

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.01.2016

Coram:

The Honourable Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE  
and  
The Honourable Mrs.Justice PUSHPA SATHYANARAYANA

W.P.No.21509 of 2015

Y.A.Nathan

.. Petitioner

Versus

1.The Government of Tamil Nadu  
represented by the Secretary,  
Home Department,  
St.George Fort, Chennai 600 009.

2.The Secretary  
Municipal Administration  
and Water Supply (Election) Department,  
Chennai.

3.The Principal Secretary and Commissioner  
Corporation of Chennai, Rippon Building,  
E.V.R.High Road, Chennai 600 003.

4.The State Election Commissioner,  
Election Commission of Tamil Nadu,  
Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issue of a writ of Certiorarified Mandamus, to call for the records from the respondents pertaining to the impugned notifications No.315 dated 08.09.2011 issued by the 3<sup>rd</sup> respondent and its consequential order, C.I.D.C.No.A1/548/2015 dated 03.06.2015 and quash the same and consequently direct the 3<sup>rd</sup> respondent to provide proper and legitimate allotment of wards contemplated the Article 243-T of the Constitution of India r/w Section 3 and 45 of the Madras City Municipal Corporation Act, 1919.

For Petitioner :::Mr.P.Vijendran

For Respondents:::Mr.S.T.S.Murthy

Government Pleader for R.1 and R.2

Mr.K.Soundararajan for R.3

O R D E R

(The Order of the Court was made by The Hon'ble The Chief Justice)

The petitioner has filed the present writ petition under Article 226 of the Constitution of India alleging that the legitimate rights of the Scheduled Caste and Scheduled Tribes Community have been impaired qua their representation in the elected Corporation of Chennai as Councillors on account of inadequate number of seats reserved.

2. The case of the petitioner is that prior to 2011, there were 155 wards, out of which 26 seats were allotted to the Scheduled Caste community. G.O.Ms.No.97 dated 19.07.2011 was issued qua delimitation of the Chennai Corporation wards, whereby the total number of wards was increased from 155 to 200. The grievance is that though there were 26 seats reserved out of 155 wards, the number of seats continue to be the same.

3. The petitioner had earlier filed W.P.No.21627 of 2012 arising from this grievance, which was disposed of on 24.02.2015, directing the respondents to dispose of the representation. The decision in respect of the same is assailed in the present writ petition.

4. We have heard the learned counsel for the parties and it is quite apparent that the very premise on which this writ petition is placed is not factually correct. This is so as prior to 2011, 26 seats were not reserved, but only 21 seats were reserved. It is only after the increase in the number of seats that now, 26 seats are reserved. The calculation in this behalf has been explained in the counter affidavit as under:

'C).The petitioner has misconceived the averments. The petitioner's allegation that the seats reserved for SC/ST/Women was 26 only during 2001 and 2011 is totally false. The abstract of reservation is submitted as follows:

| Sl.N<br>o. | Abstract of<br>Reservation   | No. of Wards<br>reserved before<br>delimitation (155)<br>(As per Tamil Nadu<br>Government Gazette<br>Extraordinary<br>Notification<br>No.245, dated<br>11.09.2006 | No.of wards<br>reserved after<br>delimitation (200)<br>(As per Tamil Nadu<br>Government Gazette<br>Extraordinary<br>Notification<br>No.315, dated<br>08.09.2011. |
|------------|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.         | Scheduled Caste<br>(General) | 14                                                                                                                                                                | 17                                                                                                                                                               |

| Sl.No. | Abstract of Reservation | No. of Wards reserved before delimitation (155)<br>(As per Tamil Nadu Government Gazette Extraordinary Notification No.245, dated 11.09.2006) | No. of wards reserved after delimitation (200)<br>(As per Tamil Nadu Government Gazette Extraordinary Notification No.315, dated 08.09.2011.) |
|--------|-------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| 2.     | Scheduled Caste (Women) | 7                                                                                                                                             | 9                                                                                                                                             |
| 3.     | Women (General)         | 45                                                                                                                                            | 58                                                                                                                                            |
|        | Total                   | ---<br>58<br>---                                                                                                                              | ---<br>84<br>---                                                                                                                              |

D.) The averments made herein are vehemently denied. The petitioner has sought to raise allegations even without knowing the facts fully and understanding the contentions. It is also submitted that the Census enumeration started only during 2011 and Census population was declared only during May, 2013.

As such, the Census figures 2001 had to be taken into account as declared statistical data. The official term of the ward members elected in the 2011 ordinary election for Corporation. Council will end in the month October, 2016. In the month of October, 2016 fresh election will be held for 200 wards.

As per Constitution Amendment Act, 1992, members have to be elected and filled in by direct election. The reservation for SC/ST should be made in proportion to their percentage share in the total population of this, one-third of the seats should be allotted to SC (Women).

SC/ST Population in total Population  
: 13.18%  $200 \times 13.18 = 26.36$

100

So, 26 seats have to be reserved for SC/ST  
In this 26 seats,  $1/3^{\text{rd}}$  of the seats have to be reserved for SC (Women)

:  $26 = 9$

So, 9 seats being the 1/3<sup>rd</sup> of the seats allotted to SC/ST should be reserved for SC(Women)

Not less than 1/3<sup>rd</sup> of the 200 wards (including 9 wards reserved for SC(Women) should be allotted to Women (General) : 200 = 67

3 —

So 67 wards (Including 9 wards reserved for SC (women) have been allotted for women (General)

|                                                                                                                                                 |           |
|-------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| Total No. of Wards                                                                                                                              | 200 wards |
| Total No. of Wards allotted for Women = 67. This includes 9 wards reserved for SC(Women), So 67 - 9 = 58 wards was reserved for Women (General) | 58 wards  |
| Total No. of wards reserved for SC/ST = 26. In this, 1/3 <sup>rd</sup> of the wards should be reserved for SC (Women)                           | 9 wards   |
| Total No. of wards allotted to SC (General) is 26 (-) 9                                                                                         | 17 wards  |
| Rest of the General wards                                                                                                                       | 118 wards |
| Total                                                                                                                                           | 200 wards |

5. The aforesaid also shows that second limb of the controversy arises from the fact that it is the 2001 census which has been taken into account and not the 2011 census, as it is sought to be urged by the petitioner.

6. This is stated to be so as the results of the census of 2011 were made available only in May, 2013, while the exercise in question was undertaken in 2011, at which stage the census figures were not available.

7. In view of the aforesaid, we find no fault with the impugned order. **"We may note the submission of the learned counsel for the respondents that for the subsequent election to be now held, the census figures of 2011 would be taken into account".**



The writ petition stands accordingly dismissed. No costs.

Sd/-  
Assistant Registrar(CS II)

**Corrected as per order  
dated 08.02.2016 made  
in WMP 3983/2016.  
Sd/-  
Assistant Registrar(CS II)  
18.02.2016**

//True Copy//

Sub Assistant Registrar

ksr  
To

1.The Secretary, Home Department,  
St.George Fort, Chennai 600 009.

2.The Secretary,  
Municipal Administration,  
and Water Supply (Election) Department,  
Chennai.

3.The Principal Secretary and Commissioner  
Corporation of Chennai, Rippon Building,  
E.V.R.High Road, Chennai 600 003.

4.The State Election Commissioner,  
Election Commission of Tamil Nadu,  
Chennai.

To be substituted  
to the order already  
despatched on  
04.02.2016.

+1 cc to Mr.P.Vijendran, Advocate, sr.418  
+1 cc to Government Pleader, sr.8253  
+1 cc to Mr.K. Soundarajan, Advocate, S.R.No.688

VGI (CO)  
EU(19/01/2016)  
kra 19.02.2016

W.P.No.21509 of 2015