

PUCL PEOPLE'S UNION FOR CIVIL LIBERTIES

UTTAR PRADESH UNIT

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Address - 1/1 Akashpuri, Ashok Nagar, Allahabad

Date - 10/12/2024

Open letter to,
The Hon'ble Chief Justice of India,
Supreme Court of India
New Delhi

Date: 10- 12-2024

**Subject: Requesting withdrawal of judicial work from
Justice Shekhar Kumar Yadav of Allahabad High Court**

Respected Sir,

We, on behalf of People's Union for Civil Liberties (PUCL) Uttar Pradesh would like to draw your attention towards certain specific statements made by Justice Shekhar Kumar Yadav of Allahabad High Court at a recent event on Uniform Civil Code organized by the Vishwa Hindu Parishad's legal cell which we believe to be against the letter and spirit of the Indian

Constitution and casts a shadow on the independence of the judiciary. Justice Yadav stated that the law like society and family will function as per the “bahusankhyak” (majority) and goes on to use a slur for certain Muslim people “kathmulle” which is unbecoming of a sitting judge from a High Court. We have learned from several judgments of the Supreme Court that might is not always right and it needs to be underlined in a healthy democracy that the rights of the weak, the minority cannot not be trampled upon just because they are less in number. The historic 2017 Puttaswamy judgement had mentioned how the Constitution curtails the power of majoritarianism from hijacking the State. The same was echoed in another landmark judgement of Navtej Singh Johar where it reaffirmed that the guarantee of constitutional rights does not depend upon their exercise being favourably regarded by majoritarian opinion. Apart from the glaring undignified statements, a viral video clipping shows that his general tone towards the Muslim community in his speech reeks of furthering a divide of us versus them rhetoric which again goes against the judicial ethics and at the same time is criminal in nature.

Constitutional Morality is a philosophical concept that ensures the Constitution is interpreted and implemented consistently with its core principles and values. It also requires that all actions, whether by the state or individuals, reflect the ethical and moral imperatives of the Constitution.

The judiciary has been pivotal in evolving and upholding the doctrine of Constitutional Morality and the Supreme Court even equated constitutional morality with the spirit of the Constitution itself. Unfortunately J. Shekhar Kumar Yadav’s comments showed his total lack of faith in the Constitution which is a serious breach of constitutional morality.

Former Chief Justice of India Justice Y.K. Sabarwal once said that judges must be cautious of their role and responsibilities while engaging in public speech and that they cannot be frivolous in the use of their words. He then stated that judges have been bestowed with the responsibility of judging the conduct of fellow citizens and if they succumb to making wrong choices then they lose the moral authority to judge the lives of others.

Justice must not merely be done but it must also be seen to be done. The behaviour and conduct of members of the higher judiciary must reaffirm the people's faith in the impartiality of the judiciary. Accordingly, any act of a Judge of the High Court or any court of the country, whether in official or personal capacity, which erodes the credibility of this perception has to be avoided. J. Shekhar Kumar Yadav had spoken in a virtual tone of a political leader and not as a constitutional functionary under the bounds of oath of the Constitution of India. The words he used against a section of the citizens of this country indicates his total lack of faith upon the Constitution of India which is the bedrock of our democracy. If a judge lacks faith upon the Constitution then his integrity gets diluted and judicial discipline comes under the cloud.

PUCL UP is compelled to write this letter to you requesting for immediate withdrawal of judicial work from Justice Shekhar Kumar Yadav and initiate necessary steps including criminal charges against him for reinstating faith of people in the Indian judicial system. J. Yadav's comments also contravenes the "Reinstatement of Values of Judicial Life" which was adopted by the full court meeting of the Supreme Court of India on 7th May, 1997 and hence deserves to be reprimanded for the same, so

that a wrong example is not set in front of those doing judicial work.

From

**People's Union for Civil Liberties,
Utter Pradesh Unit**

President- TD Bhaskar

General Secretary- Chittjeet Mitra