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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 29.07.2015

+ W.P.(C) 6499/2015

SARDAVINDER GOYAL

..... Petitioner

Through: Petitioner-in-person.

Versus

ELECTION COMMISSION OF INDIA AND ORS.

..... Respondents

Through: Mr. P.R. Chopra, Adv. for R1 to 3.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

J U D G M E N T

Ms. G. Rohini, Chief Justice (oral)

1. The petitioner who claims to be a practising Advocate in Punjab and Haryana High Court, Chandigarh filed this petition by way of Public Interest Litigation alleging that the Prime Minister of India and Union Ministers belonging to Bharatiya Janata Party conducted election campaign during the Elections for the Assembly of the NCT of Delhi after the enforcement of the Model Code of Conduct and that the same is in violation of clause (vii) of the Model Code of Conduct which provides that the party in power, whether in the Centre or in the States concerned, shall ensure that no cause is given for any complaint that it has used its official position for the purpose of the election campaign. It is also pleaded that though the petitioner made a representation dated 20.01.2015 bringing the said fact to the notice of

the Election Commissioner and the same was also acknowledged by letter dated 23.01.2015, no action has been taken. Hence, this writ petition with the following prayer:-

“(i) A writ in the nature of Mandamus or any appropriate writ directing the respondents to take immediate action against party in power i.e. Respondent no. 4, (Bhartiya Janta Party) for violating the provisions of Model Code of Conduct by way of using the official position of the Prime Minister of India, other Union Ministers and Ministers of other states including Chief Ministers, for the purpose of election campaign, as these dignitaries have conducted election campaign in the NCT of Delhi after the enforcement of Model Code of Conduct and have made promises in violation of clause (vii) of Model Code of Conduct to influence the voters to cast their votes in favour of party in power.

(ii) Further respectfully prayed that any other appropriate writ/direction may be issued to restrain party in power i.e. Respondent no. 4 to use its official position for the purpose of election campaign and restrain Prime Minister of India, other Union Ministers and Ministers of other states including Chief Ministers from conducting election campaign/addressing rallies, in their official position, during the period Model Code of Conduct is enforced, in future, in the interest of justice.

(iii) Pass any other order or direction as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case in favour of the Petitioner and against the Respondents.”

2. We have heard the petitioner appearing in person and perused the material available on record. The notification for General Election to the Legislative Assembly of NCTD was issued on 14.01.2015. The polling took place on 07.02.2015 and the counting was held on 10.02.2015. The writ petition which appears to have been filed on

10.02.2015, was listed for hearing only on 15.07.2015 from which date it is adjourned to today.

3. With regard to prayer No.1 in the petition i.e. to take appropriate action against the respondent No.4 for the alleged violation of clause (vii) of Model Code of Conduct, we are of the view that in the light of other remedies available under law, it is not open to the petitioner to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, particularly, by way of Public Interest Litigation. So far as prayer No.2 is concerned, since the election in question was concluded long back, the cause does not survive.

4. Hence, we are not inclined to entertain the writ petition and the same is accordingly dismissed.

No costs.

CHIEF JUSTICE

JAYANT NATH, J.

JULY 29, 2015
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