

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2016

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.30953 of 2015 &
M.P.No.1 of 2015

T.Vijaya Rajan

[PETITIONER]

Vs

- 1 The Collector
District Collectorate
Coimbatore
- 2 The Commissioner
Municipality, Valparai.
- 3 The Regional Director
Municipality Administration Regional Office
Tiruppur Municipality, Tiruppur District.
- 4 Mayil Ganesan
District Municipality Vice Chairman
Co-operative Colony
Nadumalai Road, Valparai P.O & TK
Coimbatore 642 127.

[RESPONDENTS]

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in connection with the order passed by him in the proceedings Na. Ka. No.3701/2015/K01 dt 2.7.2015 and to remove the 4th respondent from the post of Vice Chairman - Valparai Municipality as he has admittedly suffered a disqualification and can no longer hold the post under Section 50 (1)(d) of The Tamil nadu District Municipalities Act.

For Petitioner : Mr.P.V.Balasubramaniam

For Respondents :Mr.R.Vijayakumar -R1 to R3
Addl.Govt. Pleader
Mr.S.Gunasekaran - R4
Government Advocate

O R D E R

Heard Mr.P.V.Balasubramaniam, learned Counsel appearing for the petitioner, Mr.R.Vijayakumar, learned Additional Government Pleader accepting notice for the respondents 1 to 3 and Mr.S.Gunasekaran, learned Government Advocate accepting notice on behalf of fourth respondents and with their consent the Writ Petition is taken up for final disposal.

2.The petitioner is before this Court for the second time for the same grievance. Earlier the petitioner filed a Writ Petition in W.P.No.13633 of 2015, for issuance of a writ of mandamus to direct the official respondents to remove the fourth respondent herein from the post of Vice Chairman, Valparai Municipality, on the ground that he has suffered disqualification under section 50(1)(d) of the Tamil Nadu District Municipalities Act, 1920.

3.The petitioner claiming to be a resident of the Valparai Municipality and a registered Contractor of the Municipality, contends that the fourth respondent herein has suffered a disqualification from holding the post of Vice Chairman of the Municipality. The allegation is that the tenders were awarded to one Jayaraman and Uma Maheswari who are the brother and sister-in-law of the fourth respondent. Since the representation given by the petitioner was not considered, this Court directed the first respondent to consider the representation and pass orders on merits and in accordance with law.

4.Referring to the above order passed by this Court dated 30.04.2015, the impugned order has been passed. On a bare perusal of the impugned order, it is evidently clear that no enquiry is said to have been conducted and there is no definite findings recorded as to whether there is any disqualification has been suffered by the fourth respondent or not. Further more, the fourth respondent does not deny the fact that the tenders have been awarded to one Jayaraman and Uma Maheshwari, who are stated to be the brother and sister-in-law of the fourth respondent.

5.The learned counsel appearing for the fourth respondent submitted that certain forged and fraudulently created documents have been relied on only with a view to harass the fourth respondent. The learned counsel on instructions further submitted that the reply which has been referred to in page No.4 of the typed set of papers dated 30.01.2011, furnished under the

Right to Information Act, is a created documents.

6.However, the aforesaid contentions are denied by the learned counsel for the petitioner and submitted that the same reply was given subsequently also on 09.05.2012.

7.If that be the case, those points should also be considered while enquiring into the matter.

8.In the result, the Writ Petition is allowed and the impugned order is set aside and the matter is remanded to the first respondent for fresh consideration, who shall enquire into the matter, after notice to the petitioner as well as the fourth respondent and pass appropriate orders on merit and in accordance with law, within a period of three months from the date of receipt of a copy of this order. No costs.

-s/d-

Assistant Registrar(CSV)

True Copy

Sub-Assistant Registrar

rpa

To

1 The Collector
District Collector
Coimbatore

2 The Commissioner
Municipality, Valparai.

3 The Regional Director
Municipality Administration Regional Office
Tiruppur Municipality, Tiruppur District.

+1 cc to the Government Pleader, High Court, Madras
sr.3270

+1 cc to M/S.BFS Legal, Advocate sr.3585

+1 cc to M/s.S.Gunasekaran Advocate sr.3262

W.P. No.30953 of 2015

ppa(co)
aa04/02/2016