



सत्यमेव जयते

STATE ELECTION COMMISSION



No. SEC/179 /EGP/2020

KSCMF Building, No.8,
Cunningham Road,
Bengaluru-560052
Dated: 17.12.2020.

Sub: Countermanding of elections to the constituencies
of Sindigeri Gram Panchayat of Kurugodu Taluk,
Ballari District-reg.

Preamble:

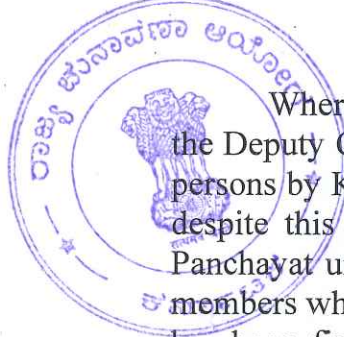
Whereas the Tahsildar, Kurugodu has submitted a report dated: 09.12.2020 to the Deputy Commissioner, Ballari on the enquiry conducted by the members of Model Code of Conduct team namely Deputy Tahsildar Sri Yakub Ali and Revenue Inspector of Kolar Hobli, Sri Karibasappa stating that there is violation of Model Code of Conduct in respect of Gram Panchayat Election 2020. He has also reported that on the complaint of Sri Karibasappa, Kurugodu police have registered crime No. 174/2020 on 07.12.2020 for offences under section 171A, 171B, 171C and 171E of I.P.C. against 18 persons.

The Kurugodu police on the basis of intimation from 5th V.A.C.J. & J.M.F.C, Ballari on 07.12.2020 have registered this crime.

It is reported in the complaint that on 05.12.2020 between 7.00 and 9.00 pm accused No. 1 to 5 held a meeting in the compound of Eshwara temple of Byluru village, for electing, 13 members of Gram Panchayat unopposed. In turn those 13 members should in all pay Rs. 51,20,000/- in the name of deity and that no villagers should participate and cast their vote, in Gram Panchayat election to be held on 22.12.2020, and further nobody should contest the elections by opposing these 13 members who have agreed to pay funds in the name of deity. The 13 members agreed to pay the amount after the completion of election.

Whereas, it was reported in Kannada Naadu newspaper that there was a process of auctioning the seats of Gram Panchayat members in the ensuing Gram Panchayat election, 2020. The Deputy Director of Taluk Panchayat, Revenue Inspector and Village Accountant made a visit to Byluru village and addressed the villagers, requesting them to participate in the election process for completing the election in free and fair manner.

Whereas, the Deputy Commissioner, Ballari sent a report to the State Election Commission on 09.12.2020, reiterating aforesaid facts and opining it as the violation of Model Code of Conduct, for holding elections in free and fair manner. The same report was also sent to The Principal Secretary, R.D.P.R., Bengaluru.



Whereas, the Tahsildar Kurugodu has sent another report dated: 14.12.2020 to the Deputy Commissioner, Ballari stating that an F.I.R. has been registered against 18 persons by Kurugodu police, under section 171A, 171B, 171C and 171E of I.P.C. But despite this accused 1 to 6, have managed to auction 13 seats of Sindigeri Gram Panchayat unopposed. He has sent an annexure showing the list of, the names of 13 members who wanted to get elected unopposed and have agreed to pay the amount that has been fixed as against their names. All these 13 members have been shown as accused 7 to 18. Thus, he has requested to the Deputy Commissioner, Ballari to declare election of these 13 members unopposed as void for violating the Model Code of Conduct and further to postpone the election.

Whereas, on the basis of the report of Tahsildar, Kurugodu, the Deputy Commissioner, Ballari has addressed a letter dated: 15.12.2020 to the State Election Commission, quoting the aforementioned facts and has requested to declare the election of 13 members unopposed to 5-Sindigeri(Byluru), 6-Sindigeri(Byluru), 7-Sindigeri(Byluru) and 8-Sindigeri(Byluru) who participated in that auction as successful bidders as void.

The Deputy Commissioner, Ballari has also recommended to disqualify the aforesaid 13 persons, from participating in future elections also, just for the purpose of avoiding repetition of such incidents of auction in future elections.

On 30.11.2020 the State Election Commission declared general elections to Gram Panchyats in the State of Karnataka to be held in 2 phases in each district except Chikkamagaluru District. The election was to be held to Sindigeri Gram Panchayat of Kurugodu Taluk of Ballari District, in the 1st phase on 22.12.2020. The facts now reported by the Deputy Commissioner, Ballari shows that the auction process was held in Byluru village of Sindigeri constituency, on 22.12.2020.

Whereas, when the election is declared, the Model Code of Conduct manual as published by the State Election Commission in the year 2015, has come into force and same would be in operation till declaration of results. Whereas, in the present case the auction process said to have been held on 05.12.2020 under the leadership of accused 1 to 5, in the compound of Eshwara temple of Byluru village clearly violates Model Code of Conduct

Whereas, para 4(iii) of Model Code of Conduct reads as under;

“ಮತಗಳಿಕೆಗಾಗಿ ಜಾತಿ, ಮತ ಮತ್ತು ಕೋಮುಭಾವನೆಗಳ ಆಧಾರದ ಮೇಲೆ ಮನವಿ ಮಾಡತಕ್ಕದ್ದಲ್ಲ. ದೇವಾಲಯ, ಮಸೀದಿ, ಚರ್ಚ್ ಅಥವಾ ಇತರೆ ಪೂಜಾ ಸ್ಥಳಗಳನ್ನು ಚುನಾವಣಾ ಪ್ರಚಾರ ವೇದಿಕೆಗಳಾಗಿ ಬಳಸಬಾರದು”

I am of the opinion that these 18 members, by actively participating in an auction for electing 13 members unopposed, and having agreed to pay Rs. 51,20,000/- to the deity of the temple, have actually scuttled the process of election, and thereby successfully prevented the villagers of Bylur, from casting their votes in an election to be held on 22.12.2020. The misuse of the temple premises as a platform for auctioning the seats amounts to violation of Model Code of Conduct. It is nothing but mockery to the election process which was to be held in free and fair manner, for electing Gram

Panchayat members, for enabling them to join their hands for over all development of the village.

Whereas, Article 243-K(1) of the Constitution of India reads as under:

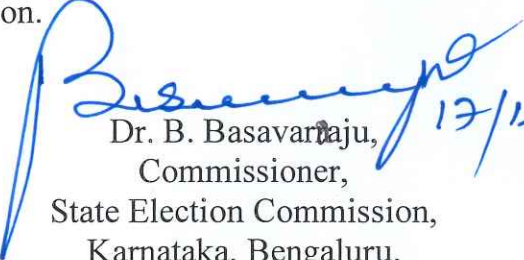
“The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all election to the Panchayats shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.”

In my opinion the facts and circumstances now reported from Byluru village of Kurugodu Taluk, Ballari District, prima-facie shows that auctioning of seats of Gram Panchayat vitiates the entire process of election. As there is no specific provision to apply to the present situation, a vacuum is created, and therefore, I invoke Article 243-K of Constitution of India which empowers the State Election Commission to exercise control over the conduct of elections in free and fair manner. As such, it is a fit and proper case, to declare the elections to 13 seats, as void. Hence, I pass the following order.

ORDER

The State Election Commission in the exercise of the plenary powers conferred on it under Article 243-K of the Constitution of India read with Section 308 of the Karnataka Grama Swaraj and Panchayat Raj Act, 1993 and Karnataka Panchayat (Conduct of Elections) Rules, 1993 and all other powers enabling it in this behalf directs that the elections to the constituencies of 5-Sindigeri(Byluru), 6-Sindigeri(Byluru), 7-Sindigeri(Byluru) and 8-Sindigeri(Byluru) of Sindigeri Gram Panchayat, Kurugodu Taluk, Ballari District, is hereby countermanded, with immediate effect. The Deputy Commissioner, Ballari is directed to give effect to this order immediately and report compliance to the State Election Commission.




Dr. B. Basavaraju,
Commissioner,
State Election Commission,
Karnataka, Bengaluru. 17/12/2020.

To.

The Deputy Commissioner, Ballari District, Ballari.