

February 19, 2022

To,

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**Subject:** Complaint against hate speech of BJP MLA  
Mayankeshwar Singh violating Model Code of Conduct

Respected Sirs,

We, at Citizens for Justice and Peace (CJP) are concerned about the video being circulated on social media of BJP MLA Mayankeshwar Singh representing Amethi, UP, where he can be seen delivering hate speech and speech along communal lines, which is not only in contravention to the Model Code of Conduct issued by the Election Commission of India but also amounts to offences under the Indian Penal Code and the Representation of the People Act, 1951.

Singh can be seen addressing a crowd of voters during one of his campaigns and can be heard saying, **"If the Hindus are awakened, we will pull out the beards and make a chotia (a ponytail sported by Brahmin Hindus). If you want to stay in Hindustan you will have to say "Radhe Radhe" (a Hindu chant) else, just like at the time of partition people had gone to Pakistan, you should also go"**

**The short clipping of the video as available on social media and downloaded by CJP is marked and annexed as Annexures A**

We would like to highlight here that CJP has already sent a complaint against BJP MLA of Damoariyaganj Raghvendra Pratap Singh in its letter dated February 15, 2022 and this is a second such instance of hate speech by BJP MLA that we are bringing to the attention of this Commission.

**A copy of the complaint by CJP against Domariyaganj MLA Raghvendra Pratap Singh has been marked and annexed as Annexure B**

## Violations

### Model Code of Conduct

The above-mentioned speeches made by Singh stand in violation of the following sections of Code of Conduct:

#### **I. General Conduct**

- (1) No party or candidate shall include in any activity which may aggravate existing differences or create mutual hatred or cause tension between different castes and communities, religious or linguistic.
- (3) There shall be no appeal to caste or communal feelings for securing votes. Mosques, Churches, Temples or other places of worship shall not be used as forum for election propaganda.
- (4) All parties and candidates shall avoid scrupulously all activities which are "corrupt practices" and offences under the election law, such as bribing of voters, intimidation of voters, impersonation of voters, canvassing within 100 meters of polling stations, holding public meetings during the period of 48 hours ending with the hour fixed for the close of the poll, and the transport and conveyance of voters to and from polling station.

In ECI letter No. 437/6/INST/2013/CC&BE, dated 28.11.2013 addressed to the President/General Secretary of all recognised National and State Political Parties, had made note of plummeting levels of political discourse witnessed during the ongoing election campaign for the 5 State Assembly elections, namely Chhattisgarh, Madhya Pradesh, Mizoram, Rajasthan and Delhi and mentioned that it had received a tide of complaints indicative of:

- (a) Mouting of provocative and inflammatory statements' calculated to cause mutual hatred, disharmony or ill will,
- (b) Use of intemperate and abusive language transgressing the limits of decency, and
- (c) Attacks on the personal character and conduct of political rivals, in utterances & through posters/hoardings, tend to incite mutual hatred, disharmony or ill-will and aggravate the differences between different political parties and classes of citizens on the grounds of religion, caste, community, etc., and which the Model Code of Conduct dissuades from being resorted to.

A similar situation has emerged in the state of Uttar Pradesh as well. As we have already mentioned above, this is the second such instance of a BJP MLA deliberately flouting the Model Code of Conduct that we are highlighting through our complaints. It is pertinent to note that we are making complaints against videos that are being circulated on social media that we come across as we consider it our responsibility as concerned citizens to do so. There may be several such brazen incidents which may or may not be on social media. Hence, it is extremely imperative that the Commission takes action against the ones that brought to its cognizance to

act as a deterrent for others who may be making such speeches along communal lines and inciting people from one religion against members of other religions.

Only four days back, on February 15, we have registered a complaint against BJP MLA Raghvendra Pratap Singh representing Domariyaganj in Siddharthnagar district, UP. In that complaint we have outlined the following: that the said MLA, Raghvendra Singh can be seen addressing a crowd of voters during one of his campaigns and can be heard saying "If you make me MLA again, They (Muslims) will stop wearing skullcaps & start putting Tilaks." He also claims that after he got elected in the last election, 250 acres of land belonging to Muslims got confiscated, their shops got destroyed". He then mentions names of certain areas which had Islamic names got changed to Hindu names during his tenure as MLA example: Bewa got renamed to Bajrangi chowk, Allahpur got renamed to Yoginagar, Hasinabad got renamed to Nandichowk and so on.

Then he asks the crowd "Will there be Jai Shri Ram or Walekum Salam in Domariyaganj? Durga ji is here with us, promise once in front of her". The crowd also responds saying "Jai shree Ram". He further goes on to say, "There is threat of 'Vote Katw@s' (opposition Hindu candidates contesting election) more than Katw@s (slur for Muslim men)."

In addition, another such brazen violation has come to light from another elected official of the same Bharatiya Janata Party (BJP) from Telangana, Raja Singh from the Goshamahall Assembly of Hyderabad T. Raja Singh threatening Uttar Pradesh's Hindu voters to re-elect the Yogi-government. He warned the Hindu community that if they do not vote for a "Yogi-government" then their houses will be identified and destroyed with bulldozers and JCBs. Media reports suggest that the Hon'ble ECI has already issued notice against him. We urge that these serial hate offences and hate crimes are evaluated and acted upon for what they are, not individual misdemeanors but concerted attempts to not only vitiate the social and political atmosphere but –in brazen violation of Indian criminal law and election law –criminally intimidate voters and also indulge in a corrupt electoral practice.

The Hon'ble Election Commission may seriously consider, apart from issuing a notice to this individual candidate, to also issue a notice to the state and national party in chief of the Bharatiya Janata Party (BJP) as this conduct of several of its own elected representatives puts a responsibility on any party that participates in elections held under the mandate of the Indian Constitution to honour and follow its mandate as laid down in both the Preamble and Fundamental Rights (Chapter III).

Specifically, speeches such as the one flagged in this complaint and those complained against earlier are directly in violation of Articles 14,15,16,19, 21, 25-30 of the Indian Constitution apart from being violations of election law and Indian criminal law. Seen together, emanating from more than one elected official of a political party they raise serious questions of allegiance of that party to the Indian Constitution and in fact are evidence of a blatant breach.

#### Violations of the Representation of People Act, 1951

Singh stands in violation of the following sections of the Act:

**123. Corrupt practices.**—The following shall be deemed to be corrupt practices for the purposes of this Act:—

[(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate

(3A) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate

**[123.(3A). Definition of Corrupt Practices under the ACT:** The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.] 8[(3B) The propagation of the practice or the commission of sati or its glorification by a candidate or his agent or any other person with the consent of the candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

Explanation.—For the purposes of this clause, “sati” and “glorification” in relation to sati shall have the meanings respectively assigned to them in the Commission of Sati (Prevention) Act, 1987 (3 of 1988).]

**[125. Promoting enmity between classes in connection with election.**—Any person who in connection with an election under this Act promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred, between different classes of the citizens of India shall be punishable, with imprisonment for a term which may extend to three years, or with fine, or with both.]

#### Indian Penal Code

The following offences under the IPC are applicable to the speeches made by Singh:

**153A. Promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.**

**153B. Imputations, assertions prejudicial to national integration**

**295A. Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs**

**298. Uttering words, etc., with deliberate intent to wound religious feelings****505. Statements conducing to public mischief****505. (2) Statements creating or promoting enmity, hatred or ill-will between classes**

In ***Abhiram Singh v. C.D. Commachen (Civil Appeal No. 37 of 1992; decided on January 2, 2017)***, a 7-judge bench decided whether the word 'his' under section 123(3) pertained to the identity of the candidate or his rival only (literal interpretation), or also extended to the identity of the voter/s (purposive interpretation). By a 4:3 margin, the court upheld the purposive interpretation of 'his' and thus proscribed any appeal pertaining to the identity of the candidate, his rival or the voter. This meant that electoral appeals to voters based on their religion is a "corrupt practice" which can result in declaring the election of the candidate as void and further disqualification for a period of six years.

Justice T.S. Thakur in his concurring judgment said,

"The State being secular in character will not identify itself with anyone of the religions or religious denominations. This necessarily implies that religion will not play any role in the governance of the country which must at all times be secular in nature. The elections to the State legislature or to the Parliament or for that matter or any other body in the State is a secular exercise just as the functions of the elected representatives must be secular in both outlook and practice. Suffice it to say that the Constitutional ethos forbids mixing of religions or religious considerations with the secular functions of the State."

In ***Ziyauddin Burhanuddin Bukhari vs Brijmohan Ramdass Mehra 1975 SCR 453***, the Supreme Court held thus,

"As already indicated by us, our democracy can only survive if those who aspire to become people's representatives and leaders understand the spirit of secular democracy. That spirit was characterised by Montesquieu long ago as one of "virtue". It implies, as the late Pandit Jawaharlal Nehru once said, "self discipline". For such a spirit to prevail, candidates at elections have to try to persuade electors by showing them the light of reason and not by inflaming their blind and disruptive passions. Heresy hunting propaganda on professedly religious grounds directed against a candidate at an election may be permitted a theocratic state but not in a secular republic like ours. It is evident that, if such propaganda was permitted here, it would injure the interests of members of religious minority groups more than those of others. It is forbidden in this country in order to preserve the spirit of equality, fraternity, and amity between rivals even during elections. Indeed, such prohibitions are necessary in the interests of elementary public peace and order."

It further held,

"Therefore, candidates at an election to a legislature, which is a part of "the State", cannot be Allowed to tell electors that their rivals are unfit to act as their representatives on grounds of their religious professions or practices. To permit such propaganda would

be not merely to permit undignified ;personal attacks on candidates concerned but also to allow assaults on what sustains the basic structure of our Democratic State.”

The above-mentioned are merely excerpts of some of the landmark judgements of the Supreme Court which run into pages and emphasize on upholding of secular character of the Constitution while holding that candidate for elections must at all costs avoid using any language that appeals to religion or that is against any religious community.

It is in this light that we urge, this Hon’ble Commission to take suitable and necessary action against BJP MLA Mayankeshwar Singh. We urge that an FIR be lodged for violations under the Sections 153a, 153b, 298a, 298, 505 of the Indian Penal Code (IPC) and Sections 123A and 125 of the Representation of People’s Act as also Violations of the Election Commission of India (ECI’s) Model Code of Conduct.

### **Our prayer**

We humbly pray, that you take cognisance of this serious violation of the Model Code of Conduct and Representation of People Act, 1951. We pray that you take strict action against the BJP, and pass necessary strictures against BJP MLA Mayankeshwar Singh, and also direct him to issue an unconditional public apology. This can only be the registration of a criminal case followed by prosecution. The political party to which the representative belongs too needs to be held to account for violations of the Indian Constitution, Indian criminal and election law.

Yours sincerely,

Nandan Maluste, President

Teesta Setalvad, Secretary

### **List of Annexures:**

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| Annexure A: | The clipping of the video as available on social media and downloaded by CJP    |
| Annexure B: | A copy of the complaint by CJP against Domariyaganj MLA Raghvendra Pratap Singh |