

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2016

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P.No.42432 of 2016
and
W.M.P.No.36311 of 2016

MSK.Srinivas

[Petitioner]

Vs

- 1 The Secretary to Govt.
Rural Development and Panchayat Raj Department
Fort Saint George
Chennai-600009.
- 2 Tamil Nadu State Election Commission
Rep. by Tamil Nadu State Election Commissioner
No.208/2 Jawaharlal Nehru Road
Opp. to CMBT Arumbakkam
Chennai-600 106.
- 3 The District Election Officer/
District Collector Tiruvallur.
- 4 The Returning Officer /
Block Development Officer
Minjur Panchayat Union
Ponneri Taluk
Tiruvallur District.

[Respondents]

Prayer:

Petition under Article 226 of the Constitution of India for issue of a Writ of declaration declaring the allotment of Vallur Panchayat President seat as General Category as null and void and ultra vires the Tamil Nadu Panchayat (Reservation of seats and rotation of reserved seats) Rules 1995 and direct the

respondents to consider the petitioners representation dated 5.11.16 and reserve the Vallur Panchayat President seat to Scheduled Caste (Women) candidate.

For Petitioner : Mr.M.Muthappan

For Respondents : Mr.P.V.Selvakumar, AGP for R1 & R3
Mr.B. Kumar, Senior Counsel for
Mr.B. Nedunchezhiyan for R2
Mr.P.Karthikeyan, GA (R4)

ORDER

The petitioner has come before this Court seeking declaration declaring the allotment of Vallur Panchayat President seat as General Category as null and void and ultra vires the Tamil Nadu Panchayat (Reservation of seats and rotation of reserved seats) Rules 1995 and direct the respondents to consider the petitioner's representation dated 5.11.16 and reserve the Vallur Panchayat President seat to Scheduled Caste (Women) candidate.

2. The issue in question was already looked into by this Court in W.P. No. 33984 of 2016, wherein orders were passed on 04.10.2016 and the operative portion of the order, at paragraph No.42, reads thus:

"42. While upholding the impugned Government Orders, to maintain purity in public life, this Court moulds the relief and gives the following directions:

(i) Election Notifications dated 26.09.2016 issued for conduct of Local Body Election by the State Election Commission on 17.10.2016 and 19.10.2016 are vitiated for non-compliance of Rule 24 of the Tamil Nadu Panchayat (Elections) Rules, 1995.

(ii) The State Election Commission is directed to issue fresh notifications, conduct elections and complete the election process, as per law, at the earliest, not later than 31.12.2016.

(iii) The State Government is directed to invoke Section 261 - Transitory provision of the Tamil Nadu Panchayats Act, 1994, to administer the Local Bodies by appointment of Special Officers till the elections are held, as the present terms of the present Local Bodies are to expire soon and the same cannot be extended beyond five years.

(iv) The State Government shall amend Rule 26 of the Tamil Nadu Panchayats (Election) Rules, 1995, by insertion of a sub-rule to incorporate State Election Commission Notification bearing S.O.No. 43/2006/EG dated 01.09.2006 mandating the candidates desiring to contest to a local body, to file a separate affidavit, to furnish full and complete information, in regard to five categories, including criminal background, at the time of filing nomination, at the earliest.

(v) The State Election Commission shall follow its notification bearing S.O.No. 43/2006/EG dated 01.09.2006 by suitably and strictly informing the Election Officers to reject the nominations of candidates who fail to file affidavit, as per the above notification dated 01.09.2006.

(vi) The State Election Commission shall sensitise the public especially candidates about its notification dated 01.09.2006 requiring affidavit disclosing criminal cases against the candidate by issue of advertisements so that the voters would be informed about the details of the candidates.

(vii) The State Election Commission shall consolidate, record and data base the details provided by the candidates in the form of affidavits and upload them in its website.

(viii) The State Government and State Election Commission shall look into and decide about complaints regarding reservation, de-reservation of posts, deletion or addition of genuine eligible voters and enrolment of bogus voters, etc, before conducting the election, after issuance of fresh election notifications.

(ix) The State Election Commission shall write to recognised and registered political parties/organisations, in exercise of power under Article 243K of the Constitution of India asking them not to field/sponsor any candidate with criminal background/history for the local body election within four weeks to prevent criminalisation and hijacking of local bodies by criminal elements. "

3. Since this Court has already given directions with regard to the issues involved in the writ petition, namely, direction No.(viii), in the above extracted portion, this writ petition is also disposed of directing the State Government and the State Election Commission to look into the complaint of the petitioner and decide the matter, before the Elections and the decision taken shall be communicated to the petitioner individually. No costs. Connected W.M.P is closed.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Secretary to Govt.
Rural Development and Panchayat Raj Department
Fort Saint George
Chennai-600009.
- 2 Tamil Nadu State Election Commissioner
Tamil Nadu State Election Commission
No.208/2 Jawaharlal Nehru Road
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- 3 The District Election Officer/
District Collector Tiruvallur.
- 4 The Returning Officer /
Block Development Officer
Minjur Panchayat Union
Ponneri Taluk Tiruvallur District.

+1cc to Mr.M.Muthappan, Advocate, S.R.No. 71599

+1cc to the Government Pleader, S.R.No. 72056

W.P.No.42432 of 2016

AD (CO)
PSI (29/12/2016)



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