

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2015

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P. No. 29662 of 2015

K.K. Dharmarajan,

...Petitioner

Vs.

1. M/s. Dakshina Bharat Hindi Prachar Sabha,
Rep. by Pradhan Sachiv,
T.Nagar, Chennai - 600 017.

2. M/s. Dahshina Bharat Hindi Prachar Sabha,
Rep. by Special Officer and Secretary,
Kerala, Ernakulam.

...Respondents

PRAYER: This petition is filed under Article 226 of the Constitution of India in the nature of writ of certiorarified mandamus praying to call for the records of the 1st respondent in the connection of enrollment of the new life members and ordinary members to the 2nd respondent as approved by the Executive Committee of the 1st respondent dated 14.08.2015 and quash the list of members and direct the respondent forbear such members from in any manner participating in the affairs of the 2nd respondent.

For Petitioner : Mr.G.R. Lakshmanan,

For Respondents : Mr.Balan Haridas,

Election Officer : Dr. S. Seethalakshmi.

ORDER

The petitioner is one of the contestant in the proposed election. It is seen that the Sabha was established in the year 1918 for the purpose of spreading the language of Hindi in the southern states. The 1st respondent is a Central Sabha and there

are already four other Sabhas in different states. The 1st respondent- Central Sabha is located in T.Nagar, Chennai. There is also a separate Sabha in the city of Chennai, apart from the headquarters. The Central Sabha is registered under the Societies Registration Act. The Sabha is constituted in pursuance of the declaration by the Government of India as enacted the Dakshina Bharat Hindi Prachar Sabha Act of 1964, Act No. 14 of 1964. Thus, there is no difficulty with respect to the objective enshrined in the constitution and the functioning of the Sabha.

2. The petitioner is one of the contestant from the Kerala State Sabha and he has not contested for any other Sabha. The petitioner has come forward to file this writ petition on the sole grievance that about 2,403 members have been inducted without the authority of law. Learned counsel appearing for the petitioner submitted that the authenticity of the members will have to be verified by the Election Officer with respect to the identity card of the contestants.

3. Learned counsel appearing for the respondents submitted that the petitioner has come forward at the last moment without challenging the election calendar by which last date for the receipt of the membership form by the provincial Sabha and approval of new members by the Central Executive Committee has been fixed. It is further submitted that the approval of new members by the Central Executive Committee was done on 14.08.2015, under the guidance of Hon'ble Dr. Justice V.S. Malimath. Therefore, the writ petition is not maintainable in law as well as on facts. He further submitted that it is mandatory procedure as mentioned in the rules, however there is no prior complaint either before the Central Executive Committee or to the Election Officer in this regard.

4. The Election Officer submitted that due care has been taken with respect to the identity of the members. In fact, it is also submitted that each member has been sent the ballot papers through registered post and the receipt of the same has been acknowledged. She further submitted that the returned cover of the letter sent individually to the voters will also be cross checked. Moreover, at the time of exercising the voting, due verification would be done with respect to the proof of address including the requisite identification of the members.

5. In view of the same, the present writ petition stands disposed of by directing the learned Election Officer to

exercise due care in verifying the credentials of each and every voter before permitting such person to cast his vote. Needless to state, the genuineness of the voters will have to be verified by the Election Officer during which time the petitioner or his representative can be present. In the event of the petitioner not becoming successful in the election, it is well open for him to challenge the same in the manner known to law as all the issues are left open to be decided. Beyond this, this Court is not inclined to do any more exercise keeping in view the power of judicial review over the ongoing election is concerned. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar (CS-III)

True Copy

Sub Assistant Registrar

To

1. Pradhan Sachiv,
M/S. Dakshina Bharat Hindi Prachar Sabha,
T. Nagar, Chennai-17.

2. The Special Officer and Secretary,
M/S. Dakshina Bharat Hindi Prachar Sabha,
Kerala, Ernakulam.

3. The Election Officer,
M/S. Dakshina Bharat Hindi Prachar Sabha,
T. Nagar, Chennai-17.

+1 cc to Mr. G. R. Lakshmanan, Advocate Sr. 64585

+1cc to M/S. Balan Haridas, Advocate Sr. 64954 [21/12/2015]

सत्यमेव जयते

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srg 27/11/2015

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