

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2017

CORAM :

The Hon'ble Ms.INDIRA BANERJEE, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE M.SUNDAR

W.P.No.8018 of 2017

V.Anbazhagan,
Editor - Ullatchi Alasal,
No.13/9, Malliyam Narasimhan Street,
Poonamallee,
Chennai - 600 056. ... Petitioner

Vs.

- 1.Union of India,
rep by the Secretary,
Ministry of Home Affairs,
North Block,
Central Secretariat,
New Delhi-110 001.
- 2.The Secretary to Excellency the President of India,
Office of the President of India,
The Presidency Secretariat,
Rashtrapathi Bhavan,
New Delhi-110 004. .. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issue of Writ of mandamus, directing the respondents to appoint a full time Governor to the State of Tamil Nadu by applying the recommendations laid down by Sarkaria Commission.

For Petitioner : Mr.S.Kumara Devan

For Respondents: Mr.G.Rajagopalan,
Additional Solicitor General of India
assisted by
Mr.B.Rabu Manohar, SCGSC
- - - -

ORDER

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

In this writ petition, moved as a public interest litigation, the petitioner, a Journalist and a Social Activist has sought, inter alia, a writ of mandamus directing the respondents to appoint a full time Governor for the State of Tamil Nadu by applying the recommendations of the Sarkaria Commission.

2. In the writ petition, it is pleaded that on 31st August, 2011, the former Chief Minister of Andhra Pradesh Shri.K.Rosaiah was appointed Governor of Tamil Nadu and his tenure came to an end on 31st August, 2016. Thereafter, on 2nd September, 2016, the Governor of Maharashtra, Shri.K.Vidyasagar Rao, was administered oath of office as the Governor of Tamil Nadu in addition to his duties as Governor of Maharashtra.

3. In the writ petition, the petitioner has enclosed a representation made by him to the President stating that Ms.J.Jayalalitha, the duly elected Chief Minister of Tamil Nadu, was hospitalized and there were doubts with regard to the fitness of the then Chief Minister to discharge her constitutional responsibilities. The situation has now changed with the demise of Ms.J.Jayalalitha. Shri.Edappadi K.Palaniswami is now the Chief Minister of the State.

4. Article 153 of the Constitution of India provides that there shall be a Governor for each State. The proviso makes it clear that nothing in that article shall prevent the appointment of the same person as Governor for two or more States.

5. There is a Governor for the State of Tamil Nadu, who was duly administered oath of office. He is the Governor of State of Tamil Nadu as well as the State of Maharashtra. The Governor has been appointed on 31st August, 2016 to discharge the functions of the Governor of Tamil Nadu in addition to his own duties, until regular arrangements for the office of the Governor of Tamil Nadu are made by the President. However, in view of the proviso to Article 153, the interference of this Court is not called for. The appointment of a Governor is in the realm of the powers of the office of the President of India.

6. The petitioner has referred to provisions of the Constitution relating to the duties and functions of the Governor and in particular to Article 154 which provides that the executive power of the State shall be vested with the Governor and shall be exercised by him either directly or through the officers subordinate to him in accordance with the Constitution. Reference was also made to other provisions of

the Constitution such as Articles 160 and 161. In the writ petition or the documents appended thereto, there is not a whisper of how and in what manner the executive functions of the State of Tamil Nadu have been impaired by reason of appointment of Shri.K.Vidyasagar Rao, who is the Governor of the State of Maharashtra as the Governor of the State of Tamil Nadu as well.

7. Our interference is, therefore, not warranted, in view of the constitutional provision of Article 153 read with the proviso thereto.

8. The writ petition is dismissed. No costs.

-s/d-

Assistant Registrar(CSVI)

True Copy

Sub-Assistant Registrar

vvk/bbr

To

- 1.The Secretary,
Union of India,
Ministry of Home Affairs,
North Block,
Central Secretariat,
New Delhi-110 001.
- 2.The Secretary to Excellency the President of India,
Office of the President of India,
The Presidency Secretariat,
Rashtrapathi Bhavan,
New Delhi-110 004.

+1 cc to M/s.Kumaradevan Advocate sr 23370

+1 cc to M/s.B.Rabu Manohar Advocate sr 23352

W.P.No.8018 of 2017

aa20/04/2017

WEB COPY