

November 21, 2024

To,

**Shri S. Chockalingam**

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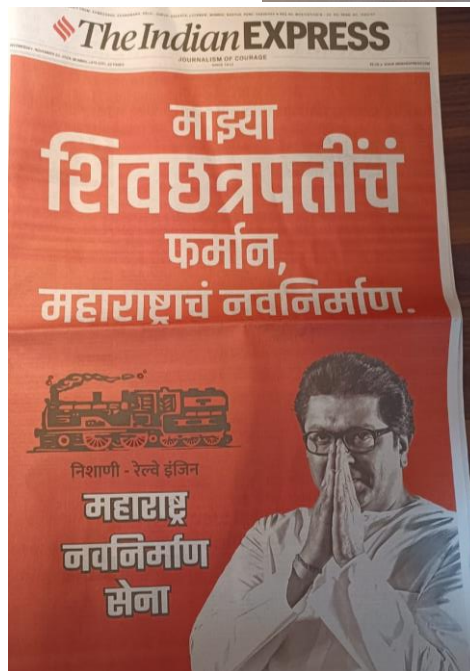
Maharashtra State Election Commission

**Subject: Complaint regarding violation of silence period and free and fair electoral principles through newspaper advertisements by certain political parties**

Dear Sirs,

We, Citizens for Justice and Peace (CJP), are writing to bring to your immediate attention a series of blatant violations of electoral laws and guidelines observed during the ongoing Maharashtra Vidhan Sabha elections. Specifically, multiple leading newspapers have published full-page advertisements from political parties such as the Bharatiya Janata Party (BJP), Maharashtra Navnirman Sena (MNS), and the Shinde faction of the Shiv Sena, during the 48-hour silence period mandated prior to polling.

These advertisements, which were seen in mainstream daily newspapers like *The Indian Express*, *Hindustan Times*, *Mid-day*, and *Maharashtra Times*, directly solicit votes, functioning as election propaganda. Such actions, especially during the restricted period, undermine the principles of free and fair elections, compromise the democratic process, and contravene established legal and ethical frameworks. The timing of these publications during the silence period is a deliberate attempt to influence voter sentiment at the eleventh hour, undermining the sanctity of the electoral process. By allowing such targeted political messaging, these publications have violated ethical guidelines and facilitated a circumvention of the critical 48-hour window designed to foster voter independence and impartiality.



These violations compromise the principles of free and fair elections, which are the cornerstone of any democracy. The silence period exists to shield voters from undue influence and manipulative tactics, giving them the space to deliberate on their choices thoughtfully. By injecting last-minute propaganda through high-visibility advertisements, political entities and complicit media outlets have disregarded this democratic safeguard, creating an uneven playing field and eroding public trust in the integrity of the electoral process.

### Impact on democracy and electoral integrity

The silence period provides voters with a calm and reflective environment to deliberate on their choices without undue influence. By pausing active campaigning, this safeguard ensures that electoral outcomes genuinely reflect the considered will of the people. Violations of the silence period through political advertisements disrupt this neutrality, injecting partisan messaging into a time meant for unbiased decision-making. This undermines the sanctity of elections, distorting the democratic principle of free choice and compromising the very foundation of electoral integrity.

Such violations also erode public trust in the electoral process. Elections are perceived as fair only when the rules governing them are strictly upheld. When political parties exploit loopholes to engage in indirect campaigning during the silence period, it creates a sense of disillusionment among voters. This diminishes confidence in democratic institutions, raising doubts about whether elections are conducted impartially. Over time, repeated breaches can severely weaken the credibility of India's democratic framework and dissuade public participation in future electoral processes.

The use of high-visibility advertisements during the silence period further amplifies the disparity between wealthier political entities and smaller or independent candidates. Larger parties with substantial financial resources gain an unfair advantage by continuing to influence voters through expensive media campaigns, sidelining those who lack the means to compete. This imbalance distorts the level playing field, making elections less about ideas and policies and more about financial power, an outcome that contradicts the egalitarian ethos of democracy.

Unchecked, such violations set a dangerous precedent, normalising unethical practices during elections. If political actors perceive the enforcement of electoral laws as weak, they are likely to exploit similar loopholes in the future, undermining the rule of law and degrading the electoral process further. Beyond elections, this fosters a broader culture of disregard for legal and ethical standards, weakening governance and public trust. To safeguard the democratic fabric, it is essential to uphold the sanctity of the silence period through strict enforcement and decisive action against offenders.

## **Legal Violations owing to the erring conduct**

### **Breach of Section 126 of the Representation of the People Act, 1951**

- Section 126(1) explicitly prohibits the display, broadcast, or propagation of any election matter by means of cinematograph, television, or similar mechanisms during the 48 hours preceding the conclusion of polling.
- Although print media is not explicitly listed, the publication of campaign materials in newspapers clearly violates the intent of the law. These advertisements function as indirect campaigning, which the silence period is specifically designed to prevent.
- The silence period serves to protect voters from undue influence and ensure an environment of calm and neutrality. The publication of partisan content during this time compromises this safeguard, violating the fundamental intent of Section 126.

### **Violation of Press Council of India (PCI) guidelines on election reporting (1996) and subsequent addenda (July 30, 2010)**

- The Press Council of India mandates responsible election reporting, including a prohibition on paid news or partisan content during the silence period.
- By publishing these advertisements, media houses have contravened their ethical obligations to remain neutral during elections. This compromises their role as unbiased informants and facilitates indirect campaigning on behalf of specific political parties.

### **Exploitation of media platforms in breach of electoral norms**

- The Election Commission's Model Code of Conduct explicitly discourages political propaganda that might influence voters during restricted periods. While not legally binding, violations of Section 126 fall within the purview of actionable offences.
- The use of media platforms to circumvent silence period restrictions creates an uneven playing field and allows political parties with greater financial resources to influence voter sentiment unfairly.

### **Undermining the constitutional right to free and fair elections**

- Free and fair elections, enshrined in Article 324 of the Constitution, require a level playing field where all parties have equal opportunities to present their cases to voters. The 48-hour silence period ensures voters are free from last-minute persuasion, providing them with the space to make informed decisions.
- By publishing political advertisements during this critical time, political parties and media outlets have violated not just specific legal provisions but also the larger democratic principle of fairness.

### **Prayer for immediate action**

We respectfully urge the Maharashtra State Election Commission to:

1. **Investigate the published advertisements:** Examine whether the advertisements constitute paid news or unauthorised election propaganda in violation of Section 126.
2. **Hold responsible entities accountable:** Impose penalties and take swift actions on political parties and media outlets for this breach of electoral laws and guidelines.
3. **Issue public clarifications and warnings:** Reaffirm the importance of the silence period and publicly denounce these violations to deter similar behaviour in the future.
4. **Strengthen monitoring mechanisms:** Implement stricter surveillance of media platforms during the silence period to prevent further breaches.



As an organisation deeply committed to democratic values, we trust upon the State Election Commission will act decisively to address these violations. Upholding the principles of free and fair elections is essential for maintaining public confidence in the electoral process and safeguarding the sanctity of our democracy.

Thank you for your attention to this pressing matter.

Yours sincerely,

Nandan Maluste, CJP President

Teesta Setalvad, CJP Secretary