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**JUDICIAL BRANCH
COURT OF JUSTICE OF SÃO PAULO**

ORDER

Writ of Mandamus nº 86-37.2012.6.24.0013

Rapporteur: Luiz Felipe Siegert Schuch

Tribunal: 13st Electoral Zone

Petitioner: Dalmo Deusedit Meneses

Defendant: Facebook Brazil

Visa,

Dalmo Deusedit Meneses, qualified and duly represented, filed this PRECAUTIONARY ACTION against FACEBOOK BRAZIL ONLINE SERVICES, in consequence of materials published in an electronic site maintained by the defendant at the following address <http://facebook.com/ttt/pages/Reage-Praia-Mole/230100247036543>, as described in the initial petition. It says that the site is serving as a stage for derogatory material against the applicant with apocryphal message, featuring anonymity, banned by electoral legislation. He informs that currently holds the position of Alderman in this municipality and is a candidate for reelection. He asks for an injunction to order the defendant for exclusion or suspension immediate to the access and the publications of all the content of the Facebook page, called Reage Praia Mole, under penalty of a daily fine.

Joined documents.

The case came concluded.

Its the synthesis of the necessary.

The initial request has as an object electioneering in municipal elections, whose competence is originally of the Electoral Judgment where the alleged infringement occurred Law n. 9,504 / 97), give as possible know this injunction

On the other side, the electoral campaign in the 2012 elections is regulated by Law no. 9,504/97 and Resolution No. 23,370 / 2011 TSE.

Regarding the Internet, the matter is regulated in the articles 18 to 25 of the TSE Resolution 23,370/2011, establishing, among other rules regarding social networks:

"Art. 19. Electioneering on the Internet can be performed in the following ways (Law no. 9,504 / 97, article 57-B, paragraphs I to IV).

IV through blogs, social networks, sites of instantaneous and similar messages, whose content is generated or edited by candidates, parties or coalitions any natural person. "

On the other way, ensuring the free expression of thought, the legislation prohibits anonymity (art. 21, Res. 23,370/2011 TSE), also prohibiting propaganda "that slander, defame or insult anyone and reach or authorities exercising public authority (art. 13, x. 23 res 370/2011 TSE).

In this case, the documentation with the initial reveal the existence of the Internet address (<http://facebook.com/#!/pages/Reage-Praia-Mole/230100247036543>, maintained by the requested provider, in which, without the identification of the responsible for the manifestation of the published OPINIONS reporting facts and derogatory and offensive personal judgments about the applicant.

Regardless of the veracity or not of the facts and opinions there reported, the issue is to post it in an anonymous form, going against the electoral law above.

The periculum in mora, in this case, is evident, since the site is active on the internet, enabling the continuity of anonymity offenses and sealed by the electoral law in the full period of advertisement by the candidates.

Finally, it is recorded that if the facts that support the attacks made through the aforementioned social network are true, it would be of courage and decency of the author of the complaints to subscribe to the messages posted on the network, being responsible for the consequences of his acts.

On election advertising on the internet, the Superior Electoral Court already settled that the constitutional guarantee of free manifestation thinking can not serve to accommodate the practice of electoral fraud, especially when this into play another equally expensive to own Constitution value, such as the election of the balance (brought on Ropresentação n ° 203745, Acórdão of 17/03/2011 Rolatorfa) Min HENRIQUES MARCELO RIBEIRO dE OLIVEIRA, DJE publication Diario of Electronic Justice Date 12 / 0AN2011, Page 29)

That said, and in front of the framed picture, I grant the PRELIMINARY postulated, to determine the required FACEBOOK BRAZIL ONLINE SERVICES to immediatelly suspend the access and the publication of all the content of the Facebook page called "Praia Mole Reacts" addressed <http://facebook.com/#l/pages/Reage-Praia-Mole1230100247036543> until further order of this judgment, setting the maximum period of 24 (twenty four hours) from the receipt of this decision, under penalty of a fine of R\$ 50,000.00 (fifty thousand reais) per day of noncompliance, determine the required yet, within 48 (forty-eight hours) from the receipt of this decision, providing the identification of those responsible for the creation and administration of that page (users names, IPs, etc.), under penalty of application daily fine in the amount set above without prejudice to other electoral, civic and criminal penalties.

Florianopolis, July, 26, 2012

Luiz Felipe Siegert Schuch