

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2017

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH
and
THE HON'BLE Mr. JUSTICE M.SUNDAR

W.P.No.10592 of 2017
and
W.M.P.Nos.11530 and 11531 of 2017

V.Vijayakumaran .. Petitioner
Vs.

- 1.The District Election Officer cum
District Collector,
Collector Office Campus,
Thiruvannamalai - 606 604.
 - 2.The Secretary,
The Tamil Nadu Election Commission,
No.208, Jawaharlal Nehru Salai,
Opp. to Koyambedu Bus Stand,
Arumbakkam, Chennai - 106.
 - 3.The Director,
Block Development Panchayatraj,
Panagal Maligai, Saidapet,
Chennai - 18.
 - 4.The Tamil Nadu Chief Election
Officer,
Tamil Nadu Chief Election Office,
Shastri Bhavan, Chennai.
- .. Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records in respect of the Tamil Nadu Government Gazette Notification dated 21.09.2016 published in extraordinary No.226, Part IV, Section 2 for the candidates ensuring the election and to quash the particular clause "Commissioner of Oaths" mentioned in Note No.2 of the verification column in annexure I and II and the Clause No.2 of the order passed and published by the second respondent in the Tamil Nadu Government Gazette Notification dated 21.09.2016 and consequently direct the second respondent to provide only clause

in the Annexure I and II of the said Gazette Notification dated 21.09.2016 to sworn either before the Notary Public or Judicial Magistrate .

For Petitioner : Mr.PA.Kadirvel

For Respondents : Mr.B.Neduncheziyan
for R1, R2 and R4
Mr.R.Vijayakumar,
Addl. Govt. Pleader for R3

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

This writ petition has been filed by the petitioner, who is a practising lawyer, on the premise that the Gazette Notification dated 21.09.2016 which provides for a sworn affidavit of a candidate being attested by the Commissioner of Oaths cannot be accepted being contrary to the Commissioner of Oaths Rules, 1988.

2.Learned counsel appearing for the petitioner would submit that a Commissioner of Oaths has got a role to deal with the affidavits filed before the Courts alone. Therefore, he cannot be called on to sign an affidavit filed before the Election Officer.

3.We do not find any merit in the said submission. The Commissioner of Oaths Rules, 1988 do not prohibit the signing of an affidavit outside the Court by a Commissioner of Oaths. Perhaps, it can be stated that such a document signed by the Commissioner of Oaths may not have any evidentiary value unless it is proved by letting in evidence. The Election Commission is a constitutional authority. It only provides for a Commissioner to attest an affidavit of a candidate. Therefore, there is nothing wrong in requiring a candidate to have his or her affidavit attested by the Commissioner of Oaths. The Commissioner of Oaths is only classified along with other authorities. The object is only for the purpose of verification of the person who has signed the affidavit and nothing more. For the aforesaid purpose, a class of designated persons has been identified such as Magistrate First Class, Notary Public or a Commissioner of Oaths. Therefore, the object of signing the affidavit is only with respect to the candidate, who wants to contest in the election and nothing more.

4.In such view of the matter, we do not find any reason to entertain the writ petition. Accordingly, the writ petition

stands dismissed. No costs. Consequently, connected
miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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Shastri Bhavan, Chennai.

+1cc to Mr.Pa.Kadirvel, Advocate, S.R.No.76714
+1cc to the Government Pleader, S.R.No.76934

W.P.No.10592 of 2017

GN(20/11/2017)

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