



22nd October 2024

To,

Chief Election Commissioner & Election Commissioners,

Election Commission of India,
Nirvachan Sadan, Ashoka Road,
New Delhi – 110001

Subject: BELLARY PC - Shri E Tukaram of Indian National Congress – Filing of falsified accounts – Disqualification.

Sir/s

We wish to draw your attention to electoral malpractices and violations committed by Shr. E Tukaram, a candidate in the Bellary, (ST Reserved) Parliamentary Constituency in Elections held on 7th May 2024.

We understand that Shri Tukaram has filed his accounts with DEO, Bellary. These accounts are *prima facie* incorrect and falsified, hence defeating the very intent & purpose of Statutory mandates as provided in Section 10A, Section 77 of Representation of People Act 1951 read together with several precedents of disqualifications ordered by the ECI and several Supreme Court rulings & Judgements on the subject.

In order to establish the violation of Sections 10A & 77 of RPA 1951, we wish to draw your attention to several violations of sections 123(1), 123(2) and 123(7) of the said act, committed by Shri E Tukaram and associates which the following sequence of events will establish;

Sequence of Events in illegal money trial:

1. *FIR no. 0083/2024 dated 27.5.2024 for the commission of offence under sections 306& 34 IPC registered at Vinodanagara Police Station, Shivamogga, Karnataka: The accountant of Corporation Shri Chandrashekhara P allegedly committed suicide, his wife submitted a death note accusing certain individuals of embezzling an amount of Rs 80-85 crores funds intended for Scheduled Tribes.*
2. *FIR no. 0118/2024 dated 28.5.2024 for commission of offences under sections 149,409,420,467,468,471 of IPC registered at High Grounds Police Station, Seshadripuram, Bengaluru: Shri A Rajashekhara, CEO of Karnataka Maharishi Valmiki Scheduled Tribes Development Corporation (KMVSTDCL, filed a complaint, alleging therein that after the transfer of account of Corporation from Vasant Nagar Branch to the M. G Road Branch of Union Bank of India, fraudulent transfers amounting to Rs 94.73*

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crores were made to various accounts using a falsified cheque book and board resolution and the bank also failed to inform the Corporation through email or mobile number register for alerts regarding fabrication of and use of fake documents to transfer the funds

3. FIR no. RC0782024E0001 dated 3.6.2024 registered by Central Bureau of Investigation (CBI) for the commission of offences under sections 120-B, 409, 420, 467, 468 IPC read with section 13(2) read with 13(1)(a) of Prevention of Corruption Act, 1988: This FIR was lodged on the basis of complaint filed by the Union Bank of India through its Regional Head (Bengaluru East) stated therein that some unknown individuals in collusion with certain bank officials illegally transferred Rs 89.63 crores from the account of Corporation using forged securities. And documents to defraud the bank

Findings of Enforcement Directorate (ED).

1. The ED after conducting the preliminary inquiry and thorough examination on the basis of aforementioned FIRs, concluded that there appears to be a prima facie case for offence of Money Laundering under Section 3 of the PMLA punishable under Section 4 of the Act and the proceeds gained out of siphoned off money from the accounts of the Corporation forms the proceeds of crime. Thus, ED recorded an ECIR bearing no. ECIR/BGZO/14/2024 dated 6.6.2024
2. The ED has since filed a complaint under sections 44 (1)(b) & 45 (I) of the Prevention of Money Laundering Act, 2002 before the learned Principal City Civil & Sessions Judge, Bengaluru City, Bengaluru.
3. The investigation conducted by the ED, further confirm the movement of money to Bellary constituency and its distribution amongst voters in 2024 Lok Sabha Election. The Enforcement Directorate has clearly pointed out that one person namely, Shri B. Nagendra, Former Minister and MLA, had played a central role in orchestrating fraudulent activities by putting pressure on officials to transfer funds. The investigation also indicate that the proceeds of crime were used by him for personal and electoral expenditures including cash management during election. Vijay Kumar Gowda, personal assistant to Shri B Nagendra accepted in his statement that:

“he had handed over cash to the persons instructed by Nagendra which eventually went to party workers and voters, following instructions from B Nagendra, for the purpose of election-related activities” He further revealed that “To incentivise voters to cast their vote in favour of Sh. E Tukaram, the INC (Congress) candidate, Rs 200 was distributed to each voter and additionally, Rs 10,000 was allocated to each polling booth to compensate the Congress Party workers responsible for assisting voters and



overseeing the booths. The agency drew up a tabular column in the prosecution complaint (chargesheet) to show that 7,40,112 voters in Bellary constituency were given Rs 200 each from the Valmiki funds totalling more than Rs 14 crore apart from Rs 10,000 each to party workers in each booth totalling over Rs 72 lakh”

4. The Enforcement Directorate initiated investigations in the huge draws of cash from the accounts of Karnataka Maharshi Valmiki Scheduled Tribes Development Corporation Limited and filed an Enforcement Case Information Report (ECIR No. ECIR/BG20/14/2024). The investigations thus far, clearly establish that one person namely, B. Nagendra, Former Minister and MLA, had played a central role in orchestrating fraudulent activities by putting pressure on officials to withdraw funds and transfer these funds illegally for the purpose of election. As per ED’s findings, a significant part of this amount was used for bribing voters and exerting undue influence during the elections in BELLARY for and on behalf of Shri E Tukaram, the INC candidate, thus attracting the provisions of section 123(1) and 123(2) of the RPA 1951.
5. Moreover, the Learned SPP appearing for the Enforcement Directorate in a Bail Application no. CrI. Misc. No.7892/2024 filed by Shri B Nagendra before Additional City Civil & Sessions Judge Bengaluru City (CCH-82), while arguing the bail application referred to the statement of Shri Vijay Kumar Gowda and also submitted,

“.... that the digital photograph of the screen shot from the mobile phone of Accused No.8, Vijay Kumar Gowda would clearly indicate the bundles of money which were being kept and also several conversations had taken place to indicate that the money was being utilised towards election campaigning at Bellary”

From the Sequence of Events and Findings of Enforcement Directorate, cited above, it is now established that during the Lok Sabha Elections 2024, **Shri B Nagendra, Minister for Youth Services, Sports & ST Welfare** engineered the siphoning off state funds from Karnataka Valmiki Scheduled Tribes Development Corporation Limited for the Parliamentary Elections in Bellary for bribing and influencing the voters for the benefit of INC candidate Shri E Tukaram. As the reports of such financial embezzlement leaked, the Minister Shri B Nagendra was advised by the Chief Minister to resign from the cabinet of ministers in the state of Karnataka. The findings of the ED investigations and averments in the Court confirmed that Shri B Nagendra had **siphoned off ₹21 crores** from the **Karnataka Valmiki Scheduled Tribes Development Corporation Limited** and this amount was used specifically for **bribing voters and exerting undue influence**, thus attracting the provisions of section 123(1) and 123(2) of the RPA 1951.



Actions of Shri E Tukaram fall within the ambit of corrupt practices as defined under the Representation of the People Act, 1951. The specific provisions that have been violated in this case include Sections 123(1), 123(2), of the Representation of People's Act, 1951 which pertain to **bribery and undue influence**.

1. Bribery-Section 123(1)

According to Section 123(1) of the Representation of the People Act, 1951, bribery is classified as a corrupt practice. It is well-established in law that any **gift, offer, or promise of any gratification**, whether in **cash or kind**, to any person, with the object of inducing them to exercise their electoral right in a particular manner, constitutes bribery.

2. Undue Influence- Section 123(2): Further, Shri E Tukaram is also guilty of engaging in **undue influence**, as defined under Section 123(2) of the Representation of the People Act, 1951. Undue influence refers to any direct or indirect interference with the free exercise of an electoral right. In this case, the use of misappropriated government funds to induce voters represents an unlawful interference with their free choice in the election. By offering bribes, Shri E Tukaram sought to compromise the autonomy of the electorate and vitiate the elections.

3. Misuse of Official Resources-Section 123(7): The involvement of Shri B Nagendra, a then sitting minister in the state government and the officers of the corporation, who did all of this on at his behest and directions further attract the provisions of Section 123(7) of the Representation of the People Act, 1951, which states;

Section 123(7) mandates: *The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person with the consent of a candidate or his election agent], any assistance other than the giving of vote for the furtherance of the prospects of that candidate's election, from any person whether or not in the service of the Government and belonging to any of the following classes, namely;*

..... Provided that where any person, in the service of the Government and belonging to any of the classes aforesaid, in the discharge or purported discharge of his official duty, makes any arrangements or provides any facilities or does any other act or thing, for, to, or in relation to, any candidate or his agent or any other person acting with the consent of/the candidate or his election agent (whether by reason of the office held by the candidate or for any other reason), such arrangements, facilities or act or thing shall not be deemed to be assistance for the furtherance of the prospects of that candidate's election;



(h) class of persons in the service of a local authority, university, government company or institution or concern or undertaking appointed or deputed by the Election Commission in connection with the conduct of elections.

Violation of Election Expenditure Limits and Non-Disclosure of Hawala Transactions:

In view of the fact that Rs. 21 crores moved to BELLARY PC and the confirmation thereof by Shri Vijay Gowda, the personal assistant of Shri B Nagendra and evidence found on his WhatsApp account showing huge bundles of currency notes, as submitted by SPP before the trial court, the corrupt practices by Shri E Tukaram during election campaign, as discussed above, clearly establish that Shri Tukaram election expenditure was far in excess of permissible limits under section 77 of RPA 1951 and further this was not shown in his filing of accounts as mandated by Section 78 of RPA 1951.

Section 10A of Representation of Peoples Act 1951 mandates;

10A. Disqualification for failure to lodge account of election expenses. —If the Election Commission is satisfied that a person—

(a) has failed to lodge an account of election expenses within the time and in the manner required by or under this Act; and

(b) has no good reason or justification for the failure,

the Election Commission shall, by order published in the Official Gazette, declare him to be disqualified and any such person shall be disqualified for a period of three years from the date of the order.

“In the manner required by or under this act” has been described in section 77 of RPA that states;

Section 77 of RPA 1951 mandates:

“Account of election expenses and maximum thereof. (1) Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorized by him or by his election agent... ..”

... (3) The total of the said expenditure shall not exceed such amount as may be prescribed.”

Furthermore, the Section 77 of the Representation of Peoples, Act, 1951 mandates that candidates maintain separate & **“CORRECT ACCOUNTS of all expenditure in connection**



with the election” and ensure that their expenditures do not exceed the prescribed limits. In the present case, the illegal hawala transactions used for funding the campaign were not disclosed in the election expenditure reports, resulting in a clear violation of the provisions of Section 77 read together with Section 10A of the RPA 1951.

It is thus a case of **NOT ONLY EXCEEDING THE EXPENDITURE LIMITS** far in excess of the prescribed limit of Rs. 95 lakhs by the ECI but also of not filing of **CORRECT ACCOUNTS** as mandated by Section 77 of RPA 1951 read together with section 89 of Conduct of Election rules 1961.

We may also draw your attention to the following: -

Affidavit filed by ECI before Supreme Court in in the matter of Ex Maharashtra Chief Minister Ashok Chavan.

In the matter of **Ashok Shankarrao Chavan Vs Madhavrao Kinhalkar & Ors.** (Civil Appeal No. 5044 OF 2014), **Madhu Kora Vs Election Commission of India** (Civil Appeal No. 5045 OF 2014) & **Umllesh Yadav Vs Election Commission of India & Ors.** (Civil Appeal No. 5078 OF 2014), it was held by the Supreme Court of India that;

“Therefore, if someone is able to assert such misuse of funds in the process of election by a candidate by making an inspection under Rule 88 of the 1961 Rules and if the individual concerned finds out that such misuse of funds had taken place, which was not disclosed in the statement of account of election expenses, he will have every right to bring it to the notice of the Election Commission and the very purport of providing such a right under Rules 87 and 88 of the 1961 Rules when read along with Section 10-A of the 1951 Act makes it clear that he would have every locus to prefer a complaint. Also in the course of an enquiry made under Section 10-A of the 1951 Act, the Election Commission can call upon the individual concerned to substantiate the complaint with relevant materials to enable the Election Commission to pass appropriate orders of disqualification under the said section.”

In yet another case, **LR Shivaramagowda and others versus T.M Chandrashekar and others** Civil Appeals no. 4272 of 1991 with no. 4379 of 1991, Citation: 1999 1 SCC 666, the Supreme Court of India inter alia held:

“22. It was argued by learned Counsel for the first respondent that the aforesaid view would enable any successful candidate at an election to snap his fingers at the law prescribing the maximum limit of expenditure and escape from the provisions of section 77(3) by filing false accounts. According to him, if the aforesaid construction of sections



77 and 123 (6) is to be adopted, there will be no sanction against a candidate who incurs an expenditure exceeding the maximum prescribed limit. Referring to section 10-A of the act which enables the election Commission to disqualify a person who had failed to lodge an account of election expenses within the time and in the manner required by or under the act and had no good reason or justification for the failure, he contended that section provides only for a situation arising out of failure to lodge an account and not a situation rising from a failure to maintain true and correct accounts. We are unable to accept this contention. In our opinion, sub-section (a) of section 10-A takes care of the situation inasmuch as it provides for lodging an account of election expenses in the manner required by or under the act. Section 77(2) provide that the accounts shall contain such particulars as may be prescribed. Rule 86 of the conduct of election rules provides for the particulars to be set out in the account. The set rule prescribes that a voucher shall be obtained for every item of expenditure and for lodging all vouchers along with the account of election expenses. Rule 89 provides that the **District Election Officer shall report to the Election Commission, the name of each contesting candidate, whether such candidate has lodged his account of election expenses, and if so, the date on which such account has been lodged and whether in his opinion, search account has been lodged within the time and in the manner required by the act and the Rules. That rule enables the Election Commission to decide whether a contesting candidate has failed to lodge his account of election expenses within the time and in the manner required by the act after adopting the procedure mentioned therein. If an account is found to be incorrect or untrue by the Election Commission after inquiry under rule 89, it could be held that the candidate had failed to lodged his account within the meaning of section 10-A and the Election Commission may disqualify the said person. Hence, we do not find any substance in the arguments of Learned counsel for the first respondent."**

Therefore, it is conclusively established that **Shri E. Tukaram is the beneficiary of the illegally diverted funds**. The illegal money was used in election campaign of Shri E. Tukaram, and he is directly involved and part of this illegal transaction. He not only **wholesomely exceeded the prescribed expenditure limits, he also filed falsified accounts**.

Hence, in view of the settled law and the judgments of Supreme Court of India mentioned above clearly provides that Election Commission of India has power under section 10-A to conduct an inquiry, and disqualify the candidate, if he fails to lodge the Correct Accounts in the prescribed manner.



भारतीय जनता पार्टी
Bharatiya Janata Party

It may also be mentioned that it may not be for the first time that Commission would disqualify anyone under the specific provisions of RPA 1951, there is a long list of persons who the Commission had disqualified in the past on similar grounds. [List Enclosed]

In view of the afore-mentioned facts, it clearly stands out that Shri E Tukaram had violated the statutory provisions of Sections 77, 78 & 10 A of the RPA 1951 and the Conduct of Election Rules 196, we request the Commission to:

1. Reject the accounts filed by Shri E Tukaram and Initiate a detailed and comprehensive investigation into the allegations of bribery, undue influence, misuse of government resources, and illegal financial transactions involved in Shri E Tukaram's election campaign for the Bellary constituency.
2. Disqualify Shri E Tukaram for violations committed against the provisions of Section 77 read together with section 10A of Representation of the People Act, 1951, for not filing correct accounts.

Regards,

B. Vijayendra

Chaluvedi Narayanswamy

R Ashok

P Rajeev