

November 6, 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

Email: ceo_jharkhand@eci.gov.in

Subject: Complaint against Assam CM Himanta Biswa Sarma for inflammatory and communal remarks targeting the Muslim Community in election campaign speeches in Jharkhand, in violation of the Model Code of Conduct and provisions of the Representation of People Act

Respected sirs,

We, Citizens for Justice and Peace (CJP), are writing this complaint against Chief Minister of Assam, Himanta Biswa Sarma, for delivering multiple speeches in Jharkhand during the election campaigning period that incite communal division, fear, and animosity towards the Muslim community. These speeches were delivered as part of the ongoing election campaign, specifically on October 24 in Jamshedpur, November 1 in Sarath, and November 2 in Panki, where he made repeated, inflammatory, and unsubstantiated claims about the Muslim community, employing communal rhetoric to provoke mistrust and polarisation among the public.

These statements represent a blatant violation of the Model Code of Conduct (MCC) and 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. 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. Location: Panki, Palamu, Jharkhand

Date: November 2, 2024

In a speech delivered in Panki, CM Himanta Biswa Sarma made the following statements, which aimed to both stigmatise the minority Muslim community and create a sense of fear and suspicion around the Muslim population in Jharkhand. He used misinformation and unverified claims about demographic changes to allege that the rise in the Muslim population is due to illegal infiltration from Bangladesh, emphasising the BJP's intent to "deport all infiltrators" if they come to power. Sarma's statements include:

"Of the 23.22 lakh population of Santhal Paragana in 1951, 21 lakhs were Hindus and Adivasis and 9 percent were Muslim. Now, the Hindu and Adivasi population has declined to 63 percent, and the Muslim population has increased to 37 percent. It has been shown in the Court that the increase in population is due to illegal immigration of Muslims from Bangladesh. Numerous infiltrators are coming to Jharkhand." (Timestamp: 00:00-01:03)

"This election is for driving out infiltrators from Jharkhand and saving Hindus and their pride. It is time to remain united to save Sanatan. When BJP comes to power, we will kick out every infiltrator by taking the legal way." (Timestamp: 01:04-01:35)

"Some days ago, I went to Hussainabad and asked them where did Hussainabad come from here? They were unable to explain to me. I said that the name Hussainabad can be anywhere, but how can it be in the land of Pitambar and Neelambar?" (Timestamp: 01:36-01:59)

This statement by a sitting Chief Minister of an Indian state –a post that is a Constitutional Authority-- is deeply problematic as it invokes unverified claims of demographic change, specifically blaming alleged illegal immigration from Bangladesh for an increase in the Muslim population. Such a statement, especially from a high-ranking political figure, lacks empirical backing and serves to stoke fears within the rest of the Jharkhand population, Hindu and Adivasi communities. By framing this as a threat to "Sanatan," or Hindu identity, and positioning the upcoming election as a battle to "drive out infiltrators," the statement sets a dangerously polarising tone. CM Sarma's choice of words not only vilifies an entire community based on

their religion but also propagates a divisive, exclusionary message that undermines the secular foundations of the Indian Constitution.

Furthermore, his remarks about renaming places with Muslim names, like Hussainabad, create a narrative that pits religious identities against each other and subtly suggests that non-Hindu or non-Adivasi names are incompatible with the state's cultural heritage. Such rhetoric could deepen communal tensions, leading to distrust and hostility among diverse communities. By casting suspicion on the Muslim population and evoking fears of a cultural takeover CM Sarma's statements risk fuelling communal conflict and alienating marginalised groups. The divisive language not only threatens social harmony but also shifts the focus of electoral discourse away from developmental and policy issues to communal identity politics, which can undermine the democratic process and harm societal cohesion.

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/724>

2. Location: Sarath, Deoghar, Jharkhand
Date: November 1, 2024

At a public gathering in Sarath, CM Sarma intensified his rhetoric by drawing direct comparisons between the Muslim population growth in Jharkhand and that of Assam, where communal tensions have been heightened. He framed the election as a battle to "safeguard Sanatan Dharma" and accused Bangladeshi "intruders" of entering through West Bengal to "change the social fabric of the state." Specific statements include:

"This election is not about the JMM party or the Congress party; this election is about safeguarding Sanatan Dharma." (Timestamp: 00:00-00:20)

"There used to be a time when the Muslim population was 16-17 percent, and now it has become 32 percent. As more years pass, the population of Hindus will drop to 60 percent. The situation that exists in Assam now, that will be the future of Jharkhand as well; you will see that when the census is published." (Timestamp: 00:22-00:53)

"Today, Bangladeshi infiltrators are settling down in Jharkhand after coming from Murshidabad, West Bengal. These infiltrators in turn got protection in Jharkhand. They got married to our Adivasi daughters. They were given land even though there are land protection laws in Jharkhand. These Adivasi daughters then become chiefs of the villages, but the work is done by their husbands. These men marry more than one woman. They have converted our whole communities in this manner." (Timestamp: 00:53-01:46)

Chief Minister Himanta Biswa Sarma's statements are problematic at multiple levels, as they appeal to communal sentiments, foster division, and shift the electoral focus from governance to religious identity. By framing the election as a contest to "safeguard Sanatan Dharma," he

implicitly characterises political opponents, such as the JMM and Congress, as threats to Hindu values. This framing not only undermines the secular spirit of Indian democracy but also polarises the electorate along religious lines, creating a hostile environment where communities may see each other as adversaries rather than neighbours. Sarma's rhetoric, by defining the election as a matter of defending religious identity rather than focusing on developmental issues, steers the discourse toward communalism and fosters an atmosphere of division rather than unity.

His comments about demographic changes and the alleged infiltration of "Bangladeshi infiltrators" further exacerbate communal tensions. Sarma suggests that the Muslim population has doubled over time and warns that this increase will replicate the situation in Assam, thereby inciting fear and resentment within the Hindu and Adivasi communities. By invoking claims of "infiltrators" marrying local Adivasi women, occupying land, and "converting" entire communities, he promotes harmful stereotypes about the Muslim community, painting them as both a demographic and cultural threat. Such rhetoric not only alienates Muslim citizens but also risks inciting social discord, as it positions them as outsiders in their own country. The Chief Minister's statements create a climate of suspicion and hostility, risking a deepening divide that can have long-term consequences on communal harmony and the democratic process.

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/713>

3. Location: Jamshedpur, Jharkhand

Date: October 24, 2024

During a nomination rally in Jamshedpur, CM Sarma engaged in further divisive rhetoric, focusing on the name "Hussainabad," which he implied does not belong in Jharkhand. He declared that if the BJP were to win, they would "not allow such a name in Jharkhand" and instead would rename it after Adivasi leaders. He again alleged that "infiltrators" were welcomed in Jharkhand as part of a political strategy, vowing to "legally" remove them if the BJP came to power. Specific statements include:

"Where did Hussainabad come from here? So, I have already announced that if our government is formed, then in the first cabinet itself, we will offer the name of Hussainabad to Maa Ganga. The name Hussainabad is not going to continue in our Jharkhand. I will ensure that a name is brought in that takes the legacy of Birsa Munda ahead." (Timestamp: 00:00-00:49)

"My brothers and sisters, you are yourself watching how infiltrators are increasing in Jharkhand. These people are being especially brought in for changing the vote optics. The

infiltrators in Jharkhand are everywhere, and the current Hemant Soren government is refusing to remove these people. But once the BJP government comes to power, we will kick these people out by using the legal pathway.” (Timestamp: 00:52-01:34)

“What is happening in Jamshedpur West today, how the demography of Jamshedpur is changing gradually, you people have seen this. What is the cadre of JMM today, what is the cadre of Congress? They do not want your votes. They want to win the election only with the votes of a particular class of people. That’s why these people don’t work for you. But now the time has come that just like we have done the work of driving away Babur in Ayodhya and building Ram temple, we will do the same in Jharkhand. Babur is still settled in every corner of the country. It is time for us to kick him out.” (Timestamp: 01:35-02:32)

The video had been uploaded on Telegram by Hindutva Watch on October 27, 2024.

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

The video can be accessed through this link: <https://t.me/hindutvawatchin/682>

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

The divisive narrative promoted by a sitting CM 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.

They are also inherently anti-constitutional and coming from a person occupying a constitutional post, like chief minister makes the issue even more problematic.

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, often misconstrued, 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.

Impact on the electoral environment

CM Sarma's speeches have already fostered a charged and divisive atmosphere in Jharkhand, especially in districts with mixed populations where communal sensitivities run high. By framing the election as a battle to safeguard "Sanatan Dharma" and depicting the Muslim community as a demographic and cultural threat, his rhetoric introduces an element of fear into the political landscape. This fearmongering not only stirs anxiety within the Hindu and Adivasi communities but also instils a sense of vulnerability among the Muslim minority, creating a polarised environment where communities are increasingly viewing each other with suspicion. The narrative of demographic "infiltration" undermines the principles of social cohesion and inclusivity essential for a peaceful 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 Sarma'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 Sarma'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 Sarma'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 Sarma's speeches, which repeatedly incite distrust and hostility towards Muslims, specifically flout this rule.
2. **Part V, Election Campaigning:** According to MCC, political parties should refrain from making appeals based on caste, religion, or communal sentiments. CM Sarma's explicit appeal to "protect Sanatan Dharma" and to rid Jharkhand of "infiltrators" directly violates this mandate, using religious sentiments to gain electoral support and sow communal division.

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 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 Sarma'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 concept of "protecting Sanatan Dharma" and framing the BJP as a defender of Hindu identity, CM Sarma 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 Sarma’s inflammatory claims about “Bangladeshi infiltrators” and their alleged impact on Jharkhand’s demographics constitute a clear attempt to incite hatred towards Muslims, creating a hostile environment for the community in the region.

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.

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 Assam CM Himanta Biswa Sarma for delivering speeches in Panki, Sarath, and Jamshedpur 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 Sarma 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 3, 2024, downloaded by CJP

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

Annexure C- Video uploaded on Telegram by Hindutva Watch on October 27, 2024, downloaded by CJP