



ALL INDIA LAWYERS' ASSOCIATION FOR JUSTICE

#18, Bharat Bhavan, No. 35, Infantry Road, Bengaluru- 560001

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10th December 2024

To,
Hon'ble Justice Sanjiv Khanna
Chief Justice of India
Supreme Court,
New Delhi.

Hon'ble Justice Sanjiv Khanna,

Sub: Requesting for immediate action against Jst. Shekhar Kumar Yadav, Allahabad High Court, for his open bigotry, prejudice and unconstitutional conduct unbecoming of a judge of the High Court.

On December 8th 2024 Jst. Shekhar Kumar Yadav, a sitting judge of the Allahabad High Court, delivered a lecture on the "Constitutional Necessity of Uniform Civil Code" in an event organised by the legal cell of the Vishva Hindu Parishad (VHP) in Prayagraj, Uttar Pradesh. Video snippets of his lecture, and reportage on the event, reveal several statements made by the judge which are unbecoming of a judicial officer of a Constitutional Court.

At the outset, it is necessary to recall that the Supreme Court in **Daya Shankar vs. High Court of Allahabad [(1987) 3 SCC 1]**, has set the following standard: "*Judicial Officers cannot have two standards, one in front of the court and another outside the court. They must have only one standard of rectitude, honesty and integrity. They cannot act even remotely unworthy of the office they occupy.*"

Some of the severely objectionable parts of the speech, the video of which we are annexing along with this complaint, are extracted here:

- A. *bahar ke log hindu nahi samajhte - woh samajhte hai ki kewal woh vyakti jo puja karne wala chandan lagane wala vyakti hi hindu hai - lekin aisa nahi hai - hindu iss desh main rehne wala - iss desh ko apni maa kehne wala - apna sar nyochavar karne yadi iss desh main koi appati aajaye - uski puja padhadhti koi bhi ho sakti - woh quran main manne wala bible manne wala - lekin woh hindu hai*

(Time stamp - 5:24 - 5:57)

People from outside don't understand (the term) Hindu. They think that a someone who prays, who wears sandalwood is a Hindu. But that is not how it is. Hindu is anyone who lives in this land, who accepts this country as their mother, and who is ready to sacrifice for it if required. It doesn't matter if they follow the Quran or the Bible—they are also Hindu.



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- B. *humare yaha sikhaya jata hai chiiti choti si pashu ko mat maro - hume kisi ki pidha aur kasht ko dekh ke pidha aur kasht hoti hai - lekin aapke andar nahi hoti - kyu? - hamare yaha bacha paida hota hai - bachpan se usse eishwar ki aur - ahinsa mantra padhte hai - lekin aapke yaha saamne rakh ke vaddh kiya jaata hai pashuon ka toh aap kaise apeksha karte hai udhar hoga woh sayyam hoga who*

(Time stamp - 21:12 - 22:00)

In our culture, even small creatures like ants are not to be harmed. We feel pain and suffering when we see someone else's pain. But why don't you feel this? Why? In our culture, when a child is born, they are taught to look toward God, to follow the mantra of non-violence. But in your culture, animals are slaughtered right in front of the child. How can you expect restraint and peace from that?

- C. *Yeh kehne main koi bilis nahi hai yeh hindustan hai hindustan main rehne wala bahusankhyak ke aadhar par desh chalega - yeh kanoon hai - aap yeh keh nahi sakte ki high court ke judge hokar aap yeh bol rahe - kanoon bahusankhyak se chalta hai - parivar main dekhe - samaj main dekhe - jo bahusankhyak use mana jata*

(Time stamp - 22:00 - 22:28)

I have no hesitation in saying that this is Hindustan, this country would function as per the wishes of the majority. This is the Law. You can say that you are saying this being a High Court Judge. The law works according to the majorit. Look at it in the context of family or society... What is majoritarian is accepted.

- D. *lekin aap zabardasti karenge ki nahi sahab hum toh yehi maanenge toh main aapko batadoon - yeh jo jinki hum baat kar rahe hai - woh sab bure nahi hai - woh jo burai bhi batate woh chaar patni ke paksh main nahi - baachi maar diya jaye uske paksh main nahi - lekin jo - kathmulla - achcha shabd nahi hai lekin - desh ke ghatak - desh aage na bade - janta ko bhadkane wale log - unse sauda karne ki zarurat hai*

(Time stamp - 22:29 - 23:21)

those we are discussing are not all bad. Even they don't support things like having four wives or killing daughters. But there are extremists "kathmulla" —though it's not a good word—and people who harm the country, who prevent progress, who incite others. We need to deal with such people.

- E. *aap high court ki library main hai - yaha pe highcourt ke aitehasik mahapurush ki kitaben hai - inke beech sapat leke keh raha hoon yeh desh ek kanun laayega aur bahut jaldi hi*

(Time stamp - 27:33 - 27:57)

You are sitting in the High Court library, surrounded by historical books of great personalities. Standing here, I take an oath: this country will have one law very soon.



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- F. *kattarpanti karan - bachpan se hinsak pravarti hai - udharta unme nahi - hume hai - yeh bhi kehne main kutai nahi honi chahiye - hum ahansik hai toh hume kayar mat samajhna - shakti aisi bani rehni chahiye - bacho ke andar sanskar sabse pehle sanskar aur desh - vakeel, chatra kuch bhi ho sakte - aap hindu pehle - iss desh main rehne wala - dharti meri maa aur main uska putra -woh hindu hai*

(Time stamp - 30:45 - 31:45)

The reason for intolerance is that violent tendencies instilled since childhood. They lack generosity. We have that generosity, and there should be no hesitation in saying this. But don't mistake our non-violence for cowardice. Strength must always remain within us. Values and patriotism should be the first lessons we teach our children. Whether you are a lawyer, a student, or anything else, remember that first, you are a Hindu. This is Hindustan. This land is our mother, and we are her children. That is what being Hindu means.

The video of his speech is sent as attachments along with this email.

The above statements of Jst. Shekhar Yadav are communal, Islamophobic and reflect a Hindu majoritarian viewpoint, mirroring that of the organisers of the event. It is shocking that a sitting Judge of the High Court, can utter such a derogatory and condemnable word like "kathmulla".

Jst. Shekhar Yadav displays a troubling disregard to his oath pledging allegiance to the Constitution. These statements fall foul of the "**Bangalore Principles of Judicial Conduct**" (Principles) that establish standards for ethical conduct of judges laying down six recognised core values – Independence, impartiality, integrity, propriety, equality and competence and diligence. As per these Principles, a judge is expected to exhibit and promote high standards of judicial conduct to reinforce public confidence in the judiciary which is fundamental to the maintenance of judicial independence. Indeed it states that "*A judge shall exhibit and promote high standards of judicial conduct in order to reinforce public confidence in the judiciary, which is fundamental to the maintenance of judicial independence.*" Importantly Jst. Yadav has fallen short of being impartial. Clause 2.2 mandates that: *A judge shall ensure that his or her conduct, both in and out of court, maintains and enhances the confidence of the public, the legal profession and litigants in the impartiality of the judge and of the judiciary.*"

Also in question here is the very integrity of Jst. Yadav. The Principles at Clause 3.2 requires that the "*behaviour and conduct of a judge must reaffirm the people's faith in the integrity of the judiciary*". It is said that judicial officers should possess the sterling quality of integrity. In **Tarak Singh vs. Jyoti Basu [(2005)1 SCC 201]**, the Supreme Court held that: "*Integrity is the hallmark of judicial discipline, apart from others. It is high time the judiciary took utmost care to see that the temple of justice does not crack from inside, which will lead to a catastrophe*



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in the judicial-delivery system resulting in the failure of public confidence in the system. It must be remembered that woodpeckers inside pose a larger threat than the storm outside."

To state that the country would function as per the wishes of the majority, is in simple terms, Hindu majoritarianism. The Indian Constitution, obviously, does not countenance any form of majoritarianism, which is the antithesis of democracy. In **Chairman, Railway Board and Ors vs. Chandrima Das and Ors [AIR 2000 SC 988]**, the Supreme Court held that: *"Our Constitution guarantees all the basic and fundamental human rights set out in the Universal Declaration of Human Rights, 1948, to its citizens and other persons. The chapter dealing with the Fundamental Rights is contained in Part III of the Constitution. The purpose of this part is to safeguard the basic human rights from the vicissitudes of political controversy and to place them beyond the reach of the political parties who, by virtue of their majority, may come to form the Govt. at the center or in the State."*

Jst. Shekhar Yadav has abandoned his duties and responsibility as a judge of the High Court, to uphold the Constitution and the rule of law. The mandate of the constitutional courts to uphold the cherished principles of the Constitution and not to be remotely guided by majoritarian view or popular perception (**Navtej Johar vs Union of India (2018) 10 SCC 1**), has to be discharged by judges, both inside and outside the Courts. Courts and its judges have to be guided by the conception of constitutional morality and not by the societal morality. It is for this reason that the Supreme Court in **Navtej Johar**, held that the *"guarantee of constitutional rights does not depend upon their exercise being favourably regarded by majoritarian opinion."* In a democratic Constitution founded on the rule of law, rights of minorities are as sacred as those conferred on other citizens to protect their freedoms and liberties.

It is most unfortunate that Jst. Yadav has also abandoned any notion of constitutional morality. In **Navtej Johar**, the Supreme Court held that: *"It is the concept of constitutional morality which strives and urges the organs of the State to maintain such a heterogeneous fibre in the society, not just in the limited sense, but also in multifarious ways. It is the responsibility of all the three organs of the State to curb any propensity or proclivity of popular sentiment or majoritarianism. Any attempt to push and shove a homogeneous, uniform, consistent and a standardised philosophy throughout the society would violate the principle of constitutional morality. Devotion and fidelity to constitutional morality must not be equated with the popular sentiment prevalent at a particular point of time."*

We are constrained to reiterate that this speech of Jst. Yadav, yet again poses serious questions about the process through which judges are being appointed and exposes the lack of immediate action when judges betray the foundational ideas of the Constitution owing to their prejudices and political leanings.



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Jst. Yadav's words are an attack on the preambular promise of fraternity, promotes divisiveness and directly impinges on the diversity and pluralism of the country. As a judge, Jst. Yadav has a basic duty to articulate the Constitutional goal which has found such an eloquent utterance in the Preamble. As the Supreme Court noted in **Harjinder Singh vs Punjab State Warehousing Corporation [(2010) 3 SCC 192]**, if the judges fail to discharge their duty in making an effort to make the Preambular promise a reality, "they fail to uphold and abide by the Constitution which is their oath of office". Jst Yadav has failed in not only discharging his obligation as a High Court judge, but failed as a citizen to abide by the constitutionally mandated fundamental duty enjoined upon every citizen of the country under Article 51A (e) to "*promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities*". Can a person, sworn as a judge under oath to uphold and protect the Constitution, and who spectacularly fails to this precise mandate be allowed to continue in office? Jst. Yadav has spoken out loud and clear. It is for the Supreme Court to make itself heard now.

AILAJ demands that a disciplinary process be urgently instituted against Jst Yadav, until which time all his administrative and judicial work must be withdrawn. AILAJ also demands that Jst Yadav tender an unconditional apology for his statements.

Maitreyi Krishnan
President

Clifton D' Rozario
General Secretary