



To,
Mr. B. C. Patra,
Election Commission of India
Nirvachan Sadan, Ashoka Road,
New Delhi

Date: 29.01.2025

Subject: Reply from Sh. Arvind Kejriwal, National Convener, Aam Aadmi Party to letter bearing no. 437/DL-LA/2025-NS-II

Respected Sir,

1. The undersigned acknowledges the receipt of communication dated 28.01.2025 from the Election Commission of India, issued in response to complaints submitted by the Bharatiya Janata Party (BJP) on 27.01.2025 and the Indian National Congress (INC) on 28.01.2025. At the very outset, it is respectfully submitted that the statement attributed to the undersigned was made in the context of an urgent and alarming public health crisis concerning the deteriorating quality of drinking water in Delhi, necessitating immediate institutional and governmental intervention. The verifiable fact remains that Delhi, as a lower riparian state, depends on raw water supplies from Haryana, an upper riparian state, for potable water. The alleged statements were made in furtherance of an imperative public duty to highlight the severe toxicity and contamination of raw water received from Haryana, which presents an imminent and direct threat to public health.
2. That through his alleged statement undersigned has highlighted the following facts and issues of public importance which needed an urgent attention and actions:-
 - a. That Delhi receives raw water from Haryana which is being used for human consumption in Delhi.
 - b. The raw water received from the Haryana recently is highly contaminated and extremely poisonous for human health.
 - c. That the contamination levels in the raw water are so extreme that the Water Treatment Plants (WTPs) in Delhi are unable to process it to bring it within safe and permissible limits



- d. That due to such high level of toxic content in the raw water supplied by Haryana, the water treatment plants are operating below its capacity and thus there is a shortage of treated water in Delhi.
 - e. Such toxic water if is allowed to be consumed by Human population the same would lead to grave health hazard and fatality.
 - f. That the Delhi Government has no role to play with such high level of toxic water being made available to Delhi by Haryana which is an upper-riparian state.
 - g. That for such high level of toxic water being supplied to Delhi recently leading to shortage of drinking water in Delhi- The Chief Minister of Delhi and Punjab would immediately write a letter to the election commission with a request urgent meeting with the election commission so that election commission can positively intervene in the matter and such a grave situation can be remedied.
3. That all of the above issues and facts are in the best interest of the citizens of Delhi and also born out from the official letter dated 27.01.2025 issued by CEO, Delhi Jal Board. It is also clear that intention behind the said statement was to raise an important public issue about extremely toxicity raw water being supplied to Delhi and also to secure to the citizens of Delhi safe water for its consumption. The said statement by no stretch of imagination be termed as inciting enmity between different groups or prejudicial to national integration. On the contrary, the substance and purpose of these statements are rooted solely in the public interest, aimed at highlighting a legitimate civic concern that requires urgent institutional intervention.
4. That the plight highlighted by the undersigned is borne out from the letter dated 27.01.2025 issued by the CEO of Delhi Jal Board. The said letter was also enclosed in the letter dated 28.01.2024 issued by your good offices. In the said letter dated 27.01.2025 issued by CEO, DJB - the following facts stands admitted:
- a. The letter itself admits that the levels of *ammonia* in the water coming to Delhi from Haryana- has increased manifold, in as much as, it has reached to the level of 6.5 -7 PPM. The said portion of the letter is reproduced herein below:-

"Presently, the ammonia is around 6.5 ppm in river Yamuna at Wazirabad pond. Despite, dilution with CLC and DSB water, DJB Water Treatment Plants at Wazirabad and Chandrawal could not be operated on full capacity. Presently, the production is curtailed around 15 to 20% at Wazirabad and Chandrawal WTP. The samples were checked at upstream of Wazirabad pond and a downward trend seen in the ammonia at upstream. It is expected that the ammonia level will be reduced at Wazirabad pond in next few days. Once the ammonia level



reduced, the production shall be normalized in due course of time. Such curtailments of supplies at various plants have been routinely undertaken in the past for long."

The table enclosed to the said letter of CEO, DJB – highlights the persistent and alarming increase in ammonia in the raw water being supplied to Delhi.

- b.** In the said letter of CEO, it is also admitted that the permissible limit of *ammonia* which can be treated by the treatment plants are up to 2 PPM. However, Water, which has now being carried to Delhi. Admittedly has levels at 7 PM. The said portion of the letter is reproduced herein below:-

"In every Winter season, ammonia in river Yamuna increases during October to February. DJB Water Treatment Plants are designed to treat the ammonia upto 1 ppm. Ammonia upto 2 to 2.5 ppm is also being treated at Water Treatment Plants by dilution of the high ammonia water with the water received from Carrier Line Channel/ Delhi Sub Branch (CLC/DSB).

- c.** In the said letter of CEO, it is also admitted that the raw water coming from Haryana has high levels of *ammonia* because of pollutants being discharged in Yamuna River. This also conclusively proves the point that the water coming from Haryana to Delhi is highly polluted and toxic. The said portion of the letter is reproduced herein below:-

"The ammonia increases in river Yamuna due to mixing of some untreated sewage or industrial waste at the upstream of Wazirabad Barrage. During winters, after monsoon season, the flow in river Yamuna decreases and untreated sewage released in river Yamuna does not get diluted adequately, resulting into increase in ammonia concentration in Yamuna river. This year also, the ammonia started increasing from October month. Haryana officials have taken up a work to lay the pipeline at DD-6 in compliance to Hon'ble NGT orders so that the untreated sewage of DD-6 should not mixed up with DD-8."

- d.** In the said letter of CEO, it is also admitted that due to such high concentration of ammonia in the water, the Water treatment plant are also not being able to treat the water and thus are operating at below their capacity. The said portion of the letter is reproduced herein below:-

"Presently, the ammonia is around 6.5 ppm in river Yamuna at Wazirabad pond. Despite, dilution with CLC and DSB water, DJB Water Treatment Plants at Wazirabad and Chandrawal could not be operated



on full capacity. Presently, the production is curtailed around 15 to 20% at Wazirabad and Chandrawal WTP. The samples were checked at upstream of Wazirabad pond and a downward trend seen in the ammonia at upstream."

Impact of Ammonia on Human Health

5. As per the standards prescribed by the Bureau of Indian Standards, the maximum acceptable limit of Ammonia in drinking water is 0.5 mg/L.¹ The ingestion of ammonia-contaminated water at elevated concentrations (the present level of 7 mg/L is 14 times greater than prescribed limit) poses a severe and multifaceted health hazard, with potentially fatal consequences, particularly for vulnerable populations, including infants, the elderly, and individuals with pre-existing medical conditions. Scientific and medical research has consistently demonstrated that high ammonia exposure disrupts multiple physiological systems, leading to irreversible organ damage, life-threatening complications and in severe cases, coma and death.
6. **Neurological Impairment & Encephalopathy:** Ammonia is also considered a neurotoxin, meaning it can directly harm the nervous system. When levels are elevated (hyperammonemia), it can disrupt neurotransmitter function, causing symptoms like confusion, tremors, and in severe cases, coma and even death, primarily due to its impact on the central nervous system.² Elevated ammonia disrupts the blood-brain barrier, leading to increased glutamine synthesis in astrocytes, which results in cerebral edema and neurological dysfunction.³ Research has also shown that hyperammonemia provokes irreversible damage to the developing central nervous system: cortical atrophy, ventricular enlargement and demyelination lead to cognitive impairment, seizures and cerebral palsy.⁴
7. **Liver and Kidney Dysfunction:** The liver serves as the primary detoxification organ for ammonia, converting it into urea for excretion. However, at dangerously high concentrations, the detoxification mechanism becomes overwhelmed, resulting in toxic ammonia accumulation, hepatocellular necrosis, and progressive liver failure.⁵ Additionally, renal function is severely compromised as the kidneys struggle to excrete excessive ammonia, leading to acute kidney injury (AKI), renal tubular damage, and chronic nephropathy-conditions that significantly heighten mortality risk.

¹ https://cpcb.nic.in/wqm/BIS_Drinking_Water_Specification.pdf

² <https://www.ncbi.nlm.nih.gov/books/NBK557504/#:~:text=Hyperammonemia%20is%20a%20metabolic%20condition,managing%20patients%20with%20this%20condition>

³ <https://www.sciencedirect.com/science/article/pii/S1665268119317855>

⁴ <https://pubmed.ncbi.nlm.nih.gov/23109059/>

⁵ <https://www.nature.com/articles/s41598-024-56401-x>



8. **Infant Mortality Risks:** Neonatal exposure to high ammonia levels has been linked to developmental delays, impaired immune responses, and increased infant mortality rates. Moreover, catalytic oxidation of ammonia in drinking water can also create high levels of nitrate. The use of nitrate-contaminated drinking water to prepare infant formula can lead to 'Blue Baby Syndrome', with infants developing a peculiar blue-gray skin color. They can become irritable or lethargic, depending on the severity of their condition. The condition can progress rapidly to cause coma and death if it is not recognized and treated appropriately.⁶
9. **Bacterial Outbreaks:** One of the key concerns of high levels of ammonia in water is the decreased efficiency of water disinfection. When drinking water contains more than 0.2 mg of ammonia per liter, as much as 68% of the chlorine may react with ammonia, rendering it unavailable for disinfection. This can lead to bacterial outbreaks due to inadequate chlorination, posing a serious public health risk (WHO, 2003).⁷
10. Doctors in India have consistently deemed high-levels of ammonia, even at levels of 2.2 ppm (parts per million) as too toxic and unfit for human consumption. They have cautioned that high ammonia levels act as a double threat- since it's a serious neurotoxin and a lung toxin, meaning that upon exposure, it can inflict serious damage to the nervous system and cognitive functioning in the brain. Once ingested or consumed through impure water sources or untreated water, it can permeate cell membranes, pass through the bloodstream and impact nervous functioning at the core level. They have also cautioned against higher risk of ammonia in water to those with respiratory complications, where it could lead to damage in the lungs and induce difficulty in breathing.⁸
11. That given the overwhelming scientific consensus on the toxicity of ammonia in drinking water, its presence at levels exceeding 7 mg/L constitutes an unequivocal public health emergency. Regulatory bodies, including the WHO, the Environmental Protection Agency (EPA), and India's Central Pollution Control Board (CPCB), have consistently cautioned against the severe ramifications of sustained ammonia exposure, particularly at concentrations beyond the permissible threshold prescribed by the Bureau of Indian Standards of 0.5 mg/L. Any failure to mitigate this contamination places millions of lives at immediate risk and constitutes a grave violation of the fundamental right to health under Article 21 of the Constitution of India.

⁶ <https://pmc.ncbi.nlm.nih.gov/articles/PMC1638204/>

⁷ https://www.waternz.org.nz/Attachment?Action=Download&Attachment_id=4018

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<https://timesofindia.indiatimes.com/life-style/health-fitness/health-news/toxic-ammonia-polluting-water-and-air-how-does-it-damage-your-health/photostory/87625828.cms?picid=87625922>



12. The root cause of this water contamination, as identified by DJB's letter, is the indiscriminate discharge of untreated domestic and industrial waste into the Yamuna River upstream. The systemic failure in controlling this pollution has resulted in a public health crisis of unprecedented scale. The urgent cessation of these polluting activities is an absolute necessity, and the upper riparian authorities bear the primary responsibility to ensure that Delhi's water supply remains uncontaminated and safe.
13. That the statement made by the undersigned regarding the ammonia present in Yamuna River does not violate Section 196 , 197 and 353 of the BNS Act, 2023, and Section 123(4) of the Representation of the People Act, 1951. Additionally, it is alleged that these statements breach the Model Code of Conduct (MCC). Upon a careful examination of the facts, context, and legal provisions, it is respectfully submitted that the statement made by undersigned are fully protected under the constitutional guarantee of freedom of speech and expression, and no offence or any violation of Code of Conduct is committed by the undersigned.
14. That as per the law laid down by the Hon'ble Supreme Court of India in similar matters- the effect of the said statement have to be seen and judged from the standard of a reasonable and strong-minded men and not weak vacillating minds. Such an approach was held to be followed by this Hon'ble Court in In **Ramesh v. Union of India [(1988) 1 SCC 668 : 1988 SCC (Cri) 266 : AIR 1988 SC 775]** wherein it approves the observations of Vivian Bose, J. in **Bhagwati Charan Shukla v. Provincial Govt. [AIR 1947 Nag 1]**. The Court observed that:

"the effect of the words must be judged from the standards of reasonable, strong-minded, firm and courageous men, and not those of weak and vacillating minds, nor of those who scent danger in every hostile point of view. ... It is the standard of ordinary reasonable man or as they say in English law 'the man on the top of a Clapham omnibus'" (Ramesh case [(1988) 1 SCC 668 : 1988 SCC (Cri) 266 : AIR 1988 SC 775] , SCC p. 676, para 13).

15. It has been held by the Hon'ble Court that – "**One cannot rely on strongly worded and isolated passages for proving the charge nor indeed can one take a sentence here and a sentence there and connect them by a meticulous process of inferential reasoning. (Manzar Sayeed Khan vs. State of Maharashtra (2007) 5 SCC 1)**."
16. That the essential ingredients for committing an offence under Section 196 BNS:-



a) by words, either spoken or written, or by signs or by visible representations or through electronic communication or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities; or

b) *commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquility*”

17. That even on the face of it, the said statement, would by no stretch of imagination promote disharmony or enmity between *religious, racial, language or regional groups or castes or communities*. No such statement so as to create disharmony between such groups or segment of public is made. The Hon’ble Supreme Court with respect to Section 153 A IPC [***Pari materia to Sec. 196 BNS***] in ***Manzar Sayeed Khan vs. State of Maharashtra (2007) 5 SCC 1*** has held that:-

“16. Section 153-A IPC, as extracted hereinabove, covers a case where a person by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, disharmony or feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities or acts prejudicial to the maintenance of harmony or is likely to disturb the public tranquility. The gist of the offence is the intention to promote feelings of enmity or hatred between different classes of people. The intention to cause disorder or incite the people to violence is the sine qua non of the offence under Section 153-A IPC and the prosecution has to prove prima facie the existence of mens rea on the part of the accused. The intention has to be judged primarily by the language of the book and the circumstances in which the book was written and published. **The matter complained of within the ambit of Section 153-A must be read as a whole. One cannot rely on strongly worded and isolated passages for proving the charge nor indeed can one take a sentence here and a sentence there and connect them by a meticulous process of inferential reasoning.**” (Please also refer to *Iswari Prashad Sharma v. Emperor AIR 1927 Cal 747* (para 4), *Emperor v. Banomali Maharana AIR 1943 Pat 382* (para 14-16), *PK Chakravarty v. Emperor AIR 1926 Cal 1133*



(Pg 956-959) Gopal Vinayak Godse v. Union of India, 1969 SCC OnLine Bom 88 (para 63, 68, 69)

18. That for an offence under section 353 BNS there has to be a publication of a "rumour" or "false information" which is likely to promote enmity between the classes. The statement alleged against the undersigned is not based of any false information – and infact letter dated 27.01.2025 by CEO, DJB- admits the fact that toxicity in the raw water supplied by Haryana is 700% more than what can be treated by Water Treatment Plants. That the undersigned has not circulated a *rumour* or a *false news* to create enmity, hatred, or ill-will between the classes and as such the said section is not even applicable to facts of the present matter.
19. In the absence of any demonstrable falsity or malafide intent, the invocation of Section 353 BNS is legally untenable. That none of the ingredients of Section 353 BNS are made out in the present case.
20. That without prejudice to above, the Hon'ble Supreme Court has held the following on the conjoint reading of section 153 A and section 505 (2) IPC [pari materia to Sec. 196 and 353 BNS], in ***Bilal Ahmed Kaloo vs. State of Maharashtra (1997) 7 SCC 431*** has held that;

"15. The common feature in both sections being promotion of feeling of enmity, hatred or ill will "between different" religious or racial or linguistic or regional groups or castes and communities, it is necessary that at least two such groups or communities should be involved. Merely inciting the feeling of one community or group without any reference to any other community or group cannot attract either of the two sections."

Though not the case in the present matter factually, merely inciting the feeling of one community without reference to another community or group does not fall within the purview of either of the offences under Section 153A and Section 505(2) IPC.[pari materia to Sec. 196 and 353 BNS] (Please also refer to *Prakash Kumar vs. State of Gujarat (2005)2 SCC 409* (para 16), *Mohmed Amin vs. CBI (2008)15 SCC 49* (para 14-15))

21. Moreover, Hon'ble Supreme Court in ***Balwant Singh and Anr. Vs. State of Punjab (1995) 3 SCC 214*** held that, "intention to cause disorder or incite people to violence in the sine qua non of the offence under section 153A.....".

The perusal of the section and the above quoted judgment clearly demarcate that the "intention to cause disruption in harmony of different groups" is an



essential ingredient. On the other hand, the aforesaid statements alleged against the undersigned- were made with an intention to raise an important public issue in the political discourse.

22. It cannot be denied that safe drinking water is one of the most basic and essential requirement of any civilized society and raising an issue for the society with respect to the same – cannot be termed as committing an offence. Mere criticism of administrative failures, particularly concerning environmental and public health hazards, does not constitute an offence. That terming the same as an offence has a grave consequences to the democracy and polity in India and cause chilling effect on the fundamental right of freedom of speech and expression as guaranteed under Article 19 (1)(a) of Constitution of India.

The Constitution of India guarantees the right to freedom of speech and expression under Article 19(1) (a). This right includes the liberty to comment on issues of public importance, criticize government policies, and engage in democratic debate

23. That the offence under Sec. 197 BNS relates to imputations and assertions which are prejudicial to the national integration of the country. It is pertinent to submit that none of statement alleged against the undersigned amount to any offence under Section 197 BNS. That none of these ingredients are alleged in the FIR in as much as the offence under the said provision is that an imputation or assertion has to be made against any class of persons or member of religion that by being member of that particular class or religion-
- (a) they cannot bear true faith allegiance to the Constitution of India,
 - (b) they would be denied or deprived of their rights as citizens of India;
 - (c) is likely to cause feeling o disharmony, hatred, enmity or ill-well between such members or other persons.

That no such assertions or imputations are made by the undersigned in the instant case and hence allegations under section 197 are devoid of any merits. That word like – "Assertion", "counsel", "plea", "appeal" in the Section 153B (c) clearly make *mensrea* an essential ingredient of the offence. In the aforesaid statements alleged against the undersigned were made with an intention to raise an important public issue in the political discourse.

24. It is impermissible, both legally and constitutionally, to criminalize the act of highlighting governmental lapses in ensuring the availability of safe water for the residents of Delhi. **Public accountability and administrative transparency form the bedrock of democratic governance**, and if raising legitimate concerns regarding a fundamental civic necessity—such as access to



uncontaminated water—is misconstrued as an offence, it would set a dangerous precedent that **undermines state accountability and erodes the very fabric of responsible governance.** Any attempt to suppress discourse on such an alarming public health crisis is not only antithetical to democratic principles but also constitutes a direct affront to the citizens’ right to demand remedial action from the State. The arbitrary criminalization of legitimate public grievances would not merely stifle free speech but would also negate the foundational doctrine of India as a **Welfare State**, thereby subverting the constitutional obligations imposed upon the government to safeguard the well-being of its people

25. That the Hon’ble Supreme Court of India in ***Amish Devgan v. Union of India, (2021) 1 SCC 1*** after referring to Constitutional Bench judgement of ***Ram Manohar Lohia v. State of Bihar, (1966) 1 SCR 709***, has held that *breach of peace must have proximate and real connection with public order but not one that is far-fetched, hypothetical, problematic or too remote in the chain of its relationship with public order.* In the present case, the allegations are on the face of it far-fetched and remote to any actual breach of peace or likelihood of breach of peace. The relevant extract from *Amish Devgan (supra)* explaining such position of law is reproduced herein below for reference:

*"46. In Ram Manohar Lohia [Supt., Central Prison v. Ram Manohar Lohia, AIR 1960 SC 633 : 1960 Cri LJ 1002] , the Constitution Bench of five Judges, referring to the words "in the interest of ... public order" in clause (2) of Article 19 had observed that order is a basic need in any organised society. It implies orderly state of society or community in which the citizens can peacefully pursue their normal activities of life. This is essential as without order there cannot be any guarantee of other rights. Security of the State, public order and law and order represent three concentric circles : law and order being the widest, within which is the next circle representing public order and the smallest circle represents the security of the State. The phrase "security of the State" is nothing less than endangering the foundations of the State or threatening its overthrow. It includes events that have national significance or upheavals, such as revolution, civil strife, war, affecting security of the State but excludes breaches of purely local significance. The phrase "minor breaches" refers to public inconvenience, annoyance or unrest. The phrase "in the interest of ... public order", in the context of clause (2) of Article 19, would mean breaches of purely local significance, embracing a variety of conduct destroying or menacing public order. **Public order, in view of the history of the amendment is synonymous with public peace, safety and tranquillity.** Further, any restriction to*



meet the mandate of clause (2) of Article 19 has to be reasonable, which means that the restriction must have proximate and real connection with public order but not one that is far-fetched, hypothetical, problematic or too remote in the chain of its relationship with public order. Restriction must not go in excess of the objective to achieve public order. In practice the restriction to be reasonable, should not equate the actus with any remote or fanciful connection between a particular act of violence or incitement to violence.”

(emphasis supplied)

26. That the alleged statement made by the undersigned does not in any manner violate the general conduct as mentioned in Para 7 of the letter dated 28.01.2025 sent by your good offices, as already submitted that the said alleged statements does not amount to create any hatred between any caste, communities religious or linguistic. The alleged statement did not invoke any divisive sentiments or appeal to voters based on religion, caste, or community. The remarks centered on environmental issues and governance, which are legitimate subjects for public discussion during elections. The issue about the toxicity of the water coming from Haryana is also borne out from the letter dated 27.01.2025. That the said alleged statement about the toxicity of water is not incorrect and the same is borne out from the letter of CEO DJB.

27. In the present case, the statement in question neither refers to nor imputes anything against the personal character or conduct of any candidate contesting the elections. Instead, it addresses a critical governance issue of public health and environmental safety, substantiated by official administrative records. The Hon'ble Supreme Court in catena of judgments has held that - *not every statement made in the course of an election campaign qualifies as 'corrupt practice' under Section 123(4) RPA unless it directly pertains to the personal integrity of a candidate and is made with electoral malice.* The Hon'ble Supreme Court has also held that even a false statement must be directly linked to the electoral process and the candidature of an individual, rather than general political discourse, to attract liability under Section 123(4).

Thus, the mere act of raising a public health concern does not and cannot fall within the ambit of Section 123(4). Any attempt to misapply electoral laws to stifle democratic debate and public accountability would constitute an impermissible restriction on free speech, in direct contravention of Article 19(1)(a) of the Constitution of India. The electoral process cannot be misused as a shield to insulate governments from legitimate criticism, especially on matters as fundamental as safe drinking water—an issue that transcends partisan considerations and concerns the fundamental right to life under Article 21.



28. The same is also not a false statement in relation to personal character of any candidate contesting in the election, therefore there is no violation of Section 123 (4) of RP Act.

29. It is submitted that the alleged statement in the complaint does not amount to any insult provoking any person to break peace or public order or tranquillity. That no crime is committed by the by the undersigned and the letter by opposing political parties are nothing but a deliberate attempt to threaten the undersigned to not exercise his fundamental right and have chilling effect on the fundamental right of freedom of speech and expression as guaranteed under Article 19 (1)(a) of Constitution of India.

30. The political and constitutional implications of labeling an environmental and public health crisis as an electoral offence are profound and deeply concerning. If raising genuine public grievances—particularly concerning the basic necessity of clean drinking water—is curtailed on the pretext of election law violations, it would set a dangerous precedent of silencing dissent and obstructing democratic accountability. As observed by the Hon'ble Supreme Court in *S. Khushboo v. Kanniammal, (2010) 5 SCC 600*, a democracy thrives on the free exchange of ideas, and restricting discourse on public grievances under the guise of election law is constitutionally impermissible. It is held in the *S Khushboo(supra)* as under:-

*44. In order to prevent the abuse of the criminal law machinery, we are therefore inclined to grant the relief sought by the appellant. In such cases, the proper course for Magistrates is to use their statutory powers to direct an investigation into the allegations before taking cognizance of the offences alleged. **It is not the task of the criminal law to punish individuals merely for expressing unpopular views. The threshold for placing reasonable restrictions on the "freedom of speech and expression" is indeed a very high one and there should be a presumption in favor of the accused in such cases.** It is only when the complainants produce materials that support a prima facie case for a statutory offence that Magistrates can proceed to take cognizance of the same. **We must be mindful that the initiation of a criminal trial is a process which carries an implicit degree of coercion and it should not be triggered by false and frivolous complaints, amounting to harassment and humiliation to the accused.**"*



31. That it would not be out of place to mention that – such issues of toxic and polluted water being supplied by Haryana was highlighted by DJB publically on earlier occasions also. Infact, DJB in the past had also approached National Green Tribunal and the Hon'ble Supreme Court raising the similar issued as raised in the statement alleged against the undersigned. Hence, raising of such issue cannot be held to illegal, impermissible or an offence by the political parties – just so that it suit their political narratives and gives them an easy escape from responsibility towards the citizens of India.

32. In fact, availability of water for human Consumption to the citizens of Delhi is an important issue which was also highlighted by the Hon'ble Supreme Court in **Delhi Water Supply & Sewage Disposal Undertaking v. State of Haryana, (1996) 2 SCC 572** wherein following observations are made:-

*1. Water is a gift of nature. Human hand cannot be permitted to convert this bounty into a curse, an oppression. The primary use to which water is put being drinking, it would be mocking nature to force the people who live on the bank of a river to remain thirsty, whereas others incidentally placed in an advantageous position are allowed to use the water for non-drinking purposes. **A river has to flow through some territory; and it would be travesty of justice if the upper-riparian States were to use its water for purposes like irrigation, denying the lower-riparian States the benefit of using the water even for quenching the thirst of its residents.***

9. Despite the aforesaid being the position, we are refraining from using our contempt jurisdiction inasmuch as the learned Advocate General has assured that Haryana would see that Delhi gets as much of water which it is presently receiving through Yamuna, if so directed by us. It is because of this statement that Shri Jaitley submitted that the Water Supply Undertaking is not keen to pursue the contempt proceeding. Commodore Sinha too has taken the same stand. It is this gesture, along with the statement made by the learned Advocate General, which has led us to close this proceeding, despite the highly objectionable conduct of the persons concerned.

*10. So far as water supply from River Yamuna to Delhi is concerned, **we order and direct that Delhi shall continue to get as much water for domestic use from Haryana through River Yamuna which can be consumed and filled in the two water reservoirs and treatment plants at Wazirabad and Hyderpur.** Both the Wazirabad and Hyderpur reservoirs shall remain full to their*



capacity from the water supplied by Haryana through River Yamuna. We direct the State of Haryana through all its officers who are party to these proceedings and who have filed affidavits before us not to obstruct the supply of water to Delhi as directed by us at any time. This order of ours is not dependent on the MoU mentioned above or any other proceedings which may be initiated under any other law between the parties.

11. *We, therefore, close the proceeding by requiring Haryana to make available the aforesaid quantity of water to Delhi throughout the year. Let it be made clear that any violation of this direction would be viewed seriously and the guilty persons would be dealt with appropriately. This order of ours would bind, not only the parties to this proceeding, but also the Upper Yamuna River Board.*

33. In view of aforesaid, it is submitted that no violation of any law or any code is committed by the undersigned and thus issue with respect to the same may be closed. However, the undersigned herein beseech and most humbly request your good offices to intervene on the major issue of availability of safe water and pass appropriate directions to the State of Haryana so that safe quantity of water is made available to the citizens of Delhi.

Sincerely,

Arvind Kejriwal