

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2019

CORAM:

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

W.P.No.12748 of 2017

A.Vinayagam

... Petitioner

Vs.

1. The Chairman,
Delimitation Commission of India,
New Delhi.
2. The Member / The Chief Election Commissioner of India,
Delimitation Commission of India,
New Delhi.
3. The Chief Election Commissioner of India,
Election Commission of India,
Nirvasan Sadan, Ashoka Road,
New Delhi - 110 001.
4. The State Election Commissioner,
Tamil Nadu State Election Commission,
100 Feet Road, Vadapalani, Chennai.
5. The President of the Representation
Committee Tamil Nadu Legislative Assembly,
Secretariat, Chennai-9.
6. The Secretary to Government,
Municipal Administration and Water
Supply Department (Election),
Secretariat, Chennai-9.
7. The Joint Secretary,
Election Department,
Government of Tamil Nadu,
Secretariat, Chennai-9.
8. The Secretary to Government,
Revenue Department,
Secretariat, Chennai-9.

9. The Director,
Municipal Administration and Water
Supply Department (Election),
Chepauk, Chennai-5.

10. The District Collector,
Office of the District Collector,
Kancheepuram District,
Kancheepuram - 631 501.

11. The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai - 600 003.

12. The Asst. Commissioner,
Corporation of Chennai,
Alandur Zone - 12,
New Street, Alandur,
Chennai - 16.

13. The Asst. Commissioner,
Corporation of Chennai,
Perungudi Zone - 14,
(Camp: Chennai-91)

14. The Tahsildhar,
Office of the Tahsildhar,
Sholinganallur Taluk,
Kancheepuram District.

15. The Tahsildhar,
Office of the Tahsildhar,
Alandur Taluk,
Kancheepuram District.

... Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India, issuance of a Writ of Mandamus, directing the 1st respondent to consider and dispose of the petitioner's representation dated 13.04.2017 within the stipulated time.

For Petitioner : Mr.A.Ilaya Perumal

For Respondent Nos.1 to 3 : Mr.Niranjana Rajagopalan
for M/s.G.R.Associates.

For Respondent No.4 : Mr.R.Arunmozhi

For Respondent Nos.5 to 10, : Mr.Akhil Akbar Ali
14 and 15 Government Advocate

For Respondent Nos.11 to 13 : Mr.K.Soundararajan
Standing Counsel

O R D E R

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

A.Vinayagam/petitioner, has filed the instant public interest litigation, praying for a writ of mandamus, directing the 1st respondent to consider and dispose of his representation dated 13.04.2017, within the stipulated time.

2. In W.P.No.5978 of 2017, the writ petitioner therein, has sought for a mandamus, directing the Chief Election Commissioner of India, Election Commission of India, Nirvasan Sadan, New Delhi, to dispose of the representation dated 04.07.2016 and a Hon'ble Division Bench vide order dated 10.03.2017, disposed of the writ petition, granting liberty to the petitioner therein to approach the authority concerned, who is dealing with delimitation, and submit a representation, with regard to his grievance and observed that it is open to the authority concerned to pass necessary orders, on the representation submitted by the petitioner in accordance with law, after calling for objections from the general public.

3. Respondent No.12, Zonal Officer XII, Corporation of Chennai, has filed a counter affidavit. Relevant portion of Para 4 of the counter reads as under.

"I submit that the petitioner had sent a representation on 13.04.2017 based on the order of this Hon'ble Court in W.P.No.5978 of 2017 dated 10.03.2017 to the 1st respondent and also to the respondents 2 and 3 for including the Ullagaram Village, Alandur Taluk into the Alandur Assembly Constituency while delimitation of Assembly Constituencies was done, from the Sholinganallur Assembly Constituency. I submit that in so far as the Greater Chennai Corporation is concerned, we have no role in deciding the issue of including or excluding the areas from one Assembly Constituency to another and, therefore, the property Authorities are the Respondents 1 to 3."

4. Respondent No.13, The Assistant Commissioner, Zone-14, Greater Chennai Corporation, has also filed a counter affidavit. Relevant portion of Para 4 of the counter reads as under.

"I respectfully submit that the petitioner had sent a representation on 13.04.2017, based on the Hon'ble Court in W.P.No.5978 of 2017 dated 10.03.2017 to the 1st respondent and also to the respondents 2nd and 3rd for including the Ullagaram Village, Alandur Taluk into Alandur Assembly Constituency while delimitation of Assembly Constituencies was done, from the Sholinganallur Assembly Constituency. I submit that in so far as the Greater Chennai Corporation is concerned, we have no role in deciding the issue of including or excluding the areas from one Assembly Constituency to another and, therefore, the property authorities are the Respondents 1 to 3."

5. As per the averments made in the supporting affidavit in the writ petition and the urgency shown by the writ petitioner is with reference to the local body elections. However, the petitioner has also referred to the same in the matter of general assembly elections as well.

6. Mr.Niranjana Rajagopalan, learned standing counsel for the Chief Election Commissioner of India submitted that the elections for general assembly is over, delimitation of the constituency in so far as the local body elections, is governed under Chapter III of the Chennai City Municipal Corporation Act, 1919.

7. At this juncture, Mr.Akhil Akbar Ali, learned Government Advocate appearing for the respondents 5 to 10 submitted that in so far as delimitation is concerned, the subject area falls within the Greater Chennai Corporation.

8. In addition to the above, Mr.K.Soundararajan, learned Standing Counsel appearing for respondents 11 to 13 submitted that for the purpose of election and appointment of councillors, qualifications and disqualifications of voters, candidates and councillors, as per Section 45 of the Chennai City Municipal Corporation Act, 1919, the Government may after consulting the council, by notification, alter the boundaries of any such division.

9. Section 45 of the Chennai City Municipal Corporation Act, 1919, reads thus:

"45. For the purpose of the election of the two hundred councillors referred to in sub-section (1) of section 5, the city shall be divided into two hundred territorial divisions the boundaries of which shall be fixed by the State Government by notification.

(2)The State Government may after consulting the council, by notification, alter the boundaries of any such division."

10. From the above, it is deduced that the Chief Election Commissioner of India, Election Commission of India, against whom, mandamus is sought for is not a competent authority to pass any orders on the representation dated 13.04.2017 of the writ petitioner with copies marked to others. When attention of the learned counsel for the petitioner was invited to the above, he seeks permission of this Court to withdraw the writ petition. He has also made an endorsement to that effect.

11. Placing on record the above, writ petition is dismissed as withdrawn. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sri

To

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Delimitation Commission of India,
New Delhi.
2. The Member / The Chief Election Commissioner of India,
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New Delhi.
3. The Chief Election Commissioner of India,
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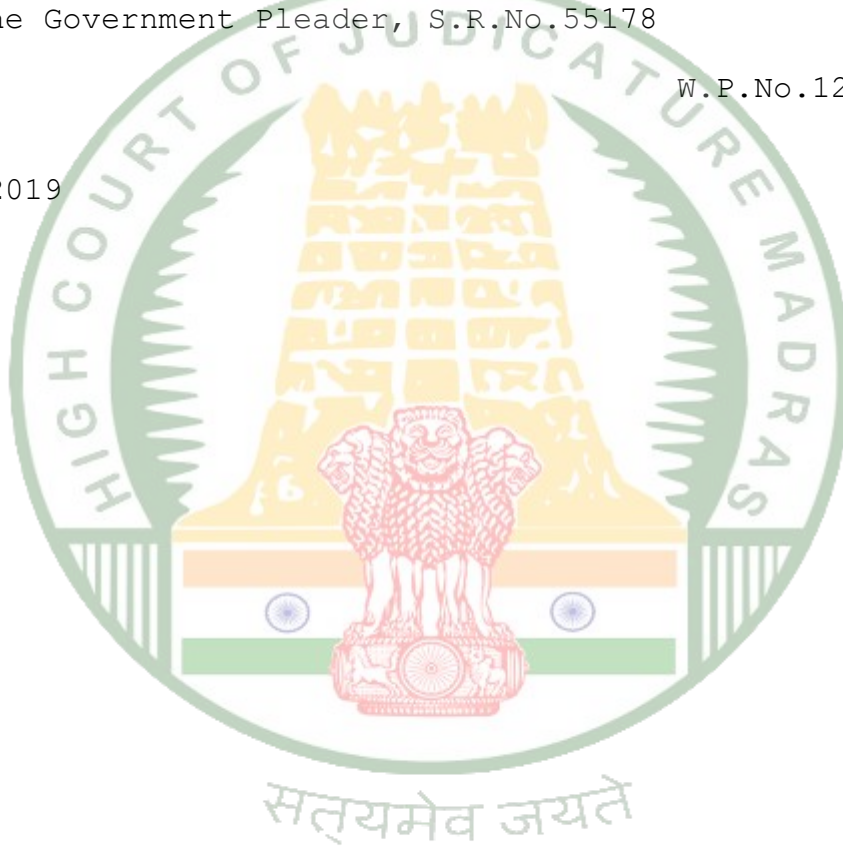
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Alandur Taluk,
Kancheepuram District.

+1cc to Mr.K.Soundararajan, Advocate, S.R.No.55559
+1cc to M/s.G.R.Associates., Advocate, S.R.No.54840
+1cc to Mr.A.Ilaya Perumal, Advocate, S.R.No.54829
+1cc to the Government Pleader, S.R.No.55178

W.P.No.12748 of 2017

RSV(CO)
CS/03/09/2019



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