



May 18, 2023

To,

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**Subject: Complaint against hate speech made at an event organised by the Sakal Hindu Samaj in Amravati**

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 Bharatanand Swami during an event organised by the Sakal Hindu Samaj in Amravati, Maharashtra, the video for which has been accessed by us on May 15, 2023. Speaking at the platform provided by the controversial Sakal Hindu Samaj, which is known for organising events that cause disharmony, Bharatanand Saraswati was seen participating in the said event, espousing a hard, right-wing, exclusionist ideology, and can also be seen delivering incendiary and inciteful speeches through which he had targeted the Muslim community of our country. A videos of his anti-Muslim speech has gone “viral” and reached hundreds of thousands of persons revealing the deleterious impact of such hate speech on social media. 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. We are also sure that you are aware that the Hon’ble Supreme Court of India is presently hearing a series of petitions on the issue of hate speech and at recent hearings of an ongoing matter sharp guidelines have been laid down for preventive action and prosecution of hate speech.

Sir, it is important to note that even though in the said complaint we have only highlighted the speech by Bharatanand Saraswati, as is evident from the Video, many other hate offenders and repeated hate speakers could be seen sitting beside him on the stage. One of the individuals present at the said event



was one Muni Nilesh Chandra Maharaj. Since only the speech given by Bharatanand Saraswati Maharaj has been made public, and can be heard, we are presently filing a complaint on it. However we are also underlining the fact that according to the laid down law in the Bombay Police Act and the Code of Criminal Procedure (CRPC) *as also underlined in recent orders of the Hon'ble Supreme Court*, the police is required to Videograph all such meetings and events. We are also aware that the police *is in fact doing so, that is video recording such events*. Hence, since it is more than likely that the other speakers present would have also delivered hate speeches, with the aim of causing social disharmony and stigmatizing one section of our population. Such unchecked hate speech also works to instigate people against the Muslim community. We are aware, as mentioned before, that every programme that is organised by such hate speakers, the video of the said event is recorded by the police. Based on the same, it is essential that the other participants are also identified and action is taken against this hate event and their organisers, not just the one identified in this complaint.

Sir, we are sure you are aware of sharp strictures passed by the Hon'ble Supreme Court of India in an ongoing 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 proactive 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 especially want to point to two recent Supreme Court order of April 28 and February 3, 2023 and other orders on the issue of hate speech where prompt and urgent preventive action and prosecution of offenders has been directed. Sir, it is critical that the police authorities also investigated the history of the organisation, Hindu Janajagruti Samiti, and the previous record of individuals who speak under its banner and the banner of other similar outfits, inter-changeably. Such gatherings where inegalitarian, divisive and stigmatising speeches are made and words are uttered and, at which, 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 motu action against hate speech cases) to **all States and Union Territories**.

So now, all States/UTs, including Maharashtra, are enjoined and bound to take suo motu 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 motu 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 scrutinised 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 C***

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

Sakal Hindu Samaj has had a history of inviting serial hate speakers to deliver hate speeches. The agenda behind organising 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 organisation and the "principles" that they stand for. This is it essential that the organisers of the said event are also punished.

**Extracts of the speech made by Bharatanand Saraswati Maharaj:**

"I have been told to not give hate speech, complaints are being lodged, and they might put you in jail. To this, I say that our Lord Krishna were born in a jail only. Jail does not matter to us, not at all. I have myself been to jail once. This is all happening because conspiracies are taking place against Hindu saints, Hindu organisations and Hindu ministers."

"But these authorities do not have the audacity to take any action against those who openly raise slogans for dividing India and against the government. Our Hindu community is innocent, no one will ever take a stone in their hands, no one can ever harm anyone."

"I get to know this yesterday that there was some riot in Akola yesterday. Who is responsible for these riots? Why are they not being arrested? When it comes to them, the courage of the authorities and the procedures that they follow, is limited to working against the Hindu community."

"Anyone who commits cow slaughter should be given a death sentence. Some people do not follow the Constitution. These people used to attack doctors and police officers, would not wear mask and get vaccines, would not even adhere to the curfew. But the law means nothing for them, every law is for the Hindus."

"*'Hum do Humare do'* is also limited to Hindus, there the motto is *'Hum paanch humare pachhis'*. There is no law for them, and even if there is, they do not follow it. It is also essential that population control laws are brought in and implemented. Their population is increasing, and their dreams of taking over the country need to be corrected."



***A copy of the video downloaded from Twitter dated May 15, 2023 has been attached and annexed as Annexure D***

Throughout this speech, the speaker has not minced his words, and has clearly incited Hindus, against the Muslim community by bringing in their history and certain controversial cases, and even accused Muslims of rioting in Akola without having the full information on the ongoing investigation. Following the patterns of their extremist peers, giving fire to the “cow slaughter” and “growing population of Muslims” agenda, the speakers have even implied that the Muslim community was responsible for the spread of COVID, something which had been used as an instrument to spread islamophobia in the past too.

It is also noteworthy that while addressing a crowd of “supporters”, Bharatanand Saraswati said that even he had been advised by people to not give a hate speech, but he is not afraid of jail. Instigating his audience, in his speech, he implied that “because he is a Hindu,” that is the reason why he is being targeted by the police and authorities. He went to the extent of falsely accusing the “Muslim community of spreading COVID”, and the authorities for not “punishing the Muslim community.” 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. These speeches are also promoting a disbelief within the Hindu community that they are being targeted by the authorities unjustifiably.

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.

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**Previous complaint against Bharatanand Saraswati Maharaj and Muni Nilesh Chandra Maharaj**

On April 30, 2023, in Mumbra, Thane, Maharashtra the outfit of Sakal Hindu Samaj had organised another hate-filled Hindu Janjagaran Dharmasabha. Many speakers, including Bharatanand Saraswati and Muni Nilesh Chandra Maharaj, were seen attending the event, advocating for the right-wing, fascist, anti-democratic, anti-secular, exclusionist ideology by delivering violent and inciteful speeches



aimed at our country's Muslim community. A total of five speakers had delivered an anti-Muslim speeches at the said event.

**On May 8**, several organisations were represented in a collective delegation to the Commissioner of Police (Thane), Shri. Jai Jeet Singh, where a complaint against the said event was submitted and prompt action against the hate speech delivered was demanded in accordance to law. It is essential to note that the speech given by Bharatanand Saraswati at the April 30 event was similar to the speech given at the present event against which we are filing this complaint. Upon submitting our complaint, we had been assured that the required action against the hate speakers as well as the organisers will be taken.

### **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. 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:

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

109- Abetment

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

**Measures that Police is statutorily bound to take when Speakers & Organisers have a record of 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 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 Deygan 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 criminalises written or spoken words. Further, criminalisation 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 organised 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.

It can be clearly deduced from the provocative and instigating statements made by the speaker at this event that religious minorities of our country are being attacked to establish a nation for Hindus, and anti-Muslim sentiments among the people are being instilled 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 and the organisers, in addition to the ones mentioned above, as they may deem fit and necessary in this case.

A total of nine FIRs have been filed against hate offenders in Maharashtra since December 2022, namely BJP MLA T. Raja Singh, Kajal Hindusthani, Kalicharan Maharaj and Suresh Chavhanke. The latest FIR has been filed against Kalicharan Maharaj, by the Sillod rural police station of Aurangabad rural. In the said FIR, in addition to Kalicharan Maharaj, the organisers as well as the ones who had obtained permission for the event, have also been booked.





Therefore, we urge you to take cognizance of the video enclosed herewith, register a case against the perpetrators identified as well as the organiser, and arrest them for the cognizable offences. 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 will be handing it over through a joint delegation in person.

In anticipation,

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 15, 2023