

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2019

CORAM:

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

W.P.No.11429 of 2019

V.Rasirajan

.. Petitioner

Vs.

1. The Chief Electoral Officer,
Tamil Nadu State Election Commission,
Public (Elections) Department,
Secretariat, Fort St. George,
Chennai - 60 009.
2. The Executive Magistrate,
Static Surveillance Team,
No.174, Thanjavur Assembly Constituency,
Thanjavur.

.. Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India, issuance of a Writ of Mandamus, directing the respondents to release the 79200 copies of the Book titled as Adutha Aatchi Astrological Analysis Book released by the petitioner seized by the second respondent at Vilar Bypass Road, Thanjavur on 02.04.2019.

For Petitioner : Dr.D.Simon

For Respondents : Mr.Niranjana Rajagopalan
Standing Counsel for ECI

O R D E R

(Order of this Court was made by S.MANIKUMAR, J.)

Petitioner, who claims himself to be a professional Astrologer, and authored a book titled "Adutha Aatchi", is aggrieved over the seizure of nearly 79200 copies of the book by the Executive Magistrate, Static Surveillance Team, No.174,

Thanjavur Assembly Constituency, Thanjavur, has filed the instant writ petition for a Mandamus, directing the respondents to release the 79200 copies of the Book titled as Adutha Aatchi Astrological Analysis Book, which was released him, but seized by the Executive Magistrate, Static Surveillance Team, No.174, Thanjavur Assembly Constituency, Thanjavur, the second respondent at Vilar Bypass Road, Thanjavur on 02.04.2019.

2. Supporting the prayer sought for Dr.D.Simon, learned counsel for the petitioner submitted that the book does not contain any offensive portion, and was intended to be circulated free of cost to the public and that the petitioner has also spent a sum of Rs.4 Lakhs for such publication. According to him, seizure is not valid.

3. Mr.Niranjan Rajagopalan, learned counsel for the respondents submitted that as against seizure, an appeal remedy is provided and if the petitioner is aggrieved, he can always prefer an appeal to the competent authority.

4. Learned counsel for the respondents further submitted that if any representation has been made for the release of the book, the same would be converted into an appeal and that the appellate authority may be directed to consider the same on its merits and in accordance with law. Submission of Mr.Niranjan Rajagopalan, learned counsel for the respondents is placed on record.

5. Heard the learned counsel for the parties and perused the materials available on record.

6. Seizure memo dated 02.04.2019 issued by the competent authority is reproduced.

FORMAT FOR RECEIPT TO BE GIVEN TO PERSONS FROM WHOM
CASH / ARTICLE IS SEIZED.

Book No.8

Receipt Number. 9

Date: 02.04.2019

02.20. AM

Name of the Executive Magistrate RAMKUMAR K
(Heading the Static Surveillance Team)

1. Cash Amount seized Rs..... (in
words)

/ other articles seized "அடுத்த ஆட்சி ஜோதிட ஆய்வு, - பத்தகம்"

" 396 பண்டல் x 200 நகல் = 79200 copies

..... from

Shri SARAVANAN .K [Driver TN 20 AJ 8798 TATA 407]

Address: 170/27, Muthumariyamman Koil St.,

Keezhpazhanthai, Vadukannur, Tiruvannamalai.

Mobile No.9080598749 at Vilar By Pass, Thanjavur (name

of place where seized) and dated 02.04.2019 02.20 AM falling in the Assembly / Parliamentary Constituency of 174-Thanjavur / 30-Thanjavur.

(Name of State / Tamilnadu District Thanjavur Police Station Thajavur Taluk. As the entire other articles is suspected to be used as bribery of the electors.

2. The Cash Rs..... (In words Rs.....)/- (details of other articles) have been handed over to Shri..... (name and designation of the officer or Income Tax Deptt.) taking necessary action under Income Tax Laws. [Strike out if not application].

Appeal Procedure

You may appeal to RO/PD(DRPA) 30, Thanjavur (Name of ADM / SDM, heading the Expenditure Monitoring Cell) for redressal of grievance, within seven days or you may appeal to Joint Director of Income Tax (Inv.) for necessary relief if action relates to Income Tax Deptt.

Sd/-.

Signature with stamp
(Name, Designation and address of Magistrate)

Date: 02.04.2019

7. Reading of the same indicates that the petitioner has been informed of an appeal to RO/PD(DRPA), 30 Thanjavur. Despite the same, he has not preferred an appeal, but filed this writ petition. That apart, at this juncture, it cannot be possible to consider as to whether there is any offensive portion in the book or not, but it would be deem fit to consider the representation, as an appeal and dispose of the same, in accordance with law.

8. As submitted by Mr.Niranjan Rajagoplan, learned counsel for the respondents, representation dated 05.04.2019 of the petitioner, addressed to the Chief Electoral Officer, Tamil Nadu State Election Commission, Public (Elections) Department, be forwarded to the appellate authority, and that the same be converted as an appeal. Appellate Authority is directed to consider the same in accordance with statutory provisions and pass orders.

9. With the above directions, writ petition is disposed of.
No Costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ars

To

1. The Chief Electoral Officer,
Tamil Nadu State Election Commission,
Public (Elections) Department,
Secretariat, Fort St. George,
Chennai - 60 009.
2. The Executive Magistrate,
Static Surveillance Team,
No.174, Thanjavur Assembly Constituency,
Thanjavur.

+1cc to Dr.D.Simon, Advocate, S.R.No.36158

+1cc to M/S.G.R.Associates, Advocate, S.R.No.36583

W.P.No.11429 of 2019

SS(CO)
CS/16/04/2019

सत्यमेव जयते
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