



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P. (MD) No.10862 of 2019
and
WMP (MD) No.8320 of 2019

Mr.S.Pasumpon Pandiyan

.. Petitioner

.Vs.

1. The Chief Election Commissioner of India,
Nirvachan Sadan,
Ashoka Road,
New Delhi - 110 001.

2. The Tamil Nadu State Chief Election Officer,
Jawaharlal Nehru Salai,
Jai Nagar, Koyambedu,
Chennai - 600 106.

3. The District Collector,
Madurai District,
Madurai.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, issuance of a Writ of Mandamus, directing the respondents to stop the counting of votes polled in the election conducted on 18.04.2019 at the Madurai Constituency for the Lok-Sabha member of Parliament election and also to conduct a fresh election for the Madurai Constituency alone for its Lok-Sabha member of Parliament.

For Petitioner : Mr.S.Malaviya
for Mr.S.Ramu

For Respondents: Mr.Niranjan Rajagopalan
Standing Counsel for ECI



O R D E R

(Order of this Court was made by SUBRAMONIUM PRASAD, J.)

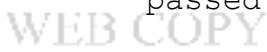
The petitioner by way of this writ petition is seeking for a writ of mandamus, directing the respondents to stop the counting of votes polled in the election conducted on 18.04.2019 at the Madurai Constituency for the Lok-Sabha member of Parliament election and also to conduct a fresh election for the Madurai Constituency alone for its Lok-Sabha Member of Parliament.

2. The petitioner states that on 20.04.2019, one Ms.Sampoornam working as Tahsildar along with three other persons entered into the premises of Madurai Medical College, where the Electronic Voting Machines and other documents were kept. It is stated that the said entry of the Tahsildar and three other persons were without any proper permission of the Election Commission.

3. The petitioner also states that the four persons stayed in the room for about 3 hours, collected some documents and xerox copies of those documents were taken and kept back. The petitioner states that the Collector did not take any action. The petitioner states that he has sent representations for cancelling the counting and also for conduct of re-election, but, they have not been considered. The petitioner therefore, filed the instant writ petition.

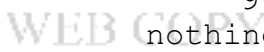
4. Heard the learned counsel for the petitioner and the learned counsel for Election Commission of India and perused the materials available on record.

5. This Court on 27.04.2019 while considering the main prayer in WP No.13001 of 2019, to direct the 1st respondent therein to constitute a Special Investigation Team headed by an officer not below the rank of Principal Secretary to the Election Commission of India to conduct enquiry, under its supervision as to the issue of unlawful entry of 7th respondent therein and her team into the counting centre viz., Madurai Medical College for No.32, Madurai Parliamentary Constituency and to take necessary action to bring the culprits into book in accordance with Law, within a reasonable period to be fixed by this Court and incidental prayers to grant interim directions in WMP Nos.13147, 13150 & 13156 of 2019 for shifting and transferring the 5th respondent therein, to provide three-tier security system and also to appoint Special Observer in the rank of an IAS Officer, respectively, found that the Election Commission of India, had initiated an enquiry into the incident, which occurred on 20.04.2019. The enquiry officer had found that the officers have not entered the rooms in which Electronic



6. This Court after considering the entire enquiry report, passed the following directions.

8. During the course of hearing WP No.13001 of 2019, Mr.Niranjan Rajagoplan, learned counsel for the Election Commission of India, categorically informed that the strong rooms, where voting machines were kept, were under security and the rooms remained sealed and that there was no tampering. Thus, the rooms where the voting machines were kept and the



9. Even during the course of argument, it was submitted that nothing was missing. If only there were some documents prima facie found to be missing, there can be a possibility of further action into the matter. In the case on hand, documents are intact. Rooms in which voting machines are stored remained sealed. Machines are safe and secure.

11. Further, in any event, the effect of this writ petition is calling the election in question. Article 329(b) of the Constitution of India, reads as under.

12. In view of the fact that there is no tampering in the Electronic Voting Machines or in the absence of any material to show that the documents are missing, writ petition is dismissed. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS III)

Sub Assistant Registrar

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