

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P. No.36008 of 2016

and

WMP.No.30955 of 2016

S.Parthiban

.. Petitioner

-vs-

- 1.The Chief Election Commissioner,
Local Body Election Commission,
Head Office at No.208/2, Jawarlal Nehru Road,
(100 Feet Road), Vadapalani,
Chennai-106.
- 2.The Secretary to Government,
Municipal Administration and
Water Supply Department (Election),
Secretariat, Rajaji Salai,
Chennai-9.
- 3.The District Collector,
Chennai District,
Chennai.
- 4.The District Collector,
Kancheepuram District,
Kancheepuram.
- 5.The District Collector,
Thiruvallur District,
Thiruvallur.
- 6.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai-600 003.
- 7.The Council-Secretary,
Corporation of Chennai,
Rippon Building,
Chennai-600 003.
- 8.The Executive Engineer,
Corporation of Chennai,
Zone-VII, Ambattur,
Chennai-600 053.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the 6th respondent to take necessary action by issuing suitable directions to the entire Zones in the Corporation of Chennai to implement the provision of Sec.53(1)(i) of the Chennai City Municipal Corporation, 1919 as against the Counselors who are all not attending the Council Meeting for three consecutive months in the respective Council Meetings.

For Petitioner : Mr.A.Ilayaperumal

For Respondents : Mr.M.K.Subramanian
Govt. Pleader for R2 to R5

Mr.K.Soundararajan for R6 to R8

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O R D E R

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

The petitioner seeks to express concern on account of the Councillors not attending the meetings, which in his submission, incurs disqualification under Section 53(1)(i) of the Chennai City Municipal Corporation Act, 1919, which reads as under:-

"53.Disqualification of councillors.- (1)
Subject to the provisions of Section 54, (a councillor or a person referred to in (clauses (b) or (c) of sub-section (2) of section 5) shall cease to hold office as such, if he -
(a) to (hh)
(i) fails to attend the meetings of the council for a period of three consecutive months beginning from the date of the commencement of his term of office or of the last meeting, he attended, as the case may be."

2. The learned counsel appearing for the Corporation submits that he has received instruction that no Councillor has fallen foul of this provision and thus, there is no question of disqualification of the Councillors as prayed in the petition. He submits that the Councillors may have not attended certain Ward meetings, but the provision reads only meetings of the Council.

3. The learned counsel appearing for the Corporation submits that the term of the Council is also coming to an end on 24.10.2010.

4. It is trite to say that the very concept of local self-governance requires active participation of the Councillors, whether it be at Ward level or Council level. Non-participation in the meetings definitely affects the local governance. However, disqualification is only in case of the Council meeting not being attended to and thus, though the petitioner may have some grievance of the elected representatives not taking active participation in the decision making process, they may not strictly incur disqualification in terms of the provision aforesaid.

5. The writ petition, accordingly, stands disposed of. No costs. Consequently, W.M.P.No.30955 of 2016 is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

- 1.The Chief Election Commissioner,
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(100 Feet Road), Vadapalani,
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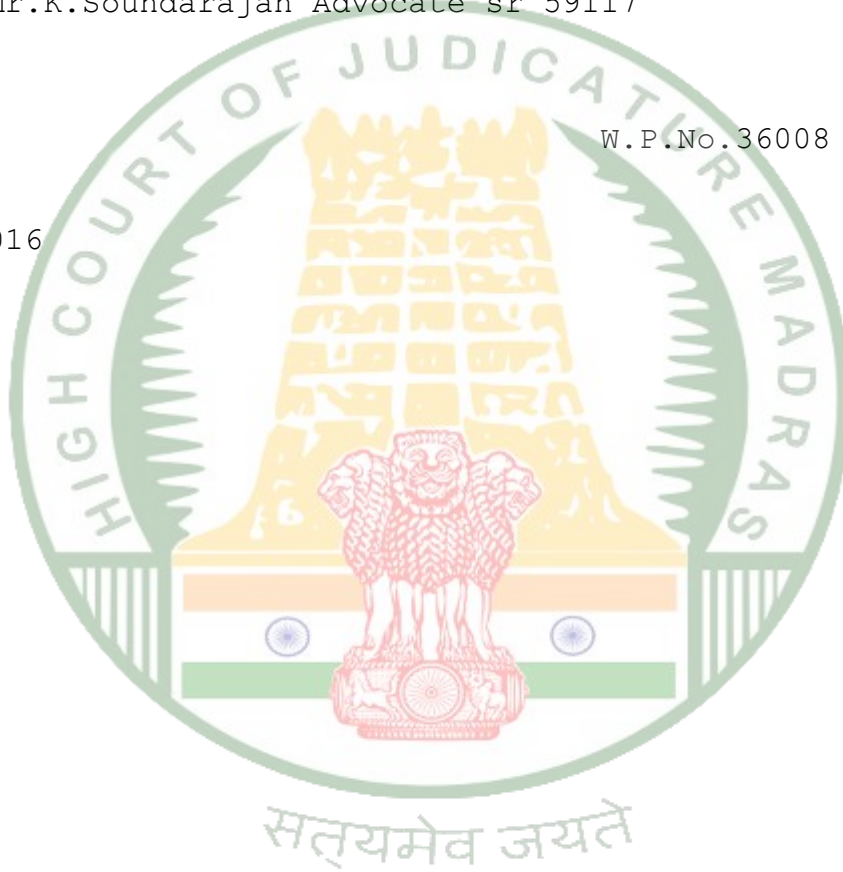
+1 cc to M/s.A.Ilayaperumal and M.Pachiyappan counsel for the
Petitioner sr 58417

+1 cc to the government Pleader sr 58526

+1 cc to Mr.K.Soundarajan Advocate sr 59117

W.P.No.36008 of 2016

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