



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 20.12.2019

WEB COPY

CORAM:
THE HONOURABLE MR.JUSTICE M.DURAISWAMY
AND
THE HONOURABLE MR.JUSTICE T.RAVINDRAN

W.P(MD)No.27170 of 2019
and
W.M.P(MD)No.23480 of 2019

T.Kasiyammal ... Petitioner

Vs.

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

2.The District Election Officer,
Virudhunagar District,
Virudhunagar.

3.The Assistant Returning Officer,
Padikkasuvaithanpatti Village,
Srivilliputhur Union,
Virudhunagar District.

4.R.Kandasamy ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Form 6 eligible candidate list dated 17.12.2019 containing the name of the fourth respondent as serial No.2 in the Form 6 eligible candidates list for 11th Ward of Padikkasuvaithanpatti Village Panchayat published by the third respondent on 18.12.2019 and quash the same in so far it relates to the inclusion of fourth respondent is concerned and consequently direct the third respondent to declare the candidature of the petitioner as unopposed as ward member for 11th Ward of Padikkasuvaithanpatti Village Panchayat, Srivilliputhur, Virudhunagar District.

For Petitioner	: Mr.R.Pon Karthikeyan for Mr.S.Balamurugan
For R - 1	: Mr.Raja Karthikeyan
For RR 2 & 3	: Mr.K.Chellapandian Additional Advocate General Assisted by Mr.VR.Shanmuganathan, Special Government Pleader.



ORDER

(Order of the Court was made by **M.DURAISWAMY, J.**)

The petitioner has filed the above Writ Petition to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Form 6 eligible candidate list dated 17.12.2019 containing the name of the fourth respondent as serial No.2 in Form 6 eligible candidates list for 11th Ward of Padikkasuvaithanpatti Village Panchayat published by the third respondent on 18.12.2019 and to quash the same in so far it relates to the inclusion of the fourth respondent is concerned and consequently directing the third respondent to declare the candidature of the petitioner as unopposed as ward member for 11th Ward of Padikkasuvaithanpatti Village Panchayat, Srivilliputhur, Virudhunagar District.

2.It is the case of the petitioner that pursuant to the notification dated 07.12.2019 for conducting Elections for Ward Members of Village Panchayats, Presidents of Village Panchayat, Ward Member of Panchayat Union and Ward Members of District Panchayats throughout the State of Tamil Nadu, the petitioner has filed a nomination on 12.12.2019 and three others have also filed the nomination to contest the post of 11th Ward Member of Padikkasuvaithanpatti Village Panchayat. On 17.12.2019, the third respondent scrutinized the nomination forms and on the same day at evening at about 05.30 p.m., the third respondent had published Form 6 in the notice board of the Village Panchayat, wherein the candidature of the fourth respondent was rejected and the petitioner's name alone was mentioned in Form 6. Thereafter, the third respondent included the name of the fourth respondent overnight and published new Form 6 on 18.12.2019 by violating the Election Rules. Challenging the candidature of the fourth respondent, the petitioner has filed this Writ Petition.

3.The learned counsel appearing for the petitioner has produced a photocopy in support of his contention, wherein the name of the petitioner alone has been mentioned in Form 6. In the typedset of papers, the petitioner has also enclosed another Form 6, wherein the names of both the petitioner as well as the fourth respondent were mentioned.

4.The learned counsel appearing for the petitioner submitted that the petitioner has taken photograph of the Form 6 published on 17.12.2019 at 05.50 p.m., on 17.12.2019. Further, the learned counsel submitted that the photograph was taken from the notice board of the Panchayat Office.

5.Mr.K.Chellapandian, learned Additional Advocate General appearing for the respondents 2 and 3 submitted that Ms.G.Meenakshi,

<https://hcservices.ecourts.gov.in/hcservices/>



Senior Revenue Inspector, Taluk Office, Srivilliputhur, Virudhunagar District had informed him that the photograph was taken by the petitioner on the table of the third respondent and no Form 6 was pasted on the notice board on 17.12.2019 mentioning only the petitioner's name. Further, the learned Additional Advocate General submitted that the petitioner's husband is working in the Panchayat Office and therefore, he had taken the photograph when Form 6 was kept on the table of the third respondent.

6. But on perusing the photograph produced separately by the learned counsel for the petitioner, it would clearly establish that the photograph was not taken on the table of the third respondent and it was taken only from the notice board, wherein Form 6 was pasted. Ms.G.Meenakshi, Senior Revenue Inspector, Taluk Office, Srivilliputhur, Virudhunagar District, who was also present in Court, asserted that the photograph was not taken from the notice board. But on a perusal of the photograph, it is clear that it was taken only from the notice board for the reason that other papers are also hanging and some letters are also printed beneath the papers.

7. We are also of the considered view that Ms.G.Meenakshi, Senior Revenue Inspector, Taluk Office, Srivilliputhur, Virudhunagar District, who was present in the Court, has not given the correct instructions to the learned Additional Advocate General.

8. Learned Additional Advocate General further submitted that necessary action will be taken against the said Senior Revenue Inspector for giving false information to the Court. In any event, since the issue is a question of fact, the same cannot be decided in this Writ Petition under Article 226 of the Constitution of India and the petitioner can only file an Election Petition under Section 259 of the Tamil Nadu Panchayat Act, 1994, questioning the candidature of the fourth respondent.

9. With these observations, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-II)

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/ /2020

Sub Assistant Registrar (CS)

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To

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

2.The District Election Officer,
Virudhunagar District,
Virudhunagar.

3.The Assistant Returning Officer,
Padikkasuvaithanpatti Village,
Srivilliputhur Union,
Virudhunagar District.

+1 CC to Mr.S.BALAMURUGAN, Advocate (SR-106195[F] dated
20/12/2019)

+1 CC to Mr.RAJA KARTHIKEYAN, Advocate (SR-106332[F] dated
20/12/2019)

+1 CC to SPL.GP (SR-106512[F] dated 27/12/2019)

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