

People's Union for Civil Liberties – Karnataka

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(Founder: Lokanayak Jai Prakash Narayan)

28 March 2022

To,

Shri. Basavaraj Bommai,
Hon'ble Chief Minister of Karnataka,
Vidhana Soudha,
Bengaluru, Karnataka – 560001.

Dear Sir,

Sub: Regarding the dangerous unconstitutional economic boycott of Muslim businesses in temples fairs in Karnataka.

The PUCL-K is deeply disturbed by the range of media reports for the barring of Muslims from participating in auctions for the annual festival in Mahalingeshwara Temple in Puttur district. The media has reported that this prohibition has been followed by the Hosa Marigud Temple in Udupi District refusing to allot stalls to Muslims. There are also statements by Bajrang Dal and Shri Rama Sena leaders calling for the economic boycott of the Muslim community. (Annexure A)

The boycott calls are sought to be given a fig leaf of legitimacy by referring to Rule 31(12) of the 2002 Rules of the Karnataka Hindu Religious Institutions and Charitable Endowments Act, 1997, which state that no property, including land, building or sites situated near the institution shall be leased out to non-Hindus. However as Senior advocate Chander Uday Singh pointed out this is a deliberate misinterpretation of the provision as Rule 31 only deals with long-term *leases* of immovable property owned by a temple. It does not deal with the short-term *licences* which would be used to allot stalls or spaces to vendors during a festival. Rule 7 also specifically prohibits sub-lease, leading one to the conclusion that the contract temple authorities enter into with traders can only be a licensing agreement.

However, going beyond the question of whether the temple actions are justified by the rule 31(2) cited by the Hon'ble law minister, the larger question is the constitutionality of the same. Both economic boycott and calling for economic boycott is violative of the constitutional promise of non-discrimination enacted in Article 15. Article 15, explicitly prohibits discrimination on grounds of religion, besides race, caste, sex or place of birth. Article 15(2) further proclaims that no citizen be subject to any 'restriction' with regard to 'access to shops', 'maintained wholly or partly out of State funds or dedicated to the use of the general public'.

It bears noting that for Babasaheb Ambedkar, 'shops' was to be interpreted broadly to prohibit people from excluding others from economic life through boycotts based on religion, caste etc. We should also remember that Babasaheb Ambedkar was a vociferous opponent of social and economic boycotts noting that it was a form of 'tyranny of the majority'. In his words, 'the method of open violence pales before it, for it has the most far reaching and deadening effect. It is more dangerous because it passes as a lawful method consistent with the theory of freedom of contract'

The call for social and economic boycott should deeply worry all Indians is because of the tragic history of the aftermath of such boycott calls in world history. In Nazi Germany hate speech dehumanizing the Jewish community was followed by calls for social and economic boycott which was followed by the enactment of laws depriving Jews of citizenship and finally the genocide against the Jews. Rwanda and Myanmar followed a similar path in their path to committing the 'crime of crimes', genocide. We should take seriously these warnings from history and silence is not an option for any constitutional authority. All constitutional authorities must step in to ensure that governance in Karnataka is in accordance with the Constitution and we do not go down a path taken by other countries such as Nazi Germany and Hutu power Rwanda.

Hence, we call upon the following actions to be taken immediately:

1. Immediately withdraw the decisions, and ensure that Muslims and persons of all religious communities are provided an equal space and opportunity to carry out their businesses during all days of the festivals;
2. Immediately initiate criminal action against the organizations pressurizing and attempting to cause an economic boycott of Muslim businesses;
3. Ensure that immediate measures are taken to restore and maintain communal harmony across Karnataka as required by the Communal Harmony Guidelines, 2008 issued by the Ministry of Home Affairs, including keeping organizations that undermine communal harmony under scrutiny and taking appropriate action against them;
4. Clarify the statements made by elected representatives erroneously interpreting the Karnataka Hindu Religious Institutions and Charitable Endowments Act, 1997 to legitimize the unconstitutional act of discrimination on grounds of religion.

We hope, given the urgency of the situation, that immediate action will be taken.

Adv. Arvind Narrain,
President,
PUCL – Karnataka.

Adv. Robin Christopher,
General Secretary,
PUCL – Karnataka.

Mr. Shujayathulla,
President,
PUCL – Bangalore.