



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF MARCH, 2023

BEFORE

THE HON'BLE MR JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 3592 OF 2023 (GM-RES)

C/W

WRIT PETITION NO. 2632 OF 2023 (GM-RES)

IN W.P.NO.3592/2023

BETWEEN:

1. SRI. M.G. PRADEEP
S/O N. GOPALA KRISHNAN,
AGED ABOUT 48 YEARS,
R/A NO.4/1, CIRCULAR STREET,
A. T. HALLI, SHANTHINAGAR,
BANGALORE-560 027.
BOOTH LEVEL OFFICER OF
SHANTHINAGAR BJP PARTY

...PETITIONER

(BY SRI. VIVEK REDDY, SENIOR COUNSEL FOR
SRI. SATHISH KUMAR H.S., ADVOCATE)



AND:

1. ELECTION COMMISSION OF INDIA
NIRVACHANA SADAN
ASHOKA ROAD,
NEW DELHI-110 001
REP BY ITS SECRETARY.
2. THE CHIEF ELECTORAL OFFICER
NIRVACHANA NILAYA,



SHESHADRI ROAD,
BENGALURU-560 009.

3. THE JOINT CHIEF ELECTORAL OFFICER
KHANIJA BHAVAN,
RACE COURSE ROAD,
BENGALURU-560 007
4. THE ADDITIONAL DISTRICT ELECTION OFFICER
BBMP(CENTRAL)
CORPORATION CIRCLE,
N. R. SQUARE,
BENGALURU-560 002.
5. ELECTORAL REGISTRATION OFFICER
SHIVAJINAGAR ASSEMBLY CONSTITUENCY
BBMP BUILDING, QUEENS ROAD,
SHIVAJINAGAR,
BENGALURU-560 051.

...RESPONDENTS

(BY SRI. DODWAD S.R., ADVOCATE FOR R1 TO R3;
SRI. V.G. BHANUPRAKASH, ADVOCATE FOR R4 & R5)

THIS W.P. IS FILED UNDER ARTICLE 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE
RESPONDENTS TO URGENTLY CONSIDER THE
REPRESENTATIONS DTD. 08.12.2022 AT ANNEX-A AND ETC.,

IN W.P.NO.2632/2023

BETWEEN:

1. BHARATIYA JANATA PARTY
A REGISTERED RECOGNIZED POLITICAL PARTY
REPRESENTED BY SRINIVAS M.
GENERAL SECRETARY



BENGALURU, CENTRAL DISTRICT
NO.1/1, 6TH CROSS, 8TH MAIN
MALLESHWARAM,
BENGALURU-560 003.

...PETITIONER

(BY SRI. VIVEK REDDY, SENIOR COUNSEL FOR
SRI. SYED UMMER, ADVOCATE)

AND:

1. ELECTION COMMISSION OF INDIA
NIRVACHANA SADAN,
ASHOKA ROAD,
NEW DELHI-110 001,
REP. BY ITS SECRETARY
2. THE CHIEF ELECTORAL OFFICER
NIRVACHANA NILAYA
SHESHADRI ROAD,
BENGALURU-560 009.
3. THE JOINT CHIEF ELECTORAL OFFICER
KHANIJA BHAVAN
RACE COURSE ROAD
BENGALURU-560 007
4. THE ADDITIONAL DISTRICT ELECTION OFFICER
BBMP (CENTRAL)
CORPORATION CIRCLE
N R SQUARE,
BENGALURU-560 002
5. ELECTORAL REGISTRATION OFFICER
SHIVAJINAGAR ASSEMBLY CONSTITUENCY
BBMP BUILDING,
QUEENS ROAD,
SHIVAJINAGAR,



BENGALURU-560 051.

...RESPONDENTS

(BY SRI. S.R. DODAWAD, ADVOCATE FOR R1 TO R3
SRI. V.G. BHANUPRAKASH, ADVOCATE FOR R4 & R5
SRI. H. SHASHIKIRAN SHETTY, SENIOR COUNSEL FOR
SRI. KIRAN J. ADVOCATE FOR IMPLEADING APPLICANT/
RESPONDENT)

THIS W.P. FILED UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA PRAYING TO-DIRECT THE
RESPONDENTS TO URGENTLY CONSIDER THE
REPRESENTATIONS DTD 30.11.2022 AND 23.01.2023 AT
ANNEXURES-D AND F AND ETC.,

THESE PETITIONS, COMING ON FOR PRELIMINARY
HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

These petitions are a reminder that the elections are
around the corner and as always dispute regarding pre-election
process galore. These petitions are filed by the political party
and the booth level agents of the said political party. Since the
issues in the *lis* are common, they are taken up together,
considered and disposed by this common order.

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2. The petitioner, in the subject petition, is a political
party represented by its General Secretary, is knocking at the



doors of this Court seeking consideration of their representations submitted on 30-11-2022 and 23-01-2023 for corrective measures to be taken in the electoral roll concerning Shivajinagar Assembly Constituency of the State of Karnataka. What drives the petitioner to submit those representations is required to be noticed. The process for conduct of a pre-election procedure is initiated by the Election Commission of India ('Commission' for short). In furtherance of the said conduct of pre-election procedure, the Commission started preparation of electoral roll and published a revised electoral roll. On 04-10-2022 periodical revision of the electoral roll was done and was updated, this forms the last of the updates. An integrated draft electoral roll was published on 09-11-2022. Representations had been submitted between 04-10-2022 and 09-11-2022 regarding certain discrepancies in the electoral roll. It is claimed that there were several complaints regarding the voter data submitted before the Commission. Owing to certain complaints even after publication of the integrated draft electoral roll, the Commission initiates certain proceedings on 25-11-2022 by directing the Government of Karnataka to collect the voter data. After the notification of the integrated



draft electoral roll, insofar as it concerns Shivajinagar constituency, the petitioner in the subject petition had submitted a representation on 30-11-2022 bringing it to its notice that there were certain discrepancies in the electoral roll and sought consideration of it. On 15-01-2023 the final electoral roll was notified by the Commission for Shivajinagar Assembly Constituency. After the said notification again the petitioner submits another representation bringing out the very discrepancy. Non-consideration of those representations has driven the petitioner to this Court in the subject petition concerning Shivajingar assembly constituency.

3. The learned senior counsel Sri.Vivek.S.Reddy appearing for the petitioner would contend that the Commission has not carried out any exercise in accordance with law, so as to identify the voters, that are either dead, or have shifted and even duplication of voters. He would admit that duplication inter-constituency cannot be done at this stage, but intra constituency has to be done to identify duplication of votes. It is his further contention that the Block Level Agents ('BLA' for short) have identified 26000 names of voters, who are either



dead or have shifted from the constituency and that list was submitted to the Commission who have not acted upon the said complaint. It is therefore the representations were submitted, both before the publication of the final electoral roll and the other after its publication. He would seek a direction to consider those representations.

4. Sri. S.R. Dodwad, learned counsel appearing for the Commission would refute the submissions seeking to contend that after receipt of the objections, on publication of the draft list, the Commission, has on the basis of the list given by the BLA's, the Booth Level Officer ('BLO' for short) has conducted inspection, an enquiry and have drawn up a list of 11000 such names in the electoral roll who are either dead or have shifted residence. He would submit that insofar as the shifting voters are concerned, notices have been issued to all of them and in cases where the voters have died, information is sought from the Registrar of Births and Deaths in order to conclude the process prior to the notification of elections. He would submit that those 11000 names in the electoral rolls for the purpose of deletion would be taken to its logical end strictly in consonance



with the Act, the Rules, the Circulars and the guidelines issued by the Commission from time to time concerning the issue.

5. Sri. K. Shashikiran Shetty, learned senior counsel appearing for the impleading applicant in both these cases has taken this Court through the rules and regulations to contend that the deletion of a voter after the publication of the final voters list is impermissible in law in terms of Rule 21A of the Rules. It is his contention that any deletion could be done of individual cases only if the complaints are registered through Form No.7 with evidence that those voters are either died or have shifted residence. If that information is available, the Commission can take appropriate steps based upon such information.

6. I have given my anxious consideration to the submissions made by the respective learned Senior counsel and have perused the material available on record.

7. The afore-narrated facts are not in dispute. The issue in the *lis* lies in a narrow compass. The process of preparation of electoral roll began on 13-01-2022 and resulted in several proceedings being taken up and also ends up in



receipt of several complaints. On 11-10-2022 representation is given by the petitioner to rectify the defects in the revised electoral roll. Taking note of the objections, a draft electoral roll was published on 09-11-2022 calling for objections from all stake holders. Objections galore, so the representations. Objections appear to have been filed by all BLA's. Certain objections were in the form of representations and certain in the nature of complaints. Two of which, are submitted by the petitioner in the form of representation. One on 30-11-2022 before the publication of the final electoral roll, the other on 23-01-2023 immediately after publication of the electoral roll. Both these in common is to the effect that there are serious discrepancies in the electoral roll concerning Shivajinagar assembly constituency.

8. It is the submission now, even before in the representation that there are 26000 voters in the constituency who are either dead or have shifted residence. The representations were considered by the BLO of the Commission after conducting an enquiry, in detail, have found 11000 such voters to be either dead or shifted residence in Shivajinagar



Constituency alone. The identification by the Commission is not in dispute. Therefore, it is an admitted fact that 11000 voters are either dead or shifted residence from the constituency. The division by the Commission goes this way. According to them, out of 11000 names, 9195 are the names of voters who have shifted and the remainder have died. Insofar as voters who have died, information is sought from the Registrar of Births and Deaths to declare them deleted from the voters list. Insofar as shifted voters are concerned, notices have been issued to them. The admission of such submission forms a part of the statement of objections, which reads as follows:

"It is submitted that, the in response to the Show Cause Notices issued to the 9195 voters, 914 voters have replied and submitted documents regarding their continuance of their residence in the given address. After, hearing the proposal for deletion of those 914 persons were dropped and their names are continued in the Electoral Roll of Shivajinagar Assembly Constituency."

The notices that had been issued to 9195 voters have generated reply of 914 voters confirming that they are staying in the constituency and those 914 names are continued in the electoral roll. Therefore, what remains as an action to be taken is *qua* 8281 names in the electoral roll, as it is admitted that



insofar as 8281 names of voters in the electoral roll are concerned, the Commission is yet to take it to its logical end. It is now submitted that if breathing time is granted, identification of 8281 voters would be taken to its logical end, in terms of the Act, the Rules i.e. the Representation of the People Act 1950, 1951 and the Rules framed there under and the guidelines/circulars/official memoranda issued by the Commission from time to time, as also the circulars issued by Commission for the said purpose. This submission is placed on record.

9. Therefore, it would suffice, if a direction is issued to the Commission to begin to act swiftly; beginning today and undertake the exercise that they have undertaken to perform *supra* and take the issue to its logical conclusion, as according to the Commission, what remains is action to be taken qua 8281 voters who have been already identified by the BLO's as shifted voters and 1847 voters who are dead, whose names find place in the final electoral roll. Therefore the said action of taking it to its logical conclusion, which shall be in consonance with the Act, the Rules, guidelines and circulars with particular



reference to Rule 21A of the Representation of the People Act and Rules, 1950/1951.

10. As observed hereinabove, the Commission is required to begin to act swiftly; beginning today and in view of the paucity of time and the impending urgency, the Commission shall conclude the aforesaid exercise on or before 26.03.2023, for which, the Commission is at liberty to regulate the procedure in compliance with the aforesaid direction.

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11. The petitioner claims to be a Booth Level Agent of the BJP party for the Shanthinagar constituency is knocking at the doors of this Court with a similar grievance as is in Shivajinagar constituency. The only difference is concerning the numbers of the voters who are defective. In Shivajinagar constituency the number of voters identified by the Booth Level Agents to be dead or shifted is 26000, in Shanthinagar it is 8807. After conduct of an enquiry in Shanthinagar, it is identified by the Commission that 2773 voters have either shifted or have died. Insofar as the aforesaid discrepancy and its identification by the Commission, it becomes germane to



quote statement of objections filed by the Commission *qua* Shanthinagar constituency. The averment in the statement of objections is as follows:

*"18. It is submitted that, the allegations made in the Writ petition are not true & correct. The tabular Form prepared by the Electoral Registration Officer Shanthinagar Assembly Constituency at **Annexure-R7** gives the details of the Voters marked as Shifted and Dead as per the Report of the Officials on Revision of Electoral Roll duty as against claim made by the Petitioner. There is no basis for the claim of Petitioner that 8,817 non-residents are enrolled as Voters in the Electoral Roll of the Shanthinagar Assembly Constituency. The Electoral Registration Officer Shanthinagar Assembly Constituency had already issued notices to the 2,247 voters in Format-B asking them to show cause as to why their names should not be deleted from the Electoral Roll of 163-Shanthinagar Constituency, who are marked as Shifted and will take action as per the extant Rules and Instructions of the commission."*

12. The Commission admits that the discrepancy is *qua* 2773 voters, out of whom, shifted voters are 2247 voters against whom show cause notices are issued and are awaiting a reply. The rest of the voters are those who have died and as observed hereinabove, the Commission has called for information from the Registrar of Births and Deaths to declare them to be deleted from the voters list. Therefore, the submissions, observations, directions issued *supra* concerning Shivajinagar Constituency would become applicable to the case



at hand as well. Therefore, the exercise concerning Shanthinagar constituency shall also be undertaken strictly in consonance with the with the Act, the Rules, guidelines and circulars with particular reference to Rule 21A of the Representation of the People Act and Rules, 1950 / 1951.

13. As observed hereinabove, even in this case concerning Shanthinagar constituency, the Commission is required to begin to act swiftly; beginning today and in view of the paucity of time and the impending urgency, the Commission shall conclude the aforesaid exercise on or before 26.03.2023, for which, the Commission is at liberty to regulate the procedure in compliance with the aforesaid direction.

The Commission must bear in mind that these discrepancies are to be rectified for the conduct of elections, to be free and fair. ***Elections being free and fair, is the paramount essence of democracy, in fact, it is the life blood of a democracy.***

Sd/-
JUDGE

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