

THE HON'BLE CHIEF JUSTICE

and

SENTHILKUMAR RAMAMOORTHY, J.

(made by the Hon'ble Chief Justice)

It is apparent that the sixth respondent political party may have resorted to a form of campaigning not permissible under the model code of conduct. It is also evident that personal details of voters and citizens may have been obtained by such political party and put to use for campaign purposes.

2. Unfortunately, rather than the seventh respondent authority trying to ascertain how the personal details of voters may have been leaked from its system, such authority accuses the petitioner of not having brought the matter to the notice of the relevant authority.

3. The Election Commission of India, on the other hand, says that it has to await the outcome of the investigation undertaken by the Cyber Crime Cell. The Election Commission, however, says that it has brought the matter to the notice of the seventh respondent. The seventh respondent should immediately ascertain how such material could have been accessed by a particular political party.

4. The Election Commission appears to have issued a notice on March 25, 2021, a day after the writ petition was entertained by this Court, asking all political parties to adhere to the model code of conduct in the sense that no bulk messages should be sent in the Union Territory of Puducherry without obtaining pre-certification from the office of the Chief Electoral Officer, Puducherry.

5. In the counter-affidavit filed by the Election Commission, paragraph 11 refers to a letter dated March 8, 2021 that the sixth respondent political party claims to have addressed to the Chief Electoral Officer seeking permission for sending bulk SMS. It is the stand of the Election Commission that no such letter has been received from the relevant political party seeking permission for bulk SMS. Copies of a letter of March 16, 2021 and another of March 25, 2021 issued by the police to the Election Commission pertaining to the investigation have also been filed. It is not relevant to look into any preliminary report on investigation, though it is hoped that the investigation will be completed as expeditiously as possible and immediate appropriate action taken in accordance with law. The reports are re-sealed and returned to counsel for the Election Commission with a direction to carry it to Court when the matter appears next.

6. It is also hoped that appropriate steps would be taken in furtherance of the letter dated March 7, 2021, issued to the relevant political party by the nodal officer. A further report should be filed by the Election Commission when the matter appears next, ensuring that the defects as in the key last sentence of paragraph 11 of its affidavit affirmed on March 25, 2021 are not repeated.

7. It is submitted on behalf of the petitioner that the SMS messages continue unabated on the same lines as complained of. It is for the Election Commission to take immediate action if such is the case. It is the further grievance of the petitioner that in course of investigation, as is usually the case, the complainant has been harassed. The investigating agency is reminded of its duties, despite the allegiance that it may seek to portray.

8. List on March 31, 2021.

सत्यमेव जयते

(S.B., C.J.) (S.K.R., J.)

26.03.2021

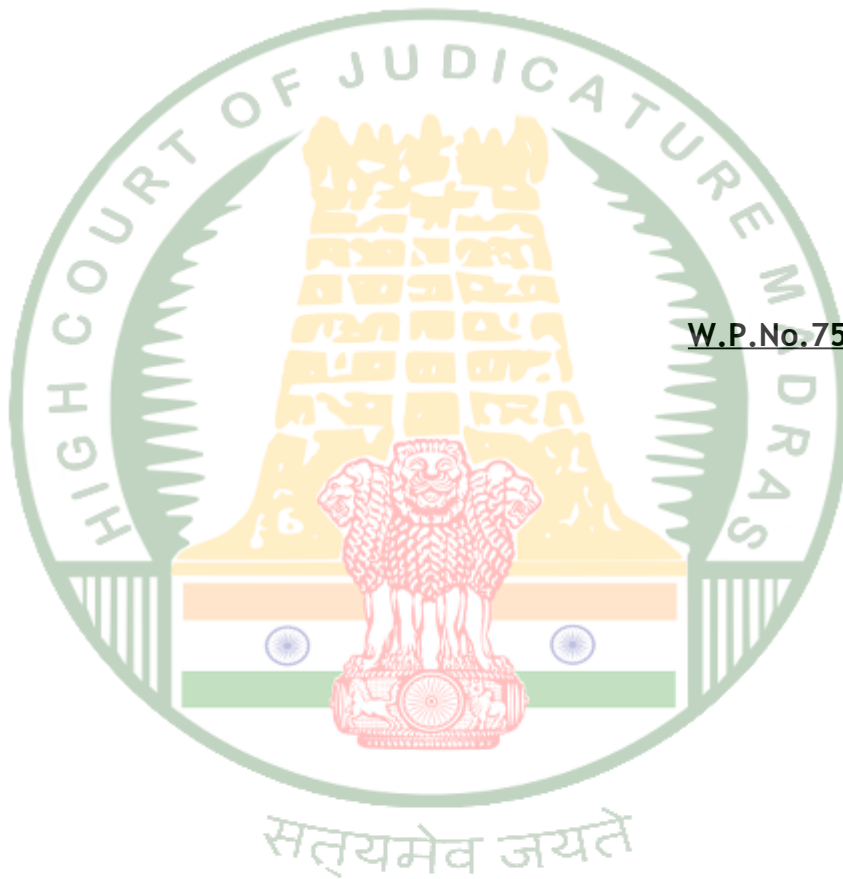
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SENTHILKUMAR RAMAMOORTHY, J.
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W.P.No.7588 of 2021

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