

**IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD,
LUCKNOW BENCH, LUCKNOW**

O.O.S. NO.4 OF 1989

(R.S. NO. 12-61)

Sunni Central Board of Waqfs, U.P.

and others.

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Plaintiffs.

VERSUS

Gopal Singh Visharad and others Defendants

STATEMENT OF P.W. 19

MAULANA ATIQ AHMED

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Maulana Atiq Ahmed, aged 47 years S/o Moh. Rafiq R/o Village Mundla Kalan, Distt. Sant Kabir Nagar presently at, Nadwat ul-ulema, Daliganj, Lucknow, made the following statement on oath:-

I am presently working in Nadwat-ul-ulema. I am a teacher there. I am teaching there for the last 20 years. I got my initial education from my village and thereafter I studied in Nurul-uloom school, Behraich for four years. I passed Maulvi examination from Behraich. Thereafter I went to Darul-uloom, Devband. I took my Fazil Degree from there. Fazil's course is of 6 years duration. After doing Fazil's course, I did Mufti's course from Devband. After completing Fazil, I passed Alim examination from Allahabad Board. I appeared in this examination after obtaining Fazil's Degree. I teach Islamic Law i.e. Fiqh and Usule Fiqh in Nadwatul Ulema Lucknow. In addition to this I teach Hadees and Tafseer. Islamic Law also contain subjects relating to Mufti. A person possessing special knowledge in Islamic Law is called Mufti. I am the Secretary of Islamic Fiqh Academy, Delhi. Islamic Fiqh Academy organizes a seminar every year on issues pertaining to Muslims and Islamic Law. This seminar is organised at various places in India. As I am its secretary, I attend all such seminars. I am also the founder member of the Muslim Personal Law

Board. The Academy holds these seminars in India only but people from other countries also participate. On invitation from Sharia Scholars of North America, I attended two seminars in 1999. Apart from this I had gone to attend conference of Awqaf in Cairo. Cairo is the Capital of Egypt. First conference was held in America in February, 1999 and 2nd in November, 1999, and I participated in both. I read my paper in both the conferences, my subject in the above said first conference was related to customs. In the 2nd conference I read the paper related to the importance of Maslehat in the Shariat Law. There are many other teachers in Nadwatul Ulma where I am teaching. Maulana Burhan-ud-din Sambhali is one of the senior teachers of Nadwatul Ulema. He teaches Islamic Fiqh and Tafseer as well as Hadees. He is one of the authorities on Islamic Law. The important books, which I have read on Hadees are as under: - Bukhari Sharif, Muslim Sharif, Abudaud Sharif, Tirmaji Sharif, Ibin-i-maja Sharif, Tahavi Sharif, Muatta Imam Malik. The important books read by me on Fiqh are Hidayah, Sharah Bakaya, Baday Ussana, Fatahul Kadid etc.

There is no mention in Islam about the structure of mosque. That portion of land is called mosque which is earmarked for performing Namaz in a row. If there is only structure and no dome or Minarets then also it would be called mosque. It is not necessary to provide Vazukhana or bathroom in mosque. It is done so to facilitate things. There could be a graveyard around the mosque. Even if there is a graveyard, that would not alter the character of mosque. If there are places of prayer for other religions, then also the mosque will remain intact. If there exist the pictures of man and women, birds or animals on the pillars or walls, then also the character of mosque shall not change. That is, that the mosque shall remain but in that case the pictures should be covered so that these are not seen while

performing Namaz. These should not be visible. If, there are pictures of God or Goddesses of other religions, then also the character of mosque shall not change. If the building of the mosque is demolished or it falls down, even then it will remain mosque. Once mosque is constructed, it remains for ever. If the people from other religions start worshipping their Gods and Goddesses even then that place shall be the place of the mosque.

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Cross-examination on behalf of Nirmohi Akhara Respondent No.3 by Shri Ranjit Lal Verma, Advocate.

I am real resident of Mundla Kalan which now falls under Sant Kabir Nagar. Earlier this was under Distt. Basti. There is a school upto 5th standard in this town. My forefathers were permanent residents of this town. I am not in a position to tell as to where from they had come there. It is a fact that Distt. Basti and Faizabad are adjacent to each other. My village is about 90 kms. away from Ayodhya. My early education took place in my village school. There I studied Urdu and Hindi. Education of Quran starts from 2nd class. I also started taking my education in Quran from class 2nd. My teacher in that school was Peer Mohammed Sahib. He has died now. It is not correct to say that my foundation education was limited. I only to religious fanaticism instead of I learnt Math, Geography, Hindi language also along with the religious education. It is not correct to say that only religious education is imparted in the school where as besides religious other subjects too are taught in the school. I had learnt to read Quran, in my village school. Though I could read Quran when I was in 5th standard, yet I could not make out as to what sort of teachings were imparted through it. I used to read and write Hindi when I was in 5th standard. In Hindi, upto 5th standard Kabirdas, Tulsidas, Surdas were taught. About Tulsidas, his birth etc. his position and his ideas where

taught. I also understood that at that time but it is not remembered to me at present. The geography subject of 5th standard contained the information about Distt. Basti, about India and Mecca Madina. At that time what we knew only was that Ayodhya is a town in Distt. Faizabad and Distt Faizabad was adjacent to Distt. Basti. I also knew that many of our Hindu brothers used to go to Ayodhya for taking bath. We did not know at that time that Ayodhya was also the birth place of Lord Rama. I knew at that time that Mecca and Madina were situated in Arab and origin of Islam took place there. I was of about ten years of age when I passed 5th standard. After passing 5th standard, I went to Behraich and started studying in Nurul-uloom school for four years. In Behraich I studied Sanviya. In these four years, Arabic grammar and language, Islamic history meanings of Quran and Hadees were taught in particular. Urdu, Arabic and Persian languages were also taught. Apart from Islamic History, Indian history was also taught. In those four years, specially history pertaining to Muslim period was taught. Apart from this, before the Muslim period, history of Aryan period was also taught which means broad knowledge in history was imparted. The history of pre-Muslim period was also taught. The first Ruler of Muslim period was Mohd. Bin Qasim. I do not know at this point of time the period of his reign. The capital of Mohd. Bin Qasim was Sindh. The name of the same is not known to me at present. It is not a fact that Mohd. Bin Qasim returned after suffering defeat from Raja Dahar. Himself said, he won and returned only when called back by Khaliffa. It is not correct to say that Islam had not come in India before Mohd. Bin Qasim. Again said, before that Muslim Traders had come in India and their localities were there on the sea coast. The population of these Traders was concentrated in present Kerala state and Gujarat state. I do not know as to who was the Ruler of Delhi at the time

of Mohd Bin Qasim. During the days of my study in Behraich, I had read about Mohd. Gauri and Mehmood Gaznavi. They both were Muslims i.e. they were followers of Islam. Neither is it correct nor I agree with the saying that they both used to come to India with the motive to commit burglary. Gazani was the kingdom of Mehmood Gaznavi and his representative ruled here after his victory. This capital was somewhere near Gujarat. The name is not presently known to me. I read in the history that Mehmood Gaznavi had demolished Somnath temple. I had not read that he killed innocent Hindus of Somnath and resorted to loot. The name of Subedar or Hakim of Mehmood Gaznavi is not known to me. I had also read in history about Mohd. Gauri. The name of the Ruler of Delhi when Mohd. Gauri invaded India, is not known to me. The name of the king when Mohd. Gauri invaded India, is not known to me. It is also not correct to say that Mohd. Gauri too was a looter and he returned after resorting to plunder. Mohd. Gauri also ruled here. I will not be able to say this in detail but he had reached Delhi and he ruled there. It is not known as for how many years, he ruled there.

I had studied that people of Dravida race used to live there and also lived there were Hindus from different religions such as Buddhists and Jains. I have also read that Dravids and Aryans used to worship different Gods/Goddesses. It is correct to say that Aryans and Dravids used to worship idols besides worshipping sun and other planets and creatures such as snake, cow, elephant, peacock etc. In addition to this Buddhist and Jain people were also there. Jains and Buddhists are generally known as Hindus but sometime they say that they are not Hindus and their religion is a separate one. These statements I read in the newspaper. I read them in both Urdu and Hindi news papers. I do agree that during Aryan period people belonging to Hindu religion lived in India though they were of different religions. I studied Geography also in the course of my study at Behraich. But at that time I did not know

the detail that there is a Bharat Kund in south of Ayodhya and Tamsa river also flows on its south and its further south there is Prayagraj and river Ganges flows there. I only knew that there was one river which was flowing there I did not go to Allahabad. But I know that there is Sangam in Allahabad and Kumbh takes organised there. I have studied about Chitrakoot. I have also studied that Lanka (Sri Lanka) is situated in south of India. The above places, about which I have made the mention, had the same name when I studied them and are known by these names only even today. I do not know as to when and by whom first Mosque was built in India. I knew the importance of Mecca. The main reason for its importance was that the very first seat of Allah which was Kaba, was built here. The other reason for this importance was that Hazarat Mohammad Sahib had also born here at this place. It is incorrect to say that Kaba came into being after Mohammad Sahib rather it came into being much before that. There had been our many teachers at Behraich and some of them were Maulana Salamatulla Sahib, Maulana Kalmulla Noori, Maulana Hafiz, Habib Ahmed etc. This place was most important place for our above teachers. After my study for four years I was conferred the degree of Maulvi. It is correct that I started my studies at Behraich, after I had completed my studies in my village school. I was 14 years old when I completed the study as Maulvi. I lived in a hostel in Behraich during my study. There was no Mosque inside the school complex but there was one Jama Masjid of Behraich just across the road. There was no Khankah there. Dargah was very far from there, at the corner of Behraich city. During those four years I did not get any education from any Faqir or Sajjadanashin. It is not correct to say that our education for Maulvi is not a religions education but was a commercial one. After completion of my education as Maulvi I went to Devband and there I got education of Fazil. Fazil is an Arabic word which means highly knowledgeable person. Fazil is a degree. It can be said that Fazil's degree could be just like M.A. degree. Geography is not taught in Fazil degree course and Islamic education is particularly taught in this course. I did Fazil in

Hadees, Tafseer Fiqh etc. Hadees means, what Nabi Sahib said or the work he did or the work performed before him i.e. that came to his knowledge, but despite that he did not refuse it. "With him" I mean the Prophet. After Prophet Sahib, the issues were solved by those people who had studied Quran and Hadees, intensively, those people would try to solve their new problems or issues in the light of Quran and Hadees. During my study of Fazil, I read many books of Hadees some of which were Bukhari Sharif, Muslim Sharif, Abudawood Sharif, Nasai Sharif, Tirmaji Sharif, Ibnemaza Sharif etc. Ibnemaza is the name of the writer of Maza Sharif. Muasta is the oldest book of Hadees and the name of its writer was Malik.

I do not remember properly the year of writing of this book but it was probably written during 2nd Hijri year. It means it was written after Hazrat Mohammad Sahib. During the life of Hazrat Sahib a book on Hadees was written by Ek Sahbi Abdulla Ibne Amar Ibnulaas. The name of the book was Sadiqa. Though the book was written during the life time of Hazrat Sahib but the year in which it was written is not known. This book is not available in a printed form. This book, though was not prescribed in Fazil's course yet it was a reference book. I mainly studied the following books on Islamic Law in Fazil's course - Hidayah, Sharrevakaya etc. The name of Hidayah was Allama Burhanuddin Mardenani, Sharrevakaya was written by Al-ul-ma Tazusharia. A book namely Nurul Anwar Uslurshamshi was read on Usule Fiqh, which is a subject. Hidayah was written in 6th century Hijri year. It is correct that no detail has been given about the structure of Mosque in the books Hidayah and Sharrevakaya. The Darululoom (University) of Devband is the biggest university in India. The course of Fazil is also taught in many other schools. There were about 100 such schools in India where Fazil was taught, when I was the student of Fazil. There were about 300 other students with us in Fazil course. Out of them 10-15 boys were from Sant Kabir Nagar which was in Distt. Basti at that time. In Fazil examination I scored first

class first. Of all the students who were with me in Fazil's course, I alone am occupying the post of a teacher in Nadwa. I took my Fazil's degree in 6 years. After completion of Fazil's course, I did one year's course of Mufti from there. Islamic Law is particularly taught in Mufti's course, which, though is not Ph.D. yet it is very near to Ph.D. I used to write on subjects given to me by two Professors, under whom I was a student. The names of those Professors were Mufti Mehmoodul Hasan and Mufti Nizammuddin. I studied the entire Muslim Law in the course of study of Mufti. There was no boy with me from our locality during the study of Mufti. After completion of Mufti's course, I started teaching. I taught in Imdadiya school, Muradabad for 3 years. I started teaching immediately after obtaining degree of Mufti. Muradabad would be about 30 Kms. far from Sambhal. My introduction with Maulana Burhanuddin Sahib took place at Nadwa, after I joined there. After teaching for three years at Muradabad, I came to Nadwa in 1980. The law is part of religion in Islam. It is not that law and religion is one and the same thing but still the law is the part of religion. As Nadwa was a big school, I, therefore, joined Nadwa after leaving Muradabad when I was called by Maulana Ali Mian. My salary at Nadwa was less than my salary at Muradabad. It is incorrect to say that I left Muradabad for Nadwa for getting more salary. It is incorrect to say that Nadwa is a big centre for fanatic Muslims, however, it is a big Muslim centre. It is wrong to say that I joined at Nadwa even after sacrificing higher pay, rather I joined at Nadwa because there were ample chances for promotion here. I got Alim degree from Allahabad Board after my Fazil's degree. Mohd. Idris who belong to Mehdawal town, is known to me very little. I have met him only twice. He is a famous person in his area and is known as a good Maulana there. I had read in the newspaper that Maulana Idris had already given his statement in the court. I got Alim's degree as a private candidate when I was doing teaching work at Muradabad. It

is correct that Alim's degree is obtained as a regular student as well as private student. I obtained it as a private candidate. In Alim's course, Hadees, Quran, Tafseer, Fiqh, Arabic language grammar etc. are taught. In Alim's course, nothing is taught about India. I have read Indian Constitution in Urdu i.e. its Urdu translation. I was not the Founder Secretary of Islamic Fiqh Academy of India but I became Secretary only afterwards.

Islamic Fiqh Academy is an Institute, the Head Office of which is in Delhi. Its Qazi is Maulana Mujahidul Islam Qasmi. He hails from Bihar. I was also a part in its formation. Apart from me, other persons such as Maulana Burhauddin, Maulana Zafiruddin Sahib, Maulana Khalid Saifulla etc. were also included. This academy was constituted about 12 years ago. The academy was also got registered after its constitution. Its registration took place in Delhi but I do not remember the name of its office. Though I do not remember so accurately but this organisation was set up before the Babri Action Committee. The objective for setting up this organisation was to solve all new issues pertaining to Islamic Law. It was not set up for solving a particular issue but it was set up to consider and solve many issues which related to Muslim Law in India. Firing etc. on temple-mosque issue in Ayodhya had not taken place before the setting up of this institution. Though I do not remember correctly but I feel that the incident of firing took place after the constitution of this organisation. This organisation deals with the cases of marriages, divorces and other cases related to these matters such as medical science. Its founder General Secretary is Qazi Maulana Mujahidul Islamic Qasmi Sahab. I do not remember correctly when I became the member of this organisation first time. But I had come to Lucknow at that time. Initially, there was only one General Secretary in this organisation and he was Maulana Qazi Mujahidul-

Islam and there after 3 more Secretaries were inducted. Apart from the secretaries, there is one post of Treasurer also. Two persons from Nadwa are the members in the committee of this organisation. One of whom is myself. Apart from me Maulana Khalid Saifulla Rehmani, Hyderabad and Maulana Asadi are the Secretaries. Three posts of secretary in this organisation were created about six years ago. I have participated in all the seminars organised by this organisation right from its inception. First seminar of this body was organised in Jamia Hamdard Delhi. The seminar discussed the issues concerning birth control. In addition to this there were other two issues. Other such issues related to medical science i.e. transplantation of kidney etc. In these seminars, discussions also centered round divorce and issues relating to land. As far as issues relating to land, it is enjoined upon the Muslims to distribute some portion of their produce amongst poor. The list of all seminars of this organisation has been prepared and later on printed also. The conclusions of these seminars had no bearing upon the Govt. But these were related to the religious life of the Muslims; hence these were circulated amongst the Muslims. It is not correct to say that we, through these seminars had spoken something against the Govt. In fact we used to give advice what- ever we considered appropriate in the matter of family planning, we advised the Muslims accordingly. There has never been any such decision in which we had been prevented by the Government or we had condemned any decision of the Govt. Since I was fully agree with the Muslim Personal Law Board, I accepted the offer when the Board made me its founder member. The Muslim Personal Law Board was constituted some time in 1970. The exact date is not known presently. The prominent persons such as Maulana Minnatalla Rehmani, Kari Mohd. Tayab Devband, Maulana

Mufti Abu Saiyad Bangalore and other great Ulma were involved in the constitution of Muslim Personal Law Board. I became the founder member of this organisation when a vacancy of a founder member occurred later on. I became founder member only two years ago, and earlier, I was only a member. For about 4 years I was the member and 2 years there after I became its founder member. The committee of that body sponsored my name for the membership and then I became the member. At the time of making Islamic Fiqh Academy, I knew that there is a Body constituted earlier which is known as Muslim Personal Law Board. I do not know whether or not the Muslim Personal Law Board was registered. Its Head Office is at Delhi. I got the letter for becoming the member from Delhi but I do not recollect its exact address. Perhaps its Head Office is at Okhla. I had studied the Bye-laws of this organisation before I became the member. The objective for constituting the Muslim Personal Law Board was to find out the extent to which the Shariat Application Act, 1937 was being implemented and to what extent the Muslims were complying with the same etc.

This organisation was also to see the extent to which the Muslims were abiding by the Islamic rules with regard to marriages, divorces etc. Muslims were to be made aware about the same. The intention of constituting this Body was also to highlight certain evils as had over taken the good qualities of Islam relating to marriages and divorces. Such of the decisions of the Muslim Personal Law as pertained to the Govt. were also sent to them. The meeting of the Board was held in different cities of India. There were two kinds of meetings of this organisation. The meeting of the small Body was generally attended by the members but in the General Body Meeting, the members from different fields were invited. The invitees in the meeting are only the Indian and none from outside India. In the seminars held by

the Islamic Fiqh Academy, the persons possessing wide knowledge of Islamic Law outside the country were also invited. It is not correct to say that the objective of Islamic Fiqh Academy and that of Muslim Personal Law Board are the same. In the Islamic Fiqh Academy the jurists alone are invited whereas in the Personal Law Board, in addition to the jurists the persons from different other fields, are also invited. In Islamic Fiqh Academy, what is good and what is bad under the Islamic Law, is determined by the prominent persons, under the Personal Law, however, the views of the Ulemas and Lawyers are obtained in the matters related to marriage and divorces. It also deals with removing various flaws found amongst the public. It is incorrect to say that Muslim Fiqh Academy is an organisation of Muslim fanatics and the Muslim Personal Law Board similarly is a statutory Body. In the seminars held by the Islamic Fiqh Academy by and large, the people from the country only participate. Some time, however, people from other countries such as Sham, Pakistan, Britain etc. also participate. The seminar of the Academy is held once in a year but in the beginning it was held twice a year. I cannot tell accurately as to how many Muslim countries are there in the world. It is incorrect to say that the people from other countries are called in the Islamic Fiqh Academy so that they could express their opinion on the contentious issues and donate some money. The last seminar of the Academy was held from 13th April to 16th April at Jamiyad Saiyad Ahmed Shahid Kantoli near Mahilabad. In this meeting one guest had come from Kuwait, one from Qatar and one from Saudi Arabia. In the said last meeting matters regarding the appropriateness of any agreement taken place on telephone or through fax in the matter of marriages as also other transaction's such as sale purchase etc. were discussed After demolition of Mosque on 6th December, 92 no meeting of the Academy took place on this subject. I cannot say after how many

days of the above incident, the meeting took place. I cannot say whether or not any guest from outside had come in the first meeting held after the incident. In the last meeting of the Academy which was held from 13 to 16 April, 2001, discussed the lawfull status of the Mosque and it was decided that Mosque always remain Mosque and it status never lapses, even after demolition.

I do not remember whether or not any censure motion was adopted in the seminar on demolition of Babri Masjid. I do not remember whether censure motion was adopted in any of the seminars from 1992 to 2001 on the issue of demolition of Babri Masjid. After demolition of Mosque, one meeting of the Muslim Personal Law Board took place in Delhi. In that meeting the demolition of the Mosque was criticized and it was stressed to rebuild the Mosque. I attended that meeting. I do not remember as after how many days of the demolition of Mosque the above meeting was held but it had held soon. Those who demolished were censured and the Govt. which did not save the Mosque was also censured in the meeting.

Statement certified after hearing
Sd/-21.5.2001

We dictated and the stenographer typed it in the open court. In continuation of this appear in the court on 22.5.2001 for further hearing

Sd/-
21.5.2001

22.5.2001 (In continuation of 21.5.2001 P.W. 19 the statement of Maulana Atiq Ahmed on oath start)

The censure motion passed by the Personal Law Board had been sent to the Govt. I do not know whether or not this resolution was sent to Babri Masjid Action Committee. After demolition of Babri Masjid whether or not any censure Motion was passed at Nadwa, is not known to me. It is correct that the Ulemas had criticised this incident at their own level. I did not move any such resolution or sent any such resolution in this regard.

When did Babar come to India is not known to me accurately. As far as I know he came sometime after 980 Hijri. Before Mughals, Lodhi dynasty was ruling India. I do not know whether or not Muslims were ruling India from 1200 to 1528. During the rule of Lodhi Dynasty, Ulemas had no meaningful say in the Govt. however, they had the say in court matters. I do not know whether Sikandar Lodhi used to follow even the wrong advice that came from the Ulemas.

It is correct to say that many Sufis came to India during the reign of Khilji and Lodhi Dynasty or even before them Khwaja Moinuddin Chishti hailed from a place known as Chisht. It is there in Central Asia perhaps. He was follower of Islam and a true Muslim. It is incorrect to say that Khawaja Moinuddin Chishti's name comes first amongst the followers of Sufis who came to India. He himself said that Sufis had come even before, but Khawaja Moinuddin Chishti got more fame. I do not remember the name of the father of Khawaja Moinuddin Chishti and his Guru. I have read very little about other religions except Islam. It is correct to say that all religions forbid one to do evil, and command to do well. I have heard the name of

Sant Kabir, but I am not sure if he was contemporary of Bakhtiar Khilaji or not. Khwaja Sahib was a sufi but I do not agree that he taught that Rozas, Namaz as well as Haj were not necessary. I agree with the saying that God is one i.e. creator is one only. I do not agree with the view that the God can be called by any name but feel that He could be called by that name which he himself liked for Him. It is not correct to say that Khwaja Sahib said that God can be realised by serving the mankind. I do not know if Khwaja Moinuddin Chishti had married a daughter of a Hindu Raja at the bank of Anna Sagar near Ajmer. I also do not know if he sent his daughter Begum Hafiza from this marriage, to propagate about Sufism within the country and abroad.

I have read somewhere that Sant Kabir Das was the disciple of Swami Ramanandacharya and he was weaver by profession. It is a matter of faith in Islam that Mosque is a home of God. It is correct that He is omnipresent and sees every thing. I do not know if Sant Kabir Das had said that if God is limited to an idol, then who is there to look after this world. I also do not know if Sant Kabir had said that he was the son of Allah and Rama. I also do not know that Sant Kabir Das had said that Allah and Bhagwan were his Gurus. I do not agree with it that Khwaja Sahib and other Sufis came to India and had their contact with Hindus and that resulted in the origin of Sufi sect. I do not agree that during the reign of Muslims for a long period, the temples of Hindus were demolished continuously.

Question :- Have you understood with your knowledge, education and having gone through the history that in a big country like India where Hindus are in a majority, they have continuously remained always tolerant, polite and a community giving honour to the religions of others despite despotic

Muslim Rulers?

Answer. I agree that the people living in India have been tolerant to other religions and living here with complete harmony with each other since good olden days. It is a fact that Hindus are in majority here and worshipers of different religions. I do not know that Sikandra Lodhi had beheaded one Godhan, a Brahmin, who hailed from Kaithan, because he had said that his Dharma was as pious as Islam. I also do not know that he did so at the instance of Ulemas. It is wrong to say that during the regime of Sikandra Lodhi hundreds of temples were demolished and Mosques constructed at their place at the instance of Ulemas. It is also not correct that these Ulemas used to get their pay from the Govt. and thus interfered with the working of the Govt. in the name of religion. It is also not correct that Mughal Emperors got the history written suiting to their view point by bribing the historians or Ulemas.

When I go abroad, the Govt. of the concerned country gives me money equivalent to 'to and fro' journey. I went to America on the invitation from Shariya Scholars Association of North America. It is a Muslim organisation of the people living in America. Only residents of America are included in it. Of them some are the old residents of that country and some have settled there later on and got the citizenship of that country. The Shariya Scholars Association of North America had called me for participating in the conference in my capacity as Secretary of the Academy. Qazi Mujahidul Islam Qasmi was also invited in the conference besides me, but he did not participate.

In addition to India, people from other countries also had come in this conference. But no body from Pakistan participated. They were invited but they did not come. The Academy has been set up with a view to solving problems relating to Personal Law of the Indian Muslims and not for providing single forum for the Muslims world over. It is wrong to say that the Muslims of fanatic thinking were collected through the Academy and the process for calling them was made lawful, to facilitate issuing of viza for going abroad. The paper I read in America in the above conference was in Arabic which was published in the magazine Al-Basul-Islami from Nadwa. I presented the paper twice in America. My first visit to conference took place in February, 1999 and the 2nd in November, 1999. Before going to America I had gone to Cairo in connection with a conference. I had probably gone in 1998. In Egypt we were called by Waqf Ministry for attending conference on globalization. This invitation was also given to me in my capacity as Secretary. In that conference I only submitted my paper and did not read it. I however, had the discussion verbally. The topic was the impact of globalization on social life. I had mentioned in my paper about the good and bad impacts from it. Our paper was distributed in the conference held in Egypt and was published here in India in Albasul Islami magazine. Not that I had written the above mentioned three papers only, infact I have written more than ten books and more than 100 articles which were published in various magazines. None of the Impartial Bodies awarded me any prize or commendations for writing these books and articles. Some of my books, out of the ten, were published from Lucknow, some from Delhi and some from Patna and none of my books is a text book. More than two editions were published of some of these ten books. One of these ten book which became very popular and was published frequently was "Fiqar ki Galti". It was published

in Delhi. It was published by Maqtaba Al Irshad. It was not published with the kind courtesy of the Islamic Academy. Its three editions have already been published. When was the last edition published, I do not remember at present. 1st edition was published about 10 years ago perhaps. As far as I remember, its first edition was published before the demolition of Babri Masjid. I was teaching at that time at Nadwa in Lucknow. In my above book no detailed account of the structure has been given as it was not known to me. This book of mine is not related to the topic of Mosque or graveyard.

Merely by reading Quran, one does not learn to perform Namaz, rather it has to be learnt separately. Islam means to bow before Allah i.e. to surrender oneself to Him. In my opinion to surrender fully would not be the complete definition of Islam. It is only one aspect of Islam. Quran is a book given by Allah and it has been revealed over a period of 23 years. There are probably six thousand six hundred and sixteen Ayats in complete book of Quran. All these Ayats are related to religion and since law is a part of religion, therefore, it is also included in it. There are said to be 500 Ayats related directly to law. In case there is any difference of opinion between Ulemas and people with regard to the interpretation of an Ayat, it is first seen that what interpretation Nabi Sahib has given for the same and then that interpretation is accepted by all and if the interpretation given by Nabi Sahab does not appear to be clear then interpretation of Sahaba of Nabi Sahib is searched. And if no interpretation is found even after that, then interpretation appearing proper as per the Arabic Grammar, is accepted. Sunnat is generally used as a meaning of Hadees. But sometimes the works and teachings of Sahaba (Companions) and followers (Yaheun) are also called Sunnat. It is correct that there could be

broadly three parts of Sunnat. These are sunnate Fe'li, Sunnate Qau'li, and Sunnate Taqriri. It is correct that Quran and Sunnat are foundation of Islam. In addition to this Ijma and Qyas also form part of the foundation of Islam. In addition to these four, there are others also, but there is difference of opinion about them. Hadees and Sunnat is one and the same thing. It is correct that features of Shariat are contained in these four i.e. Quran, Sunnat, Ijima and Qyas. There are few broad kinds of rules of Shariat. The deeds which are allowed to be done are called Faraz, Vajib and Mandood or Mustahab. And deeds which are forbidden are called Haram and Makruh. There are few other deeds which neither are allowed to be done nor forbidde, are called Mubah. There is no such command in Quran which says that a Mosque be built forcibly on somebody's land. Quran commands to stop Shirk (Worshiping more than one God). It is correct that there was system of idol worship before Quran. They were not called Muslims but they were Musharkeen. It is correct that idol worshipers in Arab world were called Qafirs before the advent of Quran. There is no command in Quran which says that Qafirs be killed. It is correct that before the advent of Islam, Hindus were the idol worshipers. Islam came through Mohammed Sahib, more than 1400 years ago. In Quran there is no mention of breaking Hindu idols.

During the life time of Paigambar Sahib, no incident took place of breaking idols of Hindu God/Goddesses. During the life time of Paigambar Sahib no mosque was built forcibly on others land. It is correct that if any mosque is built on somebody's land forcibly then such an act would be shameful act and that mosque would not be a mosque. It would not be correct to say that Mohammed Sahib became supreme as a ruler as well as a religious leader only after the battle of Badar but he was already supreme as a king

as well as a religions leader. It is correct that there are instructions in Quran to build a mosque. It is correct that every Muslim who had the capacity to build a mosque desired that the beginning of mosque should be made through Nabi Sahib but Nabi Sahib could not reach on every such occasion. The very first mosque built in Madina was started by Nabi Sahib himself. The mosque is built with genuine material and it is not proper to use material acquired through loot. Mosque is a place reserved for performing Namaz by a group of people. It is correct to say that a mosque built for one caste would not be called a mosque. It is correct to say that Quran somewhere says that Namaz can be performed at any holy and clean place. Namaz is a particular method for worship of Khuda (God). It is also correct that it is more appropriate to perform Namaz collectively instead of performing it in isolation. At the time of performing Namaz, the attention of Namazi remains towards the God. It is correct that Namaz is related to God and not to the land. If a land is donated for the mosque and no Namaz is offered there for many years and others have occupied it, even then the land would belong to the mosque. The land is donated for the mosque in the name of Allah and it is essential that the donor of land is the owner of the land. It is not proper to build a mosque by breaking building on the land belonging to others. I have seen the temple of Hindus. Some idols visible from a distance have been seen by me.

(Learned Advocate cross-examining the witness invited the attention of the witness towards the Album of coloured pictures of the disputed structure No. 61, prepared by the U.P. Archaeological organisation, the witness after seeing the same said:- some idols are seen in this picture. After seeing picture No. 59 said that: - In this picture also, some idols are seen but it is difficult to say

whether these are the same as were seen in picture No. 61. While seeing picture No. 60, the witness said that it also appears that it contains some idols but it is difficult to say that these are the same idols which were shown in picture no. 61. After seeing picture No. 58, the witness said that idols are not visible in it. Some red mark is being seen. After seeing picture No. 57, the witness replied, no idol is seen in this picture but it is difficult to say whether or not it is a temple. After having seen picture No. 47-48, the witness said: - Black stones are seen in it and no other picture. While seeing picture No. 52, the witness said that something made in the shape of a pitcher is being seen here. After seeing picture No. 54, the witness said that it also has the same form as was seen in picture No. 52. After seeing picture No. 119, the witness said that he did not see any picture of human being. After seeing picture No. 146, the witness said it too does not seem to contain any picture of human being.

(Learned Advocate cross-examining the witness , showed the witness the black and white Album prepared by the U.P. Archaeological Organisation). After seeing picture No. 31 the witness said no idols are seen in it, no idol of the human being is also seen. It appears that some engraving has been done on the stone. After seeing picture No. 62, the witness said no photos are seen in it also. After seeing picture No. 20 of the same Album, the witness said it was difficult to say that a picture of tiger was engraved on top of it. There appear two eyes. After seeing picture No. 32, the witness said that the idols are seen in it. The Namaz offered in the presence of these idols would be fruitless. It would not be proper to perform Namaz in the presence of idols rather it would be useless. It would be appropriate to perform Namaz at a place where there is mark of foot or a picture of Chakla Belan.

(Learned Advocate cross-examining the witness invited the attention of the witness towards photograph No. 154/9 prepared by Bashir Ahmed Commissioner in the case No. 1/89) After seeing the same the witness said that he was not seeing any picture made on it. No picture of the animal was also seen. If at any place the photo of the tiger or peacock was seen by the namazi, then performing of Namaz would be improper rather it would be useless. But if the picture is on some other side then Namaz can be performed. If religious symbol of any religion, photo of any non-living things are there, then Namaz can be performed. If there is a place of Mosque, which is surrounded by Hindu idols from three sides and that place is in their possession, then one can go to the mosque by passing through that area and can perform Namaz. If the passage is blocked forcibly on that place then also one can go forcibly. If on three sides of the mosque there are Hindu religious places and are in their possession for 130 years, then also Namaz can be offered by going there in mosque. It is not necessary to keep a permanent or a nominated Imam in a mosque (Owner's presence is also not necessary).

Graveyard and Takiya are two different places. Khanqah and Takiya, more or less, are the same. Where an old person lives and gives his message, in Turki language that place is called Takiya.

In a Khanqah a living old person who is the Substitute (Janashin) of the earlier old person is known as Sajjadamtshin. As like Mathas where the Mahant gives religions messages to Hindus in the same way in Khanqah a Sajjadanashin gives religious message to the people. If any building is without a dome and without minarets and does not have the shape of a mosque then also that

building would be called mosque if it is allotted for a mosque. If any such building is joined to the other building then also it would be called mosque. It is not mentioned in Quran that if the building of the mosque is joined by another building then it is necessary to separate the building. It is not necessary to perform Namaz every day in a row only. It is not necessary to have the Muslim population near the mosque. The dispute for the disputed land started in December, 1949, as far as I remember. I do not know that some portion of the disputed site was taken over under Cr.P.C. No. 145. I had seen the disputed site from a distance from the western side. Paper No. 136/5 which has been prepared by Shiv Shankar, Commissioner was shown to the witness and he said after seeing the same). If the mosque has been taken over by the Court then the decision of the Court shall be awaited. If bells, shankhs, prayer songs etc. are sung at the outer courtyard of the mosque, then also the Namaz can be performed inside the mosque. Existence of a well inside the mosque is not necessary.

If there is no arrangement for (Vazu washing of hands) in the mosque, the people can come doing so from their residences rather it would be better if they come after doing vazu at home, no matter what so ever may be the distance. Darvesh is such an old person who has total detachment with the world and spends most of his time in the prayer of Allah. Where there is a grave of some grand old man or Faquir and if some construction is raised there, that place is called Dargah. If there is no construction on such a grave then it is normally not called Dargah. The Samadhis of Saints and munies cannot be called Dargah. Grave in a Dargah can be a mud structure or a pucca structure. He, however, said that it should be a mud structure. Grave is also called Turbut. There may be many graves in a

graveyard but it is not necessary that there might be a grave in Takiya. Takiyadar was a person who looked after Takiya but nowadays person looking after graveyard is also being called Takiyadar. I cannot say since how long the persons looking after the graveyard are being called Takiyadar. Generally if graveyard is a donated one, then mosque cannot be built there but if the graveyard is spacious one and there is a place available, then mosque can be built there for offering Namaz. Not necessarily (Waqf) donation may be through a written document but it could be done so even orally or by usage. There are four important schools of Muslim Law i.e. of Sunni Muslim Law. First one of them is Hanfi Law, 2nd is Maliki Law 3rd Shapai and 4th is Humbli Law.

The Hanfi Law was set up by Imam Abu Hanifa. It is difficult to say as on what date Hanfi Law started because it is not a building, the construction date of which could be told. He said that Imam Abu Hanifa expired in 150 Hijri year. Many of his disciples were involved in setting up this school but two of them were very popular. They were Imam Abu Yusuf and Imam Mohd. It is true that Imam Abu Yusuf was a Chief Qaji of Bagdad. I do not remember in which year he was a Chief Qaji. If command of a particular issue is not available in Quran and Sunnat then great scholars who possess deep knowledge of Quran and Sunnat try to locate it some how to resolve the issue and if they agree on a particular command then it is called Ijma. There are kinds of Ijma. Broadly there are three kinds of Ijma. First is Sarih, 2nd is Sakuti, 3rd is Adm-ul Kayal Bil Fasl. It is correct that the strongest one is Ijma Sarih. In Ijma Sarih all the participants express their views categorically and ultimately arrive at unanimity. Ijma is that it is wrong to construct a mosque forcibly on somebody's land which duly belongs to that person. There is no such example in Ijma Sarih that if

there is a picture or shape of a human being then Namaj can be offered by covering it, however, the Ulemas are of the general view that in such case Namaz can be offered by covering the photo or picture. The Ulemas have endorsed this view all the time that if there is a picture of human being then Namaz can be offered by covering the same.

It is not correct to say that Ulemas have been changing the Ijma Sakuti and Ijma Adm-ul Kayal. It is correct to say that Ijma Sarih is more important than other two. The observations of those Ulemas, who possesses authority on the subject, are believed. It is essential that they understand the Ayat of Quran and particularly those Ayaths which deal with the issues of Muslim Law. I do not know any such Hadees wherein Mod. Sahib has said that those of my followers, who speak foul, should not attend Ijma. The cases for which no solution is given in Quran or Sunnat, to find out the way to resolve such cases in accordance with the statements and rules of Quran and Sunnat is called Kyas. It is not correct to say that to call two similar things on the basis of similarity, is Kyas. It is correct that after knowing the basic reason of the command of an issue to apply the earlier command on another issue, where there exists similar reason is Qayas. An Alim can also do Kyas. In my knowledge there is hardly any Masjid in U.P. or in India where there is religious place of other religion, temple or idols also exist around its three sides. I have not made any such survey. I have not made such survey in America and Egypt as well. As far my knowledge goes, there is no such place where there are temples or idols of other religion around three sides of a Mosque. There may or may not be a mosque near the graveyard and there is no need to have Kyas over this issue because many instances exist where there were mosques near graveyard during the period of Sahib. I have written an

article on Uraf not a book. The word meaning of Uraf is custom. That custom is a part of Islamic Law which does not clash with Islamic tenets i.e. does not oppose them. The basic condition for accepting the custom (Uraf) is that it does not clash with the Islamic Law. It is not necessary that Uraf may be very old and be continuing for a long period. But new Uraf can also be believed subject to certain conditions. Uraf need not be recognized by any court but the Mufti or the Alim, on the basis of his knowledge if, feels that this Uraf has already spread, he would accept that. It is not correct to say that I issued Uraf to perform Namaz after covering the pictures or photographs. It was not necessary. There is no such custom to perform Namaz after putting cover on the pictures of human beings. Fiqh Malik was introduced by Imam Malik. It happened in 2nd century Hijri. The founder of the school was Ahmad Bin Humble. He died in 3rd centry Hijri. The founder of these four schools are called Imam. The big one is called Jashid Imam who lays foundation of any school and his functions are to evolve the rules and commands of Shariat on fresh issues and tell the people about them. It is essential for an Imam to possess deep knowledge of Shariat and also basic knowledge of Arabic language. The word meaning of Shariat is the path of leading life. The dictionary meaning of this word is not restricted to a correct path only. But as per the Quran and Sunnat, Shariat is a special path of leading a life which has been shown by Allah and Rasool to His people. It is essential that Imam must follow a path of morality. It is a fact that Imam is better than Ulma. Hence his saying has more weightage. There is a difference between Mutvalli and Imam. (He said himself). There are two kinds of Imam. First kind of Imam is one who calls the recites Namaz performed. 2nd kind is of those Imams who set up schools of Islamic Law. There are separate Imams for mosque. One who gets the Namaz performed in rows is

an Imam. It is not necessary to have a permanent Imam for every mosque. Mutvalli too is not necessary in mosque but normally they (Mutvallies) are there. Islam came in India through Traders, Sufis and Kings. It is not correct to say that it came to India after Mehmood Gazanavi came to India. I do not know if Al-Baruni had come to India or not with Mehmood Gaznavi. I have read Babar Nama- its Urdu translation. Who did Urdu translation is not known. After reading that it came to the notice that it was written by Babar. I remember that he had made mention about constructing mosques but the detail is not remembered by me. There is no mention about the construction at the disputed side i.e. Babri Masjid. It is frequently mentioned in Babarnama that Babar was a drunkard. It is wrong to say that Babar was a looter. I do not remember if it was written in Babarnama that Babar was a opium addict (Afimachi). I didn't read it anywhere that Babar had got constructed Hasan Raja mosque in Delhi. I do not know when Babar fought his last battle in India before he became the Emperor. I do not know the year of battle between Babar and Rana Sanga in Alwar. It is correct to say that Ayodhya falls under the jurisdiction of Avadh. I have not read the history of Lucknow in detail. Lucknow is the city of Nawabs as well as city of the poors. I do not know if it was once, known as Lakshmanpuri. I do not know any special place known as Lakshaman Tila. The most famous mosque in Lucknow is Nadve mosque. I have not read Aurangzeb in detail. I just read about him casually. I no where read that Aurangzeb had got the temples demolished. I know Mohd. Idris who is a good Alim. It is correct that in a mosque, temple cannot be constructed. Maulana Burhanuddin Sambhli who is senior to me and a great Alim, is known to me. He also teaches in Nadwa. It is correct that Govt. had got a raid conducted in Nadwa. Then he said that it was wrong. It is correct that both I and Maulana Burhanuddin

are engaged in teaching work at Nadwa. It is totally wrong to say that as I belong to Nadwa and is a fanatic Muslim, I have come here to stand as a false witness. It is also incorrect that I am a fanatic Muslim.

(On behalf of Nirmohi Akhara Respondent No.3, Shri Ranjit Lal Verma, Advocate's cross-examinations concluded)

Statement heard and certified

Sd/-

22.5.2001

Dictated by us and typed by the stenographer in the open Court. For hearing please appear on 23.5.2001.

Sd/-

(In continuation of P.W. 19 dated 22.5.2001 - statement of Maulana Atiq Ahmed begin.)

(Cross-examination on behalf of Shri Dharam Dass Respondent No. 13 by Shri Ved Prakash, Advocate).

Learned Advocate invited the attention of the witness towards photo No. 16 in the Album of coloured photographs prepared by U.P. Archaeological organisation. After seeing the same, the witness said:

In this photograph eyes and mouth are not clearly visible. The feet are also not visible and only white color is visible. Body is also not appearing behind it. In my opinion, it is not the picture of any animal. It is wrong to say that the picture appears to be of a pig. If I build a mosque, I would never construct any picture of a pig or any idol or statue of a human being. I know that majority of Hindus are the idol worshippers. I do not know that Hindu also worship the foot print or foot. I do not know the details as to how many idols are worshipped by Hindus. I have heard that Hindus also worship animals and birds. I do not know if pig also is included in these animals, which is called Varah Devta. I have heard that Hindus also worship trees. If I build a mosque, I shall not construct the picture of any animal. The pictures of trees and plants can be made. In my knowledge there is no such mosque in which the people would have constructed the picture of some living creatures. Pictures of trees and plants inside the mosque had been constructed. It is correct that the Muslims would not construct the pictures of deities and God. But it may be possible that it might have got constructed by some strange person. No Muslim would allow the picture of Hindu gods/goddesses inside the mosque.

I do not know the place where from Islam originated, therefore, cannot say whether or not Islam was born in Mecca. He himself said - First of all Nabi Adam Alaihisalam brought the Islam religion. Before the arrival of Islam, idol worship had started which was stopped by Mohd. Sahib. Not only by Mohd. Sahib but every Nabi of Allah gave the message that the idol worship should be stopped and only Allah be worshiped. This was said by Allah himself to all of his Nabis. It is correct that no idols were constructed in mosque anywhere. Nabi Sahib had instructed not to construct idols anywhere. These instructions are meant for the whole world including India. It is correct that Nabi Sahib fought many battles but I cannot give counting. He fought these battles only when atrocities were committed against him. The atrocities were committed against Nabi Sahib when he sent the command that only Allah be worshiped. The other people beat and killed as well as burnt their supporters and committed many atrocities against them. However it is wrong to say that Nabi Sahib used to prevent people from idol worshipping forcibly. He only told tell them and persuade them.

Instructions from Islam are that no idol be constructed inside mosque but it might be possible that his opponent might have done so. I do not know any such mosque anywhere in which the opponents would have constructed idols inside the mosque. I do not agree that where ever there are idols inside mosque, these are because the Muslim might have forcibly occupied it by demolishing temples. I do not know if idols were made in any mosque at the time of constructing that mosque. (He himself said again) it may be that some such stone would be lying some where and were used while constructing the mosque. I do not remember, if

stones containing idols of God/Goddesses lying hither and thither had been used for the construction of the mosque. That is what I said that the stones having pictures of God/Goddesses might have been used in constructing the mosque, is not merely a figment of imagination but it could happen that. I do not remember whether or not such type of mosque exists anywhere in the world or in India.

I do not know that many Muslims have constructed temples in India. It is not known to me that Hanuman temple in Aliganj at Lucknow was constructed by Nawab's of Lucknow. I do not know that any temple at Bareilly had been constructed by the Muslims there. It is correct that no Muslim could go to such a temple for offering Namaz which contain pictures of God/Goddesses.

As I have stated above that if "there are pictures of men, women or birds and animals on the wall, and minarets then also mosque's character would not change". This I have slightly said because by saying so I meant that if there is a mosque and pictures of God-Goddess are made there, the nature of mosque would not change. I do not know if the disputed site i.e. Babri Masjid had or not the pictures of God/Goddesses, animals, birds. It is totally wrong to say that the disputed site was a temple earlier and Muslims tried to convert it into a mosque by demolishing and forcibly occupying it and I am hiding this fact.

As far as I recollect the Muslim Law Board would have been constituted in 1972. The necessity of constituting the Muslim Law Board occurred because at that time a voice was being raised to apply uniform civil code on all and to abolish the Muslim Personal Law. This voice was being raised earlier also but at that point of time its pace increased tremendously. I said that its pace increased tremendously because it was being said even by the Govt.

of the time as well as to some extent by different organisations. Presently I do not know who those organisations were. As far as I remember, there was Congress Govt. at that time. I do not remember the names of those Congress fellows who were asking for applying the uniform civil code.

We know that in one portion of the constitution of India it had been recommended - efforts be made to apply uniform civil code. I do not have any information about the discussion which took place in the constituent Assembly in this regard i.e. I do not know in detail. But I know that some Muslim members as well as other members had opposed it vehemently. I as well as all others have full faith in democracy. I only know that one of the member who was opposing this move in the constituent Assembly was Ismail Sahib. The names of the rest are not known to me. I do not know that Husain Imam Sahib had said then that there was necessity to apply the uniform code only at a time when all become literate. I have not heard the name of K.M. Munshi Sahib. I am not the luminary of Indian Constitution. I have heard the name of Shri Alladi Krishna Swami Ayyer through the newspaper. The name of B.R. Ambedkar has been read and heard frequently.

There are many Ayats in Quran which tell that Islamic Law is a part of religion. I do not remember the total number of those Ayats but there are so many Ayats in Kuran. It is correct that in addition to the Ayats on Civil Law there are Ayats on criminal laws also. I shall not be able to tell as to which of the Muslims opposed the implementation of Indian Penal Code because I do not know when the Indian Penal Code was implemented. We did not make any such demand to the Govt. through Personal Law Board that a Muslim Criminal Law be

implemented for the Muslims in India. It is correct that under the Criminal Laws, the Arabs have prescribed very hard punishments to the offenders where as there are comparatively light punishments in India and these are insufficient. As per our information there are separate laws in Egypt for the minorities and the Courts are also separate. Particularly for their personal laws. Egypt is also part of Arab countries. I do not know in which other Arab country, separate laws have been framed for the minorities. It is absolutely wrong to say that the "law is part of religion", has been introduced by the Britishers. As I know, the personal law for the Muslims was implemented through Shariat Application Act 37. I do not know whether or not Hindu personal Law was applicable in India on those Muslims who were converted from Hindu to Muslim before 1937. I have heard about Khojas and Memins as well. I do not know if Khojas and Memins were converted or not. They were the Muslim then and are Muslim now. It is correct that their population amongst the Muslims is very few that is to say very limited. I do not know that they had opposed the application of Shariat Act. Generally in Muslims, the woman does not enjoy the right to seek divorce herself; however, if such a right is given to the woman by husband himself she can divorce herself. It is wrong to say that the Britishers gave this right to the ladies by enacting Muslim Dissolution of Marriage Act in 1949. I have read the Urdu translation of this Act some where. It is correct that the Constituent Assembly of the Indian Constitution has passed the resolution with a majority vote to apply uniform civil code and made provision for the same under Article 44 of the Constitution. (He himself said). The importance of this Article of the Constitution is only recommendatory in nature and not as a fundamental right. Personal Law Board is of the opinion that Article 44 should not be made applicable upon the Muslim. It is wrong to say that the application of

uniform civil code would bring unity in the country. Religion not only tells us the way of worshipping God but it also guides us as to how to perform all acts in life. I agree with the contention that every body gets internal contentment if one acts in life as per the dictates of the religion i.e. One gets internal peace. The Legislature may have the right to make laws pertaining to the religion but before enacting such a law it is essential that the followers of that religion and prominent persons are consulted before the proposal is given the shape of a law. I do not know whether or not there is any synonym of religion in Hindi, Arabic or Persian. I have used the word 'religion' in my statement, according to the dictates of religion used in Islam. I do not know whether or not the Assembly or the Parliament, has the right to make laws pertaining to Civil Law. It is correct that the Constitution of the Personal Law Board was made so that the uniform civil code might not be applied i.e. it should not be applied on Muslims. I personally feel and so feel the other members of the Personal Law Board that whatever taxes the Govt. imposes, should be paid by the Muslims. This law though, does not come under the purview of the Board. I do not know as to what is the Law about Hiba and whether tax is applicable on them. It is correct that we i.e. Personal Law Board desire that separate identity of Muslims from others should be preserved. It is wrong to infer that we want so in order to have political benefits. We observed the decision of Shah Bano case as against the Muslim Personal Law, hence we opposed that. It is correct that because of this opposition we got a new law enacted by the Central Govt. I do not know that this law contained in the provision of the Act that the responsibility of maintenance of Muslim divorcee lady would be of the whole society.

I do not remember correctly in which book I read the

name of Babri Masjid for the first times. It is also not remembered when I read it for the first time.

I do not know the date of setting up of the Babri Masjid Action Committee nor do I know its detail I also do not remember correctly whether Babri Masjid Action Committee was constituted before or after the Personal Law Board was constituted. It is wrong to say that I made the statement that Namaz can be performed even where there were idols of God/Goddesses, at the instance of Babri Masjid Action Committee.

I do not know about the occupancy Law. I do not know whether or not any prosecution case was filed in Lahore about Shishgaj Gurudwara either. It is wrong to say that the disputed site was a temple once and not a mosque ever before. I do not know if any Muslim went there or not after 1934.

(On behalf of Shri Dharam Das Respondent No. 13. The cross-examination of Shri Ved Prakash Advocate concluded).

Cross-examination on behalf of Shri Umesh Chand Pande, Respondent No.22 by Shri Vireshwar Dwevedi, Advocate).

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Word Hijri has been evolved from Hijrat. The dictionary meaning of Hijri is to move from one place to the other and to relinquish some thing. It is correct that I have used the work Hijri in my statement and my intention to use that word was that the Prophet then moved from Mecca to Madina. At the time of his moving, he would be about 53

years old. Hazoor expired at the age of about 63 years. Hazoor went to Madina along with his Sahiba. Those went to Madina with him were called Muhajir and people of Madina were 'Ansar'. I believe in Indian Constitution and accept that, as also I accept the laws made there under.

Question:-Do you believe in Indian Constitution and the Laws made there under?

Answer. I accept the Laws framed under the Constitution but if any law contradicts with the Islami Shariat, I do not see eye to eye with the same.

It is wrong to say that I see different things with different yes.

It is correct that in Fiqh we make comment and give detail also. It is also correct that there are many words which are used in different sense at different places. The Arabic language used in Quran and Hadees, contains the same meaning at all the places. The local dialect used in different Arab countries have no important place in Quran or in Islamic law. It is wrong to say that Quran Sharif is also called Hadeese Mutvatir. It is wrong to say that Hadees is called the same Gair Matlu and then said Gair Matlu is the Hadeese Kauli. Mussalla contains two meanings,-first the place of performing the Namaz and 2nd the floor where Namaz is performed, is also used to be called Mussalla. I can not say with certainty that the same Mussalla is called Sajjada in Egypt and it is Jayenamaz in Persia. I have studied Sahih Muslim. I have also read Bukhari Shariff. Bukhari Shariff was written first, then Sahih Muslim. I know "Sehaesitta". These are six books of Hadees. Sahih does not mean to collect but it means to correct i.e. in dictionary the meaning of Sahih is correct. It is correct that Ahadeed is a collection of hadees. Trimizi

Shariff is also included in "Sehaesitta". It is correct that the writers of "Sehaesitta" have tried that correct "Hadeeses" (the word of prophet) be included in their books. I do not know Musanif is known as Editor in English. Editor means one who checks the subject matter of a magazine or book brought out by somebody. It is correct that the Sehaesitta was not written by its Editors (Musanifeen) but they searched for Nabi Sahab's Hadees and their collection was published. It is not correct to state that these Ahadees were not available in the form of a book before Bukhari Shariff. Before Bukhari Shariff, Muatta Imam Malik, Muatta Imam Mohd and many other books had been written on Ahadees. The author of Muatta Imam Malik was Imam Malik and that of Muatta Imam Mohd. was Imam Mohd. I did not write any commentaries on these books of Hadees. I do not know with certainty that in which year Moatta Imam Malik was written. Similarly it is also not known with certainty that when were Bukhari Shariff and Muslim Shariff completed. It is correct that these books were collected after the death of Hazoor.

If there is difference or contradiction between what is written in Hadees and Quran and the laws framed under the constitution of India, I would give preference to Quran and Hadees.

It is not correct to say that when Hazoor moved from Mecca to Madina, he promised that he would return to mother land. It is also not correct to state that Hazoor fought many battles for his motherland. It is correct that Hazoor had fought a battle with Amir Abu Sufian. This battle was not fought as a hobby but was fought with a purpose. It is correct that Hazoor and Abu Suphian entered into an agreement under which Hazoor would return to Mecca for Haj and they both would not fight. It is correct to state that this friendship was agreed upon after a few battles. It is correct that when Abu Sufian did not hold good

the agreement, Hazoor invaded Mecca. That is to say that war was waged against Abu Sufian who was the Head of Mecca. It is correct that Hazoor gave lot of importance to the motherland.

Question : Do you prefer your motherland or the motherland of Hazoor?

Answer: In my opinion I prefer my motherland as well as the motherland of Nabi Sahab i.e. Hazoor Sahib also. To me there is no tussle in so far as the respect for the two is concerned. This is correct that I hold Hazoor's motherland more sacred.

It is not so that I prefer the people of that holy place more than the people of my country. It is correct that I consider the family (Khandan) Banuhashim as the best family in the world over. It is also correct that the Quraish, the Kabila of Hazoor to be the best Kabila in my opinion. It is not that I consider that particular place a most holy place in the world where the people of Quraish Kabila used to perform prayer (Ibadat). He himself said that in Mecca is the first House of Allah known as Kaba, which I consider the most sacred place. The word 'Qibla' is used for 'Simmat' (direction) also. It is correct that Hazoor used to perform Namaz for many years facing Baitul Mukaddas. It is also correct that later on he performed Namaz while facing Kaba Sharif which is home of Allah. It is not correct to infer that when Hazoor used to perform Namaz facing Baitul Mukaddas, he didn't know that Kaba Shariff was home of Allah.

The Stenographer typed it in the open Court when given dictation by us.

Statement certified after hearing
Sd/-

23.5.2001

For further cross-examination the witness appear on 9.7.2001

Sd/-
23.5.2001

9.7.2001 (In continuation of P.W.19 Maulana Atik Ahmed statement on oath start).

The dictionary meaning of Fiqh is to study a matter intensively. Normally the process of knowing the commandments of Shariat in the light of Arguments is known as Fiqh. With Usule Fiqh I mean those sources through which the features of Shariat are known. It is correct that Fiqh is a subject. I have read many books on Fiqh. It is correct that there is difference of opinion between Shiaz and Sunnies on Usule Fiqh on some matters. As far as I know, first book on Fiqh was written by Abu Imam Hanifa. This book was written in 2nd century Hijri. I do not know, whether or not any book on Fiqh was written by Abu Al Hasan in 326 Hijri. I do not know if any book known as Mukani Phil Fiqh was written by Abu Zaffar in 360 Hijri. I have read the book known as Shrayal VI Islam but I do not remember the name of its author. Therefore, I shall not be able to tell whether or not this book was written by Sheikh Nizzamuddin. I have also not read the book written by Wahadudni Sahib. Imamiya school is the school of Shia people which is also called Isna Ashariya.

It is wrong to say that books written by Shia people, have not been read by me. I have read Shia's very important book. Shia's most important book on Fiqh is "Alqafi" and that has been read by me but I do not remember the name of its author at this time. But his name is suffixed by Kulaini. He is from Iran side. It is wrong to say that the Author's name is not known to me because it was Shia's book. I have read the books namely Hidayah, Durre Mukhtar, Sharah Vikaya, Raddul Mudtar Patava and Alamgiri and remember the names of their authors. Because these books are used by us frequently. It is

correct that the writers of all these books are Sunni people. It is wrong to say that I or my organisation, have special reservations for the books written by Shia people. Their books are available in our library. It is correct that we do not need Shia people's books in as much as we need above mentioned books. Generally Sunnis do not perform Namaz in Shia's mosques because the mosques of both are separate.

Special commandments of Shariyat are - To consider Allah as one, to do Allah's Ibadat (worship), to consider Mohamad Sahib as last Rasool, to have faith in fate, to have faith on God's deeds, to have faith on the Rasools sent by Allah, to perform Namaz, to give Zakat, to observe Roza and to do Haj . It is correct that Allah has sent any Rasools in addition to Mohd. Sahib but their correct number is not known to us. I know the names of some of the Rasools. It is correct that Hazrat Musa was one of the Rasools of Allah. Toaret, a book of Allah was revealed upon him. It is also correct that Hazrat Isa was the Rasool of Allah and a book of Allah was revealed upon him. Hazrat Daud was also a Rasool of Allah and Jahur was revealed upon him. I do not know if or not Veda is the book of God or to whom it was revealed. The meaning of Nazil is revealing or coming down of a thing from top to bottom. I do not know that altering also means percolating from top to bottom. It is correct that holy Quaran was revealed upon Mohd. Sahab through Hazrat jibacal from Allah Tala and he read it and made others to learn it. It is correct that it contains philosophy of life. I do not know the meaning of Avtar. I only know that many of the Hindus consider Rama as incarnation of God and worship him. But I do not know whether or not he is the Avtar of God. I also do not know whether Krishna was incarnation of God. Because I have not read Geeta, hence I am not in a position to tell whether

or not Lord Krishna has explained the philosophy of life in it or not. The translation of Vedas in Urdu has been read off and on but complete Vedas have not been read by me. Because I read Vedas, i.e. translation of Vedas long back, hence I do not remember now that who was the author of Vedas and what name of the Author was on the title page or was it revealed upon some one or not. All these things are not known. I didn't consider it necessary; hence I do not remember it. But it is not correct to say that I did so because I didn't consider that worth remembering. It is correct that many books in Urdu and Hindi are published by Nadvatul Ulema. I do not have any knowledge about any book on "Veda and Quran" published by Nadvatul Ulema because I have no connection with the publication. As far as I remember the book entitled "Namaz Kyun Aur Kaise" was published by Nadvatul Ulema. But I didn't find time to read it after publication. It is correct that this book is in Hindi and I had seen some of its proofs before the publication. It is wrong to say that I am hiding any thing on this topic.

It is correct that commandments given in the Shariat have been divided into separate parts i.e. Farz, Vajib, Mustahab Mandoop. Further said Mustahab and Mandoop, both are one and the same thing. Similarly the things which have been forbidden are also of different types. Some such things are Haram, Makhrooh. It is correct that Islam does not permit Shirak. It is correct that there were idols in Kaaba earlier to Hazoor Mohd. Saheb and these were being worshipped. It is also correct that in one of those idols, was the idol of Kabila Quraish. In Islam Allah is Akbar (Greatest). It is also correct that in Islam there is no other God than Allah and he alone is worth worshipping. It is correct that the creator and supreme Lord is one and i.e. Allah and none else. I do not understand the meaning of

'Parmatma'. Because I do not know Sanskrit hence I shall not be able to tell the meaning of "Eko Braham Dutiyo Na Asti" i.e. God is one and no other. I do not know if or not the same is correct. I believe in Tauheed. We don't accept Shirk. It is correct that Mushrik is Qafir for us.

I have seen some Shiya people performing Namaz after Sunnies. The Quran was seen available duly written during the life time of Hazoor Sahib. It means the Holy Quran was written during his life time. It was written by many of the people and verbally memorised by thousands.

Question: Will it be correct to say that Holy Quran had not appeared in the form of a book during the life time of Hazoor Mohd. Sahab and Khaliffa Hazrat Abu Baker, or not. Will it be correct or not to say this?

Answer. It would be wrong to say that Quran was not available in a written form during the life time of Mohd. Sahab and Abu Bakkar Siddiqi rather the Quran was available in a written form during life of Mohd. Sahab.

It is correct that entire Quran remained revealed upon Mohd. Sahab in 23 years from time to time.

It is correct that Mohd. Sahib did not know how to write and, therefore, he used to get it written by others. It is also correct that people listen at, learnt and then written it. I agree with the saying that Holy Quran is a book for listening, for learning and for compliance that is to say it is a book of listening, learning and to comply. It is correct that people listened Quran Sahab from Nabi Sahab, learnt it and wrote it.

I do not know Hindi the Hindi word Aacharn. Hidaya's author is Janab Burhanuddin Marginani. Hidaya is a book on Fiqh and not a book on Tafseer. It is correct that Hidaya is considered to be an authority on Islamic Law specially on Hanafi Law. It is correct that people of Imamiya School do not consider Hidaya an authority. It is not known in which country Marginan is situated presently. It is not correct to say that there had been monopoly of Shia people in Iran from the beginning. It is not correct to say that Shias migrated from some country to Iran. Battle of Jamal took place in Iraq. It is not correct to say that there was difference between Shia people and Sunni's on religious matters. This difference started later on. This difference started from 2nd century Hijri. Basic reason for this difference was according to Shias, after Mohd. Sahab the Khalifa should be from the family of the Prophet, Where as Sunnies did not agree with this but instead any better person, who is elected among muslims and else to him can be Khalifa. This was also one reason of the separation of school of thought. Another reason for this is that Shia people felt that after Mohd. Shahab also some one from their family becomes Khaliffa and Imam, whose word had to be accepted and there would be no scope for mistake in their decisions. The Sunni people, however, didn't agree with it. It is correct that because of this difference, the Shia people and Sunni people started constructing separate mosques but religiously there is no ban in performing Namaz by Sunni's in Shia's mosque or by Shiya's in Sunni's mosque. It is wrong to say that I am trying to improve my statement given earlier.(He himself said) That there is no conflict in both of my statements. It is correct that in any of the mosque, either belonging to Shia people or to Sunnis, it is not proper to draw any picture of any living creatures. Hazoor Sahab had not ordered that a mosque be built by demolishing any building belonging to other religions and

with the debris of somebody's religious place. It is correct that if a Masjid is constructed by breaking the structure of other religion, the Masjid so constructed with the debris of earlier structure is against the teachings of Hazoor Sahab. I have gone to many countries outside India such as Cairo, Dubai, Britain etc. I did not get chance to go to Spain. I have gone to Pakistan also. I didn't see in any such countries the picture of any living creature inside the mosques. I have seen some mosques in Cairo which are adjoining to Church. The boundary of the mosque and that of Church was the same and passage to go to both was the same. It is correct that at one side it was a mosque and on the other side it was the Church and buildings of both were adjacent to each other. On other three sides there was habitation. I do not remember if Kabristan was also there or not.

Question: Did you not notice any special thing in that mosque? Is it the reason that you do not remember the name of that mosque?

Answer. Not remembering the name of the mosque is because human beings see thousands of such things in life but remembering all these things is not necessary. Yes, we did feel that the path way for both mosque and church was the same but the people there were not in conflict with each other for the same. This mosque is situated in Cairo city.

It is correct that I have studied the history of Spain and Egypt during my religious studies. I have not read any such thing which says that when Muslims invaded Spain, some Christians ran away to Egypt and when Christians invaded Spain, the Muslims ran away to Egypt. It is wrong to say that I was weak in history during my religious

studies. I do not remember any such episode i.e. to run away from Spain to Egypt. He himself said, some Muslims had gone to Marakash and Artunis from Spain. Both these countries are far from Egypt and are in Africa.

It is correct that I had gone to Cairo in my capacity as Secretary of Islamic Fiqh Academy. It is correct that there are many famous mosques in Cairo. There is a faculty of Islamic Law in the university and not a university itself. The Mosque of Maska is under the occupation of Israel at present. Baitul Mukkadus mosques are the 2nd name of Aqsa. It is correct that it was the command of Mohd. that Namaz be performed facing Baitul Mukkadas. His command was based on Allah's message (Vahi). Any message coming down from Allah is called Vahi. It is absolutely wrong to say that the angels of Kabila Quraish are in existence even today at Kaba Shariff. It is also absolutely wrong that the Hazoor, after he got annoyed with Jews, commanded that the Namaz be performed facing Kaba and not Baitul Mukkadus. He himself said that it was done as per the command of Allah which is available in Quran itself.

I have not learnt Quran by heart. It is correct that Surey mayada is there in Quran. I do not remember, which Ayat of Sureyemayada contain reference about reading Namaz.

In Quran Shariff, command has been given at many places for performing Namaz and rules of performing Namaz have also been given.

Question: With regard to performing Namaz, is it given in Quran Shariff to do Vazu (to wash hands etc.), if possible to take bath and in case of any urgency do clean with sand? (Tayamum)

Answer. This is not written in Holy Quran but it is written there that to do Vazu before Namaz and in case of dirtiness, take bath and in the case of non-availability of water, clean with sand.

In other countries we have seen many such mosques which do not have arrangement for Vazu inside, but there was a separate Vazukhana outside the mosque. The distance would be around 100-200 steps. I didn't see any such mosque out side India, where Kirtan is performed in front of the mosque. In India I have seen Kirtan being performed in front of the mosque at many places where it has been started forcibly. It is correct that it is against the Islamic Law to perform Kirtan etc. inside or in front of the mosque. It is correct that the construction of mosque at a place where the people of other religion have been performing Kirtan etc. in a proper manner is against the Islamic Law.

As I have stated above, what ever Mohd. Sahab used to tell i.e. he used to read in Quran, the people would write that on bones, wooden pieces, and stones etc. Sometimes, Mohd. Sahab used to give command and all himself to some people who were appointed for writing, get the matter written. It is correct that when, after the death of Huzoor Sahab and during the period of Abubakar Siddiqi, if any person presented any written material and said that the same was got written by Huzoor Sahab, then that was duly accepted on the witness of two persons. Hazrat Umar Farukh became Khaliffa After Hazrat Abu Baqar. In addition to four big books which came from the Heaven, the other books which came from the Heaven are called Sahifa. I have not heard any book titled Sahefe Usmani but have heard about a book named Mustafe Usmani. It is correct that Mustafe Usmani is a Quran which was compiled during

the period of Hazrat Usman. It is wrong to say that the Quran Shariff was not available in the form of a book before Mustafe Usmani. During the period of Hazrat Ummar too Quran Shariff was not available in the form of a book. During that period also, its name was Quran-i-Majid even in that period This Holy Quran was compiled during the period of Abu Baqar by Zaid Ibin-I- Sabit. The manuscript of Abu Bin Sabit, as far as I know, is not available at present. My information is based on the books. All such things are written in Ulumil Quran by Al Itkan. This book does not belong to the period of Hazrat Abu Baqar Siddique. It is wrong to say that I am giving any false statement in this matter.

Al Ganima is that material which the Muslims get from the opponents after the war. It is correct that, that material used to include human being also i.e. women and men. The material – men and women (Maal-i-Ganima) acquired in the war were not necessarily to be made slaves. It depended upon the ruler whether to make them slaves or set them free or to set them free after taking something. It was considered appropriate from Islamic point of view, during that period when there was a system of making slaves and maids in the world. Because the opposite party also did the same. He himself said that in the prevailing circumstances, doing so is not correct from the Islamic view point. It is wrong to say that I do not consider that system of Al Ganima, as mentioned in Quran, as correct. It is also wrong to say that from a practical point of view, I consider some part of Quran as incorrect. It is also completely wrong to say that I impose Quran on people by interpreting it in my own way. Hazrat Maviya was a Muslim and was a Sahabi. Hazrat Ayesha was a holy person and was a Sahabiya and that she was the wife of Huzoor Saheb. It is also correct that they both had fought a battle against the fourth Khaliffa

Hazrat Ali. I consider Hazrat Ali as Muslim as well as a Khaliffa.

The battle of Safin ended without a victory or defeat. The battle of Jamal and battle of Safin also ended without a victory or defeat rather there was a pact.. In mutual battles between the Muslims, the Maal-i-Ganimas i.e. to make men and women as slaves and maids was not considered proper but it was done so when the other party was a non-Muslim. It is correct that a tax (Zazia) was charged from non-Muslims for providing them security because non Muslims were not included in the war operations. It is wrong to say that they were not included in the war because they could not be trusted. It is correct that there was permission to have physical relations with the maids under certain conditions. Your version that I still hold good the same view even today is absolutely wrong (He himself said). Then himself said Islam gradually ended the system of slavery. It is also wrong to say that Islam gradually ended the slavery of Muslims only. It is absolutely wrong to infer that I impart the education of my thinking of Maal-i Ganima or slavery to my pupils.

If the shoes are clean and not dirty, Namaz can be performed even wearing shoes. Mud is not included in dirt rather it includes urine, stools and dung etc. If a persons covers two miles of distance with his shoes and says that his shoes are clean and no dirt is stuck to them, his statement would be accepted.) It is correct that if a person comes to perform Namaz, after taking off his shoes, he can take them inside the Masjid. It is also correct that he can keep his shoes if the place is available and perform the Namaz. There is no special method for keeping the shoes but one should see that mosque does not get defiled. It is correct that after keeping his shoes in front of him he can

perform Sajda in Namaz. It is correct to say that in this manner, sanctity of Namaz and Mosque is not affected. It is also correct that Masjid is the home of God whether here or any where in the world. It is correct that Namaz can be performed in Masjid-a-Haram in the manner mentioned above.

When scholars (Mujatahdin) at any given time, reach an unanimous agreement on a issue is called Ijma. Mujatahidin are the persons who possess immense knowledge of Quran, Hadees etc. and because of this they are so able to give their opinion in a particular case. It is correct that the Mujatahiddin can interpret Quran and Hadees. There is no procedure for the selection of Mujatahddin but performance of a person in a particular field shows some special tint of positive results in his field of work then he is accepted Mujatahid by Ulemas. It is correct that Ulemas determine who is Mujatahid. Ulemas are those people who acquire full knowledge about religion in famous Arabic Madarsas and there after start working in this very field.

There are so many Ulemas amongst Barelavi Muslims. For example, Maulana Idris Bastavi, Maulana Aradul Qadri etc. Similarly, there are many Ulemas in Dev Bandi school also, such as Maulana Burhanuddin Sahab Sambli, Maulana Narseerkhan Sahab Dev Bundi etc. In Shias, Maulana Kalbe Sabit, Maulana Kalbe Javvad etc. are in Ulemas category. Nowadays among Mujatheed, Maulana Qazi Mujahiuddin Islam Sahab, Maulana Khalid Saifulla Rehmani etc. come under this category. Qadiyani are not the Muslims. They are Qafirs. It is wrong to say that I create division in the society so as to acquire/ self promotion and status. We, rather, want to unite the society. Wahavi, I know, are Muslims. Khojas and Ismailis, too are

Muslims. One of their Alim is Maulana Nazmuddin Sahab.

During my education, I have studied about Auqaph. I have tried to know about the laws framed in India on Waqf from time to time. We have succeeded in this effort. At present, a central law is applicable to Auqaph. As far I remember, it came into existence in 1998. Before 1998, U.P. had its own Law relating to Waqf. I know that separate central Boards have been set up for Sunni Waqf and Shia Waqf in U.P. I know that the registration of Law on Auqaf is legally essential.

It is correct that after having been legally registered, Auqaf is notified in the Gazette. Imambara is also a Waqf, this I know. It is correct to say that the concept of Imambara is that of Shia community only. If any Masjid exists inside Imambara, then it can be a separate Waqf, and it can remain in the same Waqf also. It is correct that in Imambara also there are graves at certain places. Graveyard too can be a Waqf. It is wrong to say that I am misstating the facts in the case. It is correct that I was called by the Waqf Ministry of Egypt. It is also correct that a seminar was organised there. It is also correct that I had read my paper in the seminar. There were many issues in this seminar in addition to Auqaf. In that seminar the subject matter of my paper was not Waqf. The subject of my paper in the seminar was "The impact of Globalisation on family life". With globalisation I mean to develop such type of relations and spread each other's culture amongst the people of different countries in such a way that the whole of world become one village.

It is correct that all rituals of Muslims such as marriages, divorces, the way of burying of dead bodies, performing of Namaz are the same in every country.

It is not that the marriages and divorces are performed in the same manner in Muslims and in other communities, in other countries (He himself said). As per our information there is only one law applicable in America with regard to divorces, no matter one is a Muslim or some one else. I cannot say whether or not the same is applicable in Great Britain. It is not correct to say that in Iraq also it is the same. The Islamic law is applicable on divorce only to Muslims. For the other religious communities, their own law is applicable. I have strong objection to the applicability of one and the same law only, with regard to marriages in India, for all the religions. It is wrong to say that I want to assume superiority over Hindus in India. Rather, I want to live with them on equality basis like a brother. It is equally wrong to say that I am imparting this sort of education.

The statement certified after hearing

Sd/-

9.7.2001

Typed in the open court by the stenographer on given dictation by us. For next hearing, appear on 10.7.2001.

Sd/-

Dated 10.7.2001 (In continuation of 9.7.2001 - statement of P.W. 19 Maulana Atik Ahmad on oath start).

I have read about the places where the mosques can be constructed. It is not correct that the mosques can not be constructed in Kabragah or Kabristan.

To perform Namaz in Kabristan is not totally restricted. I have read Soora Alfateh. As far I know, there is no such instruction in Soora Alfateh, which may restrict performing of Namaz in Kabristan. There is no command in Soora Alfateh for not performing Namaz in Kabristan merely for the reason that there is a grave of Hindu or Muslim there. I am not aware of the book namely Malharu. It is correct that in Hidaya it is mentioned that no mosque should be constructed at a public place. I am aware of any book namely Mujamarat. There is a book namely Mujamarat. I am not aware that if it is written in a book Mujamarat, that the Vazu (washing of hands etc.) should not be done from the water of such a well or canal which belongs to others. But I have read that the water which is some one else's property should not be used without his permission. I have read a book on disputed site i.e. Babri Masjid, relating to the prosecution, in which I have come here for giving evidence and which is written by Sabahuddin. In addition to this I have read several articles written on the same.

I know Maulana Abul Hasan Nadvi alias Ali Miyan. It is correct that the name of his father was Hakim Saiyad Abdul Hai Hasni. I do not know if the book Islami Ahad by the father of Ali Mian Sahab was translated into English or not. I have not read his this book thoroughly but read its few selected pages. As I remember there is a chapter in this book entitled 'India Ki Masjidien'. I do not remember if it is written in this chapter that this Masjid was got constructed by Babar in Ayodhya on the place which is known as the birth place of Hindu Ramachandraji. It is wrong to say that I am hiding this fact deliberately. I have not read the book entitled Hadikmenshohda

but I have seen that. I didn't find opportunity to read that book hence could not read it. The name of its author perhaps is Mirza Jan. I did not see the book entitled 'Phasane Ibrat'. The book entitled 'Tarikhi Avadh' by Maulana Azmat Ali Kakoravi also was not read by me. The book entitled 'Sahifaye Chahel Nasaye' was also not read by me. I do not remember when the book of Sabahuddin Abdul Rehman Sahab was published but what I remember is that it was published after the lock of Babri Masjid had been broken. Because of paucity of time, I could not read any book on this subject. I have come here to give evidence in my capacity as an expert. I have given the above statement also in my capacity as an expert that there could be graves in the mosque. Where are the places other than the earmarked: land on which mosque can not be constructed. Basic thing here is that the land which does not belong to the person who is constructing the mosque or unless the land on which the mosque is being constructed, is donated for the Masjid by the owner it would be improper to construct mosque on that land. A mosque can be constructed at a place even where there is no population. I have read the book entitled "Fatawa Alamgir". I do not remember that it is written in that book that Masjid can not be constructed at a place where there is no population. It is wrong to say that I am making any false statement on this issue. I am aware of the book named Fathulmulihim. In this book of Hadees (Sharah of hadees) has been done. It is the Sharah of proper Muslim name. It is wrong to say that any building, which had once been a Masjid but not used as a Masjid for a long period, no longer remains a Mosque. It is also wrong to say that the book Fathulmulihim mentioned that such a building as had been a mosque for a long time but Namaz was not performed in it for a long period, it no longer remains a Mosque. It would be totally wrong to say that I am making a wrong statement on this issue.

I had gone to the west side of disputed site upto the distance of 150 feet. There was a deep pit in its middle. I had seen the building only from that end. I didn't make any enquiry as to why there was a pit on the west side of that building. I also do not know if the pit was because of some digging. It is wrong to say that I didn't read the history of this building and didn't make the spot visit. He said himself that he had read the history of this building in Sabahuddin Abdul Rehman's book namely Babri Masjid which was published during the litigation. I could not find enough time to read old books, in order to know the history of this building. As this book is a detailed book and contains references of old books, hence I have understood the case sufficiently. The names of some of the books referred to in that book are remember to me i.e. Tuzk Babri, Ain-i-Akbari, and different Gazeteers of Faizabad as well as India Divided, by Dr. Rajendra Prasad etc. etc. I remember that it was mentioned in the Gazetteers, referred to in those books and in some of the abstracts given, mentioned about the popular faith amongst the people, that Ramji had born there. I do not remember now whether or not the reference of Hadiq Men Shohda was there in that book. In that book a book namely Tarikh-i-Avadh by Nazmul Hasan again he said by Nazmul Zami has been referred. I do not remember if the reference of the book Fasane Ibrat exists there or not. I do not remember also whether Sahife Chahal Nasayah had been referred in it or not. I do not remember whether or not the above books i.e. Hadike Shohda and Tarikhe Avadh, referred in "Babri Masjid" contain the reference that this Masjid was built on the birth place of Ramchandraj. It is wrong o say that I am not making false statement in the matter. I didn't find out myself whether or not Babri Masjid is registered with the Waqf Board in accordance with the laws but after going through that book,

it appeared that it was registered with Sunni Waqf Board. That is it is registered in accordance with the law. Masjid is not a Shia or Sunni, but is Masjid only. I know that this Masjid is registered with Sunni Waqf Board. I know that this prosecution has been filed by the Sunni Waqf Board. I do not know whether all those who are fighting this case are Sunni or not. I have heard the name of Babri Masjid Action Committee. I do not know if there are only Sunni people in it or there are the Shia people as well. I didn't try to do so because I didn't feel its necessity. It would be absolutely wrong to say that the disputed site i.e. Babri Masjid was not a real Masjid before it was demolished. It is also absolutely incorrect to say that after demolition of the disputed structures, that place has not remained the real place for a Masjid and is not a Waqf. It would also be wrong to say that I have come here to give false evidence.

(The cross-examination concluded by Shri Vireshwar Dwivedi, Advocate on behalf of Umesh Chandra Pandey, Respondent No. 22).

Cross-examination on behalf of Mahant Paramhans/Ram Chandra Das Respondent No.2 by Madan Mohan Pandey, Advocate.

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It is difficult to tell with certainty as since when I know the disputed site but I do remember that I know it from the school education days. It can also be said that I know it since I grew up to understand things. That is when I was of 7-8 years old. I came to know it, as it was a topic for discussion to the people in Ayodhya that Babri Masjid had been locked and restrictions imposed in performing Namaz over there. At that time I didn't take interest in knowing it but I did feel annoyed as to why that happened. About this

dispute, I have read the book "Babri Masjid" by Sabahuddin Abdul Rehman Saheb and several articles as well. I read Tuzke Babri only with a view to knowing whether any mention about Babri Masjid had been made, how it was made and where it was made but I didn't find any such mention in that book. In addition to "Babri Masjid" I also read Tuzke Jahangiri, Aine Akabari, but I didn't find any mention about the disputed site in these books. Tuzki Babri had been read by me before 1992. Not in any course but at my own. I do not remember, whether or not there was a mention of any mosque in Ayodhya in Aine Akbari. As I remember, it is mentioned in this book that Ayodhya is a holy place of Hindus I do not remember if any mention of temples of Hindu Angel or Bhagwan Ram has been made or not in Aine Akabari. I remember that there was mention in Aine Akabari that Ayodhya was a pilgrimage place for Hindus and they go there for a holy bath. But I do not remember about their doing any Puja Archana (worship) in temples there. What I only remember is that they go there for taking bath and what else they do, is not known to me. I have read about the Babri Masjid. In addition to Babri Masjid, Babar had got constructed many other mosques in India, the mention of which is made in history books. It is not correct that all the mosques constructed by Babar are known by his name. I do not know the name of any other mosque, with certainty except Babri Masjid, which had been constructed by Babar. It is correct that the Babri Masjid was constructed on the disputed site by Meer Baqi, on orders from Babar. There is a Katba at Babri Masjid on which it is written that this mosque was constructed by Meer Baqi on orders from Babar. I have not seen that Katba but I have read about that in the book "Babri Masjid". It is correct that I am saying so that such a Katba is there, on the basis of above book and other articles. It is correct that I do not possess the geographical knowledge with

authenticity about the disputed site and is just based on what is written in the books. I know that Babri Masjid i.e. disputed site is located in Ayodhya. I have passed through Ayodhya only off and on. Though I have passed through Ayodhya several times yet I have gone inside the city only once. I had the knowledge before and even to day that there are several temples of Hindus in Ayodhya. Since I didn't go to North, South or East of the disputed site at all, I can not say as to what is there. When I was going from Ayodhya city to the west of Masjid, I saw several temples there. I do not remember where from I took the turn and to which direction. Its complete geographical situation is not known to me. I made enquiries about the ownership of the land of the disputed structure and also other details.

Some of the enquiries I made before the demolition of the Masjid and some, after demolition. I got this information from the books as well as from the people. From the people, I mean from the local residents and also from others. I got this information from Anees Sahab of Faizabad and other persons besides him. I do not know whether Anees Sahab has given his evidence in this case or not. What had been the status of land and other details is also not known to me. As the Masjid was very old, I do not know the status of its ownership. I only enquired that the Masjid was old. I didn't make enquiry about the status and land and as to what was there before the construction of the Masjid. I do not know anything about the ownership of the land before the construction of the Masjid.

I have heard the name of Dr. Amir Ali. I do not know if or not he was the Prof. of Islamic Law and Theory in Saudi Arabia. I only know that there are books on Islamic Law by Dr. Amir Ali but I do not know whether he is or he is not a good scholar. I also do not know if Dr. Amir Ali has

mentioned or not in his book about the characteristics of a mosque or where should it be located. I have not read the books by Dr. Amir Ali but have read certain translation of the books. The translation which I read pertained to Islamic history. I did not read any book of Dr. Amir Ali on Masjid, Namaz, Shariat or Hadees subjects. I do not agree with him that a mosque cannot be constructed on a disputed land. Sheikhu'l Islam is not a name but it is a title. Some Muslims Jurists have been called as Sheikhu'l Islam. I do not have any knowledge about any Muslim Scholar or jurist who must have mentioned about custom of Din Panahi.

By Islam, I mean a religion sent by Allah, which teaches: the way of life to his followers. Islamic Law is a part of Islam religion.

What shall prevail if there is confrontation between law and religion. This question does not arise because there could be no confrontation between the two. The foundation of Islamic Law is Quran and Hadees. Similarly the basis of Islam religion is also the Quran and Hadees. According to Islam religion, idol worship is wrong and unlawful. It has been emphasised in Quran that the people should be made to understand not to do idol worship. There is no such command in Quran which says that every idol worship should be opposed but it is said there that those who fight with you and torture you, you can resort to fight against them.

As far as my knowledge goes, there is no such book in which instructions have been given regarding the structure and mode of construction of a mosque. No special rules and regulations for constructing a mosque have been emphasized. It is not that where ever Namaz is performed, that place may be treated as mosque. It is also

not that where ever Namaz is performed in a row that should be treated as mosque. As per the law of Shariat there is. no special thing which is important in a mosque. According to Shari at, the land which is lying vacant and there is no building on it, can be treated as mosque, if it has been given (Waqf) for the mosque. If a person gives his land with the intention that the people should perform Namaz over that, then also it becomes a mosque.

Question. According to you can a mosque be built in accordance with Shariat Law on a property which has not been donated?

Answer. Mosque is built on a land only if the owner of the land donates it verbally or in writing for the mosque or his intention is to donate it and he himself or through some source, have the mosque built there or ask the people to perform Namaz over there in a row.

Question. Should I take it that unless the owner of the property donate his property, the mosque can not be built on that place as per the law of Shariat?

Answer. It is correct that the mosque can not be constructed on a land without the willingness of the owner of the property or without donating the property for mosque.

Precaution is generally taken while constructing a mosque that it should be spacious, neat and clean and if possible arrangements for Vazoo be made for the Namazis Similarly some such a sign be displayed so as to enable the people to recognise that it as a mosque. It is not necessary to create a special space for Azan in any mosque. It is correct that if somebody donates his residential house for a mosque, the house will become a

mosque. For the Namaz in a row, Azan is not necessary, but it is better if it is insisted upon. It is not absolutely essential that there should be an Imam or a Muajjim in a mosque. If mosque is built at a deserted place, where there is no population then also the mosque would remain a mosque. In Idgah five times Namaz in a row is generally not performed but at some places it is performed also. Idgah is also a mosque when it is donated for the mosque. For Idgah, structure is not essential. If some Shia gentleman donates his land for mosque, the mosque built on that land would be called mosque and not Shia mosque. The mosque built by Shia people would be called mosque and not Shia mosque. I am a Sunni. I have performed Namaz in a Shia mosque but not under a Shia Imam. By Shia mosque I mean that mosque the arrangement for which remains under Shia people is a Shia Mosque. Shia and Sunni can perform Namaz in a row simultaneously. As far as I know, two festivals of Shia and Sunni are for both but what are the other festivals of Shias are not known to me. I did not consider it essential to know what other festivals of Shia people are. As far as I understand there is no difference between Roza and Tarabi. If at all there is any difference, it is not known to me. I have seen many Shia people performing Namaz. There is no basic difference in performing Namaz between Shias and Sunnis but there is only a little difference.

While performing Namaz, Shias, when in standing position, keep their hands loose at their sides, where as Sunnis keep their Hands crossed. Besides this, Shias would, while doing Sajda, bowing down, place their foreheads on a piece of a hard earthen piece, whereas the Sunnis do not do so. There is hardly any difference between the methods adopted both by Sunnis and Shias. At the end of Namaz both Sunnis and Shias pray for

blessings with open hands. It is correct that both Shias and Sunnis perform Namaz. Shias perform Namaz with hands loose at their sides and Sunnis with their hands crossed. There is no particular reason for this except that whatever some people understood from the method adopted by Mohd. Sahib for performing Namaz, the same method was followed by them. The methods for performing Namaz have been explained in Hadees in the books of Fiqh. In Hadees, no variation has been mentioned in method for performing Namaz by Shias and Sunnis. This difference is not based on any tradition but on interpretation of Hadees. It is not correct to say that since Hazrat Ali used to perform Namaz with hand open Shia too performs Namaz with hands open. It is correct that as far as the timings of Iftar is concerned there is a little difference between the two. The reason for this also is in the interpretation of Hadees. It is not correct to say that both Shias and Sunnis have made separate interpretations of Hadees in respect of methods of performing Namaz. I do not know how Shias perform Tarawih prayers, therefore, I cannot say whether there is any difference between Shias and Sunnis, as far as performing of Tarawih is concerned. In some of the books on Islamic Law the difference of performing Namaz by Shias and Sunnis has been discussed. One such book is Almohin written by Ibn-i-Khudamah.

I have heard the word Jews. Jews are Qafir. I have heard the name of Masjide Aqsa. I do not know if this is a holy place of Jews or not. (He himself said). This is a very old mosque. If a Shahinshah or a rich person is constructing a mosque, it would be his responsibility to construct the Mosque of such a size as is the need there, and also to take care that it is simple and should not spend money extravagantly. To provide a separate space for Azan in such a Mosque, should be at his will, as there is no such

command from Shariat. Similarly he may make arrangement of a Vazukhana for Vazu. In my opinion a mosque should be designed in such a manner that it should give a look of mosque from outside. It depends on the custom of the area to give it such a design so that it is appeared as Mosque. The meaning of Uraf is tradition, which varies from place to place. It need not be the same at all places.

The customs are created by the traditions of the people and these need not be written one. There is no difference in Kalma of Shia community and a Kalma of Sunnis community. It is wrong to say that the disputed site Babri Masjid, has always been a Hindu temple. It is not correct to say that the history book which I read, mentioned that Meer Baqi got a mosque built by demolishing the temple. It is correct that Mohd. Sahab had instructed in the beginning that the Namaz be performed by facing Masjid-Aqsa. It is absolutely wrong to say that I do not have any knowledge about the disputed site. It is also wrong to say that I am giving a wrong statement here.

Cross-examination by Shri Madan Mohan Pandey, Advocate on behalf of Mahant Paramhans Ramchandra Dass, Respondent No.2, concluded.

On behalf of Respondent No. 22, the cross-examinations made by Shri Vireshwar Dwivedi Advocate, accepted by Respondent No.10, Hindu Mahasabha and Respondent No. 17, Shri Ramesh Chandra Tripathi through Shri Hari Shankar Jain, Advocate.

On behalf of Respondent No. 22, the cross-examination made by Shri Vireshwar Dwivedi, Advocate, accepted by Shri Puttu Lal Misra, Advocate on behalf of the

Complainant, in case No. 1/89.

On behalf of Complainant Shri Vireshwar Dwivedi, Advocate accepted the cross-examination made on behalf of Respondent No. 22 in case No.5/89

The statement certified after hearing

Sd/-

10.07.2001

The cross-examination concluded on behalf of all the parties. The witness is free now.

The stenographer typed in the open court on dictation by us.

Sd/-

10.07.2001