

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

and

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P.No.10571 of 2018

and

W.M.P.Nos.12523 and 12524 of 2018

K.Vijayasundaram

.... Petitioner

-Vs-

1.Secretary,
Bar Council of Tamil Nadu and Puducherry,
High Court Buildings,
Chennai 600035.

2.Election Officer,
O/o.Bar Association,
Kanchipuram Bar Association,
Kanchipuram.

.... Respondents

Prayer:

Writ petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the Kanchipuram Bar Association Election 2018-19 Voters List - 1 and quash the same as illegal and consequently direct the 2nd respondent herein to prepare the voters list of Kanchipuram Bar Association in conformity with Rules and Bar Council of India in Bar Council of India Certificate and Place of Practice

(Verification) Rules 2015 based on the representation of the President of Kanchipuram Bar Association dated 18.04.2018 submitted before the first respondent within a time frame.

For Petitioner :Mr.M.Gnanasekar

For Respondents :Mr.R.Singgaravelan,
Senior Counsel
for Mr.N.Rajan (for R1)
Mr.T.S.Baskaran (for R2)

ORDER

(Order of the Court was delivered by **N.KIRUBAKARAN, J**)

The petitioner is a member of Kanchipuram Bar Association and he is the current President. The election was conducted on 25.04.2018. At that juncture, the petitioner approached this Court challenging the voters list stating that non practising advocates and those who have not passed All India Bar Examination have been shown as the voters.

2.This Court by interim order dated 25.04.2018, permitted to conduct the election. However, votes were directed to be kept in sealed box and result were directed not to be declared without permission of this Court.

3.When the matter is called today, Mr.R.Singgaravelan, learned Senior

Counsel and member of Special Committee of Bar Council of Tamil Nadu and Puducherry would represent that the committee heard the rival parties on 26.04.2018 and passed an order, as per the direction given by this Court and the said order dated 26.04.2018 is placed before this Court.

4.Mr.T.S.Baskaran, learned counsel representing the 2nd respondent/Election Officer would submit that the election was conducted on 25.04.2018 and the votes are kept in a sealed box and he seeks further direction to count the votes and declare the results.

5.At this juncture, it is pointed out that the petitioner is the current President of the said association and he wanted to withdraw his nomination, after the time for withdrawing the nomination was over, and therefore, his name was not omitted from the contesting candidate's list. It is further submitted by Mr.T.S.Baskaran, learned counsel for the 2nd respondent that there are only two contestants for the post of President and one of the candidates is the petitioner. Since the petitioner already expressed his inclination to withdraw from the very contest and he is also inclined to make an endorsement to that effect, this Court permitted him to make an endorsement to that effect. If the petitioner is withdrawing from the very contest, there is only one candidate viz., Mr.B.Karthikeyan, left in the contest and there is no necessity to count the votes

polled for the post of the President.

6. In view of the above development, this Court directs the 2nd respondent not to count the votes polled for the post of President. Since the ballot paper has been printed in the following order (i.e.,) President, Secretary, Joint Secretary and Treasurer, the ballot papers can be separated by tearing. Therefore, the part of the ballot sheet polled for the post of President alone is permitted to be torn and the rest of the ballot sheet can be kept separately for the purpose counting the votes polled for the other posts except President. The Election Officer alone is permitted to separate the ballot sheet and even the Election Officer shall not count the votes polled for the post of President and it should be destroyed. Rest of the votes polled for the other posts shall be counted and the results shall be declared on 30.04.2018.

7. Since it is the contention of the petitioner that non practising advocates and the advocates who are all associate members and not eligible to vote in the election are permitted to be in the voters list, it is open to the petitioner to give a representation to the Bar Council and the Bar Council shall consider the same, after giving notice to all the parties concerned.

8. With the above directions, this Writ Petition is disposed of.

Consequently, connected miscellaneous petitions are closed. No costs.

(NKKJ) (RPAJ)
28.04.2018

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Note: Issue order copy by 28.04.2018.

To

1.The Secretary,
Bar Council of Tamil Nadu and Puducherry,
High Court Buildings,
Chennai 600035.

2.Election Officer,
O/o.Bar Association,
Kanchipuram Bar Association,
Kanchipuram.



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N.KIRUBAKARAN, J
and

R.PONGIAPPAN, J

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