

In the High Court of Judicature at Madras

Dated : 28.11.2011

Coram :

The Hon'ble Mr.Justice D.MURUGESAN
and
The Hon'ble Mr.Justice K.K.SASIDHARAN

W.P.No.26768 of 2011
and M.P.No.1 of 2011

K.Gajendran .. Petitioner

-vs-

1. The Revenue Inspector,
Mambakkam Arcot Block,
Vellore District.
2. The Block Development Officer,
Arcot Block, Vellore District.
3. The Commissioner,
Arcot Panchayat Union,
Arcot, Vellore District.
4. The District Collector,
Vellore District, Vellore.
5. The Tamil Nadu State Election
Commission, 208/21, Jawaharlal
Nehru Street, Arumbakkam,
Chennai. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of writ of Mandamus to direct the respondents to declare the petitioner as elected to the Vice President of Veppur Panchayat of Arcot Unnion of Vellore District and issue the necessary election declaration certificate and publication thereof.

For Petitioner : Mr.J.Suresh
For Respondents : Mr.A.Navaneethakrishnan,
Advocate General for R-5
Mr.R.Vijayakumar,
Addl.G.P. For RR1 to 4

O R D E R

(Order of the Court was made by D.MURUGESAN, J.)

Heard the learned counsel appearing for the petitioner and the learned Advocate General for the fifth respondent as well as the learned Additional Government Pleader for respondents 1 to 4.

2.The petitioner was elected as a Member of Ward No.4 in Veppur Panchayat of Arcot Union in the election held on 17.10.2011. He contested to the post of Vice-President, Veppur Panchayat in the election held on 29.10.2011. According to the petitioner, out of 9 ward members, 5 members cast their votes in his favour and the next candidate had secured 4 votes. On the basis of the above, election results were announced and the petitioner was also declared to have been elected as Vice-President. The election proceedings were also minuted by the Election Officer and the members have duly signed. However, for the reasons best known to the respondent officers, the results of the petitioner had not been declared so far. Hence, the petitioner has made a request to the respondents to declare the results. As no declaration was made, the petitioner was constrained to approach this Court by way of present writ petition seeking for a direction to the Election Officer of Veppur Panchayat of Arcot Union to declare the petitioner as having been elected to the post of Vice-President of the said Panchayat and to issue necessary declaration certificate.

3.When the writ petition came up for hearing on 21.11.2011, we directed the learned Additional Government Pleader to produce the minutes containing the proceedings of the election. When the matter was taken up on 24.11.2011, the learned Additional Government Pleader has fairly submitted that the declaration of the petitioner to the post of Vice-President by securing 5 votes as against 4 votes was minuted and has been duly signed by the members. With that instruction, he would submit that the election of the petitioner would be declared and the writ petition could be called on 25.11.2011. Accordingly, it was directed to be called on 25.11.2011 and at the request of the learned Additional Government Pleader, it was adjourned to today to report as to the declaration of the petitioner as having been elected to the post of Vice-President of the panchayat in question.

4.When the matter is taken up today, the learned Additional Government Pleader would submit that he has not so far received instructions as to whether the petitioner had been elected or not. In these circumstances, we are constrained to consider the matter on merits.

5.There is no dispute that out of 9 members, the petitioner had secured 5 votes as against the 4 votes secured by the next candidate.

Equally, there is no dispute that the above fact had been minuted and had been signed by the Returning Officer and the members. As there is no dispute regarding the proceedings of the election on any count, we are at a loss to understand as to how the Election Officer could withheld not only the declaration of the results of the election, but also the issuance of declaration form to the candidate, who has secured majority votes. As the petitioner had secured 5 votes as against the next candidate, who had secured 4 votes, which position is not in dispute, the Election Officer must be directed to declare the results. Accordingly, the Election Officer, viz., the Block Development Officer, is directed to declare the results immediately on the basis of the minute recorded, on receipt of a copy of the order or production of the same by the petitioner.

6. After the above order is dictated, the learned Additional Government Pleader has submitted that the election has been re-scheduled to be held on 30.11.2011. In view of our order directing the Election Officer to declare the petitioner as having been elected to the post of Vice-President of the panchayat in question, the further question of conducting election does not arise.

7. The writ petition is allowed with the above direction and observation. No costs. Consequently, connected M.P. is closed.

Sd/

Asst.Registrar

//True Copy//

Sub.Asst.Registrar

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To

1. The Revenue Inspector,
Mambakkam Arcot Block,
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Commission, 208/21, Jawaharlal
Nehru Street, Arumbakkam,
Chennai.

1 cc to Mr. J.Suresh, Advocate, Sr.No.72715

1 cc To Government Pleader, SR.No.72799

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