

November 5, 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

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**Subject: Complaint against BJP leaders Naveen Jaiswal and Shivraj Singh Chouhan for delivering election speeches violative of the Model Code of Conduct and the Representation of People Act, 1951**

Respected sirs,

We, Citizens for Justice and Peace (CJP), are writing this complaint to draw attention to two inflammatory and communal speeches made by BJP leaders Naveen Jaiswal (BJP MLA) and Shivraj Singh Chouhan (Minister of Agriculture) during an election rally held in Ranchi, Jharkhand, on October 24, 2024. As Jharkhand approaches elections, these speeches raise significant concerns regarding the preservation of democratic principles, social harmony, and adherence to electoral laws. Both leaders made statements aimed at inciting fear, sowing discord, and polarising voters on religious and communal lines. Such rhetoric not only violates the Model Code of Conduct (MCC) but also breaches multiple provisions under the Representation of People Act (RPA), 1951, specifically Section 123, which defines corrupt practices in elections.

In light of the upcoming elections, we urge the 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. Below, we provide a detailed account of the speeches in question, analyse the legal breaches under the RPA, and highlight the deleterious impact such speeches have on Jharkhand's social fabric.

## Transcripts and context of the speeches

### 1. BJP leader Naveen Jaiswal's speech

Location: Ranchi, Jharkhand

Specific statement:

*“Today, the election in Jharkhand is not taking place based on issues like roads, water, and electricity. Rather, the Adivasi population and the indigenous population are fighting for their culture, pride, and safety. The manner in which Bangladeshi infiltrators and Rohingya Muslims are taking over Jharkhand and illegally settling in, and the Congress party and the JMM are providing them with a red carpet welcome and issuing them Aadhaar cards, the peace and harmony of Jharkhand is at stake. From this stage, I am promising you that as soon as the BJP party is formed in Jharkhand, we will kick these infiltrators out. We will not let the harmony of Jharkhand be affected.”* (Time stamp- 00:00 – 01:10)

Naveen Jaiswal, BJP MLA, urged Jharkhand's voters, specifically its indigenous and Adivasi communities, to vote not based on traditional developmental issues such as roads, water, or electricity, but rather on a fear-driven narrative. He claimed that Jharkhand's culture, pride, and safety are under threat due to an alleged “takeover” by Bangladeshi infiltrators and Rohingya Muslims. Jaiswal accused the current JMM-Congress coalition government of facilitating this so-called invasion by issuing Aadhaar cards to these individuals, effectively legalising their presence in the state and undermining the security and “harmony” of Jharkhand.

Jaiswal's speech is a clear attempt to divert electoral focus away from real issues like development, healthcare, and employment, and instead mobilise voters on the basis of religious and ethnic hatred. His narrative of “infiltrators” corrupting Jharkhand's indigenous culture is misleading, highly inflammatory, and promotes an “us versus them” mentality that undermines social unity and stirs antagonism towards Muslim communities. Such divisive statements are especially dangerous given Jharkhand's diverse and pluralistic social landscape, where communal harmony is critical for stability.

The video had been uploaded on Telegram by Hindutva Watch on November 3, 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/720>

### 2. BJP leader Shivraj Singh Chouhan's speech

Location: Ranchi, Jharkhand

Specific statements:

*“Our daughters are being falsely trapped into marriages by Bangladeshis. These people come, buy lands, and then contest elections. Will you let these people take over the land of Jharkhand?”* (Time stamp- 00:00- 00:24)

*“These people are stealing our wages and our food. We have no idea about the nations that these people are coming from, most are from Bangladesh. And this government is welcoming them with their whole hearts. My brothers and sisters, if this continues for 5 more years under the coalition JMM and Congress government, the state of Jharkhand will be destroyed.”* (Time stamp- 00:27- 00:54)

*“We have to save Jharkhand. These people have stolen everything from this state. I am surprised.”* (Time stamp- 01:00- 01:20)

Shivraj Singh Chouhan, Minister of Agriculture, escalated the narrative further by suggesting that Bangladeshi immigrants were allegedly using deceit to marry local women, buying land, and entering Jharkhand’s political landscape through illicit means. Chouhan asserted that these “outsiders” are “stealing” wages, resources, and even food from local citizens, and painted a picture of Jharkhand being overrun and exploited by these communities. He expressed alarm at the alleged impact of these populations on local resources and urged the people of Jharkhand to defend their land, families, and livelihoods.

Chouhan’s statements reinforce a dangerously xenophobic narrative, painting an entire community as usurpers, invaders, and threats to Jharkhand’s indigenous population. His repeated references to these communities “stealing” jobs, resources, and even deceiving women into marriage seek to demonise Muslims and stoke irrational fears among Jharkhand’s Adivasi population. By presenting the upcoming elections as a battle against “outsiders” instead of a democratic process for development and progress, Chouhan’s rhetoric promotes division, fear, and hatred within society.

The video had been uploaded on Telegram by Hindutva Watch on November 2, 2024.

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

The video can be accessed through this link: <https://t.me/hindutvawatchin/716>

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

The divisive narrative promoted by BJP leaders in these speeches threatens Jharkhand’s social fabric, which is woven from generations of diverse communities coexisting in harmony. Framing Muslims as “outsiders” or “infiltrators” disrupts this balance by fostering an environment of mistrust, hostility, and prejudice that could have long-lasting and detrimental effects on Jharkhand’s social and political landscape. By targeting an entire community, these

speeches reinforce damaging stereotypes that deepen communal divides and risk leading to acts of violence and discrimination. Such rhetoric not only jeopardises the peace and unity essential for a pluralistic society but also corrodes the values of tolerance and inclusion that underpin Jharkhand's communal fabric.

This rhetoric reflects a broader political strategy rooted in communal polarisation, where Muslims are portrayed as a threat to women's honour, livelihoods, and even the state's sovereignty. This tactic taps into underlying insecurities and stirs up strong emotions among voters, diverting attention from critical developmental issues that require immediate and genuine governance solutions. By steering public discourse toward fear and resentment, this approach obscures pressing needs like infrastructure, employment, and social welfare—issues of fundamental importance, especially for the state's marginalised communities.

Such inflammatory speeches also manipulate the insecurities of Jharkhand's indigenous populations, stoking fears of an “invasion” by Muslim “outsiders.” This narrative disrupts trust and increases paranoia within vulnerable communities, contributing to societal fragmentation. The insinuations of an imminent cultural threat to Adivasi traditions risk destabilising the social order, leading to distrust and potentially violent outcomes. Furthermore, as seen in previous instances of communal unrest in India, rhetoric of this nature creates an environment that may embolden individuals to act aggressively toward members of targeted communities, believing they are defending their culture or resources.

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.

### **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. The statements made by both BJP leaders contravene several guidelines under the MCC, specifically:

1. **Prohibition against communal appeals:** The MCC explicitly bars any appeal to voters based on caste, religion, or community. Both Jaiswal and Chouhan have framed Muslims as “infiltrators” and “outsiders” and portrayed the indigenous Adivasi population as under threat from this community. Such statements, designed to stoke fear and suspicion, violate the MCC's commitment to upholding communal harmony during elections.

2. **Promotion of hostility and social disharmony:** The MCC requires all political parties to refrain from actions or rhetoric that incite tensions between communities. By accusing Muslims of “stealing” resources, deceiving local women, and posing a cultural threat, Jaiswal and Chouhan incited communal hostility, disrupting social peace and contravening the MCC’s principles.
3. **Misleading and divisive propaganda:** Election campaigns are required to focus on genuine development issues. Jaiswal’s assertion that voters should disregard crucial issues like infrastructure and instead focus on supposed demographic threats misleads the public and deflects attention from actual governance matters, which the MCC discourages.

### **Legal violations under the Representation of People Act, 1951**

The speeches by Naveen Jaiswal and Shivraj Singh Chouhan constitute clear violations under Section 123 of the Representation of People Act, 1951, specifically in the following clauses:

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.*

The statements made by Jaiswal and Chouhan appeal to the indigenous and Adivasi communities by suggesting that they are under attack from a different religious community—Muslims—presented as infiltrators. The leaders insinuate that the Muslim community threatens the identity, land, and security of Jharkhand’s indigenous populations, thus making an explicit communal appeal to influence the voters in violation of Clause (2) of Section 123. This form of identity-based fear-mongering is prohibited and undermines the democratic process by shifting the focus from issues that affect all citizens to divisive, exclusionary rhetoric.

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*

The speeches directly promote enmity between Adivasi and Muslim communities by framing Muslims as illegal “infiltrators” intent on exploiting Jharkhand’s resources, deceiving women, and endangering public welfare. This language is designed to foster hostility and antagonism, leading to a communal divide. Clause (3) of Section 123 prohibits such actions that seek to

create enmity between communities based on religion, as it threatens peace, order, and social cohesion.

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.*

By alleging that “Bangladeshi Muslims” are manipulating women into marriage, stealing land, and impoverishing local citizens, these leaders are instilling a false and fear-inducing narrative into the public psyche. Such statements create an environment of fear, prejudice, and hostility toward Muslim communities and target them as outsiders. The leaders’ rhetoric of an imminent “takeover” aims to instil an irrational fear psychosis, which, according to Clause (3A) of Section 123, is a corrupt practice prohibited in elections.

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

The inflammatory and divisive speeches delivered by both the BJP leaders 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.

## **Our prayer**

In light of these concerns, we respectfully request the Jharkhand State Election Commission to:

1. Launch a formal investigation into the speeches delivered by Naveen Jaiswal and Shivraj Singh Chouhan, examining the violations of the MCC and the RPA, 1951.
2. Issue immediate and public censor of both leaders for engaging in communal, fear-mongering rhetoric that seeks to distort the democratic process.
3. Take appropriate punitive measures against the BJP for allowing its leaders to engage in corrupt practices under Section 123 of the RPA.
4. Impose restrictions on campaign content that incites hatred or targets specific communities, ensuring that the election is conducted on fair and substantive grounds, centred on Jharkhand’s developmental needs rather than communal politics.

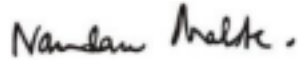
We trust that the Jharkhand State Election Commission will take immediate and decisive action to address this issue, thereby safeguarding the integrity of the electoral process and ensuring that the people of Jharkhand can vote in an environment free from fear and communal discord.

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.

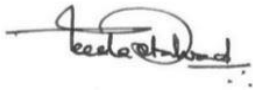


Thanking you,

Yours sincerely,

A handwritten signature in black ink that reads "Nandan Maluste".

Nandan Maluste, CJP President

A handwritten signature in black ink that reads "Teesta Setalvad".

Teesta Setalvad, CJP Secretary

### **Annexures**

Annexure A- Video uploaded on Telegram by Hindutva Watch on November 3, 2024, downloaded by CJP

Annexure B- Video uploaded on Telegram by Hindutva Watch on November 2, 2024, downloaded by CJP