

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 23.06.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.17837 of 2015

T.Suresh

.. Petitioner

Versus

The Returning Officer

No.11 Dr.Radhakrishnan Assembly

Constituency & Asst. Commisr./ Zonal Officer-

W Zone IV Chennai Corpn. 266

Thiruvottriyur High Road Chennai-21

.. Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus, calling the records of the respondent made in proceedings Ma.A.4 Na.Ka.No.Election/ 4550/2015 dated 11.6.2015 and quash the same and consequently direct the respondent to accept the nomination papers of the petitioner for R.K.Nagar Constituency Chennai for the ensuring bye election to be held on 27.6.2015.

For Petitioner : Mr.M.R.Franklin

For Respondent : Mr.Niranjan Rajagopalan
for M/s.G.R.Associates.

O R D E R

By consent, the writ petition is taken up for final disposal.

2. The petitioner claims that he is doing social services for the welfare of the public for more than couple of years in his locality and in order to extend his public service, wants to participate in the bye-election to be held on 27.06.2015 in respect of Dr.Radhakrishnan Nagar Assembly Constituency.

3. The petitioner would state that, he has filed his nomination form in Form No.26 in strict compliance of the procedural formalities and 10 persons had also proposed his name and he has also paid a sum of Rs.10,000/- as security deposit for contesting as a candidate in the said election.

4. The petitioner would further state that his nomination form was verified and certain defects were pointed out by the respondent vide letter dated 08.06.2015 and it was also complied with. However, to the shock and surprise of the petitioner, the 1st respondent has rejected his nomination vide impugned order dated 11.06.2015 stating that his name has not been properly proposed by 10 proposers in terms of Section 33 of the Representation of the People Act, 1951 and challenging the legality of the order, has

filed this writ petition.

5. The learned counsel appearing for the petitioner has drawn the attention of this Court to the earlier communication dated 08.06.2015 sent by the respondent and would submit that the only defect pointed out was that the petitioner has not furnished three Numbers of his photographs signed on the rear side and the said defect was also complied with and therefore, it is not open to the respondent to cite another reason and reject his nomination vide impugned order dated 09.06.2015 and prays for interference.

6. Per contra, Mr.Niranjana Rajagopalan of M/s.G.R.Associates, has drawn the attention of this Court to Section 100 (c) of the Representation of the People Act, 1951 and also Article 329 of the Constitution of India and would submit that since, election process has already commenced, this Court cannot interfere with the same and if the petitioner is aggrieved by the fact of improper rejection of nomination of the petitioner, the remedy open to him is to file an election petition and this writ petition is not maintainable and prays for dismissal.

7. This Court carefully heard the rival submissions and also perused the materials placed before it.

8. Section 100 of the Representation of the People Act, 1951, speaks about the grounds for declaring election to be void and one of the grounds viz., (c) would state that "that any nomination has been improperly rejected"

9. Though, it is the specific case of the petitioner that the name of the street in which one of the proposers is residing, has been wrongly given and in terms of sub section 4 of Section 33 of Representation of the People Act, 1951, it is only an inaccurate description and that cannot be a reason to reject the nomination, in the considered of this Court, the said contention, lacks merit for the reason that it is also the specific case of the petitioner that on account of the said fact his nomination has been improperly rejected and it is one of the grounds enumerated under Section 100 of the Representation of the People Act, 1951, to file an election petition.

10. Article 329 of the Constitution of India also bars this Court to interfere with the election process, once it is commenced and in the light of the said mandatory provision also, this Court is not in a position to interfere with the election process, which has already commenced and hence, for the reasons assigned above, this writ petition is dismissed. No costs.

Sd/-
Assistant Registrar

True Copy

To

The Returning Officer
No.11 Dr.Radhakrishnan Assembly
Constituency & Asst. Commisr./ Zonal Officer-
W Zone IV Chennai Corpn. 266
Thiruvottriyur High Road Chennai-21

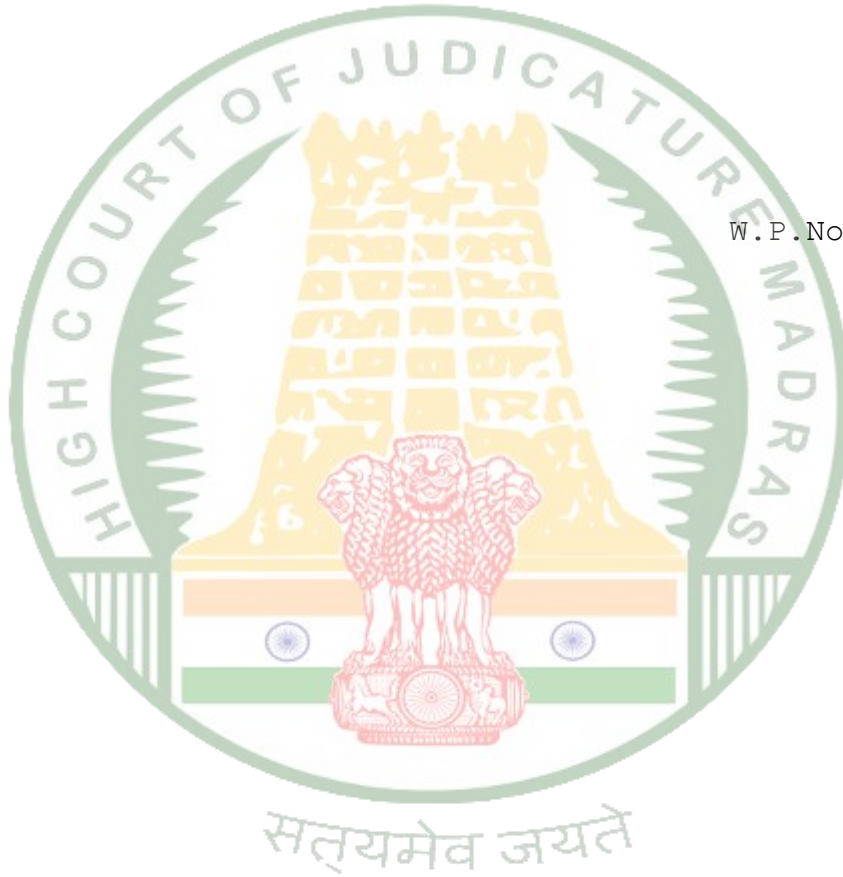
+1 cc to Mr.M.R.Franklin, Advocate,SR.30797

+1 cc to M/s.G.R.Associates,Advocate,SR.31006.

Ctk(co)

krd 2/7

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