

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi 110001

No.437/DL-HP/2024

Dated:5thApril,2024

NOTICE

Whereas, the Election Commission of India, vide its Press Note No. ECI/PN/23/2024, dated 16th March 2024, has announced General Elections to the Lok Sabha and Legislative Assemblies of Andhra Pradesh, Arunachal Pradesh, Odisha & Sikkim, 2024 and provisions of Model Code of Conduct for political parties and candidates have come into force from that very date; and

2. Whereas Clause (2) of Part I 'General Conduct' of Model Code of Conduct for the Guidance of Political Parties and Candidates states that:

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

3. Whereas the Commission's advisory issued to the political parties on 1st March 2024 regarding plummeting levels of political discourse. Inter-alia provides that: -

"9. ii. The political parties and leaders shall not make false statements, utterances without factual basis aimed at misleading the voters. Criticism of other parties or their workers on the basis of unverified allegations or on distortions shall be avoided."; and

4. Whereas, the Commission has received a complaint dated 4th April 2024 from the Bharatiya Janata Party (copy enclosed) wherein it has been alleged that you have made the following misleading and unverified statements against the Bharatiya Janata Party in your press conference on 2nd April, 2024:

"जैसा कि मैंने कल शाम को ट्वीट करके बताया था की आज एक बहुत ही सनसनीखेज खबर मैं आप सबके सामने रखने वाली हूँ

.....मैं सभी मीडिया के साथियों से देशभर के लोगों को यह बताना चाहती हूँ कि भारतीय जनता पार्टी ने मेरे बहुत व्यक्तिगत करीबी व्यक्ति के माध्यम से मुझे भारतीय जनता पार्टी जॉइन करने के लिए अप्रोच किया मुझे यह कहा गया के यहाँ तो मैं भारतीय जनता पार्टी जॉइन कर लू अपना पॉलिटिकल कैरिअर बचा लूँ अपना पॉलिटिकल करियर बढ़ा लूँ'....

5. Whereas, you are a minister in the Government of National Capital Territory of Delhi and leader of a national party. The electors tend to believe whatever is being said from public forum by their leaders and in that sense the statements made by them affect the campaign discourse; and
6. Whereas, it is expected that there must be a factual foundation to the above quoted statements made by you and when the veracity of the statements made by you is contested then you must be able to back your statements by a factual basis; and whereas the matter is being examined by the Commission in light of the provisions of Model Code of Conduct and relevant electoral laws.
7. Now, therefore, you are hereby called upon to furnish your para wise response to the matter latest by **12.00 Noon of 8th April, 2024 (Monday)**.

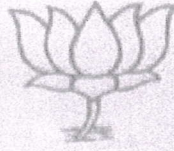
By Order,

(AJAY KUMAR)

Principal Secretary

To,

Ms. Atishi,
Member of Legislative Assembly,
Government of NCT of Delhi,
Aam Aadmi Party,
K-67, Jangpura Extension,
New Delhi - 110014



4th April 2024

The Chief Election Commissioner & Commissioners,
Election Commission of India,
Nirvachan Sadan, Ashoka Road,
New Delhi.

Sub: Serious breach of MCC & Electoral Laws – Conduct of Ms. Atishi Marlana

Dear Sir,

Ms. Atishi Marlana addressed the media on 2nd April 2024 and made misleading and unverified statements about the Bharatiya Janata Party. The relevant portion of press conference is reproduced herein for your kind perusal;

“जैसा कि मैंने कल शाम को ट्वीट करके बताया था की आज एक बहुत ही सनसनीखेज खबर मैं आप सबके सामने रखने वाली हूँ.....

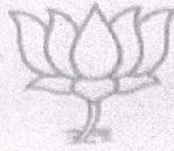
..... मैं सभी मीडिया के साथियों से देशभर के लोगों को यह बताना चाहती हूँ कि भारतीय जनता पार्टी ने मेरे बहुत व्यक्तिगत करीबी व्यक्ति के माध्यम से मुझे भारतीय जनता पार्टी जॉइन करने के लिए अप्रोच किया मुझे यह कहा गया के यहाँ तो मैं भारतीय जनता पार्टी जॉइन कर लू अपना पॉलिटिकल कैरिअर बचा लू अपना पॉलिटिकल करियर बढ़ा लूँ-

..... अरविंद केजरीवाल को जेल में क्यों भेजना? इसलिए भेजना है क्योंकि इस गिरफ्तारी के दो ही मकसद थे इस गिरफ्तारी का पहला मकसद था अरविंद केजरीवाल को चुनाव के दौरान कैंपेन करने से रोकना और दूसरा मकसद था कि दिल्ली की चुनी हुई सरकार दिल्ली की चुनी हुई लोकप्रिय सरकार को गिरा देना राष्ट्रपति शासन लगाना और फिर चोर दरवाजे से भारतीय जनता पार्टी की सरकार

See Link below;

<https://www.youtube.com/live/O8RJVvpCzs?feature=shared>

The Press conference is available in public domain and has garnered significant National and Regional media attention.



The सनसनीखेज खबर, as touted by Ms. Atishi Marlana is a bundle of lies and unverified, unsubstantiated, imaginary and illusionary charges. She did not name, who from the BJP, ever approached her. Such false and frivolous statements are designed to mislead the voters.

Ms. Atishi has abused her public office and political platform to spread misinformation with malicious intention of maligning the BJP on the basis of false and slanderous statements.

Such unverified and baseless accusations made by the sitting minister of Govt. of National Capital Territory of Delhi and a senior leader of AAP, is a brazen attempt to adversely affect the image of BJP in the eyes of General public.

The aforesaid action of spreading lies by Ms. Atishi Marlana attracts action under the following provisions of law and MCC;

Indian Penal Code

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 499. Defamation- *Whoever, by words either spoken or intended to the 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 from now on excepted, to defame that person.*

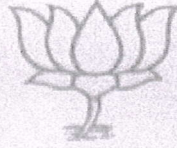
503. Criminal Intimidation - *Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.*

Representation of People Act 1951

123. Corrupt Practices. - The following shall be deemed to be corrupt practices for the purposes of this Act:

6-ए, दीनदयाल उपाध्याय मार्ग, नई दिल्ली-110 002, दूरभाष : 011-23500000 फैक्स : 011-23500190

6-A, Deendayal Upadhyay Marg, New Delhi-110 002, Phone : 011-23500000 Fax : 011-23500190



(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.

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

The MCC - General Conduct mandated for all political parties and candidates clearly lays down;

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

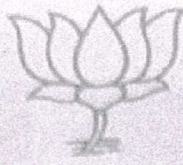
Election Commission of India advisory to Political parties dated 1st March, 2024, reiterates;

"While strongly urging all the political parties, their leaders in all capacities and the contesting candidates to remain within the confines of the Model Code of Conduct and the legal framework, observe utmost restraint and decency in election campaign and to raise the level of election campaigning to "issue" based debate, the commission advise that any genres of surrogate or indirect violation of MCC and surrogate means to plumate level of election campaign will be dealt with stern action:

ii. The political parties and leaders shall not make false statements, utterances without factual basis aimed at misleading the voters. Criticism of other parties or their workers on the basis of unverified allegations or on distortions shall be avoided.

This is not the first time that Aam Admi Party has made such false, fictitious and mischievous claims. They have, on several occasions in the past, levelled wild allegation without adducing any evidence whatsoever. Such blatant lies in the public domain, aimed at misleading the voters, tantamount to vitiating the elections and disturbing the level playing field for free & fair elections.

Right from the inception of the Aam Aadmi Party, their political modus operandi is to publicly defame political leaders without any basis whatsoever. The Commission is aware that Aam Admin Party's National Convenor and Chief Minister, Shri Arvind Kejriwal had to apologise publicly on a number of occasions. Such unchecked and



obnoxious lies are likely to vitiate the elections. Since these apologies, though essential, have little impact, they must be checked at source and prevented through stringent and timely action by Election Commission.

AAP, being a habitual & serial offender must be restrained from its desperate and illusionary fulminations, as that will set a dangerous precedent and encourage other political parties to disregard the MCC guidelines by making unverified and misleading statements in the public domain.

In the short 20 days since the announcement of General Elections, there have been numerous violations of not only the Model Code but also of other electoral statutes as well the Indian Penal Code. We urge the Commission to take preventive and exemplary action to contain such violations and ensure compliance of its own warning that *"plumate level of election campaign will be dealt with stern action."*

In view of the foregoing, We request the Commission to:

1. Remove such misleading and false videos/posts from all social media platforms forthwith.
2. Issue a cease-and-desist order preventing her and her ilk from spreading malicious and unverified information.
3. Implementing measures to restrain Ms. Atishi Marlana from participating in the election campaign in any manner.
4. Ms. Atishi Marlana be ordered to offer an unqualified public apology
5. Order immediate filing of FIR under the provisions of Indian Penal Code and Representation of People Act, 1951.
6. Ensure strict compliance of its own instructions and warnings and rein in the political discourse from going astray.

Best regards,

Your faithfully,

Om Pathak