

# Towards a Hate Free Nation



## Handbook for Police & Administration

### On Statutory (Legal) Obligations to Prosecute Hate Crimes

#### Introduction

This easy-to-read Handbook has evolved out of the ground level experience in monitoring Hate Speech and preventing Hate Crimes by *Citizens for Justice & Peace*<sup>1</sup> over the past four decades our work has involved active involvement in citizenship-police efforts to prevent the escalation of communal violence and conflict, to quell rumours, to monitor and report hate speech *before* the impact of one or all of these escalates into targeted violence.

Our engagement on the issue has meant keeping a close watch on all such instances of such speech, wherever and whoever it emanates from and bring this to the attention of the authorities, urging prompt registration of offences, independent and fair investigations and any further actions under the law. In several cases, with habitual offenders from organisations known to be associated with such controversial actions (hate speech-related events), when information is available prior to a proposed event, we have urged the police and district administration, citing judicial precedents and the law, to take *preventive actions –also underlined by statutes and reiterated by India’s Constitutional Courts.*

#### What is Hate Speech?

Hate speech is any speech that attacks a person or group on the basis of their race, ethnicity, religion, gender, sexuality, or any other characteristic. It can be subtle or overt, and can have a profound impact on the targets of the speech. Hate speech can lead to stigmatisation. Societal discrimination, physical and other kinds of harassment, and violence, including gendered violence where women and children are vulnerable. Hate speech does and can create a climate of intimidation, fear and division in society.

#### Why should Hate Speech be curbed?

Hate speech/writing have very real consequences. Public speech that expresses hate or encourages violence towards a person or group, exposes them and makes them vulnerable to physical harm –even death—humiliation, exclusion and mental trauma. It is a direct assault on a life of equality and dignity. It severely impacts on the diversity and pluralism of our communities and society.

**Hate speech, as the United Nations says, incites violence and undermines social cohesion and tolerance. Its scale and impact have heightened with new technologies.**

Fabricated stories/fake news are also used to vilify a group of people, false cures, unscientific preventative methods encourage irrational behaviour, and conspiracy theories that defy reason and logic. More than anything else they are not based on fact or real-life events but manufactured to suit a purpose.

The Indian Constitution underlines fundamental freedoms to be enjoyed by all *and ensured by police and administration*, in Chapter III of the Constitution in the Fundamental Rights section. Several Judgements of the Indian Supreme Court have, since 2014 laid out the judicial understanding of such fundamental rights and freedoms especially when one is apparent conflict with another. For instance, Article 19 (1) (a) guarantees every Indian the right to freedom of speech and expression, subject to reasonable restrictions. In their detailed distinction of “free speech” [Article 19(1)] and “hate speech”, the Supreme Court of India has laid down that any kind of speech that, by its words and intended actions, threatens the Right to Life (Article 21), Right to Equality before the Law (Article 14) and the Right to a Life without Discrimination (Article 15) needs to be prosecuted after fair investigation.

***Since 2014, and as recent as 2024, the Supreme Court has been issuing orders with respect to curbing hate speech.***

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<sup>1</sup> [cjp.org.in](https://cjp.org.in) <https://cjp.org.in/hate-hatao>

*“The object of criminalising hate speech is to protect the dignity and to ensure political and social equality between different identities and groups regardless of caste, creed, religion, sex, gender identity, sexual orientation, linguistic preference etc.”*

These are the words of our Supreme Court in a Judgement delivered in 2020 that holds good today. We have elaborated on this 2020 Judgement below as also on other such judicial precedents.

In 2014, also, for instance, the Supreme Court also stated clearly,

*“Hate speech is an effort to marginalise individuals based on their membership in a group. Using expression that exposes the group to hatred, hate speech seeks to delegitimise group members in the eyes of the majority, reducing their social standing and acceptance within society. Hate speech, therefore, rises beyond causing distress to individual group members. It can have a social impact. Hate speech lays the ground-work for later, broad attacks on vulnerable that can range from discrimination, to ostracism, segregation, deportation, violence and, in the most extreme cases, to genocide. Hate speech also impacts a protected group's ability to respond to the substantive ideas under debate, thereby placing a serious barrier to their full participation in our democracy.”*

### **Whose responsibility is it to curb hate speech and untoward incidents?**

Unless hate speech is checked immediately - through a collaborative effort between peace-loving citizens who believe in the Constitution and the Rule of Law and Police/ District Authorities-- its impact will be long-term and dangerous to society and perhaps the country itself. It is time for the executive arm of the government as well as the police to put a stop to recurring incidents of hate speech, both verbal as well as non-verbal.

### **What can citizens do if they witness Hate Speech?**

Should citizens sit back and watch as hate takes over our lives? As swords and *trishuls* rule over us, substituting the rule of law, silencing reasoned argument? Do we accept this wanton destruction of lives and properties amidst us and look away?

This comprehensive booklet containing Supreme Court judgments and directives on curbing hate speech in India has been compiled by *Citizens for Justice & Peace* and is being sent by us to all district Police Headquarters and Collectorates across Maharashtra – with details on Judicial Precedents and Orders issued by the Director General of Police (Maharashtra) urging strict action on Hate Speech.

Both these Judgement and other such precedents have been included as Guidelines and Obligations in this easy-to-read Handbook to encourage the police and administration to act promptly against Hate Speech.

The reason is that, with the best will in the world, the district level police authorities are often unaware of such crucial judicial pronouncements.

Let's fight for a hate free election and a hate free nation together.

***Hate Hatao Desh Bachao* is the guiding principle of our organisation, a human rights organisation. We urge the District Police & Administration to Act Now against Hate Speech and Hate Crimes.**

**Citizens for Justice & Peace, Mumbai**

## **Hate Speech under International Law**

**Nationally and internationally too, the law has provisions for actions against Hate Speech and the impact of Hate Speech (Writing) and Hate Events.**

As per International Conventions, hate speech is defined as:

- **Article 20(2)** of the **International Covenant on Civil and Political Rights, 1966 (ICCPR)** prohibits ‘advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence’.
- **Articles 4 and 6** of the **International Convention on the Elimination of All Forms of Racial Discrimination, 1966 (CERD)**, prohibits ‘dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin...’.
- **Article 10** of the **European Convention of Human Rights** guarantees the right to freedom of expression, subject to certain ‘formalities, conditions, restrictions or penalties’ in the interest of ... public safety, for the prevention of disorder or crime... for the protection of the reputation or rights of others...’. **Article 17** of the Convention prohibits abuse of the right by ‘any State, group or person’.
- The **Human Rights Council’s Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression**, in the context of internet content, states that freedom of expression can be restricted on grounds like hate speech (to protect rights of affected communities), defamation (to protect the rights and reputation of individuals against unwarranted attacks), and ‘advocacy’ of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (to protect the rights of others).

## **Why should hate speech be curbed?**

**The Indian Law Commission too has, in line with International Law and Jurisprudence, in its 2017 Report, looked closely at the need to insert a special section in Indian criminal law (Indian Penal Code) that introduces a definition of Hate Speech**

[Hate Speech, Report No. 267, Law Commission of India (March 2017)]

As per the **267<sup>th</sup> Law Commission Report, (2017) Law Commission of India:**

“Hate speech generally is an incitement to hatred primarily against a group of persons defined in terms of race, ethnicity, gender, sexual orientation, religious belief and the like (sections 153A, 295A read with section 298 IPC). Thus, hate speech is any word written or spoken, signs, visible representations within the hearing or sight of a person with the intention to cause fear or alarm, or incitement to violence.” **(Para no. 6.31)**

Further, as per the 267<sup>th</sup> Law Commission Report (2017):

“Hate speech poses complex challenges to freedom of speech and expression. The constitutional approach to these challenges has been far from uniform as the boundaries between impermissible propagation of hatred and protected speech vary across jurisdictions.” **(Para no. 6.32)**

Hence, the Law Commission of India in this 267<sup>th</sup> report had made recommendations for inserting new provisions in the criminal laws governing our country.

**As per the recommendation, Section 153C needs to be introduced for prohibiting incitement of hate speech and Section 505A for prohibiting causing fear, alarm, or provocation of violence through such speech.**

## **Supreme Court Judgements on Hate Speech**

In *Firoz Iqbal Khan vs Union of India* [Order dated September 15, 2020; W.P (C) 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 *Amish Devgan vs Union of India* [Judgment dated December 7, 2020; WP (CR) No. 160 of 2020], the Supreme Court had held:

*“The unity and integrity of the nation cannot be overlooked and slighted, as the acts that ‘promote’ or are ‘likely’ to ‘promote’ divisiveness, alienation and schematism do directly and indirectly impinge on the diversity and pluralism, and when they are with the objective and intent to cause public disorder or to demean dignity of the targeted groups, they have to be dealt with as per law....Such threats not only insidiously weaken virtue and superiority of diversity, but cut-back and lead to demands depending on the context and occasion, for suppression of freedom to express and speak on the ground of reasonableness. Freedom and rights cannot extend to create public disorder or armour those who challenge integrity and unity of the country or promote and incite violence.” (Para no. 47)*

*“In this context, it is necessary to draw a distinction between ‘free speech’ which includes the right to comment, favour or criticise government policies; and ‘hate 10 speech’ creating or spreading hatred against a targeted community or group....The object of criminalising the latter type of speech is to protect the dignity (as explained above) and to ensure political and social equality between different identities and groups regardless of caste, creed, religion, sex, gender identity, sexual orientation, linguistic preference etc.” (Para no. 54)*

In *Pravasi Bhalai Sangathan v. Union of India and ors.* [Judgment dated March 12, 2014; WP (C) No. 157 of 2013] while hearing a plea urged in public interest that the existing laws of the country are not sufficient to cope with the menace of "hate speeches", had the occasion to consider what a "hate speech" is. The court stated thus,

*"Hate speech is an effort to marginalise individuals based on their membership in a group. Using expression that exposes the group to hatred, hate speech seeks to delegitimise group members in the eyes of the majority, reducing their social standing and acceptance within society. Hate speech, therefore, rises beyond causing distress to individual group members. It can have a social impact. Hate speech lays the ground-work for later, broad attacks on vulnerable that can range from discrimination, to ostracism, segregation, deportation, violence and, in the most extreme cases, to genocide. Hate speech also impacts a protected group's ability to respond to the substantive ideas under debate, thereby placing a serious barrier to their full participation in our democracy." (Para no. 7)*

### **Whose responsibility is it to curb hate speech and untoward incidents?**

In the case of *Tehseen Poonawalla v UOI and ors* [Judgement dated July 17, 2018; WP (C) No. 754 of 2016] the Supreme Court held that, it is the responsibility of the States to prevent untoward incidents and to prevent crime.

*“The States have the onerous duty to see that no individual or any core group take law into their own hands. Every citizen has the right to intimate the police about the infraction of law. The process of adjudication takes place within hallowed precincts of justice and not on streets. No one has the right to become the guardian of law claiming that he has to protect the law by any means.” (Para no. 15)*

*“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.” (Para no. 17)*

In *Mohd. Haroon and others v. Union of India and Anr* [Judgment dated March 26, 2014; WP (Cr) No. 155 of 2013], the Supreme Court stated 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.

*“Finally, we reiterate that it is the responsibility of the State Administration in association with the intelligence agencies of both State and Centre to prevent such recurrence of communal violence in any part of the State. It is made clear that the officers responsible for maintaining law and order, if found negligent, should be brought under the ambit of law irrespective of their status.” (Para no. 19)*

## **Recent Supreme Court orders on hate speech:**

Since 2022, right until January 2024, a series of orders have been issued by the Supreme Court in the case of *Shaheen Abdullah vs Union of India* and connected Orders [WP(s)(C) No(s). 940/2022].

These Orders give the following directions:

### **1. Suo-moto action by Police irrespective of the religion of speakers**

On **October 21, 2022** [WP(s)(C) No(s). 940/2022], the said Supreme Court bench of former Justice KM Joseph and Justice Hrishikesh Roy had directed the Governments of NCT of Delhi, Uttarakhand and Uttar Pradesh to take suo-moto action against any hate speech crime, without waiting for any complaint. Specifically, Respondent No.2 (Commissioner of Police, New Delhi), Respondent No.3 (Director General of Police Uttarakhand) and Respondent No.4 (Director General of Police, Uttar Pradesh) had been addressed in the Order. The bench had directed State Police (New Delhi, Uttarakhand and Uttar Pradesh) to take prompt action against hate speech.

*“Respondent Nos. 2 to 4 shall ensure that immediately 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. Respondent Nos.2 to 4 will therefore issue direction(s) to their subordinates so that appropriate action in law will be taken at the earliest.”*

Failure to take action against incidents of hate speech – irrespective of the religion of the maker of such speech – would be 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.”*

On **February 3, 2023** [WP(s)(C) No(s). 940/2022], the Supreme Court bench comprising of former Justice K.M. Joseph and Justice JB Pardiwala had passed Preventive Orders against individual rallies while hearing a plea to prevent Sakal Hindu Samaj’s proposed meeting on February 5 in the state of Maharashtra. While dealing with the interlocutory petition, the bench took on record an undertaking by the Maharashtra government providing that the meeting will only be allowed if no hate speech is made and that it will be the responsibility of the state government has to ensure that there is no hate speech delivered in the rally.

The bench had also directed the state police to, if the permission was granted and the occasion arose, to invoke Section 151 of the Code of Criminal Procedure, which allows the police to make preventive arrests.

*“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 bench had also directed for the recording of the rally on video, and issued an appropriate direction to that effect to the police inspector of the area.

*“Accordingly, we direct that the Police Inspector of the area in question will conduct videography of the meeting in question and it shall be made available to this Court on the next date of hearing.”*

On **April 28, 2023** [WP(s)(C) No(s). 943/2021], the Supreme Court bench of former Justice Joseph and Justice Nagarathna had extended its October 2022 Order for suo-moto action for an FIR in hate speech cases to all States/UTs.

As highlighted above, the application of the said October 2022 order had been limited to Uttar Pradesh, Delhi and Uttarakhand.

With this order, the directions set by the Court regarding filing suo-moto registration of FIRs and cases in accordance to law irrespective of the religion of the maker of the provocative speech and filing of reports of action taken on the said hate speech was applicable **to all the state and UTs of India.**

*“Respondent (states) shall ensure that immediately 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 motu action will be taken to register cases even if no complaint is forthcoming and proceed against the offenders in accordance with law.”*

The bench also reiterated that any hesitation shown by relevant police officers of the states and UTs in taking adequate actions in the cases of hate speech will be contempt of the Supreme Court.

*“Respondent (states) will therefore issue direction(s) to their subordinates so that appropriate action in law will be taken at the earliest. 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.”*

## **2. Videotaping of rallies**

On **August 2, 2023** [WP(s)(C) No(s). 940/2022], another Order was passed by the Supreme Court during a special hearing regarding recording of rallies and the duty of state police to ensure that no untoward incidents take place during these rallies. The Supreme Court had been approached in view of the multiple rallies that had been planned in Delhi-NCR to protest against the anti-Muslims violence that had broken out in the Nuh district of Haryana on July 31.

While no stay was granted on the proposed rallies, the Supreme Court bench comprising Justices Sanjiv Khanna and SVN Bhatti had directed the Delhi Police, and the Governments of Delhi, Uttar Pradesh and Haryana to ensure that no untoward incident takes place in the rallies.

*“We hope and trust that the State Governments and police will ensure that no hate speeches irrespective of the identity are made against any community and there is no physical violence or damage to the properties.”*

The Court also directed the authorities to video record the rallies in sensitive areas and preserve the footage. The bench had also reminded the police of the October 2022 order of the court asking the law enforcement officers to take suo-moto action to register FIR against hate speeches, without waiting for any formal complaint.

*“Further, the authorities including the police will use CCTV cameras installed or record/make video recording in all sensitive areas. The CCTV footage and the video recording will be preserved.”*

On **January 17, 2024** [WP(s)(C) No(s). 943/2021], the Supreme Court bench of Justices Sanjiv Khanna and Dipankar Datta had heard another interlocutory application filed in the Shaheen Abdullah case, which had highlighted the potential rallies planned by Hindu Janajagruti Samiti and Bharatiya Janata Party legislator T Raja Singh in the month of January. The bench had 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. Notably, the bench had, once again, ordered for video tapping of the event to take place.

*“The concerned D.Ms. and S.Ps. 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.”*

## **Supreme Court has directed Preventive Measures to be adopted by the Authorities:**

In the case of *Tehseen Poonawalla v UOI and ors* [Judgement dated July 17, 2018; WP (C) No. 754 of 2016], 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. Following were the directions given by the Supreme Court:

#### **Preventive Measures:**

- The State Governments shall designate, a senior police officer, not below the rank of Superintendent of Police, as Nodal Officer in each district to prevent incidents of mob violence and lynching
- The State Governments shall forthwith identify areas where instances of lynching and mob violence have been reported.
- It shall be the duty of every police officer to cause a mob to disperse, by exercising his power under Section 129 of CrPC
- The Director General of Police shall issue a circular to the Superintendents of Police with regard to police patrolling in the sensitive areas keeping in view the incident
- The police shall cause to register FIR under Section 153A of IPC and/or other relevant provisions of law against persons who disseminate irresponsible

#### **Remedial measures:**

- The jurisdictional police station shall immediately cause to lodge an FIR
- Investigation in such offences shall be personally monitored by the Nodal Officer who shall be duty bound to ensure that the investigation is carried out effectively
- The State Governments shall prepare a lynching/mob violence victim compensation scheme in the light of the provisions of Section 357A of CrPC
- The cases of lynching and mob violence shall be specifically tried by designated court/Fast Track Courts earmarked for that purpose in each district

#### **Deterrent punishment**

- The trial court must ordinarily award the maximum sentence under the provisions of the IPC
- The courts may, on application by a witness or by the public prosecutor, take such measures as it deems fit, for protection and for concealing the identity and address of the witness
- The victim(s) or the next of kin of the deceased shall be given timely notice of court proceedings
- The victim(s) or the next of kin of the deceased shall receive free legal aid if he or she so chooses

#### **Punitive measures**

Departmental action must be taken against police or district officials who fail to act against the perpetrators. Such failure will be considered as an act of deliberate negligence and/or misconduct for which appropriate action must be taken. The action shall be taken to its logical conclusion preferably within six months.”

### **Bombay High Court on Hate Speech (2024)**

In January 2024 the Bombay High Court (HC) had admitted a petition filed by Shakir Tamboli demanding that an FIR be registered against BJP Vice-President Vikram Pawaskar for delivering hate speeches and inciting violence. In the case of *Shakir Islal Tamboli v State of Maharashtra and ors* [WP (Cr) No. 1103 of 2024], the following orders have been issued. In the said petition, a total of two incidents of hate speech of Sangli as well as for his alleged role in an attack on a mosque in Satara in September 2023 have been highlighted. It is essential to note that the petitioner had also urged for the arrest of BJP leader Vikram Pawaskar.

On **January 19, 2024**, in the first order issued by the bench of Justices Revati Mohite Dere and Manjusha Deshpande, the Court issued notice in the said case while directing the Maharashtra public prosecutor to file a response within two weeks. In the order, the court has also recorded the apprehension of danger to life of the petitioner and the life of the witnesses who have given their statement in the said case. The bench urged the public prosecutor to speak to the superior authorities and take the appropriate steps to provide protection to the petitioners.

*“At this stage, learned counsel for the petitioner states that the Petitioner apprehends danger to his life and to the life of the persons, who have given their statement in the said case against the accused, from the persons who have been arraigned as accused in the aforesaid cases. Mr. Venegaonkar states that he will speak to the*

*superior authorities, and if required, appropriate steps will be taken to protect such persons including the petitioner.” (Part 4)*

On **March 5, 2024**, the public prosecutor had submitted to the court updates regarding the investigation of the case while assuring that the investigation will be done fairly and impartially.

*“Mr. Venegavkar, learned Public Prosecutor, on instructions, states that the officer investigating the C.R. No. 259 of 2023 of Vita Police Station and the C.R. No. 392 of 2023 of Islampur Police Station has been changed, and that the Deputy Superintendent of Police is now investigating the said case. He assures that the investigation will be done fairly and impartially.”*

It is also to be noted that during the hearing of the arguments, the bench of Justices Revati Mohite Dere and Manjusha Deshpande had questioned the inaction of state on the instances of hate speeches highlighted by the petitioner even after having recorded videos as evidence. In addition to this, on February 9, 2024 the bench had directed the Maharashtra state government to place on affidavit the steps it takes and procedures it follows in cases of hate speeches, besides questioning them over the inadequacy in the action taken.

In another recent case concerning hate speeches delivered by elected officials, in *Aftab Siddique and ors v State of Maharashtra and ors*, [Order dated April 8, WP (Cr) No. 6503 of 2024], the Bombay HC had also directed two police commissioners to personally examine videos of speeches delivered by three BJP MLAs Nitesh Rane, Geeta Jain and T. Raja Singh in relation to the Mira Road violence of January 2024. Rane is elected from Kankavli Vidhan Sabha constituency in Maharashtra and Raja Singh is the sitting MLA from Ghoshmahal constituency in Hyderabad. The direction was passed in the writ petition moved before the Bombay HC to seek action against the three BJP leaders for delivering hate speeches and inciting violence in Naya Nagar, Mira Road area of Thane, Maharashtra in January 2024. While urging the police to file the FIR, the bench also expressed its displeasure over the conduct of the police by remarking that such incidents only reduced the police’s reputation, as it gave out a signal that anyone can hold a rally and say anything.

On **April 8, 2024**, it was submitted to the Court that the Police Commissioners will be viewing the audio/video transcripts of the alleged hate speeches and taking the appropriate steps.

*“Mr. Venegavkar, learned P.P. states that, the Police Commissioners of the concerned areas, will view the audio-video transcripts of the speeches, alleged to be hate speeches, and will thereafter take appropriate decision on the same.”*

It is also essential to note that during the hearing, the Court had orally directed the police to ensure that no untoward incident happens during the upcoming Ram Navami festival on April 17. Both matters are still pending in the Bombay HC.

## **Circulars by Maharashtra Police**

### **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:

*“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 equipments, 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.” (Para no. 2)*

The Constitution, Law and Judicial Pronouncements require Police & District Authorities to take pre-emptive and other action against Hate Speech. It is Crucial to act before it is too late.

***"Hate speech lays the groundwork for later, broad attacks on vulnerable that can range from discrimination to ostracism, segregation, deportation, violence and, in the most extreme cases, to genocide."***

***- Former Supreme Court Justice Madan B. Lokur***

#### References:

##### Supreme Court orders/judgments:

1. Firoz Iqbal Khan vs Union of India [order dated September 15, 2020; W.P (C) No. 956 of 2020], [https://webapi.sci.gov.in/supremecourt/2020/18235/18235\\_2020\\_34\\_20\\_23979\\_Order\\_15-Sep-2020.pdf](https://webapi.sci.gov.in/supremecourt/2020/18235/18235_2020_34_20_23979_Order_15-Sep-2020.pdf)
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  - d. August 2, 2023 [WP(s)(C) No(s). 940/2022]- [https://webapi.sci.gov.in/supremecourt/2022/33359/33359\\_2022\\_2\\_301\\_45861\\_Order\\_02-Aug-2023.pdf](https://webapi.sci.gov.in/supremecourt/2022/33359/33359_2022_2_301_45861_Order_02-Aug-2023.pdf)
  - e. January 17, 2024 [WP(s)(C) No(s). 943/2021]- [https://webapi.sci.gov.in/supremecourt/2021/19991/19991\\_2021\\_2\\_11\\_49581\\_Order\\_17-Jan-2024.pdf](https://webapi.sci.gov.in/supremecourt/2021/19991/19991_2021_2_11_49581_Order_17-Jan-2024.pdf)
7. Shakir Islal Tamboli v State of Maharashtra and ors [WP (Cr) No. 1103 of 2024]
  - a. Order dated January 9, 2024 [WP (Cr.) No. 1103 of 2024]
  - b. Order dated March 5, 2024 [WP (Cr.) No. 1103 of 2024]
8. Aftab Siddique and ors v State of Maharashtra and ors, [Order dated April 8, WP (Cr) No. 6503 of 2024]
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10. Shakir Islal Tamboli v State of Maharashtra and ors [WP (Cr) No. 1103 of 2024]
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