



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.05.2019

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI**

W.P.(MD)No.11505 of 2019 and
W.M.P.(MD)Nos.8779 & 8780 of 2019

P.Singaravel

... Petitioner

Vs.

1. The Chief Electoral Officer,
O/o.Chief Election Officer,
Fort St. George, Chennai - 600 109.

2. The District Electoral Officer/District Collector,
Thoothukudi District, Thoothukudi.

3. The Returning Officer,
217-Ottapidaram(SC) Assembly Constituency,
and Assistant Commissioner(Excise),
Thoothukudi.

... Respondents

PRAYER : Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of rejection passed by the third respondent vide Roc.No.Ex.3/9471/2019, dated 30.04.2019, quash the same as illegal and arbitrary and consequently directing the respondents to accept the nomination filed by the petitioner for 217-Ottapidaram(SC) Assembly Constituency which is scheduled to be held on 19.05.2019.

For Petitioner : Mr.G.Thalaimutharasu

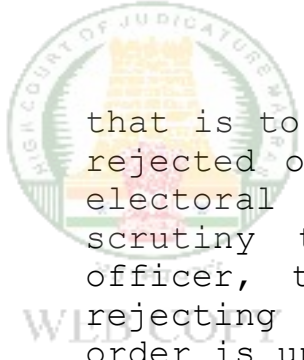
For Respondents : M/s.J.Padmavathi Devi,
Special Government Pleader.

O R D E R

[Order of the Court was made by G.R.SWAMINATHAN, J.]

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

2. The writ petitioner is a practicing Lawyer. He wanted to contest in the bye-election for Ottapidaram reserved Constituency



that is to be held on 19.05.2019. The petitioner's nomination was rejected on the ground that he failed to enclose the extract of electoral roll and the original Community Certificate before the scrutiny time i.e., 11.00 a.m. on 30.04.2019. The Returning officer, therefore, passed the impugned order dated 30.04.2019 rejecting the Writ petitioner's nomination. The said rejection order is under challenge in this Writ petition.

3. The learned counsel appearing for the Writ petitioner reiterated all the grounds set out in the affidavit filed in support of the Writ petition. His principal contention is that the Writ petitioner's name is very much found in the electoral roll and that he belongs to S.C. Community. Unfortunately, there was a minor delay in submitting these two documents. The learned counsel seriously faulted the conduct of the Returning officer in hastily rejecting his nomination. He wanted this Court to interfere in the matter. Since it may take time to decide the matter, he wanted this Court to grant an interim order restraining the holding of the election on the notified day. In the alternative, he prayed for an interim direction for directing the Returning officer to accept his nomination.

4. We are unable to agree with the submissions made by the learned counsel appearing for the petitioner. Article 329 of the Constitution of India contains a blanket bar against entertaining such Writ petitions. Article 329(b) of the Constitution of India reads as under:-

"329. Bar to interference by Courts in electoral matters - Notwithstanding anything in this Constitution,

(a) ...

(b) no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature."

5. This constitutional provision was interpreted by the Six Judges Bench of the Hon'ble Supreme Court in the decision reported in A.I.R. (39) 1952 SC 64 (N.P. Ponnuswami V. Returning Officer, Namakkal). In the said case also, the nomination of the appellant therein was rejected by the Returning officer. The aggrieved individual filed a Writ petition before the Madras High Court. The Madras High Court dismissed the Writ petition as not maintainable by citing the aforesaid constitutional bar. The decision of the Madras High Court was confirmed by the Hon'ble Supreme Court. It is a leading decision and it holds the field even as on date. The Hon'ble Supreme Court held as follows:-

" [16] The conclusions which I have arrived as may be summed up briefly as follows:



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is over. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

Sub Assistant Registrar (CS)

To

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