

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.08.2019

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Writ Petition No.4636 of 2018

and W.M.P.No.17380 of 2019

M.Bhavani

.. Petitioner

/versus/

1.The District Collector,
Kanchipuram District,
Kanchipuram.

2.The Secretary
Rural Development cum Village Panchayats,
Fort St.George,
Chennai.

3.The Commissioner,
Tamilnadu State Election Commission ,
Koyambedu, Chennai,
Tamilnadu.

4.The Revenue Divisional Officer,
Chengalpet,
Kanchipuram District.

5.The District Revenue Officer,
Kanchipuram,
Kanchipuram District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for records relating to the impugned order of the 1st respondent in his Na.Ka.No.524/2018/pece2 dated 05.02.2018 and quash the same as highly illegal and consequentially direct the respondents to allot General Women category for the post of President in the Nenmeli Panchayat in the forthcoming elections which is the next category with next larger to the population in the panchayat as per the proviso to rule 7(1) of Tamil Nadu Panchayats (Reservation of Seats and rotation of Reserved seats) Rules 1995 vide G.O.Ms.No.142 Rural Development C-2, department dated 07.08.1995.

For petitioner : Mr.K.S.Ilangovan
for M/s.Achari and Antoni

For Respondents : Mrs.P.Rajalakshmi,
Additional Government Pleader

O R D E R

Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

2. The grievance of the petitioner is that the petitioner's panchayat has been erroneously reserved for SC (Women) contrary to election Rules regarding reservation. The panchayat should have been declared as reserved for Women (General) based on the population.

3. The District Collector/1st respondent herein has filed counter wherein, he has explained how and why the petitioner's panchayat has now been reserved for SC (Women). The counter filed by the 1st respondent reads as below:

"3.It is submitted that, as per the proviso to rule 7(1) of Tamilnadu Panchayats (Reservation of Seats and Rotation of Reserved Seats) Rules 1995 and Tamil Nadu Panchayat Act 1994, Section 57, Tamil Nadu Panchayats, (Reservation of Seats and Rotation of Reserved Seats) Rule 1995, the post of Nenmeli Village panchayat President was allotted to SC(Women) for the ensuing Local Body Elections.

4.It is submitted that, as per the 2011 Census Population Nenmeli Village Panchayat having 3831 population, Male population is 1934 (50.4829%) Female population is 1897 (49.5171 %) among SC population 513 (13.3908%), SC Male is 256 SC female is 257. It is submitted that as per the Article 243 (f) the 'population' means the population as ascertained at the last preceding census of which the relevant figures have been published.

5.It is submitted that Article 243 D of the Constitution and Section 57 of the Tamil Nadu Panchayats Act, 1994 prescribed the level of reservation to be made for Scheduled Castes, Scheduled Tribes and Women, the mode of reservation and rotation are prescribed in the

Tamil Nadu Panchayats (Reservation of Seats and Rotation of Reserved Seats) Rule 1995. The relevant provisions are abstracted below:

According to the Article 243 D of Constitution of India, Reservation of Seats - (1) Seats shall be reserved for

- a. The Scheduled Castes and
- b. The Scheduled Tribes:

In every panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that panchayat as the population of the Scheduled Castes in that panchayat area or the Scheduled Tribes in that panchayat area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a panchayat.

Article 243 D(4) The offices of the Chairpersons in the panchayats at the village or any other level shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide:

"Provided that the number of offices of Chairpersons reserved for the Scheduled Castes and the Scheduled Tribes in the Panchayats at each level in any State shall bear, as nearly as may be, the same proportion to the total number of such offices in the Panchayats at each level as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State provided to the total population of the State."

6.It is submitted that Section 57 of the Tamil Nadu Panchayats Act, 1994, provides for the reservation for the offices of the Presidents of Village Panchayats, Chairpersons of Panchayat Unions and Chairpersons of District Panchayats to the Scheduled Castes and Scheduled Tribes and the number of seats so reserved shall bear as nearly as may be, the same proportion to the total number of offices in the State as the population of Scheduled Castes in the State or the Scheduled Tribes in the State bear to the total population of the State.

7.It is submitted that, Rule 7(1) of Tamil Nadu Panchayats (Reservation of Seats and

Rotation of Reserved Seats) Rules-1995 reads that:

"Rotation of reserved seats and office - Reservation of seats or offices under Rules 1, 5 & 6 shall be made in the Ward or territorial ward or Panchayat where the population of the Scheduled Castes, Scheduled Tribes, Wome, as the case may be is comparatively large to the total population of the ward or territorial ward or the Panchayat (by adopting a list of wards or panchayats arranged in the descending order of the percentage of Scheduled Castes, Scheduled Tribes and Women)

Provided that such seats reserved for women in wards of village panchayats or panchayat Unions or territorial wards of District Panchayats and such seats reserved for Scheduled Castes, Scheduled Tribes, for women in the office of Presidents of Village Panchayats, Chairpersons of Panchayat Union Councils and Chairpersons of District Panchayats, shall be allotted by rotation (at the expiry of every ten years) and reallocated to other wards or territorial wards or panchayats where the percentage of population of women or Scheduled Castes, Scheduled Tribes, as the case may be, is next larger to the total population of that ward, territorial ward or Panchayat, by adopting a list of wards or panchayats arranged in the descending order of the percentage of, Scheduled Castes, Scheduled Tribes and women."

8.It is submitted that Article 243 D (1) and Section 57 of Tamil Nadu Panchayat Act, prescribed that the reservation for office of the President of the Village Panchayat to SC/ST category according to the proportion of the SC/ST population of the particular District, Panchayat Union, Village Panchayat and with state level SC population, accordingly, the respondent followed the direction stipulated in the Section 57 of the Act.

9.It is submitted that as per the provisions of Tamil Nadu Panchayats Act, 1994, reservation for Scs & STs should be done in proportion to SC/ST population to the total population as per the last preceded 2011 census. Also, not less than 50% of the total number of wards and offices, including those

reserved for SC/ST, in the three tier PRIs should be reserved for women. Further, as per the Tamil Nadu Panchayats (Reservation of Seats and rotation or reserved seats) Rules, 1995 such reserved offices for the post of Village Panchayat President, Panchayat Union Chairman and District Panchayat Chairman should be allotted by rotation to different panchayats once in 10 years. The above rotation was done in 2006 and was due in 2016.

10. It is submitted that the Nenmeli Village Panchayat comes under the jurisdiction of Thirukazhukundram Panchayat. The total number of Village Panchayat is 54. Accordingly, the reservation made to Village Panchayats in Thirukazhukundram panchayat union as per Census 2011 data is detailed below:

ST (W)	ST (G)	SC (W)	SC (G)	G (W)	G	Total
1	0	8	9	17	19	54

4. The learned Additional Government Pleader was asked to furnish the details when the next populous group in Women (General) how the 1st respondent has reserved the petitioner's panchayat for SC (Women), which has 257 persons out of 3831 persons in the 2011 census. In response, the learned Additional Government Pleader submitted the working sheet of the village panchayat in the Kanchipuram District wherein, out of 54 village panchayat board President in the District one reserved for ST (Women), 8 reserved for SC (Women), 9 reserved for SC (General) and 17 reserved for General (Women) and the remaining 19 seats are reserved for General candidates. This is based on the population of the District and taking into account the population of the respective panchayat.

5. It is submitted that to ensure proper reservation for the respective groups the over all population of the districts as well as the previous reservation of the respective panchayat had been taken into account. So far as the petitioner's village panchayat is concerned for the past four elections, it is treated as General constituency. Every 10 years on rotation reservation has to be allotted by the State based on the percentage of population.

6. In 2016, based on the 2011 population the

petitioner's panchayat has been reserved for SC (Women). Since the village was General Constituency for the past four elections, though the Women in general is populous group, the next highest populous group namely SC (Women) was taken into account and the panchayat is reserved for SC (Women) on rotation in consonance of rules and the population of the entire district as well as population of the concerned panchayat.

7. Taking into account the above facts and the population of the petitioner's panchayat, it indicates that the Women SC population in the said panchayat is only next to over all Women population. Since for the past 4 elections, the panchayat was under the general category, on rotation the 1st respondent passed an order reserving it for SC (Women) which is done as per rules as well as over all reservation in the district. This Court finds no malafide in the notification of the panchayat reservation for SC (Women).

8. In the result, this Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

rpl

To

1.The District Collector,
Kanchipuram District,
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2.The Secretary
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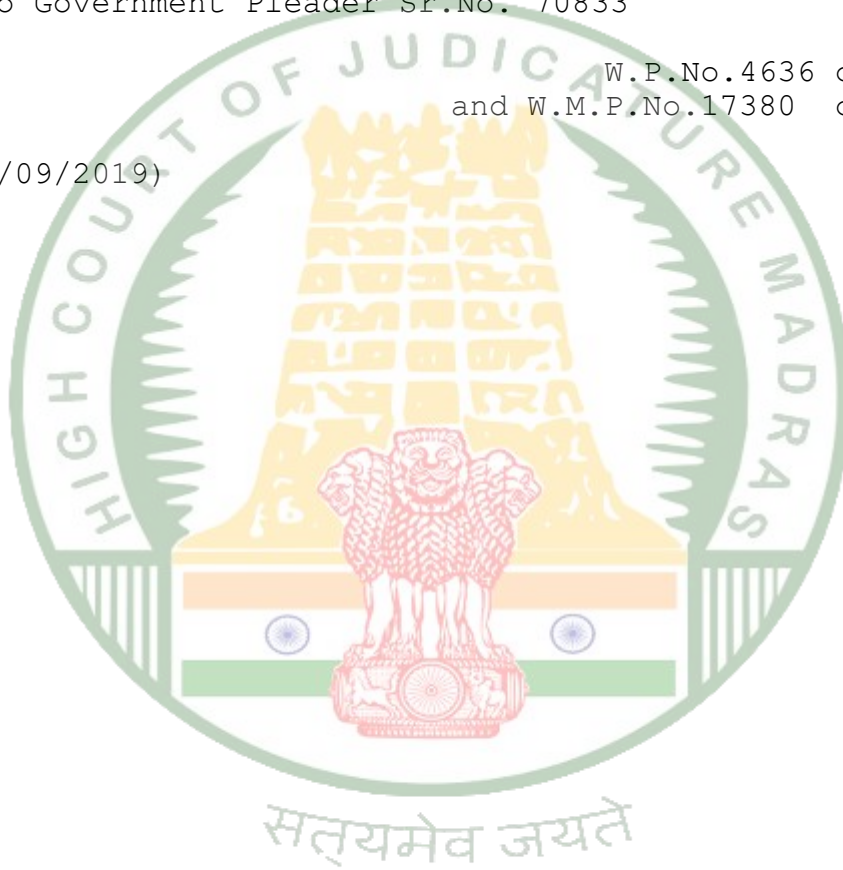
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Kanchipuram,
Kanchipuram District.

+1cc to M/s.Achari and Antoni , Advocate SR.No. 70573
+1 cc to Government Pleader Sr.No. 70833

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ss
A.SK(20/09/2019)



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