



Date: July 23, 2024

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Subject: Complaint against a speaker for delivering dehumanising and Islamophobic speech in an event organised by Antarashtriya Hindu Parishad and Rastriya Bajrang Dal in Kairana, Shamli (UP) on June 6, 2024.

Respected Madam/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 provocative, communal and hate spewing speeches delivered by a speaker associated with Antarashtriya Hindu Parishad (AHP). The speaker, through his speech, is espousing a hard, right-wing, exclusionist ideology, and can be heard delivering incendiary and inciteful speeches through which he has targeted the religious minorities of our country, especially the Muslim community. By using inflammatory words, attempts to promote religious enmity between citizens of this country. As per the details available, the said speech had been delivered by an unidentified speaker in an event organized by AHP and Rastriya Bajrang Dal on June 6, 2024 in Kairana, Shamli (U.P.). Through his speech, the speaker has propagated stereotypes against the Muslims and painted the community as enemies of this country. In his speech, AHP speaker further added that the internal security of this country is in danger, and no one is blaming the Muslims. Referring to the issue of economic prosperity of this country, Muslims are sitting on reservation and delaying the economic prosperity of this country. Therefore, the speech delivered in dangerous and provocative manner despite that all citizens have Right to life with dignity under Article 21 of the Indian Constitution.

It is important to note here that AHP, the second most frequent organizer of hate speech events in India, has multiple times provided a platform for hate mongers to deliver communal hate speeches across the country, and destroy the communal harmony of this country.

Extracts from the Speech:

“The internal security of this country is in danger, and no one is blaming to the Muslims, in the economic prosperity of this country, these bastards are sitting with reservation in the economic prosperity of this country. Someone once said, in this country subsidy is given to the two people only, one to pig farmers and one to pigs”. The Speaker further emphasized on his sentence and again said “in this country subsidy is given to the two people only, one to pig farmers and one to pigs” **[Time Stamp: 00:01 – 00:50]**

“Islam had a negative impact on this country, illiterate, uneducated, robber, savage and ruthless with lust in its eyes when Islam came comfortably to this country riding on camels. Then we started keeping our daughters under veil and we started Jauhar” **[Time Stamp: 01:11 – 01:37]**

“This was the feeling of secular people of that time that Muslims of this country are also Indian”. “If they demolish the Ram Temple, it doesn’t matter because they are secular, are from here?” **[Time Stamp: 01:37 – 01:57]**

“They (Muslims) consider Babur, Gauri and Ghazni as their ancestors. They do not consider Ram as their ideal. So, these true and good Muslims should stay in India? **[Time Stamp: 02:37 – 02:52]**

“Came from Arab with circumsion, so go back to the same place. If you want to stay in India, you will have to say Vande Mataram and Jai Shri Ram”. “We will climb on your chest, put our feet on your chest, we will build Kashi Vishwanath temple this our resolution” **[Time Stamp: 02:53 – 03:16]**

The speaker in video seen as attempting to provoke people gathered there with deliberate intention on the basis of a story about the death of Prophet Mohammad’s son-in-law and said “*With this Namaz they killed the son-in-law of Prophet Mohammad during Fajr Namaz*”. In between the speech given in time stamp herein, the speaker delivered controversial and derogatory statements against the Muslims citizens of this country due to their Islamic religious identity and attempts to narrate the identity of the Muslims as enemies of this country. **[Time Stamp: 03:30 – 05:22]**

The video had been uploaded on Telegram by Hindutva Watch on June 9, 2024.

The video of the speech has been downloaded by CJP and is marked and annexed hereto as **Annexure-A.**

The video can be accessed through this link: <https://t.me/hindutvawatchin/453>

The baseless and provocative statements made by AHP not only stand to destroy the communal harmony in the country but are also reflective of a divisive mind-set that can only trigger insecurity and trauma among sections of our own people while working as propaganda on others to commit criminal and violent acts. The speaker's ignorant and inflammatory comments clearly amount to spreading hatred and distrust against vulnerable and marginalized sections of our population, Muslims, besides being a grave threat to the peace, unity and integrity of India. Especially so, in view of the sensitive and hyper charged atmosphere today wherein aggression is being unleashed, unchecked, with impunity, on sections of our population.

Circulars issued by DGP Uttar Pradesh in December, 2022 urging strict action on Hate Speech

In Circular DG No. 39/2022, issued by Mr. Devendra Singh Chauhan (IPS), Director General of Police, Uttar Pradesh, dated December 03, 2022, in which Hon'ble Supreme Court order dated 21.10.2022 in *Shaheen Abdulla vs. Union of India and Others* [Writ Petition (Civil) No. 940/2022] 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 directed to all the police officials across the state that;

“The Hon'ble Supreme Court, through its above referred order, has mainly directed that after the incident of Hate Speech comes to the notice, in case a complainant does not register the First Information Report by giving a complaint, then the local police should take suo motu cognizance. A case will be registered and action will be taken against the guilty persons as per law. It is also mentioned in the judicial order that laxity in following these instructions will be considered as “contempt of court” and action will be taken against the guilty officers.

Using the powers conferred by Section 4 and Section 12 of the Police Act 1861 and Paragraph 1 of the Police Regulation as the State Police Chief, all of you are directed to receive any complaint regarding an incident of Hate Crime or Hate Speech. As soon as the complaint is received or in case the complaint is not received, taking suo motu cognizance, a case will be registered against the guilty persons by the local police and action will be taken as per law.

The above instructions are being issued in compliance with the instructions of the Hon'ble Supreme Court of India, hence all Additional Director Generals of Police, Zones and Police Commissioners, Police Commissionerate's should take personal interest and ensure compliance with the instructions.”

Action taken against hate speakers and offenders

Sir, it is also important to note that the Hon'ble Supreme Court of India, in Writ Petition (Civil) No. 940/2022, *Shaheen Abdulla vs. Union of India & Ors.*, mandated the police authorities in the

States of Uttar Pradesh, Uttarakhand and UT of NCT of Delhi to take suo moto action against those indulging in hate speeches as provided under the Indian Penal Code. Moreover, the state authorities have also been asked to issue directions to their subordinates in this regard that without looking at the religion of the accused, action has to be taken. 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.

Laws Violated by the Hate Speech

Under Bharatiya Nyaya Sanhita, 2023 (BNS)

The inflammatory and divisive speech delivered by Kajal Hindustani amounts to insightful, hate speech which is a punishable offence under the various sections of the Bharatiya Nyaya Sanhita (BNS):

Section 196 - Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony

Section 197 (1) - Whoever, by words either spoken or written or by signs or by visible representations or through electronic communication or otherwise, —

(a) makes or publishes any imputation that any class of persons cannot, by reason of their being members of any religious, racial, language or regional group or caste or community, bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India;

Section 299 - (Malicious act to insult a religion), 352 (Intentional insult with intent to provoke breach of peace)

Section 302 - Uttering words, etc., with deliberate intent to wound religious feelings of any person.

Section 352 - Whoever intentionally insults in any manner, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Section 353 - (1) Whoever makes, publishes or circulates any statement, false information, rumour, or report, including through electronic means—

(b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility; or

(c) With intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

Corresponding Provisions of the Indian Penal Code, 1860

Section 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.

Section 153B - Imputation, assertions prejudicial to national integration.

Section 504 - intentional insult with intent to provoke breach of the peace

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].

Judicial precedents against Hate Speech:

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.” (Para 11).

In *Pravasi Bhalai Sangathan v. Union of India, (Ref: AIR 2014 SC 1591)*, the Supreme Court has unambiguously stated that “hate speech is an effort to marginalise individuals based on their membership to a group, that can have a social impact. Moreover, the Court stated that hate speech lays the groundwork for broad attacks on the vulnerable that can range from discrimination, to ostracism, deportation, violence, and even to genocide. Therefore, the aforementioned news items are tantamount to the perpetration of genocide, and must be considered to be in violation of Article 21 of the Constitution.” (Para 7).

On April 28, 2023, the division bench of Justice KM Joseph and BV Nagarathna in *Ashwini Kumar Upadhyay v. Union of India [W.P. (C) No. 943 of 2021]*, extended its order and directed all



States/UTs to register Suo moto FIR against Hate Speech irrespective of religion. The court added that when any speech or any action takes place which attracts offences such as Section 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.

In view of the same, we urge 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 us 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.

Ma'am/Sir, 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 AHP's Speaker dated July 9, 2024 downloaded by CJP