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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 09TH DAY OF MAY 2023

BEFORE

THE HON'BLE MR. JUSTICE T.G. SHIVASHANKARE GOWDA

WRIT PETITION NO. 10089/2023 [LB-BMP]

PETITIONER:

1. BRUHAT BANGALORE HOTELS ASSOCIATION
REPRESENTED BY ITS SECRETARY,
SRI VEERENDRA N.KAMAT,
S/O LATE N.D.KAMAT,
AGED ABOUT 45 YEARS
NO.87, SHRESTA BHOO MI,
UNIT NO.307, 3RD FLOOR,
K.R.ROAD, V.V.PURAM,
BANGALORE – 560 004.
Registered under Karnataka Societies Registration Act
2. SRI KRISHNA RAJ S.P.,

(By Sri. Satish K, ADV)

Vs

RESPONDENTS:

1. THE CHIEF COMMISSIONER AND DISTRICT
ELECTION OFFICER,
BRUHAT BENGALURU MAHANAGARA PALIKE,
N.R.SQUARE, BANGALORE – 560 002.
2. THE ASSISTANT COMMISSIONER (ELECTION),
BRUHAT BENGALURU MAHANAGARA PALIKE,
N.R.SQUARE, BANGALORE – 560 002.
3. THE RETURNING OFFICER,
SHIVAJINAGAR VIDANASABHA CONSTITUENCY – 162
BBMP OFFICE, QUEENS ROAD,
BANGALORE – 560 052.

....(2)

WP NO. 10089/2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

[BRUHAT BANGALORE HOTELS ASSOCIATION (R) AND
ANOTHER VS. THE CHIEF COMMISSIONER AND OTHERS]

TGSJ

09.05.2023

(VIDEO CONFERENCING / PHYSICAL HEARING)

ORDER

Sri.B.S.Srinivas, learned counsel takes notice for
respondent Nos.1 to 3/BBMP.

Learned HCGP takes notice for respondent No.4.

Heard Sri.Sathish K., learned counsel for the
petitioners and the learned counsel for the respondents.

Perused the records.

It is the contention of the learned counsel for the
petitioners that under Annexure-E, at the request of the
second petitioner, on 07.05.2023 permission was accorded
for distribution of cooked free/concessional food articles
subject to conditions between 7.00 a.m. to 6.00 p.m. to
those persons who have casted their votes in the
Assembly Election 2023. Now under Annexure-F dated
09.05.2023, publication was issued by the Assistant

Commissioner (Election) BBMP that no one should distribute food articles free or at the concession rate to the voters on 10.05.2023 and it amounts to violation of Model Code of Conduct issued by the Election Commissioner and action will be taken against those persons.

Learned counsel contended that the Association of Bruhat Bangalore Hotels are the petitioner No.1, petitioners are not associated with any political party or to any constituency nor they are interested in any of the election candidates. It is also contended that only to encourage the people to come out and to cast their vote and that too, only for those people, who have casted their votes, food will be served free/concession rate at the hotel outlets across Bengaluru City and it is not confined to any Constituency or any place and the Association of Hotels at Bengaluru. The Model Code of Conduct issued by the Election Commissioner of India is to the political parties and also the persons, who are involved in the election including the candidates and it will not be applicable to

others. The petitioners are ready to abide by any conditions, so also the conditions imposed in Annexure-E.

Per contra, learned counsel for the respondents has contended that the *modus operandi* by the Hoteliers particularly choosing the election day, is a clear violation of Model Code of Conduct, they are trying to do this kind of business that too on the date of election, which is not permissible and if they are really interested, they can do on other days. The conduct of the hoteliers is only a marketing strategy taking advantage of election for free publicity, which cannot be supported by an order of the Court. The permission was only granted under Annexure-E in respect of only one Hotel comes within the limits of Shivajinagar Constituency and it has been revoked under Annexure-F. Hence, the order invoking the permission is proper.

I gave my anxious consideration to the material on record. The request made by the NISARGA GRAND HOTEL and also the Bruhat Bangalore Hotels Association (Regd.) to the Chief Election Commissioner, Karnataka, seeking

permission to distribute in tier hotel premises the cooked food articles, to those persons, who have cast vote. This has been considered and forwarded to the BBMP by the Election Commissioner. Upon considering the material under Annexure-E, by order dated 7.5.2023, conditional permission was accorded and thereafter for the unknown reason, on 9.5.2023 under Annexure-F, a public notice was issued withdrawing such permission and warning the hotels for distributing free food or at concession rate for those people who cast their vote and according to the Press Note, it is considered as inducement and amounts to violation of Model Code of Conduct.

The contention of the learned counsel for the respondents that the voters will be induced by the act of the hoteliers has no substance as the distribution of food free or at concession rate for those who voluntarily goes to the hotels after casting the vote. It is not a compulsion for anybody either to go for it or not. It is of the individual will of a person and therefore there is no question of inducement for anybody and the apprehension that entire

voters of Bengaluru city going to hotel causing Law and Order problem is not acceptable. At the risk of the hoteliers, they want to distribute free or concession rate cooked food, they can do it. The copy of the Model Code of Conduct is also made available and its perusal nowhere it is indicated that distribution of prepared food to the people who have already cast their vote amounts to violation of Model Code of Conduct or providing food for those who cast votes does amount to inducement.

Hence, the conduct of the BBMP granting permission and withdrawing the same at Annexures-E and F is not proper. Hence, the publication at Annexure-F is hereby stayed.

Regarding Law and Order, the respondents are at liberty to take action against the concerned Hoteliers in case of such violation. None of the Hotel Associations or Hoteliers may proclaim or claim any credit for themselves or on behalf of the political parties. The Hoteliers shall not receive any contribution from the any Politician/Leader or Political Party associated with the Assembly Election for

such services. If they claim any such benefit either through Press or Media, they are liable to be prosecuted for violation of Model Code of Conduct.

sd/-
Judge

// Copy //
forwarded
9/5/23
By. Registrar

Deputy Registrar
High Court of Karnataka
Bengaluru 560 001