



URGENT

Date: November 13, 2024

To,

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Additional Chief Electoral Office
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Subject: MCC Violation complaint against Madhya Pradesh's Chief Minister Mohan Yadav for inflammatory and communal statements targeting the Muslim Community in election campaign speech in Panki, Ranchi, Jharkhand on November 8, 2024

Respected Sirs,

We, Citizens for Justice and Peace (CJP), are filing this complaint against Madhya Pradesh's Chief Minister Mohan Yadav for delivering a highly inflammatory and communal speech targeting the Muslim community during an election rally in Panki, Ranchi, Jharkhand, on November 8, 2024. Through his speech, MP CM Mohan Yadav violated the Model Code of Conduct (MCC) and the Representation of the People Act, 1951, by using inflammatory and communal rhetoric. His statements, such as linking the decline in the Hindu population to "Bangladeshi infiltrators" and claiming that the Muslim population's growth and narrating the link between population growth in Muslims, is a threat to Hindu festivals, directly appeal to voters based on religious sentiments. This fosters fear, suspicion, and division between communities, undermining social harmony and creating an atmosphere of religious polarization.

It is important to mention that during the MCC period, political campaigns must not promote religious or communal bias, as this encourages division and hinders peaceful electoral processes. Yadav's claim that the election is about "saving your culture" uses religion to manipulate voters and disrupt democratic fairness. Furthermore, by labeling a community as "infiltrators," Yadav not only targets Muslims but also incites hatred, which violates the RP Act's provisions against hate speech and the promotion of communal violence. Such language compromises free and fair elections, violating democratic principles.

Transcripts and context of the speech

“Unfortunately, in our very own state, Hemant Soren and the Congress have turned it into ‘Karachi,’ ‘Karachi!’ So, to restore the glory of the state, let’s give a loud welcome to the BJP by forming a government. Whether knowingly or unknowingly, if anyone is responsible for reducing the Hindu population due to Bangladeshi infiltrators, it is the Congress, Hemant Soren, and all their arrogant people.” **(Time Stamp: 00:01 – 00:43)**

“The Adivasis, the Hindus, anyone! Just imagine, the population that was 44 percent is now reduced to 28 percent. The Hindu population has decreased by 7 percent, while the Muslim population has increased by 4 percent. So, if there’s any major sin for this, it lies at the door of their old, arrogant coalition.” **(Time Stamp: 00:44 – 01:08)**

The said remark violates the Model Code of Conduct (MCC) and the Representation of the People Act (RP Act) by making inflammatory, communal remarks that incite religious polarization. By referring to the state as “Karachi” and blaming the Congress and Hemant Soren for the alleged rise of “Bangladeshi infiltrators,” the speaker is directly targeting the Muslim community, labeling them as illegitimate outsiders. This perpetuates the stereotype of Muslims as "foreigners" and creates a divisive narrative based on religion, which violates the MCC's prohibition on making appeals based on caste, religion, or communal sentiments.

The speaker further deepens the divide by comparing the decline in Hindu population with the increase in Muslim population, attributing this demographic shift to "infiltrators" and blaming the opposition for it. This not only spreads misinformation but also stokes fear among the majority Hindu community, suggesting their cultural identity is under threat. Such rhetoric undermines the integrity of a free and fair election, as it manipulates voters through fear and religious polarization, violating the principles of the RP Act and MCC.

“Today, how great it feels when our children chant ‘Jai Shri Ram’ here, when someone applies a tilak as soon as they arrive. We celebrated the joy of Diwali. Friends, if you’re not careful, even our Holi, Diwali, and Janmashtami will be in danger. This election is about saving our culture.” **(Time Stamp: 01:09 – 01:32)**

“This is an election to save our Sanatan culture. This election is not a simple one. No country in the world promotes foreign infiltration. Every country care about its own citizens. They believe in advancing their own citizens. But, in the greed for votes, these hungry wolves, day and night, dream of saying, ‘Come, come, your population will increase, just give us your vote, and we’ll do whatever you want.’ This election is to end all these sins. I am pleased to say that we are the descendants of Lord Ram and Lord Krishna. Lord Ram also defeated the mighty Ravana and

glorified Sanatan Dharma. Our party too, for this glorious cause, has always said— ‘You play politics with religion! Why do you chant Lord Ram’s name? Well, we will chant it not once, but 100 times. You can do whatever you want, but if we don’t chant Lord Ram’s name, whose name will we chant? We will chant Lord Ram’s and Lord Krishna’s. Say with me, Jai Ram Krishna Bhagwan!’ (Time Stamp: 01:34 – 02:51)

The video had been uploaded on Telegram by Hindutva Watch on November 10, 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/774>

The harmful impact of divisive rhetoric on Jharkhand’s social fabric and democratic values

The remark made by the MP Chief Minister Mohan Yadav is deeply anti-Muslim and promotes communal polarization. By referring to the state as “Karachi” and blaming Hemant Soren and Congress for the alleged influx of "Bangladeshi infiltrators," the speaker directly targets Muslims, labeling them as illegitimate outsiders. The use of "Karachi" symbolically associates Muslims with foreign enemies, perpetuating the harmful stereotype that Muslims are a threat to national integrity. This kind of rhetoric is designed to create a divide between communities by presenting Muslims as a threat to the state’s demographic and cultural fabric.

Further, the speaker’s comparison between the declining Hindu population and the increasing Muslim population stirs fear among Hindus, suggesting that their cultural identity and safety are under threat from Muslims (referring indirectly). By attributing this demographic shift to "infiltrators," the speaker spreads misinformation and fuels suspicion, promoting a false narrative of religious invasion. This strategy manipulates the electorate by playing on religious fears, undermining social cohesion, and fostering a sense of insecurity within the Hindu community.

Moreover, invoking Hindu religious symbols, such as chanting "Jai Shri Ram" and celebrating Hindu festivals, to position the election as a battle for “saving culture” only deepens the communal divide. The appeal to protect Hindu culture and the sanctity of festivals frames the election as a Hindu versus Muslim struggle, which undermines the peaceful coexistence that the MCC and RP Act aim to protect. This kind of divisive campaigning violates the MCC’s prohibition on making appeals based on religion and the RP Act’s provisions against hate speech and communal violence, both of which are essential for ensuring a fair and inclusive electoral process.

Additionally, this divisive language undermines the democratic values of inclusivity, informed choice, and public welfare that elections are meant to uphold. Elections are intended to focus on policies and governance, not on inciting fear and division. By prioritising polarising rhetoric over development, politicians erode the foundation of democracy, weaken public trust, and leave behind social rifts that persist long after election season. This calculated diversion of discourse away from issues of governance and welfare risks causing lasting harm to Jharkhand’s democratic health and social harmony.

Impact on the electoral environment

This divisive language significantly impacts voting behaviour by encouraging choices based on communal anxieties rather than on substantive issues of governance, development, or social welfare. In place of reasoned debates on pressing state concerns like economic growth, healthcare, and infrastructure, the political discourse shifts toward identity politics and exclusionary agendas. This kind of electoral mobilisation drives a wedge between communities, reducing elections to contests for communal dominance rather than forums for collective progress. Voters, rather than evaluating candidates on their merits and policies, are swayed by alarmist narratives that exploit religious and cultural insecurities, diminishing the democratic integrity of the electoral process.

Furthermore, CM Yadav's approach erodes public trust in democratic institutions and processes. When high-ranking political leaders openly resort to communal narratives, it sets a troubling precedent that prioritises polarisation over unity, and antagonism over dialogue. This shift damages the foundation of a representative democracy, where diverse groups should be encouraged to coexist and engage constructively. By transforming elections into arenas of communal mobilisation rather than inclusive civic engagement, CM Yadav's rhetoric risks inciting social unrest, which could have lasting implications for peace and stability in Jharkhand.

Violations of the Model Code of Conduct (MCC)

The MCC, enforced by the Election Commission of India, aims to ensure free, fair, and peaceful elections by prohibiting divisive and inflammatory rhetoric. CM Yadav's statements contravene the following specific guidelines under the MCC;

1. **Part I, General Conduct:** MCC mandates that political parties and candidates avoid any activities that aggravate existing differences, such as communal and caste tensions. CM Yadav's speeches, which repeatedly incite distrust and hostility towards Muslims, specifically flout this rule. CM Yadav's speeches violate the MCC by fueling distrust and hostility towards Muslims. By attributing demographic shifts—such as the 4% rise in Muslim population and 7% decline in Hindu population—to “infiltrators,” he exacerbates communal polarization and violates the rule against inciting religious animosity.
2. **Part V, Election Campaigning:** According to MCC, political parties should refrain from making appeals based on caste, religion, or communal sentiments. CM Mohan Yadav's statement violates the MCC's prohibition on appeals based on religion or communal sentiments. By referring to the state as "Karachi" and blaming "Bangladeshi infiltrators" for demographic changes, Yadav targets Muslims as illegitimate outsiders. This divisive rhetoric promotes anti-Muslim sentiment and undermines communal harmony, fostering polarization.

Legal violations under the Representation of People Act, 1951

The speeches by MP Chief Minister, Mohan Yadav constitute clear violations under Section 123 of the Representation of People Act, 1951, specifically in the following sub-sections:

1. Section 123(2): *Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person [with the consent of the candidate or his election agent], with the free exercise of any electoral right.*

This section prohibits any attempt to interfere with the free exercise of electoral rights. CM Yadav's statements intend to intimidate or coerce voters, particularly targeting Muslims by labelling them as "infiltrators" and undermining their safety and status in society.

2. Section 123(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*

This section explicitly prohibits appeals to caste or religion to garner votes. By invoking the false narrative of growing of Muslim population and decline in Hindu Population and framing the BJP as a defender of Hindu identity, CM Yadav makes a direct religious appeal, positioning the party as the only choice for Hindu voters against perceived threats from the Muslim community.

3. Section 123 (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.] 8[(3B) The propagation of the practice or the commission of sati or its glorification by a candidate or his agent or any other person with the consent of the 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.*

This section forbids any act that promotes feelings of enmity or hatred between different communities on religious grounds. CM Mohan Yadav's remarks violate the Model Code of Conduct (MCC) by inciting communal polarization and promoting hatred between religious communities. By referring to the state as "Karachi" and blaming "Bangladeshi infiltrators" for the decline in the Hindu population, Yadav targets the Muslim community, labeling them as illegitimate outsiders. This rhetoric perpetuates harmful stereotypes, presenting Muslims as a threat to the state's integrity. Comparing demographic changes and attributing them to "infiltrators" fuels fear and mistrust among Hindus, undermining social harmony. Such divisive language violates MCC guidelines that prohibit appeals based on religion, inciting hatred, and spreading communal tension, undermining a fair and peaceful election process.

Laws violated by the hate speech under Bharatiya Nyaya Sanhita, 2023

The inflammatory and divisive speech delivered by CM Yadav 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 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.

Relevant jurisprudence:

In *Abhiram Singh v. C.D. Commachen* (Civil Appeal No. 37 of 1992; decided on January 2, 2017), a 7-judge bench decided whether the word ‘his’ under section 123(3) pertained to the identity of the candidate or his rival only (literal interpretation), or also extended to the identity of the voter/s (purposive interpretation). By a 4:3 margin, the court upheld the purposive interpretation of ‘his’ and thus proscribed any appeal pertaining to the identity of the candidate, his rival or the voter. This meant 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 6 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.”

It further held,

“Therefore, candidates at an election to a legislature, which is a part of “the State”, cannot be allowed to tell electors that their rivals are unfit to act as their representatives on grounds of their religious professions or practices. To permit such propaganda would be not merely to permit undignified; personal attacks on candidates concerned but also to allow assaults on what sustains the basic structure of our Democratic State.”

The above-mentioned are merely excerpts of some of the landmark judgements of the Supreme Court which run into pages and emphasise on upholding of secular character of the Constitution while holding that candidate for elections must at all costs avoid using any language that appeals to religion or that is against any religious community.

Prayer for immediate action

In light of the aforementioned violations and the harmful impact on the communal harmony and electoral integrity in Jharkhand, we respectfully request that the Election Commission consider the following specific actions:

1. **Immediate public censor:** Issue a public censure against Madhya Pradesh Chief Minister Mohan Yadav for delivering speeches in Panki, Ranchi that incite communal tensions and violate the Model Code of Conduct (MCC) and sections of the Representation of People Act, 1951. This censor should highlight the divisive nature of his statements and serve as a deterrent for future violations by other political figures.
2. **Prohibition on future campaigning in Jharkhand:** As a preventive measure, prohibit CM Yadav from participating in further campaigning activities within Jharkhand to ensure the preservation of communal harmony and a fair electoral environment.
3. **Take appropriate action:** Take appropriate punitive measures against the BJP for allowing its leaders to engage in corrupt practices under Section 123 of the RPA.
4. **Direction to political parties:** Issue a directive to the Bharatiya Janata Party (BJP) to refrain from using communal rhetoric and appeals in election campaigns in Jharkhand. This directive would remind all party candidates and leaders of their responsibility to uphold the MCC and respect the law.
5. **Monitoring of campaign speeches:** Deploy monitoring teams to review the speeches of all political candidates and campaigners in Jharkhand for the duration of the election period. This measure will ensure compliance with the MCC and safeguard against further hate speech or divisive language.

We trust that the Jharkhand State Election Commission will take immediate and decisive action to address this issue, thereby safeguarding the integrity of the electoral process and ensuring that the people of Jharkhand can vote in an environment free from fear and communal discord.

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]***, 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.

Thank you for your consideration of this urgent matter.

Yours sincerely,

Nandan Maluste, CJP President

Teesta Setalvad, CJP Secretary

Annexures

Annexure A- Video uploaded on Telegram by Hindutva Watch on November 10, 2024, downloaded by CJP