

May 8, 2023

To,

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Respected Sirs,

A group of concerned citizens and organisations, including the National Alliance for People's Movements (NAPM), Sanjeevani Kendra, Thane, Parcham, Mumbra and the 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 speeches delivered by many speakers during a Hindu Janjagran Dharam Sabha event organised by the Sakal Hinud Samaj in Mumbra, Thane, Maharashtra. The event was held on April 30, 2023 at D.K. Das Maharaj Ground in Daighar at 4 pm.

Many speakers were seen participating in the said event, espousing a hard, right-wing, exclusionist ideology, and can be seen delivering incendiary and inciteful speeches through which they had specifically targeted Muslim citizens and community of our country.

A total of five speakers were heard delivering anti-Muslim speeches, videos of which have gone "viral" and reached hundreds of thousands. The speakers have made misinformed and offensive claims against the minority community, its history and their culture. We would like to bring your attention to these instigating speeches, urging you to take stringent action against the perpetrators, 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 through the systemic and perpetrated use of hate speech and writing within the country.

Sir, we are sure you are aware of sharp strictures passed by the Hon'ble Supreme Court of India in a recent case, where especially the string of recent Hate Speeches in the state of Maharashtra were specifically discussed and Orders passed directing police and law enforcement authorities to take pro-active steps to prosecute offenders of hate speech violations. Sir, as citizens and civil rights groups, committed to maintaining harmony and social peace, we therefore urge that adequate preventive action is taken under the law. Sir, we are relying on recent Supreme Court order of April 28 and February 3, and other orders on the issue of hate speech, the history and politics of the people attached to this organisation, and the communally divisive issues that Sakal Hindu Samaj advocates for. Such gatherings where inegalitarian, divisive and stigmatizing words are uttered and mobs provoked violate both the fundamental rights guaranteed to all Indians under the Indian Constitution as are in violation of provisions of Indian criminal law. Articles 14, 15, 16, 21 and 25 of the Constitution stands violated. Provisions of the Indian Penal Code (IPC) have also been violated.

Recent Directions of the Supreme Court on Events after they Occur/are allowed:

On April 28, the Supreme Court, in a significant development, the Supreme Court extended the application of its October 2022 order (which directed the Delhi, Uttar Pradesh and Uttarakhand Police to take suo moto action against hate speech cases) to all States and Union Territories. So now, all States/UTs are enjoined to take suo moto action to register FIR against hate speeches, without waiting for any formal complaint. The bench comprising Justices KM Joseph and BV Nagarathna said the following:

"Respondents (states) shall ensure that immediately, as and when any speech or any action takes place which attracts offences such as Section 153A, 153B, 295A and 506 of IPC etc, without any complaint being filed suo moto action be taken to register cases and proceed against the offenders in accordance with law. Respondents will issue directions to the subordinates so that appropriate action can be taken at the earliest. We further make it clear that such action be taken irrespective of the religion of the maker of the speech, so that the secular character of Bharat as envisaged by the Preamble is preserved."

In its October 21, 2022 order, the Supreme Court had issued interim directions to the state Police wherein it had directed that:

"As and when any speech or any action takes place which attracts offences such as Sections 153A, 153B and 295A and 505 of the IPC etc., suo moto action will be taken to register cases even if no complaint is forthcoming and proceed against the offenders in accordance with law."

The court had further said that non-compliance would amount to contempt of court:

"We make it clear that any hesitation to act in accordance with this direction will be viewed as contempt of this Court and appropriate action will be taken against the erring officers," the order reads.

A copy of the Supreme Court order dated October 21, 2022 has been marked and annexed hereto as Annexure A

We would also like to highlight that on February 3, 2023, the Supreme Court issued directions with respect to an event which was scheduled to be held in Mumbai on February 5, 2023 by the same extremist Hindutva group as mentioned above, Sakal Hindu Samaj. The petitioner, Shaheen Abdullah, had contended that similar to its anti-Muslim speech during 'Hindu Jan Aakrosh Morcha' held in Mumbai on January 29, it can be apprehended that the same will be repeated during the February 5 meeting as well. The apex court had thus sought a video of the entire event to be scrutinized by the court at the next hearing. The court has also taken an undertaking from government of Maharashtra that if permission for this event is granted "it will be subject to the condition that nobody will make any hate speech and in defiance of law or disturbing the public order."

The court also outlined directives with respect to taking preventive action in such cases:

"We also direct that the Officer(s), in case, permission is granted and, in case, the occasion arises for invoking the power under Section 151 of Cr.P.C. as aforesaid, it shall be the duty of the Officer(s) concerned to invoke the said power and to act as per the mandate of Section 151 of the Cr.P.C."

The apex court has, thus, again outlined already codified statutory duties of a police officer which makes it mandatory for them to take action under section 151 of CrPC in case there is apprehension of hate speech. The court, during the last hearing on February 3 had also expressed its disappointment that the police was not taking preventive action or filing complaints suo-moto in cases of hate speech, as it had directed in October, 2022 while hearing a bath of petitions against hate speech at various occasions.

A copy of the Supreme Court order dated February 3, 2023 has been marked and annexed hereto as Annexure B

We will dispatch the Order of the Hon'ble Supreme Court dated April 28, 2023 the moment that it has been uploaded.

Now, coming to the offensive and inflammatory content of the hate speeches that violate both the Supreme Court's Orders and Indian Criminal Law. (Penal provisions from the Indian Penal Code-IPC) listed below).

The poster of the said event may be seen below:



Sadhvi Saraswati, Bharatanand Saraswati Maharaj, and Muni Nilesch Chandra Maharaj were the speakers at the said event, along with two other unknown individuals. As is evident from the above-poster, the agenda behind organizing this event was to spread the far-right divisive ideology, and instigate people against the Muslim community, and the said objective was achieved given the hate-ridden and provocative speeches delivered, calls for violence made, consistent with the recent track record of the organization and the “principles” that they stand for.

Extracts of the speeches made:

Sadhvi Saraswati urges her audience to take up arms by saying *“In the name of religion, even if you have to kill for it or die for it, do not take a step back. Do buy a swords for Rs. 1000 and keep it at home, in case if anyone who follows any other religion and is a be-dharmi even dares to look at you.”*

She further says *“You can buy a car after 2 years too. But you should not allow anyone who is a be-dharmi to buy a land that belonged to your ancestors, so that they cannot commit Land-Jihad. You should not let any be-dharmi play or interfere with your religion.”*

In addition to this, in her speech, she refers to Asaduddin Owaisi, president of AIMIM, MP of Hyderabad as *“Geedad (Jackal)”*. She further provokes her audience to hurt the religious sentiments of the Muslim community, and says *“They say that my brother Abdul is celebrating the festival of Eid today, and I should go over to his house to eat seviyaan (a sweet dish), or else Abdul will be angry with me. I want to ask these people to tell Abdul to come and celebrate Ram Navami, Hanuman Jayatni with them, for Abdul to bring their child dressed as Ram in saffron clothes and a tilak on his head. They should ask Abdul to put the saffron flag, say Bharat Mata ki jai and Vande Mataram.”*

The next speaker was Bharatanand Saraswati Maharaj, who had targeted Muslims and accused them of spreading COVID.

"Till now, our Modi ji is there in the centre as Prime Minister. But once Yogi ji comes, you won't even be able to find Mughal on Google. I want to warn my Hindu sisters that they should keep a weapon in their purse for their own protection. For cow protection, women protection, country protection and protection of our religion, keeping a weapon for these purposes is not a crime. Keep weapons on yourself."

"We will repeat the karseva that we have done in the past. We all, along with our saints and Hindu brothers will ourselves go and free this pure land that belongs to us."

"These people will not form a connection with Ram, but will rather belong with Babar, these are the illegal children of Babar and Aurangzeb. If you remain this peaceful and quiet, how will we protect our religion and country?"

The third speaker was Muni Nilesh Chandra Maharaj, who said that *"If Godse hadn't shot Mahatma Gandhi in his chest, Hindus would have been praying Namaz in Mecca and Medina."*

He also said *"If we do not become extremists like them, then in the coming times, we will be given a choice to either let go of our religion and accept Islam, or to have our heads be cut off from our body"*

**A link of the video available presently on YouTube is
GTC events live (YouTube Channel)**

सकल हिंदू समाज आयोजित हिंदू जनजागरण धर्मसभा - डायघर (ठाणे)
https://www.youtube.com/watch?v=cq0A_4T_a3k&t=569s

(We have also downloaded the Video which we can send you if required)

The transcript of the speeches given by the 5 speakers with the time stamps of the objectionable content is also annexed to the complaint as Annexure D.

Throughout this speech, the speakers have not minced their words, and has clearly incited Hindus, against the Muslim community by bringing in their history and certain controversial cases, and has even used slurs against the Muslim community. Following the patterns of their extremist peers, giving fire to the "Love-Jihad agenda", the speakers have even brought in the issue of Hindu woman being under the threat. 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. Furthermore, this was 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 these videos 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 consequences of such an inflammatory speech could be dire.

Penal implications of Hate Speech

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 public tranquillity. 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:

In the light of this, we urge you to take action as per the following sections of IPC against the speakers:

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

Supreme Court Directives on Provocative Hate Speech:

We are sure that the Police is aware of a slew of directives that the Hon'ble Supreme Court has issued *time and again* for effective prevention of social disharmony, hate crimes and communal violence. These specify measures that need to be taken have speakers who are repeat offenders and organisations with a similar record keep violating hate speech law.

These include:

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 *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 the case of *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 given specific directions for the police to adopt preventative measures, in which a senior police officer, not below the rank of Superintendent of Police, shall work as Nodal Officer in each district. Such Nodal officers were then directed to constitute a special task force so as to procure intelligence reports about the people who are likely to commit such crimes, as mob violence and lynching, or who are involved in spreading hate speeches, provocative statements and fake news.

In addition to this, the Nodal Officer, along with the Station House officers, have been directed to take steps to prohibit instances of dissemination of offensive material through different social media platforms or any other means for inciting tendencies leading to mob-violence and lynching.

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 dehumanisation 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 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."

On February 26, the Navi Mumbai Commissioner of Police, Milind Bharambe, had videotaped the entire event organized by Sakal Hindu Samajh in Navi Mumbai, Maharashtra as per the orders of the Supreme Court. The content of the speeches given at the event are now being investigated on whether they can be classified as hate speeches. The decision of video-tapping the event came after Mr. Tushar Gandhi, president of the Mahatma Gandhi Foundation had written a preventive letter to the Navi Mumbai police seeking preventative measures.

Besides over the past few months some FIRs have also been recorded by the Maharashtra police in some districts though no records of arrests have been made public. These include:

1. FIRs against BJP MLA T Raja Singh from Telangana

- FIR registered by Dadar police station under IPC section 153A (a) on March 27, 2023 for speech given by Singh in Mumbai, Maharashtra on January 29
- FIR registered by Kranti Chowk police station under IPC section 153A (a) on March 20, 2023 for speech given by Singh in Aurangabad, Maharashtra on March 19
- FIR registered by Ahmednagar district police under IPC sections 295, 504 and 506 on March 15, 2023 for speech given by Singh in Srirampur, Maharashtra
- FIR registered by Shivaji Nagar police station under IPC sections 153A (a), 153B, 295A, and 505 on February 27, 2023 for speech given by Singh in Latur, Maharashtra

2. FIRs against Kajal Hindustani

- FIR registered by Mira-road police station under IPC section 153A (a) and 505 on April 24, 2023 for speech given by Hindusthani in Mira Road, Mumbai, Maharashtra on March 12
- FIR registered by Vashi police station under IPC section 153A (a), 153B, 295A, and 505 on April 24, 2023 for speech given by Hindusthani in Mira Road, Mumbai, Maharashtra on February 26

3. FIR against Kalicharan Maharaj

- FIR registered by Baramati city police station under IPC section 153A (a) and 505(2) on April 28, 2023 for speech given by Kalicharan in Pune, Maharashtra on February 9

It can be clearly deduced from the provocative and instigating statements made by the speaker at this event that these attract penal provisions of Indian law. The law and directives of the

Hon'ble Supreme Court require that in the case of such speeches, wherein religious minorities of our country are being attacked and sentiments that have the potential to disrupt social peace and cause violence and harm to marginalized sections, the police needs to act and act promptly.

A sense of anger and fear are both being provoked by the Sakal Hindu Samaj. In light of this, the Police may invoke any other sections of IPC or provisions of any other relevant law against the speakers, in addition to the ones mentioned above, as they may deem fit and necessary in this case. We urge you to take cognizance of the videos enclosed herewith, register a case against the perpetrator identified and arrest them for the cognizable offences.

Sir, if the wider public is kept abreast of developments, this would go a long way in re building faith and confidence in the rule of law in general and a police-citizen relationship in particular.

In anticipation of prompt and early action,

Yours sincerely,

Dr. Sanjay Mangala Gopal	National Alliance of Peoples' Movements (NAPM)
Jagdish Khairalia	Shramik Janata Sangh
Vandana Shinde	Andhashraddha Nirmulan Samiti
Nuruddin Naik	Businessman, Mumbra
Augustine Crasto	Sanjeevan Kendra c/o Federation of Community Centres & Centre for Peace Trust Mumbai
Madina bi Maqbool	Football Coach, Mumbra
Muskan bi Shaikh	Football Coach, Mumbra
Raj Asrondkar	Kayadyane Waga Lokchalval
Bishop Allwyn D'silva	Sanjeevan Kendra c/o Federation of Community Centres & Centre for Peace Trust Mumbai

Annie Fernandes	Sanjeevan Kendra c/o Federation of Community Centres & Centre for Peace Trust Mumbai
Savita Jadav	Sanjeevan Kendra c/o Federation of Community Centres & Centre for Peace Trust Mumbai
Catherine Lewis	Sanjeevan Kendra c/o Federation of Community Centres & Centre for Peace Trust Mumbai
John Dsa	Sanjeevan Kendra c/o Federation of Community Centres & Centre for Peace Trust Mumbai
Preeti Rodricks	Sanjeevan Kendra c/o Federation of Community Centres & Centre for Peace Trust Mumbai
Maria Rani	Sanjeevan Kendra c/o Federation of Community Centres & Centre for Peace Trust Mumbai
Sabah Khan	Minority & Women's Rights Activist, Mumbra
Teesta Setalvad	Secretary, Citizens for Justice and Peace

List of Annexures:

Annexure A: A copy of the Supreme Court order dated October 21, 2022

Annexure B: A copy of the Supreme Court order dated February 3, 2023

Annexure C:

GTC events live (Youtube Channel)

सकल हिंदू समाज आयोजित हिंदू जनजागरण धर्मसभा - डायघर (ठाणे)

https://www.youtube.com/watch?v=cq0A_4T_a3k&t=569s

Annexure D: Transcript of the speeches made by the speakers at the said event