



URGENT

Date: October 25, 2024

To,

Shri S. Chockalingam

Chief Electoral Officer, Maharashtra,
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Dr. Kiran Kulkarni

Additional Chief Electoral Office
Maharashtra State Election Commission

Subject: MCC Violation complaint against the Serial Hate Offender, Kajal Hindustani anti-Muslim speech at the Rananragini Sannelan at Lal Bahadur Shastri Marg in Thane West, Maharashtra, organized by right-wing outfit Sakal Hindu Samaj on October 19, 2024

Respected Sir,

We, at Citizens for Justice and Peace (CJP), a human rights movement dedicated to furthering the constitutional rights of all Indians, are deeply concerned about the gross Model Code of Conduct violation in the state of Maharashtra due to communal and hate-spewing speech delivered by social media influencer Kajal Hindustani in Thane West, Maharashtra on October 19, 2024. Through her speech, Kajal Shingala propagated harmful conspiracy theories, including those surrounding "Love Jihad," "Land Jihad," and alleged religious conversions. She accused Muslim citizens of luring Hindu girls into conversion, further claiming that Muslims in India are on a mission to transform the nation into an Islamic state through the so-called Ghazwa-e-Hind. Shingala derogatorily referred to Muslim boys as "Jihadis," suggesting they are brainwashed into committing fraudulent conversions. Her inflammatory rhetoric not only demonised Muslims by labelling them as "Jihadis" but also attacked their religious identity.

Additionally, she targeted Christians, accusing them of illegal conversions and using the pejorative term "Father Wala." Such statements contribute to a climate of fear and division during the state assembly elections in Maharashtra, undermining the principles of free and fair elections due to deliberately attacks and targeting on the religious minority to impact and mobilize the electorate in the election process.

A Gujrat resident, Kajal Shingala, who calls herself Kajal Hindustani, has been flagged multiple times for making inflammatory remarks against women and religious minorities. She has had a history of disturbing the communal harmony of India through her provocative and misinformed statements. We would like to bring your attention to the instigating speech video that has surfaced from the Mudhkhed, Nanded event, urging the police officials to take

stringent action against the perpetrator to ensure that these hate-driven speeches are not left unchecked, and the peace and harmony of our country is not affected direly.

Extracts from the Speech:

“India has to be made an Islamic country before 2047. It means that when India celebrates its 100th year of independence, India will not celebrate it as India because there is an agenda. Those Muslims are saying, “We got Pakistan after fighting, we will get Hindustan with a smile”, so how will they get it with a smile, a complete conspiracy is going on about it and we will discuss about it. So, there is a conspiracy going on to capture the land of India. On one side the “*Chaadar Wala*” (using anti-Muslim slur) is converting, on the other side the “*Father Wala*” (referring Christians) is converting. The *Chaadar Wala* is spreading four bricks anywhere and spreading a green sheet over it and doing encroachment illegally. Waqf Board also plays a big role in that.” **(Time Stamp: 00:01 – 00:43)**

“His first wife Amrita Sain also gave birth to two Muslims, Ibrahim and Sara. So, how many of our daughters are gone! We lost two actors and four Muslims have emerged. What names do they give while living among us. Look! this is a very big agenda; while living among us they are challenging us that you think that you have driven the Mughals out of the country but we are still among you and that is why they (Muslims) name their children Ibrahim after Ibrahim Lodhi. They name their children after Jahangir and after Taimur. Why do they do that? They are hurting your chest and saying – you have driven us out, how will you remove our mentality? And we feel that not all are the same – Jihadis, I say that all of them are the same.” **(Time Stamp: 00:43 - 01:42)**

“People like Aamir Khan say don’t watch our films. Have you ever thought why they are saying this? Because they have already got the money. Whether the film is a hit or not, whether the film does business, is not an issue for them, their issue is to do love jihad. They want to spoil the minds of Hindu sisters and daughters through soft power.” **(Time Stamp: 01:44 – 02:04)**

“They have put a cheap fiction of love jihad in it, that every film will have a love jihad angle. When there is a disaster in Kedarnath, the Kedarnath disaster is a real story, they are putting dirty fiction in those true events and that dirty fiction is about love jihad” **(Time Stamp: 02:05 – 02:23)**

“The girl’s name has been deliberately put as Kajal because you are roaming around the country with the flag of love jihad and are after Bollywood. So, we replied, if you write her name as Kajal, she does not become Kajal just by calling her Kajal. I said, do you think she is Surma by naming her as Kajal, I am fire. I am not the kajal to be applied on eyes that any “*mullah*” will come and apply it on his eyes and say that “the kajal is mine”. You may bury your body and not even find it, nor will it be found among us. Our society has made us so strong, come and see. Muslims threaten me, fatwas have been issued in my name in Gujarat by the Sunni Muslim society and they consider themselves men. What do they do, I cannot go anywhere in Gujarat without a gun. I cannot roam around as freely there as I can here. **(Time Stamp: 02:04 - 03:32)**

The video had been uploaded on Telegram by Hindutva Watch on October 21, 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/643>

Divisive background of Kajal Hindustani

Sir, it is important to note that this is not the first time that Kajal Hindustani has delivered such a communal and inflammatory speech in Maharashtra. We at CJP, have regularly tracked the speeches that had been made by her during 2023-24.

It is pertinent to highlight here that on May 4, 2024 at an event organized in Mudkhed, Nanded, Serial Hate Offender Kajal Hindustani, propagated the same fake and conspiracy theory against the Muslims and labeled them as “Jihadis” and accused propagated fake conspiracy theories about Love Jihad, Land Jihad, religious conversion, and accused Muslim citizens of trapping Hindu girls to convert them to Islam. CJP against the said speech urged Nanded, Superintendent of Police to register an FIR against the Hindustani for her divisive and provocative speech. Similarly in the month of April in 2023, Kajal Hindustani had been arrested by the Gujarat Police for delivering an anti-Muslim inflammatory speech. Her arrest, which took place on April 29, came after the stigmatising remarks made by her against the Muslim community after participating in a congregation organized by the Vishwa Hindu Parishad (VHP) in Una town during Ram Navami celebrations on March 30, 2023.

We are deeply concerned about the increasingly unsafe atmosphere for the Muslim community in Maharashtra, created by the systemic and widespread use of hate speech and inflammatory rhetoric. This hostile environment not only threatens the safety and dignity of individuals but also undermines social cohesion and communal harmony. It is imperative that urgent steps be taken to curtail these harmful actions and hold offenders accountable through prosecution. Such measures are essential to protect the rights of all communities and to foster an atmosphere of respect and tolerance in our diverse society, particularly during this critical electoral period.

Recent Directions of the Supreme Court on preventing/prosecuting hate speakers in Maharashtra.

As you must know, the issue of rampant hate speech being delivered in Maharashtra and the inaction by law enforcement agencies has been highlighted before the Supreme Court multiple times since 2023. We would like to highlight that on February 3, 2023, the Supreme Court issued directions with respect to an event which was scheduled to be held in Mumbai on February 5, 2023 by the Sakal Hindu Samaj, another extremist fringe Hindutva group. The petitioner, Shaheen Abdullah, had contended that similar to its anti-Muslim speech during 'Hindu Jan Aakrosh Morcha' held in Mumbai on January 29, it can be apprehended that the same will be repeated during the February 5 meeting as well. The apex court had thus sought a video of the entire event to be scrutinised by the court at the next hearing. The court has also taken an undertaking from the government of Maharashtra that if permission for this event is granted “it will be subject to the condition that nobody will make any hate speech and in defiance of law or disturbing the public order.”

The court also outlined directives with respect to taking preventive action in such cases:

“We also direct that the Officer(s), in case, permission is granted and, in case, the occasion arises for invoking the power under Section 151 of Cr.P.C. as aforesaid, it shall be the duty of the Officer(s) concerned to invoke the said power and to act as per the mandate of Section 151 of the Cr.P.C.”

Even in 2024 itself, while on January 17, the Supreme Court bench of Justices Sanjiv Khanna and Dipankar Datta had expressed their anguish at the petitioners being forced to approach the Supreme Court multiple times against individuals and organisations even after there being guidelines for tacking and taking action against hate speeches. During the said hearing, the Supreme Court issued an order directing the District Magistrate and Superintendent of Police at Yavatmal, Maharashtra and Raipur, Chhattisgarh to take ‘appropriate steps’ to ensure that no incitement to violence or hate speech occurs at the rallies scheduled in the said districts in the coming few days of January. The said order was passed following the concerns raised by the petitioners over delivery of potential hate speeches at rallies planned by Hindu Janajagruti Samiti and Bharatiya Janata Party legislator T Raja Singh in the month of January. The court had outlined directives with respect to taking preventive action in such cases:

“We would require the authorities to be conscious that no incitement to violence and hate speech are permissible. The concerned District Magistrates and Superintendent of Police of Yavatmal, Maharashtra and Raipur, Chattisgarh will take necessary steps, as may be required. If necessary and deemed appropriate, police/administration will install CCTV Cameras having recording facilities, so as to ensure identification of the perpetrators in the event of any violence/hate speech.”

Circulars issued by DGP Maharashtra in February 2023 and May 2023 urging strict action on Hate Speech

In Circular No. DGP 20/ Petition No.940/ 2022/54.2023. issued by Dr Suhas Warke (Spl. Inspector General of Police (L&O) for The Director General of Police M.S., Mumbai), dated February 2, 2023, the Supreme Court order dated January 13, 2023 has been highlighted where the court had asked the police to ensure that as and when any speech which attracts offences such as Sections 153A, 153B and 295A and 505 of the IPC take place, suo moto action is taken if no complaint is forthcoming.

The circular had directed all Unit Commanders to follow the Supreme Court order.

The Circular No. DGP/20/Petition No. 940-2022/54/2023 issued by Dr Suhas Warke (Spl. Inspector General of Police (L&O) for The Director General of Police M.S., Mumbai), dated April 3, 2023, entails “measures to be taken to maintain law and order due to agitations, morchas, speeches etc.”

It gives detailed instructions on what steps are to be taken when any morchas are to be held:

2. All the Unit Commanders should hold a meeting with the concerned organizers before such a morcha and fix the route of the morcha with appropriate terms and condition. A combined meeting of all social groups should be taken to convey clearly to all that they should maintain peace and keep law and order during the morcha. Preventive action against Anti-social elements should be taken. Those elements who help in maintaining peace and harmony should be encouraged. Audio Video recording of the morcha should be done. Police Head Quarters should ensure adequate supply of equipment’s, like Lathi, Helmets, etc. to police men deployed for morcha bandobast. If any law-and-order situation arises, offences should be registered immediately and arrest should be made. Intelligence machinery should be activated to collect advance information about morcha, agitation and efforts should be made to pre-empt any communal incidents.

Action taken against hate speakers and offenders

Sir, on April 28, 2023 the Supreme Court had held that all States/UTs, including Maharashtra, are enjoined and bound to take suo moto action to register FIR against hate speeches, without waiting for any formal complaint. In its order, the Supreme Court bench comprising Justices KM Joseph and BV Nagarathna had said the following:

"Respondents (states) shall ensure that immediately, as and when any speech or any action takes place which attracts offences such as Section 153A, 153B, 295A and 506 of IPC etc, without any complaint being filed suo moto action be taken to register cases and proceed against the offenders in accordance with law. Respondents will issue directions to the subordinates so that appropriate action can be taken at the earliest. We further make it clear that such action be taken irrespective of the religion of the maker of the speech, so that the secular character of Bharat as envisaged by the Preamble is preserved."

The apex court has, thus, again outlined already codified statutory duties of a police officer which makes it mandatory for them to take action under section 151 of CrPC in case there is apprehension of hate speech. Sir, given the well-orchestrated and numerous instances of hate speech and actual hate crimes being committed, the minority community in various parts of India already feels insecure and threatened. Furthermore, this was spoken at a public event and this speech has reached not only the audience at the event but also all those who may have seen these videos on their mobile phones, by the medium of social media. How large and wide the reach of social media can be, we are sure you must be aware. The consequences of such an inflammatory speech could have been worse.

Besides the Supreme Court we are sure that you are aware that the Bombay High Court is also currently hearing a petition on hate speeches by another serial offender, Vikram Pawaskar. In the matter, the court has raised questions on the inaction of the police over the FIRs filed against Pawaskar for delivering violent anti-Muslim hate speeches.

It is pertinent to mention that, Kajal Hindustani has strong antecedents in inciting hate and is a repeat hate offender as she has been involved in numerous cases of hate speech, and was arrested by the Gujarat police in April 2023 for delivering incendiary anti-Muslim speech at an event organized by Vishwa Hindu Parishad in Una.

On March 5 at Hindu Janakroash Morcha rally organised by Sakal Hindu Samaj in Ratnagiri, Kolhapur, she delivered a hate speech targeting Muslims, and accusing them of pursuing Ghazwa-e-Hind (battle to take over India and make it into Islamic nation). During her speech, she recalled that there are four major challenges before the country, i.e., love jihad, land encroachment, religious conversion, and drugs. Charging the religious minority of encroachment, she said, "They systematically plan all of these. They find a place, arrange 4 pieces of bricks around it, put a green cloth over it, and make it mazaar. Gradually it will take the form of Dargah, and then, when the government would talk about demolishing it, they will engage in stone pelting against the government authorities and police." In this case, we sent our complaint to Dhananjay Kulkarni (Superintendent of Police, Ratnagiri) and M. Devender Singh (Collector, Ratnagiri) asking them to invoke IPC Sections 153A, and 505 (1) and (2).

In another video that emerged of her at an event in Nagpur organised by the same organisation on February 2 this year, she asked Hindus to socially boycott Muslims, arguing that any relation between a Hindu and a Muslim is impossible, as the latter wants to commit Ghazwa-e-Hind.

In this case, we sent our complaint to Kamlakar Gaikwad (Superintendent of Police, Nagpur) and Vipin Itankar (Collector, Nagpur) asking them to invoke IPC Sections 153A, and 505 (1) and (2).

Similarly, on February 6, 2024 in a speech delivered at Shri. Shivaji High school in Navapur (Nandurbar), she urged that “Only buy groceries from Hindu brothers, only give jobs to Hindu brothers. If your Hindu brother is selling a Tomato at an expensive price than others, then buy less quantity but buy only from your Hindu brothers”, once again accusing the Muslim community of overbreeding, Ghazwa-e-Hind, and terrorism. In this case, we sent our complaint to Vinayak Mahamuni (Sub Divisional Officer, Nandurbar) and Manisha Khatri (Collector, Nandurbar) asking them to invoke IPC Sections 153A, 505 (1) and (2).

This theme was further repeated during her speech on January 31, 2024 at an event in Jalgaon. In this case, we sent our complaint to M Rajkumar (Superintendent of Police, Jalgaon) and Ayush Prasad (Collector, Jalgaon) asking them to invoke IPC Sections 153A, and 505 (1) and (2).

Laws Violated by the Hate Speech

Under Bharatiya Nyaya Sanhita, 2023

The inflammatory and divisive speech delivered by Kajal Hindustani 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.

Violations under the Representation of People Act, 1951

We believe that the content of the speech 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 efforts to promote enmity or hatred among different groups of citizens based on religion, caste, community, or language for electoral gain. The use of terms like “Jihadi” and “Love Jihad,” along with implicit threats of harm if communities are “divided,” cultivates fear, particularly among minority groups. Such messaging risks inflaming communal tensions and disrupting social harmony, thereby constituting a clear violation of this provision.

1. 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 term “Jihadi” using for Indian Muslims are not only divisive and derogatory but also an insidious attempt to exploit religious sentiments for electoral benefit.

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, the hate speech also stands in violation of several key guidelines of the MCC. Specifically:

1. **Part I, General Conduct, Clause 1:** This clause clearly stipulates that political parties and candidates must refrain from any activities that may exacerbate existing divisions or foster mutual hatred among communities. The use of terms like “Jihadi” and depicting Muslim citizens as adversaries aims to instill fear and mobilize support during the electoral process. Such divisive rhetoric directly contradicts the objectives of the Model Code of Conduct (MCC), which is designed to promote unity and ensure a fair electoral environment in the state assembly election process.
2. **Part I, General Conduct, Clause 3:** As, there shall be no appeal to caste or communal feelings for securing votes. Mosques, Churches, Temples or other places of worship shall not be used as forum for election propaganda, despite the ban, Kajal Hindustani uses the term for electoral mobilization, as the said speech 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.

The current political climate and potential impact

The atmosphere in Maharashtra ahead of the assembly elections is already highly charged, with political parties striving to consolidate their voter bases. The presence and activity of serial hate offenders and right-wing groups raise serious concerns about the fairness and freedom of voter participation. Given the history of these organizations and their track record of promoting divisive agendas, there is a growing apprehension that fake narratives and communal agendas may undermine the electoral process in the state.

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 such events and speeches 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 ignoring of such communal events 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. Call for proactive action

We pray for the Commission to implement suo-motu actions against hate-speech offenders and to actively monitor events in line with Hon'ble Supreme Court's directions, ensuring that such incidents do not disrupt the electoral process.

2. Registration of FIR against serial offenders

We urged the immediate registration of an FIR against Kajal Hindustani, a known serial offender of hate speech. This action will serve as a deterrent and help prevent further occurrences of such harmful rhetoric.

3. 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.

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.

This foregoing highlights a clear violation of the Model Code of Conduct and the Representation of the People Act, as it underscores the need for political parties and candidates to avoid actions that may deepen existing divisions or foster animosity between communities. The use of terms like “Jihadi” and portraying Muslim citizens as enemies are attempts to incite fear and mobilize support in the electoral process, which the MCC aims to prevent. In light of these violations, we urge you to take cognizance of the enclosed video, register a case against the identified perpetrators as well as the organizers, and arrest them for cognizable offenses under the relevant sections. We also request confirmation on whether police officials videotaped the event as mandated by the Supreme Court. Furthermore, we ask to be kept informed of any developments and actions taken in this case, as this transparency will help rebuild faith in the rule of law and strengthen the police-citizen relationship.

Ma’am/Sir, do note that we are sending this complaint, by email and registered post, on which we urge you to register an FIR if one has not been filed yet.

Thanking you,

Yours sincerely,

Nandan Maluste, CJP President

Teesta Setalvad, CJP Secretary

Annexure:

Annexure A - The video of the speech has been downloaded by CJP