



December 21, 2020

To,

Shri Atif Rasheed

Hon'ble Vice Chairman

National Commission for Minorities

Government of India

3rd Floor, Block 3,

C.G.O Complex, Lodhi Road

New Delhi- 110003

Email id: atif.rasheed@gov.in

Cc: Shri B. Anand

Secretary, National Commission for Minorities

Email id: secy-ncm@nic.in

Sub: Complaint against RSS leader Kamalendu Sarkar for his derogatory remarks against Prophet Mohammad

Respected Sir,

We, at Citizens for Justice and Peace, Mumbai are concerned about the derogatory remarks made by one Kamalendu Sarkar, a local leader of the Rashtriya Swayamsevak Sangh (RSS) in Tezpur, Assam.

On **December 13, 2020**, while attending a public function in Sonitpur District, he made hurtful and inflammatory allegations against the Prophet Mohammad and claimed that the same was recorded in the Quran. His speech, which was delivered in Assamese and English went viral and drew sharp reactions from Muslims in Tezpur and elsewhere in Assam. The content of his speech is hereunder:

“I have found on Google, that Prophet Mohammad had sex with women in burial grounds. He entered burials to rape women. It has also been recorded in the Quran. This is their view towards mothers and sisters. From this you can understand how they (Muslims) treat their women and sisters.” *(Please note that we are including the content to illustrate the content knowing how provocative and hate-filled it is; it in no way amounts to any encouragement of the same: CJP)*

The video is marked and annexed hereto as **Annexure A**.

The **All-Assam Minority Students Union (AAMSU)** pro-actively intervened to prevent communal clashes in Tezpur. The organisation has also alleged that the Tezpur police initially failed to take cognisance of the matter and register the FIR against the accused persons on December 13. This exacerbated the already volatile situation. A large number of people gathered at Tezpur police station on December 14, 2020 demanding the arrest of Kamalendu Sarkar and other leaders who attended the function.

They wrote to the Officer in Charge of the Tezpur Police Station, submitting that Mr. Sarkar made baseless comments about Hazrat Muhammad and the holy Quran. They also alleged in the complaint that along with Kamalendu Sarkar, his associates indulged in a criminal conspiracy to disrupt social harmony, offences under the Indian Penal Code.

Finally, the complaint by AAMSU was registered late evening **on December 14, 2020**. Case number 2391 of 2020, dated 14.12.2020 under sections 120 B (criminal conspiracy), 295A (deliberate act to insult a particular religion), 153A (promoting enmity between different religions), 500 (punishment for defamation) and 34 (acts done in furtherance of a common intention) of the Indian Penal Code and section 67 of the Information Technology Act, 2000 has been registered against Kamalendu Sarkar only. The original AAMSU complaint and the translated version in English is marked and annexed hereto as **Annexure B**.

The General Secretary of AAMSU, Mr. Imtiaz Ahmed Hazarika has also alleged, “The words Kamalendu Sarkar used have hurt the religious sentiments of Muslim people. The baseless statement was made only to start a communal riot in the area. I am thankful that people are maintaining amity till now, though police are remaining silent over the issue.”

He also expressed his anguish over the inaction of Assam Police further alleging, “People were trying to lodge an FIR against the hate speech of Kamalendu Sarkar since last evening. But Assam police ignored public reaction refusing to file a case against Kamalendu Sarkar. The partisan attitude of Assam police might have created communal riot in the city.”

We would also like to bring to your notice that after the provocative speech by Mr. Sarkar on **December 13, 2020**, the **Masjid Committee, the Tezpur Muslim Kabarsthan Committee, Polofield Masjid Committee, Bara Masjid Managing Committee, Tezpur Dhakowali Panchayat** have all also written to the Deputy Commissioner, Sonitpur, Tezpur, Assam to take the necessary steps to preserve harmonious existence between the different communities on behalf of the greater Muslim Organisations.

They alleged in their letter dated December 16, 2020, that the hurtful speech delivered by Mr. Sarkar was a conspiracy to create communal conflict and disrupt the harmony between different communities residing in and around Tezpur. Further, the letter states that by calling Hazrat Muhammad a rapist, the RSS leader has painted a criminalising picture of their faith and religion in the society to create unrest. The original letter in Assamese and the translated version in English is marked and annexed hereto as **Annexure C**.

Violations

The highly offensive and deliberately malicious speech by Mr. Sarkar has caused unprecedented damage to the sentiments of the Muslim community and it can potentially generate an atmosphere that can lead to mass violence by targeting and isolating the already marginalised minority community in Assam. His offensive comments stand in contravention of the Indian Penal Code sections:

153A states that, [Whoever by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill different religious, racial, language or regional groups or castes or communities, or commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity, or shall be punished with imprisonment which may extend to three years, or with fine, or with both];

153B(1)(c) [Whoever, by words either spoken or written or by signs or by visible representations or otherwise- makes or publishes any assertions, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes disharmony or feelings of enmity or hatred or ill shall be punished with imprisonment which may extend to three years, or with fine, or with both];

295A [Deliberate and malicious class by insulting its religion or religious beliefs];

298 [Uttering, words, etc., with deliberate intent to wound the religious feelings of any person];

505[Statements conducing to public mischief]

Sir, his speech which amounts to brazen hate speech also violates the constitutional provision of Article 15 of the Constitution of India. **Article 15** prohibits any citizen from discriminating on grounds of religion, race, caste, sex or place of birth. Mr. Sarkar's unverified and vicious remarks against Prophet Mohammad not only hurt the sentiments of the Muslim community but also highlights the virulent Islamophobia, people in position do possess.

In order to respect the diverse religious groups and composite cultures of India, it is essential to keep a check on such unverified claims and hate propaganda that is unleashed against the already marginalised minorities of the country. In *Firoz Iqbal Khan vs Union of India* W.P [Civ.] No. 956 of 2020, the Supreme Court had held,

“the edifice of a democratic society committed to the rule of law under a regime of constitutional rights, values and duties is founded on the co-existence of communities. India is a melting pot of civilizations, cultures, religions and languages. Any attempt to vilify a

religious community must be viewed with grave disfavour by this Court as the custodian of constitutional values.”

The General Secretary AAMSU has also alleged that the FIR against Mr. Kamalendu Sarkar and other accused persons was not registered on time. As mentioned above in the complaint, the FIR was delayed by an entire day to be finally registered on December 14. This clearly goes against the guidelines set by the Supreme Court in *Lalita Kumari vs State of Uttar Pradesh*(2014) 2 SCC 1, which made the registration of FIR by the Police absolutely mandatory. The court had held,

*“Registration of FIR is **mandatory** under Section 154 of the Code of Criminal Procedure, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.*

If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.”

Having knowledge that such discriminatory remarks against the community’s faith and beliefs can lead to unrest, the Assam Police did not lodge an FIR against the alleged accused for their hate speech that was outside the realm of protective discourse, hampering social progress. Our bonafide intention is to bring to this Commission’s notice the sectarian activity of some political personalities which can be considered not just an act against national integration but violative of the fundamental tenets and values enshrined in the Indian Constitution based on fraternity, non-discrimination and equality before law. It has also been alleged that Mr. Sarkar’s associates were equally involved in the conspiracy to disrupt peace but no action has been taken against them.

India’s principle of secularism and plurality must help strengthen the fraternity among different groups, both majority and minority, but instead an environment of tension and violence has prevailed in India over the past few years. The Justice Rajinder Sachar Committee Report 2005, had stated.

“While Muslims need to prove on a daily basis that they are not ‘anti-national’ and ‘terrorists’, it is not recognised that the alleged ‘appeasement’ has not resulted in the desired level of socio-economic development of the community. In general, Muslims complained that they are constantly looked upon with a great degree of suspicion not only by certain sections of society but also by public institutions and governance structures. This has a depressing effect on their psyche.”

The perils of identifying as a Muslim has been devastating for many Muslims who as a community feel a shared anxiety about their socio-political position in the society and brazen speeches and activity like this, further damages the cause of social evolution. Mahatma Gandhi had famously said, *“A nation’s greatness is measured by how it treats its weakest members”*.

The entire report may be read here:

http://www.minorityaffairs.gov.in/sites/default/files/sachar_comm.pdf

We urge this Commission to take cognizance of the matter and ensure that a proper inquiry is instituted and concluded in this matter. The police have already shown their initial hesitation to take action by delaying the filing of FIR against the political leader and the investigation could also get delayed and hence, we urge this Commission to keep a track of the investigation and if need be, carry out an inquiry of its own to supplement the police inquiry so that both can help the court decide the matter when it comes up for trial.

Callous and brazen statements such as this one, made by political leaders at public platforms have far reaching impact and rather perilous repercussions. After the inflammatory and inciteful speech made by Kapil Mishra and Anurag Thakur, the Delhi riots were instigated and led to tremendous loss of life and property. It is to avoid communal clashes such as these in the near future, that the Commission needs to take cognizance and reprimand people, especially political leaders who have a following and influence, to refrain from making comments that would shake the secular fabric of the country.

Sir, just last week, on December, was International and National Minorities Rights Day. As minorities are numerically weaker to the rest of the population of our country, it is imperative to showcase solidarity and safeguard their constitutionally guaranteed freedoms. To stand with them to preserve their culture, traditions, religious beliefs, values and language is essential for mutual respect.

Prayers

In light of this unfortunate event, we, at CJP would like this Hon'ble Commission to take cognizance of the abovementioned incident and violations and it is further prayed that the NCM:

- 1) Direct an independent inquiry into the case that has been registered at the Tezpur Police Station in order to supplement the police inquiry and push for a fair and just investigation;
- 2) Issue directions to the Assam Police to take measures immediately in cases where law and order and breach of peace are at stake;
- 3) Issue directions to the Assam Police to submit Action Taken Report and give updates to this Commission regarding progress in investigation in the case;
- 4) Issue any other directions to Assam Police as the Commission may deem fit and proper in the circumstances of the case;
- 5) Take any other action as the Commission may deem fit



defending human rights in the courts and beyond

Yours sincerely,

Anil Dharker, President

Teesta Setalvad, Secretary

Annexure A The Offensive Video

Annexure B AAMSU complaint dated 14.12.2020

Annexure C Letter by Masjid committees dated 16.12.2020