

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.05.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WP.No.18317 of 2016

WMP.Nos.16024 and 16025 of 2016

Dravida Munnetra Kazhagam represented  
by its Organization Secretary, R.S.Bharathi,  
DMK Head Quarters, ' Anna Arivalayam',  
367 & 369, Anna Salai, Chennai-600 018 [Petitioner]

Vs

1. The Election Commission of India, represented  
by the Chief Election Commissioner,  
Nirvachan Sadan, Ashoka Road, New Delhi - 110 001
2. The Chief Electoral Officer,  
Tamil Nadu, Public (Elections)  
Department, Fort St.George,  
Secretariat, Chennai-600 009 [Respondents]

Prayer:- This Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned notification dated 20.05.2016, issued by the 1st Respondent, in respect of General Elections to No.134, Aravakkurichi and No.174, Thanjavur Assembly Constituencies and to quash the same and consequently to direct the Respondents to conduct the General Election for the said constituencies on 23.05.2016, as per the first revised schedule, without any change.

For Petitioner : Mr.Shanmugasundaram, SC for  
Mr.R.Girirajan

For Respondents : Mr.Niranjan Rajagopalan for  
M/s.G.R.Associates

## ORDER

In this Writ Petition, the Petitioner seeks to challenge the election notification dated 20.05.2016, issued by the 1st Respondent in respect of General Elections to No.134, Aravakkurichi and No.174, Thanjavur Assembly Constituencies and to direct the Respondents to conduct the General Elections for the said constituencies on 23.05.2016, as per the first revised schedule, without any change.

2. The facts of the case, in a nutshell, are that the General Election to the Tamil Nadu State Assembly for all the 234 Seats was scheduled on 16.05.2016. Due to certain allegations of distribution of money to the voters and various irregularities, by the revised notification dated 14.05.2016, the General Elections to No.134, Aravakkurichi and No.174, Thanjavur Assembly Constituencies were rescheduled to be held on 23.05.2016. On 19.05.2016, counting was over and it was declared that AIADMK Party got 134 Seats and the Petitioner Party got 98 Seats. While so, again by the revised impugned notification, dated 20.5.2016, it was decided to hold the General Elections to the said two Constituencies on 13.06.2016. Hence, this Writ Petition has been filed with the prayer, as stated above.

3. When this Court pointed out that the prayer in this Writ Petition to quash the impugned election notification normally cannot be questioned under Article 226 of the Constitution of India, as has been held by the Honourable Supreme Court in the decisions reported in **AIR 1952 SC 64 (N.P.Ponnuswami Vs. The Returning Officer, Namakkal)** and **2000 8 SCC 216 (Election Commission of India Vs. Ashok Kumar)**, the learned senior counsel for the Petitioner confined his argument to the limited extent of directing the Respondents to consider and dispose of the representations of the Petitioner dated 20.05.2016 and 21.05.2016 for the following reasons:-

1. The month of Ramzan will start on 06.06.2016, which would continue till 05.07.2016. During the said period, due to fasting, Muslims, who are about 20% of the total voters in the said Constituencies, would not be able to stand in the queue and further, Muslim women would not come out of home, thereby affecting their voting rights.

2. The Rajya Sabha Election has been scheduled to be commenced from 24.05.2016, for which the last date for filing nomination is fixed as 31.05.2016.

4. On the other hand, the learned counsel for the Respondents submitted that the date indicated in the notification is not conclusive and it can be confirmed or it may also vary and that it

is for the Election Commission to decide and fix the date, according to the circumstances, after considering the objections received from the candidates concerned.

5. This court considered the rival submissions of the learned counsel on either side.

6. Since the Election Commission invited objections, the same has to be considered without causing any undue delay. Therefore, without going into the merits of the submissions of the learned counsel on either side, the Election Commission is directed to intimate to all the contesting candidates of the said two Constituencies to submit their objections, if any and decide the same, as expeditiously as possible, preferably before 27.05.2016 and intimate the outcome of the same to all the respective candidates forthwith and act thereupon thereafter.

7. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected MPs are closed.

sd/-

Assistant Registrar (CS II)

// True Copy//

Sub Assistant Registrar

To

1. The Election Commission of India, represented by the Chief Election Commissioner, Nirvachan Sadan, Ashoka Road, New Delhi - 110 001
2. The Chief Electoral Officer, Tamil Nadu, Public (Elections) Department, Fort St. George, Secretariat, Chennai-600 009

+2cc to MR.G.R.ASSOCIATES SR.No.28691

+2 cc to MR.R.GIRIRAJAN, Advocate SR.No.28692

cnr (CO)  
PKP (21/05/2016)

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