

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Thursday, the Twenty Ninth day of June Two Thousand Seventeen

PRESENT

THE HON'BLE MS.INDIRA BANERJEE, THE CHIEF JUSTICE

and

THE HON`BLE MRS JUSTICE V.BHAVANI SUBBAROYAN

WMP No.16561 of 2017

IN WP.4390/2017

1 M.K.STALIN [PETITIONER]
LEADER OF THE OPPOSITION PARTY,
TAMILNADU LEGISLATIVE
ASSEMBLY, FORT ST. GEORGE, CHENNAI

Vs

1 THE SECRETARY [RESPONDENT]
GOVERNORS SECRETARIAT, RAJ BHAVAN, CHENNAI

2 THE SPEAKER
TAMILNADU LEGISLATIVE ASSEMBLY, FORT ST.
GEORGE, CHENNAI-9

3 THE SECRETARY
TAMILNADU LEGISLATIVE ASSEMBLY, FORT ST.
GEORGE, CHENNAI-9

4 THE SECRETARY TO GOVERNMENT
HOME MINISTRY, UNION OF INDIA, NEW DELHI

5 MR.EDAPPADI K.PALANISAMY
CHIEF MINISTER, STATE OF TAMILNADU,
SECRETARIAT, FORT ST. GEORGE, CHENNAI-9

6 MR.O.PANNEERSELVAM
FORMER CHIEF MINISTER/MEMBER OF LEGISLATIVE
ASSEMBLY, SECRETARIAT, FORT ST. GEORGE,
CHENNAI-9

7 MR.P.DHANAPAL
SPEAKER, TAMILNADU LEGISLATIVE ASSEMBLY,
FORT ST. GEORGE, CHENNAI-9

8 JOINT DIRECTOR AND HEAD OF
ZONE, CENTRAL BUREAU OF INVESTIGATION (CBI),
III FLOOR, EVK SAMPATH BUILDING, COLLEGE
ROAD, CHENNAI-600 006.

9 THE ADDITIONAL DIRECTOR
GENERAL, DIRECTORATE OF REVENUE INTELLIGENCE,
CHENNAI ZONAL UNIT, CHENNAI.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to implead the proposed Respondents 8 and 9 herein, as Respondents 8 and 9 in WP No.4390 / 2017.(in WMP No.16561 of 2017) pending disposal of above WP.4390/2017.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.R.SHANMUGASUNDARAM Senior Counsel M/S.R.S.BHARATHI, Advocate for the petitioner and or MR.SUBRAMANIAM FOR R1 AND OR MR.V.AYYYADURAI FOR R2 AND OF MR.KUMAR SC FOR MR.S.SENTHIL FOR R3 AND OR MR.B. RABU MANOHAR FOR R4 AND MR.R.KRISHNAMURTHY SC FOR M/S. J.KARUPPIAH FOR R5 AND OF MR.V.SUNDARESWARAN SCGSC FOR R9 the court made the following order:-

(ORDER OF THE COURT WAS MADE BY *THE HON'BLE CHIEF JUSTICE*)

The writ petition has been filed challenging the decision taken on 18.2.2017 on the floor of the Tamil Nadu Assembly in the confidence motion moved by the fifth respondent. The petitioner has sought a declaration that the decision is illegal, null and void.

2. The writ petition was heard and has been posted for further/final hearing on 11.7.2017.

3. In the meanwhile, this miscellaneous petition has been filed seeking orders impleading (i) the Joint Director and Head of Zone, Central Bureau of Investigation (CBI); and (ii) The Additional Director General, Directorate of Revenue Intelligence, as respondents in the writ petition.

4. In the affidavit filed in support of the petition for impleadment, it is averred as under:

"4. I submit that in the meanwhile on 12th June 2017, series of media reports by the television channels 'Times Now' and 'Moon TV' broadcasted a 'sting operation' wherein a Member of Legislative Assembly one Mr.S.S.Saravanan, belonging to ruling party, elected from Madurai-South Assembly Constituency has revealed the incidents which took place in the lead up to the

'Vote of Confidence' in the Tamil Nadu Legislative Assembly took place on 18.02.2017.

5. I submit that in the above said sting operation, the said Saravanan MLA has spoken about Members of Legislative Assembly belonging to treasury bench namely All India Anna Dravida Munnetra Kazhagam were made to stay in a resort in Koovathur near Chennai against their will and under coercion were offered substantial amounts of money and gold to influence their voting during the Vote of Confidence. he says that they were offered Rs.2 Crore at the beginning, which was raised to Rs.4 Crore and further raised to Rs.6 Crore while they were being transported in buses and the days went by. Furthermore, he says that three MLAs by name M/s.Karunas, Thammemun Ansari and Thaniarasu, belonging to alliance parties of AIADMK were paid Rs.10 Crore to each of them to secure their votes. This new revelation constitutes prima facie material evidence which has a significant bearing on the outcome of the main Writ Petition.

6. I respectfully submit that the sting operation is compelling evidence regarding the circumstances in which the Vote of Confidence was conducted in the Tamil Nadu Legislative Assembly on 18.02.2017 and the freedom of expression through vote was affected. I further submit that despite the repeated pleas of myself, the Leader of the Opposition, the Leader of the Indian National Congress Legislative Party, the Leader of the Indian Union Muslim League Legislative Party and other Members of Legislative Assembly belonging to the All India Anna Dravida Munnetra Kazhagam (namely Mr. O.Paneerselvam, Mr.Natraj and Mr.Semmalai), the Respondent No.2 suo moto and arbitrarily decided not to adjourn the floor test on the Confidence Motion moved by Mr.Edappadi K.Palanisamy, the 5th Respondent herein nor to hold a secret ballot, as demanded by us. This capricious act of the Speaker of the Assembly itself shows that he has deliberately failed to reflect the sense of the house and thereby he acted with a pre-determined mind to ensure that the confidence motion be passed. The Speaker of the Assembly failed to act as the common man of the house; but acted with partisan mind. In the said circumstances only, being the Leader of Opposition approached this Hon'ble Court to restore the democracy in the Tamil Nadu State Assembly.

7. I submit that the video-recordings of Mr.S.S.Saravanan MLA and Mr.Kanagaraj MLA reveal that the Vote of Confidence was vitiated by the inducements

and bribery of the Members of Legislative Assembly belonging to the All India Anna Dravida Munnetra Kazhagam. I further submit that the allegation that the Members of Legislative Assembly belonging to the All India Anna Dravida Munnetra Kazhagam had taken illegal consideration to cast votes in the floor test on Confidence Motion is now corroborated by the material that has come to light through independent media sources. These actions of inducement, bribery and illegal gratification throw our entire democratic system in peril. The above serious allegations of offering and receiving huge amount of unaccounted money and gold, also require investigation by appropriate competent investigation agency into the offences under Prevention of Corruption Act, Income Tax Act and Prevention of Money Laundering Act. The Proposed Respondents viz. Central Bureau Investigation and Directorate of Revenue Intelligence are the competent authorities to investigate the offences covered under the above said Acts. Hence, they are necessary and proper parties to the above Writ Petition, in the interest of justice for full and effective adjudication on the issues involved in the present case.

8. I submit that there is prima facie material requiring a thorough investigation to probe the payment of bribes - in the form of money and gold - to the Members of Legislative Assembly belonging to the All India Anna Dravida Munnetra Kazhagam and its allied parties. The Central Bureau of Investigation and the Departments under the Directorate of Revenue Intelligence are competent authorities to conduct such investigation. Therefore these two authorities are necessary parties to the main writ petition and they have to be impleaded as Respondents 8 and 9 in the above writ petition."

5. In the rejoinder, it is pleaded as under:

"10. I submit that Respondents No.8 and 9 are necessary and proper parties in the above writ petition and this Miscellaneous Petition will not be enlarging the scope of original writ petition. The original writ petition (W.P.No.4390 of 2017) pleads that the Confidence Motion held on 18.02.2017 was vitiated on account of various reasons including that the MLAs were forcibly detained in Koovathur resort and offered bribes in the lead up to the Confidence Motion. In order for this Hon'ble Court to arrive at a just determination of whether the atmosphere in the days leading up to the floor test in Confidence Motion was fair and conducive for upholding the purity of democratic process, it is necessary that

the revelations of the sting operation conducted by Times NOW and Moon TV channels be enquired into. The competent authorities for such an enquiry are the Central Bureau of Investigation and Directorate of Revenue Intelligence who may examine the veracity of the video-tapes and establish whether hundreds of crores of rupees were routed through hawala processes and significant amounts of gold were smuggled to be paid to the Members of Legislative Assembly belonging to All India Anna Dravida Munnetra Kazhagam. In humbly submit that the presence of both Respondents No.8 and 9 is necessary to settle the contentions pertaining to the vitiation of the Confidence Motion."

6. Considering the reliefs sought in the main writ petition, the persons proposed to be impleaded are neither necessary nor proper parties, nor is their presence imperative for effective adjudication of the issues involved in this writ petition.

7. Significantly, the proposed ninth respondent has even affirmed an affidavit affirming that the Directorate of Revenue Intelligence is in no way concerned with allegations of corruption in relation to the Prevention of Corruption Act.

8. The averments also do not make out justifiable grounds for impleadment of the proposed respondents. No relief has been sought in the main writ petition against either of the proposed respondents.

9. The petition for impleadment is, thus, not allowed. Needless to mention that the observations made above are in the context of this petition for impleadment of the proposed respondents.

10. The learned Senior Counsel appearing for the petitioner insists that this Court may give liberty to initiate such appropriate proceedings as the petitioner may be advised. It would not be appropriate for us to go into the question of whether the petitioner is entitled in law to initiate further proceedings. No leave of Court is, in any case, necessary for initiation of proceedings which are in accordance with law.

11. Let the main writ petition be listed for hearing as scheduled.

-sd/-

29/06/2017

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SECRETARY
GOVERNORS SECRETARIAT, RAJ BHAVAN, CHENNAI

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CHENNAI ZONAL UNIT, CHENNAI.

C.C. to M/S.V.SUNDARESWARAN Advocate SR.NO. 8608

C.C. to M/S.B.RABA MANOHAR Advocate SR.NO. 8448

Order

in
WMP.16561/2017

in
WP.4390/2017

Date :29/06/2017

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T.R (03/07/2017)