

EC takes note of Godhra pictures

By J. Venkatesan HD-1

NEW DELHI, DEC. 1. The Election Commission has taken note of media reports on distribution of Computer Discs and T-shirts by the Vishwa Hindu Parishad depicting the Godhra train carnage for propaganda in the coming Assembly polls in Gujarat. It might seek a report from the State Government on this.

Commission sources said the Chief Electoral Officer of Gujarat was seized of the matter since instructions and the mod-

el code of conduct were already in vogue. As any violation thereof could be construed as a violation of the code and the instructions, the CEO would look into this.

The Commission was closely monitoring the situation in Gujarat and, if necessary, it might seek a report from the State Government. In early November, the Commission had directed the removal of all hoardings and posters with communal overtones displayed in the State. The Commission

had then told the State Government that such display was 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. It was also a violation of the model code. The State Government complied with this directive and sent a compliance report. The Commission had also banned the 'Vijay yatra' planned by the VHP from November 17 with a replica of the charred coach of the Godhra train.

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THE HINDU

Is the EC ban on religious yatras at poll time justified?



Uday Shankar

Yes. First the Modi govt needs to restore people's confidence.

Rajnath Singh
Rajya Sabha Member, BJP

There is nothing wrong with the directive issued by the Election Commission. It is very important for peace and harmony to be maintained in a state like Gujarat which has seen so much violence, especially with elections round the corner. The first task of the Narendra Modi government should be to help restore the confidence of the public—Gujaratis are fed up of the way the situation has deteriorated in their state. The chief minister can achieve this only by keeping a strict vigil over all groups out to disrupt the law-and-order situation. Once the overall situation improves and life returns to normal, there should be no harm in resuming religious yatras. I believe once normalcy returns, there is no harm in allowing even Muslim organisations to take out religious processions if they feel the need.

I spent two days with Modi when he was conducting his Gaurav Yatra. No untoward incidents were reported as we drove through the villages and towns. Most of the problems in Gujarat are being caused by external forces. I am not referring only to ISI or Pakistan-sponsored fronts but also to certain Indian-based organisations who are working against our entire sense of nationhood.

Today, the situation in the state has come to such a pass that even a cricket match

cannot be held without the crowds resorting to violence on some pretext or the other. The result is that people living outside Gujarat have begun to believe that the violence that erupted from February-end is endemic to the situation there. They do not seem to realise that Gujarat has witnessed a great deal of violence prior to Godhra. This cycle of violence has become like an annual feature of the state. In retrospect one can say that if the state government had initiated tough measures right then, the situation would not have gone out of control. The imposition of curfew alone is not going to suffice.

Of course, all the blame cannot be placed at the doorstep of politicians or religious or social groups holding yatras. After all Godhra did not take place because of a yatra. The incident was triggered by other factors. During my tenure as UP chief minister I worked hard to win over the most backward castes (MBCs) including the most backward sections of the Muslim community. I also went ahead and implemented the recommendations of the Committee of Social Justice to provide reservations for the MBCs including the Muslims and Dalits in the panchayat elections. No one from any caste, creed or community faced any discrimination during

my tenure.

Similarly, I did not allow violence to get out of hand over the Ram Temple issue in Ayodhya. The BJP never considered the temple issue as a political one but it has been built up into a major issue by our political opponents. Even the VHP, which has been spearheading the construction of the temple, gave an assurance that it was willing to resolve the whole matter through a dialogue. So its stand in that period was quite positive.

(As told to Rashme Sehgal)



No. Our objective is to create harmony between Hindus and Muslims

Acharya Giriraj Kishore
Vice-president, VHP

The Chief Election Commissioner (CEC) has no right to stop religious yatras. He seems to forget that the VHP is not a political party. Ours is a religious organisation and we are not flouting the Constitution in any way by going ahead with a Vijay Yatra. Our aim is to spread

awareness about Hindu dharma and Hindu rashtra. Two hundred sants belonging to different religious organisations will be participating in the yatra which will begin from Godhra and end in Ahmedabad on December 6 — it was on this day that the disputed structure (Babri Masjid) in Ayodhya was felled a decade ago. We will celebrate this day as Vijay Divas.

Let me emphasise that our determination to spread the philosophy of Hindutva is not linked with any electoral process. In any case, some election or another is taking place every month.

I am afraid the CEC is biased against the VHP. During the recent assembly elections in Goa, the Church issued a fatwa asking people to vote in favour of the Congress. During the assembly elections in Chattisgarh, the Church issued a similar fatwa but this time it demanded that people cast their vote for Ajit Jogi. They are doing a similar thing in Gujarat but the CEC has taken no action against them. Why is that?

Today the VHP is in a delicate situation. If we do not take out the yatra, the Hindus will accuse us of being scared of doing prachar in favour of Hindutva. If we take out the yatra, the state government will be forced to take action against us. The whole objective of such a di-

rective is to try and create a rift between the state government and us.

The CEC seems to forget that the objective of our exercise is to create harmony between Hindus and Muslims. The VHP wants to assure the Muslims that it is prepared to put Godhra behind it. We have been saying all along that the Godhra incident was horrific but the carnage that followed was equally bad. Peace must return to Gujarat and both communities need to work together to restore harmony.

We are not concerned if the BJP is trying to distance itself from us. If some BJP leaders are presuming that the purpose of this whole exercise is to re-ignite communal passions so that a polarisation of votes takes place along communal lines, they are free to think what they like. We have no grievance against the Modi government or the administration. But we do not accept reports that the CEC directed the Modi government to ban the yatra on the basis of a state administration report which stressed that the yatra had the potential to create trouble. Our sources tell us no such report was ever sent and that media reports are emanating from so-called secularists with vested interests.

It is surprising the CEC thinks the yatra could fan communal passions while the local administration thinks just the opposite. Sitting in Delhi, does he presume he knows the functioning of the state better than the local administrators?

(As told to Rashme Sehgal)

SUNDAY DEBATE

Deepak Harichandan



EC seeks report on VHP yatra

SNS & PTI

RAJKOT, Nov. 12. — Mounting pressure on the Gujarat government in the run-up to next month's Assembly polls, the Election Commission today asked for a detailed report on the VHP's planned Jan Jagruti yatra starting from Godhra next Sunday.

Following yesterday's flare-up which killed six persons, curfew continued in Basaj village of Mehsana and Mahunda in Kheda district throughout the day today while the situation was said to be "under control" in both places. Commissioner Mr BB Tandon said the EC has asked the government for an immediate report on the yatra, and said any decision on it will be taken after receiving the report. Chief Election Commissioner Mr

M Lyngdoh accompanied by two commissioners also reviewed poll preparedness and the law-and-order situation on the second day of their visit to the state today, even as Mr Narendra Modi said he would comply with the EC's directives.

The VHP yatra is to begin at Godhra and end at Akshardham Temple in Gandhinagar on 6 December. The EC's direction follows concerns expressed by some political parties and NGOs on the yatra's posing a threat to the fragile communal peace. EC officials have also said that they have received complaints about replicas of "burnt railway compartments" being shown in public. Violence erupted in Mehsana and Kheda district yesterday leading to arson and looting, triggered by a minor incident following a cricket match.

Before leaving for Padra town in the district, Mr Modi said "the state administration would meet all expectations of the Election Commission". He also charged the Congress with "shielding some of the Godhra accused" who are at large even nine months after the train carnage.

Modi attacks Sonia

Asserting that none of his speeches in the past one year was inflammatory, Mr Narendra Modi has asked Congress president Mrs Sonia Gandhi to get ready for a public debate on the matter, adds PTI from Vadodara. "I am prepared to have a public debate with Sonia Gandhi in the presence of prominent editors of various newspapers and magazines on the issue," the caretaker Gujarat chief minister told reporters here today. Mr Modi's

reaction comes in the wake of Congress alleging that his speeches were responsible for communal flare up in the state. Continuing his attack on Mrs Gandhi, Mr Modi said that she was "ignorant about things and was making imaginary allegations".

When asked from where he would contest the assembly polls, Modi replied that the decision would be taken by the central election committee of the party. Mr Modi had represented Rajkot II Assembly constituency in the dissolved Assembly.

He denied having any differences with former chief minister Mr Keshubhai Patel over any issue and blamed the Maharashtra and Madhya Pradesh governments for power crisis in the state, saying they were creating hurdles in raising the height of the Sardar Sarovar dam to 110 m.

Gujarat violence nasty, says Lyngdoh

9- Election (CEC)
AHMEDABAD, NOV. 11. The Chief Election Commissioner, J.M. Lyngdoh, who hit the headlines a few months ago for his criticism of the bureaucracy in Gujarat, today came down on the violence in the State saying it was "certainly nasty".

"Kashmir was deadly in all sense where we ourselves were put on personal danger at times; Gujarat... it is not so dangerous but it is certainly much nasty," he told reporters here when asked at the end of his first day of consultations with officials and political parties' representatives in the State. Mr. Lyngdoh said there was an inherent difference in the kind of killings in the two States.

To a question on how he would assess the State bureaucracy's role as against that during his earlier visit in August, Mr. Lyngdoh, who had made strong remarks against a civil servant in Vadodara during his earlier

trip, said in a lighter vein "Vadodara is a friendly place". On replacing the Ahmedabad Collector, he said the Commission had asked the State Government to provide a list of officers from which the EC would decide on the successor.

Report on VHP yatra

Mr. Lyngdoh said he had asked the Gujarat Government to submit a detailed report within a day or two on the proposed 'vijay yatra' to be flagged off by the Vishwa Hindu Parishad from November 15. Any decision on banning the yatra would be taken only after the receipt of the report.

He said he had asked the DGP, K. Chakravarty, to prepare a detailed map "showing places affected during the communal riots and which could be sensitive during the electioneering process". Mr. Lyngdoh said the Assembly elections in the State

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would be closely monitored by the international community and the "credibility of Indian democracy is involved".

The other Commissioners, T.S. Krishnamurthy and B.B. Tandon, said the EC was in touch with the Chief Electoral Officers of Madhya Pradesh, Rajasthan, Maharashtra and Uttar Pradesh to ensure postal ballot facilities for those people of Gujarat who had migrated during or after the riot.

4 killed in violence

At least four persons were killed and several injured in a fresh bout of communal violence in central and northern parts of Gujarat. While two persons were stabbed to death at Mahudha village in Kheda district in central Gujarat, another persons was killed late tonight, according to police sources in Vadodara.

Modi blasts Muslims: Page 11

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THE HINDU

Security is high on EC's agenda

Godhra braces for Modi's yatra

TIMES NEWS NETWORK AND PTI

New Delhi\Ahmedabad: Chief election commissioner J.M. Lyngdoh will begin a two-day visit of Gujarat on Monday to supervise the preparations for next month's assembly polls in the state. He will be accompanied by election commissioners T.S. Krishnamurthy and B.B. Tandon.

During the visit, the Election Commission will hold talks with senior state administration officials and the police brass on the steps being taken to ensure free and fair elections on December 12. The EC team is also slated to meet some district magistrates, poll officials and representatives of political parties.

Coming in the wake of fresh violence in Ahmedabad, the deployment of central forces on election duty is likely to top the agenda of the EC's discussions with state officials. Expressing its inability to deploy the number of forces required, the Union home ministry has reportedly suggested that the responsibility of policing the polls be left with the state forces.

The EC had last visited the state in August to assess the

situation in the aftermath of the riots. While the Modi government had demanded early polls, Mr Lyngdoh had put his foot down and said the exercise would not be possible when a large number of people were still living in relief camps. His stand was later upheld by the supreme court, but invited the ire of the BJP.

In recent weeks, a number of police officers have been transferred by the state government in compliance with the EC's directive to shift officials who had completed four years at a place.

Meanwhile, security has been beefed up in Godhra as CM Narendra Modi's gaurav yatra is set to roll into the town on Monday. In its ninth phase, the yatra will begin from the temple town of Dakor in Anand district.

Before reaching Godhra, Mr Modi is scheduled to address rallies at five places in Panchmahals district from atop his mechanised chariot. Panchmahals superintendent of police Narsimha Kumar said that in addition to the local police, two companies of paramilitary forces had been stationed in the district to avert any trouble.

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THE TIMES OF INDIA

'ELECTION SPEECHES WILL BE MONITORED'

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Law will be enforced rigidly in Gujarat: CEC

NEW DELHI, NOV. 8. In a warning to politicians seeking to exploit religion for political gains, the Chief Election Commissioner, J.M. Lyngdoh, has said the Election Commission would enforce the law "rigidly" in Gujarat in the coming Assembly elections.

"Absolutely, people who use that sort of language should be prosecuted. We have to hasten that process", Mr. Lyngdoh said in the "Court Martial" programme on SAB TV anchored by Karan Thapar.

He was replying to a question on how the Commission would ensure trouble-free elections in Gujarat when there were press interviews and statements by leaders on communal lines.

Asked specifically whether he was talking about people like the Vishwa Hindu Parishad leader, Praveen Togadia, the CEC said "it could be anybody. Whoever it is".

To a question whether the Commission could use its authority to send out a message to contain such speeches and statements, he said "yes. We will do that."

Stating that the Commission had been routinely doing that in every election, Mr. Lyngdoh said

the Commission would closely monitor all election speeches and enforce the law "rigidly".

Asked to comment on reports that the Union Home Ministry had declined the EC's demand for 400 companies of Central paramilitary forces for the conduct of free and fair polls in Gujarat, he said the issue had been settled with a discussion with the Home Secretary. "It could be 425 or 375. It should be all-right".

The Home Secretary, N. Gopalaswami, has held discussions with the CEC and the other two Election Commissioners, T.S. Krishnamurthy and B.B. Tandon, and assured that adequate forces would be made available "well in time" for the Gujarat polls.

The Home Ministry has already issued instructions for the deployment of 200 companies (about 20,000 personnel) of central paramilitary forces for confidence building measures and for area domination in the riot-affected districts. They would be available for deployment by November 22.

The Ministry had earlier said that further requirements would be met a week ahead of the polls. — PTI.

Diplomats divided over response to Lyngdoh offer

11/11 By Amit Baruah HD-11
NEW DELHI, OCT. 31. Opinion is divided among leading diplomatic missions here on how to respond to a statement made by the Chief Election Commissioner, J.M. Lyngdoh, that diplomats are permitted to watch the coming Gujarat elections.

The missions are assessing the response to Mr. Lyngdoh's offer. While a European Union source said the E.U. was not thinking in terms of sending anyone to watch the elections, the staffer of another mission said they were likely to send a representative to Gujarat.

He made it clear that their

diplomats would not be watching the polls like they did in Jammu and Kashmir.

At his press conference on Monday, the Chief Election Commissioner had said that the Commission would make available the same facilities in Gujarat that had been extended to the diplomatic corps and the international media in Jammu and Kashmir.

Another member of a European mission said they would consult their other diplomatic colleagues before coming to any decision.

Yet another diplomatic source said they were still to take a final decision but it was

possible that a diplomat from the mission would travel to Gujarat.

There is little doubt that the Gujarat elections are a "sensitive matter" and no diplomatic mission would like to give the impression that they are going against the wishes and desires of the Central Government.

However, several leading missions have expressed concern in the past about the killings of Muslims in Gujarat earlier this year.

In Britain, for instance, there is a significant Gujarati immigrant population which may be keenly following the conduct of elections in the State.

November notification for one-day poll in Modi state

EC supreme on polls: SC

STH 29/10

Gujarat elections on 12 Dec

Statesman News Service

Statesman New Service

NEW DELHI, Oct. 28. — The Supreme Court has ruled that no fetters can be placed on the Election Commission's "exclusive" authority under Article 134 to decide on the schedule for conducting free-and-fair elections. And no law could be used to compel the EC to hold an election in conditions which it deemed unfavourable.

The court has also rejected the contention of the Union and Gujarat governments that the provisions of Article 174(1) mandated that elections be so scheduled as to avoid a gap of more than six months between the sittings of an Assembly. Of significance in the context of at least one other case pending before it, a five-member Constitutional Bench (coram, Kirpal, CJ, Khare, Bhan, Balakrishnan, Passayat, JJ) has held that the provisions of Article 174(1) apply only to "five" and not dissolved Assemblies.

The Apex Court today pronounced its opinion on the Presidential Reference under Article 143 on the issues that arose from the EC's 16 August order that rejected the Gujarat government's demand for an early poll. While the Bench was unanimous on the key issues upon which it was asked to opine, three separate but concurring judgments were handed down. They are not as binding as regular case law, but carry weight.

While the court declined to fix any

timeframe within which polls have to be conducted, it observed that ideally, as per the Constitutional scheme of things, they should be held within six-months of an Assembly's term expiring or of its being dissolved. Free-and-fair elections were the essence of democracy and the EC must strive to ensure that popular governments were in place.

Ordinarily, the EC should not defer polls because of unfavourable law-and-

order conditions and draw upon all resources to counter such conditions, the Bench held. In the words of Justice Passayat, elections may be deferred for acts of god but not acts of men. Law-and-order problems should not be used as grounds to defer polls.

Although early in the hearing (after a clarification from the EC that it was planning to hold polls in Gujarat in November-December) the court declared it would

not deal with specific matters relating to Gujarat but look to the broader issues, today's orders would be widely interpreted as a rap on the knuckles for the Modi government, and some of its votaries at the Centre.

In effect, the apex court has endorsed the EC's refusal to be pressured into conducting an election in an emotionally supercharged atmosphere, in a situation in which the electorate had been polarised on communal lines, and in conditions in which the bonafides of the official machinery had been questioned.

More reports on page 4

NEW DELHI, Oct. 28. — Assembly polls in riot-hit Gujarat will be held on 12 December, the Election Commission announced today as the Supreme Court upheld its order not to hold polls before October.

The notification for election to the 182-member House will be issued on 18 November. The last date for filing nominations will be 25 November and scrutiny of papers will take place the next day, the EC said. The last date for withdrawal of candidatures is 28 November. Counting of votes will take place on 15 December.

Announcing the schedule after a full commission meeting, CEC Mr JM Lyngdoh said the model code of conduct will come into effect from today, effectively barring the Centre or state governments from issuing largesse and sops to the electorate. The code will apply to all parties.

Asked if the commission was convinced that free and fair polls could be held under the Narendra Modi government, the CEC said: "We would not have announced the date if we had doubts. Now the Gujarat government appears in a mood to comply."

The home ministry has been asked to provide 40,000 paramilitary personnel for the smooth conduct of the polls.

Mr Lyngdoh and the other election commissioners, Mr TS Krishnamurthy and Mr BB Tandon, said the EC had, in its order of 16 August, rejected the Modi government's plea for early polls because the situation in the state was not conducive for holding free and fair polls. Though the term of the Gujarat Assembly was scheduled to expire on 18 March 2003, Mr Modi dissolved the House on 19 July.



Mr JM Lyngdoh announces the Gujarat poll date at a press meet in New Delhi on Monday. — PTI

9. Election (Chc) EC directive to Gujarat Govt. 11/10

By Our Legal Correspondent

NEW DELHI, OCT. 17. Even as an announcement of the Assembly election schedule in Gujarat is awaited, the Election Commission today directed the State Government to transfer those officers who have served for four years in a place or are serving in their home districts. In a communication to the Chief Secretary, the Commission said these steps should be taken ahead of the formal announcement of the poll schedule expected later this month.

Indications are that the polls will be held in December and that the schedule will be announced soon. The Supreme Court is expected to give its advisory opinion on the three-point Presidential reference next week. The reference arose after the Commission passed an order on August 16 rejecting the BJP's plea for early elections. The Commission's policy is

that officers associated with the poll process are to be transferred if they have served for four years or more or if they are working in their home district.

This is done to ensure that elections are conducted in a free and fair manner without official connivance with candidates. As a number of officials are to be transferred, the Commission has asked the State to complete the exercise immediately. The Chief Secretary has been asked to consult the State Chief Electoral Officer on the new postings.

The Commission's order will be applicable to the ranks of Inspector-General, DIG, Commissioner, Superintendent, Deputy Superintendent and Inspector. Those who function as Returning Officers include Collectors, Commissioners, Deputy Commissioners, Assistant Divisional Magistrates and Sub-divisional Magistrates.

Govt seeks SC time-limit on conduct of polls

Statesman News Service

18/9
NEW DELHI, Sept. 17. — The Supreme Court has been requested to lay down the parameters, a time-limit in particular, within which the Election Commission could exercise its authority drawn from Article 324 to conduct a free and fair election. That authority was not absolute and the EC had to adhere to the discipline of the Constitution, the Solicitor-General, Mr Harish Salve, has asserted.

A five-member Constitution bench (coram, Kirpal, CJ, Khare, Bhan, Pasayat and Gopalakrishnan, JJ) today commenced hearing arguments on the Presidential reference under Article 143 on legal questions arising from the Election Commission's decision not to conduct polls to the Gujarat Assembly according to the schedule desired by the state government.

Appearing for the Central government, Mr Salve

maintained that the EC could not use its powers under Article 324 in a manner that impinged upon other Constitutional provisions such as the interval between sittings of a legislative assembly not exceeding six months, as mandated by Article 174 (1).

Senior counsel for the Election Commission, Mr KK Venugopal, who had only just commenced presenting his arguments when the court rose for the day, contended that the limitations of time imposed by Article 174 could not be deemed so rigid as to rush through a poll in conditions not conducive to a clean electoral exercise.

Mr Venugopal wanted the court to confine itself to the three queries raised in the Presidential reference and not go into some of the larger issues that had been raised by the Solicitor-General. The Chief Justice, Mr BN Kirpal, wondered if it were

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CEC Puts High Security In Place, Tells People To Cast Vote Fearlessly

Lyngdoh assures J&K voters

Our Political Bureau
NEW DELHI 15 SEPTEMBER

CHIEF Election Commissioner J M Lyngdoh on Sunday assured the voters in Jammu and Kashmir that adequate security arrangements were in place to protect them while they vote in the polls starting Monday.

The Election Commission's assurance on the eve of first phase of polling comes against the backdrop of stepped-up violence by the militants to disrupt the poll process and Pakistan president Pervez Musharraf's recent statements describing the election as a "mere fraud." The recent killing of minister and National Conference candidate from Lolab in Kupwara, Mushtaq Ahmad Lone, in a militant attack had given rise to apprehensions about the "intimidated" voters coming out on the polling day to exercise their franchise.

"None of you who does not wish to vote is to be forced to do



LYNGDOH: MAN OF WORDS

so. But there are many of you, going by the media coverage of the election, who wish to vote, despite the needless bloodshed and tribulations," Mr Lyngdoh said after reviewing the poll arrangements at a full Commission meeting here.

As many as 14,36,151 electors will exercise their franchise in the 2,000 polling stations across 23 constituencies. While two constituencies in Leh have already returned candidates unop-

posed, election in the third constituency of Lolab has been countermanded following the death of NC candidate.

Hoping to ensure a good turnout, Mr Lyngdoh assured the voters "the security forces are there in great numbers and in high alert to protect you while you vote."

Reminding the voters that at least 28 diplomats and 400 media personnel "are presently your guests just to see you voting," the CEC appealed to them not to "disappoint them."

Mr Lyngdoh, flanked by the other two election commissioners B B Tandon and T S Krishnamurthy, told the newsmen that both the state police and para-military personnel had been stationed around the polling stations, even as the Army threw an outer security ring around them, to derail any attempts by the militants to target the voters.

Listing the steps taken by the Commission to make the polls

free and fair, Mr Lyngdoh said 16 diplomats would be witnessing the first phase of polling in Kupwara and Baramulla, while two will tour Rajouri and Poonch. He said two of the four polling staff at each polling station would be from UP/Punjab.

Besides, 17 special observers and 48 observers would report directly to the Commission on the conduct of poll.

For the first time, Mr Lyngdoh said, EVMs would be used for polling across the state and identification made compulsory for voters. According to him, the photo-identity card programme had been an unexpected success in the Valley state, and the Commission expected to achieve 100 per cent coverage after the polls.

Asked about threat by a candidate contesting from Handwara constituency to pull out of the poll process if 26 presiding officers were not changed, the CEC said that ten of them were being changed and more action would follow if need be.

15 SEP 1981

SC ruling will clear confusion over EC's role

By Rakesh Bhatnagar
TIMES NEWS NETWORK

LEGAL VIEW

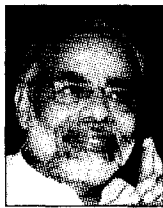
New Delhi: It is official now that there is no constitutional crisis in view of the Election Commission's decision against holding elections in Gujarat before October 6. It was also an official statement that due to the EC's decision, an unprecedented constitutional crisis was facing the trouble-torn state. Thus, a presidential refer-

ence to resolve the crisis.

With the observation by a Constitution bench headed by Chief Justice B.N. Kirpal that there was nothing wrong in the EC's decision to hold elections between November and December, the three-point reference made by President A.P.J. Abdul Kalam has lost its political significance, though hypothetically the opinion would be of great academic relevance.



J.M. Lyngdoh



Narendra Modi

The bone of contention between the government and the EC was in constituting the Gujarat assembly by October 6, within six months of the last session of the live assembly in April. Chief Minister Narendra Modi dissolved the assembly on July 19 and insisted on the EC to accept that Article 174, which stipulates a six-month time-frame, was meant for a dissolved House also.

Invoking Article 324 of the Constitution which authorises the EC alone to conduct free and fair polls, the commission said that the situation in Gujarat was not conducive to elections at this stage. However, the EC

said that it would consider the feasibility of elections in November when the electoral rolls were revised. This was not acceptable to the ruling party which wanted expeditious elections in the state, notwithstanding the fact that a sizable section of the population was still under the trauma caused by the widespread violence.

Thus, the state, as also the Centre, then declared that the state would be passing through an unprecedented constitutional crisis, particularly in view of the EC's suggestion that President's rule could be imposed in the state if a new assembly was not constituted by October 6.

Various arguments were put forth to bring home the point that the EC had over stepped its jurisdiction by recommending President's rule in the state. Did he recommend imposition of Article 356? The supreme court would opine on the core issue by November 1.

It would also opine whether

Article 174 is provided for a surviving House or a dissolved assembly or Lok Sabha also. It would also look into the 40-page report submitted by the EC justifying its inability to conduct polls by October 6. The EC did not join issue with the government on Article 174 nor it insisted on Article 356 to avert a possible constitutional crisis.

"It was a snap reaction", said senior lawyer V.N. Saraf while referring to the haste with which the Centre moved the apex court for its opinion on the issues already settled in law.

Then who thought of invoking Article 143 of the Constitution for seeking an opinion on the issues which stand resolved by now. "The court's opinion may not have any bearing on the forthcoming polls in Gujarat. It would, however, further clear the misunderstanding regarding the role of EC in the healthy growth of parliamentary democracy", said Supreme Court Bar Association president R.K. Jain.

Gujarat and the E.C. decision

By Sanjay Kumar

J. S. Kulkarni (CSC)

WHILE FIXING September 17 as the date for the commencement of hearing on the Presidential reference, the Supreme Court also reiterated that there would be no constitutional crisis if the Assembly elections in Gujarat were held in November or December. This is what the Election Commission had suggested a couple of weeks back after assessing whether free and fair polls were possible before October 6. Now, the E.C.'s legitimacy in the eyes of the people will increase manifold. Even before this, the trust shown in this institution was far greater than in most others in the country.

The findings of the survey conducted by the Centre for the Study of Developing Societies (CSDS) in 1996 suggest that nearly 46 per cent of the people had a great deal of faith in the E.C., while another 31 per cent had some faith in it. The respondents belonged to different social communities. The Judiciary was ranked a close second to the E.C. For, 42 per cent had a great deal of faith in the Judiciary and another 34 per cent had some faith in it. Except for these two institutions, most of the others have been rated poorly (those with a great deal of faith in police 13 per cent, in Government officials 17 per cent, in elected representatives 20 per cent) by the people.

The case with regard to holding Assembly elections in Gujarat is more than a tussle between the BJP and the E.C. First, it was not the individual decision of the Chief Election Commissioner, J.M. Lyngodh, not to hold elections before October but the unanimous verdict decision of the three-member Commission. The decision was taken after visits to Gujarat by a nine-member E.C. team by the three Election Commissioners.

The Gujarat Assembly was prematurely dissolved by the Chief Minister, Narendra Modi, on July 19 in exercise of the powers under Article 174(2)(b) of the Constitution. After the dissolution, the State Government and the BJP demanded early

elections saying the new Assembly had to be constituted before October 6 as under Article 174(1) of the Constitution there should not be a gap of more than six months between two meetings of the House.

Time and again, the BJP has been claiming that the law and order situation in Gujarat is normal and quite

E.C. being the sole authority for deciding the dates for holding elections to either Parliament or a State assembly, the recent controversy, which became the subject of a Presidential Reference, is about whether the E.C. is justified in not holding elections to the Gujarat Assembly before October? The first E.C. team,

19-10 379

nearly 27 lakh people in these districts. Two reports of the Government contradict one another. The E.C. took note of this discrepancy and on the ground found that far more towns and localities had been affected by the riots compared to what the State Government had claimed. The E.C. found that a large number of people are still living in refugee camps, unwilling to return home fearing for their lives.

The situation still remains far from normal. It is true that there has not been major violence in the past couple of months, but a fear psychosis still prevails in the mind of the displaced people from the minority community. Under such considerations, the E.C. unanimously came to the conclusion that it could not conduct free and fair polls in the State immediately. It reiterated that every vote was valuable and that every voter should be allowed to exercise his franchise.

The BJP has been very upset by this decision of the E.C. and asked for a Presidential Reference on this issue. The five-judge Constitution Bench of the Supreme Court hearing the Presidential reference had issued notice to the Commission, all the State Governments and the six recognized political parties. The issues referred are: can the E.C. use its powers under Article 324 to override Article 174(1)? Is the E.C. bound to carry out the mandate of Article 174 by drawing upon all the requisite resources of the Union and the State Governments to ensure free and fair elections? Can the E.C. frame an election schedule on the premise that if Article 174 were violated, the constitutional remedy would lie in Article 356, that is President's rule?

With the Supreme Court's expressing its inability to give an opinion on the Presidential reference by October 2, it is clear that the election process will not be completed before October 6.

(The writer is Associate Fellow, Centre for the Study of Developing Societies, New Delhi.)

In the post-riot situation, the electoral rolls needed revision. Many people have not been able to return to their old localities.

conducive to holding free and fair elections. On the other hand, large numbers of representatives from other political parties and eminent personages from different walks of life have urged the E.C. not to hold the elections since the whole atmosphere in the State after the riots was not conducive for them.

Some put forward the claim that the six months clause applies only to the same House and that, hence, the E.C. is not constitutionally bound to hold elections within the stipulated time. The Commission examined the provisions of the Article 174(1) and said they should not be read in isolation, but along with Article 324 of the Constitution. Under the provisions of Article 324, the power of superintendence, direction and control of the preparation of the electoral rolls for, and conduct of elections to Parliament and State Assemblies is vested with the Election Commission of India.

The E.C. emphasised that, under such constitutional provisions, elections meant free and fair elections and not merely a ritual to be held after every five years or so. In a situation where holding free and fair elections is not possible because of extraordinary circumstances, then Article 324 will get precedence over Article 174(1) in the interests of democracy.

While there is no dispute over the

which visited 12 of the 25 districts of the State, observed that the electoral rolls had become very defective due to large-scale displacement of the people because of riots. Large numbers of people had not returned to their homes out of fear and because the houses had been totally demolished, damaged or burnt. The law and order situation was not conducive for their return either.

Thus, in the post-riot situation, the electoral rolls needed revision. Many people have not been able to return to their old localities, where their names are registered as voters. If the electoral rolls were not revised, a large number of eligible voters would not have been able to exercise their franchise. At the same time, it would have given an opportunity to unscrupulous elements to cast bogus votes in their name. Electoral rolls are the basic tool for conducting free and fair elections and the E.C. has set a time schedule for updating them. Is it unfair to postpone elections in order to first update the electoral rolls?

The State Government in one of its reports claimed that the law and order situation was all right and that only 12 of the 25 districts were affected by riots. Another of its reports said a scheme to provide free rations was being run in 20 of the 25 districts, which the Government had classified as riot-affected areas. The scheme was aimed at benefiting

Gujarat not an issue before us: SC

New Delhi, Sept. 2 (PTI): The Supreme Court today virtually ruled out interfering with the Election Commission's decision to defer polls in Gujarat to November-December, expressing its inability to give its opinion on the presidential reference on the controversy by October.

A five-judge Constitution bench, headed by Chief Justice B.N. Kirpal, said: "Perhaps, November-December is (the) most likely date for holding polls. So, Gujarat is not an issue before us."

The bench separated the constitutional issues raised in the reference from the holding of polls. "We do not think it will be possible for us to say that it will be incorrect to say holding of polls in November-December will be wrong," the judges said.

Last month, the Union Cabinet had invoked the President's power to consult the apex court after the Election Commission rejected the BJP's demand for polls in October.

The Cabinet's contention was that the Gujarat Assembly had last met in early April. Since Article 174 mandates that the gap between two sittings should not exceed six months, a reconstituted House should be in place by early October.

The reference, besides other issues, had sought the court's opinion on the poll panel's power under Article 324, which gives it exclusive jurisdiction on conducting elections, and also wanted to know if Article 174 could be read in isolation.

The court posted further hearing on the reference to September 17 and asked all parties to complete pleadings by then.

It also issued notices to the Centre, the Gujarat government and chief minister Narendra Modi on a public interest litiga-

tion, which contended that under the Constitution there was no provision for a caretaker chief minister.

Solicitor-general Harish Salve, who appeared for the government, pressed for an early commencement of the hearing. The bench, which also comprised Justices V.N. Khare, K.G. Balakrishnan, Ashok Bhan and Arijit Passayat, said: "It will be our endeavour to give an opinion on the presidential reference as expeditiously as possible."

"However, if you think a decision can be given by October 2, it is impossible for all practical purposes," it added.

The judges made the outline and scope of the hearing clear. They said they would not entertain any clarification

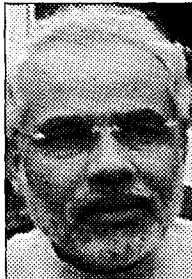
on the facts and circumstances enumerated by the poll commission for deferring the elections.

"We will proceed to hear the matter taking whatever the Election Commission has stated in its order as correct and we will not entertain any clarification," the bench said.

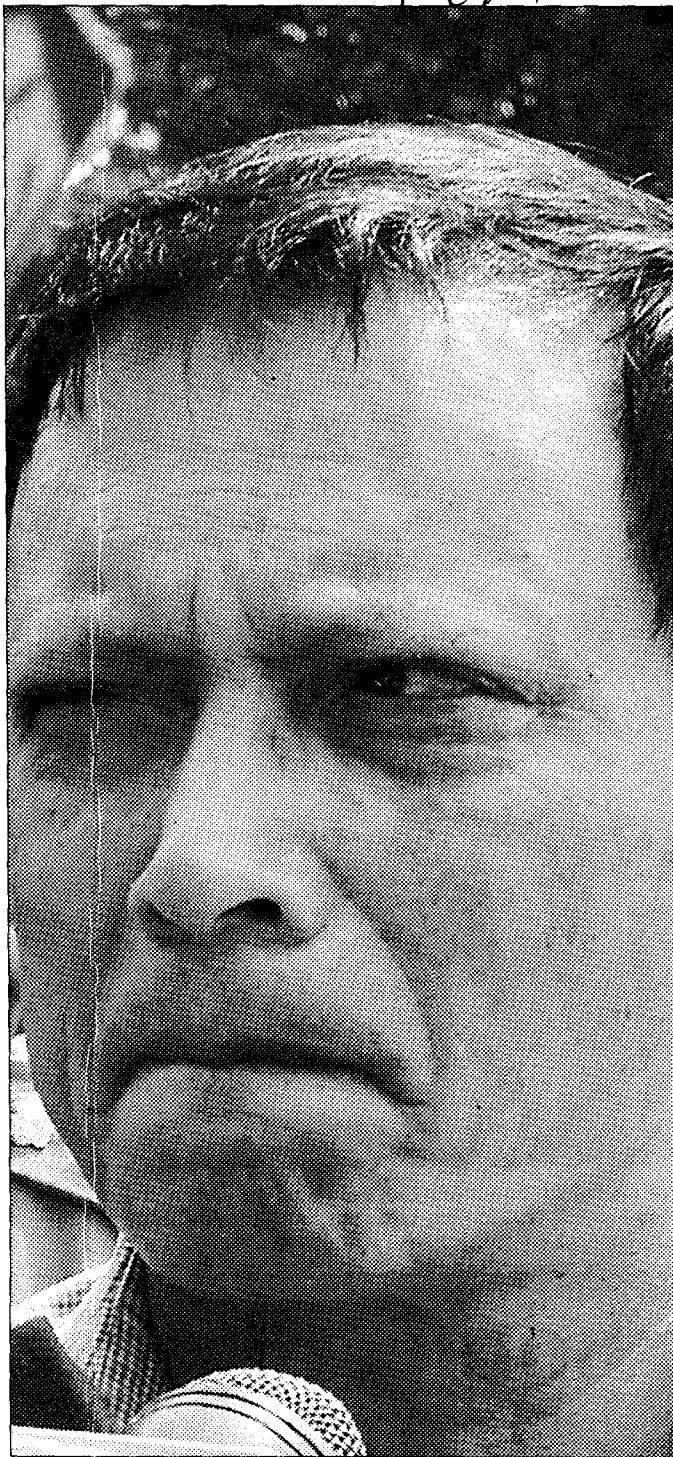
"We will hear only legal arguments pertaining to the issues raised in the reference while accepting factually whatever (the) Election Commission has said in its order." The bench also sought a clarification from the commission regarding a part of its order.

"We have not been able to understand whether it means the commission will consider a scheme in November-December for holding of polls in Gujarat or is it the time when the elections will be held," it asked.

In reply, senior advocate K.K. Venugopal, who appeared for the commission, said polls would be held in November-December this year.



Modi



Chief election commissioner JM Lyngdoh (File picture)

Mamata lauds democracy win

OUR SPECIAL CORRESPONDENT

Calcutta, Sept. 2: Trinamul Congress chief Mamata Banerjee today further distanced herself from the NDA government by hailing the Supreme Court verdict on the Gujarat Assembly polls and supporting the Election Commission's stand on this issue.

"I am happy that the apex court has virtually upheld the Election Commission's stand. This is a victory for democracy," she observed at a public rally at Esplanade this afternoon. The meeting was organised by Trinamul Youth Congress to highlight the Left Front government's "failure to solve the unemployment problem and protest against CPM-sponsored violence in rural Bengal".

Mamata also chose the occasion to recall her past differences with the Vajpayee government over the disinvestment issue. "Ours was the only party in the NDA to protest against the Centre's move to close down or sell some of the public sector units. Ours was the lone voice of protest and we were virtually isolated within the NDA over the issue. But now even NDA convener George Fernandes has been forced to raise his voice against disinvestment, thereby vindicating our stand," she asserted.

The Trinamul leader reiterated that her party was outside the NDA as the Centre had not

revoked railway minister Nitish Kumar's decision to stall Eastern Railway's bifurcation. "No one should think that our fight over the issue is over. We are going to organise a seminar on Saturday on the disastrous fallout of the bifurcation over which a number of experts and former chairmen of the railway board will speak. We will bring out a mammoth rally in the city on September 20 and observe October 1 as Black Day if the bifurcation comes into effect from that day," she said.



Mamata

Coming down strongly on the CPM-led state government for the growing unemployment problem, Mamata said her party workers would gherao the district employment exchanges on September 10.

"There is no hope for the young generation as long as the Marxists remain in power. The government is now spending Central funds to pay salaries to its employees. But a time will come soon when they will have to go without salaries," she observed.

Describing the Kamtapur Liberation Organisation and the People's War as the CPM's "creations", Mamata alleged that the chief minister had directed the police to harass Trinamul workers in the name of suppressing these outfits.

"It is the CPM which had offered arms to these organisations before the Assembly polls to kill and drive away our party workers in different districts," she said.

The EC and Gujarat polls

By Aladi Aruna

The Presidential reference to the Supreme Court under Article 143 on early elections in Gujarat is a constitutional measure to remove the deadlock caused by the Election Commission (EC). The EC's stance against early elections in October and the reasons stated thereof are unprecedented, unforeseen and unheard of since the commencement of the Constitution. In the past, the EC has postponed elections beyond six months in certain States only after the imposition of the President's rule under Article 356. But this is the first time it has taken such a decision ignoring Article 174 and the facts that the State is not under President rule.

No doubt the EC has been vested with powers under the Article 324 for "the superintendence, directions, control of the preparation of... electoral rolls and the conduct of elections". It does not mean that it could conduct the elections only in accordance with its own decision and convenience. The power of conducting the elections invested with the Election Commission is not at all absolute and untrammelled. It has to exercise its power subject to the other provisions of the Constitution.

In Gujarat, the party which enjoyed the confidence of the Assembly with absolute majority decided to dissolve the Assembly and advised the Governor accordingly. The Governor accepted the advice of the Council of Ministers and dissolved the Assembly as per the Constitution.

The demand for early polls was endorsed by the Union Government when the Gujarat crisis was discussed and debated in Parliament. The Opposition demanded the imposition of President's rule but it was rejected by the treasury bench. In other words, Parliament did not favour the imposition of President's rule.

In spite of all these facts, the EC has refused to hold the election as demanded by

the State Government. This stance is not only against the Centre and the State but also a challenge to the Centre's authority.

Though the founding fathers of our Constitution failed to incorporate an article specifying a period to hold elections after dissolution, Article 174 reveals their noble intention on the sitting of the session. Article 174 unambiguously says that while the Governor summons the House from time to time, six months shall not intervene between the last sitting of one session and the date appointed for its sitting in the next session.

After dissolution of the Assembly, if Article 356 is invoked, the executive functions

OPINION

would be carried out by the President through the Governor with the cooperation of advisers, and the legislative functions would be seized by Parliament.

But in the absence of President's rule, there will be a session before the end of six months. To meet this constitutional obligation, it is the bounden duty to hold elections to enable the Assembly to meet within six months.

In the case of Gujarat, the last sitting of the Assembly was on April 6. So, it is the EC's responsibility to hold the elections to enable the Assembly to be summoned on or before October 6.

Contrary to the provisions of the Constitution and the expectation of right-thinking people, the EC is reluctant to hold the elections under the pretext that the law and order situation is deplorable, that the wounds of the people due to communal violence have not yet been healed and that the electoral rolls have not been updated because of the displacement of thousands of voters.

If the situation is not conducive to holding the polls, the EC should have sought the cooperation of the State Government to ex-

pedite the relief and rehabilitation work and employed more officers to update the electoral rolls. It is the EC's prime duty to keep the rolls updated and to hold the elections anytime in any State. The Gujarat Government cannot be blamed for the EC's failure in preparing the electoral rolls and keeping them updated. Moreover, the EC has stated that it would be possible to hold the election only in November or December. In this context, we cannot forget the fact that Governor, S.S. Bhandari, has asserted that a normal situation prevails in the State for holding free and fair elections. While the executive head of the State who is closely associated with the administration has justified the claim of early polls, how can the Election Commission, which visited the affected areas and stayed for a few days in the State, take a different stance ignoring the recommendation of both the Centre and the State?

The EC's refusal to hold elections against the decision of the Cabinet or to ask for more time so as to invoke Article 356 is a deliberate attempt to transgress the executive jurisdiction of the States. It may be argued that the Council of the Ministers headed by Narendra Modi is trying to exploit the communal riots for strengthening the BJP. This may be true to some extent, but no political party is free from such a charge. In politics, one party's difficulties are another's opportunities. This is always prevalent in a democracy.

Article 356 has been abused on so many occasions. The Governors, the Union Governments and the pressure of certain political parties are mostly responsible for the invocation of Article 356. Now, to our shock and surprise, the Election Commission, which is no way connected with political issues, is asking for President's rule challenging the authority of both the Union Government and the Gujarat Government.

(The writer is a former Law Minister of Tamil Nadu and former MP.)

SC sets out to clear Gujarat's electoral mess

27/8
By Rakesh Bhatnagar
TIMES NEWS NETWORK

27/8
New Delhi: A constitution bench of the supreme court on Monday issued notices to the Election Commission, all state governments and the six recognised national political on the Presidential reference seeking its opinion on the controversial issues arising out of the EC's refusal to order polls in Gujarat before November.

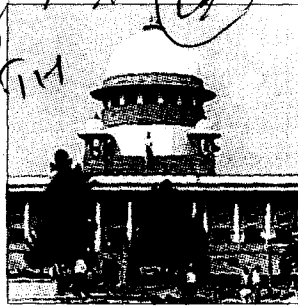
A five-judge bench, comprising Chief Justice B.N. Kirpal, Justice V.N. Khare, Justice K.G. Balakrishnan, Justice Ashok Bhan and Justice Arijit Pasayat, fixed Thursday for working out a time-table for hearing of the three-point reference.

When the Centre's counsel, solicitor-general Harish N. Salve, said that under Article 174 of the Constitution the Gujarat assembly had to be reconstituted by October 2, the bench said: "You don't worry about that for the time being. We will work out a time schedule for hearing of the reference on Thursday."

The six national political parties to whom notices were issued are the Congress, BJP, CPM, CPI, Nationalist Congress Party and BSP. Except the BSP, the others accepted the notices in the court.

The court has already issued notices to attorney-general Soli J. Sorabjee and Mr Salve. The law ministry had specifically told the SC registrar-general that Mr Salve would represent the Union government in the reference matter.

Although the Centre wanted an early opinion on the first reference made by President A.P.J. Abdul Kalam, a counsel associated with the EC said that to hold elections in a state, the commission required at least two months' time to complete the election process. In other words, elections in Gujarat would not be



The six national political parties to whom notices were issued are the Congress, BJP, CPM, CPI, Nationalist Congress Party and BSP

possible by October 2, assuming that the proceedings involving such constitutional issues which affect parliamentary democracy are over at the earliest.

On the other hand, Chief Justice Kirpal is due to retire on November 8. The SC will have Diwali holidays from November 2 to 9. Prior to it, the court will be closed for nine days in September and 15 days in October.

Therefore, the court's opinion must be pronounced by November 1, the last working day for Chief Justice Kirpal, otherwise the entire proceedings will have to be reheard.

The reference relates to whether Article 174 is meant for the existing house or the dissolved assembly also; whether the EC is under constitutional obligation to hold elections under Article 324 since Article 174 suggests that there should not be a gap of more than six months between two sessions; and, can the EC recommend imposition of President's rule under Article 356, a power vested in the governor alone, if elections are not possible within six months of the last assembly session.

27 AUG 2002

PM regrets Gujarat row

STATESMAN NEWS SERVICE

NEW DELHI, Aug. 24. — The Prime Minister today stepped in to end the ugly controversy over the Gujarat chief minister's attack on the Chief Election Commissioner, Mr JM Lyngdoh. Disapproving of Mr Narendra Modi's remarks, Mr Atal Behari Vajpayee said no one should use "improper language or make indecorous insinuations" while expressing views on the EC's decision on Gujarat.

In a statement, he urged democratic institutions to work within their constitutional limits and appealed to "all for an immediate end to this controversy".

Mr Modi had attacked Mr Lyngdoh at a recent public rally for deferring elections. He said Mr Lyngdoh, being a Christian, was biased towards the minorities.

The Prime Minister's statement

said: "One may have differences over the decision or the attendant observations of the Election Commission with regard to the Assembly polls in Gujarat. There are constitutional means to deal with such matters... But no one should use improper language or make indecorous insinuations in expressing their views. It must be recognised by one and all that the maturity of our democracy lies in all its institutions working within their constitutional limits, respecting each other's domain and maintaining a proper balance." Mr Vajpayee said he was distressed by the controversy involving the CEC and Mr Modi.

The Lok Sabha Deputy Speaker Mr PM Sayeed described Mr Modi's remarks as "unconstitutional" and said the EC had ruled out early polls in the state only after studying the ground realities, PTI adds from Kochi.

25 AUG 2002

PM censures Modi for remarks on CEC

25/8 11-1
New Delhi: In a virtual disapproval of Gujarat chief minister Narendra Modi's attack on Chief Election Commissioner (CEC) J.M. Lyngdoh, Prime Minister Atal Behari Vajpayee on Saturday said no one should use "improper language or make indecorous insinuations" while expressing views on the Election Commission's decision on Gujarat.

However, trying to do a balancing act, Mr Vajpayee added that democratic institutions must work within their constitutional limits, and appealed to all concerned for an immediate end to "unseemly controversy".

In a bid to douse the raging contro-

versy that has arisen following Mr Modi's attack on Mr Lyngdoh and his reference to his religious background, Mr Vajpayee issued a statement which noted, "One may have differences over the decision or the attendant observations of the EC with regard to the assembly polls in Gujarat. There are constitutional means to deal with such matters. No one should use improper language or make indecorous insinuations in expressing their views. It must be recognised by one and all that the maturity of our democracy lies in all its institutions working within their constitutional limits, respecting each other's

domain and maintaining a proper balance."

Stating that he was distressed by the undignified controversy, Mr Vajpayee added, "Both are high constitutional authorities and they must be given the respect that is their due."

Meanwhile, the row intensified on Friday, with opposition parties assailing the Gujarat chief minister. However, an undaunted Mr Modi launched a fresh diatribe against the CEC. But Mr Lyngdoh hit back at him, saying, "It is quite despicable. I can say that it is a gossip of menials who have not heard of atheism." PTI

2 APR 2001

Modi: Enemy Of The People

Attack despicable, says Lyngdoh

Our Political Bureau
NEW DELHI 23 AUGUST

CHIEF Election Commissioner J.M. Lyngdoh on Friday termed as "despicable" the personal attack mounted on him by Gujarat chief Narendra Modi, even as the latter appeared unrepentant and continued to question the EC's use of different yardsticks for J&K and Gujarat.

Reacting to Mr Modi's remarks repeatedly referring to his being a Christian and his alleged proximity to Congress chief Sonia Gandhi, Mr Lyngdoh told a television channel that "these remarks reflect how cruel the polity is."

He, however, made it clear that such utterances would in no way affect the functioning of the EC. "I don't have any religion. I couldn't care less," he said, adding religions have created all these problems.

On the demand for holding J&K Assembly polls under governor's rule, Mr Lyngdoh

echoed the views often expressed by his predecessor M.S. Gill that governor's rule must be imposed in a state two months before it is to go to polls, subject to "proper" choice of governors in consultation with the Opposition.

On his part, Narendra Modi, when asked for his reaction to Union HRD minister M.M. Joshi's statement that his remarks against the CEC were uncalled for, said: "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." While maintaining that he did not mean any disrespect to the constitutional body, Mr Modi said he found the move of not holding early elections in Gujarat part of a conspiracy to defame the state.

"Yeh ek swabhavik aakrosh hain (this is natural anger that people of Gujarat have against the move of not holding early elections in Gujarat)," he said.



24 AUG 2002

EC's defence will rest on human misery

By Akshaya Mukul
TIMES NEWS NETWORK

New Delhi: The Election Commission's arguments in the supreme court on the Gujarat election issue will emphasise the "graphic details" of human misery at the ground level in Gujarat, which is "far from normal", as well as the state government's "unconstitutional" postponement of municipal elections from June to October. This was stated by sources close to the EC on Friday.

Under attack from several quarters, the EC will also emphasise before the apex court the fact that though the three election commissioners were unanimous in their view that elections should be postponed, Chief Election Commissioner J.M. Lyngdoh was being unfairly targeted, with even his reli-



J.M. Lyngdoh

gion being turned into an issue by the Gujarat government. The other two election commissioners had not uttered a word of dissent, yet the EC was being "subjected to humiliation" from the Gujarat chief minister and his party. The commission will ask the apex court whether this is justifiable.

Constitutionally, the EC will iterate that an "election is not a ritual" and the "most important thing is to hold free and fair elections". The EC, while admitting that normally elections should be held in six months, will remind the SC that these were suspended in the case of Goa in 1999. The constitution has to come to the aid of ordinary voters in Gujarat.

At the same time, the EC will point out how the state government has been systematically deferring municipal elections due in February 2002. Section 243 of the constitution specifically says that the new municipal body should be constituted before its duration expires.

The EC will also contest the Gujarat government's view that panchayat elections in April were free

Advani says Gujarat is blot on govt

TIMES NEWS NETWORK

London: Nearly six months after Gujarat began to burn, deputy Prime Minister L.K. Advani said sorry it had happened at all, and described it as "indefensible" and "a blot on my government".

Mr Advani's apology was delivered here on Thursday night before the critical gaze of a packed room of journalists, even as secularist South Asian campaigners conducted a noisy street protest just yards away against the man they described as a "murderer", "author of Gujarat" and "ruthless exploiter of religious minorities".

and fair. Of the 1,677 panchayats, 620 went uncontested and were rewarded by the government with cash prizes. Was it free and fair, the EC will ask.

However, the core of the EC argument will be to demolish the Gujarat government's claim that the situation has improved. It will cite the example of villages like Maretha and Maneja in Baroda where the villagers openly said that they had asked their Muslim neighbours not to come back. In both these villages, two EC teams saw rows and rows of Muslim houses burnt.

In fact, when the EC team led by Mr Lyngdoh went to Maretha, the villagers told him that only Muslims with land would be allowed to come back. Inquiries revealed that barely a few have land. In Maneja, only two of the 56 families have returned. The EC team also found that not more than ten to 15 per cent of the Muslims had returned to their villages in Godhra and Dahod. "Where have all the victims gone?" the EC plans to ask.

Despite the Modi government's claims that there is no camp in Godhra district, the EC team found 250 families belonging to Darol and Delol living in pitiable conditions in a camp in Kalol.

24 AUG 2002

Modi launches tirade against CEC

By Manas Dasgupta

7 Election (CEC)
AHMEDABAD, AUG. 22. Even as the Gujarat Chief Minister, Narendra Modi, has launched a scathing attack on the Chief Election Commissioner, J.M. Lyngdoh, for refusing to comply with his demand for early elections to the State Assembly, the recovery of two skeletons from an underground gutter in Ahmedabad has raised fresh questions about the communal riots.

The recovery of the two skeletons from a gutter in Rakhial, one of the worst-hit labour-dominated localities in eastern Ahmedabad, has forced police to draw a fresh list of the persons claimed missing since the riots and to renew an intensive search to trace them. The government has been vehemently denying claims of any more person missing.

The skeletons were found by conservancy workers of the Ahmedabad Municipal Corporation (AMC) earlier this week, during a routine cleaning of the gutters. The cleaning operations are normally carried out before the monsoon but this year it was delayed both due to the riots and also because of lack of rains.

Two pairs of torn trousers and a piece of cloth, purported to be part of a shirt, recovered near the skeletons helped in their identification. The skeletons were identified by the parents of two teen-aged youths, Shahnawaj Mohammad Iqbal and Mohammad Shabir Ahmad, both residents of Rangwala Chipa ni Chali in Rakhial. The parents said the boys left home on the morning of February 28, the first day of the post-Godhra riots, to call on some friends in a hospital and never returned.

The parents had long back lodged complaints with police about their wards missing. The Muslim leaders claim that at least 500 people were still "missing". Some of them might have gone to stay with their friends and relatives in other States and a few youths are reported to have crossed the border to join militant outfits in Pakis-

tan, but the probability of a large number of them having been killed and their bodies dumped somewhere could not be ruled out.

The Congress-controlled AMC has agreed to launch gutter-cleaning operations in a big way in other riot-affected parts of the city for possible skeletons. The State Government, all these months, maintained that all the citizens had been accounted for and there was none "missing."

The list of the "missing" persons was among the reasons cited by the Muslim organisations and other non-government bodies, during the visit of the full team of the Election Commission earlier this month, to oppose the ruling BJP's demand for early elections. The Congress also was in favour of a thorough revision of the electoral rolls in the post-riot period.

This, however, did not matter to Mr. Modi and his Cabinet colleagues, who claimed that the CEC was "biased" against Gujarat in denying early elections, while agreeing to hold elections in many other States where the law and order situation was more alarming.

Mr. Modi, while addressing rallies in small towns and villages, is referring the CEC by his full name — James Michael Lyngdoh — apparently to drive home the point that he is a Christian and therefore "all his sympathies lie with the minorities against the interests of Hindus". He even suggested that the CEC might have been influenced by the Congress president, Sonia Gandhi, because she was also a Christian.

Mr. Modi also attacked Mr. Lyngdoh for his decision against early elections on the ground that the situation was not being "conducive" and said by the standards set by the CEC, even ordinary criminals would be able to stop elections in any State.

"What all one needs would be to give contract to some bootleggers and criminals to kill a few people, set fire to some houses and burn a few shops and Mr.

Lyngdoh will stop elections," Mr. Modi told a rally at Bodeli in Vadodara district. "It will be a simple formula for anyone who wants to defer the polls in a State," he added.

Wondering what standard the CEC had adopted in the State to put off polls, the Chief Minister also said: "Anyone who sees such a huge gathering here cannot say that the situation is not conducive to holding elections in the State."

His vitriol against the CEC and insinuations against Ms. Gandhi were condemned by the former State Congress president, Amarsinh Chaudhary — a former Chief Minister — who said that such remarks against a constitutional authority and the leader of a major political party were not befitting a Chief Minister.

Mr. Chaudhary said that it was unfortunate that Mr. Modi tried to drag in even the Congress president though she had nothing to do with the CEC's decision. He said Mr. Modi would not have made such remarks against Mr. Lyngdoh if he had seen his own Home Ministry's reports about the communal riots in which the State administration had admitted to its widespread impact. Mr. Chaudhary also regretted Mr. Modi's comparison of a constitutional authority like the CEC with "bootleggers" and "ordinary criminals" to belittle the Commission's considered conclusion to defer the polls in the State.

Madhusudan Mistry, Congress MP and close confidant of the State unit president, Shankarsinh Waghela, also condemned Mr. Modi's remarks and said the BJP was trying to denigrate the office of the CEC just because he refused to toe the ruling party line.

Another MP and general secretary of the Indian Union of Muslim League, E.I. Ahmed, who was on a visit to the State, regretted the BJP's attacks on Mr. Lyngdoh and said the ruling party was treating "India as part of Gujarat rather than Gujarat being a part of India."

SC receives reference on EC

21/8
 9 Election (ch)

HT Correspondent & PTI
 New Delhi, August 20

A SUPREME Court Bench comprising five judges is expected to be constituted to take up the presidential reference seeking the apex court's opinion on three questions concerning the legal validity of the Election Commission's order deferring Assembly polls in Gujarat. The apex court received the reference this morning.

Registrar (Judicial) R C Gandhi said the court has received the presidential reference and steps were being taken to place it before the Chief Justice, who alone was empowered to constitute a suitable Bench for hearing of the matter. Incidentally, Chief Justice B N Kir-

of an Assembly is subject to the EC's order under Article 324?

The second poser is whether the EC, under Article 324, can frame a poll schedule on the premise that if the time frame provided under Article 174 is not complied with, then the President can step in under Article 356.

The third question is whether the EC is bound by the mandate of Article 174 for conducting elections before the lapse of the six months gap (between two Assembly sessions) by using forces and resources necessary to hold free and fair elections.

Sources said the Cabinet did not object to the EC's assessment of law and order, but had taken strong exception to its interpretation that Article 174 would yield to Article 324.

Ramifications of Poll Panel order

- The EC said Art 174 has to yield to Art 324 in Gujarat. Does this mean the 6-month time frame under Art 174 for holding two Assembly sessions is subject to the EC order under Art 324?
- Can the EC, under Art 324, frame a poll schedule on the premise that if the time frame under Art 174 is not complied with then the President can step in under Article 356?
- Is the EC bound by the mandate of Art 174 for conducting polls before the lapse of the six months by using forces and resources necessary to hold free and fair elections?

pal and Registrar-General L C Bhadoo are out of town leading to a flurry of activities in the court registry. Chief Justice BN Kirpal will constitute the Bench to deal with the reference after it is placed before him.

7/12/20
CEC

Security scenario in J&K good, says Lyngdoh

11/2/02

By Our Staff Reporter

JAMMU, AUG. 19. The Chief Election Commissioner, J.M. Lyngdoh, today said the security scenario in Jammu and Kashmir was good and very much conducive for holding free and fair elections.

The CEC, who along with the two Election Commissioners, T.S. Krishnamurthy and B.B. Tandon, arrived here this afternoon to review the poll preparations, told reporters that the EC reviewed the security situation in the presence of senior security officials of the State and it was inferred by the Commission that conditions were conducive for holding the polls.

He said the elections would be held as per schedule and all possible measures taken to ensure free and fair polls. "The situation in J&K is under control and manageable," he asserted.

Describing his visit to the Kashmir valley as "very encouraging" he said it had ensured tightening of things for holding free and fair elections.

On the demand for foreign observers during the polling, he said, "the country does not need foreign observers to certify the fairness of the poll in the State. The Commission is capable of ensuring free and fair polls".

He criticised the Jammu administration for anomalies in

the voter list. "When all other districts of the State had managed to update the voter list, why did the local administration fail to do so," he asked.

The demand of political parties for electoral rolls in Hindi would be conceded, he said.

On the Opposition parties' fear of rigging during the polls, the CEC said, "We have to do our job and we will do it firmly well."

The CEC visited the border areas of R S Pura, including the camps of migrants. Government sources told *The Hindu* that the CEC would visit the camps of Kashmiri Pandits tomorrow.

20 AUG 2002

J&K polls to be held on schedule: EC

HT 6
27/8

HT Correspondents
Srinagar/Jammu, August 19

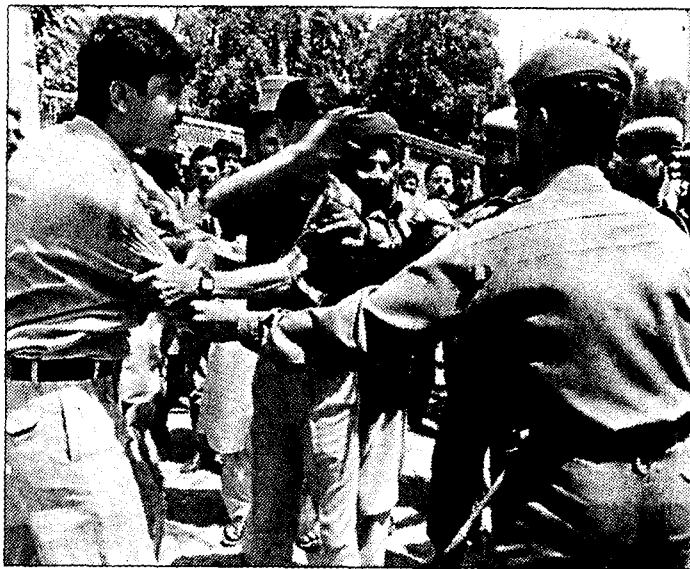
AMID WIDESPREAD speculations of deferment of polls, the Chief Election Commissioner J. M. Lyngdoh today said the elections in Jammu and Kashmir would be held as per schedule and the Commission was ready for polls in the State. He said the notification of the first phase would be issued on August 22.

Commenting upon the recent statement of the chief of Kashmir Committee Ram Jethmalani seeking postponement of the polls for wider participation, the CEC replied cryptically "We are not politicians. We are going for election the first notification of which would be declared on August 22" he added.

Lyngdoh, in the company of two Election Commissioners, B B Tandon and T S Krishnamurthy are currently on a 3-day visit of the State to review the preparation for the upcoming Assembly elections.

Lyngdoh said that he had taken stock of the situation and discovered that the time was appropriate for elections. He also claimed that the voters would get adequate security to vote without fear.

Earlier, he arrived Jammu from Kashmir after his one-day visit to observe the security and polling arrangements in Jammu region. He is scheduled to meet senior police and election observers who are here in the state keeping eye on the polling process in the region.



Policemen scuffle with Youth Congress activists who tried to rally in Srinagar on Monday demanding President's rule.

In Srinagar, the EC held extensive meetings with army, paramilitary, police and civil officials soon after their arrival on Sunday evening. The Commission also held a meeting with the deputy commissioners of all the districts of the valley today.

After meeting with the deputy commissioners, who are also district Election Officers for their respective districts, Lyngdoh told media persons "everyone is ready for elections. We are fully prepared". He said that for the fair and free conduct of the exercise, CEC said that Electronic Voting Machines would be used in polling for all the 87 Assembly seg-

ments of the State.

Chief Electoral Officer Pramod Jain also ruled out any change in the poll schedule. He said that 5,000 poll staff, trained in using Electronic Voting Machines, would be borrowed from UP and Punjab to assist the local staff. Jain said that every polling booth would have four officials—two locals and two outsiders.

Jain also referred to gross mistakes in electoral rolls and said, "We are in the process of rectifying them". He, however, admitted that a margin of some error must be left in these "when we are doing such a huge exercise".

20 AUG 2002

Govt taps Kalam to sound SC on polls

Atal against confrontation with EC on Gujarat

HT Correspondent
New Delhi, August 18

THE CENTRE today found a way of sounding out the Supreme Court on the Gujarat poll controversy without filing a case against the Election Commission and risking defeat.

The Union Cabinet, at an emergency meeting called by the Prime Minister, decided to refer the matter to the President so that he can seek the apex court's advice on whether the commission was right in ruling out early polls.

At the meeting, many ministers reportedly suggested that the poll panel decision be challenged in the Supreme Court. But they were overruled by Vajpayee who wanted a "restrained and dignified" approach instead of a confrontation.

Besides, an adverse verdict in such a case would deeply embarrass the Government which is already under fire from a belligerent Opposition on the Gujarat riots and the series of scams.

Following today's Cabinet decision, the President will pose before the Supreme Court a constitutional teaser: Do the provisions of Article 174 hold under all circumstances?

The Article lays down that any Assembly must meet at least once every six months. Since the Gujarat House had last met on April 4 before it was dissolved, the deadline expires in the first week of October. What the Government wants to know from the

FEELING THE PULSE

WHAT THE EC SAID
Under extraordinary circumstances, Article 174 must necessarily yield to Article 324

ARTICLE 174 SAYS
There should not be a gap of more than six months between two successive Assembly sessions

ARTICLE 324 GIVES
The poll panel the sole discretion for conduct of elections

WHAT THE CABINET DID
Make a presidential reference to seek the Supreme Court's counsel on whether Article 174 is binding in all circumstances

HOW WILL THAT HELP THE GOVT?
This helps the Govt to gauge the Supreme Court's stand before deciding whether to challenge the poll panel decision in court

court is whether the commission is obliged to hold elections before that.

The poll panel concedes the validity of the Article, but argues that under extraordinary circumstances, Article 174 must yield to Article 324 which makes the commission the sole authority on the conduct of elections.

On the other hand, the panel holds that Article 174 does raise problems about a Government continuing in office without the Assembly meeting for six months. Its solution: President's rule.

Both these issues — relating to the delayed polls and President's rule — will be sorted out once the Supreme Court gives its opinion on Article 174 following the presidential reference, Information and Broadcasting Minister Sushma Swaraj told reporters.

The wording of the reference will take time, and it will be sent to President APJ Abdul Kalam on Monday.

The Minister was asked if there was a deadline within which the court must give its opinion. She said this is implicit in the Presidential reference itself, and the court knows how urgent the matter is with the October deadline approaching.

Swaraj said the EC decision to rule out early elections has raised "crucial constitutional questions of far-reaching implications" that go beyond the Gujarat poll dispute.

"This is not only a question of Gujarat," she said. "If the Government agrees (to the poll panel recommendation for President's rule in Gujarat) now, then a precedent will be set. Whenever the EC cannot hold elections, it will ask for imposition of Article 356."

Soon after the Cabinet meeting, Law Minister K Jana Krishnamurthi met Gujarat Governor SS Bhandari in Delhi. The Minister, who had on Saturday argued against going to court on the Gujarat polls issue, said the Government does not agree with the EC recommendation for President's rule in the State.

Related report on Page 7

19 AUG 2002

ALL OPTIONS ARE OPEN: JAITLEY

Election Commission order unconstitutional: BJP

By J. Venkatesan

NEW DELHI, AUG. 17. The BJP today reacted strongly to the Election Commission's order to defer the Gujarat Assembly polls, saying that it was contrary to the constitutional provisions and that the party "is not convinced with the substance of the reasoning given by the Commission".

The party general secretary, Arun Jaitley, told presspersons "the BJP's opinion is that the Commission's order disregards the primacy of the constitutional mandate under Article 174 (under which there should not be more than six months between two Assembly sessions)".

On the Commission's contention that the decision was taken in exercise of its functions under Article 324 of the Constitution, Mr. Jaitley said it was only an executive order.

And "powers under Article 324 can never be exercised by the Commission in derogation of a statutory provision".

Asked whether the BJP would challenge the order in the court, he said "all options are open" and the party would examine them and decide the course of action. Any order of a constitutional authority could be challenged and this order did not have a strong constitutional reasoning.

Charging the Commission with creating a "constitutional anomaly", Mr. Jaitley said a constitutional authority should act in accordance with the Constitution and not "engineer a crisis".

"The BJP hopes that the Commission will realise the

consequences of its order and untie the knot".

"The party did not want a situation where a Chief Minister is in power without being answerable to the State Assembly or any authority for more than six months. The Commission should have considered this aspect and ordered elections to enable a new Government to be in power before October 6."

Reiterating the party's stand on holding early polls, he said that the past unrest or tensions were not a weighty ground to defer elections, contrary to the letter and spirit of Article 174.

"We have precedents of holding elections in Punjab, Assam and Manipur, and in Delhi in 1984 within 45 days of the massacre in which over 3,500 were killed". The language of the Constitution was common for all States, whether it was Jammu and Kashmir, Assam or Punjab.

Maintaining that there was no constitutional breakdown in Gujarat warranting postponement of polls, he said if such

reasons were given it would establish a wrong precedent which could have serious implications.

Mr. Jaitley was categorical that the Commission could exercise its powers under Article 324 in "unoccupied space" or in circumstances when no provision existed. But in this case as Article 174 existed, "an authority has to be guided by the Constitution and not in derogation".

Referring to the Commission's observation that President's rule could be imposed in Gujarat after October 6, Mr. Jaitley said "powers to impose President's rule under Article 356 was not with the Election Commission but with Parliament, which has to ratify it".

The Congress and other parties, celebrating the order, were only delaying their date of defeat and the BJP would emerge victorious whenever elections were held, he said.

BJP moves exposed, says CPI(M): Page 8

Cabinet meeting today

By Harish Khare

NEW DELHI, AUG. 17. The Prime Minister, Atal Behari Vajpayee, has summoned a meeting of the Union Cabinet tomorrow morning to formulate the Government's response to the Election Commission's "no early elections" decision in Gujarat.

Indications are that the Cabinet would want to suggest that the Election Commission has exceeded its institutional jurisdiction when it came close to suggesting that Gujarat be brought under Article 356.

Supporters of the Gujarat Chief Minister, Narendra Modi, in the Union Cabinet are inclined to confront the Election Commission. They want the Cabinet to provide some aid and comfort to the beleaguered Chief Minister.

Shekhawat

9- Bleed C P wins on 571 cross-votes

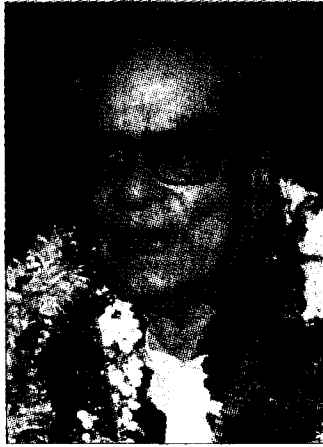
Statesman News Service 1378

NEW DELHI, Aug. 12. — A Mamata-less NDA was today aided in the vice-presidential elections by a fractured Opposition which helped its nominee, Mr Bhairon Singh Shekhawat, win by a record 149 votes.

Mr Shekhawat received 57 more votes than expected (given party break-ups in Parliament), a result of massive cross-voting, mainly by Congress MPs. His tally was 454 votes. Congress nominee Mr Sushil Kumar Shinde, who was supported by all Opposition parties including the Left and Samajwadi, received 305 votes.

Returning officer Mr GC Malhotra, who declared Mr Shekhawat elected as Vice-President, said 22 MPs abstained from voting, including the nine of the Trinamul. Of the total vote count of 766, seven were invalid, compared to 42 invalid votes in the presidential elections last month.

Of 57 Opposition MPs who voted for Mr Shekhawat, "as many as 32 were Congress MPs", sources close to Mr Shekhawat said. Asked to comment, Con-



gress spokesman Mr S Jaipal Reddy refused to accept that party unity was fractured, but could not explain Mr Shekhawat's huge margin.

NDA sources attributed the impressive Opposition defection to two factors. First, Mr Shekhawat carried his canvassing right into the Opposition camp by personally contacting those Opposition MPs with whom he was on close terms. Secondly, in his long political career "he has earned the goodwill of almost all Rajput leaders of the country cutting across party lines". Some NDA leaders said most of all Rajput MPs voted for Mr Shekhawat.

Rajasthan Governor Mr Ansuman Singh, who is in the Capital, was among the first to congratulate Mr Shekhawat. But state chief minister Mr Ashok Gehlot, also in the Capital, decided against the same.

Mr Anil Biswas dismissed the Trinamul's abstention as a "non-event". "What's so new about the tactic?" he asked, adding the CPI-M is keenly waiting for her decision over quitting NDA, SNS reports from Kolkata.

Ringside view of V-P nolls. page 6

Reminding the EC of its job

12/8 By Kuldip Nayar 10-11

Institutions are the blood of a democratic polity. If their independence is questioned or sought to be watered down, they begin to wilt. Their functioning is affected. This is what happened during the Emergency. The institutions which should have stood up to authoritarianism became themselves an instrument to carry out even the wishes of the rulers. Arun Jaitley, BJP spokesman, who himself suffered during the Emergency, does not have to be told this.

The Central Election Commission is one of the institutions which reflect the nation's free functioning. It cannot be treated in a cavalier manner. I am grieved over the remarks which Mr. Jaitley has made. What does he mean when he says that the Election Commission should concentrate only on holding elections? It is like saying that the judges must give their judgments. Has this to be told? It is their job.

What else has the Election Commission been doing, other than concentrating on the polls. It sent a Central team to Gujarat to assess the situation on the ground. After

receiving its report, the Commission has followed it up with a visit of all the three members to Ahmedabad.

That a former Law Minister, whose portfolio included the Election Commission, should remind the Commission to hold elections is unfortunate. Is he questioning its judgment or is he trying to influence it? Still worse, if he is telling the Commission:

OPINION

'Watch out', it is intimidation. He is a young, clean politician. But discretion should be as much part of him as articulation.

Elections are not an end in themselves. They are a means to an end. They are meant to find out from the voters which set of rulers they want at a particular time. If the polls are not free, the very purpose is lost. True, the BJP wants to sanctify the carnage through the polls. But the Election Commission's job is to find out whether there are conditions prevailing where the voters are in a position to express their

opinion freely. Mr. Jaitley's statement that relief camps should do their jobs raises a counter question — whether the Government is permitting conditions for a free and fair poll. If rehabilitation had been alright, the discussion on the postponement of elections would not have arisen. From the reports the National Human Rights Commission, the Editor's Guild and other organisations have published, it is clear that the relief and rehabilitation is far from complete. It is the State which is really responsible for the mess. It cannot be cleared by Mr. Jaitley however blind support he gives to the Chief Minister, Narendra Modi.

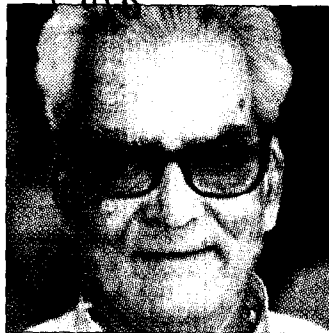
Whether the elections should be held by October or not is a matter of the Constitution's interpretation. I am not a legal expert. Ultimately, the court may have to decide the matter if it comes to be contested. But there cannot be two opinions that thousands of voters are even afraid to stir out from the places where they have taken shelter. How are they expected to go to the polling booths? Mr. Jaitley's party should be thinking of that instead of reminding the Election Commission of its job.

BJP beats Cong Dalit gambit

Saroj Nagi and Hemendra Singh Bartwal
New Delhi, August 12

HIS VICTORY was a foregone conclusion. But senior BJP leader and former Rajasthan Chief Minister Bhairon Singh Shekhawat went through some tense moments before making the grade as Vice-President elect. He defeated his Congress rival Sushil Kumar Shinde by a convincing margin of 149 votes to become the first BJP leader to occupy the country's second-highest constitutional post. Shekhawat will be sworn in on August 19.

But until his cell-phone rang at around 7 pm giving him the good news, Shekhawat, a veteran of many an electoral battle, sounded a bit nervous. "Popular elections are a different ballgame. One can sense the trend in public meetings. But reading the MPs' minds is another mat-



Bhairon Singh Shekhawat

FOR 454

AGAINST 305

ter altogether," the 79-year old leader told *Hindustan Times*.

The victory, he knew, was his. What seemed to weigh heavy on Shekhawat's mind was the margin. Not the least surprising therefore that his body lan-

guage changed altogether on getting to know that he had trounced Shinde by getting more than his share of committed votes.

"I was in politics to make friends, not enemies. I am happy that my friends have stood by me," Shekhawat said after being declared elected. But some political observers believe that caste loyalty played as much a role in Shekhawat's victory as his personal equations. There were many stalwarts in the Opposition ranks with whom the BJP leader has maintained a strong rapport.

From the outcome, it seems the Opposition's strategy to lure the Dalit MPs, numbering around 150, did not succeed. However, Shekhawat, too, did not get the full support of his 90 Rajput clansmen in the two Houses. Had that been so, the BJP leader would have won by a still bigger margin.

P. Bhattacharya
(S.C.)

EC in focus

5-9
1978

Lyngdoh and colleagues deserve every support

Arun Jaitley, notable lawyer, former Law Minister with a good record in contributing to the selection of judges in the superior judiciary, rising star in the BJP firmament and currently a party general secretary must expect to be criticised for his unwarranted comments on the visit of the Election Commission to Gujarat and the forthright criticism of bureaucrats clearly attempting to mislead the Chief Election Commissioner and his companion Commissioners. Jaitley neatly and wrongly says that it is not the CEC's job to comment on relief and rehabilitation of riot victims. That is not the issue. The issue is to ascertain whether conditions are conducive to the holding of free and fair elections and the gross attempt to prevent them from doing their duty. The list of voters, whether voters are in a fit condition to exercise their franchise, the question of identity cards and other proof of identification not being available for reasons well known, whether the level of intimidation of the traumatised voters will allow them to exercise their votes in a meaningful manner are among the aspects that it is clearly within the prerogative of the CEC to determine.

Mr Lyngdoh and his companions were not assessing whether the extent of relief matched the need, they were not directing the bureaucrats as to where further work was necessary and how it could be improved; it was nevertheless within their competence to decide whether the total circumstances were conducive to a meaningful electoral process. And in this exercise they are entitled not to be misled as to the situation on the ground. The fact that Mr Lyngdoh caught an official red-handed trying to mislead him with cold deliberation and that he upbraided him for it may cause discomfort in local political circles and find an echo in the BJP central party office but it is not enough reason to criticise the CEC or to question his motives. Test the proposition. There was no objection from Jaitley when the Election Commission sent a team to Gujarat to assess the situation; likewise there was no objection when the Commissioners decided to take a second look themselves. There was a certain unease when they refused to go on the guided tour arranged for them by the Modi government; criticism only comes when Modi's trusted bureaucrats seeking to mislead are caught in the act and reprimanded. It is clear that the Commissioners, led by their independent and courageous Chief are doing their duty against overwhelming odds and this newspaper would wish to warn all politicians to contain themselves and let the Constitutional authorities function without any attempt to mislead them or indulge in intimidation when caught in the act.

It was said that the Relief Commissioners will do their job and the Election Commissioners should do theirs. Precisely. It is for the Election Commission to discharge their high constitutional functions, not for party secretaries to tell them how. The manner in which the Commissioners are discharging their duty evokes admiration and this newspaper is happy to acknowledge it.

Don't exceed brief, Jaitley tells Lyngdoh

New Delhi: Taking exception to Chief Election Commissioner J.M. Lyngdoh's focus on relief and rehabilitation measures in Gujarat, the BJP said on Sunday that there were several relief commissioners to do that job and that the Election Commission should concentrate only on the polls.

The attack on the EC came even as Mr Lyngdoh and his colleagues T.S. Krishnamurthy and B.B. Tandon returned to the capital after an assessment of the situation in riot-ravaged Ahmedabad and Vadodara.

On their arrival, Mr Lyngdoh told newsmen that "a decision on the assembly elections would be taken in a couple of days". "...few days, not too long. We don't sit over things," Mr Lyngdoh said.

Earlier, asked by reporters in Vadodara what their assessment of the "prevailing normalcy" in the state was, Mr Lyngdoh had shot back, "Do you think there is normalcy there?"

Countering the CEC's observation, BJP general secretary in charge of Gujarat Arun Jaitley said that 98 per cent of the state was "normal". He said, "In some areas, relief and rehabilitation may still be required and it must be expeditiously done."

Asking the EC to concentrate only on the polls, he said, "The EC should bear in mind the constitutional requirement that mandates that the next sitting of the assembly has to be called in early October. I hope it is able to announce the dates at the earliest."

Mr Jaitley, who visited the state recently, said most riot victims had returned home, and trade, business, political and educational institutions and life had become normal.

"It would be a bad precedent to suggest that elections can be deferred," he said. "We have gone through elec-

'Advani did not refer to Gujarat'

TIMES NEWS NETWORK

New Delhi: The BJP has clarified that deputy PM L.K. Advani did not make any reference to Gujarat or the CEC during his speech at the party's intellectual cell meet on Saturday.

A BJP release said on Sunday that during the interaction that followed Mr Advani's speech, a question was asked about some people adopting double standards on the Gujarat and J&K polls. A party member wanted to know how polls could be held in J&K when lakhs of people were living in refugee camps for over a decade and the same be opposed in Gujarat, where 90 per cent of the people in relief camps had returned home.

tions during terrorism in Punjab, we have gone through elections and are going through elections in Jammu and Kashmir even under the shadow of 'jehadi' guns.

"We have gone through elections with a minuscule voting percentage in Assam, and yet elections restored normalcy in Punjab and Assam," he said. "In comparison, it will be too far-fetched to suggest that elections cannot be held in Gujarat even though the state had been normal for the past several months," Mr Jaitley said.

Terming the Godhra carnage and the resultant violence in many parts of the state as "unfortunate", he said everyone should bear in mind that 98 per cent of the state was "unaffected by the violence". Agencies

SHEKHAWAT STRONG, SHINDE HOPEFUL

8/10/8

Stage set for Vice-Presidential poll

8/10/8 vice
9.6.10.8 (Prasad)

By Our Special Correspondent

NEW DELHI, AUG. 11. The stage is set for the Vice-President's poll here tomorrow with a direct contest between the National Democratic Alliance-sponsored candidate, Bhairon Singh Shekhawat, and the Opposition's Sushil Kumar Shinde.

Although the battle appears heavily tilted in favour of Mr. Shekhawat, former Rajasthan Chief Minister and BJP leader, since he is backed by the ruling NDA, the Telugu Desam, the AIADMK and the Bahujan Samaj Party, the Congress-sponsored Shinde is making all-out attempts to wean away voters from across the ruling coalition benches.

The electoral college comprises the present 788 members of Parliament. The gap between Mr. Shekhawat and Mr. Shinde is said to be about 100 MPs in favour of the former, notwithstanding the decision of the Trinamool Congress of Mamata Benerjee not to vote in favour of the NDA candidate. The Trinamool Congress with 10 MPs is upset with the Vajpayee Government's decision to back the Eastern Railways bifurcation plan.

On the other hand, the CPI(M) lone MP, Jayanta Rongpi, has decided to abstain from vot-

ing despite the decision of the Left parties to back Mr. Shinde. Despite the numbers being against him, Mr. Shinde has campaigned by reaching out to MPs across the political spectrum, especially those belonging to Scheduled Castes and Scheduled Tribes.

He hopes to get the backing of MPs belonging to the Parliamentary Forum of SCs/STs of which he is a senior office-bearer. There were reports that Mr. Shekhawat had made subtle attempts to woo Thakurs. Mr. Shekhawat has also tried to rise above his party — he stayed away from last week's national council session of the BJP, a decision which was approved by the party leadership.

Despite the attempts by the two candidates to get votes from the opposite camps, it is unlikely that voting in this whip-less election would be anything but on party lines. As counting will be taken up soon after the voting, the result will be known by tomorrow evening.

The Prime Minister, Atal Behari Vajpayee, tonight hosted a dinner for the NDA MPs and those supporting Mr. Shekhawat while the senior Congress leader, Manmohan Singh, held a luncheon meeting for prominent leaders from the Opposition on Friday.

THE HINDU

Silent Lyngdoh notes it all

Vinay Menon
Ahmedabad, August 9 1978

THE PURPOSE of the exercise was to feel the pulse of Gujarat before election dates are announced. But as Chief Election Commissioner JM Lyngdoh and his two senior-most colleagues went about doing that in Ahmedabad on Friday, they touched several raw nerves. Each instance is recorded in a little notebook Lyngdoh carried around. At the end of his eight-hour tour, talking to victims, visiting rehabilitation centres and shelters, the notebook was full.

It tells its own story.

'Farida Bano... Naroda Patia ... can't go back', Lyngdoh wrote. Farida Bano, a young widow, described to him how a mob killed her husband and her child. Last week, after nearly six months, when she returned to see the charred remains of her house, the same mob tried to kill her.

Kalam Gujarat visit

IN HIS first official tour after assuming office, President APJ Abdul Kalam will visit Gujarat on August 12 and pay homage to Gandhiji. He will look into the rehabilitation measures undertaken by the Gujarat Government and NGOs for those affected in the recent riots. **HTC, New Delhi**

'Gave complaint...No FIR copy', Lyngdoh wrote on another page and moved on.

At almost every stop, he specifically asked the victims if the police had registered cases and taken action. Anyone replying in the negative was asked to name the culprit. 'M-a-y-a-b-e-n K-o-d-n-a-n-i', he scribbled after talking to the victims of the

Naroda Patia massacre. An aide whispered: "She's an MLA, sir." Lyngdoh continued, negotiating an easier spelling: "Dr Jaydeep Patel... VHP leader".

By 6 in the evening, the CEC had close to a dozen names of alleged perpetrators on his list, and at least 27 more were promised by residents of Juhapura. But what took most of the space in the notebook were lists of all Muslim residential apartments gutted; of every slum cluster and colony attacked; compensation received; problems faced in rehabilitation; and, most important, the number of voters left in each of these settlements after the March riots.

In between, the EC team met the Chief Secretary, the State Intelligence Bureau Chief and several NGOs.

"The social fabric of the state will have to be rebuilt before any election is undertaken," said the Citizens Initiative, an NGO conglomerate. "It took

30,000 policemen to control a rath yatra of 40,000 persons. And people say normality has returned to Gujarat!" said Kirtee Shah for HOLSA, another NGO.

The CEC said nothing, just wrote on in his notebook. In fact, throughout the day, he said little. Except when a Hindu family at Belrampura showed him some suspiciously fresh-looking railway tickets to 'prove' they had been travelling on February 28, that they were away when their Muslim neighbours were burned alive. Lyngdoh scoffed: "Where did you pick these up from?"

Later, at the Shahe Alam camp, when relief worker Munir Sheikh said, "We are Indians too, sir. Why do they treat us like aliens?", Lyngdoh said, "*Sab politicians ki badmashi hai* (It's all the handiwork of politicians)." Tomorrow, Lyngdoh will most likely take another set of notes — in Baroda.

Related reports on Page 7

Full-member EC team headed for Gujarat

HT-6 ✓
9/8

HT Correspondent
New Delhi, August 7

IN AN indication that a final decision on the Gujarat Assembly polls may be on the anvil, the three commissioners of the Election Commission (EC) will leave on a three-day visit to the State tomorrow for an on-the-spot assessment of the situation.

Chief Election Commissioner (CEC) J M Lyngdoh and the other two commissioners T S Krishnamurthy and B B Tandon will visit Ahmedabad and Vadodra to see for themselves the existing state of affairs before arriving at a decision on whether or not to hold early elections in the State which was ravaged by communal violence recently.

This is one of the rare occasions when all the EC members will together visit a State prior to taking a decision on holding elections. The issue of Gujarat elections has become controversial with the ruling BJP demanding early polls in anticipation of a

favourable outcome due to communal polarisation, while the Opposition is staunchly opposed to the proposal on the ground that complete normalcy has not been restored in the State.

According to sources, the EC members decided to visit the State themselves after they were briefed by a nine-member team, which was sent by them to Gujarat last week, on its assessment of the prevailing ground situation and poll preparedness there.

In its informal briefing of CEC Lyngdoh and his two colleagues, the team is believed to have indicated that a substantial number of people, mainly those from the minority community, are still living away from their homes, either in relief camps or even outside the State. As such, they would not be in a position to participate in the election if it is held at an early date.

According to official sources, the team was also of the opinion that the members of the minori-

ty community may not be very keen to participate in the elections in view of the current situation as there are widespread apprehensions about violence being sparked off again if polls take place.

The team headed by deputy election commissioners A N Jha and S Mendiratta interacted with a cross-section of political leaders, officials and common people in the State, besides visiting some camps of the riot victims. The full official report of the team is likely to be submitted to the EC on tomorrow.

The Commission members will fly to Ahmedabad on Thursday evening, accompanied by EC consultant K J Rao. According to the schedule released by their office, they will be in Ahmedabad on Friday and spend the next day in Vadodra.

They will return to Delhi on Sunday. They are expected to take a final decision on the poll dates soon after their return from the trip.

POLL PANEL REJECTS POWELL PROPOSAL

Gujarat not on mind: Lyngdoh

OUR SPECIAL
CORRESPONDENT

New Delhi, Aug. 2: Chief Election Commissioner J.M. Lyngdoh finally broke his silence on Gujarat with a news conference here today to announce the poll schedule of yet another "difficult" state — Jammu and Kashmir.

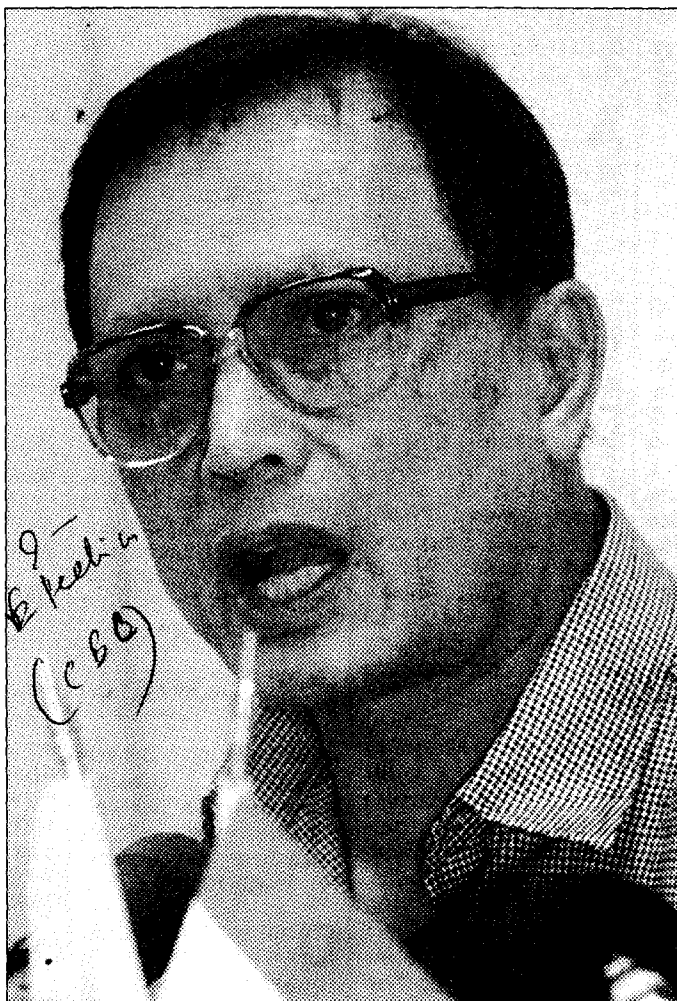
Ever since the controversy over the Gujarat poll schedule hit the roof, Lyngdoh has dodged media glare. He has managed to stay behind the screen till he sent off a team of the Election Commission to tour riot-ravaged Gujarat earlier this week.

Today, however, it was the chief election commissioner's day to "talk". Lyngdoh fielded all "uncomfortable" questions with equal aplomb, making it clear that he was not going to rush into polls in Gujarat.

"The decision on Gujarat may take some time since a team has gone there. We are awaiting its report. I am dealing with Jammu and Kashmir now. Gujarat is not on my mind," he said.

The BJP, however, kept up its pressure on the poll panel for an early election in Gujarat. Hours after Lyngdoh's news conference, senior BJP leader V.K. Malhotra said: "The situation in Gujarat is far more conducive to polls than in Jammu and Kashmir."

Criticising the Congress and other parties for not wanting early polls, Malhotra said: "Jammu and Kashmir is virtually ruled by terrorists. There are 4 lakh Hindu migrants living out-



JM Lyngdoh at the news conference. (Reuters)

side Jammu and Kashmir. In comparison, Gujarat is normal. The state has held panchayat and municipal polls and the school examinations. And there are far less refugees than in Jammu and Kashmir."

Lyngdoh also had a few caustic responses to US secretary of state Colin Powell's suggestion to have international observers for Jammu and Kashmir elections. Rejecting the proposal out of hand, the chief election commissioner said: "India is a mature democracy and does not need a headmaster. They are not going to teach us a lesson."

Stressing that the Election Commission had more authority and powers than any other international body, Lyngdoh said: "According to us, the concept of observers signifies White men coming and 'observing' what natives are doing." It is a different matter, he went on, that if somebody wants to come in his or her individual capacity and not as member of any commission.

"If one or two people want to come here from Australia, UK and Canada they are free to do so. But they will not be allowed to come here as observers. We are against it," Lyngdoh added.

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THE TELEGRAPH

Gujarat polls not before Dec: EC

TIMES NEWS NETWORK

New Delhi: Pointing to the continuing fear and insecurity in Gujarat and the absence of proper rehabilitation of riot victims, the Election Commission (EC) on Friday decided not to hold assembly elections in the state before December at the earliest.

The official announcement of the three-member EC team of James Lyngdoh, T.S. Krishnamurthy and B.B. Tandon said the voters' list had to be updated and proper conditions created to ensure a safe poll. The EC's decision was a firm rebuff of the ruling BJP's argument that elections were a legal necessity and had to be held by October. Chief minister Narendra Modi had argued that a state could not be without an assembly for over six months and since the dissolved house had last met in April, the new one should be in place before October.

However, the EC has gone by the counter-argument that no such constraint can bind it in situations where it feels the preparation for a free and fair poll requires more time. All three election commissioners visited Gujarat last week to check the situation in the strife-torn state. It was clear that many of those displaced by the communal riots were still to be rehabilitated.

In its order, the EC said Gujarat's electoral roll needed substantial updating. Besides, it maintained that conditions must be created for the conduct of a fair poll, which, in effect, meant rehabilitation of the affected and the removal of the fear-stricken conditions in which most people live.

The order stated that once the conditions improved, the EC would "consider" framing a suitable date for fresh elections by November-December. Since five-six weeks would be needed to hold

elections, the earliest the state could go to the polls would be the first week of December. But implicit in the EC's order was a threat that the polls could be postponed further if the state government dragged its feet on rehabilitation and the arrest and prosecution of the guilty.

Although there have been instances of the EC rejecting requests for polls on a certain date, it is the first time it has done so with a ministry in place. In the previous instances—Punjab and Jammu and Kashmir—the states had been under Central rule.

With Friday's decision, the EC has asserted its right to decide the date for elections irrespective of the existence of a government and when the assembly in question last met. As for Mr Modi, since his assembly was dissolved only a month ago, he has time until mid-January before his legal position is called into question.