

Statement by Child Rights Groups, Teachers and Educationists against the illegal and inhumane actions of the Bidar police affecting children

A play was enacted in the Shaheen Primary and Secondary School, Bidar on 21st January, 2020. As part of the play, lines were recited against the recently enacted CAA and the NRC – NPR programs of the Govt. of India. A video of this play went viral on social media. On the basis of this video, a complaint was filed by an ABVP activist in the New Town Police Station in Bidar. In the complaint, the school, and a person who shared the video on Facebook have been accused of spreading lies about CAA, NRC and NPR; encouraging seditious thoughts; and making students say that they would 'beat the PM with chappals'. Each of these statements are false, even going by the video recording of the play that went viral on social media. The FIR has been lodged under sections of the Indian Penal Code for '*Insult intended to provoke breach of the peace*', '*Statements creating or promoting enmity, hatred or ill-will between Classes*', '*Sedition*', and '*Promoting enmity between different groups on grounds of religion*'.

In blatant violation of the Juvenile Justice Act (2015), the New Town station police have repeatedly interrogated the school children, some as young as 9, without allowing their parents to be present, for hours at a stretch. The Head Teacher of the primary section and the widowed mother of a child who took part in the play were arrested on 30th January. With the Judge in the District and Sessions court in Bidar on leave till February 4, there was no possibility to secure bail for the accused. This sequence of disturbing events including the interrogation of children for staging a play and the arrest of teachers and parents marks a new low in our democracy.

The interrogation of children goes against one of the closely held tenets of a democratic order, which is that education should be about learning to question the world around you. Its only a child who learns to question who can become a citizen who exercises his or her franchise and participates in the democratic order fearlessly. If we don't see our schools as training grounds for democracy in which children learn to ask questions and express themselves without being subject to police interrogation, we are sowing the seeds of a conformist society at odds with a Constitution which promises the freedom of speech and expression to all its citizens including its children.

What is also deeply disturbing is the invocation of Section 124A of the IPC which is the sedition law to arrest a teacher and a parent who were allegedly involved with the staging of the play. This is a clear misapplication of the law which is based on a failure appreciate the fact that India is governed by the Indian Constitution which is the supreme law of the land. This marks a new low in our democracy. Even Gandhiji who was himself a victim of the arbitrary use of the sedition law by the British would never have contemplated that policeman in independent India would use it against those who staged a school play, which expressed an opinion at odds with the Central government position on the

CAA/NPR/NRC. Gandhiji presciently called the sedition law, 'the prince among the political sections of the IPC' and he saw the law as a tool which was used by the British to stifle dissenting voices which sought to expose the inequity of British colonialism.

The Bidar police have to understand that we do not live in a colonial and despotic state in which staging plays (however distasteful they may be to the government in power) is a criminal offence. The Indian Constitution in fact recognizes the freedom of speech and expression under Article 19(1)(a).

The Supreme Court in a constitutional bench decision in *Kedar Nath Singh v. State of Bihar*¹, in fact had clearly delimited the use of Section 124 A to only speech which had the tendency to incite violence against the state. As the Supreme Court clearly stated:

But the section has taken care to indicate clearly that strong words used to express disapprobation of the measures of Government with a view to their improvement or alteration by lawful means would not come within the section. Similarly, comments, however strongly worded, expressing disapprobation of actions of the Government, without exciting those feelings, which generate the inclination to cause public disorder by acts of violence, would not be penal. In other words, disloyalty to Government established by law is not the same thing as commenting in strong terms upon the measures or acts of Government, or its agencies, so as to ameliorate the condition of the people or to secure the cancellation or alteration of those acts or measures by lawful means, that is to say, without exciting those feelings of enmity and disloyalty which imply excitement to public disorder or the use of violence.²

There is not even the hint of violence which can incite persons to attempt to overthrow the state. The case does not fall within the framework of Section 124 A as delimited by the Supreme Court. Therefore the police must accept the play as a dissenting opinion which is not a fit case for invoking Section 124 A or other provisions of the IPC. The government must learn to tolerate if not accept opinions it may not like as that is a fundamental precept of democracy.

The action by the Bidar police is clearly violative of several fundamental tenets of our democracy.

- The police interrogation of children is violative of the protections which children are entitled to under the Juvenile Justice Act.
- The invocation of the sedition law is violative of the Supreme Court judgement in *Kedar Nath Singh v. State of Bihar*
- The use of the criminal law to target free speech is violative of the constitutional protection of freedom of speech under Article 19(1)(a)

¹ 1962 AIR 955.

² Ibid.

We condemn these actions of the Bidar police department in the strongest possible words. The police are clearly acting under the dictates of the State Govt trying to use the archaic sedition law to target individuals and institutions expressing their dissent against CAA-NPR-NRC.

We demand

- the immediate withdrawal of all criminal cases against the accused, and the release of the arrested women.
- a review of the procedure followed by the Bidar police department, especially their violations of child rights, and that stringent action be taken to ensure this does not happen again anywhere in the country.
- the Karnataka Child Rights Commission, the National Commission for Protection of Child Rights, the State Human Rights Commission and the National Human Rights Commission immediately enquire into the blatant violation of children's rights and take appropriate action against those who have committed such violations.
- Repeal of Section 124-A of the IPC

