

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2019

CORAM:

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

W.P.No.13093 of 2019  
and  
W.M.P.No.13227 of 2019

Mrs.Sangeetha

.. Petitioner

Vs.

1.The Election Commissioner of India,  
Nirvachan Sadan,  
Ashoka Road,  
New Delhi.

2.The Chief Electoral Officer,  
Public (Elections) Department,  
Government of Tamil Nadu,  
Secretariat,  
Fort St. George,  
Chennai - 600 009.

3.The District Electoral Officer cum  
District Collector,  
Kanchipuram District,  
Kanchipuram.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, issuance of a Writ of Mandamus, directing the respondents to include the name of the petitioner in the voter list pertaining to Chengalpet Assembly Constituency which is included in the Kanchipuram Parliamentary Constituency.

For Petitioner : Mr.M.L.Ravi

For Respondents: Mr.Niranjan Rajagopalan

## ORDER

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

Petitioner, has sought for a Mandamus, directing the respondents, to include the name of the petitioner, in the voter list, pertaining to Chengalpet Assembly Constituency which is included in Kanchipuram Parliamentary Constituency.

2. According to the petitioner, she was born and brought up at Thiruvotriyur, Chennai and she got married in the year 2012. Before her marriage, she exercised her franchise in Thiruvotriyur Assembly Constituency. She shifted her residence in 2013, to Plot No.72 and 73, Kamatchi Amman Nagar Extension, East Potheri, Kanchipuram District.

3. She made an application on 03.11.2014, to the Voters Registration Camp conducted by the authorities for registration of her vote in Thiruporur constituency, after cancelling her vote from Thiruvotriyur whereby she was given application number EI141335081. At that time, her place of residence (Potheri), was within the Thiruporur Constituency. After delimitation, the said place of residence was included in Chengalpet Constituency. Thereafter, she made an application on 04.10.2015, for registration of her vote, in Chengalpet Constituency, after cancelling her vote in Thiruvotriyur Constituency whereby she was given another application No.EI15087431.

4. Petitioner has contended that, change of her address, for exercise and franchise, was not acted upon. Therefore, she lodged an online complaint on 18.03.2019, stating that her name was not found in the voters list in Chengalpet Constituency, due to which she could not exercise her franchise for the Kanchipuram Parliamentary Constituency.

5. In the abovesaid circumstances, petitioner has sought a writ of mandamus, directing the respondents herein, to include her name in the voter list in Chengalpet Assembly Constituency, which is also included in the Kanchipuram Parliamentary Constituency.

6. Inviting the attention of this Court to Sub Section 3 of Section 22 of the Representation of the People Act, 1950, Mr.Niranjan Rajagopalan, learned counsel for Election Commission of India, submitted that as per the said sub section, no amendment, transposition or deletion of any entry shall be made under Section 22 and no direction for the inclusion of a name in the electoral roll of a constituency shall be given under this section, after the last date for making nominations for an election in that constituency or in the Parliamentary constituency within which that constituency is comprised and

before the completion of that election.

7. Learned counsel for Election Commission of India, further submitted that till the declaration of election results, both the Parliamentary and Assembly Constituencies, in the State of Tamil Nadu, amendment cannot be made. He further submitted that Election Commission of India, would look into the complaint of the petitioner.

8. Placed on record the above said submission.

9. Section 21 of the Representation of the People Act, 1950, deals with preparation and revision of electoral rolls. The said section is extracted hereunder:-

"21. Preparation and revision of electoral rolls.

— (1) The electoral roll for each constituency shall be prepared in the prescribed manner by reference to the qualifying date and shall come into force immediately upon its final publication in accordance with the rules made under this Act.

(2) The said electoral roll—

(a) shall, unless otherwise directed by the Election Commission for reasons to be recorded in writing, be revised in the prescribed manner by reference to the qualifying date—

(i) before each general election to the House of the People or to the Legislative Assembly of a State; and

(ii) before each bye-election to fill a casual vacancy in a seat allotted to the constituency; and

(b) shall be revised in any year in the prescribed manner by reference to the qualifying date if such revision has been directed by the Election Commission:

Provided that if the electoral roll is not revised as aforesaid, the validity or continued operation of the said electoral roll shall not thereby be affected.]

(3) Notwithstanding anything contained in subsection (2), the Election Commission may at any time, for reasons to be recorded, direct a special revision of the electoral roll for any constituency or part of a constituency in such manner as it may think fit:

Provided that subject to the other provisions of this Act, the electoral roll for the constituency, as in force at the time of the issue of any such direction, shall continue to be in force until the completion of the special revision so directed."

10. Section 22 of the Representation of the People Act, 1950, deals with correction of entries in electoral rolls. The said section is extracted hereunder:-

"[22. Correction of entries in electoral rolls.-If the electoral registration officer for a constituency, on application made to him or on his own motion, is satisfied after such inquiry as he thinks fit, that any entry in the electoral roll of the constituency-

(a) is erroneous or defective in any particular,

(b) should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within the constituency, or

(c) should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident in the constituency or is otherwise not entitled to be registered in that roll,

the electoral registration officer shall, subject to such general or special directions, if any, as may be given by the Election Commission in this behalf, amend, transpose or delete the entry [after proper verification of facts in such manner as may be prescribed]:

Provided that before taking any action on any ground under clause (a) or clause (b) or any action under clause (c) on the ground that the person concerned has ceased to be ordinarily resident in the constituency or that he is otherwise not entitled to be registered in the electoral roll of that constituency, the electoral registration officer shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him [after proper verification of facts in such manner as may be prescribed]."

11. Section 23 of the Representation of the People Act, 1950, deals with inclusion of names in electoral rolls. The said section is extracted hereunder:-

[23. Inclusion of names in electoral rolls.- (1) Any person whose name is not included in the electoral roll of a constituency may apply to the electoral

registration officer for the inclusion of his name in that roll.

(2) The electoral registration officer shall, if satisfied that the applicant is entitled to be registered in the electoral roll, direct his name to be included therein [after proper verification of facts in such manner as may be prescribed]:

Provided that if the applicant is registered in the electoral roll of any other constituency, the electoral registration officer shall inform the electoral registration officer of that other constituency and that officer shall, on receipt of the information, strike off the applicant's name from that roll [after proper verification of facts in such manner as may be prescribed].

(3) No amendment, transposition or deletion of any entry shall be made under section 22 and no direction for the inclusion of a name in the electoral roll of a constituency shall be given under this section, after the last date for making nominations for an election in that constituency or in the parliamentary constituency within which that constituency is comprised and before the completion of that election.]"

12. In the light of the statutory provisions, stated supra and in particular, Sub Section 3 of Section 22 of the Representation of the People Act, 1950, prayer sought for cannot be granted. However, as submitted by the learned counsel for the Election Commission of India, complaint be looked into. Writ petition is dismissed. No Costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Election Commissioner of India,  
Nirvachan Sadan,  
Ashoka Road,  
New Delhi.

2.The Chief Electoral Officer,  
Public (Elections) Department,  
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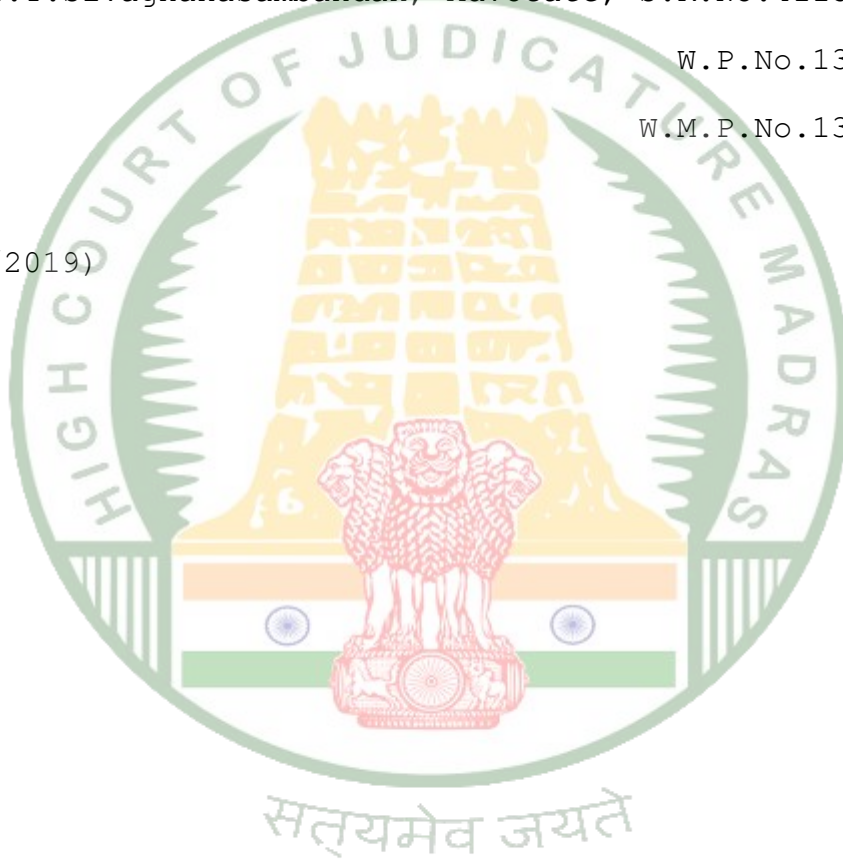
3.The District Electoral Officer cum  
District Collector,  
Kanchipuram District,  
Kanchipuram.

+1cc to Mr.T.Sivagnanasambandan, Advocate, S.R.No.41150

W.P.No.13093 of 2019  
and  
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NMI (CO)

RRS (29/04/2019)



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