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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 1429/2019 & CM APPL. 6558/2019

B.R. HARISH BABU

..... Petitioner

Through: Mr. Hussain Mueen Farooq with
Mr. Sahil Bhalaik & Mr. A.K. Singh,
Advs.

versus

ELECTION COMMISSION OF INDIA & ORS. Respondents

Through: None.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **12.02.2019**

CM APPL. 6558/2019 (*exemption*)

Allowed, subject to just exceptions.

W.P.(C) 1429/2019

1. Petitioner claiming to be a public spirited person has filed this writ petition seeking a *mandamus* to the Union of India/Election Commission for issuing necessary directions to the Ministers restraining them from combining their official visit with the electioneering work or any related political activity and further direct them not to provide Government transport including official aircrafts, vehicles, machinery and personnel of the Ministers for furtherance of their political interest. It is stated that various Ministers are misusing their official position and therefore the

prayer as detailed hereinabove.

2. We have considered the submissions made by the petitioner and we find that already guidelines have been issued by the Election Commission in the form of Model Code of Conduct for guidelines to the political parties and candidates, however, according to the petitioner as this Model Code of Conduct applies only after the Election is announced and there is no restriction prior to declaration of Election, the prayer as made in the writ petition is sought for.

3. We are of the considered view that the issue pertains to misuse of office by Ministers or other statutory functionaries for canvassing for election - an issue to be considered by the Election Commission - the constitutional authority to look into all these aspects and take action. In a writ petition in public interest under Article 226 of the Constitution, we see no reason to adjudicate into the matter and issue any *mandamus* or guidelines. The guidelines at the time of election being already in place, in case the Election Commission feels that further stipulations are necessary in this regard, it is for the Election Commission to look into the matter and in a Public Interest Litigation exercising our extraordinary jurisdiction under Article 226 of the Constitution, we see no reason to make any indulgence into the matter.

4. The writ petition stands dismissed.

CHIEF JUSTICE

V. KAMESWAR RAO, J

FEBRUARY 12, 2019/kks

