

E A S Sarma
Former Secretary to Government of India

To

Shri Rajiv Kumar
Chief Election Commissioner

Shri A C Pandey
Election Commissioner

Shri A Goel
Election Commissioner

Dear S/Shri Rajiv Kumar/ Pandey and Goel,

I have come across the following highly objectionable statement, reported to have been made by Shri Amit Shah, the Union Home Minister, in Gujarat yesterday, addressing a rally in Mahudha town of Kheda district, in support of BJP candidates ahead of the next month's Assembly elections (<https://www.ndtv.com/india-news/rioters-taught-lesson-in-2002-permanent-peace-in-gujarat-amit-shah-3552887>)

"During the Congress rule in Gujarat (before 1995), communal riots were rampant. Congress used to incite people of different communities and castes to fight against each other. Through such riots, Congress had strengthened its vote bank and did injustice to a large section of the society.....But after they were taught a lesson in 2002, these elements left that path (of violence). They refrained from indulging in violence from 2002 till 2022. BJP has established permanent peace in Gujarat by taking strict action against those who used to indulge in communal violence,"

The said statement apparently refers to how a political party and certain sections of the people ***"taught a lesson"***, which in effect implies those other than the law enforcement authorities had taken law into their hands. If the statement is correctly reported, it would have serious public interest implications.

I sincerely hope that Shri Amit Shah had not made any such statement but, if he had indeed made a statement to that effect, considering that it has come from him, holding the high and responsible

office of the Union Home Minister, it assumes a great deal of importance, having wide ramifications for the ensuing Gujarat elections, scheduled to take place shortly and even for other Assembly elections scheduled to take place elsewhere in the country during the next few days.

The statement, if it is found to be true, violates the Model Code of Conduct in force, especially with reference to the following clause,

"There shall be no appeal to caste or communal feelings for securing votes."

Shri Shah's statement needs to be viewed by the Election Commission in conjunction with the reported fact (<https://www.outlookindia.com/national/bilkis-bano-case-centre-approved-the-release-of-11-convicts-gujarat-government-submits-to-sc-news-230694>) that it was the Union Home Ministry that cleared the release of the eleven rape convicts in the Bilkis Bano case, directly related to the infamous Godhra incidents in 2002, which triggered the shameful sequence of events that shook the nation's conscience. The background and the aftermath of the Gujarat incidents of 2002 are so widely known that I do not have to explain the same to the Commission in detail.

I believe that, as the custodian of free and fair elections in Gujarat and elsewhere, by virtue of Article 324, and the trust reposed by the electorate in the integrity and impartiality of the Election Commission, the Commission should act quickly, hold a special emergent meeting today, preferably during early hours, ascertain the veracity of the news report on Shri Shah's purported statement and, if the said statement is found to be true, the Commission should, as required, give an opportunity to the person who has made the statement to explain his position, take immediate penal action if necessary, so as to ensure that after-effects of the statement may not interfere with the integrity of the electoral process in the State.

From the statement referred, if it is true, I am constrained to draw the inevitable inference that it would have already impacted the course of the Gujarat elections in the short run and would have long-term adverse implications for the nation as whole. By token penalties imposed, the Commission may not be able to undo the considerable damage that would have already been caused, in which case, the only course of action left to the Commission is to consider deferment of the elections, till such time that the environment becomes conducive to conducting elections freely and fairly.

The Commission should also take note of the fact that the Union Ministry of Finance had earlier notified an unprecedented extension of the window for political parties receiving corporate donations, on which I had expressed my concern in my letter addressed to you on 8-11-2022, with a

special reference to the Model Code (readily accessible at <https://countercurrents.org/2022/11/electoral-bond-notification-in-violation-of-model-code-of-conduct-ec-must-intervene/?swcfpc=1>). To the best of my knowledge, the Commission is yet to initiate any meaningful action on it!

I may further remind the Commission that its inaction in announcing Gujarat elections on October 14, 2022, simultaneously with announcement of elections in Himachal Pradesh (HP), and deferring Gujarat elections till November 3, 2022, for no plausible and convincing reason, resulted, in the Model Code of Conduct coming into force only on November 3. This indirectly (perhaps coincidentally!) gave license to the local authorities in Gujarat to go ahead with premature inauguration of the dangerous, incompletely restored Morbi bridge on Machchhu River, which in turn resulted in a horrific human disaster that took away the lives of more than a hundred innocent persons. Had the Commission announced the Gujarat elections along with its announcement of the HP elections, the Morbi accident would never have taken place! While the two events were not directly connected, it is a fact that the Commission did defer announcing the Gujarat elections, without citing any plausible and valid reason. It is essential that the Commission remains not only credible as a Constitutional authority but also appears to be so, in every respect.

The Election Commission of India is a unique, independent institution, owing its existence to Article 324 of the Constitution and the apex court has time and again emphasised that the Commission's responsibility is to ensure that nothing happens that affects the fairness of elections. During the time when the Model Code of Conduct is in force, the Commission has the authority to go to any extent to penalise those that violate the Code and take appropriate steps to safeguard the integrity of the electoral process in every possible way.

Several incumbents of the office of the Commission in the past had demonstrated the authority of the Commission in its full measure and the people of this country, who repose trust in the Commission's authority as an independent institution, expect the Commission to act objectively with the sole purpose of safeguarding the integrity and fairness of the electoral process, impervious to extraneous influences. The Commission cannot afford to permit political parties to indulge in divisive exhortations to the electorate and thereby influence elections against the public interest.

I sincerely hope that you will act urgently, firmly and decisively in this matter, as suggested by me above, keeping in view that the elections are going to take place in Gujarat very shortly.

Regards,

Yours sincerely,

E A S Sarma

Visakhapatnam

26-11-2022