



भारत निर्वाचन आयोग
Election Commission of India

No:-437/UP-LA/2022



निर्वाचन सदन
NIRVACHAN SADAN
अशोक रोड, नई दिल्ली -110 001
ASHOKA ROAD, NEW DELHI - 110 001

Dated: 22nd February, 2022

ORDER

Whereas, the Commission had issued a show cause Notice No. 437/UP-LA/2022 dated 20th February, 2022 to Sh. Mayankeshwar Sharan Singh, Contesting Candidate of Bharatiya Janata Party for *prima-facie* violation of Section 125 of the Representation of the People Act, 1951; Section 298 of Indian Penal Code, 1860; Para 1 and Para 4 of Part I '**General Conduct**' of "**Model Code of Conduct, for the guidance of Political Parties and Candidates**" with regard to objectionable statement made by him in a video widely circulating on various media platforms, transcript of which is given below:-

'हिन्दुस्तान का हिन्दू अगर एक बार जाग गया तो ये दाढ़ी यहाँ से नोच के यहाँ पीछे चुटिया बना देगा' and 'हिन्दुस्तान में रहना है तो राधे- राधे कहना पड़ेगा वरना बँटवारे के समय जो सब पाकिस्तान गए थे आप भी चले जाइए, यहाँ आपकी कोई जरूरत नहीं है'; and

Whereas, Sh. Mayankeshwar Sharan Singh was asked to furnish his reply within 24 hours of receiving the said Notice; and

Whereas, a reply to the aforesaid Notice has been received in the O/o Returning Officer, 178-Tiloi Assembly Constituency within the stipulated time, which has been received in the Commission on 22nd February, 2022 through District Election Officer, Amethi; and

Whereas, in the aforementioned reply, Sh. Mayankeshwar Sharan Singh has accepted the fact that the impugned statement has been made by him on 18.02.2022, statement under question was made by him in reference to the Ahmedabad Blast Case and not in respect of any community in India and the same deprecates terrorists; and

Whereas, the Commission has also taken note of assertion made in aforesaid reply of Sh. Mayankeshwar Sharan Singh by selectively quoting a decision of Hon'ble Supreme Court in Election Commission of India vs SBI Staff Assn in 1995 Supp (2) SCC 13, which was related to requisition of staff for election duty and thereby

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deduced a totally incoherent inference by stating that article 324 of the Constitution of India does not enable the Election Commission to exercise untrammelled powers; and

Whereas, in *Mohinder Singh Gill & Anr vs The Chief Election Commissioner & Ors.* (1978 AIR 851), Hon'ble Supreme Court held that

"Since the conduct of all elections to the various legislative bodies and to the offices of the President and the Vice-President is vested under Article 324 (1) in the Election Commission the framers of the Constitution took care to leaving scope for exercise of residuary power by the Commission in its own right, as a creature of the Constitution, in the infinite variety of situations that may emerge from time to time in such a large democracy as ours. Every contingency could not be foreseen, or anticipated with precision."

Further at para 113 in the same Order, Hon'ble Supreme Court held that

"-----where these (laws) are absent, and yet a situation has to be tackled, the Chief Election Commissioner has not to fold his hands and pray to God for divine inspiration to enable him to exercise his functions and to perform his duties or to look to any external authority for the grant of powers to deal with the situation."

It also commented that

"An express statutory grant of power to the imposition of a definite duty carries with it by implication, in the absence of a limitation, authority to employ all the means that are usually employed and that are necessary to the exercise of the power or the performance of the duty..... That which is clearly implied is as much a part of a law as that which is expressed."

Whereas, Commission has again seen the video recording of the impugned statement and has observed that the references made viz. *हिन्दुस्तान का हिन्दू अगर एक बार जाग गया तो ये दाढ़ी यहाँ से नोच के यहाँ पीछे चुटिया बना देगा* and *'हिन्दुस्तान में रहना हैं तो राधे- राधे कहना पड़ेगा* are utterly irresponsible and provocative that have the undertone and propensity to disturb religious harmony of society; and

Whereas, necessary FIR u/s **298** of Indian Penal Code, 1860 and u/s **125** of the Representation of the People Act, 1951 has already been lodged against Sh. Mayankeshwar Sharan Singh in Mohanganj Police Station, falling under Amethi District, for making the impugned statement; and

Whereas, considering all the available material facts and averments made by Sh. Mayankeshwar Sharan Singh in his aforementioned reply, the Commission is of the view that Sh. Mayankeshwar Sharan Singh has violated Para 1 & 4 of Part I 'General Conduct' of "Model Code of Conduct, for the guidance of Political Parties and Candidates" by making the impugned statement.

Now, therefore, Commission, without prejudice to any Order/Notice issued or to be issued in the matter, hereby, **strongly condemns** the impugned statement made by Sh. Mayankeshwar Sharan Singh, Contesting Candidate of Bharatiya Janata Party from 178- Tiloi Assembly Constituency and **censures** him for the above said violation. Commission, hereby orders under Article 324 of the Constitution of India and all other powers enabling in this behalf, to prohibit him from holding any public meetings, public processions, public rallies, road shows and interviews, public utterances in media (electronic, print, social media) etc. in connection with ongoing elections **for 24 hours from 08:00 am on 23.02.2022 (Wednesday).**

By Order,



(AJAY KUMAR)
SECRETARY

To,

Sh. Mayankeshwar Sharan Singh,
BJP Candidate from 178-Tiloi Assembly Constituency
District-Amethi, Uttar Pradesh

(Through the Chief Electoral Officer, Uttar Pradesh)