

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.05.2016

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THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

AND

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P. No.18306 of 2016 &
W.M.P.Nos.16013 of 2016

K. Thirumavalavan ... Petitioner

Vs

1. The Chief Election Commissioner of India,
Government of India, Nirvachan Sadan,
New Delhi.

2.The Chief Election Commissioner,
State of Tamil Nadu,
Chennai.

3.The District Election Officer,
Ariyalur District,
Ariyalur.

4.The Returning Officer,
No.149, Ariyalur Assembly Constituency,
Ariyalur District.

5.S.Rajendran,
Candidate AIADMK,
No.149, Ariyalur Assembly Constituency,
Ariyalur District. ... Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents 1 to 4 to stop counting of the votes in respect of No.149 Ariyalur Assembly Constituency and disqualify the candidature of the fifth respondent herein pursuant to the Complaint Registration Number (CRN) 27741/2016 MS, dated 17.05.2016.

For Petitioner : Mr. V. Lakshminarayan

For Respondents : Mr. G.Rajagoplan
Additional Solicitor General of India
Asst. by Mr.Niranjan Rajagopal
for G.A.Associates for R1 to R4

ORDER

(The order was made by K.KALYANASUNDARAM. J.,
and
D.KRISHNAKUMAR. J.,)

The prayer in the writ petition is to issue a Writ of Mandamus, directing the respondents 1 to 4 to stop counting of the votes in respect of No.149 Ariyalur Assembly Constituency and disqualify the candidature of the fifth respondent, pursuant to the Complaint Registration Number (CRN) 27741/2016 MS, dated 17.05.2016.

2. The petitioner would claim that he is a permanent resident of Ariyalur and also a contesting candidate in No.149 Ariyalur Assembly Constituency on behalf of Pattali Makkal Katchi. The 5th respondent is contesting on behalf of AIADMK political party.

3. The petitioner would allege that due to violation of Model Code of Conduct including distribution of money to the voters, the election to Aravakuruchi Assembly Constituency in Karur District and Thanjavur Assembly Constituency in Tanjor District have been postponed. It is further alleged that the 5th respondent had distributed money to the voters as bribe and several cases were registered against him. As the 5th respondent had violated the Model Code of Conduct, the petitioner gave a representation to the respondents 2 to 4 to disqualify the candidature of the 5th respondent in Ariyalur Assembly Constituency and stop counting of the votes scheduled to be held on 19.05.2016. Since, no order was passed he has come with the present writ petition.

4. Mr. V. Lakshminarayan, learned counsel for the petitioner would submit that already criminal cases have been registered against the 5th respondent and separate complaint was also given by the petitioner and therefore to find out the

illegalities committed by the 5th respondent, a Committee has to be appointed to enquire into the complaint to enable the petitioner to take further action against the 5th respondent. It is further contended that the respondents 1 to 4 can also take further action based on the report of the Committee.

4. Heard Mr. V. Lakshminarayan, learned counsel for the petitioner and Mr. G. Rajagopalan, learned Additional Solicitor General of India for the respondents and perused the materials.

5. Per contra, Mr. G. Rajagopalan, learned Additional Solicitor General of India would submit that counting for Ariyalur Assembly Constituencies was already over and results have also been declared. If the petitioner is having any grievance against the 5th respondent, it is open to the petitioner to approach the appropriate forum for getting his remedy.

6. Considering the above submission, this court is of the view that the petitioner is not entitled for any relief. Hence, the writ petition is dismissed. No order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Vacation Officer.

/true copy/

Sub Asst. Registrar.

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To

1. The Chief Election Commissioner of India,
Government of India, Nirvachan Sadan,
New Delhi.

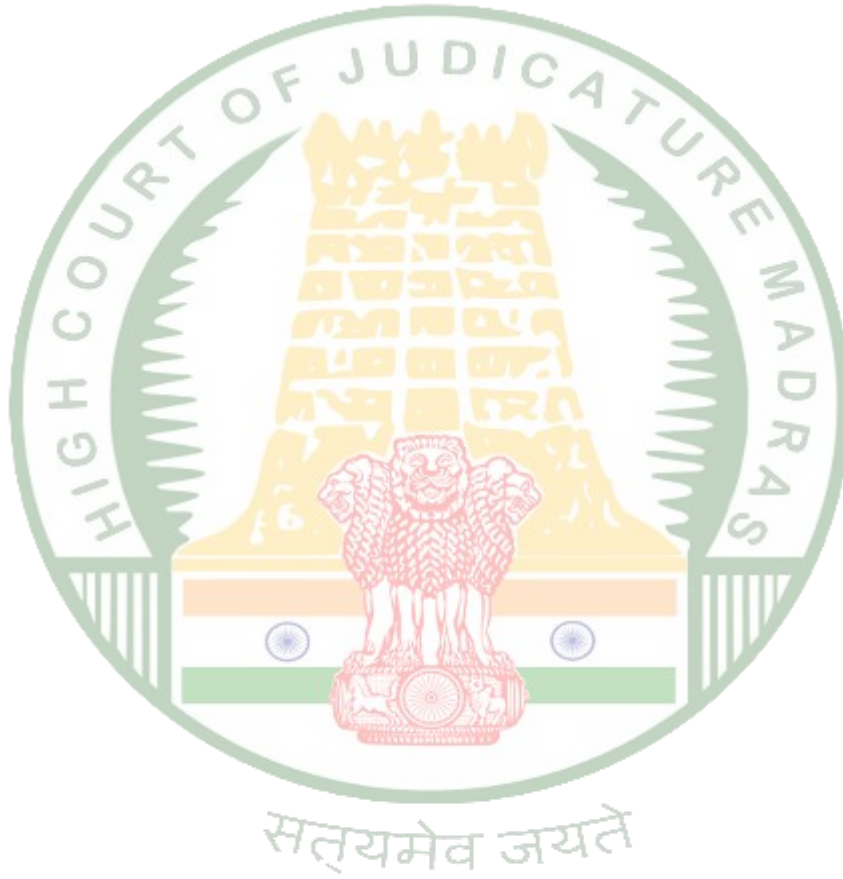
2. The Chief Election Commissioner,
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