01.02.2023

To

Her Excellency Ms. Draupadi Murmu,
The President of India,
New Delhi – 110 004.

Your Excellency,

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 bring to your notice certain disturbing facts about a candidate recommended for appointment as Judge of the Madras High Court. We strongly believe that to preserve the independence of the judiciary, only persons who are committed to upholding the constitutional values of equality and fraternity ought to be appointed.

We draw your attention to 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 theologist 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 it's 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.

When the judiciary is facing unprecedented attacks from the executive, the proposed appointment will only pave way for undermining the independence of the judiciary. It is extremely critical, at this juncture, to safeguard the institution from being weakened.

Article 74 of the Constitution provides that the President shall act in accordance with the advice given by the Council of Ministers. The proviso to the Article 74 provides that the President may require the Council of Ministers

to reconsider such advice, either generally or otherwise.

We therefore urge you to return the file, recommending Ms. Victoria Gowri as Judge of the Madras High Court and seek clarification as to how a person who has spread hate speech against our country's minorities has been recommended to a high constitutional office of a Judge of a High Court.

As the President of India, you are the highest Constitutional functionary of our nation, in whom the people have reposed great faith. We fervently hope that you will exercise the powers of your high office to protect the cherished ideals of diversity, religious plurality, fraternity and equality guaranteed by the Constitution of India.

Thanking you,

Yours faithfully,

1. N. G. R. PRASAD 140/1961
2. R. VAIGAI
3. ANNA MATHEN 615B/77
4. D. Nagasaila. 753/88.
5. T. MOHAN
6. V. Suresh.
7. S. DEVIKA

8. S.S. VASUDEVAN Ms 55/80

9. Sudha Ramalingam 305/78 SudhaRamaling

10. S. Meenakshi 1269/04

11. R. RAJARAM 282/1976 R.

12. S. AYYATHURAI 432/1978 S. Ayyathurai

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13. P.G. Thyagu 2295/05

14. NANDHINI 486/2020

15. S. PARTHA SARATHI Ms. 169/2005.

16. S. Purushothaman. Ms 607/2009 S. Purus

17. T. Chinnamarimuthu Ms 991/2016 T. Chinna

18. AKILA R.S Ms 1385/2006 Akila R.S

19. J. Jim RAJ MILTON Ms 904/2007

20. M.S. SOORYA BHARATHI Ms. 1541/2021 M.S. Bhar. MS

21. M.N. Lumathy 2242/2006