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

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Judgment delivered on: 26.11.2019

+ W.P.(C) 5644/2019 & CM APPL.24747/2019 & 50201/2019

DEVARAGUDI JAGADEESH

..... Petitioner

versus

ELECTION COMMISSION OF INDIA AND ORS..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Shravan Kumar, Advocate.

For the Respondent: Ms.Anjana Gosain, Advocate for R-1.
Mr.Raghvendra Singh, Advocate for R-2
Mr.Pramod Gupta, Advocate for R-3.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 26.06.2019 whereby the Election Commission of India has dismissed the complaint of the petitioner alleging violation of Model Code of Conduct by Sh.J.C.Diwakar Reddy, Member Parliament on the ground that no violation of Model Code of Conduct was reported by the District Election Officer, Ananthapuramu.

2. Ms. Anjana Gosain, Advocate who appears on advance notice has placed on record report dated 08.05.2019 of District Election

Officer, Ananthapuramu. Same is taken on record.

3. A complaint was made by the petitioner on 24.04.2019 after the General Elections for the Lok Sabha Constituency was held alleging that Mr.J.C.Diwakar Reddy, father of a candidate from Telugu Desam party had made a voluntarily public disclosure regarding spending of Rs.50 crores for the general elections.

4. The complaint was enquired into and a report was submitted by the District Election Officer dated 08.05.2019 to the Chief Electoral Officer that the alleged speech was not a definitive statement nor was it a statement confirming that he, the maker of the speech i.e Mr. J.C.Diwakar Reddy had stated that he had spent Rs.50 crores for the election. It was a mere guess that all candidates of both Assembly and Parliamentary Constituency had spent Rs.50 crores.

5. The speech was made in Telugu. The translation as recorded in the report of the District Election Officer differs from the translation filed by the petitioner. Learned Counsel for the Petitioner submits that the District Election Officer has made a selective translation.

6. However without going into the controversy, the English translation as filed by the petitioner in the amended writ petition is extracted. The same reads as under:-

“In each constituency not less than Rs. 50 crores has been spent by candidates (in Andhra Pradesh). It is not one party. People are eagerly waiting. They are asking

money for votes.. They say 'sir they are paying 2000...you pay 2500'. So it would be Rs.50 crores each for 175 crores... (Reporters posed question what would be total expenditure)... multiply 50 with 175 It would come to Rs.8750 Crores.. It is not right figure. It would be Rs.10000 crores. Not less than Rs. 10000 crores spent In Andhra Pradesh by all the parties. Whose money Is this...corrupt money spent for elections. If this kind of corruption Is going on here...can the people of country watch silently? some body should take Initiative to reduce the election expenditure, when I have contested first time for Samithi election it was one lakh and second time 2 lakhs. Today there is situation that without Rs. 25 Crores nobody can dare to file nominations for elections. It Is the responsibility of everybody such as Intellectuals, voters to reduce It. Chandrababu Naidu Implemented 120 schemes with great pain and hard work. But who recognized his hard work. Babu implemented Interlinking of rivers, introduced welfare measures for farmers by begging, threatening centre and by way of all means. But does anybody appreciate him. Everybody asked him how much you will give. Irrespective of people In power. If It Is so why should he implement welfare measures. What did the schemes gave us? I am telling truth the only two things saved us are Pasupu Kumkuma (Rs. 10,000 for each women) and Old age pensions. If those two schemes were not there, our possession would have known by the God only. Since Chandrabu is lucky man, this Rs. 10,000 money for women in last two months and on 9th Rs. 5000 given to farmers. If this money distributed one month before or after, the situation would have worst and lost elections very badly. Since the money gone to beneficiaries three-four days before the elections, and situation was hot hot people remembered us. If elections held after 15 days, people would have forgotten. Hence I am requesting intellectuals to reduce this.

It is not Telugu Desam, Gods party. Congress Party, YSR Party or the Film star party, it is for all.

Reporters: How much you spent sir?

JC Divakar Reddy: Rs. 50 Crores. hhee,.how much I have spent is irrelevant. Not less than Rs.50 Crores. It was spent by him..me. You want to fix me before Income tax.. How wise you are...all of us spent more than Rs.50 crores not less than 50 crores. Look, in one constituency in my Rayalaseema Constituency, people who are unable to eat two meals(tinadaniki tindi ieni na kodukuiu-it is an abusive word) demanded us Rs.5000 per vote..Now it is Rs.2000 per vote is minimum...right from Ananthpur to Srikakulam it is Rs.2000 every where. There is a prediction that the next government will not get full majority and it won't survive for long. If that is so people will ask Rs.5000 per vote. It is the time to change this from common man to Prime Minister. At present I am not contested this election from Telugu Desam Party. I am a retired Politician. Just see. Yesterday I have discussed with J.Ch. Rao. Today he has gone to Kuwait. He will return on 3rd. I want to work on reducing money influence in election in coming five years with ai! people irrespective of political parties including retired IAS, IPS like Jayaprakash Narayana, JD Lakshminarayana and everyone. I have confidence, people will also appreciate this. Election Commission also should think about this. During Sheshan period contestants faced difficulty in writing slogans on walls and putting banners on roads. Today they are not there. Does the people are not voting? When my father contested it was two months to campaign but now only 14 days to campaign for the past 20 years. There are print and electronic media. We will appeal through media to vote. I am confident.

Reporters: (Not dear)

JC Diwakar Reddy: who has introduced 120 schemes tell me? Think about...corruption...Let us say I am a corrupt man. I earn one crore or two crores for my son, daughter and family if I am too greedy it would be two crores. But now in government Rs.2000 crores... Rs.3000 crores...Rs.4000 crores...Rs.5000 crores corruption taking place. Why you know? it is for elections. If it is for children 2, 3,4, 5 crores only...On 3rd he is coming. And I will discuss with some other eminent persons. I am not interested about politics. If change comes then good people will be voted, people who does good work will be appreciated. You know..Postal ballots...some of my friends purchased votes at Rs. 2000....Rs.2500 per vote. What is this. This is the need of the hour to question somebody. I am ready to cat the bell. You all should support me. This I want to do this right from 23rd onwards. I will fix date and gather all the people at Hyderabad...

Reporters: Any name you have put for this movement?

JC Divakar Reddy: No name...nothing (No brinjal)... Electoral reforms. Nothing. I am not the main person. Eminent people of our state.

Reporters: Earlier also some body did this but not succeed?

Are you confident?

JC Divakar Reddy: I am confident. I will succeed

Reporters: who will win in this elections?

JC Divakar Reddy: heeey Chandrababu Naidu is CM.

Reporters: why you are so confident?

JC Divakar Reddy: Why... you know people ate hot food on 5th (Indicating the disbursement of 4000 for each women In the name of Pasupu Kumkuma). Who ever say. Chandrababu Naidu will be Chief Minister. On 9th people ate hot food (Indicating Rs. 5000 dole for each farmers). If it was distributed one month earlier this result would have not come. All zero. I have my opinion. I don't want to bring controversy. I want reforms. I am not talking on behalf of party. I want reduction of money Influence. Money Is getting wasted. 120 schemes Introduced. I have asked to tell the names of schemes. Nobody dared enough. No body told. If all the schemes worked why should he (Chandra Babu Naidu) did hard work late night till 1 o'clock. Right... thank you."

7. It is the above speech which is relied on by the petitioner to contend that in a public speech a stand was taken by Sh.J.C.Diwakar Reddy confirming that he had spent Rs.50 crores.

8. The District Election Officer in his report has clearly held that there is no statement made by Sh.J.C.Diwakar Reddy that he had spent Rs.50 crores for the election. He had merely guessed that all candidates would have spent said amount of Rs.50 crores in the election. He has emphasised the issue of raising expenses in elections and no effort to the reduce the same so that poor candidates can contest the elections.

9. The report inter-alia reads as under:-

"In the above transcription, it clearly shows that Shri J.C.Diwakar Reddy never told that he spent 50 crores for the elections. He merely guessed that all the candidates i.e.

both Assembly and Parliamentary Constituency have spent 50 crores in elections. Throughout the comments made by him, he emphasized the issue of rising expenses in elections and the need to reduce the same so that even a poor candidate can contest in the elections. He wanted to initiate movement against corrupt practices in elections with the help of intellectuals.

Further when he said that 50 crores are spent by all the candidates in a parliamentary constituency, it cannot be taken as definite statement, as he cannot speak on behalf of all other candidates. Adequate measures have already been taken by the election authorities in the constituencies to monitor election expenditure by the contesting candidates MCC teams, static Surveillance Teams and Flying squad teams with videographers had been deployed in every constituency to closely follow the expenditure incurred by the candidate. One expenditure observer for every Assembly Constituency and Parliamentary Constituency was also inspecting pattern of expenditure by the candidate. Assistant expenditure observer in every Constituency were auditing the candidates day to day expenses and wherever video surveillance teams provided information regarding the expenditure by the candidates those inputs were also incorporated in the candidates account by issuing notices about the same.

Regarding, welfare schemes mentioned in the complaints does not constitute violation of Model Code of Conduct, as the schemes are implementing before the announcement of elections. Shri J.C.Diwakar Reddy is not contesting candidate in the General Elections, 2019 and he never mentioned the names of any candidate including his own son Sri J.C.Pavan Reddy. His comments were generally aimed at the rising expenditure of elections and the intention behind the comments were to further reform

the elections if necessary. Finally, he reported that after examining the comment he did not found any violation of Model Code of Conduct by Sri J.C.Diwakar Reddy.”

10. Perusal of the above statement as well as the report indicates that there is no categorical admission by Sh. J.C.Diwakar Reddy that he had spent Rs.50 crores on the election. The manner in which the speech is made really indicates that the imputations are merely his guess work and nothing more. They are mere assertions that candidates are spending over Rs.50 crores and money is being demanded and paid for securing votes, however, no concrete material has been referred to in the speech whereby it could be ascertained that any unfair practice has been adopted by anyone.

11. Further the report of the District Election Officer, refers to various steps that have been taken by the Election Commission to ensure that no such practice are indulged into by the candidates.

12. The speech does not contain any concrete material based on which the District Election Officer or the Election Commission of India could even prima facie form an opinion that Model Code of Conduct was not followed by the candidates or any money was paid for the purpose of the election. Mere bald assertions made by candidates or relatives of candidates without any substantiation would not be sufficient to set the State machinery into motion for conducting an enquiry into the issues which have very serious consequences.

13. In view of the above, I find no infirmity in the view taken by the Election Commission of India that the matter has duly been enquired into and the detailed report of the Chief Election Officer, Ananthapuramu does not find any violation of the Model Code of Conduct by Sh.J.C.Diwakar Reddy and further holding that there is no material requiring any further review on the report of the District Election Officer.

14. I find no merit in the petition.

15. The petition is accordingly dismissed.

NOVEMBER 26, 2019

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SANJEEV SACHDEVA, J