

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE THE CHIEF JUSTICE MR.HRISHIKESH ROY

&

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

Monday, the 11th day of March 2019/20th Phalgun, 1940

WP(C) No.7193/2019(S)

PETITIONER

B.S. SYAMKUMAR, AGED 38 YEARS,
S/O BALAKRISHNA PILLAI, KSRA-233 MUDIPPURA LANE,
AVANAVAN CHERRY VILLAGE, CHITTATTINKARA DESOM,
ATTINGAL, THIRUVANANTHAPURAM DISTRICT, PIN-695 101.

RESPONDENTS

1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN-695 001.
2. THE PRINCIPAL SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN-695 001.
3. ELECTION COMMISSION OF INDIA,
REPRESENTED BY THE CHIEF ELECTION COMMISSIONER KERALA,
THIRUVANANTHAPURAM-695 001.
4. THE PRINCIPAL SECRETARY,
ENVIRONMENT DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN-695 001.
5. THE MEMBER SECRETARY,
KERALA STATE POLLUTION CONTROL BOARD,
PATTOM. P.O, THIRUVANANTHAPURAM-695 003.

Writ Petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to issue a direction to use only eco-friendly materials for the purpose of advertisement during ongoing election campaign in the State.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of SRI.M. KANNAN, Advocate for the petitioner, SRI.K.V. SOHAN, STATE ATTORNEY for R1, R2 & R4, SRI.MURALI PURUSHOTHAMAN, STANDING COUNSEL for R3 and of SRI.T. NAVEEN, STANDING COUNSEL for R5, the court passed the following:

p.t.o.

rs.

HRISHIKESH ROY, C.J. & A.K.JAYASANKARAN NAMBIAR, J.

W.P(C). No.7193 of 2019

Dated this the 11th day of March, 2019

ORDER

Hrishikesh Roy, C.J.

The learned Adv.Sri.M.Kannan appears for the petitioner. Sri.K.V.Sohan, the State Attorney accepts notice for the respondents 1, 2 and 4. The learned counsel Sri.Mulari Purushothaman represents the *Election Commission of India* (respondent No.3). Sri.T.Naveen, the learned Standing Counsel appears *Kerala State Pollution Control Board* (respondent No.5).

2. This Public Interest Litigation (PIL) is filed by citizen, seeking prohibition in the usage of *Poly Vinyl Chloride (PVC) Flex Boards*, a key source of pollutants, in the forthcoming Lok Sabha Election, by the political parties/candidates. The petitioner contends that the use of such PV Flex Boards will be in negation of the *Environment (Protection) Act, 1986* as well as the *Plastic Waste Management Rules, 2016* not to mention the violation of the rights of the citizens, under *Articles 21 and 48-A* of the *Constitution of India*, for a clean and safe environment.

3. In his turn, the learned counsel Sri.Murali Purushothaman representing the *Election Commission of India* produces the copy of the communication dated 26.02.2019, addressed to all recognised National/State Political Parties, which requires everyone to make the forthcoming election eco-friendly, and opt for elimination of single-use plastic materials in the election campaign. This is suggested

by the Election Commission, in the interest of human health and environment. The communication being relevant is extracted hereunder:-...

.....
In this connection, Ministry of Environment, Forest and Climate Change has approached the Commission vide letter No.12/79/2018-HSMD (Pt.) dated 17th January, 2019, (copy enclosed) with the request to impress upon all concerned to take up sustainable practices and try using alternate option to single-use plastic during elections. It, inter-alia, mentions:-

"A lot of the campaigning material including posters, cut-outs, hoardings, banners, political advertisements, etc., is made of plastic. After the elections, the campaigning materials, are discarded and become waste. Such single-use plastic waste generated during campaigning does not get collected and causes choking of drainage and river systems, ingestion by stray animals, land and water pollution, open air burning, etc. Leading to adverse impacts on human health and environment. Some of these plastics are Poly Vinyl Chloride (PVC) based, which produces toxic emissions on burning.

A number of alternate options to use of plastic in campaigning material are available such as compostable plastics. Natural fabrics, recycled paper material, etc. which have a lesser environmental impact. Such materials need to be promoted as a sustainable and environmentally sound management practice. The upcoming General Elections present an excellent opportunity to introduce a behavioural change in election campaign and to promote sustainable practices."

Your attention is also drawn to Para 3 of Commission's instructions No.509/241/ECI/LET/FUNC/JUD/RCC/2011 dated 20th April 2018, which specifies that

"The Solid Waste Management Rules, 2016 and the Plastic Waste Management Rules, 2016, and other applicable laws in this regard are hereby adopted for disposal of the campaign material by the local municipal authority and the cost for the same shall be recovered from the candidates or political parties, as the case may be, in accordance with the polluter pays principle"

Accordingly, the Commissioner reiterates that all political parties should take adequate steps and measures to not use single-use plastic as campaign materials (posters, banners etc.) during the elections in the interest of human health and environment.

4. Besides the above, this High Court in other proceedings has issued direction for removal of unauthorised *PVC Flex Boards* within the limits of various local authorities in the State.

5. Taking note of these developments and the recent direction issued by the *Election Commission of India*, the matter is admitted. We also deem it appropriate to order that all candidates and the National/State Political Parties must strictly adhere to the aforequoted guidelines of the *Election Commission*, so that only the eco-friendly materials are used during the election campaign and there is no use of *PVC Flex Boards* and other such non bio-degradable materials as campaign material, in the State of Kerala.

H/o.

Sd/-
HRISHIKESH ROY,
CHIEF JUSTICE

Sd/-
A.K JAYASANKARAN NAMBIAR,
JUDGE

mns

-TRUE COPY-

ASSISTANT REGISTRAR