



Date: January 20, 2023

To,

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CC: Mr. Rajnish Seth

Director General of Police,

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Subject: Plea for criminal action against Shankar Gaikar for his Islamophobic and hate filled speech at Shaurya Path Sanchalan Event

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 communal and hate spewing speech delivered by Shankar Gaikar, during the Shaurya Path Sanchalan Event held in Boisar, Maharashtra. Shankar Gaikar, Senior Vishwa Hindu Parishad leader, espouses a hard, right-wing, exclusionist ideology, and can be seen delivering an incendiary and inciteful speech through which he has targeted the Muslim community of our country. In his speech, video of which have gone “viral” and reached hundreds of thousands, he has made misinformed and offensive claims against the minority community, its history and their culture. We would like to bring your attention to the instigating speech video, urging you to take stringent action against the perpetrator, as if these hate-driven speeches are left unchecked, the peace and harmony of our country will be affected direly. Sir, we are also generally concerned with the overall unsafe atmosphere for the Muslim community that is being generated in a peaceful and progressive state like Maharashtra, through the systemic and perpetrated use of hate speech and writing within the country.

The speech

The video begins by Gaikar saying that “*Military aur police ne kaha hai ki aap danda haath mei mat leke chalo, mai unko kehna chahta hu- yeh danda, yeh bajrang dal ka danda hai. Yeh samaaj ke suraksha ka danda hai mere police bhai ko mai kehna chahta hu.* (The military and police have asked (us) not to take the stick in our hand, I want to tell them - this stick, this is the Bajrang Dal’s stick. This is a stick for the security of the society, I want to tell my police brothers.)”

(time stamp- 0:00- 0:17)

Following the example of the other extremist Hindutva outfits, Gaikar instigates people to indulge in violence, and says, “*Yeh danda uske upar hi pehar karega jo rashtra vitaghat kaam karega, Bharat mata ko apmanit karega, bharat mata ke seene par talwar chalaega chaku chalaega. Yeh danda uss kaam mei aega.* (This stick will only be used to attack those who work against the nation, insult Bharat Mata, wield a sword on the chest of Mother India and use a knife. This stick will be useful for that purpose.)”

(time stamp- 0:18- 0: 33)

He then says, “*Aur aap ko mai kehna chahta hu, police humari dushman nahi hai. Jis police ke dwara humari suraksha hoti hai, aur jab jab samay aata hai toh Bajrang Dal bhi apna shaurya nahi dikhata, unke saath seva ka kaam karta hai. Unke saath kandhe se kandha ladata hai aur bharat mata aur samaj ki seva karta hai.* (And I want to tell you, the police are not our enemy. The police who protect us, and when the time comes, when Bajrang Dal also does not show its bravery, it works with them as a service. Fights shoulder to shoulder with them and serves Mother India and society.)”

(time stamp-0: 35- 0: 59)

The video then gets cut to him starting with his communal diatribe, where Gaikar can be heard saying, “*Kisi mei itni takat nahi Hindu ki beti uthakar le jae. Krurta unke khon mei basi hai yeh dhayan mei rakho. Hindu kabhi krur nahi hota, hindu har samay shrur hota hai, who saamne se ladhta hai.* (No one has the power to take away the daughter of a Hindu. Keep in mind that cruelty is in their blood. Hindu is never cruel, Hindu is always prepared, angry, and he fights from the front.)” “*Gaddari ka kaam kabhi Hindu karta nahi hai.* (Hindus never do the work of treachery.)”

(time stamp- 1:00- 1:25)

He then starts with his attack on the Muslim community and says, “*Aur yeh parampara aaj ki nahi hai. Yeh krurta ki parampara hazaro saal se hai. Woh apne girebaan mei dekhe aur apne logo ko sudharo jo humme bhagane ki koshish karte hai. Humme mitane ki saugandh karte hai.* (And this tradition is not of today. This tradition of cruelty has been there for thousands of years. Look at your community and correct your people, those who try to chase us. They take the oath of eliminating us.)”

(time stamp- 1:26- 1:42)

Bringing in Islamic history, Gaikar attempts to spread misinformation by saying, “*Arre pehle yeh kaatila hamley aapne aap ko sambhalne padenge. Jisne hussain ko mara, jisne sakina ko mara, jisne Fatima ko mara. Nabi ke parivar ko khatam kar diya, unn “mullayon” (derogatory word used for Muslims) ko mai kehna chahta hu apne dharam ke andar sudhar karo.* (First of all, you will have to handle the attacks happening within your community. Who killed Hussein, who killed Sakina, who killed Fatima. The prophet's family was destroyed/finished, I want to tell these “Mullas” to improve their religion.)”

(time stamp- 1:42- 2:03)

While claiming that he does not aim to speak against any culture, he continues with his attacks on the Muslim culture by saying, “*Mere Sakina ko peeta gaya. Quran padhiye. Mai kisi dharam ke khilaf nahi bolta hu. Koi 20 tukde kiye, koi 100 tukde kiye, yeh tumhari parampara hai. Yeh nabi ka aadesh nahi hai.* (My Sakina was beaten up. Read the Quran. I don't speak against any religion. Some were cut to 20 pieces, some to 100 pieces, his is your tradition. This is not the prophet's order.)”

(time stamp- 2:06- 2:22)

He then further attempts to show the Muslims under a bad light, and says, “*Aaj isliye maine kaha, jo Nabi ke parivar ke the, Allah taala ke parivar ke the...Sakina ko 4 saal tak ek beti ko kheen ch kheen ch kar mara gaya. Pathar se mara gaya, chaku se noocha gaya. Hussain ka sarr uski jholi mei daal diya gaya.* (Today I say, those who belonged to the family of the Prophet, belonged to the family of Allah...Sakina was killed after being dragged and tortured over four years. She was hit by a stone, stabbed. Hussain's head was put into his bag.)”

(time stamp- 2:23- 2:45)

“*Aise krurta ka itihaas, yahi peedhi ka Aurangzeb tha, yahi peeda ka yeh Chengiz Khan hai. Isliye hum sabko dhayan mei rakhne ki aavashyakta hai.* (The history of such cruelty, there was Aurangzeb in this generation, this is the suffering committed by Chengiz Khan. Therefore, we all need to remember these instances.)”

(time stamp- 2:45- 2:57)

Then, with the aim of inciting the audience and getting a rise out of them, Gaikar says, “*Jo 27 saal yaha par jisne aatank machaya, jisko laga Chhatrapati Shivaji maharaj abhi raha nahi. Mai Maharajao ko kabiz kar dunga, Maharashtra ke upar raj karuga. Aisi saugandh kha kar, ek namard Aurangzeb yaha aya, uski kabar mere 32 saal ke Tanha ne yaha khoo dh di.* (The one who created terror here for 27 years, who felt that Chhatrapati Shivaji Maharaj lives no more, he thought he would capture the Maharajas, rule over Maharashtra. After taking this oath, an impotent humble Aurangzeb came here, instead his grave was dug up here by this man, my 32-year-old Tanha.)”

(time stamp- 2:58- 3:21)

“Kaal ke kagaar par haath daal kar humne apna itihaas khada kiya hai. Yeh dhayan mei rakho. (We have created our history by putting our hands on the brink of time. Keep this in mind.)”

(time stamp- 3:22- 3:31)

Bringing in the history of the Marathas, the speaker says, **“Sharer ki boti boti ho gayi, ankhein nikali gayi paer todhe gaye, lekin mera Shambhu Maharaj jhuka nahi. Yeh dharamveer hai dhayan mei rakho.** (His body was chopped down into pieces, eyes were gouged out, legs were broken, but my Shambhu Maharaj did not bow down. This is it, the Dharamveer (courageous man), keep it in mind.)”

(time stamp- 3:33- 3:45)

Continuing with his problematic remarks, the speaker then said, **“Jo kehta hai na yeh dharamveer nahi hai, arre inke ghar ke andar, inke khandaan mei yeh rashtravaadi ke khandaan mei, aaj ta ek kutta bhi desh ke liye mara nahi. Saare “hijre”** (a community of transgender people in India), **raja ke baare mei baat karte hai.** (Those who say that this is not Dharamveer, inside their house, in their family, in the family of this nationalist, not a single dog has died for the country. All these eunuchs talk about our king.)”

(time stamp- 3:49- 4:05)

Giving the speech a distinctly a communal color, Gaikar then says, **“Ek paer zameen mei hai, dusra paer kabar mei hai. Rashtrya purush ko gaali dete hai. Rashtra guru ko tolte hai. Mumbra ka woh Nizamuddin, vaishya ki aulaad, (crowd cheers) mere yuvraj ko gaali deta hai.** (One leg is in the ground, the other foot is in the grave. They abuse the national hero. The nation weighs the Guru. This Nizamuddin in Mumbra, the son of a prostitute, abuses my prince.)”

(time stamp- 4:07- 4:29)

“Aakhiri dum tak, yeh iss mitti ke liye, iss bhoomi ke liye, iss rashtra ke liye, iss Maharashtra ke liye, aapke aur mere liye jisne apna sarvasu balidaan kiya, kya diya tunne? (Till the very end, what has it been for this soil, for this land, for this nation, for this Maharashtra, for you and me, who sacrificed everything?)”

(time stamp- 4:30- 4:46)

“Mai aap sabko puchna chahta hu ki, apna zindagi kyu jeena isko tey karo. Zindagi hai zinda dili ka naam aur murde jeeya nahi karte. (I want to ask all of you, why live your life? Life is the name of the living and the dead do not live.)”

(time stamp- 4:47- 4:55)

He ends his hate-filled speech by saying, **“Jab jab yeh desh, jab jab yeh maati, Hindu pariwar, yeh rashtra khatre mei aega, toh pehle apni bali chadha dena.** (Whenever this country,

whenever this soil, Hindu family, or this nation comes under threat, then sacrifice yourself first.)”

(time stamp- 4:56- 5:07)

(Crowd chants Jai Shree Ram)

A copy of the video downloaded by us from Twitter has been marked and annexed as Annexure A

Throughout this speech, Shankar has not minced his words, he is clearly attempting to incite sections of the Hindu community, especially those who are prone and more especially Maharashtrians, against the Muslim community by bringing in unproven, questionable and distinctly partisan readings of their history apart from other certain controversial cases. He has used slur and stigmatisation of the Muslim community as well as the transgender community. Following the patterns of his extremist peers, giving fire to manufactured terms like the “Love-Jihad agenda”, he has even brought in the issue of Hindu woman being ‘under the threat.’ Apart from all else, this infantilizes women and their gender, making an utter mockery of the values enshrined within the Indian Constitution. Such public expressions 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 suddenly committed and reported from all over Maharashtra, the minority community in various parts of the state and India already feels insecure and threatened. Furthermore, these controversial words, that constitute offences under Indian penal law, were spoken at a public event and this speech has reached not only the audience at the event but also all those who may have seen this video on their mobile phones, by the medium of social media. How large and wide the reach of social media can be, we are sure you must be aware. The threat of such hate speech having a widespread influence is serious. The consequences of such an inflammatory speech could be dire.

Previous offences of Gaikar

This is not the first time that Shankar Gaikar has indulged in hate speech against the religious minority community of Muslims. In the [year 2017, Shankar Gaikar stoked up a controversy](#) by demanding that the recruitment of Kashmiri Muslim youth in the security forces be stopped. Gaikar alleged that there were incidents of theft of weapons and ammunitions from the security forces. According to him, these weapons were used against our own forces. So, he demanded that the recruitment of Muslim youths from Kashmir should stop. Gaikar made several other controversial statements and even went on to demand that the educational and other facilities provided to Muslims in the valley should be stopped. As reported, the news article for which has been annexed below, he had also urged that shops/businesses owned by Kashmiri Muslims in tourist destinations be shut down.

A copy of the news article by India Today published on July 14, 2017 has been marked and annexed as Annexure B

In the year 2019, post the judgment of the Supreme Court on the Ram Janmabhoomi-Babri Masjid title suit, Shankar Gaikar said that, “I feel proud to have participated in the cleansing of sins with the demolition of the Babri Masjid”. Gaikar openly said that his companions, who participated in the demolition, were determined to raze the mosque. With the air of impunity, Gaikar had further said that he does not regret his role in the demolition. News reports, attached as Annexure C, had quoted him saying “I do not regret it and I have not been prosecuted for my participation in the demolition. Later, I became the leader of the Bajrang Dal.”

A copy of the news article by Mumbai Mirror published on November 10, 2019 has been marked and annexed as Annexure C

Penal implications

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. They also directly endanger the lives and properties of members of the Muslim minority living in the vicinity of where such speeches are made and around as they provoke other sections of the population. Such speech is known to create a public atmosphere that become amenable for stigma, social boycott, even physical attack. The utterances also amount to an act which is prejudicial to the maintenance of harmony between different groups and is likely to disturb public tranquility. Moreover, such open intimidation and hate-filled statement only makes the targeted group more vulnerable to violent acts. Such hate speech that is illegal and unconstitutional violates the following provisions of the law:

The following sections of IPC need to be invoked against Gaikar:

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

153B- Imputation, assertions prejudicial to national-integration.

268- Public Nuisance

503- Criminal intimidation

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

505 - Statements conducing to public mischief and Statements creating or promoting enmity, hatred or ill-will between classes

In *Mohd. Haroon and others v. Union of India (2014) 5 SCC 252* and another, it has been clearly held that it is the responsibility of the State Administration in association with the intelligence agencies of both the State and the Centre to prevent recurrence of communal violence in any part of the State. If any officer responsible for maintaining law and order is found negligent, he/she should be brought within the ambit of law.

In *Nandini Sundar and others v. State of Chhattisgarh AIR 2011 SC 2839*, it has been stated that it is the duty of the states to strive, incessantly and consistently, to promote fraternity amongst all citizens so that the dignity of every citizen is protected, nourished and promoted.

In *Tehseen Poonawalla v UOI and ors (2018) 9 SCC 501* the Supreme Court held that, it is the responsibility of the States to prevent untoward incidents and to prevent crime. The court further said,

17. There can be no shadow of doubt that the authorities which are conferred with the responsibility to maintain law and order in the States have the principal obligation to see that vigilantism, be it cow vigilantism or any other vigilantism of any perception, does not take place. When any core group with some kind of idea take the law into their own hands, it ushers in anarchy, chaos, disorder and, eventually, there is an emergence of a violent society. Vigilantism cannot, by any stretch of imagination, be given room to take shape, for it is absolutely a perverse notion... **No one has the authority to enter into the said field and harbour the feeling that he is the law and the punisher himself. A country where the rule of law prevails does not allow any such thought. It, in fact, commands for ostracisation of such thoughts with immediacy.**

20. Hate crimes as a product of intolerance, ideological dominance and prejudice ought not to be tolerated; lest it results in a reign of terror. Extra judicial elements and non-State actors cannot be allowed to take the place of law or the law enforcing agency. A fabricated identity with bigoted approach sans acceptance of plurality and diversity results in provocative sentiments and display of reactionary retributive attitude transforming itself into de-humanisation of human beings. Such an atmosphere is one in which rational debate, logical discussion and sound administration of law eludes thereby manifesting clear danger to various freedoms including freedom of speech and 4 expression. One man's freedom of thought, action, speech, expression, belief, conscience and personal choices is not being tolerated by the other and this is due to lack of objective rationalisation of acts and situations’.

In *Pravasi Bhalai Sangathan v. Union of India*, (AIR 2014 SC 1591), 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.

In the case of *Amish Devgan vs Union Of India 2021 1 SCC 1*, the Supreme Court quoted Benjamin Franklin, “It remains difficult in law to draw the outmost bounds of freedom of speech and expression, the limit beyond which the right would fall foul and can be subordinated to other democratic values and public law considerations, so as to constitute a criminal offence. The difficulty arises in ascertaining the legitimate countervailing public duty, and in proportionality and reasonableness of the restriction which criminalizes written or spoken words. Further, criminalization of speech is often demarcated and delineated by the past and recent significant events affecting the nation including explanation of their causes. Therefore,



constitutional and statutory treatment of ‘hate speech’ depends on the values sought to be promoted, perceived harm involved and the importance of these harms. Consequently, a universal definition of ‘hate speech’ remains difficult, except for one commonality that ‘incitement to violence’ is punishable.”

The Police is also at liberty to invoke any other sections of IPC or provisions of any other relevant law against Gaikar, as they may deem fit and necessary in this case.

Sirs, we urge you to take cognizance of the video enclosed herewith, register a case against the perpetrator identified as Shankar Gaikar and arrest him for the cognizable offences, following due process.

Yours sincerely,

Nandan Maluste, CJP President

Teesta Setalvad, CJP Secretary

Annexures:

Annexure A- Video downloaded from twitter

Annexure B- News Article published on July 14, 2017 in India Today

Annexure C- News Article published on November 10, 2019 in Mumbai Mirror