



Date: April 8, 2024

To,

Shri Sameer Shaikh

Superintendent of Police, Satara

Email: sp.satara@mahapolice.gov.in

Shri Jitendra Dudi

Collector and District Magistrate, Satara

Email: collectorsatara@gmail.com

Subject: Complaint against serial hate offender Ashwini Upadhyay, for delivering a communal speech at an event organised in Mahabaleshwar

Respected Sirs,

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 Ashwini Upadhyay in Mahabaleshwar, Maharashtra in January 2024. As per the details available, the said speech had been delivered by Upadhyay on January 26 at an event in Mahabaleshwar, Satara. Through his speech, he attacked Islamic Madrasas and advocated taking away minority status of Muslim community. He further alleged that Muslims due to their sheer numerical strength determine the electoral outcomes in the country, thus spreading misinformation and communal agenda.

Ashwini Upadhyay, associated with some far right wing forces in the country is a controversial public figure has been in the habit of filing a spate of “petitions” in the Supreme Court of India where such red flag issues are flagged. The Supreme Court has even on occasion, pulled him up for these tendencies. ¹ Ashwini Upadhyay has also been flagged in the past for disturbing communal harmony and organising an event during which inciteful remarks were raised against Muslims. In the past, he had organised an event at Jantar Mantar in New Delhi in 2021, during which hateful remarks targeting Muslims were made. He, thus, has a history of disturbing the communal harmony of India through his provoking and misinformed statements. We would like to bring your attention to the instigating speech video that has surfaced from the Mahabaleshwar event, urging the police officials to take stringent action against the perpetrator to ensure that these hate-driven speeches are not left unchecked, and the peace and harmony of our country is not affected direly.

¹ https://www.business-standard.com/article/news-ani/sc-raps-advocate-ashwini-upadhyay-for-filing-meaningless-pils-118111201238_1.html

It is possible that, given recent and frequent orders of the Hon'ble Supreme Court, cognisance has already been taken of this speech and investigations are on. In which case, we urge that you share such details with us.

Extracts from the Speech:

“There is disturbance across the world due to Madrasas. Is there unrest or not? Do Madrasas teach the value of universal love for all? Do they teach Vasudhaiva Kutumbakam? Do they say woman you are a goddess? Do they teach the value of equal respect for all religions? Do they say that Dharma (righteousness) should prevail over Adharma (wickedness)? In those Madrasas in which they do not teach Indian culture, tradition, or way of life, why should we run such schools?”

“Those who are numbered in crores, they decide who will be your MP or MLA, that community (reference is to Muslim community) which determines the winning margin (of a candidate), and decides who will your councillor, Pradhan, MLA, or MP, does that community deserve the status of minority?”

“There is no need of minority in India.”

The video had been uploaded on Telegram by Hindutva Watch on February 5, 2024.

The video of the speech has been downloaded by CJP is marked and annexed hereto as **Annexure** <https://t.me/hindutvawatchin/93>

Sirs, it is important to note that this is not the first time that Ashwini Upadhyay has delivered such a hate speech. We at CJP, have regularly tracked the speeches that had been made by him during 2021-2024. It is also essential to highlight here that in the month of August in 2021, Upadhyay had been arrested by the Delhi police for organising an event at Jantar Mantar during which inflammatory remarks were made against Muslim citizens. His arrest, which took place on August 10, 2021, came after the hateful remarks targeting Muslims were made at an event organised by him on August 8, 2021. During his Jantar Mantar event in 2021, the excited crowd had remarked, “*Jab mulle kaate jayenge, Ram-Ram chillayenge (Muslims will chant Ram-Ram when they will be slaughtered).*”

Sirs, 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 state of Maharashtra and urge that urgent steps are taken to curtail and prosecute the same.

Besides, as we are sure you are aware, as the elections to the next Lok Sabha is already announced, apart from Penal Sections of Indian Criminal Law [IPC Sections 153A, 505(1) and 505(2)], the section 123 of the Representation of Peoples Act on misusing religion during electioneering will also come in to play. The atmosphere will be even more volatile and vulnerable for marginalised sections, the minorities.

Recent Directions of the Supreme Court on preventing/prosecuting hate speakers in Maharashtra

As you must know, the issue of rampant hate speech being delivered in Maharashtra and the inaction by law enforcement agencies has been highlighted before the Supreme Court multiple times since 2023. We would 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 the 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."

Even in 2024 itself, while on January 17, the Supreme Court bench of Justices Sanjiv Khanna and Dipankar Datta had expressed their anguish at the petitioners being forced to approach the Supreme Court multiple times against individuals and organisations even after there being guidelines for tacking and taking action against hate speeches. During the said hearing, the Supreme Court issued an order directing the District Magistrate and Superintendent of Police at Yavatmal, Maharashtra and Raipur, Chhattisgarh to take 'appropriate steps' to ensure that no incitement to violence or hate speech occurs at the rallies scheduled in the said districts in the coming few days of January. The said order was passed following the concerns raised by the petitioners over delivery of potential hate speeches at rallies planned by Hindu Janajagruti Samiti and Bharatiya Janata Party legislator T Raja Singh in the month of January.

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

"We would require the authorities to be conscious that no incitement to violence and hate speech are permissible. The concerned District Magistrates and Superintendent of Police of Yavatmal, Maharashtra and Raipur, Chhattisgarh will take necessary steps, as may be required. If necessary and deemed appropriate, police/ administration will install CCTV Cameras having recording facility, so as to ensure identification of the perpetrators in the event of any violence/ hate speech."

Circulars issued by DGP Maharashtra in February 2023 and May 2023 urging strict action on Hate Speech

In Circular No. DGP 20/ Petition No.940/ 2022/54.2023. issued by Dr Suhas Warke (Spl. Inspector General of Police (L&O) for The Director General of Police M.S., Mumbai), dated February 2, 2023, the Supreme Court order dated January 13, 2023 has been highlighted where the court had asked the police to ensure that as and when any speech which attracts offences such as Sections 153A, 153B and 295A and 505 of the IPC take place, suo moto action is taken if no complaint is forthcoming.

The circular had directed all Unit Commanders to follow the Supreme Court order.



The Circular No. DGP/20/Petition No. 940-2022/54/2023 issued by Dr Suhas Warke (Spl. Inspector General of Police (L&O) for The Director General of Police M.S., Mumbai), dated April 3, 2023, entails “measures to be taken to maintain law and order due to agitations, *morchas*, speeches etc.”

It gives detailed instructions on what steps are to be taken when any *morchas* are to be held:

2. All the Unit Commanders should hold a meeting with the concerned organizers before such a *morcha* and fix the route of the *morcha* with appropriate terms and condition. A combined meeting of all social groups should be taken to convey clearly to all that they should maintain peace and keep law and order during the *morcha*. Preventive action against Anti-social elements should be taken. Those elements who help in maintaining peace and harmony should be encouraged. Audio Video recording of the *morcha* should be done. Police Head Quarters should ensure adequate supply of equipment's, like Lathi, Helmets, etc. to police men deployed for *morcha bandobast*. If any law and order situation arises, offences should be registered immediately and arrest should be made. Intelligence machinery should be activated to collect advance information about *morcha*, agitation and efforts should be made to pre-empt any communal incidents.

Action taken against hate speakers and offenders

Sirs, on April 28, 2023 the Supreme Court had held that all States/UTs, including Maharashtra, are enjoined and bound to take suo moto action to register FIR against hate speeches, without waiting for any formal complaint. In its order, the Supreme Court bench comprising Justices KM Joseph and BV Nagarathna had 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."

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. Sir, 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 have been worse.

Besides the Supreme Court we are sure that you are aware that the Bombay High Court is also currently hearing a petition on the hate speeches by another serial offender, Vikram Pawaskar. In the matter, the court has raised questions on the inaction of the police over the FIRs filed against Pawaskar for delivering violent anti-Muslim hate speeches.

Sections of Indian Penal Law attracted

The inflammatory and divisive speech delivered by Ashwini Upadhyay amounts to inciteful, hate speech which is a punishable offence under various sections of the Indian Penal Code (IPC):

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

Sections 505 (1) and (2) [publication or circulation of any statement, rumour or report causing public mischief and enmity, hatred or ill-will between classes].

In view of the same, we urge you to you to take cognizance of the video enclosed herewith, register a case against the perpetrators identified as well as the organizer, and arrest them for the cognizable offences under the relevant sections. We also wish for you to inform whether the said event had been videotaped by the police officials as per the orders of the Supreme Court. Additionally, we wish for the police to keep us abreast of developments and the action taken in this case, based on the relevant section, as 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.

Sirs, do note that we are sending this complaint, by email and registered post, on which we urge you to register an FIR if one has not been filed yet.

In anticipation,

Yours sincerely,

Nandan Maluste, CJP President

Teesta Setalvad, CJP Secretary

Annexures:

Annexure A- Video of Ashwini Upadhyay dated January 26, 2024 downloaded by CJP