



Judges (Inquiry) Act, 1968

**REPORT
OF
THE INQUIRY COMMITTEE**
[Constituted by the Chairman, Rajya Sabha]

VOLUME - I

IN REGARD TO INVESTIGATION AND PROOF OF THE
MISBEHAVIOUR ALLEGED AGAINST MR. JUSTICE
SOUMITRA SEN OF CALCUTTA HIGH COURT



September 10, 2010

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**REPORT OF THE INQUIRY COMMITTEE
CONSTITUTED UNDER SUB-SECTION (2)
OF SECTION 3 OF THE JUDGES
INQUIRY ACT, 1968**

I. Introduction:

Having concluded its investigation into the grounds on which the removal of Justice Soumitra Sen of the Calcutta High Court had been sought, the Inquiry Committee - as (re)constituted by Rajya Sabha Notification dated 16.12.2009 - submits its Report under Section 4(2) of the Judges (Inquiries) Act, 1968 ("the 1968 Act"). Section 4(2) of the 1968 Act reads as follows:

"At the conclusion of the investigation, the Committee shall submit its report to the Speaker or, as the case may be, to the Chairman, or where the Committee has been constituted jointly by the Speaker and the Chairman, to both of them, stating therein its findings on each of the charges separately with such observations on the whole case as it thinks fit."

This Report contains the Committee's observations on the whole case, a brief account of the proceedings of the Inquiry Committee, and a detailed assessment of the facts investigated, along with the findings on each of the two definite charges framed.

II. Inquiry Committee's observations on the whole case:

The general observations of the Committee that go to the heart of the entire case: are in respect of two matters:

- (1) The submission that during the investigation into the conduct of Justice Soumitra Sen, he had the right to remain silent.**
- (2) Whether the grounds of misconduct with which Justice Soumitra Sen has been charged; would if proved, amount to "misbehaviour" under Article 124(4) read with Article 217(1) proviso (b).**

RE: (1) the submission that during the investigation into the conduct of Justice Soumitra Sen, he had the right to remain silent.

The investigation has raised at the threshold a significant question in relation to inquiries directed to be made into the conduct of a Judge under the 1968 Act: *viz.* as to whether a Judge whose conduct is under investigation under the 1968 Act (pursuant to a motion admitted in one of the two Houses of Parliament) has the right to remain silent.

Justice Soumitra Sen was served with definite charges on the basis of which

the investigation into the two acts of misconduct (set out in the Motion) were proposed to be held *viz.*

- "1. Misappropriation of large sums of money, which he had received in his capacity as Receiver appointed by the High Court of Calcutta; and
2. Misrepresented facts with regard to the misappropriation of money before the High Court of Calcutta."

He entered appearance through advocates, and filed a written statement defending on merits the definite charges framed; advocates were engaged by him to appear and argue his case before the Inquiry Committee both on facts and law. It was his contention (in the current investigation into his conduct) that the moneys that he had received (Rs. 33,22,800) as sale-proceeds of the goods of which he had been appointed Receiver (by the Calcutta High Court) - in Suit 8 of 1983 (Steel Authority of India Ltd. *vs.* Shipping Corporation of India and others) - had been "entirely invested" in a company called Lynx India Ltd. which had later gone into liquidation, and that no part of the amount had been misappropriated by him; after he was appointed a Judge of the Calcutta High Court on December 3, 2003 he went about covering up his defalcations: first, by not co-operating at all with the Court that was making inquiries about the whereabouts of the sale-proceeds (Rs. 33,22,800) of which he had been appointed a Receiver; then adamantly refusing to furnish information, though requested by the Court; refraining from attendances at hearings, even through a representative or Advocate; and when, after a couple of years the Single Judge investigating into the matter (at the instance of the plaintiff in Suit 8 of 1983) made unfavourable remarks against him and directed him (Justice Soumitra Sen) to pay up the entire amount received by way of sale-proceeds with interest, paying up the same in instalments, without demur and without protest; it was only after the full amount was repaid that Justice Soumitra Sen applied to the Calcutta High Court for deletion of the remarks made against him by the Single Judge (in his order dated 10th April, 2006) supporting this application with an affidavit filed on his behalf by his mother as constituted attorney; in this affidavit he falsely represented to the Calcutta High Court that the money received by way of sale proceeds of goods (Rs. 33,22,800) had been invested (to earn more interest) in a company called Lynx India Ltd. which had gone into liquidation in the year 1999-2000, and attributed this reason for the loss of moneys. This reason - proven in the present proceedings to be untrue and false - influenced a Division Bench of the Calcutta High Court (in its judgment dated 25th September, 2007) to expunge the Single Judge's remarks against Justice Soumitra Sen. When queried in this investigation about the contradictions as disclosed in the documentary evidence led in the case and the assertions made in the Written Statement of Defence, it was submitted on behalf of Justice Soumitra Sen (who chose to remain personally absent throughout the proceedings) - that he had the right to remain silent, that the specific charges

as framed had to be "*proved to the hilt*" and "*proved without any reasonable doubt*".

In the considered view of the Inquiry Committee the submission that Justice Soumitra Sen had the right to remain silent (in the facts and circumstances of the present case) is untenable and fallacious: for the following reasons:

- (a) The proceedings for the investigation into the conduct of a Judge under the 1968 Act (and the 1969 Rules) are not criminal proceedings against the concerned Judge; the Judge whose conduct is under inquiry is not a person who is to be visited either with conviction, sentence or fine; nor is the Inquiry Committee, appointed under the 1968 Act empowered to make any such recommendation. Besides, the Judge in respect of whose conduct an inquiry is ordered under the 1968 Act is not a person "accused of any offence", and no fundamental right of his under Article 20(3) of the Constitution of India would be infringed by his giving evidence during an investigation into his conduct. On the contrary, the 1969 Rules [Rule 4(1)] contemplate the Inquiry Committee giving to the Judge whose conduct is under investigation "an opportunity of adducing evidence..."
- (b) The Notice to be issued in Form-I of the 1969 Rules (framed under the 1968 Act) is similar to the notice prescribed in Form-I in Appendix B to the Code of Civil Procedure, 1908 (summons for disposal of a civil suit). Contrasted with this Notice is the summons to an accused person prescribed under the Code of Criminal Procedure, 1973. Form-I in the Second Schedule of the 1973 Code describes the noticee as the "accused", he is required to attend and answer to "the offence charged", in person or by pleader as the case may be, before the concerned Magistrate.
- (c) Unlike a criminal trial, under the 1968 Act (and 1969 Rules), the Judge into whose conduct an investigation is directed is to be given an opportunity of filing his Written Statement of Defence - something not heard of or permitted in a criminal trial. Whereas the right to silence in a criminal trial protects the person "accused" from giving any evidence on his own behalf, that may incriminate him, in the statutory notice (in Form-I) prescribed under the 1969 Rules, the Judge concerned is required to produce "all the witnesses upon whose evidence and all the documents upon which, he intends to rely in support of his defence."
- (d) In proceedings for offences under the Penal Code unless an accused person appears - pleading guilty or not guilty - he cannot be tried. But under Rule 8 of the 1969 Rules - if the Judge does not appear, (before the Inquiry Committee) on proof of service on him of the notice referred to in rule 5, the Inquiry Committee is empowered to proceed with the inquiry *in the absence of the Judge*: this is because the concerned Judge in a proceeding under the Judge's Inquiry Act, 1968 is not regarded as a person who is accused of any offence.

- (e) The proceedings before an Inquiry Committee appointed under the 1968 Act are not at all comparable to electoral offences under the provisions of election laws; and the ratio laid down in cases decided under election laws do not apply to cases under the Judges Inquiry Act, 1968: simply because proceedings for removal of Judges are "sui generis and are not civil or criminal in nature"¹; since their purpose is to inquire into judicial conduct in order to maintain and uphold proper standards of judicial behaviour. In some Judgments of the Supreme Court of India,² proceedings that are not strictly criminal in nature (such as electoral offences and offences in the nature of contempt of court) have been regarded as "quasi-criminal". Even if proceedings for removal of a Judge under the 1968 Act be so characterised, the adverb "*quasi*" means "as if: almost as if it were; analogous to". In legal phraseology the term "*quasi*" is used to indicate that one subject resembles another, with which it is compared, but only "*in certain characteristics, though there are intrinsic and material differences between them*"³. The phrase "quasi-criminal" is not to be equated with "criminal": the material difference in an inquiry into the conduct of a Judge under the 1969 Act (and the 1969 Rules) is that when he, the Judge, files a Written Statement of Defence he is in the same position as a defendant in a civil suit except that the charge framed against him must be "proved" - not on a balance of probabilities but beyond reasonable doubt.
- (f) That in an inquiry under the 1968 Act, the specific charges framed have to be "*proved to the hilt*" (or "*proved beyond reasonable doubt*") does not lead to the inference that the Judge concerned has the *right to remain silent*: A fact is said to be proved - when the investigating authority either believes it to exist or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists. As to when and how a fact is said to be *proved* depends on the circumstances of the case and the entirety of the evidence, both positive and negative.

During the present investigation the documentary evidence (both positive and negative) has clearly revealed the following:

- (i) that the Receiver's two accounts (with ANZ Grindlays Bank, Church Lane Branch, Kolkata and Allahabad Bank, Stephen House Branch, Kolkata) which were in the name of Soumitra Sen, were opened and operated by him alone; it was in these two accounts that the sale proceeds of goods of which Soumitra Sen was appointed Receiver (*viz.* the aggregate sum of Rs. 33,22,800) had been deposited;
- (ii) that from neither of these two Bank accounts any monies have been shown to be withdrawn in order to be invested with Lynx India Ltd. on the contrary, it was from a *third Bank account* opened with ANZ Grindlays Bank, Church Lane Branch, by Soumitra Sen (also in his

name) that a sum of Rs.25 lacs is shown as transferred to Lynx India Ltd. on 27-02-1997 from out of separate funds (*viz.* Rs. 70 lacs) entrusted to Soumitra Sen in an entirely different proceeding (in the Calcutta High Court) in respect of an entirely different Company in liquidation (*viz.* Calcutta Fans (1995) Pvt. Ltd.); the said sum of Rs.70 lacs being entrusted to Soumitra Sen by orders of the Calcutta High Court for payment of dues to workers of Calcutta Fans (1995) Pvt. Ltd. in liquidation. It has been also proved that the cheque No. 624079 for Rs.25 lacs drawn by Soumitra Sen was from this *third* account, and paid to M/s Lynx India Ltd. - and not paid from out of either of the Receiver's two accounts.

- (iii) on 22-05-1997, pursuant to letters written by Soumitra Sen (handwritten letters dated 22.5.1997) to the Bank Manager of ANZ Grindlays Bank a request was made for transfer of a sum of "about Rs. 22 lacs" (from out of the ANZ Grindlays Bank Receiver's Account) into this third account of Soumitra Sen in the same Bank, which was avowedly in violation of the orders of the Calcutta High Court appointing Soumitra Sen as Receiver: monies representing sale proceeds (Rs. 33,22,800) deposited in the two bank accounts were to be held and not parted with or disposed of without permission of the Calcutta High Court. After the transfer of the sum of "about Rs. 22 lacs" was effected pursuant to Soumitra Sen's written request to the Bank, the funds so transferred into this third account were utilised by Soumitra Sen for making large disbursements by way of cheques drawn by Soumitra Sen, including a large number of bearer cheques in favour of individuals, who have never been identified, in the present proceedings as "workers" of Calcutta Fans (1995) Pvt. Ltd.
- (iv) that from the Receiver's account in the Allahabad Bank, Stephen House Branch (as also from the ANZ Grindlays Bank Receiver's Account) there have been shown large disbursements by way of cheques - including a large number of bearer/self-drawn cheques - all issued and signed by Soumitra Sen: for what purpose has not been explained.
- (v) that no permission was sought or taken by Soumitra Sen from the Court which appointed him as Receiver for withdrawal of moneys from either of the Receiver's two Accounts, nor were any accounts filed by Soumitra Sen as Receiver in the Calcutta High Court (despite half-yearly accounts being required to be filed under original side Rules (Chapter 21) of Calcutta High Court and specifically directed to be so filed by order dated 30.04.1984) - no accounts were filed with the Court either before or at any time after Soumitra Sen was appointed a Judge.
- (vi) in the Allahabad Bank Receiver's Account the Balance on 29-03-1994 was Rs. 3215, and at the end of 2008/2009 the balance was 'NIL'. The ANZ Grindlay's Receiver's Account was closed on 22.03.2000 with a nil balance.

Obviously, this alarming state of affairs called for an explanation: The only explanation on record was in Justice Soumitra Sen's signed (but not sworn) Written Statement of Defence in which he had asserted that the entire sum of Rs. 33,22,800 had been invested by him with a company called "Lynx India Ltd." which went into liquidation in 1999-2000: an assertion disproved by evidence, oral and documentary, brought on record. Justice Soumitra Sen chose not to personally attend any part of the proceedings of the Inquiry Committee, his counsel maintaining that he had "a right to remain silent"; Counsel appearing for him could not offer (on his behalf) any explanation for the depletion of funds in the Receiver's two accounts. In the opinion of the Inquiry Committee, neither in law, nor in the facts and circumstances of this case, does Justice Soumitra Sen have the right to remain silent, as was claimed on his behalf. And the inescapable inference from the want of any explanation whatever about the whereabouts of the sum of Rs. 33,22,800 (or any part thereof) is that Justice Soumitra Sen had no convincing explanation to give.

Conclusion:

A Judge charged with misconduct amounting to "misbehaviour" may choose not to appear at all before the Inquiry Committee; the Committee may then proceed with the inquiry (under Rule 8 of the 1969 Rules) *in the absence of the Judge*. But once the Judge expresses his intention to participate in the Inquiry proceedings (as in the present case) by asking for time, seeking adjournments, filing a written statement of defence and engaging Advocates to appear and argue the case on his behalf, the Judge (particularly because he is in the position of a Judge) has a duty to cooperate in the inquiry, and to remain present for questioning (not necessarily on oath) whether by Advocates appointed to assist the Committee or by the Inquiry Committee itself. This in no way detracts from duty of the Inquiry Committee to hold him guilty of the definite charges framed only if such charges are proved beyond reasonable doubt, by oral and/or documentary evidence brought on record.

RE: (2) Whether the grounds of misconduct with which Justice Soumitra Sen has been charged; would if proved, amount to "misbehaviour" under Article 124(4) read with Article 217(1) proviso (b).

In the opinion of the Inquiry Committee the grounds of misconduct as set out in the Motion, when proved, would amount to "misbehaviour" under Article 124(4) read with Proviso (b) to Article 217(1).

The word "misbehaviour", in the context of Judges of the High Courts in India, was first introduced in proviso (b) to Section 200(2) of the Government of India Act, 1935. Under the 1935 Act it was initially the Privy Council and later, the Federal Court of India that had to report

to India's Governor-General when charges were made of "misbehaviour" against a Judge of a High Court. In the report of the Federal Court in respect of Charges made against Justice S.P. Sinha a Judge of the High Court of Judicature at Allahabad, one of the charges made by the Governor-General against that Judge were: "that Mr. Justice S. P. Sinha has been guilty of conduct outside the Court which is unworthy of and unbecoming of the holder of such a High Office", which was then particularised. Since this charge was not substantiated against that Judge by evidence, it was held to have been not established.⁴ But the charge, as there framed, has tersely but correctly described the scope and ambit of the word "misbehaviour" viz. guilty of such conduct whether inside or outside the Court that is "unworthy of and unbecoming of the holder of such a High Office". The same word "misbehaviour" now occurs in the Constitution of India 1950 in Article 124(4) - when read in the context of Proviso (b) to Article 217(1) - These provisions state that a Judge of the High Court shall not be removed from his office except on the grounds of "proved-misbehaviour". The prefix "proved" only means proved to the satisfaction of the requisite majority of the appropriate House of Parliament, if so recommended by the Inquiry Committee. The words "proved misbehaviour" in Article 124(4) have not been defined. Advisedly so: because the phrase "proved misbehaviour" means such "behaviour" which, when proved, is not befitting of a Judge of the High Court. A Judge of the High Court is placed on a higher pedestal in our Constitution simply because Judges of High Courts (like Judges of the Supreme Court) have functions and wield powers of life and death over citizens and inhabitants of this country, such as are not wielded by any other public body or authority. It is a power coupled with a duty, on the part of the Judge, to act honourably at all times whether in court or out of court. Citation of case-law is superfluous, because the categories of "misbehaviour" are never closed.

In interpreting Articles 124(4) and (5) and the provisions of the Judges (Inquiry) Act, 1968 and when considering any question relating to the removal of a Judge of the Higher Judiciary from his office, it must not be forgotten that it was to secure to the people of India a fearless and independent judiciary that the Judges of the Superior Courts were granted a special position in the Constitution with complete immunity from premature removal from office except by the cumbersome process prescribed in Articles 124(4) and (5), read with the law enacted by Parliament (the Judge's Inquiry Act, 1968).

The very vastness of the powers vested in the Higher Judiciary and the extraordinary immunity granted to Judges of the High Courts (and of the Supreme Court) require, that Judges should be fearless and independent and that they should adopt a high standard of rectitude so as to inspire confidence in members of the public who seek redress

before them. While it is necessary to protect the Judges from motivated and malicious attacks it is also necessary to protect the fair image of the institution of the Judiciary from such of those Judges who choose to conduct themselves in a manner that would tarnish this image. The word "misbehaviour" after all is, the antithesis of "good behaviour": it is a breach of the condition subsequent, upon which the guarantee of a fixed judicial tenure rests. High Judicial office is essentially a public trust, and it is the right of the people (through its representatives in Parliament) to revoke this trust - but only when there is "proved misbehaviour".

The conduct of Justice Soumitra Sen as a Receiver when he was an Advocate, and his series of acts and omissions, as well as his conduct, after he was appointed a Judge: such as giving of false explanations to cover up his completely unauthorised withdrawals from the Receiver's two accounts, swearing of an affidavit in Court (through his constituted attorney, his mother) as to that which he knew to be false and which he (Justice Sen) never believed to be true - are matters that bring dishonour and disrepute to the Higher Judiciary; they are such as to shake the faith and confidence which the public reposes in the Higher Judiciary. Monetary recompense or restitution does not render an act or omission any the less "misbehaviour" especially when restitution was made (as in the present case) only when the Judge had been found out, and after he was directed by the Court that appointed him Receiver to repay the entire amount of the sale-proceeds received by him together with interest.

III. Appointment of the present Inquiry Committee and a brief account of the proceedings.

- (1) On 20th February, 2009, 58 Members of the Rajya Sabha gave Notice to the Hon'ble Chairman of a Motion for the removal of Justice Soumitra Sen, (a Judge of the Calcutta High Court), under Article 217 (1)(c) - read with Article 124 (4) - of the Constitution of India 1950 - on the following two grounds namely:
 1. Misappropriation of large sums of money, which he received in his capacity as receiver appointed by the High Court of Calcutta; and
 2. Misrepresented of facts with regard to the misappropriation of money before the High Court of Calcutta.
- (2) On the said motion being admitted under Section 3(2) of the 1968 Act, the Chairman, Rajya Sabha constituted a Committee - "for the purpose of making an investigation into the grounds on which the removal of Justice Soumitra Sen of the Calcutta High Court is prayed for" - The Committee as then constituted consisted of the following: *viz.* Hon'ble Justice D. K. Jain, Supreme Court of India, Hon'ble Justice T. S. Thakur,

Chief Justice of the Punjab and Haryana High Court and Shri Fali S. Nariman, Senior Advocate, Supreme Court of India, (Rajya Sabha Notification dated 20.03.2009): the Committee constituted under Section 3(2) of the 1968 Act has been described in the Judges Inquiry 1969 Rules ("the 1969 Rules") as "the Inquiry Committee".

- (3) On 25th June 2009, in partial modification of the Notification dated 20th March, 2009 under sub-Section 2 of Section 3 of the 1968 Act, the Chairman, Rajya Sabha, reconstituted the Inquiry Committee by appointing (i) Hon'ble Justice B. Sudershan Reddy, Supreme Court of India; (ii) Hon'ble Justice T. S. Thakur, Chief Justice of the Punjab and Haryana High Court; and (iii) Shri Fali S. Nariman, Senior Advocate, Supreme Court (Rajya Sabha Notification dated 25th June, 2009). Being the member chosen under clause (a) of sub-section (2) of section 3 of the 1968 Act, Justice B. Sudershan Reddy was, and has continued thereafter to act as, "Presiding Officer of the Inquiry Committee" (Rule 3 of the 1969 Rules).
- (4) By Notification dated August 11, 2009 the Hon'ble Chairman, Rajya Sabha appointed Shri Ajoy Sinha, retired Member (Legal) Authority for Advance Rulings (Income Tax), as Secretary to the Inquiry Committee constituted under Section 3 of the 1968 Act. The Government of India by Notification dated 26th October, 2009 appointed Mr. Sidharth Luthra, Senior Advocate and Mr. Siddharth Aggarwal, Jr. Advocate to "assist the Committee" [*i.e.* "to conduct the case against the Judge" as mentioned in Section 3(9) of the 1968 Act].
- (5) One of the members of the Inquiry Committee (Justice T.S. Thakur), was appointed a Judge of the Supreme Court of India on 17.11.2009, and the Committee had to be reconstituted once again: by Rajya Sabha Notification dated 16.12.2009 the name of "Hon'ble Justice Mukul Mudgal, Chief Justice of Punjab and Haryana High Court" was substituted for the name of "Hon'ble Mr. Justice T. S. Thakur".
- (6) Upon considering its Terms of Reference, the Inquiry Committee, as finally re-constituted, framed *draft* charges along with a *draft* statement of grounds. On February 5, 2010 it forwarded them to Justice Soumitra Sen, in order to enable him to have an opportunity (if he so wished) to object to the framing of *definite charges*. But, by his Advocate's letter dated 23rd February, 2010, the Judge contended that under the 1968 Act, no investigation was called for before *definite charges* were framed, and before a reasonable opportunity was given to him of presenting a Written Statement of Defence.
- (7) Hence the following Notice (dated March 4, 2010) a notice prescribed in statutory Form-I of the 1969 Rules was then issued by the Presiding Officer, of the Inquiry Committee. It is reproduced below in full:

Dated 4th March, 2010

To,
Shri Soumitra Sen
Judge, High Court of Calcutta at Kolkata,
High Court of Calcutta,
Kolkata.

Whereas a motion for presenting an address to the President praying for your removal from your office as a Judge of the High Court of Calcutta at Kolkata has been admitted by the Chairman of the Council of States;

And whereas the Chairman has constituted an Inquiry Committee with me, a Judge of the Supreme Court of India, as the presiding officer thereof for the purpose of making an investigation into the grounds on which your removal has been prayed for;

And whereas the Inquiry Committee has framed charges against you on the basis of which investigation is proposed to be held;

You are hereby requested to appear before the said Committee in person, or by a pleader duly instructed and able to answer all material questions relating to the Inquiry, on the 25th day of March, 2010 at 4.30 'O' clock in the afternoon to answer the charges;

As the day fixed for your appearance is appointed for the final disposal of the charges levelled against you, you are requested to produce on that day all the witnesses upon whose evidence and all the documents upon which you intend to rely in support of your defence.

Please take notice that in the event of any default in your appearance on the day aforementioned, the investigation into the grounds on which your removal has been prayed for shall be made in your absence.

Given under my hand this 4th day of March, 2010.

(____ sd/-____)
(Signature)
Presiding Officer
Inquiry Committee

Enclosures:-

1. A copy of the charges framed under sub-section (2) of section 3 of the Act.
2. Statement of grounds on which each charge is based."

The charges with particulars along with a statement of the grounds in support, were got served on Justice Soumitra Sen along with the Notice dated 04.03.2010. Documents in support of the charges and the grounds were also forwarded to Justice Soumitra Sen. In Charge I ("Misappropriation") - after setting out the particulars of that charge (in paragraphs 1 to 12), it was finally stated in paragraph 13 as follows:

"13. You have committed misappropriation of property, and the same constitutes 'Misbehaviour' under Article 124(4) r/w Art.217 of the Constitution of India."

In Charge II "Making false statements" after setting out particulars of that charge (in paragraphs 14 to 24), it was stated, in paragraph 25, as follows:

"You, during a judicial proceeding while holding the office of Judge of the Court, intentionally gave false evidence, which constitutes 'Misbehaviour' under Article 124(4) read with Article 217 of the Constitution of India."

- (8) Subsequently a request was made by the Judge that the date mentioned in the Notice for his appearance be postponed, and that four weeks more time be given to him, after inspection of documents, to present his Written Statement of Defence. This was granted but the Judge was informed (by letter dated March 19, 2010) that he should appear before the Committee at 11.30 a.m. on 17.04.2010 and file his Written Statement of Defence by that date.
- (9) Justice Soumitra Sen did not personally appear before the Inquiry Committee on 17.04.2010, but in a letter dated 26.03.2010 he requested for another extension of time for filing the written statement (of defence): "*by at least 8 weeks.*" By letter dated 26th April, 2010 the Judge was informed that unless his written statement of defence was filed *positively* by the extended date 3rd May, 2010 the Inquiry Committee would proceed further in the matter "on the basis that you have nothing to say in respect of the specific charges framed against you."
- (10) Meanwhile, after the Notice dated 04.03.2010 had been served on the Judge, along with definite charges, (and supporting grounds) some additional documents were received from Allahabad Bank, Stephen House Branch, Calcutta and from the Standard Chartered Bank, Church Lane, Kolkata (formerly ANZ Grindlays Bank Church Lane, Kolkata). Copies of the first set of documents [relied upon by Advocates appointed to assist the Committee under Section 3(9) of the 1968 Act] had already been forwarded to Justice Soumitra Sen. All documents with the Committee were inspected by him and copies of the additional documents received from Kolkata, were also forwarded to Justice Soumitra Sen: The Judge was given inspection of these and all other documents, *viz.* of the complete record with the Inquiry Committee. Shri

Subhash Bhattacharya, Advocate for Justice Soumitra Sen, *vide* letter dated 20th April, 2010 addressed to the Secretary of the Inquiry Committee placed on record that inspection of the documents had been completed, and that "*fullest cooperation has been given by your office.*"

- (11) Ultimately on May 3, 2010 a document titled "Reply to the Charges" was received by the Inquiry Committee - it was in the form of a signed letter addressed by the Justice Soumitra Sen to the Presiding Officer of the Inquiry Committee - which was taken on record as his Written Statement of Defence, under section 3(4) of the 1968 Act, and the Judge was so informed by letter dated 13.05.2010. Since in his Written Statement of defence, Justice Soumitra Sen denied that he was guilty of the misbehavior specified in the charges framed under Section 3(3), the Inquiry Committee proceeded with the inquiry in accordance with Rule 7(2) of the 1969 Rules.
- (12) The venue for the recording of evidence was initially fixed in Kolkata, where all witnesses were located. Witnesses had been summoned to produce all relevant documents (including statements of accounts, banks drafts etc.) with different Banks, and documents in the Registry of the Calcutta High Court, and with other authorities. But on a specific written request made (on 19.05.2010) on behalf of the Judge (by his Advocate) the venue was shifted to New Delhi for examination of witnesses, and for production and proof of all relevant documents that had been summoned.
- (13) By a communication dated 01.06.2010, Justice Soumitra Sen was provided with a list of witnesses (to be called by Advocates assisting the Inquiry Committee) along with copy of a list of relevant documents to be produced/proved by such witnesses; the Judge was informed that the venue for the hearings would be at Vigyan Bhawan Annexe, New Delhi on June 24th, June 25th and June 26th, 2010. Justice Soumitra Sen's Advocate (by letter dated 4th June, 2010) then requested for yet another adjournment of the hearing "atleast till 5th July 2010". But this request was declined, and the Judge was informed that the Inquiry Committee would adhere to dates previously intimated (*viz.* 24th, 25th and 26th June). The Judge was also informed (by letter dated 18.06.2010) that if he wished to file a further written statement with regard to the additional documents furnished to him, he could do so before 24.06.2010. However, no further or additional written statement was filed by or on behalf of Justice Soumitra Sen.
- (14) On the first day fixed for hearing of evidence at New Delhi (*viz.* 24th June, 2010) the appearances of Counsel were recorded: *viz.* (i) Mr. Sidharth Luthra, Senior Advocate with Mr. Siddharth Aggarwal, Jr. Advocate appeared as Advocates appointed to assist the Inquiry Committee (in terms of the Notification dated 26th October, 2009) and (ii) Mr. Shekhar Naphade, Senior Advocate, with Advocate Chinmoy

Khaledkar (along with Advocates: Ms. Neha S. Verma, Shri Manoj, Shri Subhasis Chakraborty, Shri Subhas Bhattacharyya, Shri Soumik Ghoshal and Ms. Aparna Sinha), appeared as Advocates for Justice Soumitra Sen: Justice Soumitra Sen did not personally attend the hearing on 24th June, 2010. At the hearing on 24th June, 2010 five witnesses mentioned in the list previously supplied to Justice Soumitra Sen (for producing/proving the documents that had been previously summoned from various bodies and authorities in Kolkata) were examined by Senior Advocate appointed to assist Committee. The evidence of each of the witnesses examined by the Inquiry Committee was taken down in writing under the personal directions and superintendence of the Presiding Officer. After each of the witnesses were so examined and their evidence on oath recorded, and relevant documents exhibited, Senior Advocate for Justice Soumitra Sen asked each of them a few questions in cross-examination but did not question the authenticity or contents of any of the documents produced by any of them. At the hearing on the afternoon of 24th June, 2010 Senior Advocate Mr. Shekhar Naphade appearing for Justice Soumitra Sen stated (and this is so recorded in the minutes) that:

"there was neither any evidence to be adduced nor any documents to be produced on behalf of the Respondent" (i.e. Justice Soumitra Sen).

On a specific query from the Inquiry Committee, Senior Advocate for Justice Soumitra Sen (Respondent) also stated that he did not wish to examine "the Respondent" (Justice Soumitra Sen) and record his statement. It was then directed that the date and time of further proceedings in the matter (*viz.* oral arguments) would be duly intimated to all concerned in due course. The further hearings scheduled for 25th and 26th June, 2010 (for the purpose of taking of evidence) were thus no longer necessary. The Judge was then informed (by letter dated 7th July, 2010) that the dates fixed for oral arguments would be at the same venue on Sunday 18th July, 2010 (for the whole day) and Monday 19th July, 2010 from 2 p.m. onwards thereafter till the arguments had concluded. At the hearings on 18th and 19th July, 2010 (as at the previous hearing for recording of evidence on 24th June, 2010) the same set of Advocates were present and addressed oral arguments. Justice Soumitra Sen himself was not personally present. About a week after the close of arguments, Advocates appointed to assist the Committee and Advocates for Justice Soumitra Sen submitted brief written arguments.

IV. THE FACTS: Investigation into the conduct of Soumitra Sen: and an assessment by the Inquiry Committee of the facts brought on the record of this case:

The investigation by the Inquiry Committee into the entire conduct of Soumitra Sen in relation to the two grounds of misconduct - *viz.* (i) of misappropriation of large sums of money, which he had received as

Receiver appointed by the Calcutta High Court; and (ii) misrepresentation of facts before the Calcutta High Court with regard to the misappropriation of money - covers a long period from 30th April, 1984 to December, 2006; in between, on December 12, 2003, Soumitra Sen, till then an Advocate of the Calcutta High Court, was appointed a Judge of that Court. The relevant facts relating to this conduct as brought on record of this investigation are for convenience (and only for convenience) divided into two periods of time - although there is a common thread of continuity between them: *viz.*

(1) Conduct of Soumitra Sen, Advocate between 30th April, 1984 upto December 03, 2003, and;

(2) Conduct of Soumitra Sen, Judge, after December 03, 2003.

(1) Conduct of Soumitra Sen, Advocate between 30th April 1984 upto December 03, 2003

- (a) In an interlocutory application for appointment of a Receiver in Suit No.8 of 1983 (Steel Authority of India Ltd. *vs.* Shipping Corporation of India Ltd. and Others) an Order dated 30th April, 1984 was passed by Justice R.N. Pyne of the Calcutta High Court. By this order Mr. Soumitra Sen, Advocate was appointed as Receiver over "*the rejected goods lying in cover shed No. 1 of the Coke Oven Refractory stores of Bokaro Steel Plant mentioned in paragraph 19 of the petition*", with power to him to get in and collect the outstanding debts and claims due in respect of the said goods, together with all the powers provided for in Order XL Rule 1 Clause (d) of the Code of Civil Procedure, 1908⁵. It was further specifically ordered that the Receiver should file, and submit for passing, his half yearly accounts in the office of the Registrar of the High Court; Such accounts to be made out as at the end of the months of June and December in every year and be filed during the months of July and January next respectively, and that the same when filed be passed before one of the Judges of the High Court; It was also ordered *inter alia* that the Receiver should sell the said goods either to the best purchaser or purchasers that could be got for the same or by private treaty after due advertisement being published about such sale. It was further ordered *inter alia* that "the parties herein be at liberty to mention before this court for fixation of final remuneration of the Receiver after the sale was completed" and "for obtaining other directions for appropriate investment of the sale proceeds". By a later Order dated 11-07-1985⁶ it was clarified that Mr. Soumitra Sen was to act as Receiver without furnishing security.
- (b) Before 20th January 1993, a substantial part of the goods were sold by Mr. Soumitra Sen as Receiver appointed in Suit No. 8 of 1983. By an order dated 20th January, 1993⁷ passed by a Single Judge of the Calcutta High Court (in Suit No. 8 of 1983) it was then ordered that:

"as and when the purchase price is paid the learned receiver shall

therefrom deduct 5% thereof as his remuneration and shall keep the balance in a separate account in a bank of his choice and branch of his choice and hold the same free from lien or encumbrances subject to further orders of the Court." (Emphasis supplied).

- (c) As acknowledged in his Written Statement of Defence (filed with the Inquiry Committee on 3rd May, 2010), Soumitra Sen had received, between 01.04.1993 and 01.06.1995 as Receiver, a total sum of Rs. 33,22,800 being the sale proceeds of a large portion of the goods of which he had been appointed as Receiver. But the obligation of filing and passing of half yearly accounts that was imposed on him by the order dated 30th April, 1984^s - and under the Calcutta High Court Original Side Rules - was at no time observed or complied with: neither during the entire period when he remained an Advocate nor thereafter after he was appointed Judge.
- (d) Several documents from proper custody were brought on record by evidence of the witnesses called to produce them (*viz.* CW1 Assistant Registrar, Calcutta High Court, Original Side, and CW2 Chief Manager, State Bank of India, (Service Branch), CW4 (Manager Credit of Allahabad Bank, Stephen House Branch), and CW5 (Manager, Internal Services, Standard Chartered Bank, 19, Netaji Subhas Road, Branch, (formerly ANZ Grindlays Bank).
- (e) The evidence oral and documentary has established that not one but two separate accounts, were opened by Soumitra Sen as Receiver, each in his own name: *viz.* (i) firstly Savings Account No. 01SLP0632800 was got opened on 04.03.1993 by Soumitra Sen, with the ANZ Grindlays Bank, Church Lane Branch, Calcutta, (for convenience and for ease of identity hereinafter referred to as "ANZ Grindlays Bank Receiver's Account")⁹; (ii) secondly, Savings Account No. 9902 was got opened on 24.03.1993 by Soumitra Sen, with the Allahabad Bank, Stephen House Branch, Calcutta.¹⁰ (for convenience and for ease of identity hereinafter referred to as "the Allahabad Bank Receiver's Account"). Both these accounts, so opened, were Accounts of Soumitra Sen as Receiver: they are collectively referred to as "the Receiver's two Accounts".
- (f) As disclosed in evidence, a total sum aggregating to Rs. 33,22,800, being the sale proceeds of goods (of which Soumitra Sen was appointed Receiver) were brought into the Receiver's two Accounts between 24th March, 1993 and 5th May, 1995 as stated below:
 - (i) In the ANZ Grindlays Bank Receiver's account an aggregate sum of Rs. 28,54,800 was got deposited: through the proceeds of 18 original Demand Drafts issued in the name of Soumitra Sen by the State Bank of India (at the instance of the purchaser of the goods); the originals of these Demand Drafts have been produced in evidence along with a statement (deposed to CW2 Mr. Satyalal

Mondal, Chief Manager, State Bank of India, Service Branch, Kolkata), showing that the proceeds of the 18 demand drafts were deposited into the ANZ Grindlays Bank Receiver's account.¹¹

- (ii) In the Allahabad Bank Receiver's Account an aggregate sum of Rs. 4,68,000, was deposited in tranches of Rs. 4,50,000 and Rs. 18,000, (the former amount by two Demand Drafts issued in the name of Soumitra Sen by the State Bank of India and latter by two Bankers cheques (by Bank of Madurai later taken over by ICICI Bank) also in the name of Soumitra Sen¹² : as evidenced by CW2 Chief Manager SBI, (Service Branch) Kolkata and by the statement of account produced by witness CW4 (Manager (Credit) of the Allahabad Bank, Stephen House Branch).
- (g) In the Written Statement of Defence filed on May 3, 2010 signed by "Justice Soumitra Sen" it was categorically asserted-
 - (i) "that there was no occasion to return the money (Rs. 33,12,800) since...

(d) the entire sale consideration was invested in Fixed Deposit in Lynx India Private Limited which went into liquidation in the year 1999-2000 long after the amount representing the sale consideration was invested" [paragraph 7(d)]; and
 - (ii) that "at no point of time any monies were ever used for personal gains or were temporarily or permanently misappropriated". (Paragraph 5)
- (h) If the aforesaid assertions made by Justice Soumitra Sen in his Written Statement of Defence (filed with the Inquiry Committee on 3rd May, 2010) had been corroborated by the documentary evidence brought on record during the investigation, further investigation may have become unnecessary: since, despite apparent non-compliance, and positive infractions, of Court Orders - such as, not keeping the amounts in one account but in two accounts, not "holding" (*i.e.* keeping) the same in those accounts subject (only) to orders of the Court, not taking permission of the Court for parting with the sale-proceeds (Rs. 33,22,800), whether by way of investment or otherwise - there would have been factually no "wrongful appropriation" of moneys from the Receiver's two accounts.
- (i) However, the documentary evidence led before the Inquiry Committee clearly reveals that: neither the entire nor any part of the sale consideration received by Soumitra Sen for the sale of the goods (*i.e.* a sum of Rs. 33,22,800) were invested by Soumitra Sen (as Receiver) in Lynx India Limited; on the contrary the documentary evidence brought on record¹³ shows that a sum of Rs.25 lakhs was deposited with Lynx

India Ltd. - not from out of either of the Receiver's two Accounts (the "ANZ Grindlays Bank Receiver's Account or the Allahabad Bank Receiver's Account), but from an altogether different (third) Account which had been got opened by Soumitra Sen in his own name (opened by him for the first time on 6th February, 1997)¹⁴ - also with the ANZ Grindlays Bank, Church Lane Branch, Calcutta, (*viz.* Account No. 01SLP0813400: for convenience and for ease of identification hereinafter referred to as the "400 Account"). It was only from this "400 Account" (and not from either of the Receiver's two Accounts) that a sum Rs. 25 lacs was deposited on 27.02.1997 with Lynx India Ltd.¹⁵; and this amount of Rs. 25 lacs was paid from out of separate funds (Rs. 70 lacs) received by Soumitra Sen - not from out of sale proceeds of goods of which he had been appointed Receiver by order dated 30th April, 1984 - but received by him from a different source in an entirely different capacity and in, an entirely different proceeding: a proceeding in which he, Soumitra Sen, as Special Officer, had been entrusted by separate orders passed by the Calcutta High Court in a different proceeding with a specific sum of Rs.70 lakhs by the Official Liquidator of the High Court of Calcutta Fans (1995) Pvt. Ltd., (in Liquidation) "for distribution to workers".¹⁶

- (j) During the investigation, by the Inquiry Committee CW-3, authorised representative of the Official Liquidator of the Calcutta High Court was summoned and produced an Application Form dated 27th February, 1997 signed by Soumitra Sen which gave the number of the cheque - cheque No.624079 - drawn by Soumitra Sen on the 400 account of ANZ Grindlays Bank; the proceeds of this cheque No.624079 were utilized for making five separate applications of rupees five lakhs each in respect of which five separate fixed deposits (bearing Nos. 11349, 11350, 11351, 11352 and 11353)¹⁷ were issued by Lynx India Ltd., in favour of "Soumitra Sen": as stated above Cheque No.624079 for Rs.25 lacs was drawn by Soumitra Sen on the 400 Account of ANZ Grindlays Bank, not from either of the Receiver's two Accounts: as is evident from the Bank statement of the 400 Account produced by the CW-5 - Manager, Internal Service, Standard Chartered Bank (the successor of the ANZ Grindlays Bank).
- (k) Apart from the sum of Rs. 25 lacs shown as deposited with Lynx India Ltd. from out of the 400 Account (non-Receiver account) no further sum has been shown as deposited/ invested with Lynx India Ltd. from out of either of the Receiver's two Accounts. The following Bank Statements of the Receiver's two Accounts have been produced in evidence: *viz.*
- (i) Re: Account No.9902, Allahabad Bank, Stephen House Branch, in the name of Soumitra Sen from its inception *i.e.* 24th March, 1993 till 2009;¹⁸ there is no entry showing any payment to Lynx India Ltd., and
- (ii) Account No. 01SLP0632800 in ANZ Grindlays Bank, Church Lane

Branch, from 28th February, 1995 till the time the account is shown as closed on 22nd March, 2000;¹⁹ there is no entry throughout this period (from 28th February, 1995 upto its closing) showing any payment to Lynx India Ltd. As to the period prior to 28.02.1995, there could have been no payment to Lynx India Ltd. from out of this Receiver's Account No. 01SLP0632800 since it was the positive case of Soumitra Sen that it was only after 30.04.1995, (when amounts were paid in by the purchaser of the goods sold by him as Receiver) that fixed deposits with Lynx were created - this was so stated in Justice Sen's letter dated 25.02.2008 addressed to the Chief Justice of India (put in as an annexure to Justice Soumitra Sen's Written Statement of Defence).

- (l) There is thus abundant evidence brought on record of this investigation which establishes that the assertion in the Written Statement of Defence filed before the Inquiry Committee on 3rd May, 2010 that "*the entire sale consideration was invested in Fixed Deposits with Lynx India Ltd....*" is not true.
- (m) Justice Soumitra Sen gave no evidence before the Inquiry Committee, nor made any statement, nor even personally attended any of the hearings to enable the Inquiry Committee to be assured from Justice Soumitra Sen himself: as to how Rs. 33,22,800, was actually invested and where and how this amount had been expended; apparent and obvious contradictions between the Bank Statements exhibited in the case and his (Soumitra Sen) previous assertions in his Written Statement of Defence - *viz.* that the entire sum of Rs. 33,22,800, had been invested in Lynx India Ltd., which went into liquidation in the year 1999-2000 - did call for an explanation: these were facts in Justice Soumitra Sen's personal and special knowledge - But by refusing to attend or personally participate in the proceedings before the Inquiry Committee, he Justice Soumitra Sen, denied himself the opportunity of giving an explanation (if he had any). It is axiomatic, and an almost universal rule of evidence (see for instance Section 106 of the Indian Evidence Act, 1872) that when any fact, is pre-eminently and exceptionally within the knowledge of any person the burden of proving that fact is upon him.²⁰
- (n) Absent any convincing explanation to the contrary, it stands established from the documents brought on record in this investigation that the investment with Lynx India Ltd., was not from out of the funds of Rs. 33,22,800 (being the sale consideration of the goods of which Soumitra Sen was appointed Receiver) but from out of a sum of Rs. 70 lakhs entrusted to Soumitra Sen as Special Officer by the Official Liquidator of Calcutta Fans (1995) Pvt. Ltd., (in liquidation) - by orders of the Calcutta High Court dated 20.01.1997 and 30.01.1997²¹ in an entirely different proceeding *viz.* in Calcutta Fans Workers Employees Union *vs.* Official Liquidator - "Appeal No.____/1996 in C.P.No. 226/1996" (in the Calcutta High Court).

(o) It now remains to consider whether the further assertion in Justice Soumitra Sen's Written Statement of Defence²² viz. that "*at no point of time any monies were ever used for personal gains or were temporarily or permanently misappropriated*" is true or false. The investigation into this assertion reveals not only that there have been transfers of large sums from the Receiver's two accounts; first to the 400 Account (non-Receiver Account) - without any authority or permission of the Court appointing Soumitra Sen as Receiver - and then disbursements therefrom of several lacs of rupees from out of the 400 account (again without any authority or permission of the Court appointing Soumitra Sen as Receiver). Particulars of this diversion are, briefly set out below___:

- (i) On 6th March, 1995 Soumitra Sen got issued a Term Deposit issued (in his own name from out of funds in the ANZ Grindlays Bank Receiver's Account for a principal sum of Rs. 8,73,968, and on 4th December, 1995 out of the same ANZ Grindlays Bank Receiver's account Soumitra Sen got issued (again in his own name), a second Term Deposit for a principal sum of Rs. 9,80,000. The term-deposit sheets for each of these two Term Deposit Receipts (brought on record in these proceedings) show that each of the said two amounts of Rs. 8,73,968, and Rs. 9,80,000, had, by May 1997, stood increased (as a result of accumulated interest) to (i) Rs. 10,91,011.49p²³ (i.e. Rs. 8,73,968, plus interest) and (ii) Rs. 11,32,999.92.²⁴ (i.e. Rs. 9,80,000, plus interest): aggregating in all to Rs. 22,24,011.41.
- (ii) The documents brought on record, through witnesses from the Banks, also reveal that by a handwritten letter bearing date 22.05.1997,²⁵ on the printed letter head of "Soumitra Sen", and signed by him (addressed to the Manager, ANZ Grindlays Bank) a request was made to encash the "approximate sum of Rs. 22 lakhs" and to deposit the same "in my other account", "*as I need this money urgently as lot of payments will have to be disbursed very soon*". The said documents brought on record also show that by another letter also dated 22.05.1997²⁶ addressed to the ANZ Grindlays Bank - (and also signed by Soumitra Sen) - the Manager was requested to debit the ANZ Grindlays Bank Receiver Account and to transfer "a sum of Rs. 22,93,000, to my ANZ Saving 400 Account²⁷ (which was a non-receiver account)." Since the total available balance in the ANZ Grindlays Bank Receiver's Account was only Rs. 22,84,000, (the figure noted at the foot of the letter dated 22.05.1997 addressed by Soumitra Sen to the Bank Manager) the Bank debited the account with a sum of only Rs. 22,83,000, and credited Rs. 22,83,000, to the "400 Account" which was the non-Receiver's account in the name of Soumitra Sen.

- (iii) Witness CW5 being Manager Internal Services Standard Chartered Bank, Kolkata (successor to ANZ Grindlays's Bank) produced the transfer entries so made, which had been requested in Justice Soumitra Sen's two letters dated 22nd May, 1997 (exhibited in this proceedings)²⁸. In Cross-Examination of CW-5 Counsel for Justice Soumitra Sen did not suggest to the witness that the two letters were not written or signed by Soumitra Sen nor did Counsel dispute in cross-examination the authenticity of either of these letters nor the transfer entries in the bank accounts nor the vouchers / transfer instructions.²⁹
- (iv) The stated need for "*this money (Rs.22,83,000), urgently as lot of payments will have to be disbursed very soon*" (so stated in Soumitra Sen's handwritten letter of 22nd May, 1997³⁰ to the Bank Manager) itself shows that part of the sale-proceeds of goods (Rs. 33,22,800), was utilised for purposes other than those contemplated in the orders appointing Soumitra Sen as Receiver - If money was urgently required for payment to workers in connection with a different case: that of Calcutta Fans (1995) Pvt. Ltd. (in Liquidation) (as the letter dated 22.05.1997 headed "Re: 01SLP/063/800" suggests), and funds from the Receiver's account were got transferred for that purpose, then this itself showed a misapplication of funds held by Soumitra Sen as Receiver of the sale proceeds of the goods in Suit No. 8 of 1983. He (Soumitra Sen) was not authorised, nor did he even seek permission of the Court, to utilise monies held in either of the Receiver's two Accounts for purposes of paying workers of Calcutta Fan Ltd. Soumitra Sen had been appointed by a separate order³¹ of the Calcutta Court in a distinct and separate proceeding as "Special Officer" and as such Special Officer he had been specifically entrusted with a separate sum of Rs. 70 lacs for the specific purpose (of paying workers).
- (v) But this is not all. After the transfer of a sum of Rs. 22,83,800, from out of the ANZ Grindlays Bank Receiver's account (which admittedly represented part of the sale proceeds (Rs. 33,22,000), of the goods (and interest there on) being the subject matter of Suit 8 No.: 1983) - into the 400 Account (non-Receiver Account in the name of Soumitra Sen), there are large disbursements (from out of the 400 account) from 22nd May, 1997 to 01.07.1997: effected by issuing and getting encashed in all 45 cheques,³² each of them signed by Soumitra Sen (each of the cheques are exhibited in evidence): 18³³ of such cheques are shown to be bearer cheques aggregating to Rs. 9.57 lakhs (app.) - *i.e.* cheques bearing the legend "Pay to ____ or Bearer". In his signed - but unsworn - Written Statement of Defence Soumitra Sen's explanation (in paragraph 47) is that these disbursements

were towards payment of worker's dues "...pursuant to a Division Bench order dated 20.01.1997." But this particular Division Bench Order (of 20.01.1997)³⁴ was passed not in Suit No. 8 of 1983 or in any interlocutory application in that Suit, but in a entirely different proceeding viz. in CP No. 226/1996 Calcutta Fan Worker's Employees Union and Others vs. Official Liquidator and Others, which had no connection whatever with Suit 8 of 1983; worker's dues were to be paid from out of the Rs.70 lacs got credited by the Official Liquidator (from separate funds in his hands) in the non-Receiver's account - the 400 account - for that specific purpose.

Besides, in the course of this investigation, there was no list of "workers" produced (by or on behalf of Justice Soumitra Sen) to whom cheques (Exhibits C-219 to 233, Exhibit C-258 to Exhibit C-262) could be said to have been issued, so as to establish even *prima facie* (by comparison with the names on the cheques brought on record and exhibited) that the names tallied with the names of "identified workmen".

- (vi) All of which clearly shows a diversion from out of the ANZ Grindlays Bank Receiver's Account of a sum as large as Rs. 22,83,000, first on 22nd May, 1997 to the "400 Account" (the non-Receiver's Account (opened by Soumitra Sen in his own name), and then by disbursements made from, out of this sum of Rs. 22,83,000, deposited in the non-Receiver's Account (the 400 Account) to various persons and parties, which include an aggregate sum of Rs. 9.57 lakhs (app.) representing the proceeds of 18³⁵ bearer cheques (in different names) all signed by Soumitra Sen and showing on the face of each such cheque a Bank Stamp - with the endorsement of "Date" "Cash paid" and address of the Branch of the bank from which "cash" was paid.
- (vii) In the Allahabad Bank Receivers Account also between 24.03.1993 and 29.03.1994 a sum of Rs. 4,68,000, of Receiver's funds are shown to be withdrawn and disbursed, withdrawals were through cheques signed by Soumitra Sen: so that on 29.03.1994 only Rs. 3215, remained in this account. Five cheques (4 bearer cheques and one A/c Payee cheque)³⁶ aggregating to Rs. 1,39,514, which are exhibited and shown as signed by Soumitra Sen: are in the name of third parties from out of Receivers Funds: [unexplained by (or on behalf of Soumitra Sen)]. Similarly in the ANZ Grindlays Bank Receivers Account the statement of account as from 28.02.1995 shows a sum of only Rs. 8,83,963.05p. (on 28.02.1995) although by that date an aggregate sum as large as Rs. 19,89,000, out of sale consideration of the goods of which Sen was appointed Receiver, had been already deposited in this account. This difference too has not been explained

or accounted for. Even after 28.02.1995 till 5th May, 1995 sums aggregating to Rs. 8,65,000, were deposited. Later on, eleven self-withdrawal-cheques (*i.e.* withdrawals by Soumitra Sen) and two payments (by cheque) to "S.C. Sarkar & Sons" and three payments towards some credit card dues were made.³⁷ There is no explanation about any of these entries. Ultimately in the Allahabad Bank Receiver's Account - the balance as on 31st May, 2008 is shown as "nil",³⁸ and in the ANZ Grindlays Bank Receiver's Account, the ultimate balance as on 22nd March 2000 is also shown as "Nil"³⁹: the account being shown as closed.

- (p) In the assessment of the Inquiry Committee the positive case made by Justice Soumitra Sen in his Written Statement of Defence as to how the sale proceeds of the goods of which he was appointed receiver were appropriated/invested is proven to be untrue - The assertion in the Written Statement of Defence that *"at no point of time any monies were ever used for personal gains or were temporarily or permanently misappropriated"* is shown to be false.
- (q) Even if the signed Written Statement of Defence - not being on oath - be disregarded, especially since Justice Soumitra Sen himself did not appear personally before the Inquiry Committee to affirm its contents as true, even then, it is apparent from the aforesaid evidence brought on record that there has been a large scale diversion/conversion of the funds (sale-proceeds of Rs. 33,22,800), in the hands of the Receiver in breach of and in violation of the orders of the Court appointing Soumitra Sen as Receiver - a diversion / conversion of funds for purposes which were totally unauthorised and remain unexplained.
- (2) Conduct of Justice Soumitra Sen in relation to the events recited above after December 3, 2003.**

All that is stated above took place during the period when Soumitra Sen Receiver was an Advocate. The assessment of the Inquiry Committee is that as Advocate - and as officer of the High Court of Calcutta - Soumitra Sen's conduct (his various acts and omissions prior to December 3, 2003) was wrongful and not expected of an Advocate: an officer of the High Court. But his conduct - in relation to matters concerning the moneys received during his Receivership - after he was appointed a Judge was deplorable: in no way befitting a High Court Judge. It was an attempt also to cover-up not only his infractions of orders of the Calcutta High Court but also, by the making of false statements, it revealed an attempt also to cover up the large-scale defalcations of Receiver's funds - details of which are set out below:

- (a) After he was appointed a Judge on 3rd December, 2003 no application was made by him for his discharge as Receiver, nor has

he been at any time, discharged of his duties as Receiver. By order dated 3rd August, 2004⁴⁰ (in Application No. GA 875/2003)⁴¹; - an application filed by the plaintiff (Steel Authority of India) in Suit No. 8 of 1983 - the Calcutta High Court had appointed another advocate (Mr.Soumen Bose) as Receiver, not of the sale proceeds of goods that had been sold by the erstwhile Receiver; but as Receiver for sale of a small portion of the remaining goods unsold (*i.e.* 4.311 metric tonnes); which had not been thus far sold by the "erstwhile Receiver" (*i.e.* by Soumitra Sen).⁴²

- (b) After his elevation as a Judge (in December, 2003) Justice Soumitra Sen did not seek any permission from the Court, which appointed him Receiver- even *expost facto* - to ratify or approve of his dealings with the sale-proceeds under his Receivership, nor did he file any application informing the Court as to what had happened to those funds.
- (c) It is the admitted position on record that no accounts whatever have been filed in the Calcutta High Court as directed by the Order dated 30th April, 1984⁴³ appointing Soumitra Sen as receiver (also required by Ch.XXI of the Calcutta High Court Original Side Rules). As a matter of fact in one of the orders passed by the Single Judge of the Calcutta High Court dealing with Suit No. 8 of 1983 it appears that the Presiding Judge made specific inquiries with the Registry of the Calcutta High Court as to the filing/non-filing of Receiver's accounts by Soumitra Sen, and that Inquiry resulted in a Report dated 20.07.2005⁴⁴ filed by the Accounts Department of the Calcutta High Court (so recorded in Court Order dated 21st July, 2005)⁴⁵ that "*no accounts has been filed by the erstwhile Receiver in the aforesaid suit though collections have been made...*"
- (d) As to the sale proceeds of Rs. 33,22,800, that had already been paid over to the erstwhile Receiver Mr. Soumitra Sen, *the events that took place after Soumitra Sen, was appointed a Judge of the Calcutta High Court*, show a complete lack of consciousness by the Judge of his position and responsibility as a Judge of the Calcutta High Court. The conduct of the Judge was at first to avoid saying anything to the Court that had previously appointed him as Receiver, and to avoid and evade all attempts by the Court to obtain information from him; and then, when that was no longer possible, to make a positive mis-statement to the Court - and that too on sworn affidavit (of his mother, on his behalf, as constituted attorney) on the basis of which, treating it as true, a Division Bench of the High Court of Calcutta passed judgment dated 25.09.2007⁴⁶ in favour of Soumitra Sen. All these somewhat sordid events are all brought on record of the present proceedings

and are, briefly set out below:

- (i) That before Soumitra Sen became a Judge, a letter dated 07.03.2002⁴⁷ was addressed by plaintiff's Advocate (advocate for the Steel Authority of India in Suit No. 8 of 1983) calling upon Soumitra Sen to furnish the Accounts in respect of sale proceeds of the goods sold by him as Receiver. (In his Written Statement of Defence filed on 03.05.2010 Justice Sen states that he did not personally receive this letter). On the strength of there being no response, to this letter of 07.03.2002, the plaintiff (Steel Authority of India in Suit 8 of 1983) moved the Court by filing an application GA 875/03⁴⁸ on 27.02.2003 for an order *inter alia* for rendition of accounts and deposit of the sale proceeds in Court.
- (ii) After being served with specific Orders dated 07.03.2005⁴⁹ and 03.05.2005⁵⁰ passed in G.A. 875/2003 (*in Suit 8 of 1983*) after Sen had become a Judge on December 3, 2003 - he was requested by the Court "to swear an affidavit either by himself or through any authorized agent as he may think fit and to state what steps he had taken and how much amount he had received on account of sale in terms of the Order of this Court"; he was also required to state on affidavit "in which Bank or Branch the sales proceeds has been deposited" and required to "annex the copy of the receipts of deposits or send in a sealed cover all documents and passbook, if any, to the Registrar, Original Side Calcutta High Court who in his turn, shall produce the same before this Court on the next date of hearing" - despite this specific and detailed order: Justice Soumitra Sen simply ignored it - he did not comply. No affidavit was filed by Justice Sen in GA 875/2003 nor did he make any statement, nor did he choose to appear before the Court at the hearing of application No. GA 875/2003 - either through Counsel or by any other representative: nor was it then his contention (as it is now) that his appointment as a Judge in December, 2003 was itself an affirmation of good conduct as Receiver prior to December 3, 2003: since the appointment must have been made after full knowledge by all the authorities concerned about his dealings as Receiver. Such an implausible argument now made in the present proceedings is an argument that requires only to be stated in order to be rejected.
- (iii) By the Order dated 17.05.2005⁵¹ a Judge of the Calcutta High Court after being satisfied that the copy of the application No. GA875 of 2003 had been duly served on Justice Soumitra Sen, put on record (of GA 875/2003) the affidavit⁵² of the purchaser of the goods, (of which Soumitra Sen had been appointed receiver) in respect of particulars of payment for the price of goods sold and delivered,

and recorded that a sum of Rs. 33,22,800, had been paid to the Receiver on various dates commencing from 25th February, 1993 upto 30th April 1995; the same order stated that a copy of the affidavit of the purchaser should be supplied to the erstwhile Receiver and "it would be open to the Receiver to file an affidavit if so advised either by himself or authorised agent dealing with statements and averments made by the petitioner (the plaintiff Steel Authority of India) as well as the purchaser". In response, no such affidavit was filed. Since the order of 17th May, 2005 was shown to have been served⁵³ on Justice Soumitra Sen; as the Single Judge noted: "in spite of service none appeared to say anything about this matter." The Single Judge then proceeded to record that: "this Court has no option but to make an inquiry as to what happened to payments said to have been received by the erstwhile Receiver."

- (iv) The proceedings in GA 875 of 2003 then dragged on till 10.04.2006 (the relevant orders have been brought on record). Justice Soumitra Sen did not comply with any of the orders dated 07.03.2005⁵⁴, 03.05.2005⁵⁵ and 17.05.2005⁵⁶ (passed in GA 875/2003) by filing an affidavit nor by making any statement to the court; nor did he even appear through Counsel or otherwise, (in GA 875/2003) on any of the following dates of hearings *viz.* 30th June, 2005⁵⁷, 21st July, 2005⁵⁸, 26th July, 2005⁵⁹, 7th September, 2005⁶⁰, 4th October, 2005⁶¹, 12th December, 2005⁶², 9th January, 2006⁶³, 1st February, 2006⁶⁴, 15th February, 2006⁶⁵ and 1st March, 2006⁶⁶ - All this ultimately led the Single Judge of the Calcutta High Court (who was in seisin of GA 875 of 2003) to direct (by Order dated 10.04.2006⁶⁷) Justice Soumitra Sen to pay up Rs. 52,46,454, being the sum of money assessed as the amount which ought to have been in his hands as Receiver: (*viz.* Rs. 33,22,800, plus 5% interest thereon upto 01.04.2003, and 9 per cent interest on the principal sum from 02.04.2003 till 01.04.2006 - after adjusting an amount of Rs. 5 lakhs already paid by Soumitra Sen to plaintiffs Advocate, and after deducting Receiver's remuneration). Without any protest on the part of Justice Soumitra Sen, this order was complied with - not questioned or challenged by him in appeal or in any other proceeding. Without demur, Justice Soumitra Sen in compliance with the Order dated 10.04.2006 made a part payment of Rs. 40 lakhs on 27.06.2006 and 15.09.2006 (from what source it is not revealed) and then sought more time for depositing the balance by moving application GA 2968/06⁶⁸.
- (v) The Application, GA2968/2006, dated 14.09.2006 was the first application made on his behalf as Receiver after Soumitra Sen became a Judge in December 2003; it was moved not in his own name but in the name of his mother as his constituted attorney.

Its significance for the present purpose lies in the fact that no mention whatever was made in this application as to how the money received by the Receiver (Soumitra Sen) had been dealt with or invested. This application merely sought time for paying the balance of over Rs.12 lakhs - in this application it was submitted "*that in the event this Hon'ble Court permits the said Receiver to deposit the remaining balance amount within 2 weeks after the long vacation of this Hon'ble Court it will be helpful for the erstwhile Receiver.*" In the application no grievance was made about the adverse comments of the Single Judge about Justice Soumitra Sen's conduct in his Order dated 10.04.2006. The Single Judge who heard GA2968/2006 granted Justice Soumitra Sen the time he had requested; the balance payment was then made by Justice Soumitra Sen on 21.11.2006 - again without protest, and not even "without prejudice": no explanation being offered as to from what source this further large sum was paid. The order of 10.04.2006 was accepted and acted upon.

- (vi) After he had fully complied with the Order dated 10.04.2006⁶⁹ directing payment of the entire adjudged sum of Rs. 52,46,454.00, and after having taken advantage of the further order of the Single Judge extending time for payment as requested by Sen, on 15th December 2006, it was for the first time that Justice Soumitra Sen got filed through his constituted attorney (his mother) another interlocutory application GA 3763 of 2006⁷⁰ in Suit No. 8 of 1983 - for expunging of adverse comments and prejudicial remarks made by the Single Judge of Calcutta High Court in his previous Order dated 10.04.2006 - as stated above this was after having accepted and acted on the order dated 10.04.2006 by paying back the entire sum of Rs. 52,46,454.00 as directed by the Judge. Even in this application Justice Soumitra Sen did not question the Single Judge's order dated 10.04.2006⁷¹ directing him to pay Rs. 52,46,454, nor did he dispute his personal liability to repay the amounts received by him as Receiver nor did he question the assessment of the quantum (fixed by the High Court) that had to be repaid. However a significant feature of this Application GA No. 3763/06⁷² dated 15.12.2006⁷³ was that it was supported by an affidavit dated 13.12.2006⁷³ of the mother, of Justice Soumitra Sen, in which affidavit in paragraph 6 it was stated (on behalf of Justice Sen) *for the first time* that the sale proceeds (Rs. 33,22,800) received by him "*were deposited in the Bank Accounts but were subsequently invested in a public limited Company, viz. Lynx India Ltd. (now in liquidation) in order to earn more interest*". (sic) GA 3763/2006 was finally disposed off on 31.07.2007⁷⁴ by the Single Judge of Calcutta High Court by recording due compliance of his previous Order passed on 10.04.2006⁷⁵ viz. of that payment of Rs. 52,46,454 made by the erstwhile Receiver. However the Single

Judge declined to expunge any remarks / observations contained in his previous Order passed on 10.04.2006. It is this Order dated 31.07.2007 (refusing to expunge adverse remarks in the order dated 10.4.2006) that was challenged by Justice Soumitra Sen - again through his mother as constituted Attorney - by filing Memorandum of Appeal APOT 462/07 (later numbered as APO 415/07).⁷⁶ In Ground XIII of the Memorandum of Appeal dated 29.08.2007 filed on behalf of Justice Soumitra Sen (through his mother as constituted attorney):- against the judgment (dated 31.07.2007) of the Single Judge - it was stated as follows:

"XIII. FOR THAT the Learned Judge failed to appreciate that all the investments made by the erstwhile Receiver in the company were by way of cheques drawn on ANZ Grindlays Bank, Account No. 01SLP0156800 maintained in the personal name of the erstwhile Receiver. This would be borne out from the documents disclosed by the Official Liquidator as also from the documents exhibited by the Standard Chartered Bank. This has also been stated in the notes submitted on behalf of the petitioner."(Emphasis supplied)*.

- (vii) The Division Bench of the Calcutta High Court in its judgment dated 25.09.2007⁷⁷ allowed the appeal and directed the expunging of all comments and observations made in the Order dated 10.04.2006 of which the expungment was sought, and held that the Single Judge had acted without jurisdiction in making such comments. The Division Bench⁷⁸ - *after referring to the explanation given on behalf of Justice Soumitra Sen* (in the affidavit dated 13.12.2006), and obviously conscious of the further statements made in Ground XIII of the Memorandum of Appeal (quoted above) went on to say:

* "When the Account Opening form of ANZ Grindlays Bank, Church Lane Branch, Account No. 01SLP0156800 was got produced in examination in chief through witness CW-5, Manager (Internal Services Standard Chartered Bank, formerly ANZ Grindlays Bank), in cross-examination Counsel for the Justice Soumitra Sen (Respondent) put it to him (CW-5) that the account opening form of 01SLP0156800 was not the account of the respondent (Justice Soumitra Sen), and elicited from him the answer "Probably not". CW-5 said, in further cross-examination, that the "signature and the address mentioned is not matching with that of the respondent." (Soumitra Sen); the Account number mentioned in Ground XIII was thus admittedly not the account of Soumitra Sen who had been appointed Receiver of the goods but it was an account of a person with the same name "Soumitra Sen" who was Sales Promoter of Food Specialities Ltd. (See Exhibits C-304, C-303, & C-301)!" The Account number of ANZ Grindlays Bank, Church Lane Branch opened in the name of the Respondent "Soumitra Sen" was No.:01SLP0632800; a different number from Account No: 01SLP0156800 of an entirely different person also having the same name: "Soumitra Sen". By characterising this Account No.: 01SLP0156800 as "an account in the personal name of the erstwhile Receiver" which it was not, the statement in Ground XIII was obviously false and misleading; even if the number of the account had been given as 01SLP0632800, the statements made in Ground XIII would still have been incorrect and misleading.

(i) *"There was no evidence of any kind to show that the said erstwhile Receiver had done anything benefiting himself. On the contrary, the records showed, the money had been deposited with a finance company by the erstwhile Receiver, but as the company was wound up the money could not be recovered...." and that "there was no misappropriation of any kind by the said erstwhile Receiver."*

The Division Bench then concluded:

"The findings of the learned Single Judge are based without any material of any kind. It is not understood how a finding of breach of trust, criminal or otherwise, could be made nor it is also understood how any comment could be made that there was any misappropriation. The Order of learned Single Judge is entirely without jurisdiction and not supported by the facts on record".

V. Events subsequent to the judgment order dated 25.9.2007 of the Division Bench of the Calcutta High Court in APOT 462 of 2007 (also APO 415 of 2007)

Despite the exoneration by the Division Bench of the Calcutta High Court of Justice Soumitra Sen his conduct tantamount to "misappropriation" of funds of which he had taken charge of as Receiver, 58 members of the Rajya Sabha (as already mentioned) gave Notice of a Motion in the Rajya Sabha - initiating the process for removal of Justice Soumitra Sen as Judge of the Calcutta High Court. The Motion having been admitted on 27.02.2009 by the Hon'ble Chairman, the present (re-constituted) Inquiry Committee was entrusted with the task of investigating and making its Report on definite charges arising out of the misconduct of Justice Soumitra Sen set out in the Motion. During this investigation Counsel for the Justice Sen relied, very strongly, on the judgment dated 25.09.2007⁷⁹ of the Division Bench of the Calcutta High Court to contend that the entire proceedings under the 1968 Act were without jurisdiction, and that no proceedings could be taken against Justice Soumitra Sen as long as this Division Bench judgment had not been recalled or set aside; that its findings were binding on this Inquiry Committee. This, along with some other contentions raised, must now be dealt with.

VI. Remaining contentions and submissions made on behalf of Justice Soumitra Sen

It was *inter alia* contended on behalf of Justice Soumitra Sen as follows:

(1) A Receiver appointed by a High Court is answerable to the Court

which appoints him and no one else and therefore the Inquiry Committee could not inquire into the conduct of the Receiver.

- (2) No action against the Receiver appointed by a High Court could be instituted or taken without leave of that Court which appointed him the Receiver.
- (3) That the Calcutta High Court, subject only to the Appellate jurisdiction of the Supreme Court, is the sole and exclusive authority to prepare, maintain and preserve its own record, an inquiry into the records of the High Court (which would include its judgments) was impermissible by anybody or any authority whatever other than the High Court itself (or the Supreme Court of India).
- (4) Non-filing of accounts by a Receiver was a matter to be investigated into and adjudged by the Court that appointed the Receiver and no conclusions could be drawn that were adverse to Justice Soumitra Sen on the basis of his not having submitted any accounts - as directed in the order appointing him as a Receiver dated 30th April, 1984.
- (5) That at the time of "elevation" of Soumitra Sen as Judge of the Calcutta High Court his appointment as receiver was known to the Calcutta High Court Judges and therefore it is reasonable to presume that the Judges of the Supreme Court were also aware of the same and that the Government and the President of India were also aware of this fact: therefore his appointment by the President of India as Judge could not be set at naught "unless the charges against him are proved beyond reasonable doubt."

In the opinion of the Committee none of these contentions merit serious consideration for the following reasons:

- (A) As regards the first three contentions - RE: (1), (2) and (3) mentioned above:-
 - (i) As already mentioned, the proceedings before this Inquiry Committee are taken pursuant to the provisions of the Judges Inquiry Act, 1968 and the Notification issued thereunder. The Motion of 58 Members of the Rajya Sabha admitted by the Hon'ble Chairman records as under:

"Motion received under article 217 read with article 124(4) of the Constitution"

The Chairman has, under Section 3 of the Judges (Inquiry) Act, 1968, admitted the following Motion received from Shri Sitaram

Yechury and other Members (total fifty-seven) the notice of which was given under article 217 read with article 124(4) of the Constitution of India:-

"This House resolves that an address be presented to the President for removal from office of Justice Soumitra Sen of the Calcutta High Court on the following two grounds of misconduct:-

- (i) Misappropriation of large sums of money, which he received in his capacity as receiver appointed by the High Court of Calcutta; and
- (ii) Misrepresented facts with regard to the misappropriation of money before the High Court of Calcutta."

The Motion shall be kept pending till further action prescribed in the Judges (Inquiry) Act, 1968 and the rules made thereunder is taken.

- (ii) The Proceedings before the Rajya Sabha (even assuming that they could have been challenged elsewhere) have not been so challenged by or on behalf of Justice Soumitra Sen - either before any appropriate Court or before any other authority. This Inquiry Committee appointed by Notification dated 16.12.2009 must proceed on the basis that the Motion (which has been kept pending) is valid. Contentions (1), (2) and (3) above are in the teeth of the Motion admitted in the Rajya Sabha, and any contention which in effect questions the very admission of the Motion by the Chairman of the Rajya Sabha is beyond consideration of the Inquiry Committee. When Parliament speaks by legislation or by Resolution or by Motion, no one has the authority to question it - certainly not a Committee constituted in pursuance of that Motion.
- (iii) Where a party files a suit against a receiver in his capacity as a receiver he cannot do so without leave of the court that appointed the receiver; but it cannot be lawfully contended that a Resolution or Motion in Parliament, or in one of its Houses, requires leave of any Court: it is the sole and exclusive right and privilege of Parliament to institute or not institute proceedings for the removal of a High Court Judge and it is the sole and exclusive right and privilege of the Presiding Officer of either House of Parliament to admit a Motion with respect to "misconduct" alleged against a Judge whether in respect of his duties as a receiver or otherwise.
- (iv) The fact that the Calcutta High Court is a "Court of Record" cannot be gainsaid, but the investigation before the Inquiry Committee is

not into the "records of the High Court" as was sought to be argued. The judgment dated 25.09.2007⁸⁰ of the Division Bench of the Calcutta High Court which has been relied upon by Justice Soumitra Sen is not a judgment *in rem* but a judgment *inter-parties*: it exonerates the Judge from all adverse remarks and criticism made by the Single Judge in his judgment dated 10.04.2006⁸¹; the finding in the judgment of the Division Bench of the Calcutta High Court that there has been no "misappropriation" by Justice Sen is a finding that may be binding on the parties in Suit No. 8 of 1983; but no more. It cannot and does not exonerate the Judge from being proceeded with in Parliament under proviso (b) of Article 217 (1) read with Article 124(4). The observations in the judgment dated 25th September, 2007 of the Division Bench of the Calcutta High Court to the effect that there was no misappropriation of receiver funds by Justice Soumitra Sen was, after considering the un-contested affidavit filed on his behalf by his mother (set out above) which categorically asserted that the entire sum received by him from the sale of goods (Rs. 33,22,800) was invested in Lynx India Ltd., and that that company had gone into liquidation a couple of years later: this statement (alongwith the further misleading and false statements in Ground XIII of the Memorandum of Appeal quoted above: were material misrepresentations made by and on behalf of Justice Soumitra Sen before the Division Bench of the High Court of Calcutta. The finding by the Division Bench in its judgment dated 25.07.2007 that Justice Soumitra Sen was not guilty of any misappropriation was made on a totally erroneous premise induced by false representations made on behalf of Justice Soumitra Sen.

(v) The records of the Calcutta High Court in the form of the judgment of the Division Bench remain intact, they are not in any way affected by the Motion before the Rajya Sabha nor by the Report of this Inquiry Committee. The foundation of the charge against Justice Soumitra Sen is one of conduct amounting to "misbehaviour", which was not the subject matter of consideration before the Division Bench of the High Court of Calcutta.

(B) Re: (4) - The submission in contention (4) set out above is untenable. That Soumitra Sen as receiver did not submit any accounts whether when he was an advocate or after he became a Judge, and thus violated the order appointing him as receiver, is a clear instance of "misconduct" tantamount to "misbehaviour" especially since Justice Soumitra Sen used his position as a Judge of the High Court by filing an affidavit of his mother (as his own constituted attorney) making the (mis)statement that he had invested the entire sum of Rs. 33,22,800 with Lynx India Ltd., which is proven to be a false statement. This affidavit was made in

proceedings for expunging adverse remarks made by the Single Judge in his previous judgment dated 10.04.2006; this affidavit was relied upon by Justice Sen *inter alia* before the Division Bench of High Court and it was by relying on this affidavit - affirmed again in ground XIII in the Memorandum of Appeal (quoted above) - that the entire amount of Rs. 33,22,800 had been invested in Lynx India Ltd. Which had thereafter gone into liquidation - that the Division Bench (on a misrepresentation by Justice Sen - obviously not known at the time by the Division Bench to be a misrepresentation) concluded that there was in fact no misappropriation of any of the Receiver's funds by Soumitra Sen.

- (C) **Re: (5)** Contention No. 5 above is untenable. A Resolution for the removal of a Judge under proviso (b) to Article 217 (1), read with Article 124 (4), has nothing whatever to do with his appointment as a Judge; it is because he had already been appointed as Judge that these Articles would come into play if the ground for his removal (*viz.* "proved misbehaviour") so warrant.

VII. Acknowledgements:

Before recording findings on the charges, it remains to acknowledge, not as a matter of form - but in earnest and with sincerity - the role of the advocates appearing on both sides of the case. Their role and conduct was exemplary: the Inquiry Committee is indebted to Senior Advocate Mr. Siddharth Luthra and the Advocates assisting him, the Committee is also indebted to Senior Advocate Mr. Shekhar Naphade, and the Advocates assisting him - for the hard work that they have put into the case. Each of them have fully co-operated with the Committee in the course of the entire proceedings: during evidence and at the time of arguments. Mr. A. Sinha, Secretary appointed to the Inquiry Committee has rendered yeoman service in ensuring timely attendance of witnesses from Kolkata and production of records, preparing the bundles of Exhibits, and in most efficiently performing the other manifold duties of his office. The Inquiry Committee also wishes to acknowledge its grateful thanks to the entire Staff who have worked tirelessly throughout these proceedings whom the Committee desires to mention by name: *viz.* Shri Pramod K. Goel, Executive Officer; Shri Jayanta Kumar Ruje, Assistant; as well as other members of the Staff *viz.* Shri Manoranjan Gouda, P.A.; Kumari Jugnu Khan, Mohammad Ajmal Khan, Shri Sajjan Lal, Shri Prabhati Lal, and Shri Surendra Kumar.

VIII. FINDINGS OF THE INQUIRY COMMITTEE

CHARGE I	FINDINGS
MISAPPROPRIATION (<i>i.e.</i> misappropriation of large sums of money, which he received in his capacity as receiver appointed by the High Court of Calcutta)	Duly proved - as set out in Part IV of the Report.
CHARGE-II	FINDINGS
MAKING FALSE STATEMENTS - Misrepresented facts with regard to the misappropriation of money before the High Court of Calcutta	Duly proved - as set out in Part IV of this Report.

In view of the findings on Charge I and Charge II above, the Inquiry Committee is of the opinion that Justice Soumitra Sen of the Calcutta High Court is guilty of "misbehaviour" under Article 124(4), read with proviso (b) to Article 217(1) of the Constitution of India.

Presiding Officer,
(Justice B. Sudershan Reddy)
Judge, Supreme Court of India

Member
(Justice Mukul Mudgal)
Chief Justice of Punjab &
Haryana High Court

Member
(Fali S. Nariman)
Senior Advocate, Supreme
Court of India

**IX. ANNOTATIONS - EXHIBITS
WITH REFERENCE
TO THE TEXT OF THE REPORT**

1. Corpus Juris Secundum (Vol. 48A) page-614.
"As a general rule, disciplinary or removal proceedings relating to Judges are sui generis and are not civil or criminal in nature; and their purpose is to inquire into judicial conduct and thereby maintain standards of judicial fitness."
2. Delhi Judicial Services Association vs. State of Gujarat - AIR 1991 S.C. 2176 paras - 12 and 13; Devi Prasad vs. Maluram Singhani and others 1969(3) SCC 595 (3J) at para-8 page-602; Razik Ram vs. Ch. Jaswant Singh Chauhan 1975 (4) SCC 769 at para-15 page-776.
3. Black's Law Dictionary, 6th Edition, (1990) page - 1245.
4. From the Report of Federal Court of India (in the Archives) in respect of charges against Mr. Justice S.P. Sinha, a Judge of the High Court of Judicature at Allahabad upon a reference made under Section 220(2)(b) of the Government of India Act, 1935 as adapted by the India (Provisional Constitution) Order 1947 and the India (Provisional Constitution) Amendment Order 1948 - an extract from the Report has been annexed to a Report of the Inquiry Committee under the Judges Inquiry Act, 1968 - See Annexure-F p-85 to 91 of Volume-2 (1992) in regard to investigation and proof of the misbehaviour alleged against Mr. Justice V. Ramaswami, Judge, Supreme Court of India.
5. Exhibit C-10.
6. Exhibit C-32.
7. Exhibit C-37.
8. Exhibit C-10.
9. Exhibit C-67+C-69.
10. Exhibit C-63, Exhibit C-143, C-144 Exhibit C-153, Exhibit C-154 and C-59.
11. Exhibit C-85 to C-102, Exhibit C-58 and C-103.
12. Exhibit C-83, C-84, Exhibit C-154, Exhibit C-58, C-145, Exhibit C-31 and C-54.
13. Exhibit C-70 and Exhibit C-68, C-109, C-130, C-132, C-134 and C-136.
14. Exhibit C-68 and C-70.
15. Exhibit C-70 Entry No.6, Cheque No.624079; Five applications forms of Lynx India Ltd. Exhibit C-109, C-130, C-132, Exhibit C-134, Exhibit C-136 Term deposits Exhibit C-111, Exhibit C-112, C-115, C-116 Receipts Exhibit C-110, Exhibit C-129, Exhibit C-131, Exhibit C-133 and Exhibit C-135.

16. Exhibit C-39 and C-40.
17. Exhibit C-110, C-111, C-112, C-115 and C-116.
18. Exhibit C-63, C-143, C-144 to C-147, C-153 and C-154.
19. Exhibit C-69.
20. Section 106 of Evidence Act which reads as under:
106: Burden of proving facts especially within knowledge.
"When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him."
21. Exhibit C-39 and C-40.
22. Para-5 page-2 of Written Statement of defence.
23. Exhibit C-295.
24. Exhibit C-294.
25. Exhibit C-293.
26. Exhibit C-265.
27. Exhibit C-265, C-266 and C-267.
28. Exhibit C-293 and C-265.
29. Exhibit C-265, C-266 and C-267.
30. Exhibit C-293.
31. Exhibit C-39 and C-40.
32. Exhibit C-213 to C-262.
33. Exhibit C-219 to C-227; Exhibit C-230 to C-233; and Exhibit C-258 to C-262.
34. Exhibit C-39.
35. Exhibit C-219 to C-227, C-230 to C-233 and C-258 to C-262.
36. Exhibit C-148 to C-152.
37. Exhibit C-275 to C-279, C-297 and C-299, C-280 to C-282, Exhibit C-285, C-286, C-288, Exhibit C-283, C-284, C-273.
38. Exhibit C-63, C-143, C-153 and C-154.
39. Exhibit C-69.
40. Exhibit C-33.
41. Exhibit C-43.
42. Exhibit C-10, C-39 and C-40.
43. Exhibit C-10 and C-34.
44. Exhibit C-79
45. Exhibit C-15.
46. Exhibit C-53.

47. Part of Exhibit C-43.
48. Exhibit C-43.
49. Exhibit C-11.
50. Exhibit C-12.
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78. Exhibit C-53.
79. Exhibit C-53.
80. Exhibit C-53.
81. Exhibit C-41.





Judges (Inquiry) Act, 1968

**REPORT
OF
THE INQUIRY COMMITTEE**
[Constituted by the Chairman, Rajya Sabha]

VOLUME - II

IN REGARD TO INVESTIGATION AND PROOF OF THE
MISBEHAVIOUR ALLEGED AGAINST MR. JUSTICE
SOUMITRA SEN OF CALCUTTA HIGH COURT



September 10, 2010

Judges (Inquiry) Act, 1968



सत्यमेव जयते

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PART II

Nos.: 45898-45900

FRIDAY, FEBRUARY 27, 2009

No.: 45898

Legislative Section

**Motion received under article 217 read with article 124 (4) of the
Constitution**

The Chairman has, under Section 3 of the Judges (Inquiry) Act, 1968, admitted the following Motion received from Shri Sitaram Yechury and other Members (total fifty-seven) the notice of which was given under article 217 read with article 124 (4) of the Constitution of India:-

“This House resolves that an address be presented to the President for removal from office of Justice Soumitra Sen of the Calcutta High Court on the following two grounds of misconduct:-

- (i) Misappropriation of large sums of money, which he received in his capacity as receiver appointed by the High Court of Calcutta; and
- (ii) Misrepresented facts with regard to the misappropriation of money before the High Court of Calcutta.”

The Motion shall be kept pending till further action prescribed in the Judges (Inquiry) Act, 1968 and the rules made thereunder is taken.



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 2154]

नई दिल्ली, बुधवार, दिसम्बर 16, 2009/अग्रहायण 25, 1931

No. 2154]

NEW DELHI, WEDNESDAY, DECEMBER 16, 2009/AGRAHAYANA 25, 1931

राज्य सभा सचिवालय

RAJYA SABHA SECRETARIAT

अधिसूचना

NOTIFICATION

नई दिल्ली, 16 दिसम्बर, 2009

New Delhi, the 16th December, 2009

का.आ. 3241(अ)—न्यायाधीश (जांच) अधिनियम, 1968 की धारा 3 की उप-धारा (2) के अधीन दिनांक 25 जून, 2009 की समसंख्यक अधिसूचना के आंशिक आशोधन में राज्य सभा के सभापति ने, कलकत्ता उच्च न्यायालय के न्यायमूर्ति सौमित्र सेन को पद से हटाये जाने के अनुरोध के आधारों की जांच करने के प्रयोजनार्थ एक समिति का पुनर्गठन किया है जिसमें निम्नलिखित तीन सदस्य होंगे :-

S.O. 3241(E)—In partial modification of the Notification of even No. dated the 25th June, 2009, under sub-section (2) of Section 3 of the Judges (Inquiry) Act, 1968, the Chairman, Rajya Sabha, has reconstituted, for the purpose of making an investigation into the grounds on which the removal of Justice Soumitra Sen of the Calcutta High Court is prayed for, a Committee consisting of the following three Members:-

1. माननीय न्यायमूर्ति बी. सुदर्शन रेड्डी, भारत का उच्चतम न्यायालय;
2. माननीय न्यायमूर्ति मुकुल मुदगल, पंजाब और हरियाणा उच्च न्यायालय के मुख्य न्यायाधीश; तथा
3. श्री फाली एस. नारिमान, वरिष्ठ अधिवक्ता, भारत का उच्चतम न्यायालय।

1. Hon'ble Justice B. Sudershan Reddy, Supreme Court of India;
2. Hon'ble Justice Mukul Mudgal, Chief Justice of the Punjab and Haryana High Court; and
3. Shri Fali S. Nariman, Senior Advocate, Supreme Court of India.

[फा. सं. आरएस 8/2/2009—एल]

[F. No. RS 8/2/2009-L]

विवेक कुमार अग्निहोत्री, महासचिव

V. K. AGNIHOTRI, Secy.-General

भारतीय संसद
PARLIAMENT OF INDIA
राज्य सभा सचिवालय
RAJYA SABHA SECRETARIAT
(न्यायाधीश जाँच समिति)
(JUDGES INQUIRY COMMITTEE)

F.No.20(2)/2010-JIC

विज्ञान भवन सौध,
Vigyan Bhawan Annexe,
नई दिल्ली - 110 011
New Delhi - 110 011

Dated the 4th March, 2010

To

Shri Soumitra Sen
Judge, High Court of Calcutta at Kolkata,
High Court of Calcutta,
Kolkata.

Whereas a motion for presenting an address to the President praying for your removal from your office as a Judge of the High Court of Calcutta at Kolkata has been admitted by the Chairman of the Council of States;

And whereas the Chairman has constituted an Inquiry Committee with me, a Judge of the Supreme Court of India, as the presiding officer thereof for the purpose of making an investigation into the grounds on which your removal has been prayed for;

And whereas the Inquiry Committee has framed charges against you on the basis of which investigation is proposed to be held;

You are hereby requested to appear before the said Committee in person, or by a pleader duly instructed and able to answer all material questions relating to the inquiry, on the 25th day of March, 2010 at 4.30 'O' clock in the afternoon to answer the charges;

As the day fixed for your appearance is appointed for the final disposal of the charges leveled against you, you are requested to produce on that day all the witnesses upon whose evidence and all the documents upon which you intend to rely in support of your defence.

Please take notice that in the event of any default in your appearance on the day aforementioned, the investigation into the grounds on which your removal has been prayed for shall be made in your absence.

Given under my hand this 4th day of March, 2010.




Presiding Officer,
Inquiry Committee.

Enclosures:-

1. A copy of the charges framed under sub-section (2) of section 3 of the Act.
2. Statement of grounds on which each charge is based.

**STATEMENT OF GROUNDS IN SUPPORT OF CHARGES
AGAINST MR. JUSTICE SOUMITRA SEN, JUDGE,
CALCUTTA HIGH COURT**

A. APPOINTMENT AS RECEIVER

1. You (whilst practising as an Advocate) had been appointed as Receiver in Civil Suit No. 8 of 1983 entitled "Steel Authority of India Limited *vs.* Shipping Corporation of India Limited & Others" by the Hon'ble High Court at Calcutta (hereinafter referred to as "the Court"), *vide* order dated April 30, 1984 on specified terms and conditions for conducting the auction-sale of specified quantity of Periclase Spinel Bricks (hereinafter referred to as "the Goods").
2. In terms of the said order, you were vested with all powers provided for in Order XL Rule 1 Clause (d) of the Code of Civil Procedure. You were also directed to take possession of the Goods together with specified documents and papers. It was further ordered that you were to file and submit for passing half yearly accounts in the office of the Registrar of the Court for being passed before one of the Judges of the Court. It was further directed that you were to make a complete inventory of the Goods at the time of taking possession thereof.
3. Your appointment as Receiver was under the Original Side Rules of the Court (hereinafter referred to as "the Rules"), specifically Chapter XXI thereof pertaining to 'Receivers' and Order XL of the Code of Civil Procedure, 1908 and that you were bound to comply with the same.
4. That the order dated April 30, 1984 in Civil Suit No. 8 of 1983 was modified by means of order dated July 11, 1985 in Civil Suit No. 8 of 1983 to the extent that you, as the Receiver, were permitted to act without furnishing security for the Goods.

B. RECEIVERSHIP OVER MONIES

5. By means of order dated January 20, 1993 in Civil Suit No. 8 of 1983, you, as the Receiver, were directed to complete the sale and deliver the goods, within a period of four months upon receipt of the entire price (such monies are referred to as "sale consideration").
6. You, as the Receiver, were specifically directed *vide* Order dated January 20, 1993 to keep the sale consideration (post deduction of 5% towards your remuneration as Receiver) in a separate account in a Bank and Branch of your choice, and to hold the same free from lien or encumbrances and subject to the further orders of the Court.

C. ACCOUNTS MAINTAINED BY YOU

7. That during the period from February, 1993 to December, 2002, you maintained the following bank accounts:

Account Number/ Details	Bank	Branch	Name	Status
9902	Allahabad Bank	Stephen House Branch	Soumitra Sen	Opened on 24.03.1993
01SLP0156800	ANZ/Standard Chartered Bank	Church Lane Branch	Soumitra Sen	Closed on 21.12.1995
01SLP2089500	ANZ/Standard Chartered Bank	Church Lane Branch	S. Sen - Recv. Suit - 105-1983	Closed on 08.01.1996
01SLP0632800	ANZ/Standard Chartered Bank	Church Lane Branch	Soumitra Sen	Closed on 22.03.2000
01SLP0813400 (19497273)	ANZ/Standard Chartered Bank	Church Lane Branch	Soumitra Sen - Spcl. Officer	Closed on 21.05.2002
31534345 (33610064527)	ANZ/Standard Chartered Bank	Church Lane Branch	Anuradha Sen/ Soumitra Sen	Opened on 09.03.2000 and still active

8. December, 1996 onwards, some amounts appear to have been deposited by you with M/s Lynx India Limited (a company incorporated under the provisions of the Indian Companies Act, 1956 having its registered office at 12-C, Chakraberia Road (North), Ground Floor, Kolkata-700 020).

D. RECEIPT OF MONIES

9. You, as Receiver, received the sale consideration amounting to Rs. 33,22,800 (Rupees Thirty Three Lacs Twenty Two Thousand and Eight Hundred only) in respect of the goods sold by you. The sale consideration was received under 22 demand drafts, between February 25, 1993 to April 30, 1995 from the purchaser (M/s SBD Industrial Supplier) in your name.

10. The details of these 22 demand drafts is as follows:

Sl. No.	Instrument Number and Date	Issuing Bank	Amount
1.	Demand Draft No. 305122 dated 25.02.1993	State Bank of India	Rs.2,25,000
2.	Demand Draft No. 305125 dated 27.02.1993	State Bank of India	Rs.2,25,000
3.	Pay Order No. 002432 dated 10.03.1993	Bank of Madurai	Rs.9,000
4.	Pay Order No. 002433 dated 10.03.1993	Bank of Madurai	Rs.9,000
5.	Demand Draft No. 435344 dated 03.04.1993	State Bank of India	Rs.2,34,000
6.	Demand Draft No. 305171 dated 19.06.1993	State Bank of India	Rs.2,34,000
7.	Demand Draft No. 305217 dated 03.08.1993	State Bank of India	Rs.2,34,000
8.	Demand Draft No. 305245 dated 05.10.1993	State Bank of India, Service Branch, Kolkata	Rs.2,34,000
9.	Demand Draft No. 305343 dated 18.03.1994	State Bank of India	Rs.2,00,000
10.	Demand Draft No. 572726 dated 18.03.1994	State Bank of India	Rs.34,000
11.	Demand Draft No. 305348 dated 30.03.1994	State Bank of India	Rs.2,34,000
12.	Demand Draft No. 305449 dated 07.06.1994	State Bank of India	Rs.3,51,000

Sl. No.	Instrument Number and Date	Issuing Bank	Amount
13.	Demand Draft No. 305889 dated 10.01.1995	State Bank of India	Rs.2,25,000
14.	Demand Draft No. 922278 dated 10.01.1995	State Bank of India	Rs.9,000
15.	Demand Draft No. 473169 dated 13.04.1995	State Bank of India	Rs.2,25,000
16.	Demand Draft No. 923990 dated 13.04.1995	State Bank of India	Rs.9,000
17.	Demand Draft No. 473222 dated 29.04.1995	State Bank of India	Rs.1,57,500
18.	Demand Draft No. 924245 dated 29.04.1995	State Bank of India	Rs.6,300
19.	Demand Draft No. 341406 dated 29.04.1995	State Bank of India	Rs.2,25,000
20.	Demand Draft No. 368155 dated 29.04.1995	State Bank of India	Rs.9,000
21.	Demand Draft No. 151429 dated 29.04.1995	State Bank of India	Rs.2,25,000
22.	Demand Draft No. 263398 dated 29.04.1995	State Bank of India	Rs.9,000

11. Of the 22 demand drafts received by you, 20 demand drafts (amounting to Rs. 33,04,800) were drawn on State Bank of India, Service Branch, Calcutta (now Kolkata) and 2 (amounting to Rs. 18,000) were drawn on Bank of Madurai (since merged with M/s ICICI Bank).

E. MISAPPROPRIATION IN ALLAHABAD BANK ACCOUNT

12. Demand Drafts bearing No. 305122 dated February 25, 1993 and No. 305125 dated February 27, 1993 for Rs.2,25,000 each drawn on SBI were

deposited and encashed in S/B Account No. 9902 with Allahabad Bank, Stephen House Calcutta (now Kolkata) [Account in the name of "Soumitra Sen"], by you/on your behalf on March 24, 1993.

13. The said portion of the sale consideration deposited in Account No. 9902 maintained with Allahabad Bank, Stephen House Branch was withdrawn, disbursed and dealt with contrary to directions of law such that the balance in the said account was reduced to Rs. 3,215 as on March 29, 1994. You misappropriated and/or converted to your own use the sum of approximately Rs. 4,25,000 (Deposits made in this account less your remuneration less the Account Balance), in violation of the orders of the Single Judge in CS No. 8/2003 and applicable provisions of law.

F. MISAPPROPRIATION IN ANZ GRINDLAYS ACCOUNTS

14. You opened Bank Account No. 01SLP0632800 with ANZ Grindlays (now known as Standard Chartered Bank), Church Lane Branch, Calcutta (now Kolkata) in or around March, 1993.
15. As on February 28, 1995 you had received a sum of Rs.24,57,000 out of the total sale consideration. As on February 28, 1995, although a sum of Rs.19,89,000 of the sale consideration had been deposited by you in Account No. 01SLP0632800 maintained by you with ANZ Grindlays Bank (subsequently Standard Chartered Bank), Church Lane Branch, the total balance in the said account was only a sum of Rs. 8,83,963.05p. At the same point in time, the account balance in Account No. 9902 maintained with Allahabad Bank, Stephen House Branch was negligible (approximately Rs. 5,000).
16. That after February 1995, you received the remaining sale consideration amounting to Rs. 8,65,800 and the same was credited in Account No. 01SLP0632800 maintained by you with ANZ Grindlays Bank (subsequently Standard Chartered Bank), Church Lane Branch on April 19, 1995 and May 06, 1995.
17. As on June 10, 1996 you had received the entire sale consideration of goods sold by you as Receiver amounting to Rs. 33,22,800. Of this, your remuneration (calculable @ 5%) was approximately Rs. 1,66,140. However, the balances in your Bank Accounts were as under:

Account Number/Details	Bank	Balance (INR)	Comments
9902	Allahabad Bank	5,439	
01SLP0156800	ANZ/Standard Chartered Bank	Nil	Closed on 21.12.1995

Account Number/Details	Bank	Balance (INR)	Comments
01SLP2089500	ANZ/Standard Chartered Bank	Nil	Closed on 08.01.1996
01SLP0632800	ANZ/Standard Chartered Bank	Rs.18,77,691.01	Rs.8,73,968 (Term Dep.) Rs.9,80,000 (Term Dep.) Rs.23,723.01 (Cash Bal.)
01SLP0813400	ANZ/Standard Chartered Bank	Nil	Account not opened as yet
31534345 (33610064527)	ANZ/Standard Chartered Bank	Nil	Account not opened as yet
TOTAL:		Rs.18,83,130.01	

18. As such on June 10, 1996, while you had received a sum of Rs. 33,22,800 as sale consideration from sale of the goods under your Receivership, you had misappropriated and/or converted to your own use at least Rs. 12,50,000 (Sale Consideration less the Total Balance in Banks less your Remuneration) of such amount received by you, in violation of the orders in Civil Suit No. 8/2003 and applicable provisions of law.

G. EVENTS OF 1997

19. That *vide* Order dated January 20, 1997 passed by a Division Bench of the Court in an Appeal arising from CP No. 226 of 1996 entitled "Calcutta Fan Workers' Employees' Union and Others vs. Official Liquidator and Others" you were appointed as a Special Officer by the Court to receive and disburse an amount of Rs. 70 lacs to the various claimants in those proceedings. As Special Officer, you were directed to make such disbursements after being satisfied about the identity of the claimants and for the said purpose, a cheque for Rs. 70 lacs was handed over to you in those proceedings.

20. In February 1997, you opened a new Savings Bank Account bearing No. 01SLP0813400 with ANZ Grindlays Bank, Church Lane Branch (subsequently Standard Chartered Bank) in the name of "Soumitra Sen - Spl. Officer" (hereinafter referred to as "Special Officer Account"). On February 07, 1997 a sum of Rs. 70,00,000 (Rupees Seventy Lacs only) was deposited in the said account.

21. By about May 22, 1997 the substantial portion of the Special Officer funds had been disbursed by you and only a sum of Rs. 2,41,411.10p remained in the said account. You had not intermingled any other funds into Savings Bank Account No. 01SLP0813400 with ANZ Grindlays Bank, Church Lane Branch (subsequently Standard Chartered Bank) till May, 1997.
22. As on May 22, 1997, there were two Fixed Deposits linked with/arising out of funds from Savings Bank Account No. 01SLP632800 with ANZ Grindlays Bank, Church Lane Branch (subsequently Standard Chartered Bank) for principal sums of Rs. 8,73,968 and Rs. 9,80,000.
23. You submitted a letter dated May 22, 1997 to ANZ Grindlays Bank, Church Lane Branch (subsequently Standard Chartered Bank) giving instructions to break the Fixed Deposits arising out of Savings Bank Account No. 01SLP0632800 since the money was 'needed urgently' in order to make certain payments. Two fixed deposits were broken and amounts (the principal along with accrued interest) credited to your account No. 01SLP0632800. The account balance in this Account thus stood at Rs. 22,84,468.23p.
24. Further, on May 22, 1997 itself you gave instructions to ANZ Grindlays Bank, Church Lane Branch (subsequently Standard Chartered Bank) to debit a sum of Rs. 22,83,000 from Account No. 01SLP0632800 to Account No. 01SLP0813400 (Special Officer Account). As such, a sum of Rs.22,83,000 was transferred from Account No. 01SLP0632800 to the Special Officer Account (Account No. 01SLP0813400). As on May 22, 1997 the account balance in Account No. 01SLP0632800 was reduced to Rs. 1,468.23p only and that in the Special Officer Account was enhanced to Rs. 25,73,738.66p only.
25. Over the period May 22, 1997 till July 01, 1997 a series of disbursements were made by you out of the Special Officer Account and as on July 01, 1997 the balance in the Special Officer Account had been reduced to Rs.19,934.66p only. In this manner, the sale consideration of the goods was disbursed, disposed of and dealt with between May 22, 1997 and July 01, 1997 and you misappropriated and/or converted to your own use approximately Rs. 22,00,000 of the monies in your possession [sale consideration and accrued interest], in violation of the directions of law.
26. That the portion of the sale consideration and accrued interest illegally transferred by you from Savings Bank Account No. 01SLP0632800, ANZ Grindlays Bank, Church Lane Branch (subsequently Standard Chartered Bank) to the Special Officer Account was misappropriated and/or converted to your own use between May 22, 1997 and July 01, 1997.
27. That the portion of sale consideration and accrued interest thereon

obtained by you as Receiver continued to be misappropriated and/or converted to your own use even at the time of and subsequent to your appointment as a Judge of the Court on December 3, 2003.

H. ATTENDANT CIRCUMSTANCES

28. You were obliged, by means of Order dated April 30, 1984, the Rules and the provisions of the Civil Procedure Code, to file and submit for passing half yearly accounts in the office of the Registrar of the Court, pertaining to the amounts under your receivership and were to specifically show *inter alia* what the balance in hand was at each stage. That you did not, at any stage (including after being appointed as a Judge of the Hon'ble Calcutta High Court on 3.12.2003) file any accounts in compliance with the said Order dated April 30, 1984, the applicable Rules and the provisions of the Code of Civil Procedure, 1908.
29. By means of order dated January 20, 1993 you were directed to keep the sale consideration in a bank account. The choice of branch and bank had been left to you. You unauthorisedly dealt with the funds by disbursing/withdrawing them out of such bank accounts in which they had been deposited.
30. By means of order dated January 20, 1993 you were directed to keep the sale consideration in a 'separate' bank account. You allowed intermingling of funds and did not adhere to the direction to maintain the separation of the sale consideration from any other funds, thereby misappropriating and/or converting to your own use, the sale consideration.
31. That you did not take any permission of the Court for dealing with, disbursing or disposing of the sale consideration and the accrued interest in any manner whatsoever, or to intermingle them with your personal funds or to remove the same from Bank Accounts or in any other manner deal with the sale consideration and the accrued interest contrary to the stipulations in the Orders dated April 30, 1984 and January 20, 1993, Chapter XXI of the Rules, and the mandate of law.
32. That you failed to provide accounts even to the Plaintiff despite a letter dated March 7, 2002 in this regard sent by the Plaintiff and received by you. By means of the said letter, you were requested by the Plaintiff to provide to them the details of the amounts deposited by you, the details of such deposits and the interest accrued thereon.
33. At the time of your appointment as a Judge of the Court, or at any time thereafter, you did not take any steps to seek discharge from Receivership or for return of amounts, or for furnishing any accounts in respect thereof and continued to misappropriate / utilize the funds contrary to the directions of law.

34. The Plaintiff instituted GA 875 of 2003 in CS 8 of 1993 seeking various relief including directions that :
 - a. Receiver be directed to render true and faithful accounts of all monies presently being held by him.
 - b. Receiver be directed to hand over all the sale proceeds so far received from the sale of the goods to the Plaintiff.
35. By means of order dated March 07, 2005, the Court directed that a copy of the order dated March 07, 2005 alongwith the Notice of Motion as well as the Petition be served upon you. You were requested to swear an affidavit either yourself or through any authorized agent to state the steps that had been taken by you and the amount that had been received on account of the sale of the goods. You were also directed to state in which bank or branch the sale proceeds had been deposited. The said order, Notice of Motion and the Petition (GA 875 of 2003) were served upon you consequent to the order of the Court dated May 03, 2005.
36. However, despite service of notice and request/direction of Court in GA No. 875 of 2003 in Civil Suit 8 of 1983, by means of orders including those dated May 03, 2005 and May 17, 2005 passed in GA 875 of 2003 in CS 8 of 1983, you (whilst holding office as a Judge of the Court) did not furnish any particulars regarding the whereabouts of the sale consideration and the accrued interest, which led the Court to pass a Judgement dated April 10, 2006.
37. Subsequently, while holding office as a Judge of the Court, you offered an explanation by means of applications, memorandum of appeal, affidavits, written notes etc. that the sale consideration had been deposited with M/s Lynx India Ltd. This explanation is found to be false and forms the subject matter of the second charge framed against you.
38. At no stage even after being elevated as a Judge of the Court, have you even offered an explanation or accounted for the whereabouts and/or the method and manner of utilization of the interest accrued on the sale consideration from the date of deposit in your bank accounts till alleged deposits being made with M/s Lynx India Ltd.
39. That you did not return any funds till called upon by the Court to do so by means of order dated April 10, 2006.
40. It is thus evident that you unauthorisedly, and in contravention of judicial orders, Rules and directions of law, misappropriated and/or converted to your own use, large sums of money (from the sale consideration and the accrued interest) received in your capacity as a Receiver and thereby committed Misappropriation of Property which constitutes 'Misbehaviour' under Article 124 (4) read with Article 217 of the Constitution of India.

I. MISREPRESENTATIONS AND FALSE STATEMENTS

41. On April 10, 2006, Ld. Single Judge of the Court passed a detailed Order in GA No. 875 of 2003 in Civil Suit No. 8 of 1983 directing you to deposit a sum of Rs. 52,46,454 for the time being. In the said order, the Ld. Single Judge of the Court made certain observations regarding your conduct (hereinafter referred to as "Observations").
42. That on May 18, 2006 you, while holding office as a Judge of the Court, appeared (through counsel) before the Ld. Single Judge of the Court in GA 875 of 2003 and sought time to make deposit of funds towards the satisfaction of the order passed by the Ld. Single Judge of the Court. You (through your constituted attorney) filed GA No. 2968 of 2006 praying therein that time to deposit the balance amount in terms of judgement and order dated April 10, 2006 be extended. The Court *vide* order dated September 15, 2006 in GA No. 2968 of 2006 while disposing of the application also granted leave to mention your name in the body of the petition (being GA No. 2968 of 2006), the verification portion and in the affidavit of competency, which changes were carried out by hand by your duly authorized counsel, Sh. Subhasis Chakraborty on September 15, 2006.
43. A total sum of Rs. 52,46,454 came to be deposited in Court by you through your counsel on various dates.
44. The Court *vide* order dated September 20, 2006 in GA 875 of 2003 directed your counsel, Mr. Subhasis Chakraborty to swear an affidavit enclosing the relevant documents to show that you had deposited the sum of Rs. 40,00,000 in the account of your counsel and that your counsel had obtained Pay Orders to make payment on your behalf. The Court further directed that your constituted Attorney also file an affidavit corroborating the facts stated by your counsel in his affidavit.
45. Your counsel, Mr. Subhasis Chakraborty filed Affidavit dated 10.11.2006 in GA 875 of 2003 stating therein that he had been instructed to act as an Advocate-on-Record on your behalf in Civil Suit No. 8 of 1983. Mr. Subhasis Chakraborty further stated that pursuant to orders passed by the Court, you handed over to Mr. Subhasis Chakraborty a sum of Rs.20,00,000 on June 27, 2006 and a sum of Rs.20,00,000 on September 4, 2006. Mr. Subhasis Chakraborty further stated that pursuant to instructions received by him, he prepared drafts from the Standard Chartered Bank, Church Lane Branch, Kolkata by depositing the said sum of Rs.40,00,000 in his account and deposited the said drafts before the Registrar, Original Side of the Court.
46. In the meanwhile, by means of Order dated November 10, 2006 the Court took Affidavit dated November 11, 2006 filed by your Counsel Mr. Subhasis Chakraborty on record. The Court, *vide* the said order

dated November 10, 2006, noted that your constituted Attorney had not filed an affidavit in terms of Order dated September 20, 2006 passed by the Court in GA No. 875 of 2003 and directed you to file an affidavit explaining how the sale consideration was dealt with after the same was withdrawn without permission of the Court. It was observed that it would be ideal (if so advised), if the source of funds was disclosed in the said affidavit in order that the Court be assured that the withdrawn money had not been utilized gainfully and profitably. In the event that the sale consideration had been utilized or invested in some other place, then the returns from such utilization and investment were directed to be disclosed. It appears that you did not file any affidavit in compliance of the said order.

47. When the matter (Civil Suit No. 8 of 1983) came up for hearing on December 08, 2006 you, through your counsel requested for time to file an affidavit to place on record some new facts, which time was granted.
48. You (through your constituted attorney), while holding office as a Judge of the Court, proceeded to file GA 3763 of 2006 in Civil Suit No. 8 of 1983 before the Ld. Single Judge seeking *inter alia*, recording of compliance with Order dated April 10, 2006 and for recalling/withdrawing/deleting the Observations, supported by an affidavit of your constituted attorney acting under your instructions.
49. In GA 3763 of 2006 in Civil Suit No. 8 of 1983, you, through your constituted attorney (being your mother, Smt. Sumitra Sen) stated on affidavit that the sale consideration from sale of goods received by you by means of 22 drafts, were deposited in Bank accounts but were subsequently invested in a public limited company, namely M/s Lynx India Limited (now in liquidation) in order to earn more interest. The very same stand was taken in the affidavit dated December 13, 2006 filed under your instructions and on your behalf (through your Constituted Attorney).
50. To further support these pleas during the hearing of GA 3763 of 2006 in Civil Suit No. 8 of 1983 and to provide correlation between the sale consideration and the amounts lying invested with Lynx India Limited, 'Written Notes' were submitted to the Court on your behalf which were taken on the Court's record on April 25, 2007. In the said Written Notes, you (through your counsel) took a stand that the sale consideration of Rs. 33,22,800 was a part of the total funds (amounting to Rs. 34,39,000) lying deposited with M/s Lynx India Limited.
51. In the 'Written Notes' submitted, you (through your counsel) further contended that no part of the sale proceeds was ever utilized or even touched by you; and relying upon the documents enclosed with the Report of the Official Liquidator dated February 07, 2007 you (through

your counsel) further stated (in the Written Notes) that you had deposited the entire sale consideration with Lynx India Limited.

52. GA 3763 of 2006 in Civil Suit No. 8 of 1983 came to be disposed of by means of order dated July 31, 2007 passed by the Ld. Single Judge of the Court.
53. Aggrieved by the order dated July 31, 2007, you (through your constituted attorney) preferred an appeal challenging the said order before the Division Bench of the Court, which came to be numbered as APO 415 of 2007. An application being GA 2865 of 2007 was also filed by you.
54. In the said Memorandum of Appeal and GA 2865 of 2007 and affidavit of your constituted attorney acting under your instructions, it was contended that the entire money received by you from the purchaser of goods as sale consideration was kept in a Fixed Deposit. Further you (through your constituted attorney) again placed reliance on the Written Notes submitted before the Ld. Single Judge (and taken on the Court's record on April 25, 2007) in order to establish a correlation between the withdrawal of funds and deposit with Lynx India Limited. You (through your constituted attorney) further contended that:
 - a. all investments made by you in Lynx India Limited were by cheques drawn on Account No. 01SLP0156800 maintained in your personal name with ANZ Grindlays Bank;
 - b. there was absolutely no time gap between withdrawal of amount from your accounts and deposit with Lynx India Limited.
55. It was additionally stated by you (through your constituted attorney), while holding office as a Judge of the Court, in GA 2865 of 2007 that the moneys received by you were in fact utilized by you for no purpose other than for making fixed deposits with Lynx India Limited and that no part of such deposits were encashed or withdrawn by you.
56. You (through your constituted attorney) stated that you had deposited a total sum of Rs. 39,39,000 with M/s Lynx India Ltd. It was further stated by you (through your constituted attorney) that a sum of Rs. 5,00,000 which had been withdrawn from M/s Lynx India Ltd. was your personal funds.
57. The statements made by your constituted attorney and counsel (on your behalf and under your instructions) in the various pleadings, applications, memorandum of appeal, affidavits, Written Notes etc. as set out above were false to your knowledge. All such statements were made during the period when you were a Judge of the Court.
 - (a) No deposits were made by you with M/s Lynx India Ltd. prior

December, 1996. By March, 1994, the sale consideration deposited the S/B Account No. 9902 maintained with Allahabad Bank, Stephen House Branch, Kolkata had already been withdrawn/disbursed/dealt with by you in such a way that the balance in the said account was negligible. As such a sum of Rs. 4,50,000 (approximately) of the sale consideration could under no circumstances be deposited with M/s Lynx India Ltd. (post December, 1996).

- (b) No deposits were made by you with M/s Lynx India Ltd. prior to December, 1996. Of the sale consideration, a sum of Rs. 28,54,800 had been deposited in S/B Account No. 01SLP0632800 maintained with ANZ Grindlays Bank (subsequently Standard Chartered Bank), Church Lane Branch, Kolkata. By June 10, 1996, this amount had already been withdrawn/disbursed/dealt with in such a way that the balance in the said account was only a sum of Rs.18,83,130.01 (inclusive of accrued interest). Even making allowance for withdrawal of your remuneration, a further sum of Rs. 8,00,000 (approximately) of the sale consideration was not, and could not have been deposited with M/s Lynx India Ltd. (post December, 1996).
- (c) Portion of the sale consideration and accrued interest amounting to Rs.22,83,000 had been transferred by you from S/B Account No. 01SLP0632800 maintained with ANZ Grindlays Bank (subsequently Standard Chartered Bank), Church Lane Branch, Kolkata to the Special Officer Account on May 22, 1997. This amount was then utilized by you for withdrawing/disbursing/dealing with in such a manner that as on July 01, 1997 only a sum of Rs. 20,000 (approximately) was the balance in the Special Officer Account. Thus, Rs. 22,00,000 (approximately) of the sale consideration and the accrued interest was utilized by you between May 22, 1997 and July 1, 1997. No deposits were made with M/s Lynx India Ltd. during this period and as such this portion of the sale consideration and the accrued interest was not, and could not have been used for creating fixed deposits with M/s Lynx India Ltd.
- (d) You deposited a sum of Rs. 25,00,000 with M/s Lynx India Ltd. by means of Cheque No. 624079 drawn out of the Special Officer Account on 27.02.1997. This was converted to five deposits of Rs.5,00,000 each. As on that date, there had been no intermingling of funds in the Special Officer Account or transfer of funds from any other account to the Special Officer Account. Hence, the deposit of atleast Rs. 25,00,000 in M/s Lynx India Limited is relatable only to funds received by you in CP No. 226/1996 and not from the sale consideration as claimed by you.

- (e) The statement that the deposits in Lynx India Limited were by means of cheques drawn on Account No. 01SLP0156800 is false. At least Rs. 25,00,000 had been deposited in Lynx India Limited from the funds available in the Special Officer Account. Further, the said Account bearing No. 01SLP0156800 had been closed by you on December 21, 1995, prior to any deposits being made with Lynx India Limited.
 - (f) The statement that there was no time gap between withdrawal of sale consideration from your accounts and depositing the same with Lynx India Limited is false. There is no correlation between the sale consideration and the accrued interest with the deposits made with Lynx India Limited.
 - (g) The statement that Rs. 5,00,000 withdrawn by you from out of the deposits made with M/s Lynx India Ltd. were your personal funds is false. The said Rs.5,00,000 withdrawn from the deposits made with M/s Lynx India Ltd. was on account of premature cancellation of Fixed Deposit Receipt bearing No. 11351 dated March 7, 1997. This deposit was part of the deposits made *vide* Cheque No. 624079 dated February 26, 1997 (for a total sum of Rs. 25,00,000) drawn on the Special Officer Account. As on that date, the only funds available in the Special Officer Account were those that had been entrusted to you by the Court in CP No. 226/1996 for disbursement to workmen. As such the Rs. 5,00,000 withdrawn by you from M/s Lynx India Ltd. did not represent your personal funds.
58. The pleadings, applications, memorandum of appeal, affidavits and written notes filed before the Court in proceedings in and arising from Civil Suit No. 8 of 1983 and APO 415 of 2007 were submitted on your behalf, under your authority and under your instructions. You were legally bound by an oath and/or by an express provision of law to state the truth and/or bound by law to make a declaration upon any subject and have made statements that are false, and which you knew or believed to be false, or did not believe to be true.
59. That you were a Judge of the Court during the period when you gave such false statements, misrepresentations and false evidence in judicial proceedings before the Court.
60. You misrepresented facts with regard to the misappropriation of funds before the Court. You, during a judicial proceeding, intentionally gave false evidence, which constitutes 'Misbehaviour' under Article 124 (4) read with Article 217 of the Constitution of India.

Justice Soumitra Sen



*C.S-117, Salt Lake City
Sector-CL, Kolkata-700 0
Phone: 2358 4420, 2337 6*

Dated: 03-05-2010

To

The Secretary
Judges Inquiry Committee
Rajya Sabha Secretariat
Vigyan Bhawan Annexe
New Delhi-110011

Re.- Submission of Written Statements of Defence

Dear Sir,

Enclosed please find six copies of the written statement of defence along with Seven Annexures, enclosed therein together with six sets of Volume V & VI containing several orders and communications, which shall be relied upon at the time of hearing.

Please acknowledge the same.

Thanking you,

Yours sincerely

Sd/-
(Justice Soumitra Sen)

Date: 03 May, 2010

To

The Presiding Officer
Judges Inquiry Committee
Rajya Sabha Secretariat
Vigyan Bhawan Annexe
New Delhi-110011

Sub.: REPLY TO THE CHARGES

Dear Sir,

This is in response to your letter dated 5th February, 2010 received by me on 9th February, 2010, wherein I have been asked to revert to Committee in writing dealing with the charges along with statements of ground.

Before I proceed to deal with the charges and the statement of grounds I would like to raise certain preliminary objection to the instant inquiry, which are required to be adjudicated and/or decided first before proceeding with the matter.

PRELIMINARY OBJECTIONS

1. The Impeachment process initiated against me is outside the scope and ambit of Article 124 (4) of the Constitution of India.
 - (a) All alleged acts of misconduct was prior to my elevation as Judge of the Hon'ble Calcutta High Court.
 - (b) There is no "proved misbehaviour or incapacity" as is the mandate of Section 124 (4) of the Constitution of India.

REPLY ON MERITS

2. The scope and ambit of order dated 20.01.1993 was absolutely specific and clear.
3. At no point of time I have traversed beyond the scope of order dated 20.01.1993.
4. Despite the fact that the Learned Court embarked on a personal inquiry with regard to my accounts which was clearly without jurisdiction and without any basis whatsoever. However every single observation of the Learned Court was met with, answered and the entire monies were paid back along with interest as was directed by the Learned Court.
5. At no point of time any monies were ever used for personal gains or were temporarily or permanently misappropriated.

6. I have never made any false statement before the High Court.
7. It is stated that there was no occasion to return the money since :
 - (a) The mandate of the orders was to complete the process of Sale and when I was elevated the Sale was incomplete.
 - (b) Application seeking direction from the Court to complete the sale and to handover the sale proceed and for Accounts was not pressed by the concerned parties though the same was affirmed on 07.02.2003, filed on 10.03.2003. However it was moved before the Hon'ble Court only on 16.07.2004, *i.e.*, after my elevation.
 - (c) When I was elevated the sale was incomplete. No order was passed by the Court discharging me from receivership until 3rd August, 2004.
 - (d) The entire sale consideration was invested in the fixed deposit with the Lynx India Private Limited which went into Liquidation in the year 1999-2000, long after the amount representing the sale consideration was invested.
 - (e) For the first time the court passed an order dated 10.04.2006 directing me to return the entire sale consideration with interest.
8. I immediately complied with the order passed by the court and paid/deposited the amount of Rs.52,46,454 + Rs.5,00,000 inclusive of interest when the amount of sale was Rs.33,22,800 and after adjusting the remuneration of 5% the balance amount was Rs. 31,56,660.
9. Finally the Division Bench of the Calcutta High Court *vide* order dated 25.09.2007 quashed and set aside the orders dated 10.04.2006 and 31.07.2007 and set aside/expunged all the observations made by the Single Judge. The Division Bench has categorically held that there was no misappropriation either temporary or permanent or any part. It also held that I did not make any false statement during the course of event before the Court.
10. It was the unilateral observation of the Single Judge which gave rise to an inquiry against me and has culminated in setting up this Committee. However since Division Bench Judgment and orders dated 25.09.2007 has attaining finality since then, there is no occasion to make this allegation against me.

FACTS LEADING TO THE FORMULATION OF OBJECTION

11. The actual genesis of the entire matter starts with the judgment passed by the learned Single Judge of the Calcutta High Court dated 10th April, 2006. All other relevant facts would appear from a list of dates, copy of which is annexed hereto as Annexure "A".

12. After the judgment was passed the Hon'ble Chief Justice of India by his letter dated 10th September, 2006 asked me to submit a fresh and final response to the adverse judicial observations leading to complaints making allegations of judicial misconduct and impropriety. **At no point of time, the learned Single Judge in his judgment dated 10th April, 2006 has made any observation regarding my alleged judicial misconduct or impropriety nor any complaints were made against me by any one whatsoever at any given point of time.**
13. My response dated 28th September, 2007 was accompanied by the judgment dated 25th September, 2007 passed by the Hon'ble Division Bench of the High Court at Calcutta. On 3rd December, 2007, the Hon'ble Chief Justice of India wrote a letter that His Lordship was proposing to constitute a three-member committee to institute an enquiry in the backdrop of the adverse judicial observation made in the judgments of the learned Single Judge of the Calcutta High Court.
14. I would like to raise the following issues, as a preliminary objection :
 - (a) From the letter dated 05.02.2010 it appears that there are two motions moved before the Rajya Sabha for impeachment. The first ground cannot be the subject matter of impeachment, as it is clearly outside the scope and ambit of Article 124(4) of the Constitution of India read with the relevant provisions of the Judges (Inquiry) Act, 1968. The preamble to the Judges (Inquiry) Act clearly states as follows:-

“An Act to regulate the procedure for the investigation and proof of the misbehaviour or incapacity of a judge of the Supreme Court or a High Court and for the presentation of an address by the members of Parliament to the President and for matters connected therewith.”
15. Past actions of a judge long prior to his elevation cannot be the subject matter of impeachment. If past actions are brought within the ambit of Article 124(4) read with the provisions of the Judges (Inquiry) Act, it will make a mockery of the selection process of a judge of a High Court or the Supreme Court.
16. The constitutional mandate does not permit impeachment process to be initiated against a judge after his elevation for alleged acts of misconduct prior to his elevation which is itself passes through several level of scrutiny including police verification etc. This safeguard has been provided in our constitution in order to maintain dignity and independence of the judiciary. If past action of a judge long prior to his elevation is permitted to be raised as an issue or ground for impeachment, then anyone with a personal agenda of his own can rake up irrelevant

past issues and harass a judge of a High Court or Supreme Court mustering enough political cloud to move a motion for impeachment.

17. The whole object and purpose of the Article 124(4) read with Judges (Inquiry) Act is to ensure prevention of corruption and malpractice and incapability in discharge of judicial function and for no other reasons.
18. It appears that a In-house Committee can be constituted to institute an enquiry only if there is a complaint against a judge on two issues:-
 - a. *Allegations against a judge pertaining to the discharge of his judicial functions;*
 - b. *Conduct and behaviour of the judge outside the court.*
19. In my case from what has been stated hereinbefore with reference to the letters of the Hon'ble Chief Justice of India, it is clear, without any doubt, that there was no complaint against me at any given point of time and the only reason to constitute an In-house Committee to institute an inquiry was the adverse judicial observation made in the judgment of the learned Single Judge of the Calcutta High Court.
20. In absence of any complaints against me and in absence of any adverse judicial observation against me on the given date, the In-house Committee could not have proceeded with the matter.
21. The then Chief Justice of Calcutta High Court, the Hon'ble Justice V.S. Sirpurkar dated 25th November, 2006 wrote a letter to our the then Chief Justice of India. While making observation based upon the finding of the learned Single Judge, His Lordship in the said letter had clearly stated that even as on that date there was no complaint against me by anyone. The relevant portion of said letter is quoted as under :

“Though there has been no complaint made by anybody against Sri Sen. I deem it proper to place all these facts before your Lordship to take an appropriate action in the matter”.
22. Having regard to the provisions of Article 124(4) of the Constitution of India and the provisions of Judges (Inquiry) Act, it is clear that the power of impeachment of a judge of a High Court or Supreme Court is vested with the Parliament and not with the judiciary.
23. Rajya Sabha did not perform an independent constitutional function as required under the Constitution of India to initiate impeachment proceedings. As there were no third party complaints against me at any given point of time and as the adverse judicial observations of the learned Single Judge having been expunged from the record of the case by the Hon'ble Division Bench, it is apparent that the members of Parliament have acted merely at the instance of the Hon'ble Chief Justice

of India when His Lordship wrote a letter to the Prime Minister of India seeking my impeachment.

24. This entire procedure is contrary to the spirit and purpose of the Constitution of India. **It is significant to mention that even the parties to the proceeding which culminated into the judgment of the learned Single Judge did not make any complaint against me either in the petition or otherwise, on the contrary** all the parties including the petitioner and the respondent have categorically stated before the learned Single Judge as well as before the Division that they do not wish to contest the proceeding by filing any affidavit as they do not have any complaint against me.
25. By a letter dated 17th March, 2008, the Hon'ble Chief Justice of India wrote to me that my explanation has failed to convince His Lordship and some of his colleagues and, therefore, I was asked to submit my resignation or seek voluntary retirement on or before 2nd April, 2008 failing which they would proceed in the matter and take such steps as may be deemed appropriate in public interest and for better administration and justice.
26. The procedure adopted in this instant case by the Hon'ble Chief Justice of India and the subsequent actions taken by some of the members of the Rajya Sabha is a clear departure from the established procedure of law and clearly against the spirit and purpose of the Constitution of India.
27. Under the Judges (Inquiry) Act, the appointment of the members of the Committee is to be made either by the Chairman of the Rajya Sabha or the Speaker of the Lok Sabha as the case may be.
28. It appears from the various documents relied upon by the Committee in forming grounds in support of charges, there are several depositions of witnesses which have been relied upon. These depositions were taken by the Single Judge. Apart from the fact that the Single Judge had no authority to examine witnesses without any suit or proceedings filed against me for which under the Civil Procedure Code, 1908, leave is required to be obtained, such depositions were taken behind my back without affording any opportunity to me to cross-examine such witnesses.

INCORRECT PROCEDURE ADOPTED BY THE SINGLE JUDGE AND CONSEQUENTIAL INJUSTICE METED OUT TO ME

29. If we look into the judgment of the Single Judge, we will find that in the first judgment dated 10th April, 2006 the Single Judge has justified the inquiry made against me by holding that I did not come forward to give any explanation in spite of repeated opportunity. The expression

repeated opportunity has a different connotation in the eye of law and even in common parlance it means more than once.

30. Moreover, when a court does not wish to grant any further time to a party to the proceeding, it should be clearly stated that time fixed was peremptory or that a last chance was being afforded.
31. I, accordingly, moved a recalling application giving my explanation after going through various documents called for by the Single Judge. He observed that he **“neither believed me nor disbelieved me and disposed of the application by giving opportunity to file a fresh petition with proper materials.”**
32. It is, therefore, obvious that the Single Judge when faced with the materials on record could not come to a positive finding of guilt on my part or otherwise my recalling application should have been rejected and dismissed and not disposed of with an opportunity to file a fresh petition with further materials. It is needless to mention here that the Division Bench after going through the same materials on record has accepted my explanation and the interpretation of the materials on record made by my Counsel.
33. The Single Judge gave direction to serve copies of petition and orders to the Department which were not necessary at all, knowing fully well that at the material point of time as a Judge, I was regularly attending court and was discharging my judicial function.
34. My Chamber in the High Court premises and my residential address is known to all. Even a common litigant gets a better opportunity of presenting his case before a court of law than what was afforded to me before passing the judgment dated 10th April, 2006.
35. The application filed by the plaintiff which resulted in the said judgment dated 10th April, 2006 was filed sometime in the month of March, 2003, almost 9 months before my elevation which I came to know in November 2003 when I requested the plaintiff’s advocate to take necessary steps for my discharge and obtain an order with regard to repayment of the amount held by me as a Receiver.
36. The said application which was for similar reliefs was heard for the first time on **3rd August, 2004** by another Single Judge who discharged me from further acting as a Receiver and appointed another Receiver in my place and stead.
37. However, no direction to pay the amount held by me as a Receiver was passed nor the copy of the said order was ever served upon me. It is significant to mention here that the application of the plaintiff was also not served upon me until the time hereinafter mentioned.

38. The concerned Single Judge heard the matter for the first time on 15th February, 2005 **when it was treated as part heard without any prayer being made by any of the parties to the said proceeding and directed the entire matter to be kept in a sealed cover and no direction to serve a copy of the application was passed.**
39. On 7th March, 2005 the Single Judge for the first time gave a direction to serve a copy of the application along with notice of motion to me **as the copy of the application was not served upon me earlier.** It is obvious that at that juncture I was not even asked to appear before the court but the Single Judge in his order dated 7th March, 2005 directed that the copy of the application be served upon the purchaser who had purchased the materials almost over a decade ago.
40. If I may say so with utmost respect and humility the Single Judge had by that time **already made up his mind as to what orders he will pass and all that was done in court like serving of copies of order, carrying out investigation etc. were all a means for the end.**
41. The order dated 7th March, 2005 contained direction upon me to file affidavit giving details of purchase consideration. **The said order also was not served upon me.** This will be apparent from the fact that by another order dated 3rd May, 2005 Single Judge gave further direction for service to be made through the advocate on record of the plaintiff as the earlier order dated 7th March, 2005 was not served upon me.
42. On 17th May, 2005, the Single Judge passed another order wherein direction was given to serve copy of the affidavit filed by the purchaser upon me **and if so advised** deal with the averments contained in the petition filed by the plaintiff and the affidavit filed by the purchaser. As there was no allegation by the plaintiff and I was not disputing the fact that I received monies as stated by the purchaser as a Receiver towards purchase consideration, **I was advised not to file any affidavit as nothing was required to be controverted.**
43. By an order dated 30th June, 2005, the Single Judge gave detailed direction for conducting an investigation on the incorrect basis that in spite of **repeated opportunity** I have not come forward to give any explanation before the court.
44. It is significant to point out here that at that stage I did not even appoint an advocate to appear on my behalf because I did not even know as to what are the directions which have been passed by the Court from time to time.
45. Subsequent thereto various orders were passed which are dated 21st July, 2005, 26th July, 2005, 7th September, 2005, 7th October, 2005,

21st November, 2005 and 1st October, 2006. None of these orders were served upon me. Witnesses were brought under subpoena and questions were put by the learned Single Judge himself, as if it was a trial of a suit or trial on evidence being conducted by the Single Judge but unfortunately I was not even informed about the same nor any opportunity given to me to cross examine such witnesses.

46. I, therefore, wish to conclude by saying that the finding against me by the Single Judge that in spite of **repeated opportunity** I did not come forward to give an explanation and therefore he had no other option but to conduct self-investigation in court.

THE CHARGES ARE ANSWERED AS UNDER

1. **Misappropriation;**
2. **Making False Statements.**

MISAPPROPRIATION

47. Primarily the Single Judge came to the conclusion of misappropriation of money held by me as a Receiver on the fact that after having deposited Rs. 25 lacs to Lynx from account No. OISLP0813400 (hereinafter referred to as 400 account) I deposited Rs. 22 lacs and odd from 400 account and thereafter systematically withdrew the same to an undisclosed place thereby reducing to a mere sum of Rs. 811.56. Unfortunately, my explanation that these withdrawals were towards payment of workers' dues pursuant to a Division Bench order dated 20th January, 1997 passed by Hon'ble Mr. Justice Umesh Chandra Banerjee and Hon'ble Mr. Justice Sidheshwar Narayan was totally ignored by the Single Judge and also the In-house Committee and apparently by this Committee too.
48. For the first time evidence of such withdrawals have been produced which in spite of my best effort I could not produce earlier. Copies of the cheques disclosed in pages 521 to 581 in Vol. I and pages 1575 to 1607 in Vol. III, if produced before the Single Judge it would have reversed his finding on the said issue and would have cleared his doubt that these were not secret undisclosed withdrawals by me for my personal benefit but genuine payments made to genuine workers.
49. Whatever the amount and whoever the workers were quantified and identified by the union were placed before me I had issued the cheques and everybody has received his payment. Therefore, the finding of misappropriation by the Single Judge on this issue is clearly controverted by evidence on record disclosed for the first time in this proceeding. **I fail to understand how this Committee could call for these cheques whereas the learned Single Judge, in spite of being told that the**

withdrawals are not personal withdrawals but payment to workers, had deliberately not directed the Bank to produce the copies of the cheques whereas all other documents had been called for.

50. Such vital piece of evidence were absent before the learned Single Judge, before the Division Bench and before the In-house Committee, which I am sure if shown would have at least come to a different conclusion with regard to the misappropriation based on the said withdrawals.
51. Though this Committee constituted under the Judges (Inquiry) Act is conducting an independent inquiry but the materials on record relied upon by this Committee appears to be almost all that were before the earlier proceedings except the ones that has been referred to hereinbefore. All throughout I submitted and have always **maintained** that I have never withdrawn a single penny from 400 account or from any other account for my personal benefit. **This is for the first time evidence has come forward to establish my contention that withdrawals in account no. 400 were not for my personal benefit in any manner whatsoever.**
52. With regard to the first charge I say that after the specific order of the Division Bench being a judicial order which has attained finality and it holds the fields today. A careful reading of the order of the Division Bench will make it abundantly clear that the finding of the learned Single Judge regarding misappropriation has been set aside by the Division Bench. However, the charge of alleged misappropriation is factually incorrect and is based on surmises and conjectures the relevant portion of the said judgment is set out as follows *“As discussed hereinabove, we do not find any material and/or ingredient for arriving at the conclusion that the erstwhile Receiver had committed breach of trust and/or misappropriated the money or utilised the money held by him for personal gain which was unfortunately observed by the learned Single Judge...”*
53. The whole object and purpose of inquiry by the Single Judge was to see whether the amount of Rs. 33,22,800 less 5% was kept by me in Lynx or not as was stated by me. My entire endeavour was also to prove the same. The purchase consideration which I received was Rs. 33,22,800 less 5% and the question is at the time when court is directing repayment whether that amount was found to be intact or not.
54. The problem that I have faced in dealing with the money and maintaining the account was primarily due to the uncertainty in the nature of the order dated 20th April, 1993. The said order did not give me any specific direction to open a Receiver’s account. Neither the court gave any direction to keep the money in any specific interest bearing account but the choice was left to me.

55. Because of the nature of such an order the purchaser issued drafts in my personal name and capacity and not as a Receiver. Therefore, I had no option but to encash those in an account standing in my name. The learned Single Judge and the In-house Committee have held that I encashed around Rs. 4,50,000 in Allahabad Bank and thereafter all encashment were done from an account maintained with the Standard Chartered Bank, Church Lane Branch bearing account No. O1SLP0632800 (hereinafter referred as 800 account).
56. The opening balance of the 800 account as on 28th February, 1995 shows only Rs. 8,83,963.05. Therefore by 28th February, 1995 and commencement from March, 1993, I should have received approximately Rs. 22 lacs. Therefore there is a shortfall and which gave rise to the presumption of misappropriation. The present Committee is seeking to split the same by withdrawals from Allahabad Bank and from Standard Chartered Bank separately. It is significant to know that the extract of ledger of the Allahabad Bank disclosed in page 1493 of the Volume 3 all the documents relied upon by this Committee have come to light for the first time.
57. In fact Allahabad Bank has earlier written a letter that documents prior to 1995 are not available with them as the Bank has subsequently been computerised. In any event, I have all along stated that Rs. 33,22,800 less 5% was kept with Lynx and my endeavour was to prove the same.
58. From the statement of account of Standard Chartered Bank, disclosed in this proceeding relating to 800 account it will appear that the major withdrawals were only towards creation of fixed deposit commencing from March, 1995.
59. The reduction of the amount in 800 account is clearly not due to personal withdrawals as it is apparent that fixed deposits were created and were kept lying there until it was encashed and deposited in the 400 account.
60. Prior thereto from the 400 account Rs. 25 lacs was deposited in Lynx on 26th February, 1997. From the number of fixed deposit receipts standing in my name produced by the Official Liquidator, it is clear that there was about Rs.39,39,000 deposited with Lynx.
61. There is no evidence whatsoever of any other deposit in Lynx after 1997. Therefore, the amount in addition Rs. 25 lacs to constitute a total sum of Rs. 33,22,800 less 5% was deposited in Lynx earlier. Therefore, the withdrawal either from Allahabad Bank or from the 800 account does not constitute misappropriation nor does it contradict my stand that a sum of Rs. 33,22,800 less 5% was in fact deposited with Lynx.

62. There are statements of account of 800 account disclosed in this proceeding which would clearly show that apart from major withdrawals of Rs. 8,83,963.05 and Rs. 9,80,000.00 there are no major personal withdrawal. These two withdrawals are also not for personal gain as these withdrawals were made for the purpose of creating a fixed deposit with the same Bank.
63. The present Committee has completely ignored the fact that from the 400 account there were no personal withdrawals of any kind. Series of cheques which have now been produced would clearly establish my consistent stand that all withdrawals from 400 account were made towards labour payment as per direction of the order of the Division Bench 20th January, 1997 passed by Hon'ble Mr. Justice Umesh Chandra Banerjee and Hon'ble Mr. Justice Sidheshwar Narayan.
64. Therefore finding of this Committee that the disbursement from the 400 account and reducing the amount to only Rs.19,934.66 amounts to misappropriation is clearly contrary to records and erroneous.
65. It is significant to point out here that the order dated 20th January, 1993 does not give any direction upon me to keep the amount in any interest bearing account. **Even parties to the proceeding did not claim any interest on the principal sum of the purchase consideration.** Therefore, to what extent interest would be paid was a matter of adjudication by the court at the time of repayment. The finding of the Division Bench to this effect may be noted... *"Grievance not made in the petition could not be considered by the learned Judge. The learned Single Judge, in the present case, considered a point which was not raised in the petition and most unfortunately ignored the fact that both the plaintiff - Steel Authority of India and the other respondent - Shipping Corporation of India Limited did not raise any grievance against the erstwhile Receiver nor even claim any interest from the erstwhile Receiver although the learned Single Judge of his own issued direction upon the said erstwhile Receiver to make payment of the huge sum of Rs. 24,27,404 towards the interest"*.
- "In the present case, the learned Single Judge totally ignored the pleadings of the parties travelled beyond the scope and ambit of the application filed by the plaintiff by issuing several directions upon different parties including the Official Liquidator attached to this court apart from the erstwhile Receiver and realised huge amount from the said erstwhile Receiver towards the interest even in absence of any claim made by any party"*.
66. It matters little as to whether the amount kept in Lynx came from 800 account or from the 400 account. I was to separate the total purchase consideration of Rs. 33,22,800 less 5% and it is without any dispute that

such amount was found to be deposited with Lynx and was never reduced from the said total quantum at any given point of time.

67. Therefore, the question of misappropriating any amount for my personal use and benefit cannot and does not arise. I reiterate with great deal of conviction that from all my accounts which have been disclosed it will not appear that any amount has been deposited in Lynx after 1997 and the only deposit made in Lynx in 1997 was of Rs. 25 lacs. But the aggregate sum of fixed deposit receipts produced by the Official Liquidator is Rs. 39,39,000.
68. The only corollary and conclusion which can be drawn that the remaining amount of purchase consideration which is alleged to have been withdrawn and misappropriated by me was indeed deposited in Lynx for the purpose of creating of fixed deposit and there is no other contrary evidence on record to contradict my said statement.
69. Since there was no transaction whatsoever in the accounts where drafts were encashed after 1997 and that the amount of Rs. 33,22,800 less 5% was indeed found to have deposited in Lynx and continued to remain throughout until 2006, question of my misappropriating the same after appointment as a judge cannot and does not arise.
70. The amounts that were deposited in Lynx or the amounts held by me as a Receiver were pursuant to direction of court and holding the same under direction of court cannot amount to misappropriation.
71. In order to establish misappropriation, a transaction has to be shown which indicates withdrawal of money for personal use and benefit.
72. After 1997 there was no transaction whatsoever. The charge with regard to misappropriation of property and which constitutes under Article 124(4) read with Article 217 of the Constitution of India is on the face of it is incorrect.
73. The learned Single Judge as well as the In-house Committee has never alleged misappropriation, if any, after my elevation. It seems that this Committee is enlarging the scope of the motion itself. The first motion admitted by the Chairman of the Rajya Sabha clearly states misappropriation as a Receiver. The Committee can not enlarge the scope of the motion admitted by the Rajya Sabha and give a different complexion to it altogether.
74. The provision of the Judges (Inquiry) Act requires investigation on the basis of the motion admitted by the Parliament. I dare say with utmost respect and humility that the Committee is not authorised in law to come to their own independent finding by enlarging or digressing from

the scope and ambit of the motion admitted in the Parliament. The first motion is which was admitted by the Rajya Sabha which is quoted as under:-

“Misappropriation of large sum of money which he received in his capacity as Receiver appointed by the High Court at Calcutta.”

75. Therefore, the said charge that I have committed misappropriation of a property after my elevation as a judge and the same constitutes misbehaviour under Article 124(4) read with Article 217 of the Constitution of India is misconceived.
76. I was to keep Rs. 33,22,800 less 5% being the sum representing the purchase consideration. Since the court did not direct earlier to keep the money in any interest bearing account, the question of payment of interest would only arise at the time of repayment and would depend upon the adjudication by the court.
77. Therefore question of mis-utilizing the principal or any interest accrued thereon by me also cannot and does not arise.
78. It is significant to point out here that the plaintiff being aware of the said fact did not claim any interest in their petition and only the principal sum of Rs. 33,22,800 less 5% was asked to be returned to them.

CHARGES OF MAKING FALSE STATEMENT

79. With regard to the charge No. 2 *i.e.* **making false statement**, I beg to state that from the facts, as revealed hereinbefore, it will appear that none of the evidence collected by the Single Judge was before me to enable me to give an appropriate explanation.
80. In fact, the Single Judge has proceeded to conduct an inquiry without any prayer to that effect or complaint against me in that regard, which was not made known to me and it, would also appear from record that specific orders were suppressed from me.
81. Therefore, when the recalling application being G.A. No.3763 of 2005 was filed on my behalf the statements contained therein were all based upon my memory of transaction which took place over a decade ago.
82. All that I remembered at that material point of time that the amount of Rs. 33,22,800 less 5% representing the purchase consideration was lying deposited with Lynx. If the averments and the statements are read in their true perspective, it will only mean that my endeavour was to establish the said fact that a sum of Rs. 33,22,800 less 5% representing the purchase consideration was lying deposited with Lynx and this fact has been proved beyond doubt from the fixed deposit receipts produced by the Official Liquidator.

83. It is significant to point out here that no written notes were filed before the Division Bench. The notes which were filed before the Single Judge for explaining the accounts submitted by the Official Liquidator became a part of the trial court's records and pleadings which were before the Division Bench. The written notes which are being strongly relied upon by the Committee in order to establish making false statements were filed before the Single Judge primarily to show the erroneous calculation made by the Official Liquidator. Furthermore, the written notes filed before the Court are always prepared by the lawyers in support of their submissions and cannot constitute a statement far less "false statements" by a party to the proceeding. A counsel appearing on behalf of a party to the proceeding is entitled to make submissions and make his own interpretation on the basis of record and it is for the court to consider the same to accept or reject it. It is also significant that the parties never raised any objection to such "written note on argument".
84. I say that it pains me a great deal when I see that a portion of the written notes is being relied upon in support of the charge of making false representation by me whereas other portion, where I have clearly stated that the statements made therein are purely based on memory in absence of record, is being totally ignored.
85. It is an established position in law that when a document is relied upon, it has to be relied upon in its totality and part and portion thereof cannot be used against anyone.
86. If a part or portion is accepted then the other part and portion of the same document will also be accepted and relied upon.
87. At the cost of repetition, I say that since the order dated 20th January, 1993 does not give direction of keeping the money in any specific account and the order dated 20.01.1997 (Hon'ble Justice Umesh Chandra Banerjee) does not even direct me to open any account, it matters little from where the total purchase consideration of Rs. 33,22,800 less 5% was deposited with Lynx.
88. It is clear from the accounts that the withdrawals from the 400 account after deposit of Rs. 25 lacs with Lynx were towards labour payment in terms of the order of the Division Bench dated 20th January, 1997 and the other withdrawal from 800 account was for the purpose of creation of fixed deposit and thereafter encashment of the same and deposit to the 400 account.
89. If the continuity of the money trail is taken into account, my interpretation that the amount of Rs. 33,22,800 less 5% representing the purchase consideration has been deposited in Lynx is not incorrect and does not amount to making false representation.

90. Moreover, interpretation of the documents as made on my behalf by my counsel has been accepted by the Division Bench and, therefore, it requires no further elaboration.
91. It is incorrect to allege that my first deposit with Lynx India was made only December, 1996. As far as the documents that were available before the Single Judge the only document relating to deposit in Lynx was the application form indicating deposit to Lynx is of February, 1997 and the amount is Rs. 25 lacs.
92. The said application form indicates the cheque number which clearly tallies with the cheque number mentioned in the 800 account for the corresponding period and for the corresponding sum.
93. There is no evidence of deposit of the remaining Rs.14,39,000 which was already lying deposited with Lynx before 1997. In fact, the only evidence of deposit of money in Lynx available is Rs. 25 lacs that too in the year 1997. Therefore, my contention that deposits were made in Lynx prior to 1997 cannot be contradicted and that the earlier withdrawals either from the Allahabad Bank or from the Standard Chartered Bank were towards creation of fixed deposit with the Lynx and Standard Chartered Bank cannot also be contradicted.
94. If I had the passbooks (No passbook is given by Standard Chartered Bank) or cheque books or counter foils of 1993 onwards which unfortunately I did not preserve, I could have definitely proved my contention by direct evidence but under the facts and circumstances, I am trying to establish that fact by way of circumstantial evidence.

ALLEGATION OF NOT TAKING STEP TO OBTAIN DISCHARGE AS A RECEIVER

95. I would like to draw the attention of this Committee to the order dated 3rd August, 2004 passed in this proceeding whereby I was discharged and a new Receiver was appointed in my place and stead (**at page 1619 of paper Book Part V**). In any view of the matter I do not understand how this specific charge can be framed against me on the basis of motion admitted by the Chairman of Rajya Sabha, as, not taking any step to seek discharge or not returning amounts or furnishing any accounts in respect thereof does not amount to misappropriation.
96. There is no requirement in law for a Receiver to seek discharge or for return of amounts. In the instant case, the facts are rather peculiar. The plaintiff filed the application for return of money sometime in the month of March 2003, 9 months before my elevation which fact as I have already stated, was disclosed only in the month of November, 2003 when I inquired and requested the plaintiff's advocate for taking

necessary steps for my discharge and for obtaining direction from the court to enable me to pay the amount.

97. It will appear from the prayers prayed for in the application filed by the plaintiff that they had specifically sought for return of the amount held by me towards purchase consideration which is the principal sum and not with any interest accrued thereon, the prayers are set out as under:

- “(a) Leave be given to serve a copy of this application upon S B D Industries Supplier;*
- (b) S B D Industrial Supplier be directed to lift the balance quantity of 4.311 M.T. of Periclase Spinnel Bricks upon payment of the price within a fortnight from the date of the Order be made herein;*
- (c) Alternatively the Receiver be directed to sell the balance quantity 4.311 M.T. of Periclase Spinnel Bricks lying in the stores of the Bokaro Steel Plant of the petitioner by public auction or private treaty and to make over the net sale proceed to the petitioner towards pro tanto satisfaction of its dues against the defendants;*
- (d) The Receiver be directed to hand over all the sale proceeds so far received from the sale of the Periclase Spinnel Bricks to the petitioner - towards and in pro tanto satisfaction of the petitioner’s claim in the suit and be further directed to pay entire sale proceeds after disposal of the entire lot;*
- (e) The Receiver be directed to render true and faithful accounts of all moneys presently being held by him in terms of the order dated;*
- (f) Such further or other order or orders be passed and/or direction or directions be given as to this Hon’ble Court may seem fit and proper.”*

98. Because of delay in the judicial process, the relevant order was passed for the first time on 3rd August, 2004 after some months of my elevation and at the first instance the court discharged me, but unfortunately no direction was given to return the money held by me towards purchase consideration. The said order was not served upon me at any point of time and I was able to obtain the same only when certified copies of all orders were subsequently obtained by me.

99. A Receiver cannot return money unless there is a specific direction to that effect. Furthermore, the order dated 20th January, 1993 clearly directs me to hold the same until further order from the court. Since the application filed by the plaintiff was pending in court with a specific prayer asking for return of money, there was no occasion for me to personally to go to court and seek similar order. I reasonably

expected that the court would pass order on the application of the plaintiff and I would comply with the same.

ALLEGATION OF NON FURNISHING OF ACCOUNT

100. Prior to 10th April, 2006 in spite of several orders being passed by the court, no direction whatsoever was given to me to return of any amount. As soon as a specific direction was given after adjudicating the interest that I was liable to pay, I paid the same within the time allowed by the court. The Single Judge did not raise any issue with regard to my personally not taking discharge. Accordingly this issue was never raised, argued or explained on my behalf either before the Single Judge or before the Division Bench.
101. As far as furnishing of accounts is concerned, when the court discharged me on 3rd August, 2004 from further acting as a Receiver by appointing another person in my place and stead without giving any direction for filing of accounts, the court dispensed me from the requirement of filing of accounts. Moreover as a usual practice accounts are normally filed by Receiver where there are cases of management and administration of amounts held by Receiver meaning thereby that there are series of disbursement or series of deposits of unquantified amounts.
102. In this case total amount received by me is not in dispute and the amount directed to be paid by the court was also not disputed by any of the parties to the proceeding. Therefore, furnishing of accounts was a mere formality which was dispensed with by the court. The accounts are required to be filed by the Receiver during his tenure as a Receiver but not after his discharge and when he is no longer acting as a Receiver.
103. I was discharged on 3rd August, 2004 without any direction to file any accounts. Furthermore, the Single Judge also in his orders dated 10th April, 2006 and 31st July, 2007 did not give any direction upon me to file any accounts. In fact the application of the plaintiff stood practically disposed of by granting almost all the orders as prayed for. I, therefore, say that I have not committed any offence as is sought to be made out in the proposed charges by not filing of accounts.
104. As far as the amount of accrued interest remaining in my possession, I say with utmost conviction that it was kept under my possession and custody until directed by judicial order to hand over the same.
105. If I had parted with the possession of the amount without any appropriate order to that effect, I would have committed contempt of the order dated 20th January, 1993. I have not been able to appreciate

the proposed charge by this Committee that I was required under judicial orders to account for the amount. There was no such direction upon me atleast to my knowledge and as far as the provision of law governing the receivership.

106. I have already given my explanation, with regard to the demand made by the plaintiff by letter dated 7th March, 2002, I say that the said letter was not received by me. In any view of the matter it is an admitted position that last of the payments of the purchaser was made on 30th April, 1995 and the plaintiff wrote a letter for the first time on 7th March, 2002 after almost 7 years from the date of such deposit.
107. **With regard to the intermingling the sale consideration with other monies and removing the sale consideration from bank account for otherwise dealing with the sale consideration in breach of the direction of law applicable to receivership**, I respectfully submit that I am to comply with the directions given by court. I have already stated that since there was no specific direction upon me to open a receiver's account, I had no other option but to encash the drafts given by the purchaser in an account held by me in my personal capacity. Furthermore, in terms of the order dated 20th January, 1993, I was to keep the amount in a separate account of my choice. That exercise of choice according to my interpretation and understanding, keeping of the exact amount would arise only after the entire payment has been made by the purchaser.
108. It is clear from the accounts as disclosed in this proceeding that as soon as a substantial amount was deposited it was withdrawn and made into a fixed deposit so as to prevent intermingling and also to avoid complications which I personally faced. It is true that I did not make fixed deposit of each draft as soon as they were encashed but it will appear that I did not allow the bulk of the money to remain in my account as the purchase consideration after having accumulated for a few months were withdrawn and made into a fixed deposit. The period prior to February, 1995 is clearly explained by the fact that such amounts were already lying with Lynx which, therefore, belies the charge of intermingling.
109. The charge of misappropriation and/or converting to my own use of the sale consideration and the accrued interest or that it continued even subsequent to my appointment as a judge to the court is extremely unfortunate contrary to records.
110. As far as the question of interest is concerned, I was under no obligation to keep money in any interest bearing account.
111. Furthermore, there is not an iota of evidence to prove that I have

utilised any part of the sale consideration or interest accrued thereon for my own personal use.

112. Once the court has adjudicated the interest payable on the principal sum, the question of misappropriating the accrued interest cannot and does not arise. The necessity of adjudicating interest by the Single Judge arose as the order dated 20th January, 1993 does not contain any specific direction as to which interest bearing account I shall keep the amount of sale consideration.
113. This fact has also been found to be correct by the Hon'ble Division Bench, *inter-alia* stating that "*Grievance not made in the petition could not be considered by the learned Judge. The learned Single Judge, in the present case, considered a point which was not raised in the petition and most unfortunately ignored the fact that both the plaintiff - Steel Authority of India and the other respondent - Shipping Corporation of India Limited did not raise any grievance against the erstwhile Receiver nor even claim any interest from the erstwhile Receiver although the learned Single Judge of his own issued direction upon the said erstwhile Receiver to make payment of the huge sum of Rs. 24,27,404 towards the interest.*"
114. Under the orders of the Hon'ble Court I had two distinct responsibilities:
 - (a) To distribute Rs. 70 lacs;
 - (b) To keep a sum of Rs. 33,22,800 less 5% separated.
115. Both these duties have been discharged by me without any doubt and the total entire quantum of Rs. 70 lacs plus Rs. 33,22,800 less 5% has been accounted for. Therefore, I do not understand how there can be any allegation of misappropriation or making false statement as alleged.
116. Written notes filed on my behalf by the counsel explaining the materials on record and giving their own interpretation does not amount to giving false evidence. If the written notes are looked at, it will appear that it is not even signed.
117. Therefore under no stretch of imagination it amounts to any evidence before court of law far less false evidence.
118. Moreover, the statements contained in the written notes will clearly indicate that it was only an endeavour to explain the report as well as exhibits filed by the Official Liquidator and for no other purpose.
119. It was submitted on behalf of the Official Liquidator before the Single Judge that total sum of Rs. 78,24,946.20 was lying deposited with the Lynx in my name. Initially, I was completely taken aback by the said

report submitted by the said Official Liquidator as I never had this much sum of money which I would be able to invest in Lynx after meeting my day to day expenses required to maintain my family.

120. After careful scrutiny of the report of the Official Liquidator and the exhibits submitted before the court it appeared that the Official Liquidator has added fixed deposit receipts twice over when they were reissued after renewals because the same fixed deposit receipts having same number were calculated twice over by the Official Liquidator thereby covering the sum to almost double. This was the only and specific purpose for filing the note and for no other purpose. This would also appear from the heading of the note which is as follows:

“Written notes on the report filed by the learned Official Liquidator as well as the exhibits filed before the Hon’ble Court at the time of hearing.”

121. The written notes were not filed to establish my interpretation of the materials on record that the amount of Rs. 33,22,800 less 5% representing purchase consideration was deposited in Lynx from 800 A/C and therefore it is wholly irrelevant as to whether the amount of Rs.33,22,800 less 5% in Lynx was constituted by deposits partly from 800 account and partly 400 account or wholly from 800 account or not.

ANSWER TO THE GROUND IN SUPPORT OF CHARGES

122. With regard to the statement of grounds in support of charges, I with due respect and humility say that large part of such grounds is beyond the scope of the motion admitted before the Rajya Sabha. No motion was admitted with regard to my alleged non-compliance of rules or provisions of law as a Receiver but it is restricted only to alleged misappropriation. I do not understand as to how the statement of grounds in support of charges with regard to alleged violation of Code of Civil Procedure and the Original Side Rules is germane.
123. I reiterate that having been discharged from further acting as Receiver on 30th August, 2004, the court actually dispensed with my requirement of filing any accounts.
124. The procedure of filing accounts in the Original Side Rules of the High Court is that after an account is filed by a Receiver the Registrar, Original Side publishes a cause list with heading “Receiver’s Account” and parties to the proceedings are notified about the same.
125. Thereafter, the parties are required to appear and give their comments. If none of the parties raise any objection, the accounts are accepted.
126. Therefore, in order to file accounts one has to continue as a Receiver

and a person who has been discharged as a Receiver cannot file Receiver's account because as on that date he is no longer a Receiver.

127. Since the order dated 30th August, 2004 discharged me from further acting as a Receiver, I was under no obligation to file any accounts and the court also did not ask me to file any accounts prior to discharge thereby dispensing with the requirement of filing of accounts.
128. Chapter XXI Rule 3 of the Original Side Rules is quoted hereunder :-
"Rule-3 - the party obtaining the order of appointment shall within one week from filing of the order file an office copy thereof in the Accounts Department of the Registrar's Office, whereupon an entry shall be made in the register, to be kept for the purpose, all the contents of such order and the particulars of the name of such Receiver and conditions if any, under which he has been appointed, and the dates on which he is required by the order to file his accounts."
129. Before proceeding further in this matter, I would like to humbly request the Committee to find out from the parties meaning thereby the plaintiff as to whether this part of the Rule of Chapter XXI of the Original Side of the High Court at Calcutta has been complied with or not. Moreover, it is clear from the order dated 20th January, 1993 or the previous order passed in this proceedings that there was no direction upon me to file any accounts. Accounts are required to be filed where the Receiver is required to incur certain expenses.
130. Order 40 Clause D of the civil procedure code has been relied upon in the statement of grounds in support of charges. Careful reading of order 40 Rule 1(d) clearly indicates that it applies in cases where a Receiver has been appointed over property or an estate which requires realisation, management, protection, preservation and improvement of the property, collection of rents and profits thereof etc. Therefore, clause 1(d) applies in cases of such Receivers who are appointed for management and administration of a property where there are large scale dealings and day to day monetary transaction and where expenses are incurred for preservation and protection and improvement of the property.
131. In the instant case, the issue is only keeping a quantified sum of money to be held until further order of the court meaning thereby as and when court will pass subsequent order, the Receiver will hand over the same. Therefore, in my respectful submission neither the provisions of the Original Side Rules or Civil Procedure Code apply in this case.

ANSWER TO THE ATTENDANT CIRCUMSTANCES

132. The observation of this Committee as attendant circumstances with regard to my not taking any step to discharge the receivership or for

return of money or for furnishing of accounts in respect thereof or continued to misappropriate or utilise the fund contrary to the directions of law is without any basis and is also beyond the scope of the proceedings which was initiated in the Calcutta High Court. Neither any law nor established procedure has been shown to me on that account which I have allegedly violated.

133. The allegation contained in the attendant circumstances that I continued to misappropriate or utilise the fund even after my elevation, is highly unfortunate. It is not only contrary to records.
134. Records clearly show that the amount of fixed deposit of around Rs. 39 lakhs approximately was lying deposited in Lynx since 1997 and that amount was never reduced from Rs. 33,22,800 less 5% at any given point of time. If I have not utilised any part or portion thereof since 1997, I do not know how an allegation can be made that I had continued to misappropriate the same even after my elevation. With a very heavy heart and great deal of anguish, I submit that this allegation has been made in a drastic manner and it seems to be an attempt to foist some amount of misbehaviour on me after my elevation.
135. My bank records up to date were disclosed in 2006. From the said accounts it will clearly appear that after 1997, there has been not single credit entry into my account from Lynx and the amount of Rs. 33,22,800 less 5% representing the purchase consideration continued to remain deposited under fixed deposit receipt with Lynx.
136. Another charge contained in the attendant circumstances regarding my not returning any fund until called upon by the court to do so by means of the order dated 10th April, 2006. I say with utmost respect and humility that this charge could not have been made at all, if proper appreciation of law and facts had been made. No Receiver can hand over any money without specific direction of court.
137. The order dated 20th January, 1993 directs me to hold the money until further order of the court. It is on record that before 10th April, 2006, there is not a single order passed by any court directing me to pay the amount.
138. Furthermore, I reiterate the facts relating to my alleged non-disclosure of facts before the court or not replying to the letter of the plaintiff dated 7th March, 2002 allegedly received by me.
139. It seems that the issues seems to have been pre-judged without giving due consideration to the mitigating circumstances and the difficulties faced by a junior advocate as a receiver.

140. These are significant facts which clearly go to show the injustice caused to me and that I have become a victim of circumstances.
141. The court is a mere custodian of the monies which belong to the parties. It is for the parties to raise complaint with regard to its mis-utilisation. In the instant case, the parties did not even ask for return of money with interest because they were fully aware of the fact that by reason of the nature of the order dated 20th January, 1993 they are not even entitled to ask for it but since I had deposited the money on various interest bearing accounts I thought that it was my moral responsibility to pay back with interest but it was impossible to quantify the rate of interest as it varied from time to time.
142. The rate of interest on fixed deposit with banks had come down drastically and the rate of interest promised by Lynx is no longer relevant after it's winding up. Under these circumstances, I left the matter for adjudication by the court and the court adjudicated the same. In fact, the interest allowed by the court is almost penal in nature because interest has been calculated on a cumulative basis from one period to another and at a rate much higher than the Bank rate prevailing at the relevant point of time.
143. I, therefore, submit that the money belongs to the parties. It has not yet been adjudicated in the suit filed by the plaintiff as to who would be entitled to get the money but, however, none of the parties to the suit had any grievance against me in any manner whatsoever with regard to keeping the money in fixed deposit or handling the same in the manner as disclosed in this proceeding the court by itself cannot raise an issue *suo moto* with regard the alleged mis-utilisation of accrued interest when the parties do not have any issue with regard to the same.
144. I respectfully state and submit that since the total corpus of Rs. 33,22,800 less 5% representing the purchase consideration was to be kept, my only responsibility lay with regard thereto. At the time of return of the money whether or not it would be returned with accrued interest was a matter of adjudication. Therefore, to allege that there has been mis-utilisation of accrued interest prior to return of money is completely misplaced, uncalled for and out of context.
145. In the instant case, the Single Judge in his order dated 10th April, 2006 while directing me to pay nearly Rs. 58 lacs without even a prayer for repayment with interest, passed an order of injunction on all my personal properties both movable and immovable.
146. The movable property includes the cars standing in my name which were purchased in 2004 after my elevation with bank loan.

147. An order of injunction is passed by a court only upon a prayer being made by a party but from the petition filed by the plaintiff it would be apparent that they have not prayed for such an order.
148. In order to pass an order of injunction under Order 39 of the CPC a court is required to justify why such an order is passed. Without any reason being given as to why an order of injunction is passed, it is invalid in the eye of law in particular by reason of the decision of the Supreme Court reported in 1993(3) SCC page 161 (Shiv Kumar Chadda-*vs*-Delhi Municipal Corporation).
149. It is significant to mention here that when the order of injunction was passed, I was no longer a receiver appointed by the court as I was already discharged by order dated 3rd August, 2004.
150. At internal page 6 of the judgment dated 10th April, 2006 last paragraph the learned Judge has commented that the letter dated 7th March, 2002 written by the plaintiff was received by me which is contrary to records. It is also recorded by the Learned Single Judge that in spite of receipt of the same, no information was supplied and no step was taken by me.
151. The Learned Single Judge at page 7 in continuation of the last paragraph at page 6 has commented that it is not clear as to why the application was not moved earlier than 16th July, 2004 in spite of **affirming the same on 27th February, 2003** filing the application on 10th March, 2003. It is commented at that stage "No affidavit was filed by the erstwhile receiver in spite of notice being served."
152. This observation is, factually, incorrect as would be evident from the affidavit of service filed by the plaintiff that the petition was served upon me for the first time on 11th May, 2005.
153. I would like to respectfully state and submit the aforesaid contention constitutes misbehaviour as contemplated under Article 124(4) of the Constitution of India read with the Judges (Inquiry) Act.
154. I respectfully and humbly request this Committee to render justice to me as I am entitled under the Constitution of this country and as a member of the higher judiciary who has an unblemished record of conduct as a judge.
155. No one except for a party to the proceeding is entitled to be served the order unless specifically directed. A Receiver is not a party to the proceeding. The Single Judge being aware of such a position in Law gave specific direction of certain orders being served upon me as a Receiver. Subsequently thereto there is no order which gives such

direction. That all those orders would never reach me as they were never served upon me.

156. At the material point of time ANZ Grindlays Bank, now Standard Chartered Bank had undergone a complete overhaul of their accounting system which became completely computerised. As a result the numbers of digits of the Account Numbers were changed and existing accounts were given different account numbers having increased digits.
157. In order to find out the actual state of affairs regarding my opening and closure of account I had sent my Advocate, to cause an inspection from the record of the Bank, when he was informed that no details with regard to my account can be given to him by reason of an order and/or direction given by the "Higher Authority".
158. Without any judicial order no bank can refuse to furnish details of a customer's account, this is against all banking norms and Reserve Bank of India Regulations.
159. In any event without specific knowledge and information with regard to opening and closing of various accounts as relied upon by this Committee it would amount to a miscarriage of justice, if I am not allowed the information as sought for by me.

PARAGRAPH-WISE DEALING OF CHARGES ALONG WITH THE GROUNDS IN SUPPORT THEREOF AS ALSO THE ATTENDANT CIRCUMSTANCES

160. Without prejudice to the aforesaid and strongly relying thereon, I now proceed to deal with the charges along with the grounds in support thereof as also the attendant circumstances.
161. With regard to charge one (misappropriation), the statements contained in paragraphs 3, 4, 5, 6 and 7 are matters of record. I, however, deny that any sum was misappropriated or converted to my own use, in particular, the sum of Rs. 4.25 lacs less 5%. Mere withdrawal of amount from the bank does not constitute misappropriation. Unless it is proved that there was any dishonest intention on my part and that I have put the said amount to my own use, the charge of misappropriation is untenable in law and or in facts. In this context, I reiterate that it has been proved beyond doubt that the total amount of money representing the purchase consideration less 5% being my remuneration was all alone kept deposited with Lynx. Therefore, the question of misappropriation of any amount cannot and does not arise.
162. With further reference to paragraphs 3, 4, 5, 6 and 7, I deny that I have misappropriated and/or converted to my own use a further sum

of Rs. 8.25 lacs. At the cost of repetition, I say that mere withdrawal of money does not constitute misappropriation.

163. With reference to paragraph 8, I deny that by making series of disbursement from 22nd May, 1997 till July 1st, 1997 from the 400 Account, I have misappropriated and/or converted to my own use, amount of Rs. 22 lacs together with accrued interest. I reiterate that the series of disbursement made from 400 account was towards labour payment in terms of the Division Bench order.
164. The transfer of the amount from 800 to 400 account has already been explained by me. Due to the confusion at the end of the bank, my request was scored out and the 400 account was put in. At this juncture after such a long passage of time, it is not possible to remember as to the circumstances leading to the said request made to the bank. Since as on the date of transfer of the money to the Lynx from 400 account sufficient amount of money was already lying in fixed deposit with the Standard Chartered Bank, no additional or personal benefit was derived by me by depositing money in Lynx from 400 account which could have duly been deposited by encashing the fixed deposit out of the 800 account.
165. In any event none of these deposits were towards withdrawing any money for my personal benefit. From the statement of account of the 800 account, it is clear that two term deposits were created - one of 6th March, 1995 for a sum of Rs. 8,73,968 and another term deposit was created on 4th December, 1995 for a sum of Rs. 9.80 lacs. From the further documents submitted by this Committee being Volume 4 at page 1677, there appears to be a copy of a fixed deposit dated 6th March, 1997. It appears from the said document that the said fixed deposit was created on 6th March, 1996 for a sum of Rs. 9,64,967.24. The total amount of the said two fixed deposits which were subsequently transferred to 400 account was Rs. 22,84,459. The date of such transfer was 22nd May, 1997.
166. It is not understood as to whether the term deposit disclosed at page 1677 is same to that of the term deposit mentioned in the statement of account at page 413 or 417 of Volume 1 because the figures mentioned in the term deposit is different. Moreover the term deposit mentioned at page 1677 appears to have been created on 6th March, 1996 for a sum of Rs. 9,64,967 which is totally different from the figure of the term deposit mentioned at pages 413 and 417. Moreover, the term deposit mentioned at page 417 from the 800 account the figure is Rs. 9.80 lacs whereas the term deposit mentioned at page 1677 is of an amount of Rs.9,64,967.24 as on 6th March. If the fixed deposit created in 1995 was not encashed until 1997, it is not understood as to how on 6th March, 1996 lesser figure is shown to have been created

in fixed deposit. I, therefore, presume that the fixed deposit mentioned at page 1677 is different from the fixed deposit mentioned at pages 413 and 417 respectively of the paper books.

167. With further reference to paragraph 8, I say that the copy of the fixed deposit receipt disclosed at page 1681 tallies with the date of creation of the fixed deposit mentioned in the statement of account at page 417 *i.e.* 4th December, 1995. The amount of fixed deposit also tallies with the debit entry in the statement of account *i.e.* 9.80 lacs. From the copy of the fixed deposit it is clear that the date on which such term deposit is created is clearly mentioned at the bottom of the copy of the fixed deposit itself. Surprisingly, though at page 1677 it is mentioned that the term deposit was created on 6th March, 1996, the actual entry of creation of fixed deposit in the statement of account mentioned at page 413 is 6th March, 1995 and the figures appearing at page 1677 and at page 413 are different.
168. Under these circumstances, I humbly state and submit that neither the series of disbursement nor the transfer of the amount from 800 to 400 account constitute any wrongful action on my part far less misappropriation. Under what circumstances this Committee has framed the charge that I have misappropriated and/or converted the said amount is still not very clear to me. From all the accounts disclosed there is not a single entry from which it can be proved that I have withdrawn any amount for my personal gain and/or has converted to my own use. It appears that the charges are purely based on surmises and conjecture without any specific proof of either misappropriation or conversion. It is needless to mention that mere withdrawal of money does not constitute misappropriation unless there is proof of dishonest intention and user of the said amount towards my own use and personal gain. I have clearly stated and have given evidence that disbursement from the 400 account were all towards labour payment.
169. With regard to paragraph 9, I do not understand as to how the said issue can be framed as a charge or can form a part of the charge no. 1 that is misappropriation. I have already given my answer with regard to alleged not taking any steps towards my discharge or for return of amounts or for furnishing of any account in respect thereof. I say that I was not aware that there was any legal or procedural requirement on my part to seek discharge from receivership or to take any personal step towards return of money. The application filed by the plaintiff was for the same purpose and was to be heard within a short time. I thought that the said application would be heard and disposed of with appropriate orders and it was not necessary for me to personally go and approach the Court for similar direction. It is significant to

mention here that I was relieved from further acting as a receivership on 3rd August, 2004 but unfortunately the said order did not contain any direction to pay nor was the order served upon me and, therefore, I was completely unaware as to the proceedings that were going on in the Court.

170. In order to return the money held as a Receiver, a direction from the Court is required. It matters a little as to who approaches the Court. In this case, the plaintiff had already approached the Court in March, 2003 long before my elevation. I reasonably expected that the Court would pass necessary order directing return of money.
171. With regard to non-furnishing of accounts, I have given my answer earlier and I reiterate the same herein in seriatim. I humbly state and submit that the charge as mentioned in paragraph 9 under reply does not come within the ambit of the Motion admitted in Rajya Sabha. I further submit that the proceedings before the Court which had culminated into the judgment and orders passed by the Single Judge, there was no issue or discussion as to whether I should have taken any steps to seek my discharge or return of the amount prior to my elevation or thereafter. In any event, the said charge is totally outside the scope and ambit of article 124(4) of the Constitution of India read with the provisions of Judges Inquiry Act which had been framed to prevent corruption and incapacity of a judge. Alleged impropriety or a better action expected out of a judge cannot be the subject matter of Article 124(4) of the Constitution of India.
172. With reference to paragraph 10 of charge 1, I deny that I continued to misappropriate or utilized the sale consideration or accrued interest in any position as a Receiver even at the time and subsequent to my appointment as a judge on 3rd December, 2003. Until and unless a specific order is passed to hand over the money, I was duty bound under orders of Court to keep the amount in my possession. If I had handed over the money without any order of the Court, I would have actually committed contempt of the order dated 20th January, 1993. Moreover, keeping the money in my possession *per se* does not amount to misappropriation. Event not accounting for the same also does not amount to misappropriation. In any event, I have already stated as to the circumstances leading to the letter written by the plaintiff on 7th March, 2002 and the orders passed by the Single Judge on 3rd May, 2005 and 17th May, 2005.
173. At the cost of repetition, I say that it will appear from the letter dated 7th March, 2002 that the letter was not received by me personally. Moreover, not answering a letter written by the plaintiff's Advocate does not amount to misappropriation or utilization of sale consideration or accrued interest thereon. The order dated 3rd May, 2005 does not

contain any direction, the order dated 17th May, 2005 which was served upon me and I have given my explanation with regard thereto which I reiterate in seriatim.

174. With further reference to paragraph 10, I say that my personal accounts have been disclosed up to 2006. There is not a single entry which can show that until 2006 I have utilized any part of the purchase consideration. All transactions relating to the said purchase consideration practically ended in 1977. After the fixed deposits that were created with Lynx, it continued to remain there. Therefore, the charge contained in paragraph 10 that I have continued to misappropriate or utilize the sale consideration with accrued interest even at the time of and subsequent to my appointment as a judge on 3rd December, 2003 is wholly incorrect.
175. With further reference to paragraph 10, I submit that the alleged failure to account for despite alleged specific demand made by the plaintiff *vide* letter dated 7th March, 2002 or by orders dated 3rd May, 2005 and 17th May, 2005 passed by the Single Judge does not amount to misappropriation far less an issue which can come within the ambit of Article 124(4) of the Constitution of India.
176. With reference to paragraphs 11, 12 and 13 I deny that I have intermingled the sale consideration with other monies or removed the sale consideration from bank accounts or otherwise dealt with the sale consideration in breach of direction or law applicable to the Receivership as alleged or at all. I reiterate that since the drafts given by the purchase were in my personal name they were encashed in accounts standing in my name. From the copies of the account disclosed in this proceeding it will appear that after the drafts were encashed, fixed deposit receipts were created in the bank itself. The records of Lynx clearly establishes the fact that the fixed deposit receipts were also created there apart from fixed deposits that were created in the Standard Chartered Bank. The drafts were encashed in an account and thereafter withdrawn for the purpose of making fixed deposits, which does not amount to intermingling of the sale consideration. The removal of amounts from the bank was for the purpose of creation of fixed deposit and for no other purpose. This has also been established not only from the fixed deposit receipts issued by the ANZ Grindlays Bank (now known as Standard Chartered Bank) and also fixed deposit receipts disclosed from the records of the Official Liquidator of Lynx. Two fixed deposit receipts have been disclosed in **Volume IV** of the documents supplied to me subsequently and the same are at **Pages 1677 and 1681**. From the fixed deposit receipt contain in Page 1677 dated 6th March, 1997 it will appear that the said fixed deposit was created and/or placed 6th March, 1996 for a sum of Rs. 9,64,697.24. The

statement of accounts disclosed in this proceeding contained in **Page 417 of Volume I** of the documents relied upon by the Committee there is no debit entry on 6th March, 1996. The actual debit entry is for a sum of Rs. 8,73,968 dated 6th March, 1995. Neither the date of the entry or the amount mentioned in the fixed deposit receipt at Page 1677 corresponds to the actual entry mentioned in the statement of accounts. There appears to be a clear anomaly in this regard.

177. With further reference to paragraphs 11, I deny that any amount of the sale consideration has been dealt with by me in breach of any directions of law applicable to Receivership. I submit with utmost respect and humility that this charge appears to be rather fanciful in nature. The correct position of the accounts has not been considered at all. The only direction upon me with regard to keeping of the amount is contained in the order dated 20th January, 1993. Under the said order I had the liberty to keep the money at a place of my choice. There are clear evidence in this proceedings as to show that total purchase consideration of Rs. 31,56,660 has been kept deposited in Lynx throughout. Therefore, the question of committing any breach of any directions of law applicable to Receivership cannot and does not arise.
178. It is further submitted that my duty to act as Receiver ended after the order dated 3rd August, 2004 when I was replaced by another Receiver without any direction either to pay or to submit any accounts. Furthermore, the order dated 10th April, 2006 though contains diverse observations against me, and there is no direction whatsoever to submit any account. On the contrary the total amount was quantified by the Court and direction was given to me to pay the same. There is no observation whatsoever by the Single Judge with regard to alleged non-filing of accounts. I failed to appreciate as to how this charge either relates to charge of misappropriation or can be a subject matter in issue under Article 124(4) of the Constitution of India as neither the charge nor the consequence thereof comes within the ambit of Article 124(4) of the Constitution of India.
179. With reference to paragraph 12, it is denied that I have misappropriated and/or converted to my own use the sale consideration or the agreed interest or that such misappropriation existed or continued even subsequent to my appointment as a Judge of the Court. I say that this charge is not only malicious in nature but also have been made extremely recklessly without giving due regard to the facts and understanding of the case. The charge of misappropriation itself is without any basis and till date there is not an iota of proof or evidence of misappropriation. The charge has remained in the realm of assumption and/or surmise and conjunctures. Under Article 124(4) a

Judge can be removed on the ground of '**proved misbehaviour**' or 'incapacity as a judge' and not otherwise. All allegations pertaining to the charge relate long prior to my elevation. The charge that I have continued to misappropriate subsequent to my appointment as a Judge as has been made in desperation only to bring this entire inquiry within the ambit of Article 124(4) and to continue with this enquiry under the Judges Inquiry Act, 1968. All my accounts until 2006 have been disclosed before the Learned Single Judge commencement from 1995 and some occasions even prior thereto. There is not a single credit entry into my account, which can show that I have made any personal use of sale consideration. After 1997 when the entire sale consideration was found to have been kept in Lynx there was not a single transaction whatsoever from my account showing alleged misappropriation. After December, 2003 when I was elevated, the accounts disclosed in this proceeding would also show that there has not been one single debit entry or credit entry which can correlate or link the other transactions with the purchase consideration.

180. With further reference to paragraph 13, it is denied and disputed that I have committed misappropriation of property or the same constitutes misbehaviour under Article 124(4) read with Article 217 of the Constitution of India as alleged or at all. I would like to point out that a very important word contained in Article 124(4) has been deliberately left out. The language used in Article 124(4) is '**proved misbehaviour**' and not simply 'misbehaviour' as has been used in paragraph 13. From the charges itself I say that there is nothing which can substantiate the alleged charge of misbehaviour or 'proved misbehaviour'.
181. With reference Charge II (Making False Statements) contained in paragraphs 14 to 25, I submit that the entire exercise before the Learned Single Judge was to establish that a sum of Rs. 31,56,660 representing the purchase consideration was kept deposited. According to my understanding and interpretation my obligation under orders of Court was to keep a sum of Rs. 31,56,660 representing the purchase consideration separate. The trail of money deposit in Lynx does not contradict my contention that a sum of Rs. 31,56,660 representing the purchase consideration was kept in Lynx. The amount of Rs. 31,56,660 representing the purchase consideration required to be kept by me as a specific sum does not have any identification either from any account nor does it contain any colour, stamp of any nature whatsoever. Therefore, it is of no importance as to from which account the money was deposited in Lynx. After such long passage of time in absence of the specific documents, accounts, Cheque books, pass books, counter foils etc. in my possession it is not possible for me to remember the exact nature of the transactions or the requirement thereof. The only fact which I remember and was relevant to me was

that the amount of Rs. 31,56,660 representing the purchase consideration was kept deposit in Lynx and the statements made before the Court was purely from memory and this has been specifically stated in the written notes filed before the Single Judge. Neither in the pleadings in the petition filed by the plaintiff nor the issues before the Court was with regard to the source of deposit in Lynx but whether the amount of Rs. 31,56,660 representing the purchase consideration was found to be deposit or not, which I have established without any iota of doubt. Therefore, I submit that no false statements were made by me at any point of time. Moreover, the Division Bench has accepted my contentions and has clearly held that there is no question of any misappropriation of any amount by me. This is a clear and specific finding in respect of the aforesaid.

182. With particular reference to paragraph 14 of Charge II (Making False Statements), I deny that the sum of Rs.12,50,000 of the sale consideration or agreed interest thereon have been misappropriated even as on June 10, 1996 for the reasons as alleged or at all. It is denied and disputed that first deposit with Lynx India Ltd. was made by me only on December 19, 1996. The only evidence to deposit in the form of an application for creating fixed deposit is on 26th February, 1997 for a sum of Rs. 25,00,000. It has been proved beyond the doubt that the total amount found to have been deposited in Lynx was Rs. 31,56,660. Therefore, it is proved beyond doubt that a sum of Rs. 14,39,000 was deposited in Lynx long prior to 26th February, 1997 and in fact, such deposit was made even before 28th November, 1995 since the statement of account disclose contained in **Page 413 of Volume I** commences from 28th February, 1995 and there is no debit entry in the said account till 21st April, 1999 showing another deposit to Lynx. Therefore, my specific statements that there has been no misappropriation far less the amount of Rs. 12,50,000 since Rs. 14,39,000 was deposited in Lynx. Prior to 28th February, 1995 cannot be contradicted in any manner whatsoever. Furthermore, the charge of alleged misappropriation of Rs. 12,50,000 is also based on assumption without any specific proof. Mere withdrawal of amount does not constitute misappropriation. It is clear from the nature of charges framed against me that the charges itself are devoid of any proof and is purely based on assumption. Such serious allegation of misappropriation has to be proved beyond reasonable doubt in absence of statement of accounts from 1993-1995 from ANZ Grindlays Bank (now Standard Chartered Bank), it is impossible to allege misappropriation far less prove the same against me. Whereas on the contrary circumstantial evidence clearly suggests that the total amount of purchase consideration as was required to be kept by me was all along in Lynx.

183. With particular reference to paragraph 15 of Charge II (Making False

Statements), I submit that the order dated 10th April, 2006 (as would appear from **Page No. 1793 of Volume V**) was available as signed copy on and from 19th May, 2006 from the Department. Even before obtaining the signed copy on 18th May, 2006 my Learned Advocate-on-Record appear before the Court and express desire to deposit a sum less than Rs. 20 lacs, which was duly done. Consequently when the matter appeared my Learned Advocate made submission to deposit a sum of rupees not less than 15 lacs. However, the actual deposit was made for a sum of Rs. 20 lacs, which was recorded in order dated 8th September, 2006. Therefore, by 8th September, 2006 a sum of Rs. 45 lacs was also deposited, which far exceeds the principal sum of Rs. 31,56,660 prior to seeking of extension. It is submitted that subsequent thereto there was a personal inconvenience in my family as one of my uncle fell seriously ill whose children stay abroad. I became preoccupied with his illness and he ultimately expire sometime in the end of October and the responsibility of observing the 'Sradh' ceremony came over me as I was the only one who took part in his cremation as a member of the family. Under these circumstances an extension was sought for to pay the remaining amount and such extension was duly granted by the Court and the remaining amount was paid within the extended time.

184. With particular reference to paragraph 19 of Charge II (Making False Statements), it is denied that Rs. 22,00,000 of the sale consideration and the agreed interest thereon was withdrawn, disbursed or utilized by me between 22nd May, 1997 and 1st of July, 1997. It is surprising that such charges have been made without looking into the accounts and the evidence staring on the face of the record. All the cheques, which has been disclosed by this Committee regarding withdrawals and/or disbursement of this sum of Rs. 22,00,000 withdrawn from 800 account and deposited in 400 account were towards payment to workers in terms of the Division Bench order dated 20th January, 1997. Not a single paisa was withdrawn by me for my personal use nor any credit entry from 400 account to 800 account has been found. I reiterate that a sum of Rs. 25,00,000 was deposited in Lynx on 25th February, 1997. Therefore, the statements contained in paragraph 19 that no deposit in Lynx was made between 22nd May, 1997 and 1st July, 1998 is on the face of it, incorrect.
185. With particular reference to paragraphs 20 and 21 of Charge II (Making False Statements), it is stated that the deposit of Rs. 25,00,000 from 400 account and subsequent deposit of Rs. 22 lacs from 800 account to 400 account constitutes the money trail in clear and specific terms. Furthermore, neither the deposit of Rs. 25,00,000 from 400 account to Lynx nor the deposit of Rs. 22,00,000 from 800 to 400 account and its subsequent withdrawal was for any personal gain. It is denied that the

statement made by me that deposits in Lynx were made by me by cheques drawn on account from 800 is false as alleged or at all. I have clearly stated that since no documents were available with me, my only endeavour was to establish deposit of Rs.31,56,660 in Lynx. My only endeavour was to establish that I have not personally utilized any amount and that the amount as directed by the Court was kept deposited. All other questions become inconsequential as far as my interpretation and/or understanding of the facts and circumstances of this case.

186. With particular reference to paragraph 22 of Charge II (Making False Statements), it is denied that the withdrawal of Rs. 5,00,000 from the Lynx was from my personal fund is false as alleged or at all. The only responsibility and duty cast upon me was to keep a sum of Rs. 31,56,660 deposited and/or separated. The excess amount found in Lynx was my personal fund. Moreover, the Court have quantified amount payable by me and paid by me, all other questions become irrelevant and/or is of no consequence as on date.
187. With particular reference to paragraph 23 of Charge II (Making False Statements), it is denied that I have made any statements that are false or which I knew or believe to be false or did not believe to be true as alleged or at all. My specific statement contained in the written notes filed before the Hon'ble Judge was only for the purpose of explaining the anomaly in the accounts disclosed by the Official Liquidator and which contains specific statement that all that was stated by me was based upon memory of transaction which took place long prior thereto. Without taking into consideration of the same, such allegations of misrepresentation of facts are uncalled for. In any event of the matter, the Division Bench after having considered all materials of record have come to a definite conclusion and finding that the allegations of misappropriation is unfounded. Therefore, the question of misrepresentation of facts before the Court cannot and does not arise and in view of the specific directions of the Division Bench expunging the adverse comments made against me, the allegations of misappropriation and misrepresentation of facts cannot be made in any manner whatsoever. It is significant to point out that no new facts were placed before the Division Bench than those already before the Single Judge.
188. With particular reference to paragraphs 24 and 25 of Charge II (Making False Statements), it is denied that I have made any false statements or made misrepresentation of facts or gave false evidence while I was a Judge of the Court as alleged or at all. It is denied that during the judicial proceeding or while holding the office of Judge of the Court intentionally gave false facts which constitute misbehaviour under

Article 124(4) read with Article 217 of the Constitution of India as alleged or at all. I would like to point out that when litigation was conducted against me or when the litigation was conducted by me, it was not done in the capacity of a Judge, but in the capacity of a litigant. My actions were not in course of discharge of my judicial functions. Therefore, the allegations itself does not come within the purview of “proved misbehaviour” as contained in Article 124(4) read with Article 217 of the Constitution of India. Significantly, my interpretation of facts of this case have been accepted by the Division Bench which has given me a complete clean chit and have directed diverse judicial observance made by the Single Judge be deleted from the records of the case.

189. With regard to Statement of Ground in support of charges, it is stated as under:-

A. Appointment of Receiver:

190. With reference to paragraphs 1 to 11 are all matters of record and save what appears there from all allegations contrary thereto and/or inconsistent therewith are denied and disputed.

191. With reference to paragraphs E alleging misappropriation in Allahabad Bank account contained in paragraphs 12 and 13, it is submitted that mere withdrawal of the amount does not constitutes misappropriation. There is not an iota of proof with regard to disbursement or dealing with the same as there was no direction to the contrary which prohibited me from withdrawing the amount. Since the choice of keeping the purchase consideration by me was left to me totally, I was free in law to withdraw the amount from Allahabad Bank. Unless it may be specifically shown by specific evidence that I have disbursed or dealt with the same for my own personal use, the allegation of transfer of said amount from Allahabad Bank is untenable in facts and/or in law. I have already stated that the choice given to me by order dated 20th January, 1993 by the Court to hold the money does not commence with the first deposit. Since 22 drafts were given to me my choice of keeping money separately commences only when the entire purchase consideration is paid. The order dated 20th January, 1993 specifically directs me to keep the entire sale consideration after deducting 5% towards remuneration and not any part thereof. It is only after 29th April, 1995 when the last payment was made, I was under an obligation to keep the money separately and it will appear from records of this case and also clearly established that I have fulfilled my obligations under the said order. Moreover, the delivery of goods to the purchase was made from the Bokaro Steel Plant. Though it was under my possession as a Receiver in order to facilitate delivery from a very high security area an employee of Steel Authority of India was employed as Manager under me. Under the order dated 20th January,

1993 the purchaser was given liberty to lift the materials in lots and a time period of four months was fixed. However, the plaintiff use to issue the delivery challans from Bokaro Steel Plant which was brought to me in Kolkata for counter signing which continued from 1993 till 1995. Neither the plaintiff nor the defendants nor the purchasers raised any objection with regard thereto.

192. With reference to paragraphs E alleging misappropriation in Allahabad Bank account contained in paragraphs 12 and 13, it is denied that I had misappropriated or converted to my own a sum of Rs. 4,25,000 in violation of the orders of the Single Judge in C.S. No. 8 of 2003 or applicable provisions of law. I submit that the said allegations are contrary to the established principles relating to misappropriation. Furthermore, conversion of amount to my own use requires proof and evidence thereof. Such serious allegation cannot be made merely on the basis of assumption of withdrawal. Proof of conversion is an essential ingredient to substantiate the charge of misappropriation. Till date there is not an iota of evidence to establish that I have either misappropriated or converted any amount to my own use.
193. With reference to paragraphs E alleging misappropriation in Allahabad Bank account contained in paragraphs 12 and 13, it is submitted that apart from alleging withdrawals no explanation has been given as to the two amounts shown as creation of fixed deposit, one dated 24th March, 1993 and other dated 21st July, 1993. There is no evidence disclosed from Allahabad Bank with regard to creation of fixed deposit or encashment thereof. It appears that on 24th March, 1993 a sum of Rs. 4,46,000 was deposited in fixed deposit. On 19th July, 1993 a sum of Rs. 4,58,837 was credited from fixed deposit. However, there is no evidence on record to show as to whether such fixed deposit was directed to be encashed. I, therefore, submit that the evidence relating to accounts disclosed in this proceedings are not only full of anomalies and are also incomplete and partly incorrect, therefore, to rely on the same and to make specific allegation of misappropriation is unfortunate, totally uncalled for, contrary to records and/or unjust.
194. With reference Charge II (Misappropriation in ANZ Grindlays Account) contained in paragraphs 14, 15 and 16, I deny that the shortfall in the opening balance as on 28th February, 1995 constitutes misappropriation or the amount maintained in Allahabad Bank being negligible also constitutes misappropriation as alleged or at all. I say that there is no contrary evidence to contradict my contention that by that time substantial amount of fixed deposits was already created in Lynx for the reasons as stated hereinbefore.
195. With reference Charge II (Misappropriation in ANZ Grindlays Account) contained in paragraph 17, it is submitted that apart from the 800

accounts, the other accounts in Standard Chartered Bank are of no relevance whatsoever. Furthermore, without specific information from the bank as to the date of opening of the accounts and the account opening forms and the letter of request for closure of the accounts, it is impossible for me to make specific comments with regard thereto. My Advocate's letter dated 24th March, 2010 and 6th April, 2010 written to the bank seeking such information, copies whereof are annexed hereto and collectively marked with the letter "D", which has remained unanswered till date.

196. With reference Charge II (Misappropriation in ANZ Grindlays Account) contained in paragraph 18, it is denied and disputed that I have misappropriated at least a sum of Rs. 12,50,000 for the reasons alleged or at all. I have given factually correct explanation with regard to the alleged misappropriation of Rs. 12,50,000 hereinabove and I reiterate the same in seriatim.
197. With reference paragraph G under the heading 'Events of 1999' contained in paragraphs 19, 20, 21, 22, 23, 24 and 25, I say that the statements contained therein are mostly matters of record and save what appears therefrom allegations contrary thereto and/or inconsistent therewith are denied and disputed. It is, however, significant to mention herein that under the Division Bench order dated 20th January, 1997 my only responsibility was to distribute Rs. 70 lacs to the workers who were to be identified by the Union. There is no direction in the said order even to open an account. The account was opened by me only to facilitate disbursement. The nomenclature given as a 'Special Officer' cannot be only for the reason as no savings bank account in the same branch under the same name can be opened. Since 400 account was opened by me on my own without any direction of Court, it cannot be termed as account opened under orders of Court. It is significant to point out that it was when my Advocate took inspection of the documents in the office of this Committee on 19th April, 2010 it was found from the original letter dated 22nd May, 1998 disclosed in **Page No. 1683 of Volume IV** and also at several other places the scoring out and/or underlying appeared in the original is of a different ink and the scoring out portion is also not signed by me. It is, therefore, very difficult to explain the circumstances under which the amount was transferred from 400 account to Lynx since as on that date fixed deposits worth more than Rs. 22 lacs was already lying in Standard Chartered Bank. No special benefit whatsoever has accrued to me personally by transferring the sum of Rs. 25 lacs from 400 account of Lynx and instead the sum of Rs. 22 lacs and more lying in fixed deposit with Standard Chartered Bank.
198. With reference paragraph G under the heading 'Events of 1999'

contained in paragraphs 24 and 25, I say that while framing the charges due regard to the actual facts and the evidence on record has been totally ignored and has been done in a mechanical manner and exhibits blind adopting of the observation made by in-house committee earlier. The entire evidence on record has been completely ignored. The reduction of the amount in the 400 account by making series of disbursement does not amount to misappropriation and/or conversion to my own use of approximately Rs.22,00,000 as alleged or at all. Such withdrawals or disbursements have been done in compliance with the directions given by the Division Bench contained in the order dated 20th January, 1993.

199. With reference paragraph G under the heading 'Events of 1999' contained in paragraphs 26 and 27, the amount of sale consideration or accrued interest have been transferred illegally by me from 800 account or was misappropriated and/or converted to my own use on 22nd May, 1997 or 1st July, 1997 as alleged or at all. The disbursement in the 400 account between 22nd May, 1997 and 1st July, 1997 are all towards making workers' payment and not a single paisa have been used by me for my personal gain. Therefore, the entire allegation of misappropriation is without any basis and have been made without due regard to the evidence on record.
200. With reference paragraph G under the heading 'Events of 1999' contained in paragraph 27, it is denied and disputed that the portion of sale consideration that accrued interest obtained by me as Receiver continued to be misappropriated and/or converted to my own use even at the time and subsequent to my appointment as a Judge of the Court on 3rd December, 2003. These allegations are without any basis and are purely based on surmise and conjecture and even contrary to records and evidence on record.
201. With reference paragraph H under the heading 'Attendant Circumstances' contained in paragraphs 28, 29, 30, 31, 32 and 33, I repeat what has been stated hereinabove and deny that there was any obligation upon me under the signed copy of the order dated 30th April, 1984 served upon me and as quoted by the plaintiff in its application affirmed on 7th February, 2003 or under the provisions of the Civil Procedure Code to file a separate half-yearly accounts in the office of the Registrar of Record pertaining to the amount under my Receivership or were to specifically to show, *inter alia*, what the balance in hand at each stage or that I did not any stage including after my appointment as Judge of the High Court on 3rd December, 2003 filed any accounts in compliance with the said order dated 30th April, 1984 or the applicable rules or provisions of the Code of Civil Procedure, 1908 as alleged or at all.

202. The signed copy of the order dated 30th April, 1984 served upon me does not contain any direction for filing of account. Even in the order dated 20th January, 1993 there is no direction given to file accounts. From the records of this case produced so far it is clear that the certified copy of the order dated 30th April, 1984 was never served upon me. I call upon the plaintiffs to produce the copy of the letter under cover of which the said order was served upon me in order to act in terms of the Order.
203. From both the certified copy of the order disclosed by this Committee at page 145 of Volume I and the signed copy quoted by the plaintiff in their application at paragraph 11 at page 179 of Volume I, there is a clear direction upon the Receiver to act on a signed copy of the Order and not the Certified copy of the said order. Furthermore from the certified copy of the order relied upon by this Committee it appears that there was no direction whatsoever as to how the sale proceeds were to be invested. The plaintiff was given the liberty to seek appropriate direction for investment.
204. From the certified copy of the order disclosed and relied upon by this Committee it is clear that the certified copy was ready for delivery and obtained on or after 28th February, 1985. It is unbelievable that after obtaining the order dated 30th April, 1984 the plaintiff will wait till 28th February, 1985 to serve the same upon me as receiver. The question therefore which arises is what order was served upon me to act as a receiver. If the certified copy was not served it has no relevance and the question of its compliance also cannot and does not arise.
205. It is significant to note that the terms of the signed copy of the order dated 30th April, 1984 and the terms of the certified copy of the said order are at a great variance. Under the establish practice and procedure the then prevailing in the original side of the Calcutta High Court, all orders passed in the original side were recorded in the minute book prepared by the recording officer of the concerned court. Signed copies were delivered on the basis of the minutes. The signed copy and the minutes were required to be identical. Parties applying for certified copy were required to compare the same before the Registrar Original Side before the order is drawn up and completed and delivered to the parties after settlement.
206. Having regard to the procedure as discussed above it is not understood as to how can the signed copy of the order and the certified copy of the order can be at such variance with one another.
207. It is on record that the plaintiff has not obtained any such direction and the only direction upon me to deal with the purchase consideration is contained in the order dated 20th January, 1993.

208. I have already given explanation with regard to alleged non-compliance of the Original Side Rules and the provisions of the Code of Civil Procedure, 1908 which I reiterate herein in seriatim. In any event, I say that these alleged attendant circumstances does not constitute a function or action which can come within the ambit of Article 124(4) read with Article 217 of the Constitution of India. It appear from the manner in which the attendant circumstances have been formulated the solemn provisions of Article 124(4) read with Article 217 of the Constitution of India for the purpose for which such provisions engrafted in the Constitution of India is sought to be diluted in an extremely cursory manner.
209. It is denied that I had dealt with the funds by distributing or withdrawing them out of the bank account, which had been deposited. The withdrawals all been made to create fixed deposits and for no other purpose. It is denied that I have allegedly intermingled all funds or did not adhere to the direction to maintain the separation of the sale consideration from any other funds thereby misappropriating and/or converting to my own use the sale consideration as alleged or at all. I have already stated that the choice to keep the same separated would arise only after the entire purchase consideration is paid and not prior thereto. As and when substantial sum of money accrued in the bank, fixed deposits were created so as to prevent intermingling but the circumstances were beyond my control which permitted me to deposit the fixed deposits in an account standing in my name only for the purpose of encashment as by nature of the direction contained in the order dated 20th January, 1993. I was prevented from opening any Receiver's account, which would have solved all my problems. It is unfortunate that the mitigating circumstances leading to the complication in handling of accounts have been completely disregarded and allegations are being made against me though I have tried my utmost to keep the sanctity of the orders. I submit that there is not an iota of evidence showing misappropriation or conversion to my own use the sale consideration or any part thereof.
210. In particular reference to paragraph 31 of paragraph H under the heading 'Attendant Circumstances', I submit that the order dated 20th January, 1993 did not cast any embargo upon me in any manner whatsoever. The language is of the widest amplitude a restrictive meaning is now sought to be given in the form of attendant circumstances. I had absolute liberty to withdraw money and to create fixed deposits. Even in 1993 fixed deposits were created in Allahabad Bank. There is no contrary evidence to contradict my contention that fixed deposits were created in Lynx long prior to 6th March, 1995. Creation of fixed deposits does not amount to violation of the orders passed in this case or any part of Chapter 21 of the Original Side Rules

or any other provisions of law. It is denied and disputed that I have failed to provide accounts even to the plaintiff despite a letter dated 7th March, 2002 in this regard sent by the plaintiff or received by me as alleged or at all. From the letter itself it will appear that my signature on the said letter does not appear.

211. With reference to paragraph 33 in particularly of paragraph H under the heading 'Attendant Circumstances', I submit that I was not aware of any procedure, rules or law or convention that I have to seek discharge from Receiver, at the time of appointment as a Judge of the Court. Particularly, in view of the fact when an application was already pending filed by the plaintiffs with regard to return of amount which would consequently result in my discharge. It is stated that the alleged failure to take steps to discharge as a Receiver or return of amount or furnishing of accounts constitutes misappropriation. Unless Court gives a specific direction the amount held by a Receiver cannot be given to anyone as I was bound by the order dated 20th January, 1993 to hold money until further orders. It is denied that I have continued to misappropriate or utilize funds contrary to direction of law. It is evidence on record in these proceedings that amount representing the purchase consideration continued to remain deposited in Lynx and was not utilized by me in any manner whatsoever.
212. With reference to paragraph 35 in particular of paragraph H under the heading 'Attendant Circumstances', it is submitted that order of 7th March, 2005 was only served upon me in the month of May 2005. Consequent to the order of 3rd May, 2005, service was effected and a further was given on 17th May, 2005 to file an affidavit, if so advised, dealing with only "the petition filed by the plaintiff and the affidavit filed by the purchaser". It is well-established principles of law that subsequent directions are required to be complied with. The Court was perfectly aware that order dated 7th March, 2005 was not served upon me and it was only served pursuant to the order dated 3rd May, 2005. Even in those circumstances on 17th May, 2005 the Court did not give any specific direction for disclosure of any particulars. It is, therefore, understood that the Court wanted only the 17th May, 2005 order to be complied with.
213. With reference to paragraphs 38, 39 and 40 of paragraph H under the heading 'Attendant Circumstances', I deny each and every allegation as if the same are specifically set out herein and denied in seriatim. I also reiterate what has been stated hereinabove with regard to the contents of the said paragraphs under reference.
214. With reference to paragraph 39 in particular of paragraph H under the heading 'Attendant Circumstances', I submit that the statements contained in paragraph under reference have been made without any

understanding of the correct position of law. With regard to the principles of Receivership read with the order dated 20th January, 1993 no Receiver can return any fund until called upon by the Court to do so. It is significant to note here that until 10th April, 2006 there have been no directions upon me to return any amount.

215. With reference to paragraph I under the heading 'Misrepresentation and false Statements' as contained in paragraphs 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55 and 56, are all matters of record and save what appears there from I deny each and every allegation which is contrary thereto and/or inconsistent therewith. It is submitted that written notes submitted before the Single Judge was not in order to establish any co-relation between the withdrawal of funds and deposit with Lynx, but was to point out the anomalies contained in the report filed by the Official Liquidator (which would appear from **Page 132 of Volume III**). In fact, the heading of the written notes is a clear indication of the same.
216. With reference to paragraph 39 in particular of paragraph I under the heading 'Misrepresentation and false Statements', it is denied that no deposit was made in Lynx at least prior to December, 1996. There is no evidence on record to substantiate the same. There are fixed deposit receipts of Lynx even in 1999. It is an admitted position that no amount has been debited in 1999 from any of my accounts. There is no corresponding debit entry. Therefore, fixed deposit receipts shown in 1996 also do not establish that no deposits were made prior thereto. In any event, there is no evidence of deposit in Lynx apart from Rs. 25,00,000 accompanied by an application form together with Cheque numbers, but it is an admitted position that in there was an aggregate deposit of Rs. 39,39,000 in Lynx.
217. The allegations contained in paragraphs 57(a) to (g) of paragraph I under the heading 'Misrepresentation and false Statements' are repetitive in nature and denied by me specifically as if the same are set out in seriatim. It is further submitted that my obligation to distribute Rs. 70,00,000 to the workers have been fully performed. Till date not a single worker has come forward with any complaint of not having received his legitimate dues. Therefore, after having disbursed the entire amount as directed by the Division Bench by the order dated 20th January, 1997 amount withdrawn by me from Lynx after having set apart the amount of Rs. 31,39,000 representing the purchase consideration was certainly permissible and does not contradict the fact that amount was my personal fund.
218. The allegations contained in paragraphs 58, 59 and 60 of paragraph I under the heading 'Misrepresentation and false Statements', I deny and dispute that I have made any false statements which I believe to

be false or shown believed to be true as alleged or at all. In litigation I am entitled to make my own interpretation on the basis of the facts and circumstances and it does not amount to making false statements or misrepresentation. Conducting litigation before the Court of Law by me was not in the capacity of a Judge or in discharge of my judicial functions. It is incorrect to allege that I have made false statements or misstatements or false evidence in judicial proceedings before the Court. Curiously enough the Courts before which such statements have been made have not made any observations or allegations that I have given any false statement or made any misrepresentation before the judicial forum. On the contrary the Division Bench had accepted my contention and had come to the specific finding that there is no misappropriation on my part.

219. I have never even once committed any act of judicial impropriety nor there is any allegation against me with regard thereto. Even my conduct and behaviour as a judge outside the court as is understood has been impeccable and without blemish. In spite thereof, I have been victimised.
220. I, therefore, humbly request the members of this Hon'ble Committee to put an end to this unspeakable mental agony and harassment that I and my family have been subjected and to take such steps that would ensure that I may be allowed to resume my judicial function and discharge my duties as a judge.
221. In these circumstances, I humbly state and submit that the proceedings be dropped and/or dismissed as against me and accept the verdict of the Division Bench so that the confidence and belief in the judicial system is established.

Thanking you

Yours sincerely

Sd/-
(Justice Soumitra Sen)

**LIST OF EVENTS FILED ON BEHALF OF THE
HON'BLE MR. JUSTICE SOUMITRA SEN**

Sl. No.	Date	Particulars	Corresponding pages from documents supplied by Commission	Corresponding pages from documents prepared on behalf of Justice Soumitra Sen as Volume V & Volume VI
1	2	3	4	5
1.	30.04.1984	Mr. Soumitra Sen, as an Advocate appointed as Receiver in Suit No. 8 of 1983 (SAIL <i>vs</i> Shipping) (hereinafter referred to as the said suit.)	Page 145 to 155 Volume I	
2.	20.01.1993	By an order Justice A.N. Ray directed the receiver to keep the sale proceeds after deducting 5 per cent towards remuneration, in a separate account in a bank & branch of his choice and to hold the same free from lien or encumbrances until further orders.	Page 195 Volume I	Page 1689 of Volume V
3.	01.04.1993 to 01.06.1995	Receiver received the sale consideration for a total sum of Rs. 33,22,800 deducting his 5 per cent remuneration of Rs.1,66,140.	Page 653 to 655 Volume II	
4.	1996	After accumulating the entire sale proceed Receiver kept the entire		

1	2	3	4	5
		<p>money in separate Fixed Deposits in Standard Chartered Bank (the then ANZ Grindleys Bank) and thereafter transferred the same to Lynx India Limited, a company authorised by R.B.I. to receive Fixed Deposit.</p>		
5.	20.01.1997	<p>Justice Umesh Chandra Banerjee and Justice Sidheshwar Narayan in another matter were pleased to direct the Receiver to hold a sum of Rs. 70 lakhs for distribution amongst the workers.</p> <p>Receiver deposited the said amount in the Standard Chartered Bank in an account bearing No. O1SLP 0813400 (hereinafter referred to 400 accounts).</p>	<p>Page 157 to 167 Volume I</p>	
6.	14.05.1997 to 06.08.1997	<p>Receiver issued several Account Payee cheques to the workers.</p>	<p>Page 521 to 581 Volume I & Page 1575 to 1707 in Volume III</p>	
7.	26.02.1997	<p>Receiver deposited Rs.25 lakhs to the Lynx India by a cheque bearing No. 624079 of the Standard Chartered Bank.</p>	<p>Page 921 of Volume II</p>	
8.	27.02.2003	<p>Plaintiff filed an interlocutory application being G.A. No. 875 of 2003 <i>inter alia</i> praying an order</p>	<p>Page 171 to 199 of Volume I</p>	

1	2	3	4	5
		directing the Receiver to handover the entire sale proceeds and also to render true & faithful accounts lying with the receiver.		
9.	03.12.2003	Receiver was elevated as a Judge of the Calcutta High Court.		
10.	03.08.2004	Said application being G.A. No. 875 of 2003 was taken up for hearing for first time by the Hon'ble Mr. Justice Subhro Kamal Mukherjee and His Lordship was pleased to appoint a new Receiver discharging the erstwhile Receiver without any direction of refund of money lying with the erstwhile Receiver or furnishing of accounts.		Page 1691 to 1693 of Volume V
11.	15.02.2005	Matter appeared before Justice Sengupta for the first time and his Lordship treated the matter as heard in part.		Page 1695 of Volume V
12.	07.03.2005	Justice Sengupta passed an order directing the plaintiff to serve the copy of the notice of motion as well as the said application to the erstwhile Receiver and also requesting the erstwhile Receiver to swear an affidavit stating what steps he had taken		Page 1699 to 1701 of Volume V

1	2	3	4	5
		and how much amount he has received in terms of the order of this Court and also to state the name of the bank where the sale proceeds has been deposited.		
13.	11.05.2005	Copy of the Application and Copies of the orders dated 07.03.2005 and 03.05.2005 were served upon erstwhile Receiver.	Starts from Page 247 and relevant portion is at Page 251 of Volume I	
14.	17.05.2005	Since the earlier order could not be served upon erstwhile Receiver Justice Sengupta further passed a direction to serve a copy of the application and also directed the erstwhile Receiver to file an affidavit dealing with the statements and/or averments made by the petitioner and the purchaser.		Page 1707 to 1709 of Volume V
15.	19.06.2005	Copy of the order dated 17.05.2005 and the copy of the affidavit of purchaser were served upon erstwhile Receiver.	Starts from Page 261 and relevant portion is at Page 263 of Volume I	
16.	30.06.2005	Hon'ble Mr. Justice Sengupta passed an order for making an enquiry as to what happened to the payment received by the erstwhile Receiver. It is pertinent to mention that		Page 1711 to 1717 of Volume V

1	2	3	4	5
		said order of enquiry was directed not to be served upon the erstwhile Receiver.		
17.	21.07.2005	Accounts department of High Court filed report stating that no account was filed by erstwhile Receiver. Chief Manager of SBI intimated that the particulars of the records cannot be supplied.		Page 1719 to 1721 1723 to 1727 1729 to 1733 1735 to 1737 1745 to 1747 1749 1753 to 1755
	26.07.2005	26.07.2005 - Learned Single Judge directed the Bank officer to be present in court as the manager of the Bank expressed his inability to produce the old record and also directed the purchaser to be present personally with relevant original documents and also expressed anxiety as to whether the erstwhile Receiver realised the money or not.		of Volume V
	07.09.2005	07.09.2005 - Learned Single Judge on his own started making enquiry and also made several allegations against the erstwhile Receiver.		
	04.10.2005	04.10.2005 - Manager Standard Chartered Bank filed report stating that they are unable to supply any record prior to 1996 as the same has been destroyed. Manager Allahabad Bank was directed to be present.		

1	2	3	4	5
21.11.2005	21.11.2005	- The persons those who are not party to the suit have been made to depose before the Court and formed an adverse opinion against Justice Sen.		
12.12.2005	12.12.2005	- Officers of the Standard Chartered Bank and Allahabad Bank were directed to be present with all information and documents.		
15.02.2006	15.02.2006	- Officer of the Allahabad Bank failed to produce any document relating to withdrawal of Rs. 4,53,000 and he was directed to swear an affidavit.		
18.	01.11.2005	Erstwhile Receiver deposited a sum of Rs.5 Lakhs.	Page 1433 of Volume III	Page 1793 of Volume IV
19.	10.04.2006	Hon'ble Justice Sengupta passed a detailed order directing erstwhile Receiver to pay a sum of Rs. 52,46,454 after adjusting the said sum of Rs. 5 Lakhs. The erstwhile Receiver and/or his agent, and/or representative was injuncted from transferring, alienating, disposing of or dealing with right, title and interest in moveable and immovable properties lying at his disposal, save and except in usual course of business, though he was discharged on 03.08.2004.	Page 617 to 658 of Volume II	Page 1757 to 1797 of Volume V

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20.	27.06.2006 and 05.09.2006	A sum of Rs. 40 Lakhs has been paid by the erstwhile Receiver.	Page 789 of Volume II	
21.	14.09.2006	On behalf of erstwhile Receiver the constituted Attorney filed an application for extension of time to deposit the balance amount.	Page 659 to 683 of Vol. II	
22.	20.09.2006	Hon'ble Justice Sengupta directed the Advocate on Record of the erstwhile Receiver to file an affidavit stating that the amount paid on behalf of the erstwhile Receiver was received by him from the erstwhile Receiver.	Page 705 to 733 of Vol. II	
23.	10.11.2006	Hon'ble Justice Sengupta was pleased to pass an order granting extension of time to pay the balance amount for a period of two weeks, and was also pleased to direct to file an affidavit explaining how the money was dealt with and also stating the source as to the fact that the withdrawn money has not been utilized gainfully and profitably.	Page 735 of Vol. II	
24.	17.11.2006	Publication made in the local newspapers.		
25.	21.11.2006	Learned Advocate on Record of erstwhile Receiver by a letter deposited the remaining	Page 789 to 791 of Vol. II	

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		balance amount of Rs.12,46,454 before the Registrar.		
26.	13.12.2006	An application on behalf of erstwhile Receiver was filed for recalling the order dated 10 th April, 2006.	Page 741 to 860 of Vol. II	
27.	15.12.2006 to 10.05.2007	Several orders were passed by Hon'ble Justice Sengupta including direction upon the Official Liquidator to produce documents.		Page 1821 to 1835 of Volume V
28.	31.07.2007	Application being G.A. No. 3763 of 2006 for recalling of the order dated 10.04.2006 was disposed of recording that the Hon'ble Justice Sengupta neither disbelieved nor believed the explanation sought to be given the erstwhile Receiver and also granting liberty to take step under law if fresh and relevant authenticated materials are available.	Page 977 to 999 of Vol. II	
29.	28.08.2007	An appeal being APOT No. 462 of 2007 and an application being G.A. No. 2865 of 2007 was filed on behalf of the erstwhile Receiver.	Page 1003 to 1440 of Vol. II	
30.	29.08.2007	The Appeal and the Application appeared before the Hon'ble Mr. Justice Pinaki Chandra		

Ghosh and Hon'ble Mr. Justice Sankar Prasad Mitra and Their Lordships were pleased to release the matter for their personal ground and thereafter application for assignment was made and the Appeal and the Application was assigned before the Hon'ble Justice Pranab Kumar Chattopadhyay and Hon'ble Justice Kalidas Mukherjee.

31. 25.09.2007 Hon'ble Justice Pranab Kumar Chattopadhyay and Hon'ble Justice Kalidas Mukherjee were pleased to set-aside the impugned judgement dated 31.07.2007 and also expunged the observation made in the order dated 10.04.2006. Page 1441 to 1478 of Vol. II
32. 03.12.2007 Hon'ble Chief Justice of India was pleased to intimate the Hon'ble Mr. Justice Soumitra Sen that a three member Committee in terms of the in-house procedure has been constituted. Page 1917 of Volume VI
33. 06.02.2008 Hon'ble Chief Justice of India by a letter served the report of the Inquiry Committee and also advised Justice Soumitra Sen to resign or seek voluntary retirement. Page 1919 of Volume VI

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34.	25.02.2008	In reply to the said letter Justice Soumitra Sen made a detailed representation of 33 pages requesting C.J.I. to reconsider his decision.		Page 1921 to 1985 of Volume VI
35.	16.03.2008	Justice Soumitra Sen was directed to appear before the Hon'ble Chief Justice of India, Hon'ble Justice B.N. Agarwal & Hon'ble Justice Bhan at the chamber of the Hon'ble Chief Justice of India when Justice Soumitra Sen was directed to submit resignation or to take V.R.S. on or before 2 nd April, 2008 failing which they would proceed further.		
36.	17.03.2008	Hon'ble Chief Justice of India by a letter recorded the proceeding and communicated the same to Justice Soumitra Sen.		Page 1987 of Volume VI
37.	26.03.2008	Justice Soumitra made a further representation in reply to the said letter dated 17.03.2008.		Page 1989 to 1993 of Volume VI
38.	27.02.2009	The 58 members of the Rajya Sabha moved a motion asking impeachment of Justice Soumitra Sen on the basis of the letter written by Hon'ble Chief Justice of India to the Hon'ble Prime Minister.	Page 1687 of Volume IV	

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39.	27.03.2009	Ld. Advocate of Justice Sen wrote a letter to the Hon'ble Chairman of the Rajya Sabha requesting him to follow the mandatory requirements of the statute, with regard to formation of the Enquiry Committee.		Page 1995 to 2009 of Volume VI
40.	28.03.2009	Ld. Advocate of Justice Sen by a letter requested the Hon'ble Speaker of Lok Sabha to supply a copy of the Rules of the Joint Committee and the names of the 15 members of the said Committee in terms of Section 7 of the Judges Inquiry Act 1968 along with the Gazette Notification.		Page 2011 of Volume VI
41.	30.03.2009	Ld. Advocate of Justice Sen raised preliminary objection before the Hon'ble Chairman of Rajya Sabha with regard to formation of the Inquiry Committee by the Hon'ble Chief Justice of India.		Page 2015 to 2025 of Volume VI
42.	17.04.2009	Ld. Advocate of Justice Sen made another representation before the Hon'ble Chairman of Rajya Sabha raising preliminary objection with regard to exercising simultaneous function of the Hon'ble Chief Justice of India in dual capacity (Administration &		Page 2027 to 2043 of Volume VI

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		Judicial) wherein in one hand he became the complainant and on the other hand he decided a Committee of his choice to decide the matter and/or complaint.		
43.	27.05.2009	Mr. R.S. Misra, Director of Lok Sabha Secretariat by a letter furnished the names of the Chairman and members of the Committee constituted under the Judges (Inquiry) Act 1968 and the Rules of the Committee.		Page 2045 of Volume VI
44.	11.06.2009	Ld. Advocate of Justice Sen made another representation before the Hon'ble Chairman of Rajya Sabha with regard to appointment of Mr. Fali S. Nariman as a member of the Inquiry Committee as he openly made a statement in the Print and other Media against Justice Sen.		Page 2047 of Volume VI
45.	05.02.2010	The Secretary of the Inquiry Committee wrote a letter to Justice Soumitra Sen enclosing draft charges (containing 1608 pages) and also requested him to give a reply within 26.2.2010.		Page 2049 to 2103 of Volume VI
46.	18.02.2010	The Ld. Advocate for Justice Soumitra Sen prayed for inspection of		Page 2105 to 2109 of Volume VI

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		certain documents and also prayed for extension of time to file the reply.		
47.	23.02.2010	Learned Advocate of Justice Soumitra Sen further raised preliminary objection with regard to formation of Inquiry Committee as the same is beyond the scope of Judges Inquiry Act, 1968 and the Rules framed there-under.		Page 2111 to 2123 of Volume VI
48.	04.03.2010	The Secretary of Judges Inquiry Committee issued formal notice in terms of the Rule 5(1) of the Judges Inquiry Rules 1969 and also allowed Justice Sen to take inspection. The Secretary of Judges Inquiry Committee also enclosed the Rules as framed under Section 7 of Judges (Inquiry) Act 1968, the Gazette Notification constituting the present Committee and the Parliamentary Bulletin dated 27.02.2009 of the Rajya Sabha relating to admission of the motion.		Page 2125 to 2145 of Volume VI
49.	04.03.2010	The Presiding Officer wrote a letter to Justice Sen intimating that a hearing will be held on 25.03.2010 at 4.30 P.M. enclosing the final Charges which is identical		Page 2147 to 2199 of Volume VI

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		to the Draft Charges. No chance was given to file the written statement of defence.		
50.	05.03.2010	Mr. S.K. Tripathi, Joint Director of Rajya Sabha Secretariat, wrote a letter to the Ld. Advocate of Justice Sen enclosing a copy each of the Judges (Inquiry) Rules 1969 and Rajya Sabha Parliamentary Bulletin, Part II dated 26th March 1969 regarding constitution of the Joint Committee.		Page 2201 of Volume VI
51.	09.03.2010	Justice Soumitra Sen wrote a letter to the Presiding Officer of the Inquiry Committee praying for adjournment of the date of hearing.		
52.	16.03.2010	A Fresh set of document as Volume IV was sent.		
53.	19.03.2010	Committee extended the date of hearing till 17.04.2010.		
54.	24.03.2010	Learned Advocate of Justice Sen wrote a letter to the Manager of the Standard Chartered Bank asking certain information pertaining to the documents annexed in the Volume IV.		
55.	29.03.2010	Learned Advocate of		

Justice Sen also made an application under right to information Act 2005 before the Deputy Registrar (administration) Public Information Office, Appellate Side, High Court, Calcutta as to whether the resolution taken by the Hon'ble Supreme Court of India dated 15th December, 1999, with regard to the Formation of In House Committee has been adopted by the Hon'ble High Court, Calcutta, or not.

56. 06.04.2010 Learned Advocate of Justice Sen further requested the Manager of the Bank to intimate regarding the information sought in his letter dated 25.03.2010.
57. 07.04.2010 Date of filing written statement of defence fixed on 03.05.2010.
58. 19.04.2010 Inspection of documents was permitted to be made by the office of the Judges Inquiry Committee.
59. 26.04.2010 In reply to the information sought for under right to information Act the Deputy Registrar (Administration), Public Information Officer, Appellate Side, High

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Court, Calcutta by letter being Ref. No. 3938-GS intimated the Advocate of Justice Sen that the matter of Resolution taken by the Hon'ble Apex Court dated 18.12.1999 with regard to formation of the "In-House Committee" is still pending before the Hon'ble Full Court for decision".

COMMITTEE CONSTITUTED UNDER THE JUDGES INQUIRY ACT, 1968

MINUTES

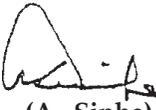
The 1st meeting of the Committee was held on 22nd August, 2009, at 11.00 A.M. in Committee Room 'A' Parliament House Annexe, New Delhi. The following Hon'ble Members attended the meeting :

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice T. S. Thakur - Member
3. Shri Fali S. Nariman - Member

Initiating the discussion, the Hon'ble Presiding Officer apprised the Hon'ble Members about the efforts made so far to arrange suitable accommodation for the Committee, appointment of officers and staff and engagement of an advocate to assist the Committee. The Hon'ble Members also deliberated about summoning of the relevant records for the purpose of the enquiry. The Committee took the following decisions :

1. The Secretary of the Committee shall re-assess the staff requirements of the Committee and take up the same with the Secretary-General, Rajya Sabha.
2. The Secretary shall also re-assess the space requirement and take up the same with the Secretary-General, Rajya Sabha.
3. Shri Siddharath Luthra, Advocate shall be requested to indicate his terms and conditions of engagement for the consideration of the Committee.
4. Secretary shall take up with the concerned quarters the matter relating to securing of the entire original documents that were considered by the In-house Committee of the Supreme Court headed by Hon'ble Justice A.P. Shah, the Chief Justice of Delhi High Court.
5. The Secretary shall also take up the matter with the Registrar-General of the Calcutta High Court to request the Hon'ble Chief Justice thereof to make available the entire original record relating to the appointment of Hon'ble Justice Soumitra Sen of Calcutta High Court as the Receiver which were placed before the Single Judge Bench as well as the Division Bench in Civil Suit No. 8 of 1983.

The meeting ended with a vote of thanks to the Chair.


(A. Sinha)
Secretary

24 August, 2009

JUDGES INQUIRY COMMITTEE

MINUTES

The 2nd Meeting of the Committee was held at 11.00 A.M. on Sunday, the 13th September, 2009 in Committee Room 'A' Parliament House Annexe, New Delhi. The following Hon'ble Members attended the meeting :

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Shri Fali S. Nariman - Member

The Hon'ble Members perused and discussed the records so far received from the Registry of the Supreme Court and the Registry of Calcutta High Court. It was decided to call for some more records and information from the Calcutta High Court. It was also decided to summon relevant documents from the concerned Banks.

The Meeting ended with a vote of thanks to the Chair.



(A. Sinha)
Secretary

September 15, 2009

JUDGES INQUIRY COMMITTEE

MINUTES

The 3rd Meeting of the Committee was held at 11.00 A.M. on 09.01.2010 in Room No. 331-A, Vigyan Bhawan Annexe, New Delhi. The following Hon'ble Members attended the meeting :

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

The Hon'ble Members considered the draft proposed charges against Hon'ble Justice Soumitra Sen, along with the statement of grounds in support of the charges. After deliberations, it was decided to suitably modify the draft. It was further decided that the revised draft proposed charges along with the statement of grounds may be placed before the Committee in its next meeting.

The Meeting ended with a vote of thanks to the Chair.



(A. Sinha)

Secretary

January 18, 2010

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

JUDGES INQUIRY COMMITTEE

MINUTES

The 4th Meeting of the Committee was held at 1615 Hrs. on 27.01.2010 in Room No. 331-A, Vigyan Bhawan Annexe, New Delhi. The following Hon'ble Members attended the meeting :

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

The Hon'ble Members considered the revised draft proposed charges and the revised statement of grounds in support of the charges, against Hon'ble Justice Soumitra Sen. After deliberations, both the drafts were approved with some modifications. The Hon'ble Members also perused the draft letter along with which the draft charges and the draft statement of grounds shall be sent to Hon'ble Justice Soumitra Sen, and approved the same with some changes. The Committee desired photocopies of the relied upon documents to be made expeditiously, and required the Secretary to forward the draft charges and the draft grounds, along with photocopies of relied upon documents at the earliest, to Hon'ble Justice Soumitra Sen.

The Meeting ended with a vote of thanks to the Chair.



(A. Sinha)

Secretary

02.02.2010

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

JUDGES INQUIRY COMMITTEE

MINUTES

The 5th Meeting of the Committee was held at 11.30 A.M. on 03.03.2010 in Room No. 331-A, Vigyan Bhawan Annexe, New Delhi. The following Hon'ble Members attended the meeting :

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

The Hon'ble Members considered the letter dated 18.02.2010 of Shri Subhas Bhattacharyya, Advocate, the counsel of Justice Soumitra Sen. After deliberations the Hon'ble Members resolved that the Inquiry Committee may issue notice to Justice Soumitra Sen in terms of section 5 of the Judges (Inquiry) Act, 1968 and the Rules made thereunder.

The Meeting ended with a vote of thanks to the Chair.



(A. Sinha)

Secretary

March 05, 2010

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

JUDGES INQUIRY COMMITTEE

MINUTES

The 6th Meeting of the Committee was held at 10.00 A.M. on 04.04.2010 in Room No. 331-A, Vigyan Bhawan Annexe, New Delhi wherein the following Hon'ble Members were present :

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

The Committee carefully considered the letter dated 26.03.2010 of Justice Soumitra Sen along with its enclosures. The Committee was of the view that the filing of written statement of defence by Justice Sen cannot be linked to proposed inspection of documents. As such the Committee did not agree to his request for extension of time by eight weeks. The Committee decided that only three weeks time may be given to him for filing his written statement of defence. It was decided that Justice Sen must file his written statement on or before 03.05.2010, failing which the matter would be proceeded *ex-parte*. The Committee also felt that Justice Sen may carry out inspection of the relied upon documents any time after fixing a date with the Secretary of the Committee.

The Meeting ended with a vote of thanks to the Chair.



(A. Sinha)

Secretary

April 07, 2010

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

JUDGES INQUIRY COMMITTEE

MINUTES

The 7th Meeting of the Committee was held at 4.00 P.M. on 10.05.2010 in Room No. 331-A, Vigyan Bhawan Annexe, New Delhi. The following Hon'ble Members attended the meeting :

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

The Committee perused the document titled 'REPLY TO THE CHARGES' along with its enclosures, sent by Justice Soumitra Sen *vide* his letter dated 03.05.2010 addressed to the Secretary of the Committee. On careful examination of the same, the Committee decided not to amend the charges which it has framed under Section 3(3) of the Judges (Inquiry) Act, 1968. The Committee decided to take on record Justice Soumitra Sen's 'REPLY TO THE CHARGES' as his written statement of defence under section 3(8) of the Act and to proceed with the inquiry under rule 7(2) of the Judges (Inquiry) Rules, 1969.

In view of the request made by Shri Subhas Bhattacharyya, Advocate representing Justice Soumitra Sen, *vide* his letter dated 20.04.2010 addressed to the Secretary of the Committee, it was decided that hearing in the matter would be held at Kolkata on 24th and 25th June, 2010, and if so required, on 26th June, 2010 also.

It was also decided that the Hon'ble Members of the Committee shall hold a meeting at 4.00 P.M. on 23.06.2010 at Kolkata.

The Meeting ended with a vote of thanks to the Chair.



(A. Sinha)

Secretary

May 14, 2010

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

JUDGES INQUIRY COMMITTEE

MINUTES

The 8th Meeting of the Committee was held at 4.00 P.M. on 29th May, 2010 in Room No. 331, Vigyan Bhawan Annexe, New Delhi. The following Hon'ble Members attended the meeting :

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

Hon'ble Members perused the letter dated 19th May 2010 of the Counsel of Justice Soumitra Sen and considered the request made therein to shift the venue of hearing to New Delhi and to grant further extension of time. After deliberations, the Committee decided to partly accept his request and to hold its sitting, as far as possible, in New Delhi.

The Committee observed that due to repeated requests for adjournment made by Justice Sen, the Committee has not so far been able to commence hearings. As it will now not be possible for the Committee to conclude the inquiry and make its Report by the due date of 5th June 2010, it had to seek extension of time for two months from the Chairman, Rajya Sabha. In case the Committee continues to grant extensions, it will not be able to conclude the inquiry and make its Report even within the extended time which is up to 5th August 2010. In view of this Committee decided not to grant any further extension of time to Justice Soumitra Sen and to stick to the dates for recording of evidence already fixed by it.

The Committee accordingly decided to hold proceedings for recording of evidence at New Delhi on 24th, 25th and 26th June, 2010.



(A. Sinha)

Secretary

June 02, 2010

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

JUDGES INQUIRY COMMITTEE

MINUTES

The 9th Meeting of the Committee was held at 11.30 A.M. on 23.06.2010 in Room No. 331, Vigyan Bhawan Annexe, New Delhi. The following Hon'ble Members attended the meeting :

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

Hon'ble Members perused the Paper Books, containing the charges and the documents on the basis of which the charges have been drawn, and the written statement of defence of Mr. Justice Soumitra Sen and the documents relied upon by him. Hon'ble Members also reviewed the preparations made in connection with the proceedings for recording of evidence, which is scheduled to be held on 24th, 25th and 26th June 2010.

The meeting ended with a vote of thanks to the Chair.



(A. Sinha)

Secretary

June 23, 2010

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

JUDGES INQUIRY COMMITTEE

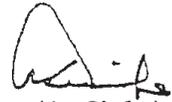
MINUTES

The 10th Meeting of the Committee was held at 4.15 P.M. on 06.07.2010 in Room No. 331, Vigyan Bhawan Annexe, New Delhi. The following Hon'ble Members attended the meeting :

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

The Hon'ble Members perused the exhibits and held discussion about them. It was decided that the arguments of the parties will be heard on 18th and 19th July, 2010 in Committee Room 'D', Vigyan Bhawan Annexe, New Delhi. The Hon'ble Members also decided to hold their next meeting at 4.00 P.M. on 12.07.2010.

The Meeting ended with a vote of thanks to the Chair.



(A. Sinha)

Secretary

July 09, 2010

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

JUDGES INQUIRY COMMITTEE

MINUTES

The 11th Meeting of the Committee was held at 4.00 P.M. on 12.07.2010 in Room No. 331, Vigyan Bhawan Annexe, New Delhi. The following Hon'ble Members attended the meeting :

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

The Hon'ble Members perused the papers and held discussion about the legal issues involved in the matter. They were also apprised of the steps taken and preparation being made in connection with hearing of arguments on 18th and 19th July, 2010.

The Meeting ended with a vote of thanks to the Chair.



(A. Sinha)

Secretary

July 14, 2010

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

JUDGES INQUIRY COMMITTEE

MINUTES

The 12th Meeting of the Committee was held at 4.30 P.M. on 02.08.2010 in Room No. 331, Vigyan Bhawan Annexe, New Delhi. The following Hon'ble Members attended the meeting :

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

The Hon'ble Members met and discussed the case.

The Meeting ended with a vote of thanks to the Chair.



(A. Sinha)

Secretary

August 09, 2010

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

JUDGES INQUIRY COMMITTEE

MINUTES

The 13th Meeting of the Committee was held at 4.15 P.M. on 25.08.2010 in Room No. 331, Vigyan Bhawan Annexe, New Delhi. The following Hon'ble Members attended the meeting :

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

The Hon'ble Members met and discussed the draft report. It was decided that the next meeting of the Committee will be held on 31.08.2010 at 4.15 P.M.

The Meeting ended with a vote of thanks to the Chair.



(A. Sinha)

Secretary

August 25, 2010

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

JUDGES INQUIRY COMMITTEE

MINUTES

The 14th Meeting of the Committee was held at 4.15 P.M. on 31.08.2010 in Room No. 331, Vigyan Bhawan Annexe, New Delhi. The following Hon'ble Members attended the meeting :

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

The Hon'ble Members met and further discussed the draft report. It was decided that the next meeting of the Committee will be held on 07.09.2010 at 4.15 P.M.

The Meeting ended with a vote of thanks to the Chair.



(A. Sinha)

Secretary

August 31, 2010

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

JUDGES INQUIRY COMMITTEE

MINUTES

The 15th Meeting of the Committee was held at 4.15 P.M. on 07.09.2010 in Room No. 331, Vigyan Bhawan Annexe, New Delhi. The following Hon'ble Members attended the meeting :

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

The Hon'ble Members met and finalized the Report. They also decided to hand over the Report personally to the Chairman, Rajya Sabha on 10th September, 2010.

The Meeting ended with a vote of thanks to the Chair.



(A. Sinha)

Secretary

September 07, 2010

1. Hon'ble Justice B. Sudershan Reddy - Presiding Officer
2. Hon'ble Justice Mukul Mudgal - Member
3. Shri Fali S. Nariman - Member

JUDGES INQUIRY COMMITTEE

RECORD OF PROCEEDINGS

In the Matter of Rajya Sabha Motion under article 217 read with article 124(4) of the Constitution of India - Notified *vide* Parliamentary Bulletin No. 45898 dated 27th February, 2009.

CORAM: Hon'ble Justice B. Sudershan Reddy - Presiding Officer
Hon'ble Justice Mukul Mudgal - Member
Shri Fali S. Nariman, Senior Advocate - Member

Counsel for the Committee - Shri Sidharth Luthra, Senior Advocate
- Shri Sidharth Aggarwal, Advocate

Counsel for the Respondent - Shri Shekhar Naphade, Senior Advocate
Shri Chinmoy Khaladkar, Advocate
Ms. Neha S. Verma, Advocate
Shri Manoj, Advocate
Shri Subhasis Chakraborty, Advocate
Shri Subhas Bhattacharyya, Advocate
Shri Soumik Ghoshal, Advocate
Ms. Aparna Sinha, Advocate

24.06.2010
(Forenoon)

PROCEEDINGS

Shri Sidharth Luthra, Senior Counsel of the Committee examined S/Shri Tapas Kumar Mallik, Assistant Registrar, Calcutta High Court (CW1), Satyalal Mondal, Chief Manager, State Bank of India (CW2), Atcharamaiah, Deputy Official Liquidator, Calcutta High Court (CW3), and Shwetang Rukhaiyar, Manager (Credit), Allahabad Bank (CW4), and through them exhibit Nos. C1 to C 154 were marked. Shri Shekhar Naphade, Senior Advocate of the Respondent cross examined CW1, CW2, CW3 and CW4. The proceedings were adjourned at 1.00 P.M. and shall be resumed at 2.00 P.M.



(A. Sinha)
Secretary

JUDGES INQUIRY COMMITTEE

RECORD OF PROCEEDINGS

In the Matter of Rajya Sabha Motion under article 217 read with article 124(4) of the Constitution of India - Notified *vide* Parliamentary Bulletin No. 45898 dated 27th February, 2009.

CORAM: Hon'ble Justice B. Sudershan Reddy - Presiding Officer
Hon'ble Justice Mukul Mudgal - Member
Shri Fali S. Nariman, Senior Advocate - Member

Counsel for the Committee - Shri Sidharth Luthra, Senior Advocate
- Shri Sidharth Aggarwal, Advocate

Counsel for the Respondent - Shri Shekhar Naphade, Senior Advocate
Shri Chinmoy Khaladkar, Advocate
Ms. Neha S. Verma, Advocate
Shri Manoj, Advocate
Shri Subhasis Chakraborty, Advocate
Shri Subhas Bhattacharyya, Advocate
Shri Soumik Ghoshal, Advocate
Ms. Aparna Sinha, Advocate

24.06.2010
(Afternoon)

PROCEEDINGS

The proceedings resumed at 2.00 P.M. Shri Arindam Sarkar, Manager, Internal Services, Standard Chartered Bank (CW 5), was examined by the Senior Counsel of the Committee, and through him exhibit Nos. C155 to C308 were marked. Shri Shekhar Naphade, Senior Counsel of the Respondent cross examined CW5. Shri Shekhar Naphade submitted that there was neither any evidence to be adduced nor any documents to be produced on behalf of the Respondent. On a query from the Committee, the Senior Counsel for the Respondent stated that he did not wish to examine his client and record his statement. The date and time of further proceedings in the matter shall be duly intimated to all the Counsels in due course.


(A. Sinha)
Secretary

JUDGES INQUIRY COMMITTEE

RECORD OF PROCEEDINGS

In the Matter of Rajya Sabha Motion under article 217 read with article 124(4) of the Constitution of India - Notified *vide* Parliamentary Bulletin No. 45898 dated 27th February, 2009.

CORAM: Hon'ble Justice B. Sudershan Reddy - Presiding Officer
Hon'ble Justice Mukul Mudgal - Member
Shri Fali S. Nariman, Senior Advocate - Member

Counsel for the Committee - Shri Sidharth Luthra, Senior Advocate
- Shri Sidharth Aggarwal, Advocate

Counsel for the Respondent - Shri Shekhar Naphade, Senior Advocate
Shri Chinmoy Khaladkar, Advocate
Ms. Neha S. Verma, Advocate
Shri Manoj, Advocate
Shri Subhasis Chakraborty, Advocate
Shri Subhas Bhattacharyya, Advocate
Shri Soumik Ghoshal, Advocate
Ms. Aparna Sinha, Advocate

18.07.2010
(Forenoon)

PROCEEDINGS

Shri Sidharth Luthra, Senior Counsel of the Committee commenced his oral argument at 10.00 A.M. and was on his legs until the proceedings were adjourned at 1.00 P.M.



(A. Sinha)
Secretary

JUDGES INQUIRY COMMITTEE

RECORD OF PROCEEDINGS

In the Matter of Rajya Sabha Motion under article 217 read with article 124(4) of the Constitution of India - Notified *vide* Parliamentary Bulletin No. 45898 dated 27th February, 2009.

CORAM: Hon'ble Justice B. Sudershan Reddy - Presiding Officer
Hon'ble Justice Mukul Mudgal - Member
Shri Fali S. Nariman, Senior Advocate - Member

Counsel for the Committee - Shri Sidharth Luthra, Senior Advocate
- Shri Sidharth Aggarwal, Advocate

Counsel for the Respondent - Shri Shekhar Naphade, Senior Advocate
Shri Chinmoy Khaladkar, Advocate
Ms. Neha S. Verma, Advocate
Shri Manoj, Advocate
Shri Subhasis Chakraborty, Advocate
Shri Subhas Bhattacharyya, Advocate
Shri Soumik Ghoshal, Advocate
Ms. Aparna Sinha, Advocate

18.07.2010
(Afternoon)

PROCEEDINGS

The Senior Counsel of the Committee resumed his oral arguments at 2.00 P.M. and concluded the same at 7.30 P.M.



(A. Sinha)
Secretary

JUDGES INQUIRY COMMITTEE

RECORD OF PROCEEDINGS

In the Matter of Rajya Sabha Motion under article 217 read with article 124(4) of the Constitution of India - Notified *vide* Parliamentary Bulletin No. 45898 dated 27th February, 2009.

CORAM: Hon'ble Justice B. Sudershan Reddy - Presiding Officer
Hon'ble Justice Mukul Mudgal - Member
Shri Fali S. Nariman, Senior Advocate - Member

Counsel for the Committee - Shri Sidharth Luthra, Senior Advocate
- Shri Sidharth Aggarwal, Advocate

Counsel for the Respondent - Shri Shekhar Naphade, Senior Advocate
Shri Chinmoy Khaladkar, Advocate
Ms. Neha S. Verma, Advocate
Shri Manoj, Advocate
Shri Subhasis Chakraborty, Advocate
Shri Subhas Bhattacharyya, Advocate
Shri Soumik Ghoshal, Advocate
Ms. Aparna Sinha, Advocate

19.07.2010
(Afternoon)

PROCEEDINGS

Shri Sekhar Naphade, Senior Advocate of the Respondent commenced his oral argument at 2.00 P.M. and concluded the same at 5.45 P.M.



(A. Sinha)
Secretary

JUDGES INQUIRY COMMITTEE

RECORD OF PROCEEDINGS

In the Matter of Rajya Sabha Motion under article 217 read with article 124(4) of the Constitution of India - Notified *vide* Parliamentary Bulletin No. 45898 dated 27th February, 2009.

CORAM: Hon'ble Justice B. Sudershan Reddy - Presiding Officer
Hon'ble Justice Mukul Mudgal - Member
Shri Fali S. Nariman, Senior Advocate - Member

Counsel for the Committee - Shri Sidharth Luthra, Senior Advocate
- Shri Sidharth Aggarwal, Advocate

Counsel for the Respondent - Shri Shekhar Naphade, Senior Advocate
Shri Chinmoy Khaladkar, Advocate
Ms. Neha S. Verma, Advocate
Shri Manoj, Advocate
Shri Subhasis Chakraborty, Advocate
Shri Subhas Bhattacharyya, Advocate
Shri Soumik Ghoshal, Advocate
Ms. Aparna Sinha, Advocate

20.07.2010
(Afternoon)

PROCEEDINGS

Shri Sidharth Luthra, Senior Advocate of the Committee commenced his reply argument at 4.15 P.M. and concluded the same at 6.40 P.M.



(A. Sinha)
Secretary

