

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 1165 of 2020
and
W.M.P. No. 1424 of 2020

R.Komathi

... Petitioner

Vs.

1. The Election Commissioner,
No. 208/2, Jawaharlal Nehru Road,
Koyambedu, Arumbakkam,
Chennai - 600 106.

2. The District Election Commissioner
cum District Collector,
Thiruvallur District,
Thiruvallur - 602 002.

3. The Block Development Officer,
Election Officer,
Poonamallee, Chennai - 60 056.

4. V. Adhikesav

.... Respondents

Prayer:- Petition filed under Article 226 of Constitution of India, seeking for a Writ of Mandamus, to direct the First Respondent to declare next person, in Kannampalayam Panchayat, Poonamallee, Thiruvallur District the Petitioner herein as elected President or to conduct a fresh election, since the Fourth Respondent being a disqualified candidate.

For Petitioner : Mr. M.Chidambaram

For Respondents: Mr. AR.L. Sundaresan,
Senior Counsel assisted by
Mr. B. Neduchezhiyan,
Standing Counsel (for R1 and R2)

: Mr. V. Jayaprakash Narayanan
Government Pleader (R3)

: Mr. C.A. Diwakar,
for Mr. S. Seenivasan (R4)

O R D E R

Heard Mr. M.Chidambaram, Learned Counsel for the Petitioner, Mr.AR.L.Sundaresan, Learned Senior Counsel for First and Second Respondents, Mr. V. Jayaprakash Narayanan, Learned Government Pleader appearing for the Third Respondent and Mr. C.A.Diwakar,, Learned Counsel for the Fourth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The post of President of Kannampalayam Panchayat, Poonamallee, Tiruvallur District of Tamil Nadu has been reserved for persons belonging to the Scheduled Castes. The Fourth Respondent, who has been issued community Certificate No. D66E77676A687C86 dated 27.09.2016 that he belongs to Godda Community, which is recognized as a Scheduled Caste, was elected to that post in the election held during December 2019. Complaining that the Fourth Respondent does not belong to any of the recognized Schedule Castes, the Petitioner filed this Writ Petition to direct the First Respondent either to declare the Petitioner, who secured next highest number of votes for the post, in that election as having been elected or to conduct fresh election.

3. It is now settled position of law after the formulation of the scheme by the Hon'ble Supreme Court of India in Kumari Madhuri Patil -vs- Additional Commissioner, Tribal Welfare (AIR 1995 SC 94) that in the absence of legislation to the contrary, any one claiming status of Schedules Caste or Scheduled Tribe for availing benefits of reservation of posts conferred by the Constitution has to necessarily hold a certificate to that effect issued by the concerned authority and its verification would also have to be made in the manner prescribed thereunder and such determination would be conclusive. In the State of Tamil Nadu, the verification of Scheduled Caste Certificate would have to be made by the concerned District Level Vigilance Committee in terms of G.O. (2D) No. 108 Adi Dravidar and Tribal Welfare (CV-I) Department dated 12.09.2007, which has been issued pursuant to the aforesaid binding ruling of the Hon'ble Supreme Court of India, which holds the field.

4. The Respondents have produced the Community Certificate No. D66E77676A687C86 dated 27.09.2016 issued by the the Tahsildar, Poonamallee Taluk, Tiruvallur District that the Fourth Respondent belongs to Godda Community, which has been recognized as a Scheduled Caste. As such, it is borne out from the record that the Fourth Respondent possesses the requisite Schedule Caste Community Certificate for holding the post of President of Perumugai Panchayat for whom the said post has

been reserved.

5. In the aforesaid circumstances, if the Petitioner wants to impeach the claim of the Fourth Respondent that he belongs to Scheduled Caste, he has to make necessary application before the District Level Vigilance Committee for verification of the Schedule Caste Community certificate of the Fourth Respondent and the entitlement of the Fourth Respondent to continue in the post of President of Kannampalayam Panchayat, Poonamallee, Thiruvallur District would obviously be dependent upon its outcome. However, till the Scheduled Caste Community Certificate of the Fourth Respondent is not cancelled by the competent authority, the question of declaring the Petitioner as elected as President of Kannampalayam Panchayat, Poonamallee, Tiruvallur District or conducting fresh election for that post, does not arise. This view is fortified by the rulings of the Hon'ble Supreme Court of India in the decisions in Kurapati Maria Das -vs- Dr. Ambedkar Seva Samajan [(2009) 7 SCC 387], Ayaubkhan Noorkhan Pathan -vs- State of Maharashtra [(2013) 4 SCC 465], Bharati Reddy -vs- State of Karnataka [(2018) 6 SCC 162] and District Collector, Satara -vs- Mangesh Nivrutti Kashid [(2019) 10 SCC 166] where the aforesaid course of action to be followed in such matters has been reiterated.

6. Accordingly, the Writ Petition is dismissed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

das

To

1. The Election Commissioner,
No. 208/2, Jawaharlal Nehru Road,
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2. The District Election Commissioner
cum District Collector,
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3. The Block Development Officer,
Election Officer,
Poonamallee, Chennai - 60 056.

+2cc to Mr.M.Chidambaram, Advocate SR.9580 & 9738
+1cc to the Government Pleader SR.10041

W.P. No. 1165 of 2020
and
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NR(CO)
CB(15/06/2020)



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