

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10-02-2015

CORAM

THE HONOURABLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

WRIT PETITION No.3308 of 2015
and
M.P.No.1 of 2015

C.Udayachandrika ... Petitioner

vs

- 1.The Secretary
Tamilnadu Legislative Assembly
Secretariat
Chennai 600 009
- 2.The Chief Election Commissioner
Election Commission of India
Nivachan Sadan
Ashoka Road
New Delhi 110 001
India ... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of declaration declaring that "in accordance with sub-clause (a) of Clause (3) of Article 190 of the Constitution of India, the seat of Selvi J.Jayalalitha, Member of the Legislative Assembly representing 139 Srirangam Assembly Constituency shall be deemed to have become vacant from the date of her conviction i.e., 27th September 2014", as published by the Tamil Nadu Government Gazette, Extraordinary No.223 dated Saturday November 8, 2014, Aippasi 22, Jaya Thiruvalluvar Aandu, 2045 at Chennai published in Letter No.12246/2014-4 Tamil Nadu Legislative Assembly, Secretariat (B.III) dated 8th November, 2014, Aipassi 22, Jaya Year, Thiruvalluvar Aandu 2045 as null and void, illegal and unconstitutional.

For Petitioner : Mrs.C.Udayachandrika
Petitioner-in-person

For Respondents : Mr.S.T.S.Moorthy
Government Pleader for R1

ORDER

(Order of the Court was made by THE HON'BLE CHIEF JUSTICE)

The petitioner seeks a declaration from this Court that the seat of Selvi J.Jayalalitha, Member of the Legislative Assembly, representing 139 Srirangam Assembly Constituency, has not fallen vacant from the date of her conviction as published in the Tamil Nadu Gazette, Extraordinary No.223 dated 8.11.2014, and the letter of the Tamil Nadu Legislative Assembly dated 8.11.2014. Other than saying that she is a public-spirited person, there is nothing else stated. It has been stated that the First Parliament ought to have suitably modified or deleted or amended the Representation of People Act, 1950 (Act 43 of 1950) and the Representation of People Act, 1951 (Act 43 of 1951), which created new Houses of Parliament. Thereafter, other than stating about Articles, 324, 327, 328 and 329, there is really nothing else set out in the petition.

2.The affected party never approached the Court making a grievance qua the declaration of her seat as vacant or not in accordance with law. The election was notified and is now scheduled to be held shortly, when this petition has been filed and we are unequivocally of the view that this is a publicity exercise with no merit in law and would have been inclined to impose exemplary cost for such misadventure, but for the fact that this is possibly the first such misadventure of the petitioner. We caution the petitioner against preferring such frivolous petitions under the garb of Public Interest Litigation, making it clear that any such endeavour in future would certainly meet with consequences as to cost.

3.The writ petition is dismissed as meritless. No costs. Consequently, connected MP is also dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

nsv

To:

1.The Secretary
Tamilnadu Legislative Assembly
Secretariat
Chennai-600 009

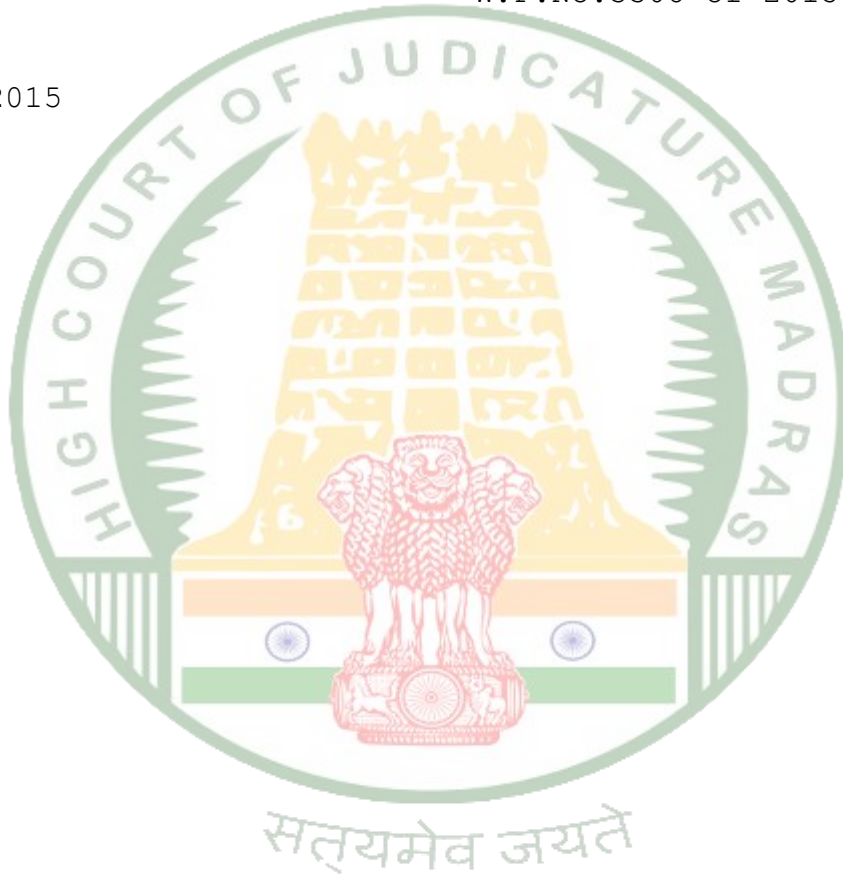
2.The Chief Election Commissioner
Election Commission of India
Nivachan Sadan
Ashoka Road
New Delhi 110 001
India.

1 cc to Government Pleader, Sr.No7189

5 cc to Mrs.C.Udayachandrika ,Advocate, SR.No.7012

W.P.No.3308 of 2015

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pmk.13.2.2015



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