



By Special Messenger/Email

भारत निर्वाचन आयोग सचिवालय
SECRETARIAT OF THE ELECTION COMMISSION OF INDIA
निर्वाचन सदन, अशोक रोड, नई दिल्ली-110001
Nirvachan Sadan, Ashoka Road, New Delhi-110001.

No. 437/6/INST/ECI/FUNCT/MCC/2024

Dated: 22nd May, 2024

To

Shri J. P. Nadda,
National President,
Bharatiya Janata Party,
6-A, Deendayal Upadhyaya Marg,
New Delhi – 110002

**Subject: General Election to the House of People, 2024 – Model Code of Conduct violations
– regarding.**

Sir,

I am directed to refer to your email dated 13.05.2024 with which you have attached your “Reply to ECI notice by Shri J P Nadda, President, BJP”. That vide your reference dated 28.04.2024 and 05.05.2024, you had sought extension of time to respond, which was so permitted.

2. In your response of 13.05.2024, you state that the impugned statements of the Star Campaigners rely on facts to expose the “mal-intent” [बद इरादों] of INC to the Nation. Accordingly, you have cited video links of such statements of star campaigners of INC [institutional survey], Shri Sam Pitroda (inheritance tax) and have footnoted 10 links.

3. Based on the above citations, you then have argued that when read cumulatively, over time and space, it reveals the programme which you claim, INC intends to follow if it comes to power. You have elaborated that:-

(a) stated position of INC is to impose a huge tax burden [भारी टैक्स थोपने] on the common public; and

(b) that the proceeds of such a tax burden is to provide/distribute to a particular section of public for whom they are targeting such a programme. Therefore, it is explained that the intent of the Star Campaigner is to draw public attention and to expose the emerging intention and inclination of the INC and thus, the utterances are based completely on facts.

4. Thereafter, you then allege that

INC and the I.N.D.I Alliance, in pursuant of vote bank politics, have begun opposing India as a Nation, its identity, its original Hindu religion, Sanatan and the fact of India being the oldest culture in the world. You cite videos in footnote 12,13, and 14 as evidence. You cite the fact of no clarification by I.N.D.I Alliance, that they hold an ill-will to followers of Hinduism and Sanatan and those who believe in Indian culture and identity. Therefore, you conclude that opposing the Nation and its beliefs and its identity for voter gain, is not an outcome of wholesome thought and hence you have revealed it to the public.

5. Thereafter, you have invoked statement which as per cited footnote 15, alleges use of the term “Shakti” in a condemnable manner. You then go on to explain the “Shakti” in Hindu religion to assert that those who ‘oppose’ Shakti are committing a wholesome insult to large number of Hindus, which is unacceptable to BJP. Thus, in your assessment, any attempt to bring the above facts to the notice of the public can’t be a violation of law or MCC. That those complaining are distorting social media videos and using unparliamentary language and thought, that, the silence of INC on these “anti-Hindu” statement shows a kind of acceptance.
6. You then take up the specific allegation of calling the Congress Manifesto as reflecting the ideology of the Muslim League. While not denying the fact of the said alleged utterances, you proceed to defend/justify it by contextualizing it. You argue that:

just as Muslim League campaigned for division of the country on religious line, similarly the INC is attempting to divide the nation on North and South India or, on economic inequalities or, on language and culture.
7. You then made a counter allegation that INC is spreading confusion in the public that BJP: intends to change the Constitution, which is a baseless allegation. BJP or the PM has never directly or even remotely suggested to change the fundamental design of the Constitution [मौलिक रूप].
8. Thereafter, a generic assertion is made that your Star Campaigners never made statements not based on facts or targeting specific individuals.
9. Regarding the allegations against the star campaigners and the alleged statements made in their public campaign speeches, it is noted that there is no explicit denial of this fact in your response.
10. You have also not confirmed if you have brought the Commission’s directions to the notice of star campaigners as specifically mentioned in the said notice.
11. In summary, your replies dwell at length to stoutly defend the campaign methods and utterances of your star campaigners, while making a case for action against INC, the political party that complained against you. In summary, your reply invokes a unilateral drawing of inferences and interpretations of alleged previous statements of opposite party’s Star Campaigners. However, such response ought not to raise or, aggravate anxiousness amongst citizens/electors on the basis of ascribable identity by use of suggestive expressions. The MCC has the primary purpose to control and regulate the tempo and the quality of the campaign speech and conduct. The MCC, an agreed document by all political parties, further casts an extra responsibility on the party in power.
12. The Commission in the backdrop had issued the notice on 25.04.2024 highlighting alleged violations and to communicate the Commission’s sincere views on refraining from making false and unverified statements, not indulging in personal attacks, desist from stoking up divisive narrative and maintaining a respectable decorum in public discourse. It was specifically emphasized in the notice dated 25.04.2024 that:

“...the grant of the status of the ‘Star Campaigner’ statutorily lies entirely within the realm of the Political Parties under Section 77 of the Representation of the People Act, 1951 and the Star Campaigners are expected to contribute to a higher quality of discourse, inter alia, by way of providing an all-India perspective, which sometimes gets distorted in the heat of the contests at the local level. Thus, the expectation from Star Campaigners is to provide corrective action or a sort of healing touch, when intensity of local campaign disrupts or inadvertently crosses over such boundaries. The Star Campaigners are thus expected to utilize this privilege for “propagating the programme of the political parties” and, therefore, their speeches in the campaign space necessarily needs to be judged at a higher threshold of compliance.”

“...the Commission considers the political party as the fundamental stakeholder, in terms of regulation, consultation and facilitation within and about the election process; and whereas over the years through various instructions/ orders and advisories, the Commission has sought to make political parties more accountable, transparent and democratic in their functioning; and whereas the Commission is of the considered view that political parties will have to take primary and increasing responsibility for the conduct of their candidates in general and star campaigners in particular.”

13. It is noted that even after this notice dated 25.04.2024, and upto 13.05.2024 i.e., date of your reply, rather than accounting for ECI notice of 25.04.2024, in the minimum, as a red flag for future conduct, BJP star campaigners in different election meetings are alleged to be continuously making inter alia following statements alleged to be violative of MCC:

a) Vide INC complaint dated 26.04.2024 it has been alleged that a star campaigner of your party made following statement:

“Yeh aapki sampati ka baantne ka kaam kisko karenge, Bangladeshi ghuspaithion ko, Rohingyas ko, jo videshi aaye hai ghuspaithiyein, usko kar denge yeh log. Kya yeh Hindustan isko swikar kar paayega kya.”

“In besharmo ko dekho ye kaise Bharat ki Aastha ke saath khilwad kar rahe hai. Jis gaay ko hum maata kehte hai aur pooja karte hai, usse ye kasaiyon ko denge katne ke liye. Kya Hindustan ise sweekar karega?”

b) INC filed a complaint dated 29.04.2024 against many Star Campaigners of BJP allegedly for making utterances on communal and divisive lines.

c) INC filed a complaint dated 06.05.2024 against another Star Campaigner inter-alia alleging that:

He with the malafide attempt to incite and provoke the general public against the INC labelled a particular religious community as ‘terrorists’ and falsely accused that the INC was promoting the interests of such religious communities to the exclusion of the general public; and fomenting social tensions within the society by creating a divide based on religion, caste and classes.

d) INC filed another complaint dated 06.05.2024 against another campaigner who made following statement:

“They have said that if a Congress-led INDI Alliance government is formed, they will give freedom of food as per the interest of minorities. Are the food interests of minorities different than those of the majority community? The bread, rice and regular food choices are same, but the majority community refrains from cow meat”.

- e) Another complaint dated 06.05.2024 was filed by INC alleging that your party's star campaigner:
- “falsely claimed that the Congress would grant reservation to a particular religious community over the SC, ST and OBC communities by changing the Constitution”.
- f) INC filed another complaint dated 08.05.2024 against the same Star Campaigner: for making statements about the INC and its “politics of appeasement” to secure the vote bank of a certain minority religious community by reducing reservations for the SC, ST and OBC Communities and granting it to a certain religious group, by declaring “war” against a religious deity, and that the INC's manifesto is based on the “ideology of the Muslim League” etc.
- g) Vide INC complaint dated 09.05.2024 it has been alleged that following statement has been made by the said Star Campaigner:
- “The Congress Party's appeasement policies come at the highest cost for SC, ST, and BC communities. Once again, Congress is conspiring against these communities, aiming to take away their reservation rights. Dr. Babasaheb Ambedkar granted us reservation rights, and our Constitution opposes religious-based reservations.”
- h) Vide INC complaint dated 12.05.2024, it has been alleged that yet another Star Campaigner has allegedly delivered a statement:
- “with the intention of (i) invoking religious sentiments of general public; (ii) misleading the voters with their allegations that the Indian National Congress (INC) did not support the construction of the Ram Mandir and that the INC was deriving its funding from terrorist organizations.”
- i) Vide INC complaint dated 13.05.2024 yet again the star campaigner made references to issues pertaining to religious belief, and claimed that construction of a place of worship in Ayodhya was directly a result of the BJP coming into power, putting an end to the “500 year wait” of the members of the majority religious community.
- j) The INC made a complaint on 13.05.2024, alleging that another Star campaigner made the following statement:
- “(i) that the Indian National Congress (INC) would take away reservation for the SC, ST and OBC communities and grant reservations to a particular religious minority as a part of its politics of appeasement; (ii) that the INC is against the culture of the majority religious community of the country; (iii) that only the BJP and in particular, Shri Narendra Modi, respects the culture of the majority religious community of India and that if the INC is voted into power, they would put a “Babri Lock” on a place of worship in Ayodhya as part of “politics of appeasement”.
- k) The INC, vide complaint dated 15.05.2024 complained that a Star Campaigner made the following statement:

“Aur isiliye jab chunav aa gaye hain Modi ji ka virod do hi log kar rahe hain, ek jo ram drohi hain aur dusra jo Pakistan ka samarthak hain.”

14. It is alleged that such statements are-being made to prejudicially affect the prospects of certain candidates and thus are not only violative of the MCC but borders on a corrupt practice under section 123(4) of the Representation of the People Act, 1951 which inter alia states that: “The following shall be deemed to be corrupt practices for the purposes of this Act:-

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.”

15. Whereas two writ petitions were filed before Hon’ble Delhi High Court-*Shaheen Abdulla & Ors. v. Election Commission of India (WP(C) No. 6725 of 2024)* and *Anand S. Jondhale v. Chief Election Commissioner & Anr. (WP(C) No. 5916 of 2024)* regarding similar violation of Model Code of Conduct including the speeches in question in the notice of the Commission to BJP dated 25.04.2024 .The petitioners in the aforesaid writ petitions had prayed for registration of FIR and disqualification from contesting elections. However, the Hon’ble Delhi High Court on 13.05.2024 dismissed both the aforesaid writ petitions as misconceived, noting that the Commission will take an independent view on the complaints and take appropriate action.

16. Whereas, similar writ petitions were filed before Hon’ble Supreme Court on 14.05.2024 - *Dr. Emani Anantha Satyanarayana Sarma & Anr v. Election Commission of India & Anr (Diary No. 22067-2024)* and *Fatima v. The Chief Election Commissioner and Anr., (Diary No(s). 21732/2024)* seeking direction to the Election Commission of India against the similar hate speeches. However, the Hon’ble Supreme Court expressed disinclination in entertaining the aforesaid writ petitions under Article 32 and dismissed the cases.

17. Whereas, the Commission is cognizant & committed to enforcing a higher burden of accountability on political parties and its Star Campaigners. In this regard ECI advisory dated 01.03.2024 may be referred.

18. The legal burden, apart from the MCC, which a Star Campaigner bears, is laid out in Section 77 of the R P Act, 1951. Section 77(1), Explanation (i)(a) underlies the nexus or the policy argument, for creating the ‘privileges’ for the category of Campaigners i.e. for “propagating programmes of the political party”. All political parties, by virtue of Section 29A(5) of the R P Act, 1951 have to be 24X7 compliant to bear “true faith and allegiance to the Constitution of India as by law established, and to the principles of socialism, secularism and democracy, and would uphold the sovereignty, unity and integrity of India.”

19. The response submitted by you dated 13.05.2024 has been carefully examined by the Commission along with the citations contained therein and the Show Cause Notice served by the Commission on 25.04.2024. After such careful consideration and also in the context of the foregoing, the Commission, in totality of the material before it, as narrated above finds that the defence offered on alleged utterances, not tenable. The continuation of utterances after 25.04.2024 indeed in the extended time sought by you i.e., 13.05.2024 & thereafter has also been noted with continued concern.


20. In view of the foregoing, the Commission therefore observes the following:

- I. The utterances of the concerned Star campaigners follow patterns and create narratives which can be damaging beyond the MCC period. Technical loopholes or extreme interpretations of other political party utterances cannot discharge star campaigners from the core responsibility of their own content which ought to be corrective to the ongoing discourse and not further plummeting the quality of campaign discourse;
- II. Elections are a process when a political parties, not only contest to win, but also avails the opportunity to present themselves in their ideal best for the voting community to experience, emulate and build hopes on. The second part constitutes the more precious heritage of Indian elections and our electoral democracy and this should not be allowed to be weakened by anyone, including your party;
- III. Elections are periodic exercises, they come and go, but political parties like yours endure; even more enduring preserve is India' socio-cultural milieu;
- IV. Political parties, are in the task of nurturing leaders for the country for present and future. They cannot afford to be lax in any manner in enforcing discipline and conduct among the cadre in the high stake electoral space; especially with reference to senior members;
- V. It is expected of you to use the strength of your office and intra-party consultations to advise/ counsel/ oblige the listed star campaigners of your party be careful in their campaign utterances and correct their discourses;
- VI. Commission expects BJP, as the ruling party at the Centre to fully align the campaign methods to the practical aspects of the composite and sensitive fabric of India.

Accordingly, the Commission directs BJP and all concerned to follow MCC in general and the following in particular:

- VII. Directs all your star campaigners to refrain from making any statement, which is prohibited in Clause (1) of General Conduct of MCC which provides that "No Party or candidate shall include in any activity which may aggravate existing difference or create mutual hatred or cause tension between different castes and communities, religious or linguistic";
- VIII. Directs you as Party President to also convey to all-star campaigners to not make speeches and statements, which may divide the society;
- IX. Directs BJP and its Star campaigners to refrain from any campaigning methods/utterances along religious/ communal lines;
- X. Directs you to remain dutiful towards special responsibility of Star Campaigners of the party and issue formal notes to them to maintain decorum in their utterances.

Yours faithfully,


(Narendra N. Butolia)
Sr. Principal Secretary