



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.04.2016

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

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C.R.P. (MD) .Nos.1646 and 1427 of 2013 (PD)
and

M.P. ((MD) .No.2 of 2013
in

C.R.P. (MD) .No.1646 of 2013
and

M.P. (MD) Nos.1 and 1 of 2014

Chinnadurai

... Petitioner in Both C.R.Ps

Vs.

1.V.Ganesh

2.D.Chandrakumar

3.K.R.G.Sabarinathan

... Respondents in both C.R.Ps

PRAYER IN C.R.P.No.1646/2013: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 26.08.2013 passed in Election O.P.No.7 of 2011 by the II Additional District Judge, Trichy.

PRAYER IN C.R.P. (MD) .No.1427/2013: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 15.04.2013 passed in I.A.No.925 of 2012 in Election O.P.No.7 of 2011 by the II Additional District Judge, Trichy.

For Petitioner in
Both C.R.Ps.

:Mr.C.Vakeeswaran

For R1 in Both C.R.Ps.

: Mr. V.Singam

For R2 in Both C.R.Ps.

: Mr.P.Thiagarajan

For R3 in Both C.R.Ps.

: No Appearance

ORDER

Both C.R.Ps arises from and out of the order passed in Election O.P.No.7 of 2011. Therefore, both the C.R.Ps are disposed of by this common order.

<https://hcservices.courts.gov.in/hcse/vices/>
2. C.R.P. (MD) .No.1427 of 2013, has been filed against the fair and decreetal order dated 15.04.2013 passed in I.A.No.925 of 2012



in Election O.P.No.7 of 2011 by the II Additional District Judge, Trichy.

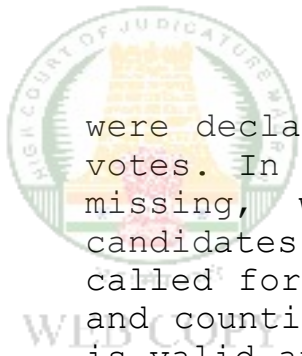
3.The first respondent filed Election O.P challenging the election of the second respondent. According to the first respondent, number of irregularities were committed, while counting votes. There are irregularities in declaring certain valid votes as invalid and declaring certain invalid votes as valid votes. Further, in the ballots, some of the symbol of contesting respondents were missing and some of the names of contesting candidates were missing. In the circumstances, the first respondent filed I.A.No.925 of 2012 for calling for the postal ballot papers pertaining to Samuthiram Village, Manapparai Taluk from the office of the District Collector, Trichy. The second respondent/successful candidate opposed the said application on the ground that the first respondent in the election petition, alleged symbol of contesting candidates were missing. Whiles, in the application, he has stated that the names of contesting candidates were missing. Therefore, prayed for dismissal.

4.The learned Judge considering the facts and materials on record held that certain irregularities are alleged by the first respondent and the same has to be verified and called for postal ballots. The said order is challenged by the petitioner, who is the second respondent in I.A and Election O.P.

5.C.R.P.(MD).No.1646 of 2013, is filed against the order dated 26.08.2013 passed in Election O.P.No.7 of 2011 by the II Additional District Judge, Trichy, ordering opening of the ballot boxes.

6.The learned counsel for the petitioner in both C.R.Ps contended that the order of the learned Judge calling for postal ballots and ballot boxes from the office of the District Collector, Trichy, is contrary to the rules. The case of the first respondent in the Election petition is that some symbols of contesting candidates were omitted in the ballot papers, while in the application filed in I.A.No.925 of 2012 alleged that the names of some contesting candidates were omitted. The learned Judge erred in allowing the application when the first respondent failed to establish his cases of irregularities in conducting the election. The learned Judge erred in ordering opening of ballot boxes and counting votes, when there is no specific application for counting votes.

7.The learned counsel for the first respondent in both C.R.Ps submitted that the first respondent has alleged that there is a discrepancy in the number of votes polled and votes counted. Secondly, the irregularities alleged by the first respondent is that valid votes in favour of the first respondent



were declared as invalid and invalid votes were declared as valid votes. In some ballot papers, the name of the some candidates are missing, while in some of the ballot papers symbol of the candidates are missing. Therefore, the learned Judge has rightly called for postal ballot papers and also opening the ballot boxes and counting the votes. Therefore, the order of the learned Judge is valid and prayed for dismissal of the Civil Revision Petition.

8.The learned counsel appearing for the second respondent adopted the argument of the learned counsel for the petitioner.

9.I have heard the learned counsel for the petitioner and the learned counsels appearing for the respondents and carefully perused the entire materials on record.

10.From the materials on record it is seen that the first respondent has challenged the election of the second respondent. The second respondent was declared as successful candidate. Considering the contention of the first respondent alleging the irregularities in ballot papers as well as number of votes found in the ballot boxes, the learned Judge has rightly allowed the application and also ordered opening of ballot boxes for counting votes polled. The petitioner has not filed any counter in I.A filed by the first respondent. Further, the second respondent, who is the successful candidate has not challenged the order of the learned Judge. In the circumstances, there is no infirmity or illegality in the order passed by the learned Judge. The learned Judge has exercised the power conferred on him in proper perspectives.

11.In the result, both the C.R.Ps are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

To
The II Additional District Judge, Trichy.

+2cc to Mr.C.Vakeeswaran, Advocate, Sr.No.20785
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JM/JGB-DP-AR-I/18.04.2016/3P-4C

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