

**BEFORE THE COMMISSION OF INQUIRY  
INTO THE INVESTIGATION OF THE BOMBING OF AIR INDIA FLIGHT 182**

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**APPLICATION  
by the World Sikh Organization of Canada to call Gary Bass as a  
witness**

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**PART I - OVERVIEW**

1. The World Sikh Organization of Canada (“WSO”) is applying to call Deputy Commissioner of the RCMP, Gary Bass (“Bass”) as a witness at the Commission of Inquiry into the investigation of the Bombing of Air India Flight 182 (“Inquiry”).
2. Bass was involved in all aspects of the Air India investigation. His testimony would provide insight into whether the RCMP and CSIS adequately addressed the involvement of the Government of India with respect to the Air India tragedy.

**PART II - FACTS**

3. Bass headed the RCMP Air India task force. As part of his duties during the Air India investigation, Bass drafted an internal memo. The following is point 14, issue 3 from his memo:

Involvement of the Government of India agents in the bombings has been raised on several occasions. The SIRC Review had serious concerns over CSIS handling of this issue. CSIS's reply to this possibility that it had passed it to the RCMP to investigate. The SIRC reports that the RCMP looked into this aspect and determined the allegation to be without foundation. The truth of the matter is that the RCMP never thoroughly investigated the issue, which means that apparently no one did.

i) Some serious concerns regarding possible Indian Government Involvement which at trial may permit the defence to explore very deeply into what the RCMP and CSIS know on this issue. As I understand it, this is an area CSIS and our government will not wish to get into as it may severely impact relations with India.

ii) There is a very real possibility that one or more of the targets we propose to wiretap are GOI or RAW [Research and Analysis Wing - India's CIA], or informants for GOI, RAW, or CSIS. The implications here are obvious.

4. The possible involvement of the Government of India in the bombings has already been raised at the Inquiry.
5. On September 21, 2007, Mr. Jack Hooper, Manager of the Emergency Preparedness Program at CSIS, provided testimony at the Inquiry. His testimony addressed the investigation of the RCMP and CSIS and the possible involvement of the Indian Government in the Air India bombing. The following is an excerpt from his examination-in-chief:

**MR. GOVER:** And it appears that the service did analyze that possibility. Is that fair?

**MR. HOOPER:** Yes.

**MR. GOVER:** And, first of all, did you ever put any stock in the theory that in some way the Government of India was responsible for the bombing of Air India Flight 182?

**MR. HOOPER:** I personally did not. Nor did that theory enjoy a wide constituency of support within the Canadian Security Intelligence Service. And I think it's important to know that we looked at that possibility largely

as a function of analytical rigour and due diligence. I think there were certain indicators out there that spoke to that possibility however remote, and we had an obligation to examine that possibility and assess its viability. And that's what we did.

**MR. GOVER:** And what was the result of applying that analytical rigour?

**MR. HOOPER:** I may be not understand the meaning of your question, but I -- at the end of the day, the report remained a record of the Canadian Security Intelligence Service, but I mean it wasn't pursued from an investigative standpoint.

Ref.: Testimony by Jack Hooper,  
September 21, 2007, page 6257.

### **PART III – ISSUES**

6. Should the Commission allow Bass to testify on record at the Inquiry?

## **PART IV – LAW AND ARGUMENT**

### **The Commission should allow Bass to testify at the Inquiry**

7. Rule C8 of the *Rules of Procedure and Practice* states that the Commissioner is committed to a process of public hearings to the greatest extent possible. As such, and pursuant to Rules C6, D14, D16 and H26 of the *Rules of Procedure and Practice*, the Commissioner may exercise his discretion to:

- a) determine if there are special conditions under which a person may participate and those parts of the Inquiry in which a person granted standing may participate;
- b) determine on what terms, and in which parts of the Inquiry a party or intervenor may participate, and the nature and extent of such participation; and
- c) receive any evidence or information which he considers to be helpful in fulfilling his mandate regardless of whether such evidence or information would be admissible in court.

Ref.: Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182, *Rules of Procedure and Practice*, 2006, online: <<http://www.majorcomm.ca/en/rulesofprocedureandpractice/>>.

8. Rule 49 prescribes the following:

When Commission Counsel indicate that they have called the witnesses whom they intend to call in relation to a particular issue, a party may then apply to the Commissioner for leave to call a witness whom the party believes has the evidence relevant to that issue. If the Commissioner is satisfied that the evidence of the witness is needed, Commission Counsel shall call the witness, subject to Rule 47.

Ref.: Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182, *Rules of Procedure and Practice*, 2006, online: <<http://www.majorcomm.ca/en/rulesofprocedureandpractice/>>.

9. Although Commission Counsel has already questioned a witness, Mr. Hooper, regarding the possible involvement of the Government of India in the Air India tragedy, Mr. Hooper's testimony regarding the issue was rather superficial. Commission Counsel did not question Mr. Hooper with regard to the details of the investigation into the involvement of the Indian Government, nor did Mr. Hooper voluntarily offer any details relating to this issue. The result is that the Government of India's involvement was not adequately canvassed at the Inquiry, and Mr. Hooper's assertion was not adequately tested through proper and effective cross-examination.
10. In this regard, Bass' participation as a witness is important. Bass' Memo, referred to above, appears to directly contradict the testimony offered by Hooper, that CSIS did adequately investigate the possible involvement of the Government of India, in the Air India bombing. Bass was involved in all aspects of the Air India investigation. His testimony will provide detailed insight into whether the RCMP and CSIS properly and adequately addressed the involvement of Government of India with respect to the Air India tragedy.
11. There is further evidence to suggest that the role of the Government of India in the bombing of Air India Flight 182, needs to be fully explored. On September 24, 2007, Lorne Schwartz, of the RCMP, gave evidence about the information obtained from Mr. Lakhbir Singh Brar, during the course of several interviews conducted by the RCMP. At Exhibit P101, Tab 9, page 3/5, Mr. Brar is purported to have said, "It would be impossible to have the bomb-laden luggage

cleared through check-in and security in the normal fashion, without the Government of India involvement". Further exploration of this point would also be of assistance to this Commission under (iv) of the Terms of Reference (adequacy of passenger and baggage screening procedures).

12. In a book called, "Open Secrets – India's Intelligence Unveiled", by Maloy Krishna Dhar, (© 2005, Manas Publications, New Delhi) former Joint Director of the Intelligence Bureau of India, Mr. Dhar spends an entire chapter on the activities of Indian intelligence agents in Canada in the 1980's and 1990's. At page 293, Mr. Dhar speaks about his mission while posted in Canada in 1983:

\*Penetration of a few selected gurudwaras.

\*Cultivation of a few identified targets amongst the most vocal section of the Sikh community.

\*Penetration of the Punjabi print and electronic media and control of the print and electronic media operated by the non-Sikh segments of the people of Asiatic and Indian origin

\*Creation of a few clandestine human assets in the 'lumpen' segment of the Sikh workforce in Canada, who were more drawn to the separatist leaders and hate-preaching priests.

\*To reach out to the Indian community with saturated supplies of audio and videotapes on current affairs in India and specially filmed tapes on the atrocities committed by the Bhindranwale goons.

\*To convert the '*India News*' to a quality publication with the help of a newly acquired fast printing/copying machine.

\*To meet the Canadian Foreign Office mandarins and the RCMP point men at regular intervals to brief them about developments back in India and to share whatever '*open*' information the Indian Mission could cull out from the community through '*open*' means. [see for example, *Exhibit CAB 0185 which contains a memo from Mr. Dhar to the RCMP regarding the threat to Indian interests by "Sikh militants" in Canada*]

\*To target the mainstream Canadian print and electronic media and to sell the Indian side of the story.

\*To maintain ironclad cover and not to betray my involvement in intelligence generation.

\*To befriend key diplomats in Bangladesh and Sri Lanka Missions with view to reaching some targeted members of the Pakistan Mission.

\*To generate few 'friends' amongst the Canadian Members of Parliament

13. Further, the WSO submits that if there is evidence to suggest that an alternative motive to the bombing of Air India Flight 182, ie. to destabilize the Sikh separatist movement in India by destroying the reputation of the Sikh community, was never fully investigated, then this has a profound impact on the findings of this Inquiry. Ensuring that this matter is properly canvassed is in the best interests of all Canadians.
14. For these reasons, the Applicant requests that Commission Counsel be compelled to call Bass to testify as a witness.
15. In the alternative, the Applicant requests that it be granted permission to call Bass to testify as a witness.

### **The Effects the Air India tragedy has on the Sikh community**

16. The Sikh community has a direct and substantial interest in the subject matter of the Inquiry, as the Inquiry deals with issues related to the alleged threat of "Sikh" terrorism. Further, many of the victims of the tragedy were of the Sikh faith.

Ref.: Application for Standing submitted  
by WSO of Canada, 6 July 2006.

17. The Commission's *Terms of Reference* specifically direct the Commission to assess whether there were deficiencies in the Canadian government's assessment of the potential terrorism threat posed Sikhs:

Her Excellency the Governor General in Council, on the recommendation of the Prime Minister, hereby directs that a Commission do issue under Part I of the *Inquiries Act* and under the Great Seal of Canada appointing the Honourable John C. Major, Q.C., as Commissioner to conduct an inquiry into the investigation of the bombing of Air India Flight 182 (the "Inquiry"), which Commission shall direct

b) the Commissioner to conduct the Inquiry specifically for the purpose of making findings and recommendations with respect to the following, namely,

- a) if there were deficiencies in the assessment by Canadian government officials of the potential threat posed by Sikh terrorism before or after 1985, or in their response to that threat, whether any changes in practice or legislation are required to prevent the recurrence of similar deficiencies in the assessment of terrorist threats in the future,

Ref.: Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182, *Terms of Reference*, 2006, online: <http://www.majorcomm.ca/en/termsofreference/>.

18. In addition to the devastating effect of the Air India bombing on the families of the victims, the bombing has had a severe and negative impact on the Sikh community. The reputation of the Sikh community has suffered greatly as a result of the Air India bombing.
19. The WSO submits that it is critical for this Commission of Inquiry to determine what, if any, involvement there was in the Air India bombing, by the Government of India and whether this was properly investigated by either CSIS or the RCMP. Ascertaining this issue would assist the Commission in determining what impact, if any, this possible involvement by the Government of India, and or its intelligence agencies, may have had on the investigation itself, the failure to lay charges in a timely manner, and the failure to obtain any convictions regarding the bombing.



20. In addition, the plausibility of the theory of possible Government of India involvement, and whether or not this was properly investigated, goes directly to items (iv) (adequacy of Canadian legislation to address the issue of terrorist financing) and (v) (adequacy of current legislation regarding witness protection) of the Terms of Reference.
21. Currently, all Canadian legislative responses to the Air India tragedy (whether they are in relation to anti-terrorism legislation, terrorist financing legislation, mutual legal assistance treaties, etc.) are driven on the premise that the bombing was masterminded by “Sikh extremists” advocating for a separate Sikh homeland. If there is an alternative or additional explanation of the reason for the bombing, ie. to undermine the Sikh separatist movement in India, rather than to further it, this must be examined within the scope of this Inquiry.
22. Since Bass was involved in all aspects of the Canadian investigation into the Air India bombing, Bass’ testimony would provide insight on India’s clandestine activities in Canada, and whether the relevant Canadian enforcement and investigative bodies adequately investigated India’s involvement.

## **PART VI – ORDERS SOUGHT**

23. The WSO seeks the following order:
  - a) An Order that Commission Counsel be compelled to call Gary Bass to testify on record at the Air India Inquiry; or

- b) An Order allowing the Applicant to call Gary Bass to testify on record at the Air India Inquiry; or
- c) Such further and other relief as this Honourable Commissioner may permit.

All of which is respectfully submitted.

Dated at Ottawa 12<sup>th</sup> day of October, 2007

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TO: **COMMISSION OF INQUIRY INTO THE INVESTIGATION INTO THE  
INVESTIGATION OF AIR INDIA FLIGHT 182**  
**The Honourable Mr. Justice John C. Major, Q.C., Commissioner**  
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