

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2016

CORAM

The HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND

The HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.37467 of 2016

Baskar

.. Petitioner

Vs

1. The Chief Election Commissioner
Election Commission of India
Nirvachan Sadan, Ashoka Road
New Delhi - 110 001.
2. The Chief Electoral Officer and
Principal Secretary to Government
Public (Elections) Department
Secretariat, Fort St. George
Chennai - 600 009.
3. The Tamilnadu State Election Commissioner
Tamilnadu State Election Commission
No.208/2, Jawaharlal Nehru Road
Opp: to CMPBT, Arumbakkam
Chennai - 600 106.
4. The Deputy Commissioner of Police
O/o. Commissioner of Police Campus
Central Crime Branch, Vepery
Chennai.
5. The Assistant Commissioner of Police
O/o. Commissioner of Police Campus
Job Racketing - CCB
Vepery, Chennai.
6. Senthil Balaji
7. The General Secretary
O/o. Office Secretary
AIADMK Head Quarters
226, Avvai Shanmugam Salai
Azad Nagar, Royapettah
Chennai - 600 014.

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of Mandamus to direct respondents 1 to 5 to give suitable instructions to the officials concerned to reject the nomination of the sixth respondent in the event of submitting his nomination in the by-elections to Tamil Nadu State Assembly to the constituency of Aravakurichi.

For Petitioner : M/S.M.Gnanasekar

For Respondents : Mr.C.Manishankar
Addl. Advocate General
assisted by
Mr.M.K.Subramanian
Government Pleader
for respondents 4 and 5

Mr.Niranjan Rajagopalan
for 1st respondent

ORDER

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

The petitioner seeks a direction against the first five respondents to reject the nomination of the sixth respondent in the event of his submitting a nomination for the by-election to the Tamil Nadu State Assembly in respect of the constituency of Aravakurichi.

2. The case of the petitioner is predicated on cleansing of the electoral process by which persons facing criminal cases should not be nominated by the recognized parties or should not be permitted to contest the elections. It appears that the allegation against the sixth respondent is in respect of two FIRs lodged, out of which one has been quashed at Madurai. In respect of the other FIR, in CrI.O.P.No.7503 of 2016, vide order dated 20.6.2016, the learned Single Judge directed the Assistant Commissioner of Police, Central Crime Branch to take over the investigation in Crime No.441/2015 with monitoring by the Deputy Commissioner of Police, Central Crime Branch. It is the grievance of the petitioner that no progress is made in this behalf and on the other hand, the sixth respondent may contest the elections.

3. We are of the view that insofar as the electoral process is concerned, no interference can be caused merely because a FIR

is registered against the person. This is not the law of the land as it stands today, as neither the final report has been filed, nor charges framed, nor there is any conviction.

4. The learned counsel for the petitioner faced with the aforesaid position states that at least the investigation directed by the learned Single Judge vide order dated 20.6.2016 should conclude and the petitioner, amongst others, has agreed to become approver.

5. We are, thus, not inclined to grant the relief as prayed for by the petitioner under Article 226 of the Constitution of India, but feel that we may see the progress of the investigation.

6. Let the progress report be filed by the Investigative Agency in a sealed cover in the Court on the next date.

7. The writ petition is dismissed. No costs.

8. List for compliance on 7.11.2016.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To:

1. The Chief Election Commissioner
Election Commission of India
Nirvachan Sadan, Ashoka Road
New Delhi - 110 001.
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Copy to

The General Secretary
O/o. Office Secretary
AIADMK Head Quarters
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Azad Nagar, Royapettah
Chennai - 600 014.

+1cc to M/S.R.Thirumoorthy, Advocate Sr.61316
+1cc to the Government Pleader Sr.61607

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srg 07/11/2016



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