

01.02.2023

To

1. The Hon'ble Mr. Justice D.Y. Chandrachud
The Chief Justice of India,
Supreme Court of India,
New Delhi - 110001.
2. The Hon'ble Mr. Justice Sanjay Kishan Kaul
Supreme Court of India,
New Delhi - 110001.
3. The Hon'ble Mr. Justice K.M. Joseph
Supreme Court of India,
New Delhi - 110001.

Respected Judges,

Sub:- Representation from members of the Bar, Madras High Court, regarding the recommendation of the Collegium to appoint Ms. Lekshmana Chandra Victoria Gowri to Madras High Court.

We, the undersigned advocates of the Madras High Court, write to you with a sense of alarm and dismay regarding the recommendation of the Collegium, dated 17th January, 2023, to appoint Ms. Lekshmana Chandra Victoria Gowri as a judge of the Madras High Court.

We, members of the Madras High Court Bar, deem it our duty to make this representation, since we strongly believe in the independence of the judiciary and

the principle behind the Collegium choosing future judges of the higher judiciary. We believe that the 'basic structure' of the Constitution of India ought to be defended at any cost. The Supreme Court is the guardian of the basic structure and all its actions, both judicial and administrative, are taken to safeguard the same.

In its judgment on the NJAC [2016 (5) SCC 1], the Supreme Court underscored that in preserving the independence of the judiciary, which is part of the basic structure, one of the main functions is for the judiciary to choose a candidate who is 'worthy' and also to reject those who are 'unworthy' of becoming a judge.

However, the instant recommendation completely dents the independence of the judiciary, if the facts regarding Ms. L. Victoria Gowri are seen.

There are two interviews given by Ms. Gowri on a Youtube channel hosted by the Rashtriya Swayamsevak Sangh (RSS). In one of the interviews, captioned "More Threat to National Security & Peace? Jihad or Christian Missionary? - Answers Victoria Gowri" uploaded on 27.02.2018 available at <https://www.youtube.com/watch?v=o3xe0nYxEbU> Ms. Gowri launches a shocking, distasteful diatribe against Christians, stating that "Like Islam is green terror, Christianity is white terror". She then states, "Christian groups are more dangerous than Islam groups. Both are equally dangerous in the context of love

jihad... If I find my girl in Syrian terrorist camps, I have an objection and that is what I define as love jihad". Ms. Gowri asserts that, "bombing is less dangerous than the kind of conversions being adopted by the aggressive Christian theologian groups". She makes a shocking claim that the problem going on in the North East is "Christian".

In the second interview captioned, "Cultural genocide by Christian Missionaries in Bharat – Victoria Gowri" uploaded on 05.06.2018 (available at <https://www.youtube.com/watch?v=Wzs03XaxzmM>) , Ms. Gowri refers to the "nefarious activity of the Roman Catholics" and proclaims that "Bharatanatyam should not be danced for Christian songs."

Her statements in these interviews amount to hate speech likely to spread and incite communal discord/violence.

In an article titled, "Aggressive baptising destroying social harmony," in the 'Organiser' dt. 01.10.2012, a publication of the RSS, (**Annexure – A enclosed**) Ms. Gowri wrote, "But not a finger is lifted to stop allured and forcible conversions and to prevent Christians from conceiving communal conflicts", and "for fifty years, the marginalised Hindus have been fighting the mighty Christian diocese. But now the situation is out of control."

Ms. Gowri's regressive views are also completely antithetical to foundational Constitutional values and reflect her deep-rooted religious bigotry making her unfit to be appointed as a High Court judge. The Collegium's recommendation of a person who harbours such strong antipathy towards the minority community is disturbing, to say the least. Any person spewing vitriolic comments of this nature ought to be prosecuted under Sections 153 A, 153 B, 295 A and 505 of IPC as observed by the Supreme Court in its recent Order dated 21.10.2022 in W.P. (Civil) No. 940 of 2022 (Shaheen Abdulla vs Union of India). The Apex Court further directed to take suo motu action and register cases as and when any speech or action takes place which attracts offences under the aforesaid Sections, even if no complaint is made and any hesitation to do so will be viewed as contempt of the Supreme Court.

The Supreme Court in *Pravasi Bhalai Sangathan Vs. Union of India & Ors* [2014 (11) SCC 477] has clearly explained of the impact of hate speech on society as follows,

“Hate speech is an effort to marginalise individuals based on their membership in a group. Using expression that exposes the group to hatred, hate speech seeks to delegitimise group members in the eyes of the majority, reducing their social standing and acceptance within society. Hate speech, therefore, rises beyond causing distress to individual group members. It can have a societal impact. Hate speech lays the groundwork for later, broad attacks on

*vulnerable that can range from discrimination, to ostracism, segregation, deportation, violence and, in the most extreme cases, to genocide. **Hate speech** also impacts a protected group's ability to respond to the substantive ideas under debate, thereby placing a serious barrier to their full participation in our democracy."*

You are aware that the United Nations has recognised that over the past 75 years, hate speech has been a precursor to atrocity crimes, including genocide. The UN Secretary General, Antonio Guterres has noted that, "hate speech is in itself an attack on tolerance, inclusion, diversity and the very essence of our human rights norms and principles. More broadly, it undermines social cohesion, erodes shared values and can lay the foundation for violence, setting back the cause of peace, stability, sustainable development and the fulfillment of human rights for all."

The United Nations Strategy and Plan of Action on Hate Speech (2019) calls upon a coordinated response to tackle the root causes and drivers of hate speech to mitigate its impact on victims and societies. The UN Action Plan notes that, "Around the world, we are seeing a disturbing groundswell of xenophobia, racism and intolerance – including rising anti-Semitism, anti-Muslim hatred and persecution of Christians. Social media and other forms of communication are being exploited as platforms for bigotry".

The UN has also declared, for the first time in 2022, that the 18th of June will be observed as the International Day for Countering Hate Speech. It is therefore ironical that the Collegium should recommend a person who has propelled her career by fomenting hatred through her public utterances. This recommendation will be viewed as nothing but a betrayal of the Indian Constitution and the Global commitment to eradicate hate speech.

An impartial and independent judiciary is a sine qua non of democracy. A judge must discharge her Constitutional responsibility, without fear or favour, uninfluenced by predispositions and prejudices that inhibit impartial administration of justice. Not only must a judge be impartial, but must be seen to be impartial, to sustain the confidence /faith of the public in the judiciary. The Bangalore Principles of Judicial Conduct mandate that a judge shall perform her judicial duties without any favour, bias or prejudice and ensure that 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 the judiciary. The Collegium's recommendation to appoint a person who makes no bones about her hatred towards the minority communities will definitely dent the public perception about the impartiality of the judiciary.

In the context of Ms. Gowri's utterances, can any litigant belonging to Muslim or Christian community ever hope to get justice in her Court, if she becomes a Judge?

Ms. Gowri has failed in her fundamental duty under Article 51-A which casts an obligation:

“(e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;

(f) to value and preserve the rich heritage of our composite culture;”

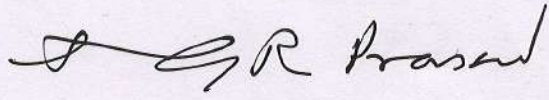
Equal treatment guaranteed to every citizen, irrespective of their religious faith, will be in jeopardy, if a judge bears ill-will to followers of a particular faith. A judge is the custodian of Constitutional rights and cannot be its saboteur. We are therefore compelled to state that appointing a person who spews vitriol and animosity towards an entire community to be a judge of a High Court will cause grave harm to the judiciary.


We also wish to bring to your notice that Ms. Gowri has been till now the National General Secretary of the Mahila Morcha of the Bharatiya Janata Party, the ruling party. She has described herself as "Chowkidar Victoria Gowri," in an obvious reference to the ruling party's "I am a security guard (for the nation)" campaign, in her twitter handle (now removed) (**Annexure - B enclosed**). She has expressed her allegiance and loyalty to the said party and the ideology it professes and has been an active member till now.

We write, with a sense of foreboding, in these troubled times, when the judiciary is facing unprecedented and unwarranted criticism from the executive, as we are apprehensive that appointments such as these may pave the way for undermining the independence of the judiciary. It is extremely critical, at this juncture, to safeguard the institution from being weakened by its own administrative action.

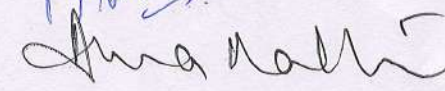
We, as members of the Bar concerned with the integrity and independence of the judicial institution, beseech you to recall the recommendation made by the Collegium to appoint Ms. Victoria Gowri as a judge of the Madras High Court.

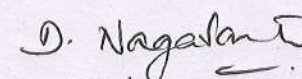
Yours sincerely,

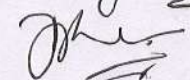
1. N.G.R. PRASAD [En. 140/1961] 

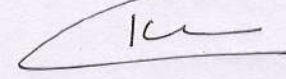
2. R. VAIGAI (MS 2/2016 (SGN)) 

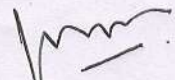
3. S.S. VASUDEVAN (MS. 55/80)

4. ANNA MATHEW 615B/77 

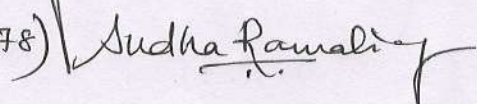
5. D. Nagasani 753/88 

6. T. MOHAN [1142/90] 

7. S. DEVIKA [677/1991] 

8. V. Suresh [0295A/85] 

9. Sudha Ramalingam (305/78)



10. NANDHINI 486/2020

11. D. Geetha 884/1989

12. M.N. Sumathy 2242/2006

13 M. S. SOORYA BHARATHI (1541/2021)

14. R. Diwakaran 1962/2000

15 M. Aprameya D/10454/2021

16 S. PARTHA SARATHI MS. 169/2005

17 AKILA R.S. 1385/2006

18 S. Meenakshi 1269/04

19 S. Purusothaman 607/09

20 T. Chinnamurthi 991/16

21 NIVEDITA MENON [3123/2017]

22. S. JIM RAJ MILTON [904/2007]