

India: Shivasena leader Bal Thackery escapes prosecution

Our reporter
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Bal Thackery, the leader of the Hindu chauvinist party Shivasena, has been cleared of all charges. He was formally arrested on July 25 and charged with inciting the nationwide communal violence that lasted from December, 1992 to January, 1993, following the demolition of the seventeenth century Babri mosque. As a result of these riots, more than 2,000 Muslims were massacred by Hindu fanatics, most of whom were members of Shivasena.

Shivasena is named after the soldiers of the Hindu king Chatrapati Shivaji, who fought against the army of the Mogul Empire in the Islamic India of the seventeenth century.

Thackery's editorial in the Shivasena organ *Samma* (*Confrontation*) demanding that party members (Shiva Saniks) declare war against the Muslim minority in defence of Hinduism initiated the communal riots.

In one of his editorials in January of 1993, he urged his followers to react like the Hindu god Shiva and open their destructive "third eye" to "teach them (the Muslims) a lesson."

The recent attempt to prosecute Thackery is linked to a Judicial Commission report of 1998. Srikrishna, a Bombay High Court judge, led the commission, which investigated the circumstances of the 1992-93 riots. The commission's report found ample evidence of the direct involvement of Bal Thackery and his party in the outbreak of riots in Bombay, which alone resulted in the murder of more than 800 people.

The Bharatiya Janatha Party (BJP) and Shivasena, coalition partners in the state government of Maharashtra in 1998, promptly rejected the report as "anti-Hindu" and refused to submit it to the state assembly for discussion.

The present Democratic Front of the state government of Maharashtra, a coalition of the Indira Congress Party

and the National Congress Party (a breakaway from Indira Congress) issued permission for the Bombay metropolitan police to prosecute Thackery and two of his editorial colleagues. This decision was mainly made for the political benefit of these two coalition parties, which are in deep crisis and widely unpopular in poverty-ridden Maharashtra.

When news of Thackery's arrest broke, schools were emptied, shops were closed, and streets grew deserted. Shivasena members vandalised the State Assembly, breaking chairs, damaging speakers' tables, and pulling out microphones.

Shivasena, coalition partner in the BJP-led National Democratic Alliance, which holds central governmental power, threatened to withdraw its support and order three of its ministers to resign from the national cabinet. It also demanded that the national government use its special powers to dismiss the state government in Maharashtra. The central government reshuffled its cabinet, asking the law minister to resign.

Thackery himself said the state government had "ignited a landmine" and declared its action "an incitement to communal riots." He warned "the entire country will burn" and predicted that "religious riots" would erupt.

Following his remarks, Shivasena members went on a rampage in Bombay and its suburbs, threatening the whole population. On a daily basis public transport services were disrupted as trains were halted and buses were stoned. Shopkeepers were intimidated into imposing a citywide shutdown. The state government deployed more than 100,000 paramilitary troops in the city and pleaded for the national government and neighbouring states to dispatch fresh contingents. The Shivasena leadership kept Bombay, the financial and commercial capital of India, in a state of terror.

Thackery was accused of “promoting enmity between groups on grounds of religion, race or place of birth,” and faced a sentence of up to three years in prison or an unspecified fine.

But the Bombay Court, without holding any hearings, discharged Thackery on the grounds of technical formalities. In support of his decision the judge argued that the time period of three years to file the case had elapsed. Indian legal analysts differed with this decision, saying the three-year time period did not apply in this case.

Indian law states that if a court is satisfied with the reasons given for the delay in filing a case, the time limitation can be extended in the “interests of justice.”

Thackery's release was an outcome of the political pressure applied by Shivasena and the BJP on the judicial system. The judge who dismissed the case said, “There is a time limit for the prosecution. I am also considering what the Bombay public is facing.”

Immediately after the release of Thackery, the tensions in Bombay were defused. But the danger remains of Shivasena implementing the threat of its leader that “the entire country will burn.”



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