



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.12.2019

CORAM:

THE HON'BLE MR. JUSTICE S.VAIDYANATHAN
AND
THE HON'BLE Ms. JUSTICE P.T.ASHA

WP.No.35834/2019 & WMP.No.36739/2019

Senthil Arumugam .. Petitioner
vs.

1.The Chief Election Commissioner
Tamil Nadu State Election Commission,
Vadapalani, Chennai - 106.

2.The Chief Secretary
Government of Tamil Nadu
Fort St George
Chennai 600 009.

.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the first respondent not to announce the results of Local Body election held on 27.12.2019 and 30.12.2019 for 27 Districts for the posts of Panchayat Ward Members, Panchayat Presidents, Panchayat Union Councilors and District Councilors held as per the Notification issued in Tamil Nadu Government Gazette Extra Ordinary No.455 [Part VI, Section - 2] dated 09.12.2019 till Urban Local Body Elections completed.

For Petitioner : Mr.R.T.Chidambaram
For R1 : Mr.Ar.L.Sundaresan, Senior Counsel
assisted by Mr.B.Nedunchezhiyan
For R2 : Mr.S.R.Rajagopal, AAG &
Mrs.Narmadha Sampath, AAG
assisted by
Mr.V.Jayaprakash Narayan, GP

O R D E R

(Order of the Court was made by S.VAIDYANATHAN, J. &
P.T.ASHA, J.)

(1)By consent, the writ petition is taken up for final disposal. Mr.Ar.L.Sundaresan, learned Senior counsel assisted by Mr.B.Nedunchezhiyan, learned counsel accepts notice on behalf of the 1st respondent and Mr.S.R.Rajagopal, learned Additional Advocate General and Mrs.Narmadha Sampath, learned Additional Advocate General assisted by



Mr.V.Jayaprakash Narayan, learned Government Pleader accepts notice on behalf of the 2nd respondent.

(2) The petitioner submitted that the Local Body Elections are scheduled on 27.12.2019 and 30.12.2019 respectively for the posts of Panchayat Ward Members, Panchayat Presidents, Panchayat Union Councilors and District Councilors and that, the election has already been conducted on 27.12.2019 and it is being conducted today pursuant to the orders of the Hon'ble Supreme Court of India dated 06.12.2019 made in Writ Petition [Civil] No.1443/2019 [S.Shankar V. The Election Commission of India].

(3) Heard the submissions of the learned counsel for the petitioner ; Mr.Ar.L.Sundaresan, learned Senior counsel assisted by Mr.B.Nedunchezhiyan, learned counsel appearing for the 1st respondent and Mr.S.R.Rajagopal, learned Additional Advocate General and Mrs.Narmadha Sampath, learned Additional Advocate General assisted by Mr.V.Jayaprakash Narayan, learned Government Pleader appearing for the 2nd respondent and also perused the materials placed before it.

(4) It is relevant to extract Paragraph No.15 of the order of the Hon'ble Supreme Court of India dated 06.12.2019 in WP. [C] No.1443/2019:-

'15. For the reasons aforesaid, these applications are allowed in part and disposed of with the following directions:-

(a) The Respondent-Authorities shall hold elections to all Panchayats at Village, intermediate and District Levels, except those in the following nine reconstituted Districts.

- i.Kancheepuram
- ii.Chengalpattu
- iii.Vellore
- iv.Thirupathur
- v.Ranipet
- vi.Villupuram
- vii.Kallakurichi
- viii.Tirunelveli
- ix.Tenkasi

(k) The respondents [including the Delimitation Commission] are directed to delimit the nine newly constituted Districts in accordance with the law and thereafter, hold elections for their panchayats at the village, intermediate and District levels, within a period of four months.

(l) There shall be no legal impediment against holding elections for panchayats at the village, intermediate and District levels for the rest of the Districts.

(m) State Election Commission shall notify elections for the panchayats at village,



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intermediate and District levels in respect of all Districts except the nine re-constituted Districts as per the details given in direction 'a' above.;

(n) While conducting elections, the respondents shall provide proportionate reservation at all levels, in accordance with the Rule 6 of the Tamil Nadu Panchayats [Reservation of Seats and Rotation of Reserved Seats] Rules, 1995.'

(5) The only grievance expressed by the petitioner is that the results of the elections conducted in the rural areas will have a bearing on the elections that may be conducted in the urban areas and that it is a transitional stage and would further submit that, though the Local Body Election in the rural areas could be conducted, the results of the same, shall not be declared for the aforesaid reason.

(6) When this Court posed a question as to whether the very same persons are going to cast the vote, the learned counsel for the petitioner would submit that the persons who are going to cast their votes in the urban areas are different and the said factum was also affirmed by the respective learned Additional Advocate Generals. It is also seen that similar plea was also taken before the Hon'ble Apex Court in the order cited supra [S.Shankar's case] and it is relevant to extract the same:-

'M. Because the respondent Commission announced the election only to Rural Local Bodies in a phased manner and has also announced the date of counting of votes, without announcing the date for the election of the Urban Local Bodies. Although there is no bar to conduct the elections in a phased manner, declaration of results for such phases without conducting the election for Rural Local Bodies would impact the results for the election to Urban Local bodies, to which elections are yet to be announced.'

(7) Though the petitioner has referred to Article 243-Q of the Constitution of India, which reads thus:-

243Q. Constitution of Municipalities.-(1)

There shall be constituted in every State,-

(a) a Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area;

(b) a Municipal Council for a smaller urban area; and

(c) a Municipal Corporation for a larger urban area, in accordance with the provisions of this Part:

Provided that a Municipality under this clause may not be constituted in such urban area or



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part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township.

(2) In this article, "a transitional area", "a smaller urban area" or "a larger urban area" means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Part.'

it nowhere prohibits the election being conducted, more particularly, in the light of the order passed by the Hon'ble Apex Court of India referred to above. That apart, there is a Notification dated 02.12.2019 published in the Tamil Nadu Government Gazette Extra Ordinary No.455 [Part VI, Section - 2] dated 09.12.2019 and this fact, having been brought to the knowledge of the Hon'ble Apex Court and the Hon'ble Supreme Court of India, taking note of the above did not deem it fit to keep at bay the declaration of the final results. If at all the petitioner has got any grievance after declaration of the results, it is open to him to challenge the same and this Court is of the considered view that it is too premature for the petitioner to approach this Court seeking direction not to declare the results of the election.

(8) In the result, the writ petition stands dismissed at the admission stage itself, granting liberty to the petitioner, to challenge the results of the elections being conducted, if it is available to him under law. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To

1. The Chief Election Commissioner
Tamil Nadu State Election Commission,
Vadapalani, Chennai - 106.



2.The Chief Secretary
Government of Tamil Nadu
Fort St George
Chennai 600 009.

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+1cc to Mr.B.Nedunchezhiyan, Advocate, S.R.No. 106883
+1cc to Mr.R.T.Chidambaram, Advocate, S.R.No. 106835

+1cc to the Government Pleader, S.R.No. 106886

WP.NO.35834/2019

MJ(CO)
GN(30/12/2019)