



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF SEPTEMBER, 2023

PRESENT



THE HON'BLE MR PRASANNA B. VARALE, CHIEF JUSTICE

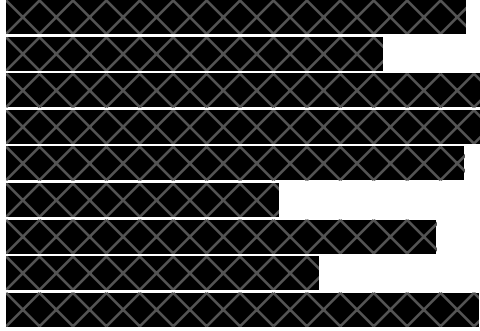
AND

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

WRIT PETITION NO. 20404 OF 2023 (GM-RES)

BETWEEN:

SRI BHIMAPPA GUNDAPPA GADAD,



...PETITIONER

(BY SRI. UMAPATHI S.,ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
REP BY CHIEF SECRETARY TO GOVERNMENT,
GOVERNMENT OF KARNATAKA,
VIDHANA SOUDHA,
BANGALORE 560 001.
2. STATE OF KARNATAKA,
REP BY PRINCIPAL SECRETARY TO GOVERNMENT,
DEPARTMENT OF WOMEN AND CHILD WELFARE,
GOVERNMENT OF KARNATAKA, VIKAS SOUDHA,
BANGALORE 560 001.





3. THE STATE OF KARNATAKA
REP BY PRINCIPAL SECRETARY TO GOVERNMENT
ENERGY DEPARTMENT,
GOVERNMENT OF KARNATAKA,
VIKASA SOUDHA, BANGALORE 560 001.

...RESPONDENTS
(BY SMT.NILOUFER AKBAR., ADDITIONAL GOVERNMENT
ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO A) ISSUE AN APPROPRIATE WRIT IN NATURE OF MANDAMUS, AN ORDER OR DIRECTION DIRECTING THE RESPONDENTS FOR REMOVAL OF THE NAMES AND PHOTOGRAPHS OF THE CHIEF MINISTER, DEPUTY CHIEF MINISTER AND THE CONCERNED MINISTERS OF THE DEPARTMENTS IN VARIOUS ADVERTISEMENTS AND SANCTION ORDERS OF GOVERNMENT IN CONNECTION WITH IMPLEMENTATION OF GRUHALAKSHMI AND GRUHA JYOTHI SCHEMES AND B) PASS ANY OTHER ORDER OR ISSUE A WRIT OR DIRECTION.

THIS PETITION COMING ON FOR ORDERS THIS DAY,
CHIEF JUSTICE MADE THE FOLLOWING:

ORDER

1. Petitioner claiming to be a public spirited person and a social activist is invoking the PIL jurisdiction of Writ Court with the following prayer:

"Issue an appropriate writ in the nature of mandamus, an order or direction directing the respondents for removal of the names and photographs of the Chief Minister, Deputy Chief Minister and the Concerned Ministers of the Departments in various advertisements and sanction orders of Government in connection with implementation of "GRUHALAKSHMI" and "GRUHA JYOTHI" Schemes."



2. Learned counsel appearing for the petitioner vehemently argues that the advertisement, flexes and boards containing the photographs of Chief Minister, Deputy Chief Minister and other Ministers would cost the exchequer heavily and that even otherwise such a advertisement counsel cannot be undertaken in the teeth of Apex Court decisions and of this Court.

3. Learned Additional Government Advocate, on request appearing for the respondents opposes the petition repelling the submission of the counsel for the petitioner. She also contends that the decision cited at the Bar do not support the case of the petitioner. So contending, she seeks dismissal of the writ petition.

4. Having heard the learned counsel for the parties and having perused the petition papers, we decline indulgence in the matter for the following reasons.

a) Ours is a body polity running within the parameters of a 'Democratic Republic', going by the



Preambular version in our Constitution. Periodically, the elections are held to the legislative bodies i.e the Parliament at the National level and to the State Legislatures at the provincial levels, as has been enjoined Constitutionally. The elections are fought by the political parties and the candidates ordinarily disclosing their policies and programmes in the election manifesto. Once the candidates are elected to the seat of power, the policies or programmes are evolved at the level of the Government and the same need to be communicated to the public at large so that the benefit thereof can be availed collectively or individually. The accomplishment of policies & programs too need to be informed. The Apex Court in **COMMON CAUSE vs. UNION OF INDIA, (2015) 7 SCC 1** at paras 10 & 11 observed as under:

"It is neither possible nor feasible or even necessary to try and encompass the myriad situations where government advertisements are issued. Indeed, the situations and circumstances; events and occasions on which government advertisements are issued are infinite. Nevertheless, an attempt can be made to arrive at a broad categorisation for the purpose of an illustrative understanding....



Governments at the Centre as well as in the States often bring out advertisements on completion of a number of days, months and years of governance. In such advertisements, not only the "achievements" are highlighted even the different tasks which are in contemplation are enumerated. ..."

b) Several countries such as Australia, Canada, United Kingdom, etc. have formulated statutory policies for regulating governmental advertisements so that the same does not promote a partisan agenda and misuse of public money for personal or political gains; such policies promote transparency and accountability. In Australia and United Kingdom these policies require periodical review of advertisements on fixed parameters; even before the publication takes place only after clearance by the Regulatory Bodies. That being the position, much grievance cannot be made against the governmental advertisements. The second submission of learned counsel for the petitioner that the advertisements in any form more particularly, depicting the photographs of ministers would cost the public exchequer and therefore,



the same is unconstitutional in the absence of statutory enablement, appears to be too farfetched an argument.

c) We do not much subscribe to the submission that these advertisements involve huge expenditures and therefore, they should never be permitted. After all, in live, be it of an individual or institutions, nothing comes free. There can be no manner of doubt that one or the other Government advertisement coinciding with some event or occasion is published almost everyday. Publication of photographs of individuals be they State functionaries or workers of the political parties has the tendency of associating that particular individual with the institutional achievements that are highlighted in the advertisement. The Apex Court in *COMMON CAUSE supra* expressed its apprehensions that photographs of individuals may have the potential of developing the 'personality cult' and the 'image' of the individual concerned, which is a direct antithesis of democratic functioning. Broadly speaking, the Court frowned upon



the publication of photographs in governmental advertisements, is true. However, no specific direction in the form of *magistra dicta* is pointed out which constitutes an absolute embargo against the publication of photographs of Chief Minister or other Ministers, in a small margin of the advertisements. A cursory look at the advertisement copies produced as annexures to the Petition do not depict the photographs with the glare & pomp. However, we hasten to add that we are not inclined to approve this also. After all, judgments of the Law Laying Court cannot be construed as Euclid's Theorem. They need to be understood in the backdrop of the fact matrix, from which the ratio is churned out.

d) The above being said, we also notice are State legislations such as Section 136 of Karnataka Municipalities Act, 1964, Section 138 of the Karnataka Municipal Corporations Act, 1976 which provide for regulation of advertisements within their jurisdictional limits. There is also a special statute namely, the Karnataka Open Places



(Prevention of Disfigurement) Act, 1981, which provides for removal of flexes & boards that prevent sight, disfigure or uglify the places open to public view, and such an act is criminalised too. It is not the case of petitioner that any of the advertisements undertaken by the Government are in the infringement of the provisions of these statutes.

e) The reliance placed by the learned counsel for the petitioner on the decision of the Madras High Court in ***R.RAJESH KUMAR VS. THE STATE OF TAMIL NADU AND OTHERS, 2022 SCC OnLine MAD 3841*** does not much come to his aid inasmuch as it was a case involving the complaint of the citizen as to non-publication of the photographs of President and Prime Minister in the advertisements relating to an international event. At paragraphs 20 & 22, it is specifically observed as under:

"In such view of the matter, we direct the State Government to ensure that the photographs of both the Hon'ble President and Prime Minister of India are published in all the advertisements - whether in print or electronic media, in relation to the Chess Olympiad. ... We further make it clear that the district administration should ensure that no damage



or destruction is caused to any of the advertisements published containing the photographs of the Hon'ble President and the Prime Minister, apart from the Chief Minister, and if any such activities are reported, strict action should be taken against such personnel."

In the above circumstances, the petition being devoid of merits, is liable to be and accordingly dismissed. We make it clear that nothing observed hereinabove shall be construed as the Court approving of the publication of photographs of any minister in the governmental advertisements. Further, we hope & trust that better senses prevail in the quarters that be.

Costs made easy.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

Snb/ AHB
List No.: 1 Sl No.: 14