

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 7.11.2016

CORAM

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

AND

The HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.38562 of 2016

Traffic Dr. Ramaswamy Vs. Petitioner

1. The Secretary
Governor of Tamil Nadu
Raj Bhavan, Sardar Patel Road
Guindy, Chennai - 600 022.
2. The Chief Election Commissioner
Nirvachan Sadan, Ashoka Road
New Delhi - 110 001.
3. The Chief Electoral Officer
Fort St. George, Rajaji Salai
Secretariat, Chennai - 600 009.
4. The Secretary
Governor of Tamil Nadu - In charge
Rajaji Bhavan, Guindy, Chennai - 22.
5. The Chief Secretary
Government of Tamil Nadu
Fort St. George, Chennai - 600 009.
6. The Home Secretary
Government of Tamil Nadu
Fort St. George, Chennai - 600 009.
7. The Director General of Police
Government of Tamil Nadu
Kamarajar Salai, Mylapore
Chennai - 600 004.

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8. The Chief Election Commissioner
Nirvachan Sadan, Ashoka Road
New Delhi - 110 001.

9. The Chief Electoral Officer
Fort St. George, Rajaji Salai
Secretariat, Chennai - 600 009.

10. The Collector
Karur, Karur District
Tamil Nadu.

11. The Collector
Thanjavur
Thanjavur District.

12. The Collector
Madurai, Madurai District. ... Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of Mandamus to direct the respondents to consider the representation sent on 29.10.2016 through email, fax to the letter and save the essence of democracy of which our country can boast to be the second largest in the world but which is in question in Tamil Nadu and pass order or any other such orders as this Court deems fit and proper in the circumstances of the case and render justice of Laws (Amendment) Act, 2011 is against Article 243W of the Constitution of India and in violation of Articles 14 and 21 of the Constitution of India.

For Petitioner : Mr.K.Arvind

For Respondents : Mr.M.K.Subramanian
Government Pleader
for respondents 1, 4, 5, 6,
7, 10, 11 and 12

Mr.G.Rajagopalan
Additional Solicitor General
for respondents 2, 3, 8 & 9

ORDER

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

The petitioner is aggrieved by the alleged non examination of his representation dated 29.10.2016. The case of the petitioner is that the nominations filed in question for

purposes of allotment of symbol of the AIADMK party is through a process of affixation of thumb impression by the General Secretary of the party, who is hospitalized and may not be in a position to actually decipher what is sought to be done. It is his further case that mere declaration by doctors must not be accepted as gospel truth and must be put to the test and satisfy the general public that the democratic process is not flawed in filing crucial election papers like nominations.

2. The learned Additional Solicitor General appearing for the Election Commission has produced before us a communication dated 27.10.2016 addressed to the Chief Electoral Officer, Tamil Nadu in respect of the representation of the AIADMK regarding authentication of thumb impression of Ms.J.Jayalalithaa, General Secretary of AIADMK on Forms A and B in terms of paragraph (13) of the Symbols Order for the current elections to the legislative assembly. The Commission has specified the Medical Officer of any Government Hospital as the Officer before whom the thumb impression may be affixed in Forms A and B by her and who may attest such thumb impression. The learned counsel submits that such an attestation has been done and the nomination paper has been filed.

3. We may note that the petitioner is not a candidate in the election process, but seeks to abrogate to himself some kind of general public scrutiny merely because in various public interest litigations he has been entertained.

4. In our view, it is for the Election Commission to verify the authenticity of the papers so far as assignment of symbols is concerned, and if there are any infirmities in the election process which make the election capable of being challenged, that is a matter of election petition.

5. We have already noticed that in the present case the election symbol already stands allotted.

6. We are, thus, not inclined to interfere through a public interest litigation filed in this behalf.

The petition is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sasi



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To:

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8. The Collector
Karur, Karur District
Tamil Nadu.
9. The Collector
Thanjavur
Thanjavur District.
10. The Collector
Madurai, Madurai District.

+2cc to Mr. Traffic Dr. Ramasamy, Advocate, S.R.No.63665
+1cc to Mr.G.R. Associates, Advocate, S.R.No.
+1cc to the Government Pleader, S.R.No.63665

sm (CO)

md (14/11/2016)

W.P.No.38562 of 2016