



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.09.2017**

CORAM:

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

AND

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

**W.P. [MD].No.18259 of 2017**

K.K.Ramesh

: Petitioner

Vs.

- 1.The Union of India,  
Rep. by its Secretary to President,  
President of India, Rashtrapati Bhavan,  
New Delhi - 110 004.
- 2.The Union of India,  
Rep. by its Principal Secretary to Prime Minister,  
Prime Minister's Office,  
South Block, Raisina Hill,  
New Delhi - 110 001.
- 3.The Union of India,  
Rep. by its Home Secretary,  
Ministry of Home Affairs,  
North Block,  
New Delhi.
- 4.The Union of India,  
Ministry of Law and Justice,  
Shastri Bhawan,  
New Delhi - 110 115.
- 5.The State of Tamil Nadu,  
Rep. by its Secretary to Governor,  
Raj Bhavan,  
Chennai- 600 022.
- 6.The State of Tamil Nadu,  
Rep. by its Principal Secretary to Chief Minister,  
Chief Minister Office, Secretariat,  
Chennai-600 009.
- 7.The Chief Election Commissioner,  
Election Commission of India,  
Nirvachan Sadan,  
Ashoka Road,  
New Delhi-110 001.





Election Commission from conducting bye-election to the 18 Constituencies consequent to the disqualification of 18 M.L.As., by the Hon'ble Speaker. The Writ Petition filed after initiation of Writ Petitions by the disqualified M.L.As., and the interim order passed by the Principal Bench, is clearly not in public interest.

2. It is the case of the petitioner that 18 rebel AIADMK M.L.As., have not defected to any other political party. The M.L.As have not violated the whip issued by the party. According to the petitioner, the representation given to the Governor to change the Chief Minister would not amount to 'defection', so as to give power to the Speaker to disqualify the M.L.As., and issuing the notification under the Members of the Tamil Nadu Legislative Assembly (Disqualification on Ground of Defection) Rules, 1986, and Article 191(2) of the Constitution read with Clause (1) of Paragraph 2 of the Tenth Schedule. The petitioner, therefore, seeks restoration of the status of the 18 M.L.As., by setting aside the order passed by the Speaker. The petitioner seeks a further prayer to take action against the Governor of Tamil Nadu by the President of India.

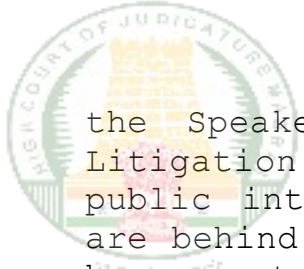
3. The prayer in the Writ Petition is only a 'Mandamus'. There is no challenge to the order passed by the Speaker, disqualifying 18 M.L.As., holding that their action would amount to voluntarily giving up membership of the AIADMK. The disqualified M.L.As., have already challenged the order passed by the Speaker before the Principal Bench and the Writ Petitions are now posted for hearing on 04 October, 2017.

4. The arguments advanced by the learned Senior Counsel for the 18 M.L.As., in the Writ Petitions filed before the Principal Bench are the grounds taken by the petitioner to issue a Mandamus to set aside the order passed by the Speaker.

5. Since the aggrieved M.L.As., have already challenged the decision taken by the Speaker disqualifying them under the Members of the Tamil Nadu Legislative Assembly (Disqualification on Ground of Defection) Rules, 1986, there is no need for another Writ Petition on the very same subject matter under the brand name "Public Interest Litigation".

6. The petitioner seeks a further direction to the President of India to take action against the Governor of Tamil Nadu. The prayer is clearly not maintainable and it is misconceived.

7. The petitioner must expose a genuine public cause and not the cause of the disqualified M.L.As. It is not as if the disqualified M.L.As., are not in a position to approach the Court challenging the adverse order passed against them. In fact, in the subject case, the M.L.As., have challenged the order passed by



the Speaker. The exercise of right to file Public Interest Litigation should be confined to matters which are purely in public interest. It should not be at the instance of others who are behind the curtain or for serving the interest of persons, who have vested interest in a particular matter. The Courts have developed the concept of Public Interest Litigations only for the public cause. The people on account of their poverty or other adverse circumstances should not be denied access to justice. The Courts, therefore, entertained genuine Public Interest Litigations, even by receiving letters and post cards. The Hon'ble Supreme Court expanded the scope of Public Interest Litigations in larger public interest. However, over a period of time, the brand name of "PIL" has been misused by those who have axe to grind. Writ Petitions were filed with unbaked facts to attract an order of dismissal by the Court, and thereby, to prevent genuine Writ Petitions with full facts on the very same subject at a later point of time. There are people who would lend their shoulders to others to file litigations under the brand name of "PIL". We have dismissed several such Writ Petitions giving a clear warning to the litigants that the Court is not a battleground to settle the political scores or to settle their private disputes by branding it as "Public Interest Litigations". We are constrained to make those observations, on account of the mushroom growth of unwanted Public Interest Litigations without any element of public interest.

8. There is absolutely no public interest in this Writ Petition. The disqualification of 18 M.L.As., cannot be treated as a case involving public interest, especially when there are avenues for the aggrieved to challenge the adverse order. Though this case is a fit one to impose costs, we refrain from doing so, on account of several *bona fide* Public Interest Litigations filed by the petitioner earlier.

9. In the upshot, we dismiss the Writ Petition without liability to pay costs.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1.The Secretary to President,  
Union of India,

President of India, Rashtrapati Bhavan, New Delhi - 110 004.

2.The Principal Secretary to Prime Minister,

<https://hcserviceindia.gov.in/hcservices/>

Prime Minister's Office,

South Block, Raisina Hill, New Delhi - 110 001.



3. The Home Secretary,  
The Union of India, Ministry of Home Affairs,  
North Block, New Delhi.
4. The Secretary, Union of India,  
Ministry of Law and Justice, Shastri Bhawan, New Delhi - 110 115.
5. The Secretary to Governor,  
The State of Tamil Nadu, Raj Bhavan, Chennai- 600 022.
6. The Principal Secretary to Chief Minister,  
The State of Tamil Nadu,  
Chief Minister Office, Secretariat, Chennai-600 009.
7. The Chief Election Commissioner,  
Election Commission of India,  
Nirvachan Sadan, Ashoka Road, New Delhi-110 001.
8. The Chief Election Officer (CEO),  
Tamil Nadu,  
Fort ST. George, Secretariat, Chennai-600 009.
9. The Secretary,  
The State of Tamil Nadu,  
Tamil Nadu Legislative Assembly, Secretariat, Chennai-9.

+1cc to M/S.K.K.SENTHIL, Advocate SR.No.80510  
+1cc to M/S.K.K.RAMESH, Advocate SR.No.80527  
+2cc to Special Government Pleader, SR.Nos. 80876&81110

SML

MAS/JC/SAR2:09.10.2017:5P-13C

**Order made in**  
**W.P. [MD] .No.18259 of 2017**  
Dated:  
**22.09.2017**