

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2020

CORAM

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

W.P. No. 2041 of 2020
and
W.M.P. No. 2411 of 2020

V. Geetharani

... Petitioner

-vs-

1. Tamilnadu State Election Commission,
Rep. by the State Chief Election Commissioner,
No.208/2, Jawaharlal Nehru Road,
opp. to CMBT, Arumbakkam,
Chennai-600 106.
2. The District Election Officer cum District Collector
O/o. the District Collector
Cuddalore District.
3. The Returning Officer/The Block Development Officer,
O/o. the Block Development Officer,
Veppur Taluk
Cuddalore District.
4. M. Maheshwari

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the First to Third Respondents to take action against the Fourth Respondent who concealed her original caste and direct them to prohibit her from acting as a Village Panchayat President, Veppur Village, Nallur Village Panchayat Union, Cuddalore and declare the candidate who obtain the Second position in the Village Panchayat President election for the post of Veppur Village Panchayat President, Nallur Village Panchayat Union, Cuddalore conducted by the First Respondent on the basis of Representation dated 12.12.2019.

For Petitioner : Mr. S. Kumara Devan

For Respondents : Mr. AR.L. Sundaresan,
Senior Counsel
assisted by Mr. B. Nedunchezhiyan,
Learned Standing Counsel (for R1)

Mr. V. Jayaprakash Narayanan,
Government Pleader (for R2 and R3)

O R D E R

Heard Mr. S. Kumara Devan, Learned Counsel appearing for the Petitioner and Mr. AR.L. Sundaresan, Learned Senior Counsel appearing for the First Respondent, Mr. V. Jayaprakash Narayanan, Learned Government Pleader appearing for the Second and Third Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The post of President of Veppur Village, Nallur Village Panchayat Union, Cuddalore District of Tamil Nadu has been reserved for persons belonging to Scheduled Caste Women. The Fourth Respondent, who has been issued Community Certificate No. TN - 5201912036965 dated 05.12.2019 that she belongs to Kuravan Community, which is recognized as Scheduled Caste, was elected to that post in the election held during December 2019, defeating the Petitioner, who was another contestant. Complaining that the Fourth Respondent does not belong to the Scheduled Castes, a representation dated 12.12.2019 had been made to the Second Respondent to take action against the Fourth Respondent and to direct them to prohibit her from acting in that post of President of Veppur Panchayat and declare the candidate who obtained the next higher of number of votes for that post in that election as having been elected. As no action had been taken on that representation, the Petitioner has filed this Writ Petition.

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 any one claiming status of Scheduled 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. It is not in dispute that the Fourth Respondent has produced the Community Certificate No. TN - 5201912036965 dated 05.12.2019 issued by the Tahsildar, Veppur Taluk, Cuddalore District in proof of her claim that she belongs to Kuravan Community, which has been recognized as a Scheduled Caste and the Petitioner herself has produced a copy of the same in this proceeding though it is alleged by her that it has been forged and cannot be relied upon. 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 Veppur 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 she belongs to Scheduled Caste, it is for the Petitioner 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 Veppur Panchayat, Cuddalore 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 candidate who obtained the next higher number of votes as elected 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], Ayaaubkhan 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. In view of the aforesaid legal position, the Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to the Petitioner work out her remedy for necessary relief before the proper forum in the manner recognized by law. He has also made an endorsement to that effect, which is recorded.

7. Accordingly, the Writ Petition is dismissed as withdrawn granting such liberty. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

dm/das

To

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Tamilnadu State Election Commission,
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opp. to CMBT, Arumbakkam,
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2. The District Election Officer cum District Collector
O/o. the District Collector
Cuddalore District.
3. The Returning Officer/The Block Development Officer,
O/o. the Block Development Officer,
Veppur Taluk, Cuddalore District.

+1cc to Mr.S.Kumara Devan, Advocate, S.R.No.7556
+1cc to the Government Advocate, S.R.No.8651

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and
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SSI (co)
KKV/12/06/2020