

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2017

CORAM

The HON'BLE MS.INDIRA BANERJEE, CHIEF JUSTICE
AND

The HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.24912 of 2017
and WMP.Nos.26298 & 26299 of 2017

M.Sridhar

.. Petitioner

VS.

1.The Election Commission of India,
rep. by the Chief Election Commissioner,
Nirvachan Sadan, Ashoka Road,
New Delhi – 110 001.

2.The Tamil Nadu State Election Commission,
rep. by the Election Commissioner,
Secretariat,
Fort St. George,
Chennai – 600 009.

3.The Chief Electoral Officer,
Vellore District.

4.The Delimitation Commission,
rep. by its Chairperson,
New Delhi – 100 001.

.. Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution

of India for issuance of a writ of mandamus directing the respondents to de-reserve the Arakkonam SC constituency of the Tamil Nadu State Legislative Assembly to General category for the election to be held in the year 2021 and for the future elections as may be notified by the first respondent for the State of Tamil Nadu.

For Petitioner : Mr.R.Thiagarajan

For Respondents : Mr.Niranjan Rajagopal

ORDER

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

This writ petition has been filed as a public interest litigation.

2. The prayer in the writ petition is to mandamus the respondents to de-reserve Arakkonam Legislative Assembly Constituency.

3. There are four respondents before us and they are -
(1) Election Commission of India; (2) Tamil Nadu State Election Commission; (3) Chief Electoral Officer, Vellore District and (4) Delimitation Commission, New Delhi.

4. Mr.Niranjan Rajagopal, learned Standing Counsel

appearing on behalf of the Election Commission of India and the Tamil Nadu State Election Commission is before us.

5. A preliminary objection to the maintainability of the writ petition is taken. It is urged by Mr.Niranjan Rajagopal, learned Standing Counsel that Article 329(a) of the Constitution of India is a constitutional bar, owing to which, such a writ petition should not be entertained by this Court.

6. We deem it appropriate to extract Article 329(a) of the Constitution of India, which reads as follows:

"Article 329 – Bar to interference by courts in electoral matters - Notwithstanding anything in this Constitution- (a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under Article 327 or Article 328, shall not be called in question in any Court."

7. We are also informed that respondent No.4/Delimitation

(4)

Commission is a one time statutory body, it was last constituted in 2002 and that it has worked itself out, as delimitation exercise was completed in 2006 and that a Delimitation Commission can come into existence only when a statute is next made.

8. In the light of the aforesaid position and in the light of the constitutional bar under Article 329(a) of the Constitution of India extracted supra, we are not inclined to entertain this writ petition.

9. The writ petition is dismissed. No costs. Consequently, WMP.Nos.26298 & 26299 of 2017 are closed.

(I.B., C.J.) (M.S., J.)
09.10.2017

Index : No
Internet : Yes
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To:

(5)

- 1.The Chief Election Commissioner,
Election Commission of India,
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New Delhi – 110 001.
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(6)

THE HON'BLE CHIEF JUSTICE
AND
M.SUNDAR, J.

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