



May 12, 2023

To,

Commissioner of Police, Nagpur

Phone: 0712 – 2590601

Email: cp.nagpur@mahapolice.gov.in

DCP Crime

Phone: 0712-2595646

E-mail: cp.ngp.dcpdetection@mahapolice.gov.in

Subject: Complaint against brandishing of weapons and hate speeches delivered at two *Trishul Diksha* event held in Nagpur in May

Respected Sirs,

We, at Citizens for Justice and Peace (CJP) Mumbai, human rights movement dedicated to furthering the constitutional rights of all Indians, are writing to you raising concerns over two *Trishul Diksha* events held in Nagpur, Maharashtra. The said trident distribution events were organised by Hindutva extremist outfits, Vishwa Hindu Parishad and Bajrang Dal. At these events, in addition to distribution of tridents amongst Hindu men, hate speeches are delivered exhorting Hindus to take up arms. CJP, among other things, has been a crusader against hate speech and runs a campaign to fight against hate based crimes, by not just reporting such incidents but also reaching out to authorities seeking appropriate action.

Thus, we wish to flag these two events that took place in Nagpur on **May 2, 2023**, and **May 9, 2023** where trishuls/tridents were distributed and oaths for protecting the nation and religion were raised along with a demand for the declaration of India as a Hindu nation. It is also purported that these *Trishul Diksha* events were attended by more than 1500 people. Sir, at these events, the speakers and members indulge in peddling various conspiracy theories to generate hate towards Muslims and called for establishing a 'Hindu nation'. The speakers have made misinformed and offensive claims against the minority community and their culture, with the agenda of provoking the Hindu audience to take up arms against them. The speakers and members even take oaths to resort to violence against the Muslim community.

We would like to bring your attention to these events which are based on brandishing of weapons, instigating speeches, and urging you to take stringent action against the perpetrators, as if these

hate-driven actions 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, and then such events are giving another platform to such hate mongers.

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. In October 2022, January-February 2023 and finally on April 28, 2023, the Supreme Court has directed police authorities in Maharashtra and all other states to ensure application of prevention and prosecution measures, already prescribed under Indian criminal law, to such events, the organisations and speakers.

Sir, these two extremist fringe outfits, Bajrang Dal and Vishwa Hindu Parishad, have been organising such events regularly in the state of Rajasthan, and have been creating disharmony, furthering their communal agenda. As we know, Maharashtra has been on the target of such Hindutva groups since November 2022. Thus, it is essential that you urgently take action over these trishul distribution events being organised in Maharashtra, before these spread to other areas, districts and cities.

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 the Vishwa Hindu Parishad and Bajrang Dal, and the communally divisive issues that this organisation 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, 2023 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."

A copy of the Supreme Court order dated April 28, 2023 has been marked and annexed hereto as Annexure A

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 B

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 Sakal Hindu Samaj, another extremist fringe Hindutva group. 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 batch 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 C

Events:

May 2- Trishul Diksha event:

In the said event, organised by Bajrang Dal and Vishwa Hindu Parishad, the members distributed tridents amongst the Hindu audience. While distributing the tridents, a speaker also delivered the hate speech, and openly gave calls for using the said trishuls to stop “love jihad” and religious conversions.

Extracts of his speech are as follows:

“But they are converting our Hindu girls. Bajrang Dal must work against it. Religious conversion is taking place in good localities as well. These Christian pastors and Muslim maulvis take advantage of the uneducated people, who are not aware of the law and do religious conversion. Bajrang Dal is actively working against this but we need to increase our efforts. Here more than 2,000 workers of Bajrang Dal are present to take *Trishul Diksha*. The onus is on you, wherever you see religious conversion, love jihad and do to them what they do to us. Forget all caste and get to work to protect the country, religion and culture.”

Link of the video available presently on twitter is:

<https://twitter.com/HindutvaWatchIn/status/1653353034309672965>

A copy of the video downloaded by us from Twitter dated May 2, 2023 has been marked and annexed as Annexure D

May 9- Trishul Diksha event:

In the said event, Bajrang Dal members distributed tridents amongst 1100 Hindu men and administered an oath to protect the nation and religion. The video clipping of this event also shows that before the distribution of the tridents, speakers at the event gave a speech about Hindus and Hindutva. It was also showed in the video that these people chanted the Hanuman Chalisa.

In the video, a short clipping of a man donning an orange scarf was played, in which he was heard saying “Today, the Hindu is aware and active, so they will not be getting votes from us, and they are now only gaining their votes from them. They want to target the Bajrang Dal only because they want to attack the Hindus. They won’t be able to get Bajrang Dal closed, but they might get their own shop closed this way.”

Link of the video available presently on twitter is:

<https://twitter.com/HindutvaWatchIn/status/1655777675670175745>

A copy of the video downloaded by us from Twitter dated May 9, 2023 has been marked and annexed as Annexure E

It is evident through the hate speech delivered at the event, where the speaker have not minced their words, and has clearly incited Hindus against the Muslim community by bringing in falsified versions of “their history” and certain controversial cases, and the description given by the Bajrang Dal members of their event and their agenda behind organizing the trident distribution event, the extremist groups want to keep the citizenry at a boil, promote a communally divisive ideology.

Following the patterns of their extremist peers, giving fire to the unsubstantiated, untrue and provoking claims of a “Love-Jihad agenda”, the main speaker at the above highlighted event have even brought in the issue of Hindu woman being under the threat, being forcefully converted. Such expression of targeted and 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. Such speech and hate content has the direct potential to cause physical and mentally bodily harm to marginalized groups, their women and render their already insecure life further eroded of dignity and equality.

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, these said speeches were made at a trishul distribution event, which is 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.

Violations

Trishul Diksha Event:

Section 2 (1) (c) of the Arms Act defines “arms” as:

Articles of any description designed or adapted as weapons for offences, or defence, and includes firearms, sharp-edged and other deadly weapons, and parts of, and machinery for manufacturing arms, but does not include articles designed solely for domestic or agricultural uses such as a lathi or an ordinary walking stick and weapons incapable of being used otherwise than as toys or of being converted into serviceable weapons.”

When it comes to sharp object that may be used as weapons, according to Schedule 1 – Rule 3 (V) that deals with arms other than fire arms:

Sharp-edged and deadly weapons, namely-Swords (including sword-sticks), daggers, bayonets, spears (including lances and javelins); battle-axes, knives (including kripans and khukries) and other such weapons with blades longer than 9” or wider than 2” other than those designed for domestic, agricultural, scientific or industrial purposes, steel baton; “Zipo” and other such weapons, called “life preservers”, machinery for making arms, other than category II, and any other arms which the Central Government may notify under section 4.”

Under **section 5** of the Arms Act, it is prohibited to offer arms for sale, unless he holds a license and the punishment for the same is imprisonment of up to 7 years. Under **section 20**, an police officer or any other public servant or any person employed or working upon a railway, aircraft, vessel, vehicle can arrest without warrant any person found carrying or conveying any arms under suspicious circumstance. Under **section 22**, the District Magistrate is empowered to issue orders for search and seizure if he/she has reason to believe that any person residing within the local limits as in his possession any arms or ammunition for any unlawful purpose or such person cannot be left in the possession of any arms or ammunition without danger to the public peace or safety.

Under **section 25(3)** whoever sells or transfers arms without informing the district magistrate or the police officer in charge of nearest police station shall be punishable with imprisonment up to 6 months.



It also amounts to violations under the Indian penal Code under the following sections:

122- Collecting arms, etc., with intention of waging war against the Government of India

153AA- Punishment for knowingly carrying arms in any procession or organising, or holding or taking part in any mass drill or mass training with arms.

120A- Definition of criminal conspiracy

121- Waging, or attempting to wage war, or abetting waging of war, against the Government of India

141- Unlawful assembly

144- Joining unlawful assembly armed with deadly weapon

149- Every member of unlawful assembly guilty of offence committed in prosecution of common object

153- Wantonly giving provocation with intent to cause riot—if rioting be committed; if not committed

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

153B- Imputations, assertions prejudicial to national integration

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

298- Uttering words, etc., with deliberate intent to wound religious feelings

503- Criminal intimidation

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

505 2[(1)] - Statements conducing to public mischief

505 7[(2)] - Statements creating or promoting enmity, hatred or ill-will between classes

The Code of Criminal Procedure (CrPC) also enumerates the powers of the District Magistrate in such instances:

‘144A. Power to prohibit carrying arms in procession or mass drill or mass training with arms.—(1) The District Magistrate may, whenever he considers it necessary so to do for the preservation of public peace or public safety or for the maintenance of public order, by public

notice or by order, prohibit in any area within the local limits of his jurisdiction, the carrying of arms in any procession or the organising or holding of, or taking part in, any mass drill or mass training with arms in any public place.

There are also powers to **disperse unlawful assemblies** (sec 129).

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 statements 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.

Our prayer

It can be clearly deduced from the provocative and instigating statements made by the speakers at this *Trishul Diksha* event as well as the act of brandishing weapons that the penal provisions of Indian law are attracted here. 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.

The state of Maharashtra has clearly had a history of being intolerant towards such fringe elements trying to disrupt the communal harmony and the general law and order situation in the state. We, thus urge you to take immediate and stringent action against Hindutva outfits- Bajrang Dal and Vishwa Hindu Parishad for organizing such event.

We, thus, humbly request you to look into this grave matter at the earliest, in the interest of the public and also in the interest of maintaining law and order and public order in the state and accordingly take stringent action against the organizers of such events. **We especially urge the Commissioner of Police, Nagpur to take necessary steps to ensure that the perpetrators behind the Trishul Diksha event of May 2 and May 9 are identified and booked, and any**



further such events are prevented at all costs. This will serve as a deterrent for other such fringe elements so that they do not organize such kind of events in the state in the future.

A sense of anger and fear are both being provoked by the Bajrang Dal and the Vishwa Hindu Parishad. 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.

Sir, do note that we are sending this complaint, on which we urge you to register an FIR by email, registered post and thereafter we may hand it over through a joint delegation in person.

In anticipation of prompt and early action,

Yours sincerely,

Nandan Maluste, CJP President

Teesta Setalvad, CJP Secretary

List of Annexures:

Annexure A: A copy of the Supreme Court order dated April 28, 2023

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

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

Annexure D: A copy of the video downloaded from Twitter dated May 2, 2023

Annexure E: A copy of the video downloaded from Twitter dated May 9, 2023