



Date: October 31, 2022

To,

Shri Iqbal Singh Lalpura
Hon'ble Chairperson
National Commission for Minorities
Government of India
3rd Floor, Block 3, C.G.O Complex,
Lodhi Road New Delhi- 110003
Ph: 011-24366132/01124360591
Email: chairman-ncm@nic.in

Shri Siddharth Kishore Dev Verman
Secretary
Ph: 024364816
Email: secy-ncm@nic.in

Shri Shariq Saeed
Under Secretary
Ph: 24362527
Email: usgr-ncm@nic.in

Subject: Complaint against Hate Offender Shiladitya Dev for spewing hate against “Miya Muslims” in Assam

Respected Sir,

We at Citizens for Justice and Peace (CJP) Mumbai, a human rights movement dedicated to furthering the constitutional rights of all Indians, are deeply concerned about the hatred-filled and targeted speech made by the controversial former BJP MLA Shiladitya Dev for brazenly giving hate speeches that targeted the Bengali Muslims in Assam and their culture. We would like to bring your attention to this instigating video of former MLA Shiladitya Dev uploaded by TIME8 Axom on its Facebook profile dated 25.10.2022.

The video uploaded on Facebook dated 25.10.2022 is marked and annexed hereto as Annexure A



[[This show is still available online on Facebook, and it shows that it has been watched by 455K (4,55,000) persons. Furthermore, the show has more than 5,800 people, almost all commenting with inciteful messages in the comment section on Facebook.]]

Shiladitya Dev is a BJP leader who was previously the Member of Legislative Assembly (MLA) from the Hojai constituency of Assam. As can be seen from this video, he unleashed words that were inciteful, provoking the wider community in the name of 'Miya Museum'. After being inaugurated on October 23, Shiladitya Dev, an influential political personage affiliated with the ruling dispensation, the next day, on October 24, indulged in brazen hate speech which violates Indian criminal law, the very next day after the museum was inaugurated. Is it a matter of coincidence that the district authorities in the Goalpara district of Assam on October 25 sealed the museum dedicated to the Miya Muslim community on allegations of wrongful use of the premises? As mentioned above, the museum had been inaugurated just two days before, on October 23.

He started his diatribe with, "Assam is filled with Miyas, so why there is need of Miya Museum, it should set on fire and set ablaze." This was a brazen incitement to targeted violence. He then continued, "After the CAA protest, one section of community wants Miya Museum in Srimanta Shankardev Kalakhetrya specially one MLA." This reference to one MLA, by Dev was meant to target Sherman Ali Ahmed. He also spoke of the origin of today's Muslim, "90-99 out of 100 Muslims in Assam have been basically converted from the Hindu religion; and even today, some of them still have a planted Tulsi plant in the verandas of their homes in upper Assam." He also demanded that the authorities demolish the Miya Museum forthwith.

Furthermore, Shiladitya Dev also alleged, "In the name of 'Grow More Food Project' in 1936, the then government brought the Bengali speaking Muslims to the state. However, there was a hidden agenda which was to increase the Muslim population in Assam and annexed Assam with East Pakistan. In this process they enrolled their names in the National Register of Citizens (NRC) and so on." He also criticized, "The Bengali speaking Muslim whom I refer as Bangladeshi Muslim, prove that they wants to establish the Bangladeshi culture not the Assamese which is "Sonatani Culture" (Sanatani, upper caste Hindu) in Assam though they utter slogans like *Jai Aai Axom* (Hail mother Assam)." "Lungi Tupi (the lower garb and skull cap) cannot be their identity, and indigenous Muslim also do not wear that Lungi and Tupi." He alleged that Miya Muslim people trying to establish Arabic Culture in Assam!

His hate rant continued even after this, wherein he stated that "Few days ago one Ismail Islam went to Majuli and went to eat inside a kitchen of a Satra. Santana Dharmis worship cow and a cow eater went into Satra, this is awful. If he wants to revert back to the faith of his origin let him do so completely."



[[Ismail Hussain (junior) a writer of Assam went to a Satra (monastery-cum- centre of traditional performing arts in Assam; this particular one is a reference to Sankrian i.e who believed the philosophy of Srimanta Sankardev's *naba boishnab* dharma) in Majuli District where Ismail Hussain partook of food in the kitchen of the satra.]]

Dev also went on to say "Miya culture cannot be the culture of Assam so the Museum cannot be built here. The country was divided for *Miyas* on the basis of religion and, so if they want to build any such Museum then they should build it in Bangladesh or Pakistan. We won't have any objections then."

According to all available information, no case has been filed against the former MLA from Hojai, Shiladitya Dev nor any prosecution launched.

Previous Offences of Hate Speech

The National Commission for Minorities should also note that this is not the first time that hate speeches have formed part and parcel of Shiladitya Dev's public persona and public life and it also appears that there has been no deterrent to this brand of politics with no meaningful prosecution being launched against him by appropriate authorities in the state. To complete the record here we would like to mention that Dev is a serial offender and even previous statements made by him have been reported for being hate-ridden, made with a motive to fuel the communal tensions between communities.

In Aug 2020, multiple FIRs had been filed against him by several groups and individuals for particularly inciteful speeches. At the time, he had even been widely condemned by Assamese society when he had dared dubbed Assamese litterateur who happened to be a Muslim, an "intellectual jihadi."

A copy of the news article by Sentinal Assam dated 10.08.2020 is marked and annexed hereto as Annexure B

In June 2022, Shiladitya Dev was a participant in a news channel debate, happening on NKTV, an Assamese language news channel, where he made a series of anti-minority comments during one such live debate on its channel. During this debate, Dev spoke in Assamese about the alleged influx of Bangladeshis into Assam. The gist of his speech was, "80 lakh Bangladeshi origin Muslims have illegally entered India," and that "During partition Muslims had created a separate country for themselves. They should be grateful they are being allowed to live in India."

A copy of the news article by Sabrang India dated 04.06.2022 is marked and annexed hereto as Annexure C



Immediate Background

The word 'Miya' –a derogatory term for the Muslim minority – has unleashed a fresh round of hate and a controversial debate ensues once again, in Assam again. A newly established Miya Museum, set up in the Goalpara district of Assam is located at Dabkarvita in Lakhipur area. The inauguration program was held on October 23, and was attended by vast sections of the including the dignitaries of All Assam Miya Parisad.

On October 25, the Miya Museum was sealed just day after the inauguration of it in Lakhipur of Goalpara district. The Museum was sealed by Rajiv Gagoi, the Circle officer of the Lakhipur. The official reason to seal it is yet to be known but it could be assumed that after the Statement of Assam Chief Minister Himanta Biswa Sarma it was enacted.

Three leaders of the community, including the person who set up the museum, were also detained on Tuesday evening. They have been charged under provisions of the Unlawful Activities (Prevention) Act (UAPA) and Indian Penal Code sections pertaining to criminal conspiracy and collecting arms with intention to wage war against the Union government.

A copy of the news article by The Indian Express dated 27.10.2022 is marked and annexed hereto as Annexure D

Our case

The statements made by Shiladitya Dev are a grave threat to peace, unity and integrity of India. Especially so, in view of the sensitive atmosphere today when aggression is being unleashed on sections of our population. It is quite clear so far that, given the well-orchestrated and numerous instances of hate speech and actual hate crimes being committed, the minority community in various parts of India already feels insecure and threatened. Such statements are bound to make things worse; to further generate communal disharmony or feelings of ill will, enmity and hatred between the supporters of different political parties. The utterances also amount to an act which is prejudicial to the maintenance of harmony between different groups and is likely to disturb the public tranquility. Moreover, such open intimidation only makes the targeted group more vulnerable to violent acts. Such Islamophobic and hate-filled speech is illegal and unconstitutional, and further violates the following provisions of the law:

Indian Penal Code, 1860:

S.153B. Imputations, assertions prejudicial to national integration.—

- (1) Whoever, by words either spoken or written or by signs or by visible representations or otherwise, -



(a) makes or publishes any imputation that any class of person cannot, by reason of their being members of any religious, racial, language or regional group or caste or community, bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India, or

(b) asserts, counsels, advises, propagates or publishes that any class of person shall, by reason of their being members of any religious, racial, language or regional group or caste or community, be denied or deprived of their rights as citizens of India, or

(c) makes or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religions, racial, language or regional group or caste or community, and such 4 assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons,

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

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

Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of citizens of India by words, either spoken or written, or by signs or by visible representations or otherwise, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.”

Sec 503. Criminal intimidation.—

Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Sec 506. Punishment for criminal intimidation.—

Whoever commits the offence of criminal intimidation **shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;**

If threat be to cause death or grievous hurt, etc.—and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or 8 [imprisonment for life], or with imprisonment for a term which

may extend to seven years, or to impute unchastity to a woman, shall **be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.**

S.504. Intentional insult with intent to provoke breach of the peace:

Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be **punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.**

S.505. Statements conducing to public mischief:

(1) Whoever makes, publishes or circulates any statement, rumour or report,-

a) with intent to cause, or which is likely to cause, any officer, soldier, sailor or airman in the Army, Navy or Air Force of India to mutiny or otherwise disregard or fail in his duty as such; or

(b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility; or

(c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community;

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

We urge this Commission to take cognisance of the matter and ensure that a proper inquiry is instituted and concluded in this matter. If such open intimidation and instigating speeches are allowed to continue unabated, such miscreants will only be encouraged to create such tension and cause mischief that disturb public order not just in those areas but in many other areas across the state. The importance to act strictly and earnestly in this matter cannot be stressed upon enough and we are certain that you understand the magnitude of the situation. We thus, humbly urge you to take necessary action to ensure that effective investigation is carried out in this regard and the miscreant is brought to book so as not to encourage such incidents in any other areas of the state in order to maintain public order and communal harmony.

Callous and brazen statements such as this one, made by political leaders at public platforms have far reaching impact and rather perilous repercussions. In order to avoid targeted violence against vulnerable sections to erupt and communal clashes to follow, we urge this Commission 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.



Judicial precedent:

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.”

In **Pravasi Bhalai Sangathan v. Union of India**, (Ref: AIR 2014 SC 1591, at para. 7.) the Supreme Court has unambiguously stated that hate speech is an effort to marginalise individuals based on their membership to a group, that can have a social impact. Moreover, the Court stated that hate speech lays the groundwork for broad attacks on the vulnerable that can range from discrimination, to ostracism, deportation, violence, and even to genocide. Therefore, the aforementioned news items are tantamount to the perpetration of genocide, and must be considered to be in violation of Article 21 of the Constitution.

The extent of hate and anti-minority sentiment is on the rise all over the country, where public figures such as Shiladitya Dev openly targeting certain groups. Therefore, this needs your immediate attention and rapid action.

Deleterious Impact

These statements have now gone beyond being just hate speech and have become brazen calls for genocide and encouragement to pick up arms against the minority community.

Hate speech has not been dealt with an iron hand in the past few years and these makers of hate speech have not faced any serious legal action till date which has resultantly given them a free hand and has pushed them to make worse statements than they may have made before. The impunity with which they have been dealt with until now has made the social media a breeding ground for such public figures who have a wide audience who comments on their hate speeches, gets inspired by them and commit more illegal acts.

Such expression of extreme hate with a clear communal objective to establish religious hegemony upon a community that is already a minority in numbers in the country, is deplorable and against the constitutional values that we uphold as citizens of this country. It is quite clear so far that, given the well-orchestrated and numerous instances of hate speech and actual hate crimes being committed, the minority community in various parts of India already feels insecure and threatened.

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refrain from making comments that would shake the secular fabric of the country. We thus, humbly urge you to take necessary action to ensure that effective investigation is carried out in this regard and the miscreant is brought to book in order to maintain public order and communal harmony.

Supreme Court on Hate Speech

Even presently, the Hon'ble Supreme Court is deliberating on three separate matters related to hate speech and their deleterious impact on our country and society. During these deliberations strong judicial reprimands have been issued. At the last hearing on one of the three major petitions being heard, on October 21, a bench comprising Justices KM Joseph and Hrishikesh Roy directed the Governments of NCT of Delhi, Uttarakhand and Uttar Pradesh to file a report before the Court regarding the actions taken on the hate speech crimes which happened within their jurisdiction. While these comments relate to the particularly-hateful '*Dharm Sansads*' held at the end of 2021 and start of 2022 in these states the bench made speaking remarks on the 'prevailing climate of hate in the country'. "The Constitution of India envisages Bharat as a secular nation and fraternity, assuring the dignity of the individual and the unity and integrity of the country are guiding principles enshrined in the Preamble. There cannot be fraternity unless members of the community drawn from different religions or castes are able to live in harmony", the bench observed in the order. Further, the court also stated that ""We feel the court is charged with the duty to protect the fundamental rights and also protect and preserve the constitutional values in particular the rule of law and the secular democratic character of the nation". Detailed directions were then issued to both state governments to *suo motu* launch prosecutions whenever there are instances of hate speech and report these to the Supreme Court. The apex court also directed that any failure to implement these directions would be treated as contempt of court.

Given the growing climate of hate crimes (that more often than not follow hate and inciteful speech by influential men and women in public life) we urge that the Commission takes on this issue seriously.

Prayer:

We, at CJP, urge this Hon'ble Commission to:

1. Take cognisance of this complaint under section 9(1)(d) of the National Commission for Minorities, 1992;
2. To direct the attendance of former BJP MLA Shiladitya Dev along with the members of his organisation before your commission to examine such allegations under section 9(4)(a) of the Act, 1992;
3. Monitor the investigation and call for the discovery and production of any document, receive affidavits, requisition any public record or copy thereof from any court or office, issue commissions for the examination of witnesses and documents under section 9(4) (b) to (e) under the Act;



4. To direct the DGP, Assam or any other appropriate authority to investigate the matter thoroughly, register FIRs against such blatant hate speech ensuring that all relevant sections of the Indian Criminal law and Police Acts are included in the said criminal complaint;
5. Issue directions to the Bihar Police to submit an Action Taken Report and give updates to this Commission regarding progress in investigation in the case;
6. Issue any other directions to Bihar Police as the Commission may deem fit and proper in the circumstances of the case;
7. Undertake any other action as the Commission may deem fit.

Yours sincerely,

Nandan Malsute, President

Teesta Setalvad, Secretary

Annexures

Annexure A Video by TIME8 Axom uploaded on Facebook dated 25.10.2022

Annexure B Copy of news report by Sentinel Assam dated 10.08.2020

Annexure C Copy of news report by Sabrang India dated 04.06.2022

Annexure D Copy of news report by The Indian Express dated 27.10.2022