

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.01.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

W.P.No.2158 of 2020 &
WMP.Nos.2517 & 2518 of 2020

K. Loganathan

Petitioner

Vs.

1. The Commissioner,
H.R.& C.E., Administration Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai 600034.
2. The Joint Commissioner,
H.R.& C.E., Administration Department,
Villupuram,
Villupuram District.
3. The Assistant Commissioner,
H.R.& C.E., Administration Department,
Sub Jail Road,
Cuddalore, Cuddalore District.
4. The Special Officer/Inspector,
H.R.& C.E., Administration Department,
Panruti,
5. The Inspector/Thakkar (i/c)
Arulmigu Veerananarayana Perumal Thirukoil,
Kattumannarkoil,
Cuddalore District.

Respondents

PRAYER:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the entire records relating to undated election schedule issued by the 4th respondent herein for conducting election of trustees to Arulmigu Throwpathiamman Temple, Kattumannarkoil and quash the same as illegal and arbitrary and consequently direct the respondents herein to

extend the time limit for producing the mandated documents by the eligible voters for two months beyond 10.01.2020.

For Petitioner : Mr. N. Elumalai

For Respondents : Mr. N. Karthikeyan
Standing Counsel, HR&CE

ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

The Writ Petition is styled as a Public Interest Litigation.

2. The petitioner claims that he is a native of Udaiyargudi, Kattumannarkoil, Cuddalore District and also belongs to Kavara Chettiyar Community has come forward to file this Writ Petition styled as a Public Interest Litigation, challenging the election schedule/notification, issued by the 4th respondent, in respect of election of 10 persons. He would state among other things that the people belonging to Kavara Naidu and Kavara Chettiar Community of Kattumannarkoil have been worshipping Goddess Throwpathiyamman Amman and in terms of the scheme settled in O.A.No.39 of 1982, the administration of the temple, as well as its property shall be administered by a Board of Trustees, consisting not more than five trustees appointed by the appropriate authority from among the panel of 10 persons to be elected by adult male members belonging to Kavara Chettiar and Kavara Naidu communities, who have completed atleast 25 years.

3. Learned counsel appearing for the petitioner would submit that the Principal Secretary/Commissioner, HR&CE, Chennai, vide order dated 10.10.2018 in R.P.94/2018 D2, has directed the 2nd respondent/Joint Commissioner HR&CE, Villupuram to appoint a Special Officer to conduct election as per clause 4 of the scheme settled in OA.No.39 of 1982 and the Special Officer, so appointed, is directed to (i) prepare the electoral roll by issuing public notice calling for registration of eligible persons as per the Scheme (ii) issue election schedule, (iii) if more than 10 nominations received, election should be conducted through a secret voting system and panel of 10 persons who secured highest vote shall be recommended to the Joint Commissioner, (iv) the nominees should possess qualification under section 25(A) and not possess any disqualification prescribed u/s.26 of the Act. The Joint

Commissioner was further directed to appoint a Fit person for the administration of temple till the constitution of Board of Trustees as per the scheme. The 2nd respondent, vide his proceedings dated 29.11.2019 in Se.Mu.Na.Ka.No.6179/2018-1/E2, appointed the 4th respondent as Special Officer to perform the duties as per the scheme settled in OA.No.39 of 1982. The 4th respondent, in compliance of the above said order, has issued the impugned election schedule and challenging the legality of the same, the present writ petition is filed.

4. Learned counsel appearing for the petitioner has drawn the attention of the Court to paragraph No.8 of the affidavit filed in support of this writ petition and would submit that as per the impugned election schedule, the period between 23.12.2019 and 10.1.2020, the list of voters to be prepared and to be published on 20.1.2020, after effecting additions or deletions, final list of voters would be published on 24.1.2020 and since the time limit between 23.12.2019 and 10.1.2020 was very short and that apart, there were very many public holidays, the petitioner was unable to register himself as people belonging to said communities and was unable to register himself as an eligible voter. He would further point out that some of them also require community certificate in proof of the same and hence prays for extension of time, to include themselves as voters in the ensuing election.

5. Per contra, Mr. N. Karthikeyan, learned Standing Counsel, HR&CE, who accepts notice on behalf of the respondents 1 to 4 would submit that sufficient time has been granted and nominations have also commenced on 29.1.2020 and it is going to be over on 4.2.2020. Since the election process had already commenced, stalling of election, would result in law and order problem and public order problem to local public and it would also affect the sentiments of the worshippers of the said deity and prays for dismissal of the writ petition.

6. This Court has carefully considered the rival submissions and perused the materials and documents placed before it.

7. As per the election schedule, time was granted between 23.12.2019 and 10.1.2020 for preparation of Electoral List and though it is the vehement and forceful submission of the learned counsel for the petitioner, in between, these days, there were number of intervening holidays and as such, persons belonging to said community could not enrol themselves as voters, cannot be cited as a reason when during the holidays, some people

belonging to the said community availed the same voluntarily on their own volition, for which, the 4th respondent cannot be put to blame and insofar as the plea made by the learned counsel for the petitioner, for want of community certificate, some of them would not be able to enrol themselves as eligible voters, then, it becomes a question of fact and this Court, in exercise of its jurisdiction under Article 226 of Constitution of India, cannot adjudicate the same. As rightly pointed out by the learned Standing counsel appearing for the official respondents, election process had already been commenced and therefore, this Court is not inclined to interfere with the election process. It is not as if the petitioner or other persons, aggrieved, are remediless and they are always entitled to challenge the election in the manner known to law before the appropriate forum.

8. In such a view of the matter, the writ petition is dismissed. However, there shall be no order as to costs. Consequently, the connected W.M.P.Nos.2517 and 2518 of 2020 are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner,
H.R.& C.E., Administration Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai 600034.

2. The Joint Commissioner,
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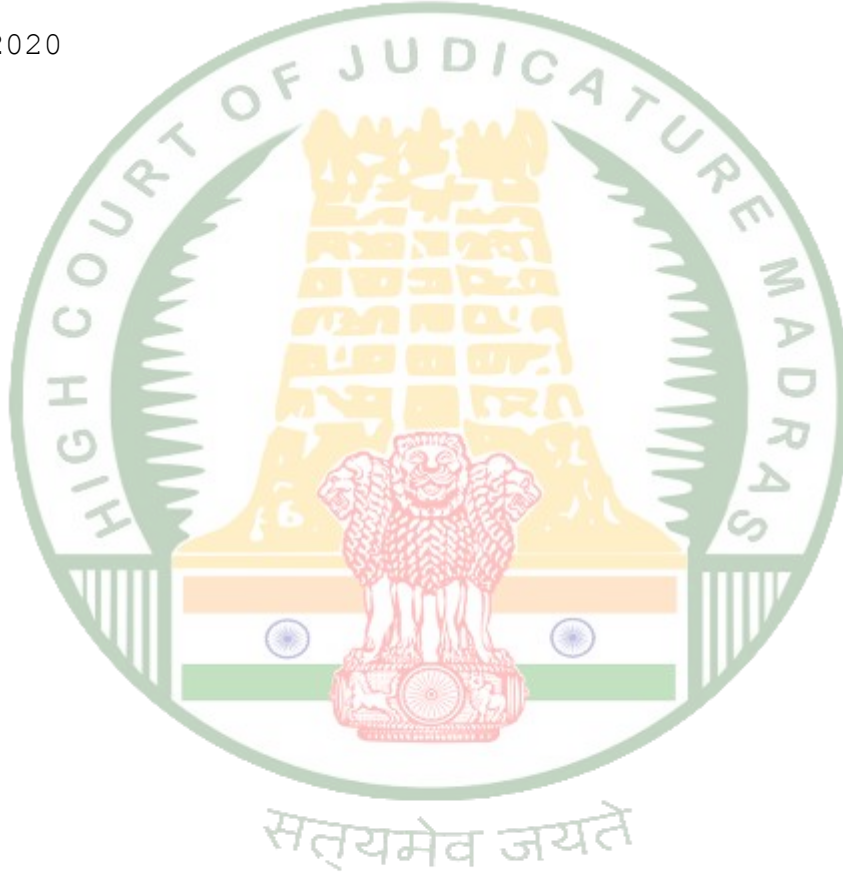
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Kattumannarkoil,
Cuddalore District.

+1cc to Special Government Pleader(HR & CE) sr.7616

W.P.No.2158 of 2020 &
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nr(co)
nr 05/03/2020



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