

ELECTION COMMISSION OF INDIA

Nirvachan Sadan,
Ashoka Road,
New Delhi 110001

No.437/RJ-LA/2023

Dated: 23.11.2023

NOTICE

Whereas, a complaint has been received from the BJP (copy enclosed) alleging that you, on 22nd November, 2023 in a public meeting at Bayatu, District Barmer, Rajasthan made wild allegations and spoke in a derisive and obnoxious manner about the Prime Minister in the following terms:

a ".....जेबकतरे होते हैं, जब दो जेब कतरे किसी की जेब काटना चाहते हैं, तो सबसे पहले क्या करते क्या करते हैं। ध्यान हटाने का काम करते हैं। एक आता है आपके सामने आता है और आपसे कोई ना कोई बातचीत करता है आपका ध्यान इधर उधर ले जाता है पीछे से दूसरा आता है जेब काट लेता है। चला जाता है मगर जेबकतरा सबसे पहले ध्यान हटाता है।भाइयों और बहनों नरेंद्र मोदीजी का काम आपके ध्यान को इधर उधर करने का है और _____ का काम आपके जेब काटने का है दोनों आते हैं एक टीवी पर आता है आपसे कहेगा हिंदू मुस्लिम।.....

bकभी क्रिकेट मैच में चला जायेगा वो अलग बात है कि हरवा दिया पनौती पीएम मतलब पनौती मोदी।

c कभी आपको इधर ले जाएगा कभी उधर ले जाएगा कई आगे पीछे और पूरा का पूरा फायदा चार पांच उद्योगपतियों को देगा। उदाहरण देता हूँ, आप पिछले 9 साल में नरेंद्र मोदी जी ने 14,00,000 करोड़ रुपया हिंदुस्तान के सबसे बड़े अरबपतियों का कर्जा माफ़ किया मैं आपसे पूछना चाहता हूँ इन 14,00,000 लोगों में 14,00,000 करोड़ रुपये में जो इन्होंने 1015 लोगों को दिया

2. It is alleged that comparing a Prime Minister to a "Jaibkatra" (pick pocket) and using the word "Pannauti" is unbecoming of a very senior leader of National Political Party. Further, the allegation of grant of waivers of Rs. 14,00,000 crores for the past 9 years, is asserted by the BJP, as not borne out on facts. Furthermore, they are allegedly in violation of Section 123 (4) of the R. P. Act, Section 171G, 504, 505 (2), and 499 of IPC and provisions of Model Code of Conduct.

3. In this regard, provision of the Model Code of Conduct which hold the field are as follows: clause 2 of Part I 'General Conduct' of Model Code of Conduct for the guidance of Political Parties and Candidates' inter-alia provides that: -

".....Criticism of other parties or their workers based on unverified allegations or distortion shall be avoided."

4. Further, the expression 'Pannauti' ex facie falls in the equity of the prohibition of Section 123 Sub Clause 2 proviso (a)(ii) which reads as follows:

"Section 123 Corrupt practices- The following shall be deemed to be corrupt practices for the purposes of this Act-

(1)

(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:

Provided that –

(a) Without prejudice to the generality of the provisions of this clause any such person as is referred to therein who-

(i).....

(ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure."

5. In this regard a general advisory by the ECI dated 02.05.2023 is also recalled in which, inter alia, the ECI expressed concerns at the plummeting level of political discourse in the campaigning period and advised all to operate within the confines of MCC and as expected decency in public discourse.

6. Your attention is also drawn to the various pronouncement by the Supreme Court of India in this regard –

The Hon'ble Supreme Court of India in its judgment titled as "Subramaniam Swamy Vs. Union of India & Ors.", (2016)-7 SCC 221 has observed that:

"If freedom of speech and expression is protected by Article 19(1)(a) of the Constitution, the right to reputation is also considered to be an inextricable

part of the right to life protected by Article 21 and balancing these two rights is a constitutional necessity."

The Hon'ble Madras High Court in the case titled as "T.T.V. Dhinakaran Vs. City Public" observed that:

"20. Before parting, though the complaint has been quashed on the basis of well settled position of law, it is also to be recorded that persons in public life and the leaders of various political parties should restrain themselves from making serious allegations or criticism against the constitutional functionaries, since leaders of political parties have huge followers and the same will have serious impact on the followers also and the followers also blindly follow the path of their leaders. Merely because one has right of freedom of speech they cannot make any such allegation though it may not attract penal consequences or may not amounts to criminal defamation. Using scurrilous allegations, using harsh words, which is in the nature of serious criticism against particular individual also to be avoided. Therefore, this Court is of the view that irrespective of the political affiliation, when a person raised to the level of leader of a political party should show utmost respect to the others in public life. Of course, every citizen of a democratic country has a freedom of speech, but at the same time such criticism should not exceed affecting the sentiments of others also. The leaders of political parties should show their statesmanship and quality and healthy politics rather than accusing others by using vituperated language in political platform"

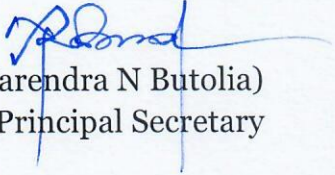
The Hon'ble Supreme Court in *Guruji Shrihar Baliram Jivatode Vs Vithalrao* reported in 1969 1 SCC 82 held:

"The freedom of criticism may sometimes be misused, but the advantage gained from free criticism--though sometimes it may turn out to be irresponsible--in the long run outweighs the disadvantages. It is in the interests of democracy that such criticism should be allowed. However, democracy will be a farce if interested persons are allowed to freely indulge in character assassination during election. A political party may not be affected by passing winds but a campaign of slander against an individual is likely to create prejudice in the mind of the people against him. Section 123(4) is designed to achieve the dual purpose of protecting freedom of speech and prevention of malicious attack on the personal character and conduct of rivals."

7. Accordingly, you are requested to provide your explanation, on the allegation made and to show causes as to why action as deemed fit for alleged violation of MCC and relevant penal provisions is not initiated by the Commission. Your reply, if any,

be reached by **18.00 hrs. of 25.11.23**. If no reply is received by then action deemed fit will be taken by the Commission.

By Order,


(Narendra N Butolia)
Sr. Principal Secretary

To
Shri Rahul Gandhi,
Member of Parliament,
Indian National Congress,
12 Tughlak Lane,
New Delhi 110011
(Email – office@rahulgandhi.in
rahul.gandhi@sansad.nic.in)



भारतीय जनता पार्टी
Bharatiya Janata Party

22nd November, 2023

The Chief Election Commissioner & Commissioners.

Election Commission of India,
Nirvachan Sadan, Ashoka Road,
New Delhi.

Sub: Rajasthan Assembly Elections Crass violation of Model Code of Conduct and legal provisions

Sir,

We wish to bring to your kind notice the immediate and repeated instances of serious violations of provisions of Indian Penal Code, Representation of People Act, 1951 and Model Code of Conduct by leaders of Indian National Congress.

1. While addressing the media at the launch of Congress's manifesto on 22nd November, 2023 at Jaipur. The Congress President Mallikarjun Kharge, made made the remarks;

- a. "मोदी जी बोलते हैं, येस मैं भी बैकवर्ड क्लास का हूँ आप सुने नहीं किया तो मैं बैकवर्ड का हूँ वो भीउन्हें कई बार आप सुने नहीं क्या तो मैं बैकवर्ड का हूँ। है वो बैकवर्ड में नहीं थे पहले वो जब चीफ मिनिस्टर बने आइस्ता से वो उसमें डाल दीजिए बैकवर्ड लिस्ट में क्यों डाले। वहीं फिर आप बैकवर्ड के बारे में कुछ नहीं समझते ना समानता सबको बोलते हैं तो आप करे क्या अपने ही कम्युनिटी को गुजरात में कहाँ से तेली बोल के बना बनाकर उसको बैकवर्ड में गलत चुप डाल दिए ऐसा ही दूसरा डालें नहीं नहीं ठीक है आपको भी फायदा मिलेगा"

"Videolink -<https://twitter.com/TimesNow/status/1726911754842894365>

That Shri Malliarjun Kharge passed a remark that Shri Narendra Modi ji transformed his caste secretly in backward class in Gujarat during his CM regime, whereas, his caste Ghanchi- Teli community included in list of backward class vide Gazette notification dated 27.10.1999, when Shri Narendra Modi ji was not the Chief Minister of Gujarat this clearly shows that the statement was made with ulterior motives to get advantage by spreading fake propaganda to gain votes of particular community and defaming Hon'ble Prime Minister Shri Narendra Modi ji.



2. On 22.11.2023 Shri Rahul Gandhi, MP, INC in public meeting at Bayatu, District Barmer made wild allegations and spoke in a derisive and obnoxious manner about Shri Modi, the PM. He said;

- a. “.....जेबकतरे होते हैं, जब दो जेब कतरे किसी की जेब काटना चाहते हैं, तो सबसे पहले क्या करते क्या करते है। ध्यान हटाने का काम करते है। एक आता है आपके सामने आता है और आपसे कोई ना कोई बातचीत करता है आपका ध्यान इधर उधर ले जाता है पीछे से दूसरा आता है जेब काट लेता है। चला जाता है मगर जेबकतरा सबसे पहले ध्यान हटाता है। भाइयों और बहनों नरेंद्र मोदीजी का काम आपके ध्यान को इधर उधर करने का है और _____ का काम आपके जेब काटने का है दोनों आते हैं एक टीवी पर आता है आपसे कहेगा हिंदू मुस्लिम।.....
- b. कभी क्रिकेट मैच में चला जायेगा वो अलग बात है कि हरवा दिया पनौती पीएम मतलब पनोती मोदी।
- c. कभी आपको इधर ले जाएगा कभी उधर ले जाएगा कई आगे पीछे और पूरा का पूरा फायदा चार पांच उद्योगपतियों को देगा। उदाहरण देता हूँ, आप पिछले 9 साल में नरेंद्र मोदी जी ने 14,00,000 करोड़ रुपया हिंदुस्तान के सबसे बड़े अरबपतियों का कर्जा माफ़ किया मैं आपसे पूछना चाहता हूँ इन 14,00,000 लोगों में 14,00,000 करोड़ रुपये में जो इन्होंने 1015 लोगों को दिया

Videolink;<https://www.youtube.com/live/SJ0ReI7AciU?si=RE3ur4-QEMNtWKra>

Comparing a Prime Minister to a “Jaibkatra” (pick pocket) and “Pannauti” is most unbecoming of any senior leader and is a symptom of plummeting levels of political discourse.

Calling any person for that instance a Jaibkatra not only amounts to vicious abuse and personal attack but also a character assassination of that person against whom such remark has been made with a clear intent to harm his reputation and mislead the public. Referring someone to a Jaibkatra in Indian society amounts to such individual being a criminal, untrustworthy, unfaithful and deceitful, it clearly leads to defamation and attracts the provisions of Indian Penal Code as well.



To even remotely suggest that the Prime Minister of India can be ill omen 'PANAUTI' is highly reprehensible and condemnable. Winning or losing of a game is not a function of who is watching, but the respective strengths of the teams in the game.

Further, the allegation that the Prime Minister has granted waivers to the tune of Rs. 14,00,000 crores in the past nine years is a most mischievous and malicious and can not be condoned. The following facts are relevant for a mention here;

1. No loans have been waived by the Prime Minister Modi in any case, whatsoever.
2. All banks; public sector or private, function under the over all supervision and control of Reserve Bank of India, which is a statutory autonomous body.
3. Banks are required to make provisions for Non-Performing Assets (NPAs) following the four-year provisioning cycle mandated by the RBI. **However, this doesn't imply that the loans are forgiven or waived. In fact, banks continue their efforts to recover the dues from the borrower despite the write-off**
4. In fact **Banks have recovered sum of Rs 10,16,617 crore during the last nine years** through measures taken to recover and reduce non-performing assets.
5. Raghuram Rajan, the former Governor of RBI in a 2018 panel discussion, pointed out that a significant portion of these bad loans were sanctioned between 2006 and 2008, a period marked by excessive optimism and inadequate scrutiny in lending decisions.
6. Modi Government has implemented a comprehensive 4R's **strategy**, consisting of Recognition of NPAs transparently, Resolution and Recovery of value from stressed accounts, Recapitalizing of PSBs, and Reforms in PSBs and the wider financial ecosystem for a responsible and clean system as a result -
7. **Net profits of the Public Sector Banks (PSBs) have almost tripled**, rising from 36,270 crore in FY2014 to 1.04 lakh crore in FY2023.
8. **The Provisioning Coverage Ratio (PCR) increased from 58.48% in FY 2014 to 90.72% in FY 2023** and it reflects the ability of the public sector banks to withstand asset quality pressures.

Put together the said statements and falsehoods have transgressed the fundamental principles of free and fair elections by disseminating false information under the guise of addressing rally and misleading the public and defaming the of Hon'ble Prime Minister Shri Narendra Modi. The unverified, false statements are grave in nature and cannot be condoned. These statements not only lack factual basis but also have the potential to mislead the public and tarnish the image of the Prime Minister, especially in the context of the upcoming elections.



The Commission may please note that such irresponsible behavior of leaders of INC follows a very sinister and dangerous design & pattern. Shri Rahul Gandhi has had a very chequered past and he had to apologize before the Supreme Court. Not only that, the Commission has issued show cause notices to him several times in the past in this behalf.

The legal provisions clearly stipulate against such misleading statements or remarks are as follows:

1) Representation of Peoples Act 1951

Section 123 (4) - *The publication by a candidate or his agent or by any other person [with the consent of a candidate or his election agent], of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal, of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election."*

While this section may speak of 'candidates' of their agents, but by implication, it applies, on a larger canvas, to the political parties and their campaigners too.

2) Indian Penal Code – Relevant Sections

171G. False statement in connection with an election - *Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate shall be punished with fine.*

Section 504 of the I.P.C. – *"Whoever intentionally insults, 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 505(2) of the IPC-505. Statements conducing to public mischief.-- (1)

Whoever makes, publishes or circulates any statement, rumour or report,

(2) Statements creating or promoting enmity, hatred or ill-will between classes.

Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or



communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

499. Defamation - *Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.*

Explanation 4. —*No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.*

3) Violated Provisions of Model Code of Conduct:

Clause 2 of Para 1 of Model Code of Conduct for the guidance of Political parties and candidates states as follows:

“2 Criticism of other political parties when made shall be confined to their policies and programme, past record and work. Parties and candidates shall refrain from criticism of all aspects of private life, not connected with the public activities of the leaders or workers of the other parties. Criticism of other parties or their workers based on unverified allegations or distortions shall be avoided”

(a) Clause 3.8.2 (ii) chapter 3 states, “Nobody should indulge in any activities or make any statements that would amount to attack on personal life of any person or statements that may be malicious or offending decency and morality.”

(b) Clause 4.3.1 of chapter 4 states “Political parties and candidates shall refrain from criticism of all aspects of private life, not connected with the public activities of the leaders and workers of the other parties. It also provides that no party or candidate shall indulge in any activity which may aggravate existing differences or create mutual hatred or cause tension.”

(c) Para 4.3.2 of Chapter 4 states “Maintain high standards of election campaign



(d) Clause 4.3.2(ii) chapter 4 states, "Election Commission, while expressing deep anguish on the progressively plummeting levels of political disclosures, put the political parties on notice that repeated violation of Model Code may invite action against them."

(e) Pare 4.4.2 (b) (iii) of chapter 4 provides that "No party or candidate shall include in any activity which may aggravate existing differences or create mutual hatred or cause tension between different caste and communities, religious and linguistic"

(f) Clause 4.4.2 (B) (v) states, "Other parties or their workers shall not be criticized based on unverified allegations or on distortions."

The Hon'ble Supreme Court of India in its judgment titled as "Subramaniam Swamy Vs. Union of India & Ors.", (2016) 7 SCC 221 has observed that:

"If freedom of speech and expression is protected by Article 19(1)(a) of the Constitution, the right to reputation is also considered to be an inextricable part of the right to life protected by Article 21 and balancing these two rights is a constitutional necessity."

The Hon'ble Madras High Court in the case titled as "T.T.V. Dhinakaran v. City Public" observed that:

"20. Before parting, though the complaint has been quashed on the basis of well settled position of law, it is also to be recorded that persons in public life and the leaders of various political parties should restrain themselves from making serious allegations or criticism against the constitutional functionaries, since leaders of political parties have huge followers and the same will have serious impact on the followers also and the followers also blindly follow the path of their leaders. Merely because one has right of freedom of speech they cannot make any such allegation though it may not attract penal consequences or may not amounts to criminal defamation. Using scurrilous allegations, using harsh words, which is in the nature of serious criticism against particular individual also to be avoided. Therefore, this Court is of the view that irrespective of the political affiliation, when a person raised to the level of leader of a political party should show utmost respect to the others in public life. Of course, every citizen of a democratic country has a freedom of speech, but at the same time such criticism should not exceed affecting the sentiments of others also. The leaders of political parties should



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show their statesmanship and quality and healthy politics rather than accusing others by using vituperated language in political platform”

The Hon'ble Supreme Court in *Guruji Shirhari Baliram Jivatode v. Cithalrao* reported in 1969 1 SCC 82 held:

“ *The freedom of criticism may sometimes be misused, but the advantage gained from free criticism--though sometimes it may turn out to be irresponsible --in the long run outweighs the disadvantages. It is in the interests of democracy that such criticism should be allowed. However, democracy will be a farce if interested persons are allowed to freely indulge in character assassination during election. A political party may not be affected by passing winds but a campaign of slander against an individual is likely to create prejudice in the mind of the people against him. Section 123(4) is designed to achieve the dual purpose of protecting freedom of speech and prevention of malicious attack on the personal character and conduct of rivals.*”

That the President of the Indian National Congress President Mallikarjun Kharge and Shri Rahul Gandhi being senior leaders are fully aware of the responsibilities to use reasonable language while speaking on public platforms and personal attack or character/caste remark amounting to personal attack is not only impermissible under law, but also violative of the Model Code of Conduct as well. However, Indian National Congress leaders in frustration of losing elections are making objectionable and indecent statements in public domain which clearly shows that the Congress leaders have no respect towards the law of the land as well towards the Hon'ble Prime Minister of this great nation.

The Commission is requested to take note that the Indian National Congress has a history of violating provisions of law and the model code of conduct, and this instance is not the first of its kind. Furthermore, the delivery of a false speech in the name of Prime Minister Shri Narendra Modi, particularly concerning the upcoming elections and governance, evidently contravenes the principles set forth in electoral statutes and the model code of conduct. It is emphasized that all political parties are obligated to adhere to these guidelines, and any deviation from such norms warrants careful consideration and appropriate action by the Commission.

The above said remarks of Shri Mallikarjun Kharge and Shri Rahul Gandhi who are indulging in spreading web of lies and are habitual offenders calls for initiating criminal proceedings against these offenders and strict action as they have no respect for moral values in their conduct and even for the electoral laws as well as the MCC guidelines,



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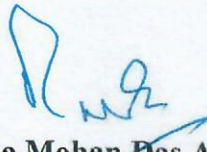
Attempting to influence the upcoming election with a malevolent agenda is a serious transgression that strikes at the core of democratic principles. It threatens the very essence of free and fair elections, where voters should be able to make informed choices based on facts and the positions of the candidates. Such actions can lead to polarization and instability within society, as trust in the democratic process erodes, and citizens begin to question the legitimacy of their elected officials. It is imperative that such attempts to deceive the public and manipulate elections are thoroughly investigated, and those responsible are held accountable to protect the integrity of the democratic system.

Hence, we request the Election Commission to intervene urgently by taking appropriate legal action against Mr. Mallikarjun Kharge, President Indian National Congress and Shri Rahul Gandhi M.P for their continued fraudulent, baseless and abusive practice and to pass a prohibitory order against him. Otherwise it will spoil the electoral environment, where abusing, usage of objectionable and offensive language to defame respectable individuals and spreading false news will become inevitable.

Kind Regards

Yours faithfully

Dr. Mansukh Mandaviya


Dr Radha Mohan Das Agarwal


Om Pathak