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To,
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Maharashtra State Election Commission

Subject: Urgent complaint regarding violation of election laws and communal messaging through posters ahead of Maharashtra Assembly elections

Respected Sirs,

We, Citizens for Justice and Peace (CJP), are writing to bring to your urgent attention a disturbing trend that has emerged in the runup to the Maharashtra Assembly elections scheduled for November 20, 2024. A series of posters have been put up in various locations across Mumbai, featuring inflammatory messaging that we believe not only violates the legal framework governing elections but also risks inciting communal tensions in this sensitive electoral period.

The posters in question prominently feature the image of Uttar Pradesh Chief Minister Yogi Adityanath and carry a provocative message in Hindi “**बँटेंगे तो कटेंगे**” (“Batenge to katenge”), which roughly translates to, “If divided, we will be cut.” This ominous message is supplemented with an additional line stating, “If we stay united, we will be noble and secure.” The use of this language, paired with saffron, yellow, and green as the dominant background colours, raises concerns about the communal undertones being communicated in this public display.



The posters bear the name of BJP member Vishwabandhu Rai, who appears to be behind their dissemination. The wording on these posters directly echoes a speech delivered by Uttar Pradesh Chief Minister Yogi Adityanath in August 2024, during an event in Agra, where he drew parallels between the situation in Bangladesh and what could happen in India if people do not stay united. At the said speech, CM Adityanath had ominously stated, “*Aap dekh rahe hain Bangladesh mein kya ho raha hai? Wo galatiyan yahan nahi honi chahiye. Batenge toh katenge!*” (Are you seeing what is happening in Bangladesh? Those mistakes should not happen here. If divided, we will be cut).

The Chief Minister’s warning was framed in terms of “mistakes” made in Bangladesh, and he suggested that divisions among people in India could lead to similar catastrophic consequences.

The posters and their impact in a poll-bound state

The emergence of these posters featuring CM Yogi Adityanath and the slogan “*batenge to katenge*” is not an isolated event but part of a broader trend in political discourse that seeks to draw upon communal and religious fault lines to garner votes. The messaging on these posters plays on the fear of division, while simultaneously suggesting that unity, as framed by certain political ideologies, is the only path to safety and prosperity.

The choice of colours—saffron, yellow, and green—is particularly telling, as these colours are often associated with religious and political ideologies in India. This is not merely an aesthetic decision but a calculated move to invoke specific sentiments within the electorate, especially in a state as diverse as Maharashtra. The posters not only echo Adityanath’s speeches but also signal a continuation of the communal rhetoric that has been observed in various parts of India, particularly in election campaigns.

Given Maharashtra's political and religious diversity, such divisive rhetoric has the potential to create significant unrest, particularly in sensitive urban areas like Mumbai. The posters, with their implicit warnings about communal division and their not-so-subtle appeals to unity along communal lines, could contribute to a volatile election atmosphere where communal identity is foregrounded over policy or development.

It is imperative that the State Election Commission takes swift and effective action to prevent these posters from further contributing to an already tense political climate. The sanctity of the election process must be preserved, and all efforts should be made to prevent any form of communal or religious polarisation.

Violations under the Representation of People Act, 1951

We believe that the content of these posters clearly violates provisions under the Representation of People Act, 1951, particularly Section 123(2) and 123(3):

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* 7

[with the consent of the candidate or his election agent], with the free exercise of any electoral right.

This section prohibits any attempt to promote enmity or hatred between different classes of citizens on the grounds of religion, caste, community, or language for the purpose of electoral gains. The reference to Bangladesh, coupled with the threat of harm if people are "divided," indirectly fosters fear among communities, particularly minorities. This messaging has the potential to inflame communal passions and disrupt social harmony, thereby breaching this provision.

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.*

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 explicitly bars any candidate or their agents from appealing to religious or communal sentiments to garner votes. The slogan "*batenge to katenge*" is not only divisive but also an insidious attempt to exploit religious sentiments for electoral benefit. By alluding to external political scenarios, such as the situation in Bangladesh, the posters appear designed to invoke fear and provoke communal polarisation in Maharashtra, creating an environment of distrust and suspicion.

Violation of the Model Code of Conduct (MCC)

Given that the Model Code of Conduct (MCC) is now in effect, following the announcement of the election schedule, these posters also stand in violation of several key guidelines of the MCC. Specifically:

1. **Part I, General Conduct, Clause 1:** This clause clearly states that political parties and candidates must avoid all activities which may aggravate existing differences or create mutual hatred between communities. The use of the slogan "*batenge to katenge*" and

its implicit communal undertones threaten to polarise voters along religious lines. This is precisely the kind of divisive rhetoric that the MCC seeks to prevent.

2. **Part I, General Conduct, Clause 3:** The posters' messaging runs afoul of this provision, which prohibits candidates and parties from making appeals to voters based on caste, community, or religion. The posters indirectly invoke communal sentiments by promoting a narrative of division versus unity, which, given the political and social context of Maharashtra, could easily foster feelings of alienation and antagonism between different religious and cultural groups.
3. **Part I, General Conduct, Clause 4:** The MCC also stipulates that all political parties and candidates must avoid inflammatory language and actions that could cause tension between communities. The inclusion of political and religious symbolism, as seen in the choice of colours (saffron, yellow, and green), combined with the provocative messaging, represents a clear violation of this guideline. The posters are designed to sow fear and discord, thus undermining the peace and stability required during election time.

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.

The current political climate and potential impact

The environment in Maharashtra ahead of the assembly elections is already charged, with political parties actively working to consolidate their voter bases. The appearance of these posters in such a context is highly problematic and must be viewed with great concern. The deliberate invocation of Bangladesh's political turmoil, with a warning that such divisions could happen here, is clearly aimed at stoking fear and exploiting communal insecurities.

Maharashtra has a rich history of religious diversity, and this sort of messaging risks deepening communal divides at a time when political stability and social harmony are paramount. The possibility that these posters could serve as a rallying cry for certain sections of society while alienating others is an issue that cannot be taken lightly. It is the duty of the Election Commission to ensure that the electoral process remains free from communal bias and that all voters, regardless of their religious or communal affiliations, can exercise their franchise in a secure and impartial environment.

Given the history of communal polarisation and violence during election periods, we are deeply concerned that allowing these posters to remain could have serious consequences for public order. Such messaging can quickly escalate tensions, potentially leading to violence and unrest, which would be devastating for both the electoral process and the people of Maharashtra.

Our prayer

In light of these grave concerns, we respectfully request the following actions from the Maharashtra State Election Commission:

1. **Immediate Removal of the Posters:** We urge the Commission to order the immediate removal of all posters bearing the slogan "*batenge to katenge*" from public spaces across Maharashtra.
2. **Investigation into the source and purpose of the Posters:** A thorough investigation must be conducted to identify those responsible for the dissemination of these posters, particularly the role of BJP leader Vishwabandhu Rai, whose name is prominently displayed on them. We also ask that the Commission ascertain whether these posters are part of a coordinated campaign aimed at exploiting communal sentiments for electoral gain.
3. **Issuance of a public directive:** The Commission should issue a strong public directive to all political parties and candidates, warning them against using divisive communal rhetoric or violating the MCC. It is essential that the Commission reaffirms its commitment to upholding the principles of a free, fair, and secular election process.
4. **Stringent enforcement of the Model Code of Conduct:** We request that the Election Commission ensure the strict enforcement of the MCC, particularly with regard to preventing the use of communal appeals, inflammatory rhetoric, and any activity that may disturb public peace or target religious communities for political gain.

We trust that the Maharashtra 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 Maharashtra can vote in an environment free from fear and communal discord.

Thanking you,

Yours sincerely,

Nandan Maluste, CJP President

Teesta Setalvad, CJP Secretary