

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2016

CORAM

The Hon'ble Mr.JUSTICE M.M.SUNDRESH
and
The Hon'ble Mrs.JUSTICE S.VIMALA

W.P.No.14826 of 2016
and

W.M.P.Nos.12963 & 12964 of 2016

Dravida Munnetra Kazhagam,
rep. by its Press Relations Secretary T.K.S.Elangovan,
DMK Head Quarters,
"Anna Arivalayam",
367 & 369, Anna Salai,
Chennai-600 018.

... Petitioner

-Vs-

1.The Election Commission of India,
rep. by the Chief Election Commissioner,
Nirvachan Sadan,
Asoka Road,
New Delhi - 110 001.

2.The Chief Electoral Officer,
Tamil Nadu,
Public (Elections) Department,
Fort St. George, Secretariat,
Chennai - 600 009.

.. Respondents

Petition under Article 226 of the Constitution of India
praying for issue of Writ of Certiorari calling for the records
pertaining to the impugned order in Ref.No.3/4/ID/2014/SDR-Vol.I
dated 02.04.2014 on the file of the first respondent and quash
the same in so far as the usage of "Authenticated Photo Voters
Slip" as identity document for casting vote is concerned.

For Petitioner : Mr.Shanmugasundaram
Senior Counsel
for
M/s.G.Devarajan

For Respondents: Mr.Niranjana Rajagopal
for
M/s.G.R.Associates

* * * * *

O R D E R

(Order of the Court was made by M.M.Sundresh, J.)

The petitioner, which is a political party has come forward to file this writ petition challenging the impugned order dated 02.04.2014 issued by the Election Commission of India, New Delhi, by which among other things, the production of Authenticated Photo Voter Slip issued by the election machinery is sought to be adopted as an alternative photo identity document for the purpose of establishing the identity of a voter at the polling station.

2. The learned Senior Counsel appearing for the petitioner submits that what is required is the production of Electors Photo Identity Card (EPIC), while there is no difficulty in permitting the voters for production of 10 alternative photo identity documents. The production of Authenticated Photo Voter Slip issued by the election machinery might result in bogus voting. It is further submitted that the distribution of Authenticated Photo Voter Slip would be done normally through the contract labourers, who in turn might hand over the undelivered bulk voter slips to the unknown third parties. The learned Senior Counsel further submitted that the apprehension expressed by way of representation in this regard made on 18.03.2016, followed by a reminder dated 28.03.2016 is yet to be looked into by the respondents.

3. The learned counsel for the respondents submits that the notification has come into force and therefore the rigour of Article 329 of the Constitution of India would apply. It is further submitted that the decision of the Election Commission, being a constitutional authority cannot be called into question. Anyhow, the grievance of the petitioner is being looked into and appropriate reply would be given shortly. The learned counsel has also submitted that a revised instruction is said to have been issued in this regard.

4. As rightly submitted by the learned counsel for the respondents that the matter like this will have to be left to the discretion of the respondents. Admittedly, the notification has come into force. Therefore, we do not want to go into the merits of the matter, except by calling upon the respondents to give a suitable reply to the representation made by the petitioner.

5. After the order was passed, a mention was made by the learned Senior Counsel for the petitioner that the learned counsel for the respondents shown to him the subsequent communication dt. 01.04.2016, which would satisfy the grievance of the petitioner.

6. The learned counsel for the respondents has produced the communication No.464/WB-LA/2016(INSTY)/4, dated 01.04.2016, which has been addressed to all the Chief Electoral Officers of four States (West Bengal, Assam, Tamil Nadu, Kerala) and the Union Territory of Puducherry where the State elections are being held. The said communication, in fact, amends sub-para (1) of the Election Commission of India's instruction dated 21.03.2014, which is extracted hereunder:-

"(1) All undistributed photo voter slips shall be returned by the BLO to the concerned ERO who shall keep the same in the sealed cover after making an alphabetical list of undistributed photo voter slips in respect of each part/polling station. Two copies of such alphabetical lists shall be handed over to the RO of the concerned constituency while sealed cover of undistributed photo voter slips shall remain in safe custody with the ERO. There shall be no further distribution of photo voter slips after the same are returned to ERO.

2. I am also to state that sub paras (n) and (o) the above said letter have been omitted. Please inform all concerned including candidate, political parties and ECI Observers and ensure compliance urgently."

7. The learned Senior Counsel for the petitioner submitted that the writ petition may be disposed of by recording the said communication dt. 01.04.2016.

8. The writ petition is disposed of accordingly by recording the communication dated 01.04.2016 referred above. No costs. Consequently, WMP.Nos.12963 and 12964 of 2016 are closed.
bbr

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Chief Election Commissioner,
Election Commission of India,
Nirvachan Sadan,
Asoka Road, New Delhi - 110 001.

2.The Chief Electoral Officer, Tamil Nadu,
Public (Elections) Department,
Fort St. George, Secretariat,
Chennai - 600 009.

+ 2 ccs to Mr.G.Deva Rajan, Advocate, S.R.No.25083

+ 1 cc to M/s.G.R.Associates, Advocate, S.R.No.25318

+ 1 cc to The Government Pleader, S.R.No.24924

KR/26/4/2016

W.P.No.14826 of 2016



WEB COPY