



May 9, 2022

To,

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**Subject: Complaint against multiple hate speeches made by BJP leaders in Karnataka since Model Code of Conduct has been in place**

Respected Sirs,

We, at Citizens for Justice and Peace (CJP), a human rights movement dedicated to furthering the constitutional rights of all Indians, are deeply concerned about several hate speeches being made in poll-bound Karnataka where the Model Code of Conduct has been in effect since March 29.

- 1. On May 2, 2023** a video surfaced of BJP MLA Basanagouda Patil Yatnal making a speech in Kannada whereby he says that if somebody speaks about Hindus/India, that person will be shot. He also said that if BJP comes to power again in Karnataka, there will direct (and swift) encounters (extra judicial killings) out on road and no imprisonment for such crimes! He is on record saying, "We will implement Yogi Adityanath's style of governance to people in Karnataka. Anyone who speaks against India will be encountered. We will stop sending to jail. Decision will be take on the road itself".

***The clipping of the video as available on social media and downloaded by CJP is marked and annexed as Annexure A hereto***

Yatnal had delivered a hate speech in February 2023 as well, referring to the polls in Karnataka where he said, "All MLAs ask me, in your constituency there are one lakh Tipu Sultans (Muslim votes) how could a Shivaji Maharaj descendant win from Bijapur. Going forward in Bijapur, none of the followers of Tipu Sultan will win. Even by mistake you should not cast your votes for Muslims".

This is also clearly anti-constitutional content, discriminatory and stigmatising of one section of Indians.

***A copy of the news article from Hindustan times dated March 1, 2023 is marked and annexed As Annexure B hereto***

In 2018, as well he had made shocking comments on Muslim voters, “I never asked Muslims to vote for me, I had faith in Hindus that they would vote for me,”

3. On **April 3, 2023**, a video surfaced online where BJP leader and former MLA Ayanur Manjunath warned Muslims, Hindus as well as Shivamogga Police to be careful as anything could happen before the elections.

This amounts to criminal intimidation which has been clearly enlisted as a malpractice in MCC, and as ‘corrupt practice and electoral offence under the Indian Penal Code and the Representation of the People Act, 1951.

***The clipping of the video as available on social media and downloaded by CJP is marked and annexed as Annexure C hereto***

We have already sent our complaint to you (dated May 8, 2023) about hate speech made by T Raja Singh, the suspended MLA of BJP from Hyderabad who has been campaigning for the party in Karnataka. In his speeches, given at two separate events, the speaker has made misinformed and offensive claims against the minority community, made religiously derogatory and communal statements. T. Raja Singh has a history of stigmatizing and dehumanizing the minority community apart from spreading communal disharmony by targeting the Muslim community.

### **Legal Violations-**

#### **Model Code of Conduct**

The above-mentioned speeches made by Singh stand in violation of the following sections of Code of Conduct:

##### **I. General Conduct**

(1) No party or candidate shall include in any activity which may aggravate existing differences or create mutual hatred or cause tension between different castes and communities, religious or linguistic.

(4) All parties and candidates shall avoid scrupulously all activities which are “corrupt practices” and offences under the election law, such as bribing of voters, intimidation of voters, impersonation of voters, canvassing within 100 meters of polling stations, holding public meetings during the period of 48 hours ending with the hour fixed for the close of the poll, and the transport and conveyance of voters to and from polling station.

In ECI letter No. 437/6/INST/2013/CC&BE, dated 28.11.2013 addressed to the President/General Secretary of all recognised National and State Political Parties, had made note of plummeting levels of political discourse witnessed during the ongoing election campaign for the 5 State Assembly elections, namely Chhattisgarh, Madhya Pradesh, Mizoram, Rajasthan and Delhi and mentioned that it had received a tide of complaints indicative of:

- (a) Mouting of provocative and inflammatory statements' calculated to cause mutual hatred, disharmony or ill will,
- (b) Use of intemperate and abusive language transgressing the limits of decency, and
- (c) Attacks on the personal character and conduct of political rivals, in utterances & through posters/hoardings, tend to incite mutual hatred, disharmony or ill-will and aggravate the differences between different political parties and classes of citizens on the grounds of religion, caste, community, etc., and which the Model Code of Conduct dissuades from being resorted to.

The Election Commission's letter No. 464/INST/2007-PLN-I Dated: January 7, 2007 the Election Commission sated several Do's and Don'ts for political parties which stated:

- (5) Caste/communal feelings of the electors shall not be appealed to.
- (6) No activity, which may aggravate existing differences or create mutual hatred or cause tension between different castes, communities or religious or linguistic groups shall be attempted.

Under the Manual of Model Code of Conduct, Chapter 2, (2.3.1) it is stated that

- (iv) Intimidation of voters is an electoral offence under Section 135A(C) of the Representation of the People Act, 1951.

Under Manual of Model Code of Conduct, Chapter 4 (4.4.2) it is stated under **DOs & DON'Ts for Electioneering to be Followed by Political Parties and Candidates:**

**(B) DON'Ts**

- (vii) Activities, which are corrupt practices or electoral offences such as bribery, undue influence, intimidation of voters, personation, canvassing within 100 meters of a polling station, holding of public meetings during the period of 48 hours ending with the hour fixed for the close of the poll and conveyance of voters to and from polling stations, are prohibited.

**Representation of People Act**

The speakers stand in violation of the following sections of the Act:

**123. Corrupt practices.**—The following shall be deemed to be corrupt practices for the purposes of this Act:—

[(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate

(3A) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate

**[125. Promoting enmity between classes in connection with election.—**Any person who in connection with an election under this Act promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred, between different classes of the citizens of India shall be punishable, with imprisonment for a term which may extend to three years, or with fine, or with both.]

135A(C)

### **Indian Penal Code**

The following offences under the IPC are applicable to the speeches made by Singh:

153A, 153B, 171C, 295A, 505(2)

**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**

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

**503. Criminal intimidation**

**505. Statements conducing to public mischief**

**505. (2) Statements creating or promoting enmity, hatred or ill-will between classes**

In *Abhiram Singh v. C.D. Commachen (Civil Appeal No. 37 of 1992; decided on January 2, 2017)*, a 7-judge bench decided that electoral appeals to voters based on their religion is a “corrupt practice” which can result in declaring the election of the candidate as void and further disqualification for a period of six years.

Justice T.S. Thakur in his concurring judgment said,

“The State being secular in character will not identify itself with anyone of the religions or religious denominations. This necessarily implies that religion will not play any role in the governance of the country which must at all times be secular in nature. The elections to the State legislature or to the Parliament or for that matter or any other body in the State is a secular exercise just as the functions of the elected representatives must be secular in both outlook and practice. Suffice it to say that the Constitutional ethos forbids mixing of religions or religious considerations with the secular functions of the State.”

In *Ziyauddin Burhanuddin Bukhari vs Brijmohan Ramdass Mehra 1975 SCR 453*, the Supreme Court held thus,

“As already indicated by us, our democracy can only survive if those who aspire to become people's representatives and leaders understand the spirit of secular democracy. That spirit was characterised by Montesquieu long ago as one of "virtue". It implies, as the late Pandit Jawaharlal Nehru once said, "self-discipline". For such a spirit to prevail, candidates at elections have to try to persuade electors by showing them the light of reason and not by inflaming their blind and disruptive passions. Heresy hunting propaganda on professedly religious grounds directed against a candidate at an election may be permitted a theocratic state but not in a secular republic like ours. It is evident that, if such propaganda was permitted here, it would injure the interests of members of religious minority groups more than those of others. It is forbidden in this country in order to preserve the spirit of equality, fraternity, and amity between rivals even during elections. Indeed, such prohibitions are necessary in the interests of elementary public peace and order.”

In April 2019, the Supreme Court had pulled up the Election Commission for not taking action against hate speech on religious lines during election rallies taking note of hate speeches made by BSP Chief Mayawati and UP Chief Minister Yogi Adityanath. Hence, we urge that the Commission take necessary action in this regard.

Those who make hate speech during election campaigns intend to divide voters on communal lines and this is neither desirable nor favourable for a culturally and communally vibrant and diverse country like ours where our courts and statutory as well as constitutional bodies have upheld constitutional values and strive to uphold democracy in its truest sense. While keeping this in mind, we humbly urge the Commission that is the sole body responsible for free and fair elections in our thriving democracy, to do all that it can in its powers to deter such instances of hate speech by political parties and deal with them with an iron hand.

### **Our prayer**

Sir, as citizens and civil rights groups, committed to maintaining harmony and social peace, we therefore urge that adequate action is taken under the law against these violations of laws. We humbly pray, that you take cognisance of this serious violation of the Model Code of Conduct and



Representation of People Act, 1951. We pray that you take strict action against the BJP, and pass necessary strictures against Basanagouda Patil Yatnal and Ayanur Manjunath and bar them from giving any speeches at any poll-bound district of Karnataka, and also direct each of them to issue an unconditional public apology.

Yours sincerely,

Nandan Maluste, CJP President

Teesta Setalvad, CJP Secretary

**List of Annexures:**

Annexure A 1: Clipping of video dated May 2 of Basanagouda Patil Yatnal downloaded by CJP

Annexure A 2: Clipping of video dated May 2 of Basanagouda Patil Yatnal downloaded by CJP

Annexure B: A copy of the news article from Hindustan times dated March 1, 2023

Annexure C: Clipping of video dated April 3 of Ayanur Manjunath downloaded by CJP