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MY FIRST INNINGS AT PATNA : PART-II

Some years ago, the then Pope said that silence with which the world witnessed the Hiroshima was culpable and criminal. Let not our children ask the question, 'Where were you when mafia rule brooded over benighted country.'

—N.A. Palkhivala

And the fears of people supported the persistent official policy of silence and denial.

—Thomas Mann, *Death in Venice* p. 63

I

(i) Introduction to this Chapter

The 70s of the last century were the traumatic years both for me, and, for my country. Some of its momentous events were: the Emergency, the JP Movement and the Shah Commission. But that decade was a difficult period in my personal life too. In 1973, my mother died of cardiac arrest. I felt every straw of my life's nest had been blown away; and my supreme sanctuary had gone. I apprehended that my journey through life would become desolate and dreary, and that I would no longer get any place to unwind myself with trust. But it was my father who integrated me emotionally, and rehabilitated me to my work. My father had himself weathered the storms of existence with equanimity. His life brought to my mind those imageries from the *Srimad Bhagavad Mahapurana* in which Lord Krishna is seen playing his flute, standing cross-legged on the hood of the most poisonous snake, Kaliya. By this time I was wrenched by some forebodings of my own end. But what maintained me was my wife whose grace and songs and deeds made me feel that life was worth living, and certain objectives were worth pursuing. My father suffered a cerebral attack in 1977 at Darbhanga. Iran to him. All efforts were made to provide him the best treatment at the premier government hospital. I was shocked to see the state of affairs in the hospital. There was no ECG and Echo Doppler in working condition. They were to be hired by the patients. The pathological tests took a lot of time, and were seldom reliable. Food was poor. Air-conditioning facility was unheard of. Ill-trained nurses did their

best, but their best was seldom enough. My father's condition was so critical that it was not possible to shift him to Patna or Calcutta. We sat beside him simply praying to God. But in Dr. N.P. Mishra, we had a great physician with deep clinical insight and creative imagination to invent new remedies from the resources available. Father could be saved. He lived with me till June 1982 when he passed away at Dhanbad where I was posted as the Inspecting Assistant Commissioner of Income-tax.

(ii) The Emergency

In the Election held to the Lok Sabha in 1971 from Rai Bareilly Smt. Indira Gandhi was declared elected. Shri Raj Narain, who was one of the defeated candidates, challenged her election before the Allahabad High Court, making her respondent no. 1, on grounds, *inter alia*, of alleged misconduct. On June 12, 1975, the High Court held (per Justice J.M.L. Sinha) her election void. It ruled:

“The respondent No. 1, accordingly, stands disqualified for a period of 6 years from the date of this order, as provided in section 8A of the Representation of People Act.”

But the Court stayed the effect of the order for 20 days, or till an appeal was preferred before the Supreme Court, whichever was earlier. Her followers, driven by a host of sycophants near her throne, organized massive rallies, using liberally governmental machinery, even to overawe the judiciary. On June 24, 1975, Justice Krishna Iyer of our Supreme Court granted a conditional stay of the judgment of the Allahabad High Court. She could remain a Member of the Lok Sabha for all purposes but subject to the restrictions prescribed by the Court. Such restrictions were imposed under clause III of the operative order which ran as under:

“The appellant-petitioner, *qua* Lok Sabha Member, will be entitled to sign the Register kept in the House for that purpose and attend the Sessions of the Lok Sabha, but she will neither participate in the proceedings in the Lok Sabha nor vote nor draw remuneration in her capacity as Member of the Lok Sabha.”

No embargo was put on her functioning as the Prime Minister till the permitted period of time. But comprehending the import of the said judicial order, decisions were taken to take drastic steps against the Opposition leaders if they tried to dislodge the Prime Minister. She hardened her attitudes with every passing moment. Several of draconian measures were taken to suppress dissent even by cutting off electricity at 2 a.m. and directing the press not to come out with the morning edition of the newspaper. The Chief Ministers of various States vied with each other resorting to drastic steps to please Mrs. Gandhi. The Emergency, under Art. 352 of the Constitution, was declared in the night of June 25, 1975 on the ground that (to quote from the Presidential Proclamation), ‘a grave emergency exists whereby the security of India is threatened by internal disturbance’. People came to know about it only next day, though its press coverage was only on June 27. The first page of the Times of India on June 27 carried as the headline: ‘State of Emergency declared: several leaders arrested’. It also announced the suspension of Fundamental Rights. False statements were circulated through Press.

For Mrs. Indira Gandhi, the imposition of Emergency was a 'defence mechanism'. For her minor minions and the bureaucrats, the Emergency was a grand time for corruption and abuse of power. Institutions did not give good account of themselves. With dismay, we felt we were up against 'one vast vision of imbecility'. Even the Supreme Court in *ADM Jabalpur Case* failed to sustain our fundamental rights. This lapse on the part of the Court was admitted by it in *Ramdeo Chauhan v. Bani Kant Das* (R.P. No. 1378 of 2009).

(iii) The circumstances in which the emergency was declared

The circumstances under which the Emergency was declared can be best summarized in the words of Justice J. C. Shah expressed in the *Report of the Shah Commission of Inquiry*:

"The Cabinet and the important functionaries of the Government were not only not consulted but were deliberately kept in the dark by Smt. Indira Gandhi. [XV.3].

[T]here is no evidence of circumstances which would warrant the declaration of an emergency. The types of measures such as detentions under MISA and severing electricity connections to the Press, that closely followed in the wake of the declaration of emergency on the night of June 25, 1975, even before the formulation of the rules from which alone authority for these acts would be derived, were motivated by considerations of exigency only. There is no evidence of any break-down of law and order in any part of the country—nor of any apprehension in that behalf; the economic condition was well under control and had in no way deteriorated. There is not even a report of an apprehension of any serious break-down of the law and order situation or deterioration of the economic condition from any public functionary. The public records of the times, secret, confidential or Public and publications in newspapers, speak with unanimity that there was no unusual event or even a tendency in that direction to justify the imposition of emergency. There was no threat to the well-being of the nation from sources external or internal. The conclusion appears in the absence of any evidence given by Smt. Indira Gandhi or anyone else, that the one and the only motivating force for tendering the extraordinary advice to the President to declare an "internal emergency" was the intense political activity generated in the ruling party and the opposition, by the decision of the Allahabad High Court declaring the election of the Prime Minister of the day invalid on the ground of corrupt election practices....." [XV. 5]

(iv) The 'excesses' committed during the Emergency

The portrait of the Emergency was thus drawn-up in the said *Report* with great fidelity and comprehensiveness: to quote a tiny extract from the Shah Commission Inquiry Report:

"With the Press gagged and a resultant blackout of authentic information, arbitrary arrests and detentions went on apace. Effective dissent was smothered, followed by a general erosion of democratic values.

Highhanded and arbitrary actions were carried out with impunity. The nation was initially in a state of shock, and then of stupor, unable to realise the directions and the full implications of actions of the Government and its functionaries. Tyrants sprouted at all levels overnight—tyrants whose claim to authority was largely based on their proximity to the seats of power. The attitude of the general run of the public functionaries was largely characterised by a paralysis of the will to do the right and proper thing. The ethical considerations inherent in public behaviour became generally dim and in many cases beyond the mental grasp of many of the public functionaries. Desire for self-preservation as admitted by a number of public servants at various levels became the sole motivation for their official actions and behaviour. Anxiety to survive at any cost formed the key-note of approach to the problems that came before many of them. The fear generated by the mere threat and without even the actual use of the weapon of detention under MISA became so pervasive that the general run of public servants acted as a willing tools of tyranny. That the primary and not infrequently the sole motivation in the case of a number of public servants who acted unlawfully to the prejudice of the rights of citizens, was the desire for self-preservation — desire for survival, may be regarded as some extenuation of their conduct. Yet, if the nation is to preserve the fundamental values of a democratic society, every person whether a public functionary or private citizen must display a degree of vigilance and willingness to sacrifice. Without the awareness of what is right and a desire to act according to what is right there may be no realization of what is wrong. During the emergency, for many a public functionary the dividing line between right and wrong, moral and immoral, ceased to exist.” [Chapt. XV.1]

(v) The Emergency: my critique

As her misfortune had mainly begun with the judgment of the Allahabad High Court, I studied the relevant decisions to evaluate her response in that most cataclysmic phase of her life. After study and reflections, I came to the view that she was a person who could say in the words of Shakespeare’s *King Lear*, ‘I am a man/More sinn’d against than sinning.’ I have been driven to this view on considering the following crucial factors:

- (i) The judgment of the Allahabad High Court had been delivered almost 4 years after the institution of the case by Raj Narain, who had been defeated in 1971. She was held guilty for the violation of the certain rules of the election procedure, but no charge of bribery was considered proved. The Court failed to discriminate between a moral breach (*malum in se*) and just a technical violation (*malum prohibitum*). She was held guilty of mere technical offence. Besides, she had a point in asserting that such breaches, for which she had been taken to task, had been committed by her adversaries and opponents too. The Supreme Court summarized the reasons of the High Court’s decision thus (AIR 1975 SC 2299) :

“The High Court held that the appellant held herself out as a candidate from 29 December, 1970 and was guilty of having

committed corrupt practice by having obtained the assistance of Gazetted Officers in furtherance of her election prospects. The High Court further found the appellant guilty of corrupt practice committed under Section 123(7) of the Representation of the People Act, 1951 hereinafter referred to as the 1951 Act by having obtained the assistance of Yashpal Kapur a Gazetted Officer for the furtherance of her election prospects.”

- (ii) It is incomprehensible why the Allahabad High Court took hyper-technical view of certain instances of the use of the governmental machinery in her election when to some extent she was entitled to certain facilities as the Prime Minister of the country who had made us proud.
- (iii) When Justice Krishna Iyer passed his order on June 24, he passed an interlocutory provisional order (AIR 1975 SC 1590). Yet it is not clear why her distinguished counsels did not plead before the Supreme Court for reversing the High Court’s order for its perversity and legal misdirections. And the country could have been saved from the infamous Emergency if total stay could have been granted, and the appeal posted for an early hearing, which was certainly called for in national interest.
- (iv) On 7 Nov. 1975, the Supreme Court unanimously allowed Smt. Gandhi’s appeal; and dismissed Mr. Raj Narain’s Cross-appeal (AIR 1975 SC 2299). When a Review Petition against that was moved, it was dismissed (AIR 1977 SC 69), (the Court consisted of A. N. Ray, Chief Justice of India, and H. R. Khanna, K. K. Mathew, M. H. Beg and Y. V. Chandrachud, the Judges). The Court observed:

“It is undoubtedly a feather in the cap of the learned Counsel, who conducted the case before the High Court also, that a case so flimsy as that of his client succeeded in the High Court.”

The Court considered the case against her “flimsy” (lacking plausibility; unconvincing).
- (v) She was made of sterner stuff. She never wished to become a ruthless adventurer but she couldn’t have tolerated to be flung unfairly into obscurity.

She is criticized most for not taking cabinet or Parliament into confidence whilst declaring the Emergency. But she might have her reasons. She was not the first amongst the equals in her cabinet. She was the moon amongst the twinkling stars. And she must have known that the First World War was declared by the British King almost entirely at his discretion.¹ We have seen in our own days how the Executive subjected us to the WTO Treaty by signing the Uruguay Round Final Act in 1994 without taking our Parliament or nation into confidence. Such things are not good for democracy, but have happened.

(vi) My Assessment

It is always easy to drag an image from its pedestal because the pursuit of dragging down someone from a high pedestal is most delicious to many. It becomes all the more delicious if the icon to be dragged to dust is one possessing superhuman valour and fortitude. What ailed the administrative system during the Emergency was the emergence the greedy exploiters, and corrupt crooks.

During the darkness of the Emergency the unscrupulous civil servants and the politicians promoted their greed by constantly misinforming Smt. Gandhi, and by egging her on and on to her discomfiture ultimately leading to the General Election 1977. During the Emergency, I was posted as the Appellate Assistant Commissioner at Bhagalpur. I could know much about the things at the grass-roots because one of my relations, late M. K. Jha, was the Deputy Inspector-General of Police there. I had some access to the channels feeding information up in the administration. Candour has a sharp edge: the worldly-wise do not tread on it. I always felt that every step was being taken to misinform Smt. Gandhi. She had an iron will, and had learnt to tread on the high ridge of her life with sovereign majesty, though she seemed to me quite lonely in the crowd: she seemed treading the high ridge through storm and stress almost all alone.

It is a queer irony that the Emergency, which she designed to save herself from the storm, became terribly calamitous for her. Under the claptrap of the sycophants, her eyes got clouded. So sure she had become about her prospect of success at the election that she went to the hustings after announcing a General Election. The election, which she announced to acquire approbation and legitimacy, swept her out of power. The myth that "Indira was India, and India was Indira" was pricked. But she remained undaunted in her adversity. She emerged to acquire an epic stature during this phase. Her capacity to suffer endeared her more and more to our people. When the indiscreet and ramshackle government of the Janata regime subjected her to arrest and humiliation, we felt sympathy for her. The majesty, with which she faced her adversaries, and put across her case to our nation, led people to rethink: they might have gone wrong in assessing her. She was returned to power in 1980 on the massive waves of public support.

But nobody remains the same after a traumatic experience. The Emergency, and its aftermath, was for her a time of travail and trauma. She emerged under the sunshine but she was not the same. She had seen how easily mother Durga could be kicked off her altar. She had seen how persons, who had assured their loyalty to her, were quick to leave her in the lurch. Sycophants always do that. She had seen how the bureaucrats, even though once chosen for loyalty, turned against her. She passed through excoriating phase of loneliness. It was natural for her to find in her son Sanjay Gandhi, a source of inner support, a person on whom she could rely. I felt that after her grand victory she was becoming less and less worldly. She was great; even her tragic traits were great.

She did not have the makings of a dictator. She never behaved with studied ruthlessness of a dictator. She was a good student of history, but failed to learn the lessons that history has taught us several times. Like many mighty persons, she felt she could evade the law of consequences! Never allow the system of governance to go wrong, because in such bad times tiny events become catastrophic and cataclysmic. And once the genie is out of the bottle, it rules. Fali Nariman has aptly portrayed what must have distressed her:

"Indira Gandhi.... had expressed shock and surprise at the total lack of resistance amongst the people to the Emergency. She particularly mentioned.... that she was more amazed at the lack of reaction amongst the intelligentsia!"²

(vii) The JP Movement

While at my school in 1954, I heard that Jayaprakash Narayan (JP for short) dedicated himself wholly to the Vinoba Bhave-led Sarvodaya movement (the movement for social justice and welfare of all) to which the Bhoodan Movement was an integral part. Its ideals were Gandhian, and conformed to the very mission of our Constitution. Jayaprakash Narayan developed his ideas of Sampurnakranti (total revolution) from the premises of the Sarvodaya movement itself.

(viii) The Bihar Movement

Now I come to the Bihar Movement which I had the opportunity to witness. I had the happiness that I could see it unfolding under the leadership of Jayaprakash. The crescendo of this movement aroused people's wrath against the declaration of the Emergency, and Mrs. Gandhi's rule.

The Bihar movement was, in effect, against corruption in administration at the highest levels. The Aiyar Commission's deliberations and their wide reporting in the media made people strongly react against the corruption in the political sphere. Jayaprakash Narayan's call to fight against corruption in public life received a massive public response. The students responded with zeal and passion, as they had done during the 'Quit India Movement' of 1942. I was one of the listeners to him when he addressed, in the Gandhi Maidan at Patna, on 5th of June, 1975. It was a vast ocean of human heads but all at peace. When they cheered and roared in jubilation, the earth seemed to crack, and the sky crumble rent. The programme for 'Total Revolution' had been announced. I wondered how closely the scene resembled the scene of the French Revolution painted by Eugene Delacroix, called 'Liberty Leading the People'. The gathering at the Gandhi Maidan had the Gandhian decorum of the civil disobedience movement. When I think in retrospect, I feel sad that after the phase of the Emergency the high idealism of the 'Total Revolution' was subverted even by some of the well-known followers of JP. The great movement started with a bang but ended with a whimper. But it underscored a good cause, and inspired people to see what was right, and how to seek a remedy by exercising people's power.

(ix) JP Movement against the Emergency

Jayaprakash Narayan worked with extraordinary vigour and astuteness to drive home to Mrs. Gandhi that she had no option but to honour the directions of the Allahabad High Court and the Supreme Court. Meetings and processions made Patna astir with activities in which everyone had become a participant. The climax of the agitation was reached when Jayaprakashji addressed at the Ramlila Ground at New Delhi, with tremendous impact, resonating his plea for a revolution. He quoted the pregnant line from Rashtra Kavi Ramdhari Singh 'Dinkar': "*Singhasan Khaali Karo Ke Janata Aaati Hai*". When I saw the photograph of the scene there, and heard that line from 'Dinkar' being quoted so forcefully, I was thrilled to think how close we stood to 'Faiz' who said:

*Jab zulm-o-sitam ke kohe-garaa
rui ki tarah ud jaayenge.*

[the fog and mist of injustice and tyranny would be
blown away in the air as if they were shreds of cotton wool]

It was a great experience to be at Patna during the period. Jayaprakash was organizing and leading mass movement against the authoritarian rule of Indira Gandhi. With each passing moment, the Government tried to make its brutal authority felt by the people so that the society could be overawed. It was felt that this could be the only way to inhibit people from joining the 'JP band'. While going to the office from my Boring Canal Road residence, and also while returning, I found a fleet of police vehicles continuously on the move. The armed forces patrolled in sensitive areas exhibiting indecently their arms. The pointed bayonets suggested to every passer-by and every onlooker that striking the notes of discordance could only be at heavy cost. Despite all these, a strange revolutionary event kept on recurring every evening for days. From most households emanated the vibrant, sharp and shrill metallic sound produced by striking utensils with spoons. I still have one such utensil which got disfigured on constant beatings. This exercise produced notes which unnerved Indira Gandhi in New Delhi.

Every evening, for about a month, we heard rich gongs coming from most of the houses. They resonated with the ferocity of trumpets in the battle fields. We felt that Krishna was Himself blowing His conch, the *Panchjanya*, in the battlefield of the Mahabharat. This event every evening, for about a month, had an electrifying event. It enhanced and consolidated people's wrath against the tyrannical government.

Peaceful processions were the order of the day. It was extraordinary that those who participated in the movement maintained highest level of discipline. On a particular morning I had gone to the Gandhi Maidan for my morning walk. Lo and behold! a massive procession under the leadership of J.P was moving past the Gandhi Maidan. Each member of the procession had his mouth sealed with a handkerchief, or cotton rag. They were looking like the band of Jain Munies. It brought to mind the best in the Gandhian technique of non-violent mass movement. JP Movement spread far and wide making the Indira Gandhi Government nervous and retaliatory.

It is not the place for giving a graphic account of the events of the JP Movement. But I must write about what I saw from of the top floor of the Central Revenue Building. We all knew that JP was to lead a vast procession of inspired humans towards the Vidhan Sabha. The Government had made massive arrangements so that procession could not advance beyond the intersection of roads in front of the Central Revenue Building. On hearing the roaring waves of slogans. I went up to the terrace where I found all the souls of the building already assembled to see the epic march. When JP reached the intersection of the roads, the police forces behaved most ruthlessly. They went to the extent of beating JP recklessly with their *lathis*. We saw how JP fell down, and was carried underneath a nearby tree. A cot, which was quickly made available there, became his bed, a bed with bare rough texture woven with straw. Most of us rushed down the stairs to see him. It was impossible to go near him because emotionally surcharged crowd had gathered there. The Emergency was terminated in March 21, 1977. The JP Movement made Smt. Gandhi declare fresh election on January 23, 1977. The Janta Party Government was formed at the Centre.

God did not give time to Jayaprakashji to work for long pursuing his agenda for 'Total Revolution'. He passed away in Oct. 1979 at the Jaslok Hospital, Mumbai. His kidney had failed. He died on October 8, 1979.

For 3 days my wife, Veena, was admitted in 1982 at the Jaslok Hospital for acute abdominal ulceration. It was the same room in which Jaya Prakash had stayed. I had enough time to hear from the nurses and the doctors how heroically he suffered till the end. He lived like a hero, struggled like a hero, and died as a hero. Sitting silent on the attendant's sofa in that room, I indulged in mental odyssey: what Jayaprakash Narayan (JP) might have thought, on his sick-bed awaiting his end, about all that he had done over his years? Can anyone say what passed in Krishna's mind when he sat silently under the *peepal* tree in the forest before he left the world ?

(x) The Shah Commission of Inquiry

Anybody who wants to study the level of civic culture and the working of the political institutions in India, must study the Report of the Shah Commission of Inquiry constituted under section 3 of the Commissions of Inquiry Act, 1952. It was headed by Sri J.C Shah, Retired Chief Justice of the Supreme Court of India. This Report is unique as it was drawn up after examining documents and witnesses on a scale never attempted earlier in India or in any other country. I wish every citizen of this Republic studies and reflects on the Commission's Report.

The Commission was required to go into the excesses of the Emergency. The terms of reference of the Commission were divided into five heads³ :

- '(i) subversion of lawful processes and well-established conventions, administrative procedures and practices, abuse of authority, misuse of power, excesses and/or malpractices committed during the period when the Proclamation of Emergency, made on June 25, 1975, under Article 352 of the Constitution was in force, or in days immediately preceding the said Proclamation;
- (ii) misuse of power of arrests or issue of detention orders where such arrests or orders are alleged to have been made on considerations not germane to the purposes of the relevant Acts during the aforesaid period;
- (iii) specific instances of maltreatment of and/or atrocities on persons arrested under DISIR or detained and their relatives and close associates during the aforesaid period;
- (iv) specific instances of compulsion and use of force in the implementation of the family planning programme during the aforesaid period;
- (v) indiscriminate, high-handed or unauthorized demolition of houses, huts, shops, buildings, structures and destruction of property in the name of slum clearance or enforcement of Town Planning or land use schemes, during the aforesaid period.'

The Shah Commission worked with tremendous pace, and extraordinary assertiveness. The way it conducted itself can be considered an all-time model for the commissions of inquiry in our country. The Commission was presided over by a very dynamic and public-spirited person with a clear perception of his statutory role. It was assisted by a band of well-chosen officers. The people in power did not interfere in the working of the Commission.

It was a difficult task to get a copy of the Report. The officer-in-charge of the Publications Division's outlet in Calcutta told me that only a few copies had been supplied which were purchased on the very day of receipt by some buyer. Though the Commission's Third and Final Report was published on August 6, 1978, no action was taken on it by the Janata Party Government which was fast giving evidence of its lack of vision, and nauseating imbecility. The fractious coalition of assorted political elements came to its worst in 1978-79 paving way for Chaudhary Charan Singh to become India's Prime Minister (from 28 July 1979 to 14 January 1980), on Mrs. Gandhi's support from outside! Hence attempts were made to ensure that the Shah Commission Report did not get a wide circulation. But thanks to someone in the Government's Publications Division; I could get a set of the 3 volumes of the Report.

I would highlight only one point which drew my attention because that pertained to the working of the Income-tax Department. It is generally believed that the income tax authorities, being statutory authorities, would, always function in terms of law. The Shah Commission Report examined comprehensively how the powers under section 132 of the Income-tax Act, 1961, were misused in conducting 'searches and seizures' in the cases of the Baroda Rayon Corporation and the Bajaj Group of Company. The persons, who were involved in such acts of the abuse of power, included Shri S R Mehta, the then Chairman of the Central Board of Direct Taxes, and Shri Pranab Mukherjee, the then Minister for Revenue and Banking. After elaborately examining all the relevant facts in Chapter IX of the Report, Justice Shah stated:

"9.23In the face of the overwhelming evidence in support of this view, Shri Harihar Lal's protestations that he had reasons to believe that conditions for invoking Section 132 of the Income Tax Act existed, cannot be accepted. They stem from a reluctance to accept that he had allowed his judgment in the exercise of this extraordinary power to be swayed by extra-legal directions of his superior officer. The Commission is of the view that Shri S. R. Mehta's action in directing Shri Harihar Lal to initiate action under section 132 of the Income Tax Act in this case amounts to subversion of lawful processes and an abuse of authority....

"9.25 On the uncontroverted statement of Shri S. R. Mehta that these papers were handed over to Shri P. K. Mukherjee, Shri P.K. Mukherjee's action in obtaining and retaining seized documents and subsequent failure or omission on his part to return them to the Chairman of the Central Board of Direct Taxes or to any other concerned or duly authorized officers in the Income Tax Department, also amounts to subversion of lawful process and abuse of authority."

(xi) The Fate of the Commission's Report

In the General Observations, set forth in Chapter XXIV of the *Report*, Justice Shah rued the lot of the many earlier Commissions' reports. No meaningful action was taken in the light of such reports. The fate of the Shah Commission was no better. Amrith Lal summarizes what overtook the fate of the Shah Commis-

sion Report under a suggestive heading: 'How they buried Shah Commission report, even without an epitaph'⁴. The Congress Government saw to it that not only no action was taken on the Shah Commission Report, its very existence from public domain was erased. Amrith Lal observes:

“What was perhaps most damaging to the Commission was a judgment from the Delhi Metropolitan Court. The case was whether Indira Gandhi could be prosecuted for not deposing before the Shah Commission. T.P.S. Chawla, a judge of the Patiala House courts... ruled on 12 December, 1979, that “the Commission stepped outside its jurisdiction and lost its power”.

Chawla's order seemed to me not correct. The Commission had the powers under the Civil Procedure Code to enforce attendance of any witness for examination on oath. Every Assessing Officer, even of Class II rank, exercises this power for ascertaining facts. To deny this power to the statutory commission of inquiry is to betray ignorance of the basic principles of law. To deny the Commission's competence to enquire into the excesses of the Emergency is the folly of not seeing what was obvious in the notification constituting the Commission. The Commission was a mere fact-finding body based on whose report the law could take its course. In fact, the real reason for ignoring the Shah Commission Report was a complete lack of political will for reasons too obvious to be recounted. The Congress came to power in 1980 for many years, most of the persons indicted by the Commission came back to power.

It is painful to think about what happened to the great endeavours of the Shah Commission. I would like to express my feelings in the words I borrow from William Blake:

Mock on, mock on, Voltaire, Rousseau;
Mock on, mock on; it is all vain!
You throw the sand against the wind,
And the wind blows it back again.

Variating on the words of Shakespeare's Jaques in *As You Like It*, I can do no more than murmur in my aside: so 'hangs the tale' in the Democratic Republic of Bharat. Most often we have reasons to feel, again to borrow from Jaques: 'from hour to hour, we rot and rot'.

NOTES AND REFERENCES

1. "Formally speaking, the war came as though King George V still possessed undiminished the prerogative of Henry VIII. ...The cabinet played no part once it had resolved to defend the neutrality of Belgium.Nor did the cabinet authorize the declaration of war. The parliament of the United Kingdom, though informed of events, did not give formal approval to the government's acts" A.J.P.Taylor, *English History 1914-1945* (The Oxford History) p. 2
2. Fali S. Nariman, *Before Memory Fades* p. 177
3. Chapter IV of the *Report*.
4. <http://www.indianexpress.com/ie/daily/20000704/ina04002.html>