



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.01.2016

CORAM :

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Writ Appeal (MD) Nos.1134 & 1135 of 2015

A.Murugan

.. Appellant/Petitioner in both Appeals.

Vs.

1.The Tamilnadu State Election Commission,
rep.by its Commissioner,
No.208/2, Jawagarlal Nehru Salai,
Arumbakkam, Chennai.

2.The Secretary,
The Tamilnadu State Election Commission,
No.208/2, Jawagarlal Nehru Salai,
Arumbakkam, Chennai.

3.The District Collector/District Election Officer,
Tirunelveli District, Tirunelveli.

4.The Commissioner,
Corporation of Tirunelveli,
Tirunelveli.

5.Bhuvaneswari
Mayor, Corporation of Tirunelveli,
Tirunelveli.

... Respondents/Respondents
in both the Appeals

Writ Appeals filed under Clause 15 of Letters Patent Act against the order dated 16.09.2015 passed by this Court in WP Nos.4864 & 9597 of 2015.

Prayer in WP(MD). 4864/ 2015 :

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the letter note dated 17.03.2015 in Na.Ka. No. 7/9689/2015 on the file of the third Respondent and quash the same and consequently directing the respondents 1 to 4 to take suitable action against the 5th respondent.

Prayer in WP(MD). 9597/ 2015 :

<https://hcservices.ecourts.gov.in/hcservices/>

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Quo-Warranto to the fifth



respondent Mrs. Bhuvaneswari as to in what capacity she is holding the office of Mayor Corporation of Tirunelveli.

For Appellant : Mr.I.Abrar MD Abdullah
For RR - 1 to 3 : Mr.M.Govindan
Spl.Govt.Pleader
For R - 4 : Mr.Aayiram K.Selvakumar
For R - 5 : Mr.G.R.Swaminathan
for Mr.T.Antony Arul Raj

ORDER

(Order of the Court was made by **V.RAMASUBRAMANIAN, J.**)

The appellant has challenged the election of the fifth respondent as the Mayor of the Corporation of Tirunelveli, on the sole ground that at the time of filing of the nomination she made a false declaration in an affidavit about her marital status.

2.Heard Mr.I.Abrar MD Abdullah, learned counsel for the petitioner, Mr.M.Govindan, learned Special Government Pleader appearing for the respondents 1 to 3, Mr.Aayiram K.Selvakumar, learned counsel appearing for the fourth respondent and Mr.G.R.Swaminathan, learned counsel appearing for the fifth respondent.

3.Without getting into too many details it can be pointed out that according to the petitioner who is an elector of the town of Tirunelveli, the fifth respondent was actually married to one Krishnakumar and that even when the marriage was subsisting, she married another person by name Kanaga Rajeswaran. Therefore, the claim of the petitioner is that in the affidavit filed along with the nomination, the fifth respondent indicated the name of her husband to be Kanaga Rajeswaran.

4.Though in the main counter affidavit filed to the writ petition, the fifth respondent made only a formal denial stressing only upon the maintainability of the writ petition she has now filed an affidavit containing a categorical denial. Therefore, that is a matter which cannot be decided without any evidence. Hence, the learned Judge was right in dismissing the writ petition on the ground that election petition alone was the correct remedy in such cases. Therefore, the Writ appeals are dismissed. No costs. Connected MP(MD)Nos.1 & 1 of 2015 are closed.

Sd/-
Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar



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TO,

1.The Commissioner,
Tamilnadu State Election Commission,
No.208/2, Jawagarlal Nehru Salai,
Arumbakkam, Chennai.

2.The Secretary,
The Tamilnadu State Election Commission,
No.208/2, Jawagarlal Nehru Salai,
Arumbakkam, Chennai.

3.The District Collector/District Election Officer,
Tirunelveli District, Tirunelveli.

4.The Commissioner,
Corporation of

+1CC to Spl.Government Pleader Sr.No.5910
+1CC to Mr.I.Abrar Md Abdullah Advocate Sr.No.6483
+1CC to Mr.Aayiram K.Selvakumar Advocate Sr.No.5928
+1CC to Mr.T.Antony Arul Raj Advocate Sr.No.5904

GJM/SKS/RR/12.2.16-3p-9C

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