



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 04.08.2017

CORAM:

**THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND**

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.[MD].No.14572 of 2017

K.K.Ramesh : Petitioner
Vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Chief Minister,
Chief Minister Office, Secretariat,
Chennai-600 009.

2.The State of Tamil Nadu,
Rep. by its Chief Secretary,
Secretariat,
Chennai-600 009.

3.The State of Tamil Nadu,
Rep. by its Finance Secretary,
Secretariat,
Chennai-600 009.

4.The State of Tamil Nadu,
Rep. by its Secretary,
Tamil Nadu Legislative Assembly,
Chennai-600 009.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to instruct the respondents 2 to 4 to stop the hike of salaries and allowances dated 19th July, 2017 to Tamil Nadu Members of Legislative Assembly from Rs.55,000/- to Rs.1,05,000/- and other allowance by considering the petitioner's representation dated 21.07.2017.

For Petitioner : Mr.K.K.Ramesh,
Party-in-person
For Respondents : Mr.B.Pugalendhi,
Additional Advocate General,
Assisted by
Mr.M.Govindan,
Special Government Pleader

**O R D E R**

[Order of the Court was made by **K.K.SASIDHARAN, J.**]

The petitioner, stated to be an activist based at Madurai, filed this Writ Petition in *pro bono publico* to direct the State of Tamil Nadu to stop the hike in salary and other allowances to the Members of Tamil Nadu Legislative Assembly.

2. According to the petitioner, the decision taken by the Members of the Legislative Assembly to increase the salary was against humanity, welfare of the Society at large, besides economic growth.

3. The following are the grounds taken by the petitioner to attack the decision taken by the Members of Legislative Assembly for their benefit:

(a) The Government of Tamil Nadu was already under severe financial crunch.

(b) The total debt of the Government would come to Rs.45,000 Crores.

(c) People are suffering on account of severe drought. The Government has no funds to save them from starvation.

4. The challenge to the increase in salary of the Legislators is not the ground of violation of a Statute or Financial Code. It is purely on the ground of humanity and morality.

5. The core question is as to whether judicial review is permissible in matters relating to the payment of monthly salary and allowances to the Members of the Legislative Assembly.

6. The increase in the monthly salary of the Legislators from Rs.55,000/- to Rs.1,05,000/- was announced in the Assembly by the Chief Minister on 19 July, 2017, taking into account the request made by the Members of the Legislative Assembly. We are informed by the petitioner that a Member of the Legislature made a special request to the Chief Minister for a hike in the salary, besides preference for the M.L.As., in getting a special Dharsan of 'Lord Balaji' in Thirupathi Temple. According to the petitioner, the opposition Leader opposed the move on the ground that farmers are suffering on account of drought and, therefore, it would not be proper to hike the salary and other perks. Even then, the House took a decision to increase the salary, allowances and Constituency Development fund.

<https://hcservices.courts.gov.in/hcservices/> It is submitted that the Government is not accountable to the Courts in respect of policy decision or taking a decision in a



particular matter. The Judicial review should be confined to the legality of the decisions.

8. The Government is the best Judge to assess the financial implication of a particular policy or decision. The Court is not expected to consider the correctness of the policy on moral or equitable grounds. It should be left to the wisdom of the Government.

9. The Members of the Legislative Assembly are elected by the people. They are, therefore, accountable to the people of the State in general and their Constituency in particular. The Members of the Legislative Assembly are well aware of their duties and responsibilities, and more particularly, what is to be done and what is not to be done in a given situation.

10. The decision to hike the salary and allowances was announced by the Chief Minister and it was approved by the House. The Members of the Legislative Assembly must put a question to themselves as to whether they were correct and justified in their decision to increase the monthly salary, allowances and Constituency Development Fund, when people were suffering due to drought and farmers committing suicide due to ever mounting debts and inability to pay even the School/College fees of their children. It is not for the Courts to act as 'moral economist' for advising the Legislators that they are morally and ethically not correct to claim hike in salary at this point of time and defer their decision till there is improvement of the situation. The Legislators would have their own justification for claiming hike in salary given the present cost of living. In any case, it is essentially for the Legislators to take a decision according to their conscience.

11. There is a clear demarcation of boundaries for the Executive, Legislature and Judiciary. Separation of power is the hallmark of our Constitution. The Executive is empowered to adopt the policy and the legislature to Legislate. They are accountable to the Court only for the legality of such decisions.

12. The decision taken by the Government of Tamil Nadu to increase the salary and expenses of the Legislators is one such area where there is no judicial review, unless it is demonstrated that while taking such a decision, the Government has violated the provisions of the Constitution or the Laws. The petitioner has not produced any material to show that the decision was legally not correct, the Writ Petition proceeds only under the premise that it was morally incorrect. We, therefore, do not find any ground to entertain the Writ Petition.



13. In the upshot, we dismiss the Writ Petition. No costs.

Sd/-

Assistant Registrar (AD-II)

/True copy/

Sub Assistant Registrar

To

1.The Principal Secretary to Chief Minister,
The State of Tamil Nadu,
Chief Minister Office, Secretariat,
Chennai-600 009.

2.The Chief Secretary,
The State of Tamil Nadu,
Secretariat,
Chennai-600 009.

3.The Finance Secretary,
The State of Tamil Nadu,
Secretariat,
Chennai-600 009.

4.The Secretary,
The State of Tamil Nadu,
Tamil Nadu Legislative Assembly,
Chennai-600 009.

+1cc to Mr.K.K.Ramesh, Advocate, SR.71044

+1cc to M/S.Special Government Pleader, SR.71357

W.P. [MD] .No.14572 of 2017
04.08.2017

SML

KK/SV/AA/SAR2/11.08.2017/2P-7C