainted by the charges of rigging that were made about the previous elections in the State.

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THE HINDI

EC team visits Godhra

TIMES NEWS NETWORK

Godhra: The three-member team of the Election Commission (EC) on Friday reached Godhra, the epicentre of the trouble rocking the state for the last five months.

The team, that visited Vadodara on Thursday, was once again flooded with requests to ensure that the elections are not held early as they toured one of the worst hit districts.

The team began its rounds to meet the man on the street from the historical town of Champaner. While most of the persons they spoke to during the day diverted from the issue of election to their woes, the team gave them a patient hearing.

Zubaidabibi, a resident of Delol staying in Champaner said, "Elections will come, but our work may not be completed. I have no children or husband and desperately need aid. This is more important to me."

Sarfuddin Kazi, a person who carried pilgrims in 'dolis' to Pavagadh, pointed out that he had been forced to leave the work. "I am out of a job and have to live in an open space as my house is yet to be built," he said. Sira-

juddin Shaikh, a driver, also had the same complaint.

The team then visited the Halol GIDC to meet owners of factories gutted in riots. "Padhariye sahab," greeted the owner of one of the gutted factories when the members approached him. While the members were in a rush to move ahead, the owners insisted that they should come and have a look at the extent of damage.

Shabbir Kothari, one of the factory owners, said, "People say that a mob of 8,000 was involved. One of the factories was totally damaged and had to be brought down."

The next stop of the convoy was Eral village, that made headlines after eight people were reported dead in rioting there. Memories of Chandrasinh Parmar, a BJP functionary accused of participating in the mob violence, returned when the EC representatives started asking questions to the riot-affected staying few paces away from Parmar's residence.

Ismail Shaikh said, "It would be better if polls are held later because some people still keep threatening us that they would target us again once Par-

mar was released. They had always insisted that we should follow their directives during elections."

Hunaid Dahodwala, another resident of Eral, said that people were still not feeling safe.

"Are you safe?" asked S.K. Mendiratta, one of the members, to Mumtaz Bano who was shying away. When encouraged to speak up, she flatly told the members, "We are still afraid. The atmosphere is such that we do not consider it safe to move around."

At Kalol, it was the NGOs which took the lead in the representations against early polls. Afzal Khan, member of the Delhi-based Jamiat-Ulama-I-Hind, pointed out that several people had not returned to their homes yet. "How will they vote? Besides, there is no point in having polls when people do not get food and other amenities," he argued.

Mukhtar Mohammed, organiser of the Kalol Relief Camp said that the camp was forced to rely on donations for running the camp. The members then heard representatives of political and non-political outfits at Godhra Circuit House before proceeding to Godhra GIDC.

IMPARTIAL OBSERVERS WILL BE DEPLOYED: CEC

412 1
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Four-phase polls in J&K from Sept. 16 (9-Block (State))

By J. Venkatesan

NEW DELHI, AUG. 2. The Election Commission today announced a four-phase schedule for the elections to the Jammu and Kashmir Assembly. The polls, to be held on September 16 and 24 and October 1 and 8, would be notified on August 22 and 31 and September 6 and 13.

The Chief Election Commissioner, J. M. Lyngdoh, and the two Election Commissioners, T. S. Krishnamurthy and B. B. Tandon, told presspersons that the term of the State Assembly was due to expire on October 17, and that all efforts would be made to complete the process by October 12. The counting of votes was scheduled for October 10.

Twenty-six constituencies would go to the polls on September 16; 28 on September 24; 27 on October 1, and six constituencies on October 8. The model code of conduct would come into immediate effect.

Asked whether the Commission would allow foreign ob-

servers, Mr. Lyngdoh said foreigners, including members of the Election Commissions of the United Kingdom, Canada and Australia, besides diplomats and mediapersons, were welcome in their individual capacity, but not as "observers" or "monitors."

India had a long history in conducting free and fair elections and it did not need any lessons from other nations. "In this day and age, there is no question of the white man coming to observe what the native is doing. The white man does not determine what the coloured man does and whether he is doing it right or wrong. They are not superior to us," Mr. Lyngdoh said adding "one or two (of them) might be wanting to come here. But they will not come as observers and we discourage this." The Election Commission, known for its independent functioning, was competent enough to conduct free and fair elections and there was no need to assume that for-

eigners were better equipped.

Asked if the Commission would find it easier if the elections were held under Governor's rule, the CEC said "it is always easier under Governor's rule if the Governor is properly chosen. If he is one-sided, he can be much worse than the elected government."

Explaining how the whole process had been completed satisfactorily, he said the electoral rolls for all the 87 Assembly constituencies had been computerised in Urdu. Also, for the first time, the Commission itself would distribute the voter's slips at their doorsteps within the next 10 days.

Voters would have to identify themselves at the polling stations by producing photo identity card or the voter's slip before the Presiding Officer, failing which he/she would have to produce any one of the additional documents to be prescribed by the Commission.

Mr. Lyngdoh said that electronic voting machines would be used in about 7,000 polling booths in the State and some 8,000 EVMs had been pressed into service. And to ensure that all the Kashmiri migrants were able to vote, special polling booths were being provided for them in transit camps or nearby locations in Jammu, Udhampur and Delhi. This would be in addition to the postal ballot facility.

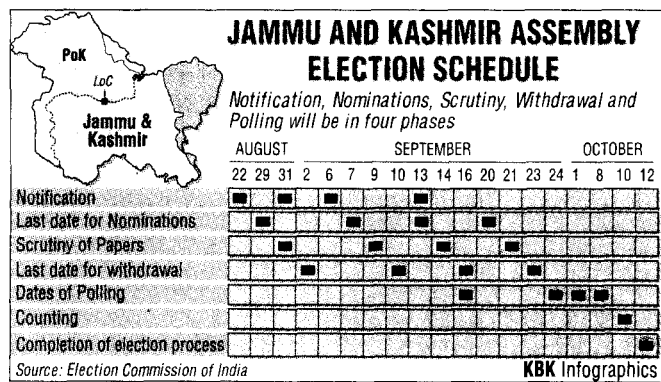
Mr. Lyngdoh said the Commission would have observers from among senior civil servants, known for their independence and very tough

stance, to ensure that instructions regarding the electoral rolls, identity cards and EVMs were strictly implemented.

Making it clear that "Kashmir is not absolutely normal," he said that from the security angle, adequate measures would be taken to boost the peoples' confidence. However, a "little bit of personal courage is also



"In this day and age, there is no question of the white man coming to observe what the native is doing."
_ J. M. Lyngdoh



required to cast votes." The CEC appealed to the Centre and the State Governments, all political parties, candidates, voters and the media to extend their full cooperation in making the election a success.

9 Black
(State)

EC teams visit Ahmedabad

409-11
1/8

By Manas Dasgupta

GANDHINAGAR, JULY 31. Teams of observers of the Election Commission today visited several riot-affected areas in Ahmedabad to elicit the people's views on early Assembly elections in Gujarat.

A nine-member team, which arrived here late last night, divided itself into three groups and visited some relief camps, the localities affected by riots and some other areas which were under curfew for long periods during the disturbances.

While one team visited Shah Alam, Naroda-Patiya, Gulmarg Society-Chamanpura, the three worst-hit areas in the city, as well as Amraiwadi, Ramol Janatanagar, Isanpur, Dani Limda, and some parts of Kalupur, the second team visited Jamalpur, Shahpur, Sankalitnagar relief camp in Juhapura, Rakhial and Gomtipur and the third team, Khanpur, Mirzapur and Idgah.

Later in the evening, the observers held a meeting with the Government officials in Gandhinagar to learn about the relief and rehabilitation measures being taken by the administration for the riot-hit, apparently to cross-check the reports the team had collected from the affected people during the day.

In a brief chat with newsmen, the leader of the team, A.N. Jha, said the observers would be visiting some other riot-affected districts in the State as well as the areas facing acute drought condition before submitting their report to the Commission in Delhi. The duration of the visit, he said, would depend on the "work on hand."

Power blackout, a Cong. conspiracy: Modi

Meanwhile, the Narendra Modi Cabinet viewed the power blackout in the western region

last night as a "Congress conspiracy" to "discredit" the BJP Government in the State and "delay" the holding of the Assembly elections. Talking to mediapersons after a Cabinet meeting held here today which discussed the blackout and the steps taken by the Government to restore supply within three hours, the Energy Minister, Kaushik Patel, alleged that the continuous excess drawal by Madhya Pradesh which resulted in the cascade tripping of all the major power stations in five States, including Gujarat, could not be a mere "mistake" but smacked of "deliberate mischief."

1 AUG 2012

EC decides to test Gujarat waters with 9-man team

J. Shelton
TIMES NEWS NETWORK AND AGENCIES
Monday 25.0

New Delhi: Breaking its silence on Gujarat, where the ruling BJP wants early assembly elections, the Election Commission on Monday decided to depute a high-level team for an on-the-spot assessment of the situation in the state, which has recently been rocked by communal violence.

The team, comprising deputy election commissioners A.N. Jha and S. Mendiratta, as well as seven other senior officials, will "review the existing situation and preparedness of the state machinery for the conduct of free and fair elections", an EC press note said.

It said the team would commence its work from July 31 from Ahmedabad and visit different districts and some relief camps during its stay, which could last for four days.

Besides reviewing the law and order situation, the team would oversee the work of preparations of the electoral rolls and the issue of voter photo-ID cards, EC sources said.

The team will also have meetings with state government and district-level officials, besides leaders of political parties, and make some field visits.

30/7
The term of the Gujarat assembly was to end on March 18 next year but the governor dissolved the house on July 19 following the recommendation of the state cabinet.

Claiming normalcy in the state, BJP president M. Venkiah Naidu and former law minister Arun Jaitley had met the commission to press the case for early polls.

But opposition parties on Monday told the commission that holding assembly polls in Gujarat in such an "abnormal situation would be a mockery of democracy". Former Prime Minister Chandra Shekhar, Somnath Chatterjee (CPM), P.A. Sangma (NCP), Raghuvans Prasad Singh (RJD) and Amar Singh (SP) told Chief Election Commissioner J.M. Lyngdoh during a meeting that elections would be meaningless at a time when riot victims were still in relief camps and people in the state had suffered from a sense of insecurity.

They quoted official reports as saying that more than 13,000 people were still living in the camps. "It is clear that the BJP is insisting on early elections obviously with the intent of taking advantage of the 'polarisation' of voters" in the aftermath of the riots, they said.

30 JUL 2002

THE TIMES OF INDIA

'Constitutional compulsion' to hold elections in Gujarat, BJP tells EC

By Neena Vyas

NEW DELHI, JULY 24. The Bharatiya Janata Party today told the Election Commission that it was now a "constitutional and democratic imperative that elections be held in Gujarat at the earliest" and emphasised that Article 174 of the Constitution made the holding of early elections a "constitutional compulsion" which the Commission cannot disregard.

A five-member party delegation led by its president, Venkaiah Naidu, met the three Election Commissioners, J.M. Lyngdoh, T.S. Krishnamurthy and B.B. Tandon, for about 30 minutes this morning after which the leaders said the Commission had assured them of an early decision.

The party was at pains to point out that it did not need to and did not want to meet the Election Commission as after the dissolution of the Gujarat Assembly it was, in any case, the Commission's duty to hold

elections. However, the BJP wanted to counter the high-pitched campaign by other political parties, especially the Congress, against holding of early polls.

The points it made to the Commission through a memorandum were that the State had returned to normality, elections had been conducted in other

Conditions conducive for polls, says Advani: Page 11

States in the past where violence had occurred, and "if onerous tests of normality" are used, elections may not be possible in many States.

As expected, the "example" of the Lok Sabha elections after the anti-Sikh riots in 1984, the polls in Assam after a massacre in 1980, and Punjab elections even before militancy had completely died down were given in the memorandum.

The delegation members were Arun Jaitely, Mukhtar Ab-

bas Naqvi and Anita Arya (all three BJP general secretaries), and a senior partyman from Gujarat, Ashok Bhatt.

They insisted that Gujarat was as normal as could be — examinations had been held, panchayat elections had been conducted, several festivals and the Jagannath yatra were celebrated peacefully and so on. And finally, there were the legal arguments which virtually told the Commission that it had no option but to hold early elections under Article 174, and that this was a "constitutional compulsion".

Strangely, after having dissolved the Assembly (which has not met since April), BJP leaders are also arguing that early elections were necessary so that Gujarat can get a popularly-elected Government, that any delay would be thoroughly undemocratic as it would mean prolongation of "care-taker" rule by the Chief Minister with no accountability to the elected legislature.

25 JUL 2002

Govt mulls state polls under President's rule

9. Election
in State Asm
5/1 ✓
29/7 ✓

Statesman News Service

NEW DELHI, July 23. — Mr LK Advani today said Assembly elections in all states should be held under President's rule and that the government was prepared to enact a legislation to this effect.

During a special debate on Gujarat in the Lok Sabha today, the Opposition demanded imposition of President's rule on the state to ensure free and fair polls. Some members suggested that President's rule be imposed on all states a month before the Assembly elections. This would check abuse of the state machinery by the ruling party.

Replying to the debate, Mr Advani said: "I am making this proposal to bring forth electoral reforms. If there is unanimity among all parties, the government is ready to bring legislation so that Assembly polls are held under President's Rule."

For this, Parliament will have to amend Article 356 of the Constitution empowering the President to assume all or any of the functions of the state government. Article 356 may be invoked on the receipt of report from the Governor confirming breakdown of constitutional machinery. To bring a state under Central rule before Assembly polls, necessary changes would be needed in the Representation of the People Act and the Constitution.

A former Chief Election Commissioner had proposed holding of Assembly polls under Central rule but the Opposition had rejected the proposal. Mr

Advani said. On the timing of the Gujarat polls, he said the Gujarat government had placed its case before the Election Commission and the Commission would decide on the poll dates.

Mrs Margaret Alva (Congress) and Mr GM Bantawala (IML) said several riot-victims would not be

able to vote as their names were missing from the electoral list and they did not have photo-ID cards. Mr Advani said the government would ask the EC to ensure that those without photo ID cards were allowed to vote.

In the Rajya Sabha, Mr Arun Jaitley countered the Congress' demand that President's rule be imposed on Gujarat before elections. Though the EC has the right to decide the election schedule, it could not circumvent Article 174 of the Constitution, he said.

Mr Nilotpal Basu of the CPI-M said the EC was a constitutional body and its role was guided by the Constitution which could not be circumvented by the government.

Cong seeks clarification: The Congress today asked the Centre to clarify Mr Venkaiah Naidu's remark that if President's rule is imposed in Gujarat, the

same could apply for all 14 Congress-ruled states. Terming Mr Naidu's statement as "immature, irresponsible and indecent", party spokesman Mr Anand Sharma said: "There can be no comparison between Gujarat and the Congress-ruled states."

BJP team to meet EC: A three-member BJP delegation led by Mr Venkaiah Naidu is expected to meet the Election Commission to argue its case for early polls in Gujarat.

Gujarat brings Opp, Treasury close

NEW DELHI, July 23. — The rule book did not permit a debate in Parliament on Mr Narendra Modi's decision to seek dissolution of the Assembly. A rare understanding between the Opposition and the government ensured that a procedural lacuna was found. The two Houses had a lengthy discussion on all aspects concerning Gujarat including the Assembly dissolution, possibility of holding early polls, and the role of Election Commission in the issue.

The Lok Sabha discussed "Relief and rehabilitation of riot victims in Gujarat" under Rule 193. In Rajya Sabha, the issue was listed as "government intervention under Article 355". — SNS

Road to power

Gujarat can do worse than vote Congress

The BJP's attempt to hustle the Election Commission into announcing an early date for the Assembly elections in Gujarat is despicable. Overriding other considerations is the satisfaction of the Commission that conditions exist for free elections. Over 10,000 voters are still huddled in camps in Ahmedabad alone, who have lost everything, their homes, their property and all their possessions and it is absurd to suppose that they retain only their voter identity cards. In effect thousands will be disfranchised if Modi's demand for early elections is met. Not to put too fine a point on it, violence continues although the intensity has abated; the prejudice applies to one community. The sole question the Commission have to answer is whether they are satisfied that a free and fair poll can be held. Reliance on Article 174(1) of the Constitution by the BJP is contrived and wrong. It is argued that the Article stipulates that a period of more than six months shall not intervene between two sessions and this is held to arrive straight to the conclusion that elections to the new Assembly shall be held within six months of the dissolution. Article 174(1) is intended to apply to a situation where the state government neglects to call a session of the Assembly within six months of the last session of the same Assembly. The government cannot bypass the Assembly for any length of time by keeping it in suspended animation indefinitely. It has no application in the case of the interval between the end of the life of an Assembly and the beginning of the new Assembly. If this were not the case, Article 172 would have to be read down.

At the level of practical politics, the Congress party are quite right to point out that this stress on Article 174(1) was made a matter of convenience by the BJP in Uttar Pradesh. The Rajnath Singh government had contended before the Supreme Court that the phrases — *last sitting in one session and its first sitting in the next session* applied to the same Assembly. We agree. This is the plain meaning of the Article. It is also sanctioned by the context in which the phrase is used. The life of the Assembly terminates with its dissolution and there can be no question of its first sitting in the next session. The matter is still pending in the Supreme Court. Do the BJP seriously wish to argue that the difference between Gujarat and Uttar Pradesh extends to selective application of the Constitution!

The BJP are showing signs of panic. They are thoroughly unsettled by the appointment of Shankersinh Vaghela as Congress chief. Modi is so nervous he equates himself with the whole of Gujarat and only excludes the Muslims. No atrocities took place — it was all an invention of the English language press! He greets Vaghela's appointment with the unimaginative comment that the Congress had to go to a BJP man after all. Vaghela is a seasoned politician, he has won elections and served in Parliament. Like Modi he was once a pracharak, but unlike Modi he does not wear blinkers. He knows instinctively that you do not organise murders and rape and pogroms on your way to political power; he is not stupid. Thanks to Modi the communities are totally polarised, it will be Vaghela's task to throw a lifeline to the minorities and he will do it subtly without antagonising the majority community. Gujarat can do worse than vote the Congress to power.

Poll Proprieties

From the time Gujarat went up in flames in the aftermath of Godhra, nearly five months ago, chief minister Narendra Modi has made no secret of the fact that he is more interested in "capitalising" on the violence — by holding snap polls — than in restoring peace. Many in the state BJP are convinced that the "communal polarisation" unleashed by the carnage represents their best chance of returning to power after four-and-a-half years of dismal governance. Yet, if Mr Modi had been unable to take the plunge so far, it had to do with his inability to control the violence. It was in this context that the BJP headquarters prevailed upon Mr Modi to agree to the appointment of K P S Gill as security advisor. A relative calm having returned to the state following Mr Gill's intervention, the stage was set for ordering elections. The "peaceful" conduct of the Jagannath rath yatra earlier this month removed the last remaining "hurdle" in the way. Or so Mr Modi and his backers in the BJP central office like to think. On Friday, therefore, the chief minister recommended an immediate dissolution of the Gujarat House, paving the way for early elections. No one will deny that Mr Modi is perfectly within his powers in doing so. What's more, in the normal course, the Election Commission (EC) ought to have no objections to an incumbent chief minister exercising this privilege.

Sadly, though, Gujarat is not a normal case. To begin with, the absence of violence in the state cannot be equated with peace. As many independent observers have pointed out, a climate of fear and suspicion still prevails among the minorities. The Gujarat government has paid little attention to the task of rehabilitating the victims of violence. According to official estimates, in Ahmedabad alone, as many as 13,000 refugees still live in relief camps. The BJP's attempt to pass off the "peaceful" Jagannath yatra as proof of normalcy does not stand up to scrutiny either, given that it was held amidst unprecedented security, not to mention a self-imposed "janata curfew" by panic-stricken minorities. In the circumstances, the EC cannot "automatically" accede to Mr Modi's wish. It must make an independent assessment of the situation on the ground. Should the commission decide that conditions are not right for the conduct of free and fair elections, it cannot but reject Mr Modi's cynical gambit. In such an event, the Centre will do well to consider imposing presidential rule in the state, so as to restore real peace.

Centre wants Gujarat polls in September

But Vajpayee govt keen
to avoid face-off with EC

TIMES NEWS NETWORK

New Delhi: Even as the Election Commission decided to put off a meeting on Saturday to review the Gujarat poll situation, with EC sources saying that it was likely only after a formal request for fresh assembly elections was received, the Vajpayee government has decided not to go in for a confrontation with the poll panel.

Since such a face-off might be exploited by the opposition to its advantage, the government's first attempt would be to "appease" chief election commissioner J.M. Lyngdoh and convince him to hold early elections, sources said.

A report submitted by K.P.S. Gill, security advisor to the Gujarat chief minister, to deputy Prime Minister L.K. Advani on Saturday could help the government strengthen its case. The report said security was not a problem in the state any more and that the atmosphere was conducive for holding elections.

As part of the plan, former law minister and BJP spokesperson Arun Jaitley met Mr Lyngdoh on Friday to give him the party's "legal angle" on the issue. Joint secretary-level home ministry officials will hold further discussions with the commission to build up a case for polls in September.

The Centre is keen on holding the elections on September 17 and 18 while chief minister Narendra Modi wants the polls on October 8, after

completing a year in office. However, some senior leaders are against holding the Gujarat elections simultaneously with those in Jammu and Kashmir, scheduled for October. Also, October 8 happens to fall during Navratri.

The BJP's strategy is that if the EC refuses to accept the demand for September polls, the party will turn it into an issue after giving it a conspiracy angle.

Meanwhile, the BJP and the Congress geared up for the battle of the ballots. As part of its preparations for the polls, the Congress will launch its "rapid action force" against communalism — Sabdhavana ke Sipahi — on Sunday. Its first central advisory committee meeting will be held on Sunday.

In Ahmedabad, newly-appointed PCC chief Shankarsinh Vaghela demanded that President's rule be imposed in the state till elections were held. "If (deputy prime minister) Advani can demand the implementation of Article 356 in Jammu and Kashmir to ensure free and fair elections, why should Gujarat be any different? The deputy PM should start from his own constituency. If Farooq Abdullah is a threat to free and fair polls then Narendra Modi is a bigger menace," he said.

On the other hand, BJP president M. Venkaiah Naidu rejected the Congress' demand and queried if the party would like to have central rule in the Congress-ruled states where elections are due next year.

GUJARAT HOUSE DISSOLVED 9 MONTHS IN ADVANCE

Modi wants early polls, EC mum

Statesman News Service

GANDHINAGAR, July 19. — The Gujarat Governor, Mr Sundar Singh Bhandari, today dissolved the Assembly, after chief minister Mr Narendra Modi resigned, recommending early elections. He has been asked to continue in office as caretaker chief minister till fresh elections are held. The Election Commission, however, refused to comment on a possible date for polls, saying it would examine "several factors" first, as reported by agencies, adds SNS from New Delhi.

The Gujarat Cabinet met this evening and sought dissolution of the Assembly, recommending early elections. Mr Modi said the Election Commission would decide on the poll timing.

But the EC, which opposed early polls in Gujarat only last week, declined comment on the Assembly dissolution. A delegation led by Mr I K Gujral called on CEC Mr JM Lyngdoh and Election Commissioners Mr TS Krishnamurthy and Mr BB Tandon today, and urged them not to advance polls in Gujarat as the situation was not conducive. BJP general secretary Mr Arun Jaitley also met EC officials before the Assembly dissolution.

The dissolution comes nine months ahead of schedule. The 182-member House has 114 BJP MLAs, 63 Congress MLAs and four Independents. One seat is vacant.

At a press conference in Gandhinagar, Mr Modi said: "There is a conspiracy to tarnish Gujarat's image. The people would decide its fate. We are satisfied with the work we have done." Taking a dig at Mrs Sonia Gandhi, he said: "Good sense had prevailed upon Soniaji when she appointed a former BJP man as state Congress chief. Peo-

ple will embrace the BJP with open arms."

The BJP high command defended Mr Modi's decision. The party hoped the Election Commission would "honour the spirit of the Constitution" and hold early polls. The BJP brass met in the Capital today to discuss the Assembly dissolution. The Prime Minister, Deputy Prime Minister and party chief Mr M Venkaiah Naidu attended the meeting.

Mr LK Advani reportedly briefed Mr Vajpayee on Mr Jaitley's arguments before the Election Commission on the need for early polls. Mr Jaitley reportedly pleaded with the EC since the gap between two Assembly sittings should not exceed six months, a new House has to be formed by 6 October.

Defending the dissolution, party spokesman Mr MA Naqvi said a delay in polls would vitiate the atmosphere in the state. The situation in the state is normal now, and about 90 per cent of those living in rehabilitation camps have returned home, he said. On the possibility of a different assessment of the law-and-order situation in the state, he said the Commission should go by the state government's assessment.

The dissolution was an anticipated move, coming a day ahead of a Parliament meeting on Monday. The Opposition will get two days' time to plan its

electoral strategy. Politically, the Congress would give the impression that it was ready for the polls, a senior BJP leader said.

In Ahmedabad, Mr Modi said the situation was better than before despite efforts by communal forces. "Power-hungry forces stooped to the lowest level and tried to malign Gujarat's name and image. But they have not succeeded in their designs," he said in a letter addressed to the people. Gujarat has received Rs 8,000 crore in foreign investment.

Congress calls for President's rule

NEW DELHI, July 19. — The Opposition was critical of Mr Modi's gambit in Gujarat. Congress spokesman Mr Jaipal Reddy termed the move a "sinister and wicked ... to communally divide society" and "a fraud on the Constitution". The Congress has demanded that the state be brought under President's rule immediately. He, however, avoided comment on the possible timing of the polls.

The CPI-M called this an attempt to "force early polls so that the BJP can exploit the communal situation"

In Kolkata, Mr Anil Biswas said Mr Modi should have resigned earlier. "Today's move is prompted solely by poll considerations...." — SNS

57-1 2017

2. Elections

State Assembly

7 0 JUL 2002

WEDNESDAY, JUNE 19, 2002

10-10
TOWARDS CREDIBLE ELECTIONS 19/6

THE PREPARATIONS BEING made by the Chief Election Commissioner, J.M. Lyngdoh, for the coming elections to the Jammu and Kashmir Assembly substantially address the logistical aspects of the overall objective of ensuring a free and fair poll process. The most significant suggestion is that there would be no bar on any prospective observers, including foreign nationals — at least the foreign media — accessing the polling stations, except of course that such persons will not have, nor may claim, any official status or recognition. If this makes for transparency, the CEC's decision to involve designated officials in such operations as distribution of voter identity slips and his assurance that the voter would not be compelled or coerced in any way by the security personnel in exercising the franchise seek to address some of the grave malpractices that are known to have seriously vitiated the entire process on earlier occasions so much so as to have eroded people's faith in the democratic system itself as obtaining in Jammu and Kashmir. Even here, much depends on how effectively these declarations of intent and promise get translated on the ground, a task that is going to be formidable, given the vested interests certain political forces have developed in such systemic distortions.

The practical part is perhaps the less problematic aspect of the exercise from the operational viewpoint. Countering the looming threat from the militant elements who are hellbent on sabotaging the process is a daunting challenge. A positive development in this context is the U.S.-underwritten commitment by the Pakistan President, Pervez Musharraf, on checking infiltration into Jammu and Kashmir and dismantling terrorist training camps, which should in its own way help in mitigating the threat. Yet there can be no underestimating the subversive potential of the jihadi groups operating in the State, not to speak of those who might have already sneaked

in. The ruthless assassination last month of the moderate Hurriyat leader, Abdul Gani Lone, and the more recent attempt on the Chief Minister, Farooq Abdullah, are ominous pointers to what lies ahead for the security planners and the political leadership, as much as for that section which may be inclined to join the mainstream political process under certain conditions. The challenge indeed lies in deploying adequate security forces to ensure that the voters and the candidates feel not only personally safe but free to play their respective participatory roles in the process.

Substantively speaking, it is the initiatives aimed at securing as wide a participation of political and ideological opinion as possible that will ultimately determine the credibility of the democratic exercise, and this acquires critical importance in Jammu and Kashmir where the people stand severely alienated from the state. The Atal Behari Vajpayee Government is yet to come out with a creative package in this regard. But some of its recent actions suggest that the political space available may be constricted — rather than enlarged — and, worse, in a manner designed to benefit certain sections or parties. What needs to be remembered is that, at this defining moment in the history of Jammu and Kashmir, the question whether the democratic exercise is free and fair is critically linked with the emergence of a body of credible and truly representative interlocutors with a mandate to secure for the State an autonomous status within the constitutional framework and consistent with the special provisions of Article 370. In the runup to the poll, the endeavour of the Government should be to neutralise and isolate the anti-democracy elements through imaginative political initiatives, rather than by cracking the whip of draconian laws and putting them behind bars — a course of action that may well prove counter-productive by unnecessarily allowing them to become rallying points of sorts.

THE HINDU

19 JUN 2002

FOREIGNERS WELCOME AS INDIVIDUALS, NOT OBSERVERS

EC backtracks on J&K monitors

SFI 19/6

Statesman News Service

JAMMU/NEW DELHI, June 18. — The Chief Election Commissioner, Mr JM Lyngdoh, today said the Election Commission does not allow foreign observers for polls in the country. Yesterday, he had said the Commission was not averse to foreign monitors for the forthcoming Jammu and Kashmir polls.

The Chief Election Commissioner, who is on a three-day visit to the state, said laws on elections in the country do not permit foreign monitors for polls. The Commission appoints senior civil servants as its observers.

Refusing to respond to a query on UN observers, Mr Lyngdoh said he would not like to be misquoted on the question. He circulated a printed statement which read: "The Election Commission shall not invite any group, body or organisation to function as observers for the J&K elections. If any individual is associated with the conduct of elections in his country that has good democratic credentials, he can come to see the elections in his capacity, subject to the person getting necessary governmental clearance." Foreign media will have an easy access to polling stations in the state, the statement added. "As in elections in other parts of the country, in the J&K polls, the Election Commission will rely on media reports, including those in the foreign media."

New Delhi continues to remain firm on refusing foreigners as election observers during the J&K polls. Individuals can visit the state to assess the elec-

tion process but the government will not give them the official "recognition" of an "observer".

Mr Lyngdoh's statement on Monday raised speculations that the Centre was deviating from its original stance and that this was a step to build confidence among Kashmiris who have repeatedly accused the Farooq Abdullah government of "rigging" elections. Yesterday, Mr Lyngdoh said: "Anybody from anywhere in the world would be given access to polling stations. ...But we will not invite them and they cannot be part of our official team."

Government sources said Mr Lyngdoh's statement was directed towards the international media who are "welcome" to cover the election process. On UN observers, sources said the government would not appoint any foreign agency as poll observer. "In a democratic country anyone is allowed to see the election process; the more people watch the election process, the better for India

because it would prove to the world India's commitment to hold free and fair elections."

Diplomatic staff from foreign embassies would be allowed to visit the state during the elections, a government official said. "Even if US ambassador Mr Robert Blackwill wants to visit J&K during the elections, we would not stop him," he said.

Would Pakistan mission staff be permitted to visit the state during the Assembly polls? Although there is generally no ban on their visit, it would "depend on the situation" at that time, the official said.

Govt to consult parties on amending poll law, page 2

Diplomats will be allowed to visit J&K but a decision on Pakistani mission staff will depend on the situation

THE STATESMAN

19 JUN 2002

NO ONE WILL BE COMPELLED TO VOTE: CEC

'Foreigners free to observe J&K poll'

By Shujaat Bukhari

SRINAGAR, JUNE 17. The Chief Election Commissioner, J.M. Lyngdoh, today said foreign observers were free to visit Jammu and Kashmir and monitor the polls on their own, but they would not be officially invited.

Talking to presspersons after his three-day visit to the State, he said the Commission would, however, choose "hand-picked people, who are not afraid of any government, as observers to monitor the entire poll process". The observers would be officers from the civil services because it was mandatory as per law. "They (the observers) will be our eyes and ears. They will also monitor the conditions for proper elections on the ground."

Regarding apprehensions of Opposition parties on security, Mr. Lyngdoh said directions had been issued to the Ministry of Home Affairs to ensure the security of political workers and candidates and that arrangements would be made within a few days. "We were told (by the delegations of political parties) that the Government was planning to use the Special Task Force and the National Defence Force, who are backed by renegades. This is their fear."

The delegations had alleged that the Govern-

ment was using the STF and the NDF to harass them and disrupt their political activity. "This is a matter to be examined," Mr. Lyngdoh said.

No person should be compelled to vote, as it amounted to an electoral offence. "The uniformed forces will only be expected to re-assure voters and create conducive conditions." They would not be allowed to coerce the people to vote in an attempt to increase the voter turnout.

The CEC said that 8,000 electronic voting machines would be introduced as a deterrent to booth capturing and rigging. "We are also taking measures to ensure that proper training is imparted to the people in the use of the machines."

Photo identity cards would also be issued. "These cards will be printed on paper used for currency notes. People who wish to apply for the cards need to provide us with two pictures. The cards will be issued after proper inquiry by the concerned Tehsildar."

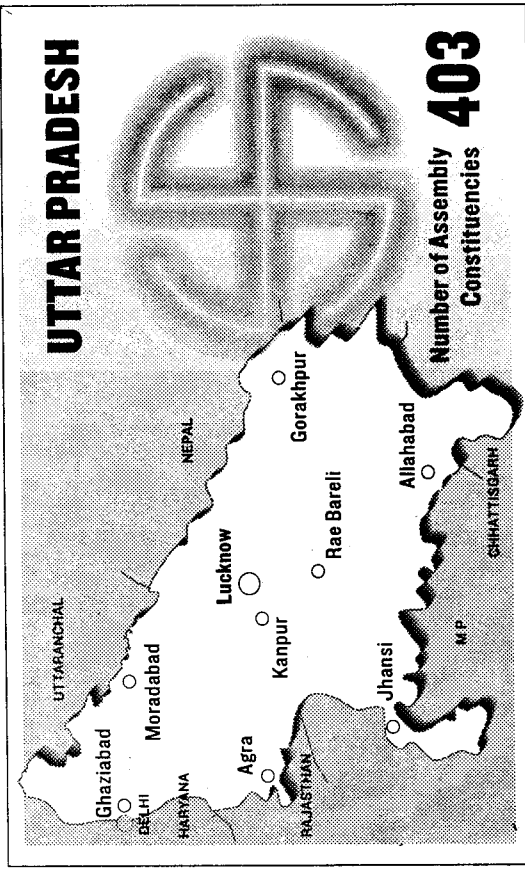
Mr. Lyngdoh said the Election Commission also planned to review the voter lists as they were "unsatisfactory and carried even the names of deceased people". He also referred to the demand of political parties to stall any wholesale transfer of officials before the poll process.

THE HINDU

18 JUN 2002

Battle for the North

HR 14



UTTAR PRADESH

Number of Assembly Constituencies **403**

Party Performance: Uttar Pradesh

Party	Elected	Contested	Votes	%
BJP	173	414	18002000	32.47
SP	111	283	12190664	21.99
BSP	67	295	10854956	19.58
INC	33	123	4509823	8.13

DUST DOESN'T settle down on the road that passes through Shivoli town in Bulandshahr these days. Political activity has taken over every other business of life. With Jatavs forming the bulk of the population, Shivoli has traditionally been a BSP stronghold. But Ms Mayawati's tacit overtures towards the BJP have doused the Jatav spirits while the Congress chooses to be a mute spectator.

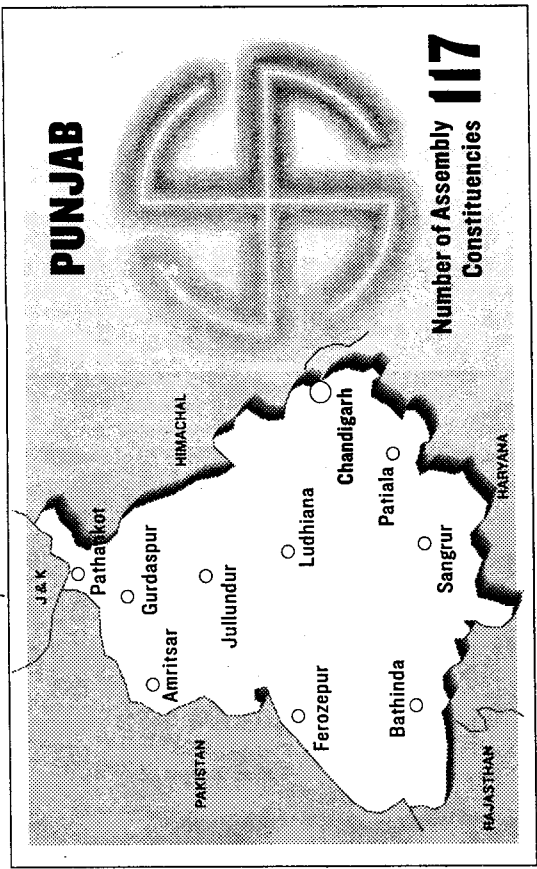
The BJP retains 77 and 74 per cent of the Brahmin and Rajput votes and the SP monopolises 77 per cent of Yadav and 44 per cent of Muslim votes. Its only challenge can come from Congress that secured 40 per cent of Muslim votes in the last Parliamentary election. The BSP has the largest share of dalit votes with 74 per cent Jatavs voting for Ms Mayawati in 1999. Here too, the Congress, that

retained 20 per cent of OBC and a significant 39 per cent of other SC votes in the last polls, can be a vital player.

Despite this and the advantage that the Congress got in the parliamentary polls, the party continues to have a shadow presence in the state. The BJP and its allies secured 31.2 per cent of the votes in 1999, some nine percentage points down from 1998 election. The SP lost nearly five per cent of its vote share since the 1998 but its seat share went up from 20 to 26. The BSP increased its vote share from 20.9 to 22.1 per cent. The Congress's vote share was 17.3 per cent of the votes but it significantly won 12 seats.

"What is the alternative. If only the Congress had put in a bit of effort," says a BSP worker in Shivoli.

— **Poornima Joshi**



PUNJAB

Number of Assembly Constituencies **117**

Party Performance: Punjab

Party	Elected	Contested	Votes	%
SAD	75	92	3873099	36.49
BJP	18	22	1177219	11.09
INC	14	105	2736346	25.78
Ind	6	243	1121591	10.57

THE IMAGES of wide green fields and a prosperous state are not fooling anyone anymore. The state with the highest per capita income in the country is now facing one of the most severe financial crunch.

And the Akali Dal-BJP combine government has nobody to blame but its own populist schemes for the situation. Right at the beginning when the alliance won with the biggest margin of victory ever since 1977, the new regime announced that ministers would declare their assets within 90 days of their election. Promises of free canal water for irrigation and making agriculture more profitable with additional marketing facilities were part of the new agenda.

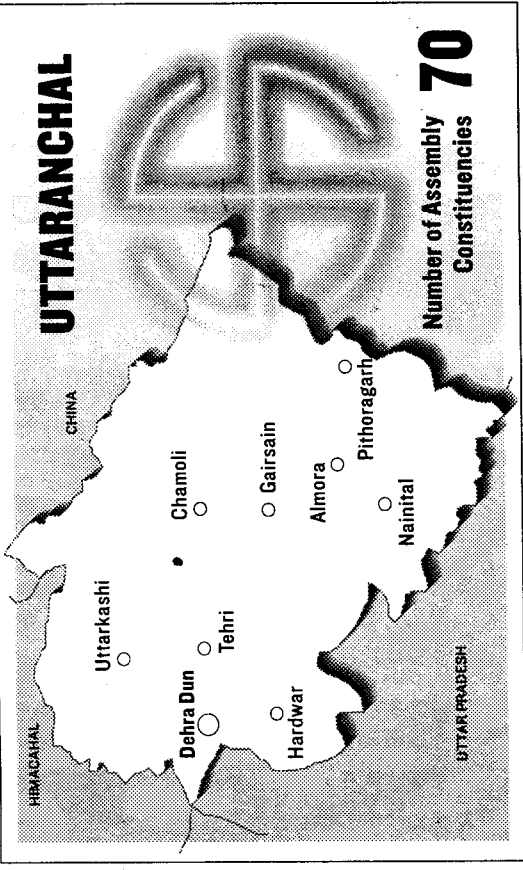
Sadly for Mr Badal, the promise of supplying free power seems to have

boomeranged. The scheduled castes, forming 28.31 per cent of the population, accused the Akali Dal of favouring the rich farmers. Most of the scheduled castes in Punjab are landless. The issue gained so much ground that it prompted the Dal to ask for a review of the decision.

Other Dalit leaders threatened to incite people to start stealing electricity unless the state government gives 100 units of power free, a move that forced the state government to give free domestic power of up to 30 units for those scheduled caste and backward class consumers.

With such populist schemes, the state coffers has been emptied. The government is saddled with a huge debt burden and the state and the Congress, despite its factionalism, is waiting for the polls.

— **PJ**



UTTARANCHAL

Number of Assembly Constituencies **70**

Uttarakhand

BJP	24
Cong	2
SP	2
BSP	1

THE HESITATION with which BJP leaders refer to the issue of construction of temple in Ayodhya is an indication of what the otherwise deeply religious people in this newly-created state are now hoping for.

The novelty of carving out a new state having waned, the crucial issues of development and infrastructure are now re-surfacing. And unlike the neighbouring state of UP where people have stopped expecting anything, aspirations in Uttarakhand are still young.

Also unlike UP, caste politics does not play a significant role in Uttarakhand despite the region housing several ethnic groups and castes. The Jaunsaries, the Bhotias, the Bokshas, the Tharus, the Rajis and indigenous Hindus and Buddhists are not known to have a history of conflict. Sikh migrants from West Punjab are settled in the lowlands.

The absence of caste conflict also reflects in influence of political parties in the Vidhan Sabha. The SP merely has two members in the Assembly and the BSP only one. And while the Congress only has a shadow presence in the present Assembly, the party is expected to emerge as the only opposition to the BJP in the elections.

The Chief Minister Bhagat Singh Koshiari has admitted that the vote percentage would decline this time. But the party hopes to regain power. However, the local leaders are very cautious. They refrain from making any statement that might be construed as propaganda by a politically sensitive and well-informed electorate.

— **PJ**