

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.12.2019

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No.35050 of 2019
and WMP.No.35833 of 2019

S.Gopalraman

.. Petitioner

..Vs..

1. The Election Commissioner,
Tamil Nadu State Election Commission,
No.208/2, Jawaharlal Nehru Road,
(100 Feet Road) Arumbakkam, (OPP CMBT),
Chennai - 600 106.
2. The Collector,
Thiruvarur District.
3. The Project Director,
Office of the District Rural Development Office,
Thiruvarur.
4. The Assistant Project Directory,
Election Officer,
(Union Council Member)
Thiruthuraipoondi Union,
Thiruvarur District.
5. The Block Development Officer cum
Election Officer (for President and Panchayat Member),
Thiruthuraipoondi Taluk,
Thiruvarur District.

6. K.Singaravel

.. Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2nd to 5th respondents to adhere and follow the part-2 of the Hand Book published by the 1st respondent and disqualify the 6th respondent's application and dispose of the petitioner's representation dated 15.12.2019.

For Petitioner

: Mr.S.Ilamvaludhi

For Respondents : Mr.B.Nedunchezhiyan (for R1)
Mr.V.Jaya prakash Narayanan
Government Pleader (for R2 to R5)
Mr.Vijendran (for R6)

O R D E R

The petitioner S.Gopalraman, S/o. Samiappan has filed the present writ petition in the nature of mandamus seeking a direction against the 5th respondent to adhere and follow Part -2 of the Hand Book published by the 1st respondent and disqualify the 6th respondent namely K.Singaravel resident Kalaikadu, Korkai Village, Thiruthuraipoondi Taluk, Thiruvarur District application and dispose of the petitioner's representation dated 15.12.2019.

2. The grievance of the petitioner is that the 6th respondent was nominated for the post of president of Korkai Village of Thiruthuraipoondi Panchayat Union. According to the petitioner, the 6th petitioner is an existing contractor of the Panchat union and being existing contractor of the said Panchayat Union, he is naturally disqualified to be nominated for the post of President in Election as per Rule 2.2(c). But, the respondents have accepted his nomination.

3. To support his case, the learned counsel for the petitioner has drawn the attention of this Court to the hand book which contains the guidelines for nomination prospective to the candidates, particularly to Rule 2.2 (c) in which, it is stated that the candidate should not be a contractor in the said panchayat. Further, to show the 6th respondent is a contractor, the learned counsel has drawn attention to a letter given by the Engineer in Chief, WRD., & chief Engineer (General), PWD., Chepauk, Chennai - 600 005, dated 22.11.2019 addressed to the 6th respondent wherein it is stated that the 6th respondent is a contractor. Consequently, a representation has been sent by the petitioner which unfortunately is not dated but which is said to be dated 15.12.2019 and which date is to be gathered from the postal receipt payment dated 16.12.2019. The learned counsel states that the objection of the petitioner should be taken into consideration if the respondents have not already accepted nomination of the 6th respondent.

4. Mr.B.Nedunchezhiyan, learned Standing Counsel takes notice for R1, Mr.V.Jayaprakash Narayanan, learned Government Pleader takes notice for R2 to R5 and Mr.P.Vijendran, learned counsel entered appearance for R6.

6. The learned Standing counsel for R1 stated that scrutiny of the application have been completed yesterday viz., 17.12.2019 and the list of approved candidates has put up in the board. The learned counsel for the R1 has also supported and accepted the submissions made by the learned Government Pleader who takes notice for R2 to R5. He also states that the name of the 6th respondent had been put up in the notice board. Additional information has also been received from the Commissioner of the Thiruthuraipoondi Municipality stating that the 6th respondent is not a contractor.

7. Hence, it is observed that the petitioner can initiate the proceedings under Section 269 (d) of the Panchayat Act, if there had been any improper nomination and the same can be challenged by an Election petition which has to be filed before the concerned Principal District Court. If the nomination of the 6th respondent had not been accepted as on date (18.12.2019), the respondents may consider the representation of the petitioner. If the nomination of the 6th respondent had already been considered, then the petitioner is at liberty to take appropriate legal remedies and also take advantage of the documents presented before the Court to urge the case in the said appropriate proceedings.

8. It is urged by the Government Pleader that the writ petition would not lie after the nomination has been accepted and that the only remedy is to file the election petition. In this connection, the learned Government Pleader relied upon the Judgment of the Hon'ble Division Bench of this Court reported in 1997 (I) CTC 296 in M.Vaikundaraj Vs. State of Tamil Nadu, wherein it is specifically stated that there is a bar under the Constitution for the Writ Court to consider the writ petition filed in this regard and the proper course to file an Election petition.

9. Recording all the statements, the writ petition is dismissed, granting liberty to the petitioner to approach the appropriate forum by means of the election petition.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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To

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Thiruthuraipoondi Taluk,
Thiruvarur District.
- +1 CC to Mr.S.Ilamvaludhi, Advocate sr 105081.
+1 CC to Mr.P.Vijendran, Advocate sr 105375.
+1 CC to Govt. Pleader sr 449.

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VGI (CO)
SP(17/02/2020)

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