

ABVP stands Vindicated: February 9 event was an Anti-national Activity + Infection needs to be cured-Delhi H.C.

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The Delhi High Court judgment in the Kanhaiya Kumar v. State of NCT of Delhi (W.P.(CRL) 558/2016 & CrI.M.A. Nos.3237/2016 & 3262/2016) dated March 2, 2016 is welcome judgment for us. This judgment upholds our stand that the activities on February 9 were anti-national activities and that this needs to be checked and corrected. A smaller section of media, intelligentsia (votaries of one theme) and some political parties, who have been viriolic against ABVP, have been moral posturing that this is a fascist exercise wherein the RSS and its organizations are labeling any dissenting voice as anti-national. Some went to the extent of recognizing themselves as anti-national to mock our stand. Some recognized it as a brutal assault on the democratic framework of the country. Some posture were made as if Freedom of Speech is unfettered and that this was unprecedented clampdown in post-1947 India. The verdict has provided us moral as well as legal strength. It is a moral victory of the 'idea of United and peaceful India'. The judgment corroborates and establishes our position:

(a) The February 09 event was anti-national

The High Court after referring to slogans like 'AFZAL GURU MAQBOOL BHATT JINDABAD', 'BHARAT KI BARBADI TAK JUNG RAHEGI JUNG RAHEGI', 'BHARAT TERE TUKKDE HONGE- INSHAALLAHA INSHAALLAHA' and the photographs of Sabarmati Dhaba celebrating Afzal Guru and Maqbool Bhatt as well as the posters issued for February 9 event held that these activities are anti-national and pre-judicial to the national integration of India.(para 40) The court further observes that not only reasons for such mindset must be found by the Faculty but remedial steps are also required to be taken in this regard by those managing the affairs of the JNU so that there is no recurrence of such incident in future. What was Afzal Guru Gang (Section of JNUTA and JNUSU) camouflaging as an exercise of academic freedom and an exercise of democratic dissent has been recognized as anti-national activity.

When in para 3 of the Judgment, court asks the Faculty, Student and Administration to answer why peace is eluding the JNU Campus, we ask the Afzal Guru Gang who is responsible for bringing disrepute to the campus. Will you still try to fool students by asserting that ABVP protest was wrong? Why should ABVP as a responsible organization not oppose such anti-national activities? Why was this Gang shielding accused re-emerging on the campus since Feb 21? Has that shielding not brought disrepute to University when people started saying that JNU is becoming den of anti-nationals? ABVP has infact started the #MyJNU_MyPride on February 10 and has been continuously demanding that these accused must face the legal process and why are they evading arrest.

b) Why Kanhaiya must resign? ...

The judgment observes that as JNUSU President, he was "expected to be responsible and accountable for any anti-national event organized in the campus" and that the Constitutional Framework of Freedom of Speech provides enough room for every citizen to follow political ideology of his choice. (Para 39) The court observes that the event exceeds the limits of A.19 (1) (a). It observes that we enjoy these rights safely in University Premises because our borders are being guarded by the armed forces and Paramilitary forces. It observes that accused could raise such slogans in safe zone of University without realizing that it is possible because of the defence services acting in difficult terrains and that those raising slogans will fail to withstand some of the conditions even for an hour.(Para 41) It goes on to observe that such kind of slogans have "demoralizing effect on the family of those martyrs who returned home in coffin draped in tricolor."(Para 42)

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On Kanhaiya claiming Ar. 19(1) (a), the court reminds him about the Fundamental Duties under A.51A of the Constitution of India. It observed that rights and duties are two sides of the same coin. (Para 43) The Court, further, observed that the kind of feeling in the sloganeering demands that the student community introspects its position. Quoting the Shreya Singhal Judgment [(2015) 5 SCC 1]], the court observed that the Article 19(1)(a) is restricted by the limitations under Article 19(2) of the Constitution and provided that :

"It is only when such discussion or advocacy reaches the level of incitement that Article 19(2) kicks in. It is at this stage that a law may be made curtailing the speech or expression that leads inexorably to or tends to cause public disorder or tends to cause or tends to affect the sovereignty & integrity of India, the security of the State, friendly relations with foreign States, etc."

We must remember that in the JNUSU Pamphlet of February 10 (undersigned by Kanhaiya Kumar, Shehla Rashid and Rama Naga) the February 9 incident was not criticized; rather denial of permission was presented as a case of violation of Freedom of Speech and Expression. It called for a protest against the alleged 'ABVP-Administration Nexus' as well as fascist assault on democratic freedom. He has even shared the stage on Feb 11 with Umar Khalid. It is on this day that Kanhaiya gave the 'safety gear' speech. JNUSU office bearers - Kanhaiya, Shehla and Rama must resign for their failure to stand against such anti-national activities.

(c) It is an infection which must be cured before becoming epidemic

The court believes that such kind of events and sloganeering are instances of infection and that they must be cured, before it becomes epidemic. On this issue, we will quote judgement:

"47....The investigation in this case is at nascent stage. The thoughts reflected in the slogans raised by some of the students of JNU who organized and participated in that programme cannot be claimed to be protected as fundamental right to freedom of speech and expression. I consider this as a kind of infection from which such students are suffering which needs to be controlled/cured before it becomes an epidemic.

48. Whenever some infection is spread in a limb, effort is made to cure the same by giving antibiotics orally and if that does not work, by following second line of treatment. Sometimes it may require surgical intervention also. However, if the infection results in infecting the limb to the extent that it becomes gangrene, amputation is the only treatment."

For the section of JNUTA in Afzal Guru Gang, we quote the para reminding the Faculty about its obligations and observed thus:

"The faculty of JNU also has to play its role in guiding them to the right path so that they can contribute to the growth of the nation and to achieve the object and vision for which Jawaharlal Nehru University was established."

In light of this, we demand an apology from SFI, DSF, AISA, NSUI and AISF for mocking us as Goons and Stooze when we actually stood for the cause of nation. We also seek this as an opportunity to remind JNU Community that the cadre of ABVP JNU is also a student of this campus and therefore anything hurting its image hurt us too. We stood for the Idea of JNU as well as Idea of India. We saw it as our responsibility and we stand vindicated today.

s/d- Rohit, V. President ABVP JNU

Lalit, Sec. ABVP JNU