

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.100/TN-LA/1/2013

Dated: 6th December, 2013

ORDER

Whereas, the programme for holding bye-election to Tamil Nadu Legislative Assembly from 83-Yercaud(ST) Assembly Constituency was announced by the Commission on the 4th October, 2013 and as such the provisions of the Model Code of Conduct (MCC) have come to force in the entire District of Salem from the said date; and

Whereas, a complaint was received in the Commission alleging that Ms. J.Jayalalithaa, the Chief Minister of the State of Tamil Nadu, while campaigning for the party candidate in the District made announcements of several new schemes on 28th November, 2013 at Kootathupatti village, for example, opening of new Primary Health Centre at D.Perumapalayam Ayothiyapattinam, new Veterinary Hospital at Minnampalli, Anuppur, A.N.Mangalam, new Health Sub Centre in Neiyamalai, upgradation of Primary Health Centre in Thumbai to 32 bed Hospital, new Govt. Arts College at Valappady, Drinking Water facilities, etc.; and

Whereas, the Commission, after examining the complaint and having seen the CD of the said speech, found that the speech was in the nature of alluding to different social and infrastructural requirements, such as opening of new Health Centres, opening of new Primary School and College, augmenting further drinking water facility, opening of new Veterinary Centre, etc., for the area, which have been brought to her notice and finally she concluded with a promise of providing whatever is required for the development of the

area, by the Government. The conjunctive reference to the requirements of the area as brought to her notice on one hand and assurance of meeting developmental requirements of the area by the Govt. on the other is, prima facie, found to be in the nature of making of promise to the electorate of poll bound constituency and hence a show-cause notice dated 2nd December, 2013, was issued to her affording her an opportunity to submit her explanation for the alleged violation of provisions of the Model Code of Conduct was issued; and

Whereas, Ms J.Jayalalithaa submitted her explanation vide her letter dated 2nd December, 2013 and following points were mentioned:-

1. The Commission's notice did not mention the name of the complainant but she presumed that it was made by Dravida Munnetra Kazhagam party who, according to her, are the adversary and political rival of the AIADMK;
2. She denied having made any announcement of new schemes while campaigning for the party candidate on the 28.12.2013, in the Yercaud constituency;
3. She referred to the various development schemes already implemented/under implementation in the State;
4. She made a general statement that whatever is required for the upliftment of the people in the area would be provided. It would not be correct to link the unrelated general statement with the requirements which were brought to her notice;
5. She has stated that notice is based on the conjunctive reference to the requirements of the area and assurance to meeting development requirements of the area by the Govt; and according to her, there is no basis for coming to such

conclusion on grounds of a conjunctive reference which is mere surmise and suspicion and which is inadmissible in law, more so in the case of interpreting Model Code of Conduct; and

Whereas, the Commission has considered the points mentioned by Ms J. Jayalalithaa in her explanation and observed that she has admitted that in her speech she stated that "requirements for the development of Yercaud constituency have been brought to her notice" and as Chief Minister heading the State Government she made a "statement that whatever is required for the upliftment of the people in the area would be provided"; and

Whereas, it is also admitted that the impugned speech is in the course of election campaign and addressed to the voters in the constituency where bye-election is in progress; and

Whereas, it is also seen that she gave specific details of these new schemes in her speech which are detailed in para (2) above; and

Whereas, it is further seen in the video recording that audience present at the campaign speech cheered and welcomed the announcements, and that the specific schemes mentioned by her area-wise, in her speech, referred to in para (2) above, are not on the ground as on date and not part of on-going scheme as claimed by her and thus it is not mere surmise and suspicion but the stark facts mentioned above that necessitated the initiation of the action against her for violation of Model Code of Conduct; and

Whereas, the Commission is thus of the considered view that the conjunctive reference to the specific new schemes required in this area on one hand followed by assurance to do whatever is

required for the upliftment of the area on the other hand tantamounts to announcement of new schemes for the electorate of Yercaud Assembly Constituency and hence constitutes violation of sub para (vi) of para "VII-Party in Power", of the Model Code of Conduct, which, inter alia, states that-


"From the time elections are announced by the Commission, Ministers and other Authorities shall not-(a) announce any financial grants in any form or promises thereof;..... or (c) make any promise of construction of roads, provision of drinking water facilities etc; which may have the effect of influencing the voters in favour of the party in power"; and

Whereas, the Model Code of Conduct endeavours "to ensure level playing field between the contesting parties and candidates in election and also in order to see that the purity of the election process does not get vitiated" [see Honourable Supreme Court in judgment dated 05-07-2013 in SLP(C) No.21453of 2008 & TC No. 112 of 2011 - Subramanian Balaji versus Govt. of Tamil Nadu and others]; and, therefore, all political parties, and more so its prominent leaders, are expected to scrupulously follow the Model Code of Conduct, in letter and spirit, and not resort to any subterfuge to circumvent the provisions of Model Code of Conduct.

Now, therefore, the Commission rejects the contention made in the reply of Ms. J. Jayalithaa and has decided to advise her to be careful in future and not make such announcements of new schemes for electorate with a view to alluring them.

(The mis-spelling of her name in the notice communicated earlier is inadvertent and is regretted.)

To
Ms J.Jayalalithaa,
Chief Minister of Tamil Nadu State,
Chennai (T.N).

By Order,

(Tapas Kumar)
Principal Secretary

Corrigendum

In the Commission's above mentioned order, the date 28.12.2013 mentioned at page number two, in item number (2) of sub-para two, may kindly be read as 28.11.2013. The inadvertent typographical error is regretted.