



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.10.2016

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P(MD) No.19070 of 2016

&

W.M.P(MD) Nos.13769 & 13770 of 2016

Krishnakumar

... Petitioner

-vs-

1. The Chief Electoral Officer,
The Tamil Nadu State Election Commission,
208/2, Jawaharlal Nehru Road, CMBT Opp.,
Arumbakkam, Chennai-106.
2. The Director of Town Panchayat,
Kuralagam, Chennai-600 108.
3. The Returning Officer (Town Panchayat Elections),
Kanniyakumari Town Panchayat,
Kanniyakumari.

... Respondents

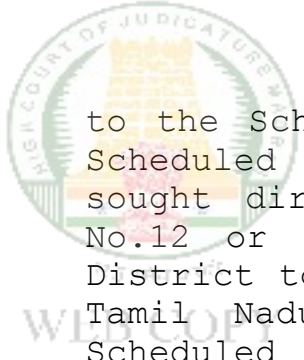
Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of Certiorari Mandamus, calling for the records pertaining to the 2nd respondent in Roc.No.12318/2016/C2 published in Tamil Nadu Gazette Extraordinary No.220 dated 18.09.2016 in respect of Kanniyakumari Town Panchayat, Kanniyakumari district, quash the same and consequently directing the respondents to reserve then declare either the Ward No.12 or 13 of the Kanniyakumari Town Panchayat, Kanniyakumari District to the Scheduled Caste or Scheduled Caste Women under the Tamil Nadu Municipal Councils (Reservation of Wards for the Scheduled Castes and the Scheduled Tribes and Co-option of Women in the Councils) Rules, 1991.

For Petitioner : Mr.RM.Arun Swaminathan

For Respondents : Mr.R.Karthikeyan
Addl. Govt. Pleader

O R D E R

The writ petition has been filed, seeking to quash the impugned order dated 18.09.2016 passed by the 2nd respondent in Roc.No.12318/2016/C2 published in Tamil Nadu Gazette Extraordinary No.220 dated 18.09.2016 in respect of Kanniyakumari Town Panchayat, Kanniyakumari district, by which Kanniyakumari Town Panchayat has been excluded from the reserved categories allotted



to the Scheduled Caste, Scheduled Caste Women, Scheduled Tribes, Scheduled Tribes Women and General Women. The petitioner also sought direction to the respondents to reserve either the Ward No.12 or 13 of the Kanniyakumari Town Panchayat, Kanniyakumari District to the Scheduled Caste or Scheduled Caste Women under the Tamil Nadu Municipal Councils (Reservation of Wards for the Scheduled Castes and the Scheduled Tribes and Co-option of Women in the Councils) Rules, 1991.

2. Heard the learned counsel for the petitioner.

3. When the matter is taken up for hearing, learned Additional Government Pleader appearing for the respondents would submit that at first blush, this petition is not maintainable under Article 226 of the Constitution of India, pursuant to the existence of Code of Conduct in the light of the judgment rendered by the Hon'ble Supreme Court in the case of **N.P.Ponnusamy vs. Returning Officer, Namakkal Constituency and others**, reported in **1952 AIR 64**, wherein it has been held as under:

".....(1) Having regard to the important functions which the legislatures have to perform in democratic countries, it has always been recognized to be a matter of first importance that elections should be concluded as early as possible according to time schedule and all controversial matters and all disputes arising out of elections should be postponed till after the elections are over, so that the election proceedings may not be unduly retarded or protracted. (2) In conformity with this principle, the scheme the election law in this country as well as in England is that no significance should be attached to anything which does not affect the "election"; and if any irregularities are committed while it is in progress and they belong to the category or class which, under the law by which elections are governed, would have the effect of vitiating the "election" and enable the person affected to call it in question, they should be brought up before a special tribunal by means of an election petition and not be made the subject of a dispute before any court while the election is in progress....."

4. In view of the above settled principles of law laid down by the Hon'ble Supreme Court, this Writ Petition is dismissed as not maintainable. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub-Assistant Registrar



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SH/EM:14.12.2016:3P/4C

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