

6018

**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)

The Sunni Central Board of Waqfs,

U.P. and others

Plaintiffs

Versus

Gopal Singh Visharad and

others.

Defendants

STATEMENT OF P.W.25

SIBTE MOHD. NAQVI

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)

The Sunni Central Board of Waqfs,
U.P. and others Plaintiffs

Versus

Gopal Singh Visharad and
others. Defendants

P.W.25

Sibte Mohd. Naqvi S/o Shri Late Chaudhari Saiyad Amirul Hasan, aged 76 years, R/o, Mohalla Miran Pur, Town Akbar Pur, Distt. Ambedkar Nagar, Saqinhall Imambara Guffran Maab, Maulana Kalwe Hussain Road, Lucknow-3 solemnly affirms on oath as under -

Town Akbarpur was in Distt. Faizabad before Ambedkar Nagar became district. I have been living in Akbarpur since my birth. Akbarpur is my home town. I got my initial education at my home and thereafter in a school at Lucknow. I got my last certificate 'SANDUL AFAZIL' from Jamia Sultania at Lucknow. After this I got a degree in Fazil Tafseer from Lucknow University. I had an aptitude for writing work from earlier period till to-date. The detail of the books I have written is as under:- 1. Dr. Ram Manohar Lohia - Ek Jhalak 2. Masud Hasan Rizvi - Fard Aur Fankar 3. Amjad Ali Shah 4. Afkar and Alam 5. Rekati 6. Haji Jalaluddin Haider Ki Khudnavit Savaneh Umari 7. Mataye Fikro Nazar.

In addition to above books, I have written some articles also which have been published in Journals and News papers as well. Some of the articles are unpublished.

I am a Shia sect. I have studied some books on Shia Fiqh. Thereafter, I joined politics and as a result could not

continue the studies further. Shia Fiqh is also known as Fiqh Japhiriya.

In politics, I have remained attached to political parties. Initially I remained in Congress Party for one to two months and when the socialist group detached itself from Congress Party, I joined the socialist Party and since then I remained with Raj Narayanji. After the death of Raj Narayanji, I remained in Shri Mulayam Singh Yadav's Party till 3-4 years back. I have been the President of Akbarpur Municipal Body. I was the Chairman of the last town Area Committee there and also the Chairman of first Municipal Council. I am the Manager of an Inter College and a High School. Both these are located in Distt. Ambedkar Nagar. Their names are Dr. Ram Manohar Lohia Inter College Semari and High School Bela Parsa Teh. Tanda respectively. I had been the Chairman of Alp Sankhyak Vitta Avam Vikas Nigam, D.P. in 1990.

I had been the member of the Central Committee of All India Shia Conference for many days. I knew Prince Anjum Qadar very well, who became the member of the above Conference after I had left. He has expired now. I do not remember for how long Prince Anjum Qadar remained the member of the All India Shia Conference. Probably he remained for three-four years. Basically he was a resident of Kolkata and he used to live there only. When he became the Chairman of the Central Committee of Shia Conference, he was, in my opinion, not a unanimous representative of the Shia community.

I have seen the disputed structure about which the prosecution is going on these days, from a far off distance. It is known as Babri Masjid. I keep on coming and going to Ayodhya. I have been coming and going to Ayodhya since 1948 and have seen from 1948 itself the Namazies going to Babri Masjid for performing Namaz over there. I have not seen them actually performing Namaz. Later on performing

of Namaz was stopped there because an idol was put there and the place became disputed one and due to that it was taken over. When in 1949, the idol was installed, I being in politics, was based at Faizabad. At that time, little protest was made by the Muslims for installing the idol but Swami Akashya Brahamachariji came forward and he protested as well as resorted to indefinite fast i.e. fast unto death. Because there is mostly Sunni population around Babri Masjid hence mostly Sunni people used to go to perform Namaz there. Sometime one or two Shia people also performed Namaz there. Since I grew up to understand things, there had only been Sunni Imams there.

In Islam ownership of mosque remain with Allah. In the mosque any of the Muslim i.e. Shia and Sunni could offer Namaz. Babri Masjid, which I have seen very well, was a complete Masjid.

Statement certified after hearing:

Sd/-

Sibte Mohd. Naqvi

5.3.2002

Dictated by us and the stenographer typed in the open Court. In continuation of this please appear for hearing on 6.3.2002.

Sd/-

5.3.2002

Date 6.3.2002

(In continuation of 5.3.2002, the statement of P.W. 25 Chaudhari Shri Sibte Mohd Naqvi on oath.)

In Islam no special rules and regulations have been mentioned for a Masjid. The building of the Masjid need not be of a special kind. Dome and Minarets too are not essential for the Mosque. The place for Vazu etc. though is not necessary yet better it would be if it is available. After demolition or its felling down, the status of mosque still remains intact.

In Shia community Maulana Kalve Sadiq, Maulana Kalve Javvad and Maulana Hamidul Hasan Saphe are high ranking leaders. A large number of population of Shia community recognise the Babri Masjid as Masjid and those who want the issue to be resolved, want it for the sake of avoiding conflict and for security reasons but they too do not deny the existence of Masjid there. In my knowledge no Shia Alim, Indian or Foreigner has given a Fatwa that Muslims should take their claim back from the Masjid. But a rumor was heard that Prince Anjum Qader Sahab had brought a Fatwa from Iran or Pakistan. I have not seen that Fatwa. I didn't try to know about the Fatwa because the basis for the Fatwa is 'ISTIPHTA' i.e. the person seeking Fatwa, writes in the form of a question and that question is called ISTIPHTA and the answer of that question is called Fatwa. I understand that Prince Anjum Qadar Sahab has since expired 5-7 years ago. When he used to come to Lucknow in his capacity as President of Lucknow Shia Conference, we used to meet him. We must have met with each other after opening the lock, but I do not remember that. I have heard that the Namaz was performed in Babri Masjid even before 1948.

(Cross Examination on behalf of Nirmohi Akhara,
Respondent No.3 by Shri Ranjit Lal Verma, Advocate.)

xxx

xxx

xxx

xxx

I am originally the resident of Akbarpur. The ancestors of my mother are residing in Akbarpur since 13th-14th century. The medium of my education had been Urdu and I have also read Arabic but only very little. I can read Arabic. In addition to this I possess knowledge of Persian and Hindi also. If legibly written I can read English also and understand a little bit. I passed my Fazil Tafseer examination from Lucknow University in 1948. The University of Lucknow used to hold examinations of some subjects of some classes and they didn't hold for others. Fazil Tafseer was also one of the subjects of which the examination was being held. It is correct that classes were not held for Fazil Tafseer, but the exam was conducted. The commentary on Quran Sharif is called Tafseer. I have studied the whole course of Fazil only for passing the examination point of view. The books I have mentioned for Fazil Tafseer are as under:

- 1) TAFSEERE SAPHI - Written by Mulla Mohsin Faiz.
- 2) IMALI - Written by Saiyad Murtza
- 3) TAFSEERE UMADTUL BAYAN, the author's name is not remembered.
- 4) MUKADMAYE TAFSEERE QURAN - Written by Mohd. Ali Naqvi etc.

After studying Tafseeren I had acquired that much knowledge of Quran Sharif that if any Ayat was produced before me, I could draw out its reference by reading Tafseers. In 1948 I used to come to Lucknow from

Akbarpur. I got many chances for going to Ayodhya. A book namely "Ek Jhalak" on Dr. Ram Mahohar Lohia was written in 1967, after the death of Dr. Ram Manohar Lohia. The other books which I have referred to above were written by me after 1967. In the book namely 'Amjad Ali Shah' I have written biography of Amjad Ali Shah, who was a Ruler. I have read the history of Nawabs and Rulers from Avadh. My political career had started in 1948. The books written by me do not pertain to religion rather these pertain to literature and history. I have read Ramcharitmanas of Tulsidas. I have not read the literature of Kabir Das but I have heard his name and so I know him. The meaning of word

Quran is to clarify, to enlighten. The meaning of Islam is to bow the head and yearn for peace and welfare. I have mentioned the literal meaning of Quran and not its definition. It is expected from the followers of Islam to follow the path of peace and tranquility. It is correct that nobody can force anybody in Islam and also cannot construct Mosque forcibly. There is a big difference between Shia and Sunni. This difference started from the death of our Paigamber. There is a difference in the way of performing Namaz by Shia and Sunni. There is difference in the way of doing VAZU also. It is wrong to say that Shia people cannot read Namaz after the Sunni Imam. It is not correct to say that Shia sect started from Persia. There are 114 Sooren in Quran. The number of Ayats in them is presently not remembered by me. Quran is a book of God (KHUDA). Quran came down on Paigambar not at one time but it came down in the form of Ayats at different times. Total Quran came down in 23 years. In none of the Ayats of Quran it is mentioned as to where and at which place the Mosque should be built. It is correct that Mosque is constructed at a neat and clean place and with the consent

of the owner of the land. In the eyes of Shia people Sunnat is that was done by Paigambar Sahib and his innocent successor done in front of him and he didn't forbid and that was called Sunnat. Hazrat Sahib in his life neither got a mosque built forcibly on any land nor commanded to do so. To the best of my knowledge no body would have got a mosque constructed or ordered to be constructed at any place during Hazrat Sahab's life time. On the basis of Quran and Sunnat, Fiqh is created and that is our religious method. The word meaning of Fiqh is not known to me at present, probably it is wisdom. Shariat and Fiqh is and the same thing. Shariat contains. All the rules and regulations beginning from routine rules like taking water after urinating to those rules which are necessary for Ruling of the nation by a King. Haram, Halal, Mandoob, Makruh, these all come under the Shariat. To build a mosque by demolishing a building whether would or would not fall in the category of Haram, can be clarified by the answer, which is subject to many conditions. If a person demolish a temple and built a mosque over there, the act in question will fall under the definition of Haram. Hadees are those words which were spoken by the Prophet or his innocent successors. I have never read anywhere that Hazrat Sahab would have given directions to construct a mosque forcibly on other's land. I have not come across any such incident in which a mosque would have been built or ordered to be built on somebody's land forcibly during the life time of Hazrat Sahib. Taking possession does not confer any ownership rather the ownership depends on whether the land is given by the owner or by the Govt. It is wrong to say that during the period of Hazrat Sahib, any person, who made the barren land fit for agriculture purpose and put that to use first time, he would become its owner, this, at least is not in my knowledge. I have heard the name of Abu Haniffa. He was a great scholar of Islam and the legal luminary of Islam, as

is said by the Sunnies. I have not read about the Fiqh of Abu Haniffa and hence can not say anything in the matter. I though do not reckon both the disciples of Abu Haniffa i.e. Abu Yusuf and Abu Mohammed but I know them. I have read about them in fictions and stories. After Hazrat Mohd. Sahab the fiye of our Imams were not in a position to accomplish Shariat and Fiqh, therefore, Hazrat Jaffar Sadiq was made the Imam. It is correct that Shia consider the Imam as head of the Religion. So far as Sunnies are concerned, I am not aware about them. I became the President of Akbarpur Municipal Body i.e. local body in 1971. I became the President through election and I resigned this office in 1975 after the emergency was clamped down. I remained in Akbarpur from 1971 to 1975, but I used to visit Lucknow and many other places. I became the Chairman of Akbarpur Municipal Council during emergency, the date is not remembered by me at present, probably it was 1974-75. I was the Chairman of town area committee and later on when Town Area Committee was upgraded to a Municipal Board, I became the Chairman Municipal Board. I am still the Manager of Ram Manohar Lohia Inter College Semri and Janta High School Bala Parsa even today but from which date, it is not known. The U.P. Govt. has set up an Alpa Sankhyak Vityavam Vikas Nigam. I was the Chairman of this Body but nowadays branches of it have been set up in districts. I was nominated by the Govt. i.e. by the Govt. of Shri Mulayam Singh in 1990. Its head office was in Lucknow. But when Mulayam Singh's Govt. was overthrown and declaration of B.J.P. Govt. was announced, immediately sent in my resignation from the office of the Chairman. It is wrong to say that many scams took place in the above Corporation during my regime. The headquarter of All India Shia Conference was in Allahabad, but it is in Lucknow nowadays, he said again, somebody says that it was with

him, this I heard 3-4 years back. The office of the All India Shia Conference was in Chak Mohalla of Allahabad. I do not remember the date on which I became its member. It is wrong to say that it was an organisation only on paper. Prince Anjum Qadar hailed from Matiaburj in Calcutta. He had been the Chairman of All India Shia Conference. In my opinion, after Khan Bahadur Kalwe Abbas, there had not remained any illusion about All India Shia Conference. The people who considered All India Shia Conference an active body, In addition to this, there had been yet another body of Shias, known as Shia Political Conference. Apart from this, another state level body of Shias by the name of State Shia Conference U.P. was at Amroha. After Kalwe Abbas Sahab, Maulvi Kalwe Sadiq Sadab became the General Secretary but Kalwe Jawad Sahab and Maulana Hamidul Hasan Sahab had no relation with it. Kalwe Sadiq Sahab commands recognition amongst Shias to the extent possible. Mosque belongs to Allah and not to Shias and Sunnies. As far I remember, the Shia Waqf Board filed a case for registering the disputed structure with the Shia Waqf Board. In Faizabad city there is a Masjid namely Masjid Hasan Raza and it is known as Shia Masjid. This Nawab did not belong to Asiffuddaulla family, he was the Diwan of Nawab Asiffuddaulla. If somebody constructs a Masjid himself by spending his own money on that, the Masjid in question is linked with his name i.e. if a Masjid is constructed by Shia, it would be called Shia Masjid and if it is constructed by a Sunni it would be called Sunni Masjid. If in any city there is a masjid of Shias and also a Masjid of Sunnies, a Shia can perform Namaz in Sunni Masjid. (He himself said). All the residents of Chowk perform Namaz in Hasan Raza Masjid of Faizabad. It is correct that there is Tata Shah Masjid within 1000 steps of Hasan Raza Masjid which is stated to be a Sunni Masjid. In a Sahanava village near Ayodhya, there lives Saiyad families who calls

themselves belonging to the Meer Baki dynasty and considered the disputed structure as built by their ancestors. The above people from Sahanewa are of Shia sect. Was Meer Baki a Shia or not, is a disputed matter. As per my information, Nawab Hasan Raza had no relations with Meer Baki. When Shri Buta Singh was the Home Minister of the Govt. of India, I heard the rumor of bringing Fatwa from Iran by Prince Anjum Qadar. I didn't hear any such thing that the Shia community people have abandoned their claim over the disputed structure. (He himself said). I am also a Shia but I didn't sever my connection from it even for a second. At that time I had published a news letter in the Qaumi Awaj but I didn't receive any reply of the same. This letter of mine was published, when Shri Buta Singh was the Union Home Minister. My above mentioned letter had been published in Qaumi Awaj Daily News paper. I had not criticized the Fatwa in my above mentioned letter rather I had said that the detail of Questionnaire (ISTIPHTA) be given so as to ascertain as how the Alim was briefed at the time of bringing Fatwa. How the circumstances prevailing here were narrated to him. ISTIPHTA means to seek Fatwa and every person can seek, Fatwa if he feels the necessity for the same. The Fatwa issued by the Alim is applicable only on a person or group of persons who have sought it. Except that person or group of persons, the restriction of Fatwa shall not hold good on others. The restriction of such a Fatwa shall be applicable on other country also provided that comes under the clientele of same Alim.

I used to repeatedly go to Ayodhya in 1948. Before 1948, I had gone to Ayodhya only one or two times. I remember I went there to participate in Majlis. This Majlis was held in Mohalla Saidwara Ayodhya. I do not know whether or not the Saidwara Mohalla is situated on the

bank of Saryu River. I can not tell the name of person who organised this Majlis, probably it was held by some Anjuman. This Majlis was of Shia people. I can not say if there were only two houses of Muslims at Saidwara but it is correct that their population in that Mohalla was very less. I had not visited any other place in Ayodhya before participating in the Majlis. I was born in 1926. It is correct that I had gone to all the Mohalla in Ayodhya in 1948, in connection with the election of Acharya Narendra Dev and Baba Raghavdas. During the election campaign, I moved in Ayodhya for 4-6 days. During election campaign some people from Muslim community were also me in their capacity as local worker. I used to stay at Faizabad during the election campaign. Local worker Mohd. Hashim Ansari perhaps was my companion and names of any other are not known. Baba Banwari, the local leader was also with me. Except the above I do not remember the name of any other worker particularly the name of any Muslim worker. During election campaign I didn't deliver any speech rather I used to meet and request the voters. The local Muslim people could know my name only through this interaction. I knew Hashim Ansari before hand. I didn't know Swami Akshay Brahmachari before 1948. I knew this even before I went for the election campaign in 1948 that there were tens of other Masjids in Ayodhya, apart from the disputed structure. I didn't go in any of these masjids. I could recognise those Masjids while passing through that area or sometime by seeing the minarets. I used to perform Namaz 5 times in 1948. I do not remember now that in which Mohalla of Ayodhya I had seen the Masjid with Minars. There was inhabitation in the Mohalla in which there was a Masjid with Minars. I know that in Hanumangarhi in Ayodhya one Masjid was constructed by the Muslim Emperor Aurangzeb, it is said. I came to know that, the Masjid of Aurangzeb either fell down or was

brought down in 1855. Therefore, the question of seeing that Masjid in 1948 does not arise. I got the above information through the books. I have no knowledge whether or not any Masjid was constructed by breaking Tirath Purohit temple near Ahilyabai temple on the bank of Saryu river. As per my information, during the regime of Aurangzeb, the possibility of demolishing a temple does exist but the possibility of building a Masjid there itself on the place of temple does not exist at all. Apart from the days of Election campaign, I had also gone to Ayodhya after 1948. As far as I remember election campaign took place sometime in June, July, 1948. Before the election campaign and before 1948, I had gone to Ayodhya one or two times. I never stayed in Ayodhya during night. After the election campaign in 1948, I again went to Ayodhya one or two times. I never performed Namaz in any of Masjids in Ayodhya. I have seen closely the disputed structure which I call Babri Masjid. During election time Maqbool Ahmed Sahab and Mukhtar Ahmed Kidwai went to perform Namaz but I remained sitting in the car. The car was parked near the Masjid in a street or on the road. I do not remember if Hashim Mian was with me or not. I also do not remember if any of the local Muslim of Ayodhya was with us or not. Kidwai Sahab had said, "you people wait over here and I will come after performing Namaz." The floor level at which my car was standing from the Masjid was a bit high. The main door of the Masjid was not in sight from the place where my car was standing. I do not remember if Mukhtar Ahmed Kidwai and Maqbool Ahmad got the place for climbing the height for performing Namaz or not. I do not remember if there was a Police post or not between the place where my car was standing and the Masjid. I do not remember if or not there was a temple opposite to the place where my car was standing. On the in between place where my car was standing and was the Masjid where

Maqbool Ahmed and Mukhtar Ahmad Kidwai Sahab had gone, were the people selling Malas and Batashas on the trolleys. Both the above persons had gone to perform Namaz of Magrib. In the meantime I passed through the road along the disputed Masjid but did not go inside it. Before this also I never went inside and only passed through the road. Even after the above incident whenever once or twice we passed through that area one or two of our colleagues went to the disputed Masjid for performing Namaz. The way Maqbool Ahmed and Kidwai Sahab had gone to perform Namaz, my other colleagues also went there and I kept sitting in the car. One of them was Farooq Sahab and others name is not remembered. Farooq Sahab hailed from Faizabad. His parental antecedents were not known. I only knew that he belonged to the Socialist Party. I didn't see anybody entering into the main door of the disputed Masjid. I could see many temples while sitting in the car but I did not know as to which direction of the disputed Masjid these were situated. I do not know whether or not there was slope behind the Masjid. I also do not know whether the Masjid was surrounded from three sides by the temples. The temples which were seen from the disputed structure were situated at 500 to 1000 steps far from the disputed Masjid. When ever I went and waited in the car or Rickshaw and my colleagues went to perform Namaz, the time i was for Magrib Namaz. I saw my colleagues doing Vazu before performing Namaz but didn't see them performing Namaz. I saw them doing Vazu outside the structure. They sought water from a house. In 1948, the age of Mohd. Hashim Ansari was the same as that of mine. I do not remember if or not Mohd. Hashim Ansari was the member of Socialist Party but he was the active worker of Acharya Narendra Dev. Mohd. Hashim Ansari knew Mukhtar Ahmad Kidwai and Maqbool Ahmad very well.

I read about the taking over of the disputed structure in news papers. After hearing the news of taking over, I never went to the spot. That part was taken over which was undisputed part of Masjid. As I understand total Masjid was taken over including courtyard and none of its part was left without having been taken over. I talked to the local leaders of the socialist party against the taking over but I did not register any protest or opposition because our party had taken a decision that anybody could protest in his individual capacity but party shall not do it without asking Acharya Narendra Dev. I registered my protest in the individual capacity whatever was possible. Congress Leader Akshay Brahamchari resorted to fast-unto-death against the decision of taking over. I went to see Swami Akshay Brahamchari in U.P.C.C. office at Lucknow where he was on fast. He did not observe the fast in Ayodhya so I didn't go to Ayodhya. I had come to know about the on going fast-unto-death by Swami Akshaya Brahamchari in advance and at a time when he protested saying that the Masjid was being converted into a Temple. It is 15 days before he went on fast-unto-death. I have no knowledge about the incidence of Swami Akshaya Brahamchari's ouster by Rampadarath Das Vedanti, Mahant of Vedant Mandir and that of the serious charges against him. Swami Akshay Brahamchari still resides in his Ashram on the bank of Gomati river. I have no knowledge if Swami Akshay Brahamchari ever went to Ayodhya or not after his fast-unto-death.

Masjid is a place where Sajda is performed and such a place should be neat and clean. If there is a vacant place and it is permanently used for performing Sajda, that place shall also be called Masjid even without any construction. Masjid has no specific form. I cannot say if or not the

Temple requires a special type of building. It is correct to say that in a temple there is an idol of God or Swami Hanuman or Shiva. In my opinion if a person is idol worshiper, he does not believe upon Allah, so he is a Qafir. It is correct to say that, it is written in Quran if living becomes difficult then you can fight with the Qafirs also. It is correct to say that it is mentioned in Quran that in the name of Allah fight with only those who fight against you, but do not cross the limits. It is also correct to say that it is also mentioned in Quran to not to occupy anybody's land unauthorisedly because the things taken unauthorisedly are Haram.

Babar hailed probably from Afghanistan. Babar had come to India to rule, to occupy and to reside. It is not in my knowledge whether or not he embraced Shia religion by coming into contact with Shah Saphavi of Iran. When Babar came to India, Indians were not attacking Babar. It is correct to say that the Muslim Rulers didn't take any land for constructing Fort or Tomb without paying compensation. In every Masjid there remain one or the other Mutvalli, Mujjin, Khativ essentially. The work of the Mujjin is to give Azan. For giving Azan, minarets are essential. Around the disputed structure there is Ramkot Mohalla perhaps. I cannot say at which side of the disputed structure, there is a Muslim population. It is of course correct that there is a Muslim population near by but how far, it is difficult to be tell. As per my information, dozens of houses of Muslims are there. I shall not be able to tell the name of any of them. In the cases in which I have come here as a witness from the side of Muslim Waqf Board, perhaps Mohd. Hashim Ansari is a party. Except him I do not know the name of any other party. I do not know, rather I do not remember the name of any Sunni Muslim from Ayodhya. It is wrong to say that if Namaz is not offered in a Masjid for a

long time, then its importance as Masjid is lost. The correct position, however, is that Masjid remains Masjid even if Namaz has not been read in it for any period and the command for keeping it neat and clean is the same, as that for the operational Masjid. It is not essential that there should be a well near the Masjid. I do not remember the name of any Mutvalli, Mujjin or Khatib of the disputed structure at present. It is correct that there had been a riot in 1934 in which Muslims had died in a large number. During that period the Kabristan around the disputed structure were destroyed. It is wrong to say that after the riot of 1934, the Muslims didn't go near the Masjid. It is absolutely wrong to say that after the 1934 riot, the Namaz was not offered in the disputed structure till 1949 but the fact is that Muslim continued to visit Masjid after 1934 also and the stone which had been extracted was restored at the same place before the riots by one Tahvvoor Khan contractor. I cannot say whether Tahvvoor Khan replaced the same stone which was extracted or other one. That Tahvvoor Khan replaced the stone has been mentioned in the book or not. It is written on that stone that Masjid was constructed in 935 Hijri which I read in the book. I do not remember, if or not there is any mention in that book about having done any other work by the contractor Tahvvoor Khan. The title of that book is Babri "Masjid and; the name of its author is Maulana Sabahuddin Abdul Rehman. That book was written after the attachment which took place in 1949. I only know that Ayodhya is related to Maharaja Dasharath, his four sons and his wives and his daughter-in-law. I do not know anything about Kabir Das. As I have stated in my earlier statement, I do not know if or not Rama Nandi Sadhus reside in Ayodhya and their temples in Ayodhya are in majority. It is wrong to say that the disputed Masjid remained under the possession of Nirmohi Akhara of Rama Nandi Bairagi from the beginning. It is also wrong to

say that this Masjid was never used as Masjid.

(On behalf of Nirmohi Akhara Respondent No.3, the cross-examination by Shri Ranjit Lal Verma, Advocate concluded).

Statement certified after hearing

Sd/

Sibte Mohd. Naqvi

6.3 .2002.

On dictation from us typed by the stenographer in open Court. Please appear for the next hearing on 18.3 .2002.

Sd/-

6.3.2002

Before: Commissioner Shri Narendra Prasad, Additional District Judge, Lucknow on 1.4.2002.

The statement of Shri Sibte Mohd. Naqvi from 6.3.2002 onward begins.

(On behalf of Mahant Paramhans Ram Chandra Das, Respondent No.2 by Shri Madan Mohan Pandey Advocate).

xxx xxx xxx xxx

I have come here to give my evidence in this case. I know that this case pertains to the ownership of Babri Masjid and there are so many parties in it and also one is Sunni Waqf Board. I also know that one party calls the disputed site as Babri Masjid and the other as Ram Janam Bhoomi. I know that the case in which I am the witness, has been filed by Waqf Board. Sunni Waqf Board has filed this case.

Question : As per your information, is there any other party than the Sunni Central Waqf Board who have filed their claim in the case in which you are giving your evidence?

Answer.: I have no such information whether or not there are any more plaintiffs other than Sunni Waqf Board. Himself said I do not know if there is any other defendant other than Gopal Singh Visharad or not.

With regard to Sunni Waqf Board I know that it is a Waqf Board and continuing since 1960, it may be since earlier also. There is a Shia Waqf Board also. Both were set up simultaneously. In Shia Waqf Board, only Shias are its members and the property of their Waqf is registered in

Waqf Board. Similarly in Sunni Board, Sunnies are its member and the Waqf property is only registered. In my opinion the working system of the both is similar. In my opinion the disputed property for which I have come here to give the statement, belongs to Sunni Waqf Board. I have inferred it on my own because Sunni Waqf Board have filed a claim case for the same. I didn't see any document in this regard. I have heard that Shia Waqf Board too have filed a case for the disputed property for it being Shia Waqf property. But I do not have any certain information in this regard. I do not know if or not Sunni Waqf Board have filed this claim case against all the Hindus because I have not read the case affidavit. It is correct that some Hindus calls the disputed site as Ram Janam Bhoomi site. In my opinion Shia Waqf Board have not filed any case against those Hindus who calls the disputed land as Ram Janam Bhoomi Mandir. I do not know whether or not any person belonging to Shia sect, has filed a case against any Hindu about this disputed land. In my opinion no person from Shia sect has filed any case for declaring the disputed property as Babri Masjid. The cases according to my knowledge for the disputed property are continuing since 1949. Since 1949 to till to date, neither did I get any chance to take interest in the matter nor any interest was taken by me. Now when the chance has come, I am taking interest as a witness. But if I am asked to take interest, I will do that to the best of my ability.

I have not stayed in Ayodhya regularly. Even I didn't stay here for one night. I have the knowledge about Faizabad and Ayodhya as per my own sense. It is correct that the relations between all Hindus and Muslim in Faizabad, Ayodhya are cordial one and behavior towards each other is good. Ayodhya is rated highly as a holy place both for Hindus and Muslims. Ayodhya is a Pilgrimage

centre for Hindus. There are innumerable Hindu Temples in Ayodhya. The fairs of Hindu importance are organised in Ayodhya which attract large Hindu crowd and although Hindus dominate everywhere yet Muslims too, do not remain conspicuous by their absence and also remain present in fair number. During Rama Navmi and Sawan Jhule Mela, lakhs of people gathered in Ayodhya. Certainly people from outside Ayodhya also come here. But of number of people coming from far off districts such as Muzaffarpur etc. do not come in Lakhs though the crowd is in Lakhs. Those, whom I call Ram Bhakt, are of the firm opinion that Ayodhya is a birth place of Rama. On the northern side of Ayodhya, there is a Saryu river. In all the four directions of Ayodhya, the crowd of pilgrims, worshippers is seen and there is also presence of the crowd of onlookers. I have read Ramcharitmanas. The extent to which Goswami could think about God Ram and his character has been mentioned in Ramcharitmanas., Bhagwan Ram is also called Avadh Naresh. I have studied about the disputed site at Ayodhya. The study which I made revealed that the ownership of the disputed property was that of the Muslims and it was Waqf. In the course of verbal discussion somebody told me that the disputed property was Waqf. This situation prevailed in 1949 and, thereafter, I read that it is donated (Waqf). I read this in a book namely "Babri Masjid" written by Maulana Sabahuddin Abdul Rehman. This book contains 100-200 pages and not just 4-6 pages.

The Masjid generally is attached not with the owner rather it is attached with one who gets it build. Masjid does not become the Masjid of Shias or Sunnies on the basis of the category of the builders but the basis for its division is a separate one. The Masjids of Shias and Sunnies are called so on the under mentioned basis - (1) If Ajan is

performed in a Shia method than it would be called Shia Masjid and if it is in a Sunni method then it would be called Sunni Masjid and if it is done both ways then it is called general Masjid. (2) Whose Jamat is there, in accordance with that it would be called a Shia Masjid. (3) Who does the cleanliness, whitewashing and repair. On the basis of this it would be called Shia or Sunni Masjid. Generally the Imam and Muttvalli of the Shia Masjid are Shias and of the Sunni Masjid are Sunnies. Where there is no Shia Masjid, Shias perform Namaz separately. Where there is no Shia Masjid, the Shia and Sunni perform Namaz with Sunnies in a general Masjid. There are hundred of places and many Mohallas where such Masjids exist in which Namaz is performed by Shias and Sunnies together. Shia and Sunni perform Namaz in a row only if their relations are cordial and if the relations are not good they perform Namaz separately. Where the Imam is Sunni, the Shia perform the Namaz, if he has confidence over the Imam, on his terms and on his own way under the Sunni Imam. On his terms means his own way. As I have not studied Sunni Fiqh, I cannot tell correctly the difference between Shia and Sunnis in the matter of performing Namaz. But broadly the Shias perform Namaz with hands loose whereas Sunnies perform Namaz with hands crossed. The difference between the Ajan (Prayer) of Shia and Sunni is that all the Kalmas read in Ajan by the Shias are not read by the Sunnies and which are read these are not read that many times as Shias read. The difference of time in opening Roza's in Shias and Sunnies is 4 to 5 minutes. Shias do not perform Namaz of Taraviah.

It is hypothetical to say that all Hindus in Ayodhya recognise the disputed site as Ram Janam Bhoomi. It is not correct to say that the pro-temple claim of Hindus that the disputed site is a Ram Janam Bhoomi Mandir has not been

challenged by Shias but there are some people amongst Shias and Sunnies who are of the opinion that even if Masjid is constructed on that site, it would not be possible to perform Namaz over there, and as such there is hardly any use of fighting.

(On behalf of Mahant Ram Chandra Das Respondent No.2, the cross-examination by Shri Madan Mohan Pandey concluded).

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

xxx xxx xxx xxx

I read Quran Sharif off and on. There were 360 idols in Mecca in Kaba which were being worshiped upto the time of Mohd. exactly know whether the people who used to worship idols belong Sahab till the announcement of Paigambari was made. I do not exactly know whether the people who used to worship idols belong to one Kabila or separate Kabilas perhaps they were of separate Kabilas. It is not correct to say that the head of their Kabilas was called Khaliffa.

Question : Of the 360 idols the one idol worshiping Kabila, considered the other idol worshiping Kabila as their enemies?

(On this question the learned counsel of the Plaintiffs Shri Abdul Mannan raised objections saying that the question was irrelevant and has nothing to do either with the case or with any point of the case).

Ans. It is wrong to say so.

Question : Why did Hazrat Mohd. Sahab object to idol worship?

(On this question also the learned Counsel for the Plaintiff Shri Zaffaryab Jilani raised objection saying that the question was irrelevant and has no relations either with the case or with any point of the case and said that such a question should not be allowed by the Court.

Answer: Our Paigambar Sahab was sent for propagating and publishing the sacred acts of Allah. His duty was to demolish all such things as were the hindrances in the way of establishing Allah's authority everywhere. It was the reason that he opposed idol worshiping.

We are of the opinion that the beginning of Islam and human race took place from Hazrat Adam and the grave of his son is in Ayodhya. There are such books available in which the history of Hazrat Adam Sahab is mentioned. Our belief is that Quran Sharif has come from above and it is a God given book and words written in it are also God's spoken words. Quran Sharif descended after the declaration of Paigambar Sahab as Paigambar. It happened around 1500 years before. The idol worship dwindled thereafter.

Till such time as the disputed site was being used as Babri Masjid and was not taken over and was available for the Muslims, its arrangement was being looked after by one person and not by any committee. That person was not a self-styled and he inherited it from his father and uncle or some one like them. His name was Jawad Hussain. I do not know the name of his father or uncle. In 1928, there was no

committee for the arrangement of this Masjid. I do not know if or not any application was given for constituting this committee. May be that permission for setting up a committee would have been granted. But I do not know this. I do not know that even after getting the permission in 1929 for filing claim, the claim might not have been filed because there was no Masjid then. However, in my knowledge, the Masjid was already there.

In our Masjid which was built by my ancestors, I got a roof laid in place of Khaprail. I didn't put any idols of God, Goddesses or animals in it. No Muslim would get a picture made of a pig inside or outside the Masjid. Similarly, would not put the pictures of God, Goddesses, Fish, Tiger, Foot prints, hearth, hursa, pastry roller picture of some animals, or men or women on the walls or on minarets, inside or outside Masjid. No Muslim would ask any other Muslim to put such pictures or construct idols in the Masjid. There may be some Muslims who could permit Hindus to put such like pictures or construct idols in the Masjid. I do not know the name of any such Muslim as have given permission for putting such pictures and idols in any Masjid. I am not aware of any Masjid in India and abroad which had continuously remained under the control of Muslims but has such type of pictures. It is wrong to say, if such pictures have been made in any Masjid, that Masjid would not remain a Masjid and performing Namaz there should be avoided. With prohibition I mean avoiding. In my opinion no Muslim would be able to get rid of prohibition. If such conditions prevail there then, I would like to perform Namaz at that place. With the conditions, I mean that if the time is less and there is no other Masjid available and we do not know any other such Masjid, in such like conditions, we can perform Namaz in that Masjid.

Question : Will you perform Namaz by forcibly entering into a building where the above mentioned pictures are put?

(This question, the learned Counsel of the Plaintiff, Shri Zaffaryab Jilani objected saying that the question is hypothetical and it should not be allowed by the Court.)

Answer: I do not understand where the possibility of forcibly entering into come from but if the situation warrants so, I would perform Namaz in such a Masjid.

The Masjid can not be constructed forcibly by occupying some one's place, in accordance with the rules of Islam. If somebody occupy another person's land forcibly and construct a building on the same land and calls that building a Masjid, that person lives in fool paradise and such a place is not a Masjid but a hell.

Question : Are the Shia Kabristan and Sunni Kabristan separate one?

Answer: It depends upon the population of such a city. If the population is large, the Kabristans are separate not only of communities but even of the families. Where, there are separate Kabristan of Shias and Sunnie, Shias can also be buried in a Sunni Kabristan.

For winning election in politics, everything has to be done and cult and religion have to be dragged into politics. The English divided the Indian society from every angle - such as religion, upper, lower, citizenship and caste and creed etc.

Question : Did the English divide the Indian on the basis of communities and religion of Hindu, Muslim, Christian and did they publicised it?

Answer.: Yes they did it with fanfare.

Question : Did the English divide the Hindu, Muslim and Christian on the basis of their real individual laws?

Answer: I can not blame the English.

I do get the chance to read Indian Constitution. The preference has been given in the Constitution to abolish "divide and rule" policy of the English. I do not agree that the provision of citizenship code was kept so that no political party could divide the electorates on this basis. Being of a socialist thinking, I am of the opinion that Hindus and Muslims should not be divided but the dividing factor is not the personal law alone. In Panth, sect and Religion, the method of worship is not individualistic but it is communalistic. From birth I considered my self a Muslim and later on when my horizon broadened and I found chance to see the world, I became socialist also. I have seen the pig. I do not know if or not any other animal resemble the pig. (Learned Counsel invited the attention of the witness towards white and black pictures in the Album - picture No.9 and 10 - of the disputed structure prepared by U.P. Archaeological organisation). Seeing that, the witness said that picture No.9 does not appear to be of any thing and No.10 is not a picture of a pig. In picture No.10, there are seen the mouth, eyes, nose, stomach and it appears to be that of a lamb and not of a pig. In picture No.9, nothing is visible to me and I take it only for a spot. It has been claimed in Quran Sharif that whatever exist in the universe, it is the creation of Allah.

I have heard the name of Maulavi Abdush Shakoor Sahab. He was a Sunni. He opposed Taziadari - I have heard the name of Maulana Maqbool Ahmed Sahab Dehlavi. Earlier he was Sunni and later on became Shia. In 1905, a Shia-Sunni riots broke out in Lucknow on showing fire by Shakoor Sahab and Maulana Dehlavi Sahab. But the simmering circumstances were already a prelude to these riots. Shias were totally TAZIADAR and a group of Sunnies was becoming opponent of Tazia gradually. Khwaza Moiuddin whose Mazar is at Ajmer Sharif, was a Sunni, was a Sufi and engaged in Peeri-Mureedi, it is, therefore, understood that he was a Sunni but the study of his ideas reveal that he did have the leaning towards Shia sect also. Shia people go to his Mazar. There are hundreds of Mazars of Shias. MAZAR means a pilgrimage place. In Shia Mazars, there is a Mazar of Salis in Agra. There is Mazar of Nawab Bahu Begam, Nawab Sujaudaula etc. in Faizabad. All these are Shias Mazars. In Mazar no worship is done. Therefore, there is no question of difference between the methods of worshiping in Mazars between the Shias and Sunnis. Offerings are made on Shias Mazars as well as on the other identical Mazars situated in Lucknow. What ever is offered on the Mazars of Shias, some of such things are occasionally offered on Sunni's Mazars. The Chadar which is offered once in a year on a appointed day of URAS, is not offered on Shias Mazars. because we do not celebrate Uras. I do not know if Princ'e Anjum Qadar gave a wrong response. When Prince Anjum Qadar was the Chairman of Central Committee of the All India Shia Conference, there was no Shia Committee in his opposition at that time, Again said, that there was a parallel body of Shia Conference. Among them the Shia council of India was very active body. I do not know if the Court had issued notice to all such people who would like to make a statement in this case. No body told me anything about that. When I heard that Prince:

Anjum Qadar had brought FATWA, I also had the knowledge about this case. At that time I didn't meet anybody defending this case because I did feel it necessary.

(On behalf of Defendant No. 13, Shri Dharam Das, the cross-examination of Shri Ved Prakash, Advocate concluded)

On behalf of Shri Umesh Chandra Pandey, Respondent No. 22, the cross-examination by Shri Vireshwar Dwivedi, Advocate.)

Sunadul Afazil is a name of degree. Afazil is a plural of Fazil. Fazil means scholar. On the basis of the books I had read, I appeared in the examination and got the degree of Sunadul Afazil. I was taught the books like Shararhe Luma, Nahzul Blaga, Diwan Himasa etc. All the books were not the religious books. Shararhe Luma was purely a religious book and Diwane Himasha was purely a literature book whereas Nahzul Blaga pertained to literature as well as religion. In Iamia Sultania education in religion and literature was imparted and also in other subjects. Sharh-e-Luma was a book on Fiqh. In Fiqh following is included, - it is told what the followers of the religion should do. Religion teaches that one's conduct should be within the limitations. One's conduct should not be as such to create hindrance to others and that should only be counted as sacred act. One should not conduct in such a manner which is Haram. As far as possible one should not to indulge in such an act which is prohibited. In my opinion Fiqh means that what should a religious person should do and what he should not do. Dos and don'ts are told in Fiqh. A book namely: ILLUSH SARAYA is connected with it. That book was not in my course hence I didn't have the good luck to read that. The

Secondary stage education of Jamia Sultania is related to the Allahabad Board constituted by the U.P. Govt. The education, higher than the secondary education of this course, is not recognised by any university or connected with a Board recognised by the Govt. The degree of Sunadul Afazil is recognised by the University, for the examination of language only. It is not correct to say that JAMIYA SULTANIA creates fanatic Muslims. In Fazile Tafseer, the meaning of Tafseer is the study of commentary on Quran Sharif. The names of books relating to commentary on Quran Sarif that I have read, have already been mentioned in my earlier statement alongwith the names of their authors. Only the name of the author of the book Majm-ul-Bahreen was not known to me that day. Now I have come to know his name and it is Allama Tabrasi. The books the names of which have been told, were prescribed in our course. I had also stated in my earlier statement the year in which I received this degree.

Question : Were the classes conducted in Lucknow University for the degree of Fazile Tafseer?

Answer: As like other examinations, its classes too were not held. But examinations were held.

Statement certified after hearing

Sd/-

Sibte Mohd. Naqvi

1.4.2002

Dictated in the open court and typed by the stenographer. In continuation of this appear for further hearing on 2.4.2002.

Sd/-

1.4.2002

Dated 2.4.2002.

Before : Commissioner Shri Narendra Prasad, Additional Distt. Judge / OSD High Court, Lucknow.

Dated: 1.4.2002 onward statement of Shri Sibte Mohd. Naqvi, P.W. 25 begins on oath.

Except the book I have told you about Babri Masjid, I have not read any other book completely. Articles have been read. Further said that in his knowledge there was no other book available in Urdu, and I can not read English. I can read and speak Hindi. I didn't find any opportunity to read books on Babri Masjid in Hindi. I call Babri Masjid as Babri Saheed also. Babar didn't die here but Babri Masjid had the death of Martyrdom here. It is wrong to say that I am speaking lie here. I speak truth only.

Question : While giving your statement in this court you had said at page23 that the cases which were going on for the disputed property were known to you since 1949 is this statement correct?

Answer: Yes Sir, my statement from the proceedings of section 145 onward is correct.

I do not know if the case under section 145 is still continuing or not. I gave my above statement, despite this information.

I celebrate Moharrum as per my religious traditions. Roza Namaz goes with the religious order.

Question : Is it essential to have IMAM or MOJJIN in every Jama Masjid?

Answer: The appointment of regular Imam or Mojjin depends upon the capacity of Waqf of that Masjid. Whether it is a general Masjid or lama Masjid, the performer of Namaz give Ajan voluntarily and also have the Namaz performed.

It is correct to say that availability of Mojjin and Imam whether on a salary or voluntary basis is essential in a way. The word meaning of Waqf is to earmark. That is to earmark to donate a thing for the purpose of other thing. The person doing Waqf is called Waqif.

I have not read anywhere that Babar invaded Ayodhya. The detail whether Ayodhya was attacked by Meer Baki is also not available in the history.

Question : Whether Babar or Meer Baki had purchased the land from some one where existence of Masjid is stated to be there? Have you any knowledge about that?

Answer: I have not read any detail about the construction of Babri Masjid. Probably the detail may be given in "Tuzke Babri" by Babar. But I didn't read that book. But the congested place where the Masjid is built itself is an adequate proof that he purchased only that land, which would have been lawful.

Question : Do you know who is Waqif of Babri Masjid?

Answer: The Waqifs one who spends the money for the construction. I am confident that Babar would be its Waqif.

Question : Are you giving your statement on the basis of your knowledge or on the basis of confidence?

Answer: The answer to this question is contained in the answer given for the earlier question. Hence I do not want to reply this question.

I have no knowledge that during the period of Babar whether ministers were there or not. What is stated about Meer Baki, it appears that he was not an army officer. He appears to be a civilian officer. Babri Masjid was built on the Govt. expenses. Babar at that time would not have faced any difficulty in constructing the Babri Masjid because a Mafia does not face the scarcity of money. I do not consider the Ruler as less than any Mafia. In my opinion the system of Ruling is similar to Mafia.

Question : Do you have any knowledge why the Waqf of this disputed building i.e. the Emperor Babar didn't make arrangement for the water by constructing a well or a Tank for V AZU in this building which is called a Masjid?

Answer: There was no necessity for a well because there was Sita's kitchen and the kitchen contains well. There was no scope for constructing a tank. Also there was no place for sitting to do Vazu.

Question : Should I understand that Hazoor Emperor Babar decided at the time of constructing this Masjid that the Namazi should do VAZU with the water in the well of Sita's kitchen and perform Namaz in the Masjid?

Answer: Yes Sir, it is obvious that all was being done with the mutual consent because as the learned Counsel says that the place in question was Ram Janam Bhoomi and Babar with his atrocities got it demolished and have the Masjid constructed then I ask as to what was the necessity to leave

Ram Chabootra and Sita's Rasoi, when he was a tyrant.

I am of the opinion that Babar had left Ram Chabootra and Sita Rasoi for Ram Bhakts at that time. I do not consider Babar Hazoor or Emperor. I consider Babar as a greedy ruler, a greedy person, greedy for land, property and money.

There were no upheaval in my political life. The leaders of the Congress Socialist Party were three four persons. The party had the collective leadership and Acharya Narendra Dev was its head. After him was J.P. i.e. Jai Prakash Narayan, Lohia and Ashok Mehta. When the Congress Party objected to their being in that party, as a party and imposed the condition that the party be disbanded then it was decided to say good bye to the Congress Party. I remained in the same party in which I earlier was i.e. Socialist Party. Our party people dropped the word Congress from our party and it remained as socialist party.

Question : Was there any party known as Praja Socialist Party?

Answer: Yes Sir, when Socialist and Kisan Mazdoor Party of Acharya Kriplani was amalgamated, there became a party namely Praja Socialist Party. Indian National Congress was a party, K.M.P.P. was a party. The constitution of Praja Socialist Party took place with the amalgamation of Socialist Party and K.M.P.P.

Thereafter Socialist Party and K.M.P.P. did not remain separate parties. Now there is no Praja Socialist Party. The Socialist now are in a Samajwadi Party and head of this

Samajwadi Party is Mulayam Singh Yadav who had been the Chief Minister of U.P. and Mulayam Singh in his first stint of Chief Minister ship made me Chairman of the Finance and Development Corporation Ltd.

Question: Were you the member of the Praja Socialist Party ever?

Answer: It's evident from my statement given above and I do not want to answer the question separately. I didn't remain the member of the K.M.P.P. Party ever.

Question : Was Dr. Ram Manohar Lohia ever the member of the Praja Socialist Party (On this question the learned counsel for the plaintiff Shri Abdul Mannan Advocate raised objection saying that it is completely irrelevant.)

Answer: Dr. Lohia and his followers like us remained as a member in the Praja Socialist Party till that time we were removed from the party.

Question: Who expelled you and Dr. Lohia from the Praja Socialist Party?

(On this question the learned counsel for the plaintiff Shri Abdul Mannan Advocate raised objection saying that it is completely irrelevant).

Answer: The Central Leadership removed all the followers of Dr. Lohia.

Thereafter it emerged as a Socialist Party. I remained with my leaders with complete loyalty and sided with them in all the changes. These changes include this party's making and breaking. I didn't join any other party except

one party. The names of my party only kept changing. I adopted the ideas of Lohiaji as per my wisdom and other beliefs. I didn't get opportunity to participate in the elections fought by Dr. Lohia. I edited a book on Dr. Lohia. I had not written the complete book I edited it only and it contains one article also written by me. This I got it printed and published with my own money. At page 7 of my statement wherein I have said that a book namely "EK JHALAK" on Dr. Ram Manohar Lohia was written in 1967 after the death of Dr. Ram Manohar is correct and it I meant that I had only edited that book. It is wrong to say that I had been in politics, only on the basis of opportunism. This kind of insinuation is purely hurling of allegations upon me. These days I am not in any party. I must have left Mulayam Singh's Samajwadi Party 3-4 years back. I have not renounced the politics as yet but I am a free citizen now without anybody's whip upon me.

I am in "Touheed Prakashan Kendra" through Maulana Kalwe Sadiq Sahab since 1985 and I am whole-sole in that centre.

Question : When was Sir Prince Anjum Qadar the Chairman of the Central Committee of All India Shia conference?

Answer: When he was the Chairman of Shia Conference he was the Chairman of all the Committees of the said Conference. One of the committees was the Central Committee. The year I do not remember.

I withdrew from the All India Shia Conference sometime in 1957-58. After about 15-16 years of my withdrawal, Prince Anjum Qadar joined All India Shia Conference, this period may be little more. I am of the

opinion that All India Shia Conference does not represent all the Shia people.

Question : Is according to you the All India Shia Conference, totally a useless organisation for the Shia people?

Answer: In this era of adult franchise all such bodies are irrelevant. Though I didn't leave this body because of this reason. My dues were not outstanding and when I didn't pay that, they did not renew my membership.

After three years or five years, membership of every member is required to be renewed and if it is not done, the membership ends automatically. The question of removal thus does not arise. It is not that I left the organisation because I didn't like it.

Question : You liked the organisation but left it of your own
(On this question the learned counsel Shri Zaffaryab Jillani for the Plaintiff raised objection saying that the question was irrelevant and is being asked to harass the witness and has no connection with the case.)

Answer: The person who could not get the renewal because of outstanding dues, in such a case taking a stand that he left the organisation at his own is a statement just out of senses.

I would not be able to tell you at present as to what are the duties and rights of the Chairman of All India Shia Conference. The word meaning of Istiphta is to seek Fatwa.

Question: If somebody asks for Fatwa through Istiphta, will that Fatwa be applicable upon that very person

or the whole community?

Answer: It will be applicable on all the clients of the Alim who is giving Fatwa.

The person giving Fatwa should be a qualified scholar with scholar I mean the Alim of Fiqh who is recognised by the public. Mujthid means a person who is able to receive command of Fiqh with the help of Quran, leading Sharai scholars, cross-examination, logics. Ijma means such consensus of Ummate Mohammadia in which innocents are also included. Ijma is neither issued nor given. It emanates by itself.

I perform Namaz. There are six types of Namaz. 1) Daily Namaz which includes Juma Namaz; 2) Namaze Ayat; 3) Namaze Maiyat (funeral); 4) compulsory Tawaph Nflmaz of Kaba Sharief; 5) Qaza Namaz of the Father (Namaz missed by the father in his life time to be performed by the elder son.) According to some Alims Namaz missed by the mother in her life is to be performed by her son. The Namaz for the dead, and Namaz for fulfillment of a wish and Namaz for which one has taken oath to be performed by the one who has taken money. All these are compulsory Namaz.

Daily Namaz which include Juma also, are known as Magrib, Isha, Subhah, Johar and Asar and Namaze Juma is performed on Friday. This is up to the Namazi to perform Juma or Johar Namaz. All the five Namaz are compulsory. There also is a Namaz Vitra (the Namaz to be performed in the evening, after Namaz Isha. There are Namaz of Vitra also. In them are Namaze Shub Tahajjub and vitra, and there is one more, the name of which I do not remember. A Sunni or a famous Shia Alim only can tell about Namaze Ishraq. There is one Namaz of Vitra. The above mentioned

daily five Namaz which I have already told, apart from them, all other Namaz are Mandoob and one who does not want to earn extra reward (Punya) need not perform them. Alongwith Vitra there is Namaze Shaffah also the name of which I had forgotten.

Question : Do you read the five times Namaz of Farz. (On this question the learned counsel of the Plaintiff raised objection saying that the question is not related to any point of the case and as such it is completely irrelevant and is being put to embarrass the witness?)

Answer: It is totally a personal question and I am unable to answer the same.

Question : Have you ever performed in your life the Namaz for five times. (On this question also the Plaintiff repeated the earlier objection)?

Answer: This question is totally personal and I am finding myself unable to answer the same.

I am not angry with the cross-examining counsel as no such reason exists for that.

Question : Have you stated or not in page 14 of your statement given in response to the cross-examination made on behalf of Nirmohi Akhara Respondent No.3, that you used to perform Namaz five times in 1948?

Answer: Yes, I had given such answer.

Question : Can you tell the reasons why do you not consider necessary today to answer the above question.

Answer: That day this question was only one of its

nature, so I replied that. Whether I keep ROZA, perform Namaz or not, are lengthy procedure to explain and I do not want to stretch any further.

In a Masjid, the Jamati Namaz in a row is read after the Imam. The Jamati Namaz in a row can also be read other than in a Masjid.

Question : Is Ajan performed before performing Namaz in a Masjid, thereafter vazu is done, then Iqam is done, then Niya is done, then Taqbeere Tahdeema is done, then kiyam, then Subhan, then Tawwuj, then Tasmiya, then Fatiha, then Taqbeere Raqoo thereafter Tasbeehe Raqoo, then Samiullaha, thereafter Taqbeere Sijda, then Tasbeeha Sijda, Taqbeere Qaud, then Tahaiya, Taskood, Durud, then Dua and then Munajat is done?

(On this question the learned counsel Shri Zaffaryab Jilani raised objection saying that the question is totally against the various sections of the Evidence Act and is being asked to waste the time of the court as well as to delay the cross-examination with the witness unnecessarily. Hence the Hon'ble Court should not allow it.)

Answer: The way the question has been pronounced, the major part of the same has not been understood by me. What ever I could understand that pertains to the Namaz of Sunni people.

Question : While reading Namaz is there any difference in performing Aja, Kya, Subhan, Tasbeehe Raqoo, Tasbeeh Sijda between Shias and Sunni people.
(On this question the Learned Counsel for the Plaintiff raised his objection saying that the

answer to this question has been recorded at page 25-26. The other detail has no bearing on the case and the witness was told that he was not obliged to answer this question.)

Answer: I have 50 years relations with the learned Counsel who is cross-examining the case, it is not appropriate for him to ask such question as have already been replied.

Question : Would Jamati Namaz in which Imam is reading something and the Namazi standing behind him are adding some words and leaving some words, be accepted or be lawful, religiously?

Answer: If a Shia Namazi is reading Namaz on his own terms i.e. with hands open and doing Krat also in a Sunni Masjid, that Namaz according to our Alims is said to be proper Namaz. The meaning Kirat is to read Soore Hamd and one other Soore, in the state of KYAM. I have read so many such Nawaz and it is matter between me and my Allah I would not make it cheap.

In addition to the disputed Masjid I have gone in many other Shahi Masjids. The Kanati Masjids do not have Minarets and there are many big Masjids in India which have Minarates. All Shahi Masjids, in India generally have Minarets. Except this I have not seen such big Masjids which do not have Minarets.

In a state of QYAM Soore HAMD and yet another soore are read. I have read many such Namazs. This is a matter between me and my Allah. I shall not make cheap.

Except the disputed Masjid, I have gone in many

Shahi Masjids. Kanati Masjids do not have Minarets and there are many big Masjids in India which have Minarets. The Shahi Masjid in India generally have Minarets. Excepts this, I have not seen any big Shahi Masjids which do not have Minarets. I have seen many Shahi Kanati Masjids which do not have Minarets.

Question : Have you seen a building of a Masjid built through an Emperor which do not have Minarets?

Answer: I have not seen any Masjid built by so called Emperors without Minarets but I have seen Kanati Masjids built by them without Minarets. Kanati Masjid does not have any name. In Akbarpur, Ayodhya and Faizabad, there are Kanati Masjids built up by the Emperors. In my opinion a Kanati Masjid in Akbarpur near Kabristan was built up during his regime by Akbar himself. During the time of emperors, who will build up that on a public place? It is wrong to say that I am giving wrong statement in the matter. The Land which is indisputable can only be given by an Emperor for a Masjid. No Emperor can wakf it without the consent of the owner.

Question : Can a victorious king, who got the victory after entering into an agreement of friendship, possess a part of land for the Masjid, without the consent of the owner, on the basis of the treaty or negotiation? (This question was objected to by the learned Counsels for the Plaintiff Shri Abdul Mannan and Shri Zaffaryab Jillani saying that the question was hypothetical and does not fall under the purview of the case)

Answer: When the owner of land had not agreed, the

question of Agreement or treaty does not arise.

I was knowing Dr. Ram Manohar Lohia since 1946 but I saw him in 1948. It is not in my knowledge or memory that Dr. Lohia ever had visited Ayodhya and delivered a speech on this subject. In my knowledge, the election matter of Dr. Ram Manohar had no connection with Ayodhya. Accordingly the question of my going to Ayodhya in this connection does not arise. The question of my going to Ayodhya in connection with his election does not arise. As far as I know Dr. Ram Manohar Lohia did not contest election against Bara Raghav Dasji. In fact Baba Raghav Dasji fought election against Acharya Narendra Devji. It is wrong to say that my political life only hankered after an office. As there is a difference of 7-8 minutes in performing MAGRIB Namaz by Shia and Sunni and 2ndly Sunni people do fasal in Isha and Magrib. We people do not read Magrib but Magriban i.e. we perform Magrib and Isha together hence when we start Namaz it takes time, therefore, I didn't perform Namaz with Mukhtar Ahmad Kidwai Sahib and Maqbool Ahmad in the disputed building.

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

Cross-examination on behalf of Shri Rajendra Singh S/o Shri Gopal Singh Plaintiff and others in original case No. 1/89, through Shri Puttu Lal Mishra, Advocate).

I do not know what is my date of birth shown in the certificates. But my real date of birth is 22nd September, 1926. The certificates I have got contain my date of birth but it is not remembered by me. My education in Lucknow

started in 1939 and was over in 1948. During the period I remained in Lucknow regularly though I used to come to my home own Akbarpur during holidays or on some special occasions. Most of my journeys from Lucknow to Akbarpur I performed by train but when some relative was going by car, then I also used to accompany him by car. Generally during my journeys, I didn't stop at Faizabad or Ayodhya without a purpose. Since 1948 and 49 till to date I remained busy in Akbarpur for maintenance and upkeep of my ancestral property. In 1948 I joined politics. I read the literature written by Dr. Ram Manohar Lohia or on him, wherever it became available to me with the help of sources at my command. The research work of Dr. Ram Manohar Lohia pertained to the subject economics but cannot tell the name of exact subject, I think it was salt but I am not sure about the same. Dr. Ram Manohar Lohia might have written Ram Van Gaman Path, but I could not see it. Neither I read the above book of Dr. Ram Manohar Lohia nor did I hear about that from any of my colleagues but he described the journey undertaken by Ramachandraji visit, in a meeting. Dr. Lohiaji had a great concern to know and ascertain the path Ramachandraji had followed while going to exile and he also wanted to know the course of Tamsa River. He also had a great concern to know as to which direction Swami Vivekanadaji was facing, when he took SAMADHI? I do not remember if Dr. Ram Manohar Lohia had come to Ayodhya in that connection. I kept meeting Dr. Lohiaji upto the year 1965-66. I could not lay my hand upon his research work. My visits to Ayodhya started in 1946-47. The area in which Babri Masjid or Ram Janam Bhoomi are situated was known as "Kot Ramchandra" when it was a rural area. When it became city its name was written as "Ram Kot" which is called as Ram Kutia by general people. There is a much talked

Mahatama or Dharmatma in Avadh who had such a faith in Maryada Purushotem Bhagwan Ramchandraji, as none else had. I cannot tell which of the temples are there near the disputed site. I cannot tell the height of the disputed site from the road on the North of disputed site but I can say that some height is definitely there. My colleagues had gone to perform the Namaz and I was waiting for them, hence I didn't see towards any other direction. In my opinion, I got the chance to stop near the disputed site thrice. The place where I was standing, I could see the upper portion of half wall and roof of the disputed site. I think there were some houses etc. near the lower side of the half wall. I cannot say what sort of hindrance was there between me and the disputed building, because I could not see the rear portion of the disputed building. It was perhaps some house in between. It is certain that the place where I was sitting was the rear side of the disputed building. Three domes were also visible. Some temples were also visible on the eastern side of the disputed building. I did not see towards North and towards South as it was on my back side. My complete attention was towards that path way on which my colleagues had gone inside and were supposed to come out. The Ram Navmi is held on the last day of the month in which Bhagwan Ram was born. Apart from fairs, people also keep on coming to Ayodhya in a large number. Those pilgrims who come to Ayodhya on a visit, in addition to other places, also visit to a place which is called Sita Rasoi and Ram Chabootra near Babri Masjid and definitely offer their pooja. Those pilgrims also offer flowers and batashas according to their religious beliefs.

(On behalf of Shri Rajendra Singh S/o late Gopal Singh, Plaintiff and other in original suit No. 1/89, the cross-examination by Shri Puttu Lal Mishra, Advocate

started and completed.)

The cross-examination of Shri Hari Shankar Jain, Advocate. On behalf of Hindu Mahasabha, Respondent No.10 and Shri Ramesh Chandra Tripathi, Respondent No. 17, with Shri Sibte Mohd. Naqvi, witness, was accepted by other Respondents.

On behalf of Plaintiffs in suit No. 5/89, Shri Vireshwar Dwivedi Advocate accepted the cross-examination on behalf of other Respondents.

(The cross-examination of witness P.W. 25 Shri Sibte Mohd. Naqvi, over). The witness is discharged.

Statement certified after hearing

Sd/

2.4.2002

Dictated by me in the open court and typed by the stenographer.

Sd/-

2.4.2002