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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 27.11.2019
CORAM:
THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE
W.P.No.30616 of 2019

S.Purushothaman

.. Petitioner

Vs

1.The District Collector
Kancheepuram District
I Floor, Collectorate
Kancheepuram - 631 501.

2.The Tambaram Municipality Commissioner
1, Muthuranga Mudali Street
West Tambaram
Tambaram, Chennai - 600 045.

3.The State Election Commissioner
Tamil Nadu State Election Commission
No.208/2, Jawaharlal Nehru Road
Opp.CMBT, Arumbakkam
Chennai - 600 106.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to allocate the Ward 22 of Tambaram Municipality Ward to General Category and allocate the same to SC/ST reserved category by rotation to other Tambaram Municipality Ward, not reserved so far.

For Petitioner : Mr.A.Raghuraman

For Respondents: Mr. E.Manoharan
Additional Government Pleader for R1
Mr.P.Srinivas
Standing Counsel for R2



ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

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The writ petition styled as Public Interest Litigation, is filed by the resident of Anandhapuram, East Tambaram, Chennai - 600 059, and in the affidavit filed in support of this writ petition, he would aver among other things that his residence comes under the old Ward Number 22 of Tambaram Municipality and now the present Ward number is 27. There are totally 39 Wards under the administration of Tambaram Municipality and out of which, 6 Wards are reserved for the people belonging to Scheduled Caste / Scheduled Tribes, and he further expresses his grievance that right from the year 1996, the old Ward No.22 and the new Ward No.27, has been reserved for the Scheduled Caste/Scheduled Tribes and therefore, prays for an appropriate direction to declare that it is a General Category, so as to enable the people from other community to participate in the Election process.

2. The matter is listed today for admission and the learned counsel appearing for the petitioner has invited the attention of this Court to the typed set of documents and would submit that in a democratic nation, election process plays a vital role and eligible candidates are having right to contest in the Election and in the light of the fact that the old Ward No.22 and the present Ward No.27 has been reserved for Scheduled Caste/Scheduled Tribes for decades together without any rotation, the people belonging to the other community, who also have basis and also have the right to participate in the Election process, are denied of such constitutional right and therefore, prays for appropriate orders.

3. Mr.E.Manoharan, learned Additional Government Pleader accepts notice on behalf of the first respondent. Mr.P.Srinivas, learned Standing Counsel appearing for the second respondent, has invited the attention of this Court to the provisions of Tamil Nadu Municipal Councils (Reservation of Wards for the Scheduled Caste and the Scheduled Tribes and Co-option of Women in the Councils) Rules, 1991, as well as the counter affidavit of the second respondent dated 04.11.2019, and would submit that limitation exercise was done in the light of the 2011 census, and the old Ward Number 22 was reconstituted and the present Ward Number is 27 and a part of the area has been added to new Ward No.29. He has also drawn the attention of this Court to paragraph No.4 of the counter affidavit and would submit that by applying Rule 4 of said Rules, 1991, the



descending order of percentage has been identified and therefore, the old Ward No.22 and new Ward No.27 has been reserved for candidates belonging to the Scheduled Caste/Scheduled Tribes. He would further add that before doing so, Rule 5 of the Rules 1991, has been scrupulously applied and after taking into consideration the objections and other materials, G.O.Ms.No.61, Municipal Administration & Water Supply Department, dated 20.05.2019, came to be passed and in the absence of any specific challenge made to the procedure adopted as well as to the said G.O., the present writ petition is not maintainable and prays for dismissal of this writ petition.

4. This Court has considered the rival submissions and also perused the materials placed before it. It is relevant to extract Rule 4 and 5 of the Tamil Nadu Municipal Councils (Reservation of Wards for the Scheduled Caste and the Scheduled Tribes and Co-option of Women in the Councils) Rules, 1991, as well as paragraph No.4 and 5 of the counter affidavit filed by the second respondent.

Rule 4. Principal governing reservation of wards for Scheduled Castes and Scheduled Tribes - For the purposes of reservation the wards shall be arranged in the descending order of having higher percentage of Scheduled Castes and Scheduled Tribes population and the required number of wards shall be reserved taking into account the prevailing local conditions.

(2) While reserving such wards, if it is considered necessary to eliminate any ward from reservation, considering the local conditions or any other factors, such wards shall be omitted from the descending order of population of Scheduled Castes and Scheduled Tribes and the remaining wards shall be considered for reservation.

(3) The reservation of wards shall be made in such a way that the reservation for Scheduled Castes and Scheduled Tribes is spread over among the wards in the Municipality.

Rule 5. Publication of preliminary notification regarding reservation - Before issuing any notification reserving wards in a municipality, the Government shall publish a draft of the notification proposed to be issued in the Tamil Nadu Government Gazette.



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(2) The Commissioner shall display the proposals on the notice board of the municipal office and also give wide publicity in the municipality for public opinion.

(3) The Commissioner shall place the proposals and the opinions of the public before the council and obtain its views within fifteen days from the date of publication of the draft of the notification.

(4) The Commissioner shall forward to the Government the opinion or objection, if any, received from the public, along with his remarks and the resolution of the Council within the time prescribed by the Government.

(5) After considering the opinion or objection, if any, the Government shall confirm the draft of the notification, if there is no modification. The notification as so confirmed shall be finally published in the Tamil Nadu Government Gazette.

(6) Where in pursuance of any objection the draft of the notification published is proposed to be modified, the draft of the modified notification shall be published in the Tamil Nadu Government Gazette.

(7) After observing the formalities laid down in sub-rules (1) to (4), the Government shall confirm the modified, notification and the notification as so confirmed shall be finally published in the Tamil Nadu Government Gazette.

Extraact of Paragraph No.4,5 & 6 of the counter affidavit:

4. As per the 2011 Census, the total population of the Ward is 3963 and the composition of the said population is as follows :-

Total Populat ion	Male	Female	SC Total	Male	Female	ST
3963	1971	1992	1034	525	509	9

5. The percentage of the SC population of the Ward Number 27 compared with total population is 26.09%. The wards that are having the highest percentages of SC population have been calculated with regard to the



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total population and the number of SC voters. Accordingly, the total of 6 wards having the highest percentage have been identified and the descending order of percentages has been identified. Accordingly, Ward Numbers having the SC population as follows have been identified as Wards that are to be reserved:-

Ward Number	Percentage of SC
24	49.5%
2	47.99%
27	26.09%
32	23.40%
31	22.95%
35	22.80%

6. The above six wards reflect the required number of wards that are to be reserved as per Article 243T, as the total number of such reserved wards is to be as per the percentage of the SC population in the Municipal town. Accordingly, the percentage of the population of SC voters is 15.15% out of the total population, namely total population is 1,74,787 and the SC population is 26,496, which is 15.15%."

5. The petition and the counter affidavit filed in support of the writ petition did not make any specific averment as to the infraction and non-following of the Rules 4 and 5 of Tamil Nadu Municipal Councils (Reservation of Wards for the Scheduled Caste and the Scheduled Tribes and Co-option of Women in the Councils) Rules, 1991. The paragraph Nos.4, 5 and 6 of the counter affidavit of the second respondent would also disclose that the exercise had been done in accordance with the said Rules and thereafter, the Administrative Department viz., the Municipal Administration and Water Supply Department, has passed G.O.Ms.No.61., Municipal Administration and Water Supply (Election), dated 20.05.2019, and in the absence of any specific ground as to non-following or infraction of the said Rules, coupled with the fact that no specific challenge has been made to the said G.O., this Court is of the considered view that the prayer sought for by the petitioner cannot be granted. However, the fact remains that even in respect of Parliamentary Constituency and Legislative Assembly Constituency, rotation of the Wards had been done and in the absence of any specific bar as to the said rotation, it is always open to the concerned official respondents to redo the said exercise.



6. In the result, the Writ Petition is dismissed, subject to the above observation. No costs.

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Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To:

- 1.The District Collector
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No.208/2, Jawaharlal Nehru Road
Opp.CMBT, Arumbakkam
Chennai - 600 106.

+lcc to Mr.A.Raghuraman, Advocate sr.99731
+lcc to Mr.P.Srinivas, Advocate sr.99171
+lcc to Government Pleader SR.NO. 99446

W.P.No.30616 of 2019

rv(co)
nr 20/01/2020