



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:26.04.2018

CORAM :

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P. (MD)No.583 of 2013(PD)

P.Kanagaraj

... Petitioner/Petitioner

Vs.

1.Selvam

2.The Election Officer cum Block Development Officer,
Anthanallur Union,
Trichy District.

3.The District Collector,
Trichy District.

... Respondents/Respondents

PRAYER: Petition filed under Section 227 of Constitution of India, to set aside the fair and decreetal order made in Election O.P.No.5 of 2011 passed by the second Additional District and Sessions Judge, Trichirappalli dated 28.01.2013 and allow the Civil Revision Petition.

For Petitioner : Mr.B.Jameel Arasu
For R1 : Mr.G.Karnan
For R2 : Mr.B.Chakravarthy
For R3 : Mr.Aayiram K.Selva Kumar
Additional Government Pleader

ORDER

This petition has been filed against the order passed in Election O.P.No.5 of 2011 on the file of the second Additional District and Sessions Judge, Trichirappalli.

2.The petitioner contested the election conducted for the post of President of Allur Panchayat Board, on 17.10.2011. In the Election, the first respondent in the Election O.P.No.5 of 2011 was elected with a margin of 25 votes ahead of the revision petitioner. Stating that the ballot papers were not properly shown to the candidates and the invalid votes were not properly accounted, the petitioner filed by the election petition. It is further stated that though the revision petitioner requested the second respondent for recounting the votes, the same was not considered. It is stated that the revision petition prayed for an order in favour of the



petitioner declaring the election for the post of Panchayat President in Allur Panchayat is null and void and to pass order for recounting the votes and consequential reliefs.

3.The learned Second Additional District Judge after considering all the issues elaborately found that the petition is devoid of merits.

4.Aggrrieved by the same, the present revision petition has been filed by the unsuccessful candidate. In the election petition during the course of cross examination, the revision petitioner has admitted that the ballot boxes were opened and counted in the presence of contestants.

5.The second respondent also came up with the case that the election was conducted after following the rules and guidelines laid down by the State Election Commission. It is a definite case of the second respondent that after completing the counting of votes, the first respondent was declared as a winning candidate. Though it is stated that a few votes were declared invalid, the revision petitioner has not come forward as to how the declaration of invalid votes vitiate the election. The burden lies on the person who challenges the declaration in respect of invalid votes. The revision petitioner himself has admitted that every ballot papers were shown to him at the time of counting. It is further admitted that the revision petitioner has not given any objection for recounting the votes before the second respondent announce the result.

6.Having regard to the findings of facts, this Court is convinced that the petitioner has not made out any irregularity in the process of election. Since the declaration of result is not vitiated by any other circumstances, the election of the first respondent cannot be set aside. With regard to recounting, it is for the candidate seeking recounting to make such a request before the Election Officer well before the declaration of result. In this case, the revision petitioner has not given such request and he gave objections in writing only after three days. The petitioner himself has admitted that he was present at the time of counting which was started at 3.00 p.m. and that he was there along with two agents at the time of counting. He also admitted that each and every ballot paper was shown to him that thereafter every ballot paper was sorted out and 40 votes had been invalid by the second respondent. Except stating that the second respondent has wrongly declared certain votes as invalid, the petitioner has not raised any objection, at the time when the ballot papers were declared invalid by the second respondent.

7.For all the above reasons, this Court is unable to interfere with the findings of the learned Additional District Judge, dismissing the Election O.P.No.5 of 2011, particularly when the petitioner has not let in any evidence to convince the Court to interfere with the process of election. Hence this Civil Revision



Petition is dismissed and the order passed by the learned second Additional District and Sessions Judge, Trichirappalli is confirmed.

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/True Copy/

Sd/-
Assistant Registrar (P&A)

Sub Assistant Registrar

To

- 1.The District Collector,
Trichy District.
- 2.The second Additional District and Sessions Judge,
Trichirappalli.
- 3.The Election Officer cum Block Development Officer,
Anthanalur Union,
Trichy District.

Copy to

The Record keeper,
VR Section (2 Copies)
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.B.Jameel Arasu Advocate in SR.NO.63894,
+1CC to Mr.G.Karnan Advocate in SR.No.63724.

RMI

DS/RSK-SKN/SAR-4 :22.05.2018: 3P/8C

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