

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

**APPLICATION OF GIAN SINGH SANDHU FOR STANDING AND RIGHT TO GIVE
EVIDENCE ON MATTERS AFFECTING HIS PERSONAL REPUTATION**

PART I - OVERVIEW

1. Gian Singh Sandhu (“Sandhu”) is personally applying for status to testify on record at the Commission of Inquiry into the investigation of the Bombing of Air India Flight 182 (“Inquiry”).
2. On Tuesday, September 25, 2007, RCMP Inspector Jim Cunningham (“Cunningham”) testified at the Inquiry, and impugned Sandhu’s character and suggested he had dealings with an Air India suspect. Therefore, Sandhu seeks to testify on record to challenge these allegations made against him, which impugn his reputation.

PART II - FACTS

Sandhu's relationship to the WSO

3. Sandhu founded the World Sikh Organization of Canada ("WSO") in 1984 with an objective to foster a healthy integration for Sikhs in Canada, and to promote equality and understanding for the Sikh community. Sandhu is currently the Senior Policy Advisor for the WSO.

Ref.: Affidavit of Sandhu at para. 5.

4. 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.

Sandhu is personally defamed

5. On Tuesday, September 25, 2007, RCMP Inspector Cunningham testified about his 1992 interview with terror suspect Lal Singh, also known as Manjit Singh. Cunningham relied on his notes from this 1992 interview, when he testified that Lal Singh allegedly spoke with Parmar and Sandhu to receive advice and assistance in fleeing Canada in 1988. In Lal Singh's words, Parmar, Sandhu and Bagri would have known who was involved in Air India, and he was relying on them to step forward and to inform that he was not involved.

Ref.: Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182, International Reporting Inc., *Public Hearing Transcript*, Vol. 52, 25 September 2007, pp. 6440-6445.

6. The following is the relevant excerpt from Cunningham's testimony:

MR. SHORE: Okay. Then you said that he -- had you tried to corroborate -- I mean -- I'm not going to go there, sorry. You said that he had gone to others and others said -- when he said, basically, that he was innocent, he hadn't done anything. Is that correct?

INSP. CUNNINGHAM: That's correct.

MR. SHORE: Who had he gone to? Bagri, I think referred to as one person?

INSP. CUNNINGHAM: I believe he spoke with Parmar, he spoke with Gian Singh Sandhu, the head of the World Sikh Organization, in his words. There were other people that he felt would have known who was involved in Air India and he was relying upon them to step forward and inform that we were not.

MR. SHORE: So he was going to people that he believed had actually committed -- were involved in the conspiracy and the crime and he said, "Tell them" right, meaning the authorities?

INSP. CUNNINGHAM: Right.

MR. SHORE: "Tell them I have nothing to do with this."

INSP. CUNNINGHAM: Or also people who he believed may have known the facts and who was involved.

MR. SHORE: It is hard to imagine that these other individuals would come forward to say, "Lal Singh is innocent and I know that because I did it". Doesn't that sound absolutely implausible?

INSP. CUNNINGHAM: Those are also people that we questioned in relation to his story and questioned them on ---

MR. SHORE: Well, you didn't question Mr. Parmar?

INSP. CUNNINGHAM: Mr. Parmar?

MR. SHORE: Yes.

INSP. CUNNINGHAM: We never had a chance to question ---

MR. SHORE: No, I know, but he's saying these are the people that he went to.

MS. BREZALL: Can you let him finish his answer.

MR. SHORE: Sorry, forgive me. I'm sorry.

INSP. CUNNINGHAM: Certainly Mr. Parmar had been spoken to by police officers in Canada prior to his departure in the latter part of the 1980s.

MR. SHORE: M'hm.

INSP. CUNNINGHAM: And Mr. Parmar wasn't admitting to the Air India bombing at that time either.

MR. SHORE: No. But did he make any reference to Lal Singh?

INSP. CUNNINGHAM: No, he did not.

MR. SHORE: Okay. Why do you think he would have said -- Lal Singh -- why do you think Lal Singh would have said, "Go hide, go in hiding, stay away". Why would they do that if he is innocent?

INSP. CUNNINGHAM: It's -- anything -- if you are looking to cast doubt on your own involvement and possibly put somebody out there as another person of interest, why wouldn't you? Why wouldn't you have the police believe that there was somebody else involved? The other thing on that was, be that if you were in fact involved and stepped forward to say that so-and-so was not involved, the inference is that you yourself know who was.

Ref.: Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182, International Reporting Inc., *Public Hearing Transcript*, Vol. 52, 25 September 2007, pp. 6440-6445.

7. On Wednesday, September 26, 2007, Kim Bolan ("Bolan") published an article in the Vancouver Sun and Edmonton Journal, called "Interview with Air India Suspect made public – RCMP believed alleged plotter's denial". In her article, Ms. Bolan referenced Cunningham's testimony and the notes Cunningham quoted, and wrote that in 1992, Lal Singh stated to Cunningham, "Gian Sandhu gave a big lecture -- we must die for Khalistan", Khalistan being the independent homeland for Sikhs in Punjab.

Ref.: Kim Bolan, "Interview with Air India Suspect made public –

RCMP believed alleged plotter's denia", *Vancouver Sun, CanWest New Service*, 26 September 2007, online: <<http://www.canada.com/edmontonjournal/news/story.html?id=9b3e9e34-6c8a-42f0-9d87-9d1011b1f131>>.

8. The following is an extract from Bolan's article that implicated Sandhu:

The RCMP's notes of the interviews with Singh, an admitted terrorist with links to the Babbar Khalsa and the International Sikh Youth Federation, were disclosed publicly for the first time Tuesday.

The document quotes Singh saying he received advice and assistance in fleeing Canada in 1988 from B.C. members of several Sikh organizations. He said he travelled to Pakistan on the passport of Surrey resident Manjit Singh Dhami, a former ISYF member who was once a temple leader, and later gave the passport back to another ISYF leader, Satinderpal Singh Gill, in Lahore.

The document also says Singh was told by World Sikh Organization leader Gian Singh Sandhu, of Williams Lake, "not to go out" while hiding in B.C.

According to Singh, "Gian Sandhu gave a big lecture -- we must die for Khalistan."

Singh told Cunningham he wanted to turn himself in to police after he was identified in the media as an Air India suspect, but was advised by his B.C. supporters to lay low. He lived on a south Langley blueberry farm, where he said he was working the day Air India Flight 182 exploded, killing all 329 aboard.

Cunningham explained that Singh believed many in B.C. could clear him of a role in the bombing.

"I believe he spoke with Talwinder Singh Parmar, he spoke with Ajaib Singh Bagri and he spoke with Gian Singh Sandhu, the head of the World Sikh Organization in his words," Cunningham testified. "There were other people he felt that would have known who was involved in Air India and he was relying upon them to step forward."

Ref.: Kim Bolan, "Interview with Air India Suspect made public – RCMP believed alleged plotter's denia", *Vancouver Sun, CanWest New Service*, 26 September 2007, online:

<[http://www.canada.com/edmontonjournal/news/story.html?id=9b3e9e34-6c8a-42f0-](http://www.canada.com/edmontonjournal/news/story.html?id=9b3e9e34-6c8a-42f0-9d87-9d1011b1f131)

[9d87-9d1011b1f131](http://www.canada.com/edmontonjournal/news/story.html?id=9b3e9e34-6c8a-42f0-9d87-9d1011b1f131)>.

9. In addition the Bolan article, other articles have been published in the Punjabi press referring to Cunningham's testimony and the alleged connection between Sandhu and Lal Singh.

Ref.: Affidavit of Sandhu at para. 17.

10. Sandhu states that allegations of him advising Lal Singh are categorically false. Sandhu also states that he never attended the lecture referred to in Bolan's article, and while he believes that Sikhs have the right to self-determination, he opposes the pursuit of this goal by violent means. Furthermore, Sandhu has always deplored the senseless murder of victims of the Air India tragedy.

Ref.: Affidavit of Sandhu at paras. 18-21.

PART III – ISSUES

11. Should the Commission allow Sandhu to testify on record at the Inquiry?

PART IV – ARGUMENT AND LAW

The Effect Cunningham's testimony has on Sandhu and on the Sikh community

12. Cunningham's hearsay evidence, and the article circulated in the public domain have defamed Sandhu personally, which has compromised his integrity and position of trust as a representative of the Sikh community for over 25 years.

Ref.: Affidavit of Sandhu at para. 22.

13. Despite the efforts of Sikh leaders such as Sandhu, who have tirelessly advocated against Sikh stereotyping and false associations of Sikhs to terrorism, this highly publicized Inquiry adversely affects the reputation of Sikhs worldwide. Furthermore, by denigrating a Sikh community leader, the community itself faces the hurdle of overturning a negative impression created in the minds of many.

Ref.: Affidavit of Sandhu at para. 23.

14. Therefore, Sandhu seeks to testify on record to challenge these allegations made against him, which impugn his character and credibility, and which also have the effect of harming the reputation of the Sikh community generally.

Ref.: Affidavit of Sandhu at para. 24.

The Commission should allow Sandhu to testify at the Inquiry

15. 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/>>.

16. Also, the Inquiry's Disposition regarding intervenor status states the following:

Any intervenor wishing to propose a witness to be called by Commission Counsel may make submissions in writing, with reference to *Rules of Procedure and Practice* 44 and 49, outlining the nature and importance of the anticipated evidence to be given by such witness.

Ref.: Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182, *Rules Applicable to all Intervenors*, 2006, online: <<http://www.majorcomm.ca/en/reasonsforrulingsonstanding/#wso>>.

17. 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/>>.

18. The Commission has already applied the above noted Rules. For example, the Commission granted limited intervenor status to Ripudaman Singh Malik and allowed him to respond to any evidence that directly and adversely affected his reputation. The following is an excerpt from the Request and the Disposition:

Request by Applicant:

Mr. Malik sought standing to challenge any evidence that may impugn his character and to make submissions on flaws in criminal investigation and trial processes as they relate to his personal experience in the criminal justice system.

Disposition:

Written submissions were received on behalf of Mr. Malik but neither he nor his counsel appeared before the Commission to make representations on his right to standing. Nonetheless, his application having been filed will be considered, and on such consideration he is granted **intervenor** status on the following basis:

Mr. Malik's participation is limited to responding to any evidence that directly and adversely affects his reputation. In the first instance such response is to be made through written submissions.

Ref.: Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182, *Rulings*, 2006, online: <<http://www.majorcomm.ca/en/reasonsforrulingsonstanding/#ripudaman>>.

19. The above example demonstrates that Commissions are willing to grant standing to a person who risks severe damage to his or her reputation as a result of testimony given by other witnesses, and/or to a person who is implicated by another witness in any sort of wrongdoing.
20. Canada's judiciary is founded upon procedural fairness and due process. At the very least, procedural fairness requires notice and an opportunity to be heard.

Ref.: *Nicholson v. Haldimand Norfolk (Regional) Board of Commissioner of Police*, [1979] 1 SCR 311.

PART V – CONCLUSION

21. Sandhu is a peaceful advocate for charter values such as equality, religious freedom and human rights, and has always condemned acts of terrorism. As a result of Cunningham's testimony, Sandhu is now personally implicated by the outcome of this Inquiry, and must exonerate his name in order to regain the trust of a community he so proudly represents.

PART VI – ORDERS SOUGHT

Gian Singh Sandhu seeks the following order:

- a) An Order that Commission Counsel be compelled to call Sandhu to testify on record at the Air India Inquiry; or
- b) An Order allowing into evidence Sandhu's affidavit; or
- c) Such further and other relief as this Honourable Commissioner may permit.

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Dated at Ottawa 12th day of October, 2007

TO: **COMMISSION OF INQUIRY INTO THE INVESTIGATION INTO THE
INVESTIGATION OF AIR INDIA FLIGHT 182**
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