

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi 110001

No.464/WB-HP/ES-II/2024

Dated: 17.05.2024

NOTICE

Whereas, the Election Commission of India vide its Press Note No. ECI/PN/23/2024, dated 16th March, 2024 has announced General Election 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."

3. Whereas, Para 3.8.2(ii) of Manual on Model Code of Conduct, 2019 provides that: -

"(a) Clause 3.8.2 (ii): 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."

4. 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. iii.No aspect of the private life, not connected with the public activities, of the leaders or workers of other parties is to be criticized. Low level personal attacks to insult the rivals shall not be made."

5. Whereas, the Commission's above advisory further states that:

"9. v. The political parties and candidates to refrain from any deeds/action/utterances that may be construed as being repugnant to the honor and dignity of women.

6. Your attention is also drawn to the various judicial pronouncements from time to time expressing concern over the low level of criticism, personal attacks and vilification of political rivals-

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:

"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 Shirhari Baliramji vatode v. 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. Whereas, the Commission has received a complaint dated 16th May, 2024 (copy enclosed) from the All India Trinamool Congress wherein it has been alleged that during a public meeting held on 15th May, 2024 in Haldia you have made following objectionable remarks against Smt. Mamta Banerjee, All India Trinamool Congress party President and Candidate:

"Mamata Banerjee tumi koto takay bikri how? Tomar rate 10 lakh taka keno? Tumi Keya Seth k diye mukhe makeup koro bole? Mamata Banerjee mahila toh? Aamar mone proshno jaage majhe modhye' (English Transcription), 'Mamata Banerjee, how much are you being sold for? Your rate is 10 lakhs, why? Because you're getting your

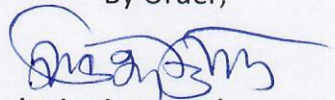
make up done by Keya Seth? Mamata Banerjee, is she even a woman? I keep wondering sometimes.' (English Translation)"

8. Whereas, on careful examination, the comment has been found to be improper, injudicious, beyond dignity in every sense of term, in bad taste and to be prima facie violative of the aforesaid provisions of the Model Code of Conduct and Commission's advisory dated 1st March 2024; and

9. Now, therefore, you are hereby called upon to show cause by **17.00 hrs of 20.05.2024** as to why appropriate action for violation of Model Code of Conduct should not be taken against you.

10. In the event of no response from your side within the stipulated time, it will be presumed that you have nothing to say in the matter and the Election Commission will take appropriate action or decision in the matter without making any further reference to you.

By Order,


(Rakesh Kumar)
Secretary

To,

Shri Abhijit Gangopadhyay,
BJP candidate from 30- Tamluk PC
West Bengal
(Through CEO, West Bengal)



ALL INDIA TRINAMOOL CONGRESS

Central Office: 30B, Harish Chatterjee Street, Kolkata - 700 026
Phone : (033) 2475 3000 / 2454 0881, Fax : (033) 2454 0880



Date: 16th May 2024

To
The Chief Electoral Officer
West Bengal
21, N.S. Road, Fairley Place
B.B.D. Bagh, Kolkata 700001

Sub: Complaint against Mr. Abhijit Gangopadhyay, a contesting candidate of the Bharatiya Janata Party (“BJP”) for making/passing disgraceful and derogatory remark(s)/comment(s) against the Hon’ble Chief Minister Smt. Mamata Banerjee (“Hon’ble CM”), thereby flouting the Model Code of Conduct (“MCC”) and other provisions of law.

Sir,

This is to bring to your attention that during a public meeting held on 15 May 2024 in Haldia, Mr. Abhijit Gangopadhyay, a BJP candidate contesting from 30-Tamluk Parliamentary Constituency (“PC”) has passed a very shameful and egregious statement against the Hon’ble Chief Minister of West Bengal. The link of the said speech has been provided for your reference: <https://www.youtube.com/live/x49m2vVWaMk?si=Wqyp0G10M8WgMNoM>.

In the said speech, Mr. Gangopadhyay has made certain highly offensive utterances, being: **‘Mamata Banerjee tumi koto takay bikri how? Tomar rate 10 lakh taka keno? Tumi Keya Seth k diye mukhe makeup koro bole? Mamata Banerjee mahila toh? Aamar mone proshno jaage majhe modhye’** (*English Transcription*), *‘Mamata Banerjee, how much are you being sold for? Your rate is 10 lakhs, why? Because you’re getting your make up done by Keya Seth? Mamata Banerjee, is she even a woman? I keep wondering sometimes.’* (*English Translation*).

Such denigrating statement(s)/comment(s) being made by Mr. Gangopadhyay is a clear portrayal of his indecent behaviour and his misogynistic mindset. It is at least expected that the political representatives of all parties should engage in respectful deeds/utterances irrespective of their political or ideological differences. However, Mr. Gangopadhyay’s vulgar and uncouth remark(s)/comment(s) are completely beyond the grounds of decency and morality. They not only lack decorum but also exhibit a blatant disregard of the only lady Chief Minister, Smt. Mamata Banerjee.

It is a very well-known fact that the Hon’ble CM has been the flagbearer of women’s safety and dignity, but such a provocative speech made by Mr. Gangopadhyay draws contempt towards women in power. It is unfortunate that Mr. Gangopadhyay having held a prominent position in the Judiciary, has chosen to attack the dignity of women, especially a woman holding a position of power with the sole intention to further his political propaganda and to stay relevant during the current period of Lok Sabha election, 2024.

Previously, there have been several instances where another BJP candidate Mr. Dilip Ghosh had also resorted to making statements which were completely objectionable and distasteful against the Hon’ble



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CM. It is shocking that the BJP candidates are stooping to such low levels of indecency on a regular basis by making indecorous, unwanted and degrading statements involving the integrity and honour of a woman just to garner votes. Not only is this a sheer attempt to personally attack the Hon'ble CM, it also raises a serious question that, if such an honoured and respected person's dignity and reputation is being attacked in front of innumerable people, then it clearly sets a precedent that the women in this State are not spared from such constant humiliation.

It is also pertinent to mention that, such an attempt to defame the Hon'ble CM and to outrage her modesty through the said remark(s)/statement(s), is in complete contravention to the provisions of the Indian Penal Code, 1860 ("IPC") including Sections 354, 503, 504, 506 and 509 of IPC and it also violates the MCC, which clearly states that:

1. **Political parties and candidates shall refrain from any deeds/actions/utterances that may be construed as being repugnant to the honour and dignity of woman.**
2. **Low level personal attacks shall not be made.**
3. **No political party or candidate 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.**

In the light of the above mentioned, your good office is hereby called upon to:

- a. issue order(s)/direction(s) to initiate criminal proceedings against Mr. Abhijit Gangopadhyay for contravening the provisions of the IPC;
- b. issue order(s)/direction(s) imposing a complete ban on Mr. Abhijit Gangopadhyay from holding and attending any public meetings, public rallies, public processions, road shows, interviews, public utterances in media (electronic, print, social media) etc. along the same lines of the directions imposed by you by way of ECI Letter no. 437/6/COMP/ECI/LET/FUNCT/MCC/2024 upon Shri. Randeep Singh Surjewala for violating the provisions of the MCC.
- c. issue order(s)/direction(s) against Mr. Abhijit Gangopadhyay, restraining him and other BJP candidate(s)/member(s) from making such personal, objectionable and disgraceful remarks;
- d. Issue any further order(s)/direction(s) as may be deemed fit and necessary.

Yours sincerely,
For All India Trinamool Congress

Derek O' Brien
Authorised Representative
Enclosed: As above

