



November 13, 2024

To,

Shri K. Ravi Kumar

The Chief Electoral Officer,
Jharkhand State Election Commission

Shri Sandeep Kr. Singh

Additional Chief Electoral Office
Jharkhand State Election Commission

Subject: Complaint against BJP candidate Satyendra Tiwari for violation of Section 123(2), (3), (3A) of the Representation of the People Act, 1951, and Model Code of Conduct by making inflammatory and communal remarks targeting the Muslim community

Respected Sirs,

We, Citizens for Justice and Peace (CJP), are writing this complaint against BJP candidate Satyendra Tiwari for his highly divisive and unlawful remarks during a recent election campaign event in Garhwa, which have gone viral on social media. These statements were made as part of the ongoing election campaign. The video, where Tiwari can be heard saying, *“If your name is Taslim, I will not take your vote. I am asking for votes from people who worship devi-devta. Even if Taslims & Ahmeds vote, I will get them taken out from the EVM,”* clearly violates multiple sections of the Representation of the People Act (RPA), 1951, and the Model Code of Conduct (MCC).

These statements represent a blatant violation of the Section 123 of the Representation of People Act, 1951, specifically subsections (2), (3), and (3A), which prohibit election campaigning based on communal or religious sentiments and forbid promoting feelings of enmity between different classes of citizens. In light of the upcoming elections, we urge the State Election Commission to address these serious violations, hold accountable those who incite communal discord, and take necessary corrective action to maintain an environment of

peace, inclusivity, and lawful conduct in the state. Such statements promote hate, discrimination, and religious polarisation, all of which are detrimental to the democratic fabric of our nation, especially in a state like Jharkhand, which is preparing for elections. Below, we provide a detailed account of the remarks in question, analyse the legal breaches under the RPA, and highlight the deleterious impact such speeches have on Jharkhand's social fabric.

Problematic aspects of the statement

In the context of the upcoming elections in Jharkhand, political candidates are expected to campaign in a manner that respects the state's diverse demographic fabric. The recent remarks by BJP candidate Satyendra Tiwari, where he explicitly discouraged voting from people based on religious identity—specifically targeting Muslim voters—are troubling and inappropriate for any democratic setting. By stating that he would only accept votes from those who "*worship Devi-Devta*," while explicitly excluding individuals with names associated with the Muslim community, Tiwari has not only disregarded the principle of universal suffrage but has also introduced a dangerously divisive tone to the election discourse. In a multicultural and multi-faith society like India, particularly in a diverse state like Jharkhand, comments that alienate specific communities undermine the integrity of an inclusive democratic process.

These remarks pose a serious problem, as they encourage sectarian divisions and promote voter exclusion based on religious identity, which is not only undemocratic but also illegal under the Representation of the People Act (RPA), 1951. Statements like these foster a polarised environment where voters are pressured to make electoral choices based on religious affiliation, rather than considerations of governance, policy, or development goals. Such rhetoric is harmful to the social fabric of Jharkhand, a state that has previously faced communal tensions, and it risks deepening existing divides. The comments may also discourage voter participation among targeted groups, leaving them feeling disenfranchised and unwelcome in the democratic process. In this critical pre-election period, such divisive tactics threaten to derail the peaceful, inclusive, and issue-based electoral process essential for Jharkhand's progress and unity.

The video had been uploaded on X (formerly Twitter) by Jharkhand Janadhikar Mahasabha on November 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://x.com/JharkhandJanad1/status/1855098856435802423>

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

Jharkhand is a state with a rich tapestry of communities, including tribal groups, religious minorities, and various ethnicities. However, it has also experienced its share of communal tensions. Tiwari's divisive rhetoric threatens to exacerbate existing fault lines within the state,

deepening religious divides at a time when the focus should be on development, governance, and communal harmony.

Divisive politics thrives on fear, suspicion, and distrust, and this kind of campaigning encourages voters to base their choices on hatred rather than reason. It fosters an atmosphere where people are not encouraged to engage in constructive political dialogue but instead are pitted against each other based on their religious identity. This not only weakens the social fabric but also stifles the state's potential for growth and progress.

Such politics could also lead to increased voter apathy and disillusionment, especially among those who feel targeted or excluded from the democratic process. If people believe their votes are not valued, or that they will not be counted based on their identity, they may disengage from the electoral process altogether, undermining the integrity of the elections and the foundation of representative democracy.

Legal violations under the Representation of People Act, 1951

1. Violation of Section 123(2) of the Representation of the People Act (RPA), 1951 (Undue Influence): *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.*

Section 123(2) of the RPA prohibits the use of undue influence to interfere with the free exercise of a person's vote. This provision is designed to ensure that voters make their decisions independently, without coercion or manipulation. Tiwari's statement, specifically his remark about ensuring that Muslim votes are "*taken out from the EVM*", is a clear attempt to exert undue influence over the democratic process. By suggesting that certain votes should be disregarded based solely on the voter's religious identity, Tiwari is not only undermining the fairness of the election but also trying to intimidate and manipulate voters into feeling that their participation in the democratic process is unwelcome or invalid. This coercive rhetoric creates an environment of fear and confusion, in which voters might hesitate to cast their ballots freely.

Furthermore, such statements indicate an attempt to influence the election result by casting doubt on the integrity of the voting system itself. This kind of rhetoric directly threatens the sanctity of the Election Commission's electronic voting machines (EVMs), which are designed to ensure secure and unbiased voting. The suggestion that Muslim votes will be selectively excluded violates the very principle of universal suffrage and democracy.

2. Violation of Section 123(3) of the RPA, 1951 (Appeal Based on Religion): *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.

Section 123(3) of the RPA prohibits any candidate from using religion as a basis to influence voters. Tiwari's statement is a direct violation of this provision, as he explicitly states that he is soliciting votes from people who “*worship devi-devta*”, while dismissing voters based on their religious background, particularly Muslim voters.

By making religion a key factor in his electoral appeal, Tiwari is engaging in religiously motivated campaigning that goes against the spirit of the RPA. Elections should be decided on the basis of policy, leadership, and development goals, not on divisive and exclusionary tactics based on religious identity. Such behaviour manipulates voters' emotions and attempts to create a polarized atmosphere where votes are sought along religious lines rather than on the merit of a candidate's policies.

This type of rhetoric has the potential to divide the electorate, create religious tensions, and lead to further polarization within the community. It diminishes the dignity of all voters and undermines the democratic process, which should be inclusive and based on equal rights and opportunities for all citizens.

3. Violation of Section 123(3A) of the RPA, 1951 (Corrupt Practices): *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.*

Section 123(3A) of the RPA prohibits corrupt practices, including any conduct that can undermine the integrity of the electoral process. The statement made by Tiwari, where he suggests that Muslim votes should be “taken out from the EVM”, constitutes a direct violation of this provision.

Such a statement undermines the integrity of the election process by implying that certain votes should be excluded based on the voter's religion. This creates an atmosphere of mistrust surrounding the electoral system, encouraging voters to doubt the neutrality of the EVMs and the overall fairness of the election. The suggestion of manipulation of the voting system based on religious identity is an unlawful attempt to influence the results of the election, violating the basic tenets of free and fair elections.

The integrity of the election process is paramount, and any attempt to corrupt or undermine this process, whether through rhetoric or action, must be met with swift and decisive action.

Violations of the Model Code of Conduct (MCC):

The Model Code of Conduct (MCC) ensures that elections are conducted in a fair, peaceful, and democratic manner. The MCC emphasises that campaigns should be conducted with respect for all communities and prohibits candidates from making any statements that could incite violence or religious discord.

Tiwari's remarks, which explicitly target a particular religious group and suggest that their votes are unwelcome, are a clear violation of the MCC. Such divisive language has the potential to incite violence, promote communal tensions, and create an environment of fear and mistrust during the election. Jharkhand, with its rich cultural and religious diversity, cannot afford to allow such toxic politics to take root.

Instead of fostering a peaceful atmosphere for voters to make informed decisions, Tiwari's words have the potential to turn the electoral process into a battleground of religious identities, where people are reduced to their religious affiliations rather than being seen as individuals with diverse needs, aspirations, and ideas. This threatens the very spirit of democracy and free elections.

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 gravity of these violations, I respectfully urge the Jharkhand Election Commission to:

1. Initiate an immediate investigation into the remarks made by Satyendra Tiwari and take appropriate action under the Representation of the People Act (RPA) and Model Code of Conduct (MCC).
2. Issue a public notice condemning such divisive statements and making it clear that candidates and political leaders must adhere to ethical campaign practices, focusing on development, peace, and unity.
3. Impose strict penalties for any candidate found violating these provisions, including disqualification from the election process, to set a precedent that such divisive behaviour will not be tolerated.
4. Ensure strict monitoring of all election campaigns to prevent further violations and to ensure that no candidate uses religious identity or divisive rhetoric to influence voters.



The people of Jharkhand deserve an election that is focused on progress, peace, and unity, not one that is marred by religious hatred and discord. It is imperative that the State Election Commission takes swift action to prevent further harm and to protect the integrity of the democratic process.

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 X (formerly Twitter) by Jharkhand Janadhikar Mahasabha on November 9, 2024, downloaded by CJP