



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 16<sup>TH</sup> DAY OF MAY, 2024**

**PRESENT**

**THE HON'BLE MR JUSTICE R DEVDAS**

**AND**

**THE HON'BLE MS JUSTICE J.M.KHAZI**

**WRIT PETITION NO. 12711 OF 2024 (GM-RES)**

**BETWEEN:**

MR. SAYED KHALIL ULLA HUSSAINI,  
S/O BADE DEWDI GOGI K.,  
AGED ABOUT 33 YEARS,  
R/O GOGI (K), SHAHAPURA TALUK,  
DISTRICT YADGIR -585 309,  
MOBILE NO.9972498458  
AADHAR NO. 657787319402  
Email: meehaf.fahmeem85@gmail.com

...PETITIONER

(BY SRI. MOHD AKIAM UPPIN, ADVOCATE FOR  
SRI. RAHAMATHULLA KOTHWAL, ADVOCATE)

**AND:**

1. THE CHIEF ELECTION COMMISSION OF INDIA,  
NIRVACHANA SADAN,  
ASHOKA ROAD,  
NEW DELHI - 110 006.  
REPRESENTED BY CHIEF ELECTION  
COMIISIONER.
2. THE CHIEF ELECTROL OFFICER,  
NIRVACHANA NILAYA,  
MAHARANI COLLEGE CIRCLE,





SHESHADRI ROAD,  
BANGALORE - 560 001.

3. THE REGIONAL COMMISSIONER,  
OFFICE OF REGIONAL COMMISSIONER,  
KALABURAGI DIVISION,  
MINI VIDHANA SOUDHA,  
KALABURGI - 585 105.

...RESPONDENTS

(BY SRI. SHARATH DODAWAD, ADVOCATE FOR R1 AND R2;  
SMT. B.P. RADHA, AGA FOR R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, 1950 R/W 14(1) OF THE HIGH COURT OF KARNATAKA (PUBLIC INTEREST LITIGATION) RULES 2018 PRAYING TO a) ALLOW THIS PUBLIC INTEREST LITIGATION b) TO ISSUE A WRIT OF MANDAMUS DIRECTING RESPONDENT Nos. 2 AND 3 TO CONSIDER THE REPRESENTATION DATED 13.03.2024 SUBMITTED BY THE PETITIONER VIDE ANNEXURES-A AND B AND ETC.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY,

**R DEVDAS J.**, MADE THE FOLLOWING:

**ORDER**

**R.DEVDAS J., (ORAL):**

Learned counsel, Sri.Sharat Dodawad has entered appearance on behalf of respondent No.1 and 2 and Chief Election Commissioner has filed statement of objections



by serving copy of the same on the learned counsel for the petitioner.

2. The petitioner is before this Court seeking a Writ of Mandamus, directing the respondents Chief Electoral Officer, Bengaluru and The Regional Commissioner, Kalaburagi to consider his representation dated 12.03.2024, Annexure-A, and 13.03.2024 at Annexure-B. The petitioner is seeking to espouse public cause, in as much as seeking implementation of free bus services to transport the voters on the polling date so that the voters could be facilitated to travel by such free buses and cast their votes, which according to the petitioner would be in the interest of democracy. The petitioner is also seeking to enhance the number of polling booths, which has been fixed at 160 for the Election to the post of Member of Legislative Council in the North East Graduate Constituency, 2024.

3. Learned counsel for the respondents Election Commissioner points out from the statement of objections



that in so far as first prayer made by the petitioner for permitting free buses to ply on the date of polling, firstly, such powers cannot be exercised by the Election Commissioner. Secondly, it is pointed out from express provision contained sub-section (5) of Section 123 of The Representation of People Act 1951, and more particularly, the second proviso of sub-section (5) and submits that neither the candidates nor the State Governments or the Public Transport Corporations can make such provision, since it would go contrary to the express provision. In the second proviso it is stated that the use of any public transport vehicle or vessel or any tramcar or railway carriage by any elector at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

4. Learned counsel therefore submits that if such directions are issued either by the State Government or the Head of Department of the Public Transport



Corporation, it would violate the express provisions contained in the statute. Allegation can be made against political party, which is running the Government that such directions are given misusing its authority and in violation of the Code of Conduct. Moreover, the Chief Election Commissioner is not empowered to issue such directions either to the State Government or to the Head of the Public Transport Corporation.

5. In so far as the second prayer made by the petitioner regarding enhancement of polling booths, learned counsel for the respondents has drawn the attention of this Court to Annexure-R3, which is filed along with the statement of objections. Learned counsel submits that the polling stations which were earlier fixed at 160 is enhanced to 195 having regard to the number of voters and the information obtained from the respective Deputy Commissioner. Learned counsel, therefore, submits that the prayers made in the writ petition cannot be granted.



6. Having heard the learned counsel for the petitioner and learned counsel for the respondent and on perusal of the petition papers, this Court is of the considered opinion that the two prayers made by the petitioner having regard to representation given by him have been answered by the respondents in the statement of objections. Infact, an endorsement dated 19.03.2024 has been issued by the Regional Commissioner, Kalaburagi, Sub-Division to the petitioner bringing to his notice the prayer made by the petitioner and the arrangements made by the Chief Election Commissioner for the purposes of the impending elections. It has also been stated that no such arrangement for plying free buses can be made either by the Chief Election Commissioner or any other Authority, since it would be in violation of the express provision contained in the Act, 1951. Information regarding the enhancement of the polling stations are also given to the petitioner.



7. In that view of the matter, we are satisfied that the respondent Chief Election Commissioner, through the Regional Commissioner has considered the grievance of the petitioner and has issued an Endorsement to the petitioner bringing to his notice the enhancement of polling booths made from 160 to 195, which would meet the requirements having regard to the number of voters in the constituency.

8. Consequently, writ petition stands disposed of.

**(Sd/-)  
JUDGE**

**(Sd/-)  
JUDGE**