

**W.P.No.15772 of 2015 and
M.P.Nos.1 and 2 of 2015**

N.KIRUBAKARAN,J

On 27.08.2015, this Court allowed the writ petition prohibiting the fourth respondent from acting as President of Kuppichipalayam Village, Namakkal District as fourth respondent's election as President of the said Panchayat was declared as null and void by this Court on 16.02.2015 in CRP (NPD) No.505 of 2013. The said Civil Revision Petition had filed against the dismissal of Election Original Petition in E.O.P.No.103 of 2011, which was filed by the petitioner against the election of the fourth respondent as President of Village Panchayat and seeking a declaration, declaring the election as null and void and to announce the petitioner as elected President, as the postal votes were received contrary to the Tamil Nadu Panchayat Election Rules, 1995. The said Election Original Petition filed by the petitioner was dismissed on 19.10.2012 by the learned Principal District Judge, Namakkal. The said order had set aside by this Court in CRP (NPD) No.505 of 2013 on 16.02.2015.

2.Mr.N.Manokaran, learned counsel for the petitioner now seeks a clarification, stating that while allowing the writ petition, as per the order passed in CRP(NPD) No.505/2013, this Court only prohibited the fourth respondent from acting as Panchayat Board President and has not declared the petitioner as elected President of Kuppichipalayam Village Panchayat, Namakkal District.

3.Heard Mr.N.Manokaran, learned counsel for the petitioner; Mr.B.Nedunchezian,

learned counsel for the first respondent; Mr.RM.Muthukumar, learned Government Advocate for the second respondent; Mr.P.Sanjay Gandhi, learned Additional Government Pleader for the third respondent and Mr.V.Bharathidasan, learned counsel for the respondent.

4.While allowing the writ petition on 27.08.2015, this Court only noted CRP (NPD) No.505/2013 order setting aside the order passed by the trial Court. By an inadvertent mistake, the prayer sought for in the Election Original Petition was neither noted by this Court, nor brought to the notice of this Court by the learned counsel on either side. A perusal of the records would go to show that E.O.P.No.103 of 2011 had been filed seeking declaration to declare the alleged election as null and void and to announce the petitioner as elected President.

5.A perusal of the order passed by this Court in CRP (NPD) No.505 of 2013 dated 16.02.2015, especially paragraph Nos.12 and 13 would reveal that, there was violation of Rule 52 of the Tamil Nadu Panchayat Election Rules, 1995 in accepting the ballot votes. The said paragraphs 12 and 13 read as follows:-

“12.In the counter filed by the respondents 1 and 2 and also in the evidence, RW1 has admitted that the postal covers had received one day prior to the counting. However, the respondents have relied on the manual/regulation issued by the Election Commission to contend that the respondents

can receive the ballot papers till 6.00 p.m., to the previous day of counting. When Rule 52 mandates that the postal ballots are to be received before the date of poll at 6.00 p.m., on the previous day of counting.

13.Further, the petitioner has specifically alleged that the declaration in Form 17 was not enclosed along with the postal ballot papers. In Exs.R6 to R8, the electors have scored off the names for whom they cast their votes but in Ex.R2, the electors Mrs.Malliga and Mr.Sugavanam have not scored off the post for which they are casting their votes. Therefore I find force in the contention of the learned counsel for the petitioner.”

6.According to the petitioner, as per the order of this Court, if, the postal ballot votes are excluded, then, the petitioner has to be declared as President. It is an admitted case that the petitioner secured 364 votes whereas, the fourth respondent secured 361 votes. Since, 6 postal ballot votes were taken into consideration, the fourth respondent was declared as President by getting 367 votes. For violation of Rule 52 of the Tamil Nadu Panchayat Election Rules, 1995, this Court set aside the postal ballot votes, namely 6 votes and in that event, scoring of votes of the petitioner and fourth respondent are as follows:-

“Petitioner	-	364 votes
Fourth Respondent	-	361 votes”

7.In that scenario, it is undoubtedly the petitioner who secured the maximum votes of 364 over and above 361 votes secured by the fourth respondent. Though, Mr.V.Bharathidasan, learned counsel for the fourth respondent would oppose for clarification, the factual position alone was reiterated by this Court and therefore, as per the earlier order passed by this Court in CRP(NPD) No.505 of 2013 dated 16.02.2015, this Court declares the petitioner, having gained 364 votes, as successful candidate and declare as President of Kuppichipalayam Village Panchayat, Namakkal District, defeating the fourth respondent by a margin of 3 votes namely 361 votes. Therefore, the respondents 1 to 3 are appropriately directed to issue a Certificate of Election as President to the petitioner, within a period of three days from the date of receipt of a copy of this order and the second respondent is directed to administer the oath to the petitioner, within a period of two days thereafter.

The order dated 27.08.2015 in W.P.No.15772 of 2015 is clarified as stated above.

Call the matter for compliance on 14.09.2015.

28.08.2015

jbm

Note:- Issue copy on 03.09.2015

N.KIRUBAKARAN,J

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28.08.2015