

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2020

CORAM:

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P.No.4726 of 2020

and

WMP.Nos.5584 & 5585 of 2020

N.Duraisamy

... Petitioner

Versus

- 1.The Government of Tamil Nadu,
Rep.by the Chief Secretary,
Secretariat,
Fort St.George,
Chennai - 600 009.
- 2.The Secretary to the Government,
Rural Development and Panchayat Raj Department,
Secretariat,
Fort St.George,
Chennai - 600 009.
- 3.The Principal Secretary to the Government,
Municipal Administration and Water Supply Department,
Secretariat,
Fort St. George,
Chennai - 600 009.
- 4.The State Election Commissioner,
Jawaharlal Nehru Street, Jai Nagar,
Koyambedu,
Chennai - 600 106.
- 5.The Director of Town Panchayat,
Directorate of Town Panchayat,
Kuralagam,
Chennai - 600 008.
- 6.The District Collector,
District Collector Office,
Erode - 638 011.
- 7.The Assistant Director,
Town Panchayat,

Panchayat Department,
District Collector Office,
Erode - 638 011.

8.The Executive Officer,
Town Panchayat Office,
242, Anna Street,
Modakkurichi,
Erode - 638 104.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned notification, Notification No.VI(2)/46(C)/2019, dated 24.05.2019 issued by the fifth respondent and quash the same and subsequently direct the fifth respondent to reclassify Ward No.1 of Modakkurichi Town Panchayat as a General Ward.

For Petitioner : Mr.Naveen Kumar Murthi
For Respondents : Mr.V.Jayaprakash Narayanan,
(for R1-R3 & R5-R8) State Government Pleader.

ORDER

This Writ petition has been filed challenging the impugned notification dated 24.05.2019 issued by the fifth respondent insofar as it relates to reserving Ward No.1 at Modakurichi, Erode Town Panchayat, for Schedule Caste candidates.

2.The learned counsel for the petitioner, by placing reliance upon the Rule 4 of the Tamil Nadu Town Panchayats, Municipalities and Corporations (Delimitation of Wards or Divisions and Reservation) Rules, 1996 submitted that the respondents have not followed these Rules strictly and they went ahead reserving Ward No.1 for Schedule Caste candidates.

3.In order to substantiate the said submissions, the learned counsel relied upon the Population Census as reflected in the Official Website and submitted that Ward No.6 and Ward No.4 had the highest percentage of Schedule Caste population and Ward No.1 only comes in the third place and therefore the respondents ought not to have reserved Ward No.1 towards Schedule Caste category.

4.Per contra, Mr. Jayaprakash Narayanan, learned Government Pleader appearing on behalf of the respondents submitted that the population figures that is relied upon by the petitioner is not correct and the correct population is arrived after delimitation and the same is found at page No.173 of the typed set of papers filed by the petitioner.

5.The learned Government pleader submitted that the total reservation has been arrived at by the Executive officer of Modakurichi Town Panchayat, Erode, based on the year, 2011 Census, after delimitation and it was found that the totally 3 wards will have to be reserved for the Schedule Caste candidates. Out of the same, two wards will have to be reserved for Schedule Caste women and one ward for Schedule Caste General.

6.The learned Government Pleader further submitted that Ward No.9 and Ward No.5 had the highest percentage both in terms of Schedule Caste general as well as Schedule Caste women and Ward No.1 stood 3rd in the descending order. Learned Government Pleader, submitted that Ward No.9 had 52.78% of Schedule Caste women candidates and Ward No.5 had 50.48% of Schedule Caste women candidates and Ward No.1 had 50.25% of Schedule Caste women candidates. The learned counsel, therefore submitted that Ward No.9 and Ward No.5 were allotted for Schedule Caste women and Ward No.1 was allotted for Schedule Caste General. Therefore, the learned counsel for the petitioner has submitted that the entire exercise was carried out strictly in accordance with Rule 4 of the Tamil Nadu Town Panchayats, Municipalities and Corporations (Delimitation of Wards or Divisions and Reservation) Rules, 1996 and prayed for dismissal of the Writ petition.

8.This Court has carefully considered the submissions made on the either sides and the materials available on record.

9.The learned counsel for the respondents have relied upon the 2011 census, after delimitation. The manner in which the number of seats was allotted for Schedule Caste candidates is found in the check list that has been filed at page no.172 of the typed set of papers. It is seen from the check list that the number of Wards that will be reserved for Schedule Caste candidates was identified as three wards. Out of the three seats, two seats must be allotted for Schedule Caste women candidates and one seat must allotted for Schedule Caste General candidates. The manner in which these allotments should be made, can be found under Rule 4 of the Tamil Nadu Town Panchayats, Municipalities and Corporations (Delimitation of Wards or Divisions and Reservation) Rules, 1996. The said rule is extracted hereunder:-

"4. Reservation of seats in Town Panchayats, Third Grade Municipalities, Municipalities and Corporations:-

(1) For the purpose of reservation of persons belonging to Scheduled Castes and Scheduled Tribes, the Wards or Divisions in a Town Panchayat, Third Grade Municipality,

Municipality or Corporation shall be arranged in descending order based on the population of such Scheduled Castes or Scheduled Tribes, as the case may be, and the Wards and Divisions having higher percentage of such population shall be reserved as required under the Act.

(2) While reserving Wards or Divisions to the women belonging to Scheduled Castes and Scheduled Tribes, the Wards or Divisions having the highest percentage of Scheduled Castes/Scheduled Tribes Women population among the Wards or Divisions so selected for the Scheduled Castes/Scheduled Tribes, shall be reserved."

10. It is clear from the above rule that 4(1) deals with the manner in which the Ward must be selected for the General candidates and 4(2) deals with the manner in which the Ward must be selected for Scheduled Caste or Scheduled Tribe women candidates.

11. The Ward wise population as per census of the year 2011, after delimitation, is found in page No.173 of the typed set of papers. It is seen that Ward No.9 had the highest percentage of Schedule Caste population at 64%. The Ward No.5 comes 2nd in terms of percentage and there is 48.41% of Schedule Caste population. The Ward No.1 stands 3rd, in terms of Schedule Caste population with 31.23%. Therefore, as per the Rule 4(1) if the Wards are arranged in the descending order, Ward No.1 will be placed 3rd in terms of percentage of Schedule Caste population.

12. The next exercise that has to be undertaken is to see, which among these Wards will have to be allotted for Schedule Caste women candidates. Rule 4(2) provides that the Wards having highest percentage of schedule caste women candidates, will be selected and reserved.

13. It is seen that Ward No.9 has 52.78% Schedule Caste women population, Ward No.5 has 52.48% Schedule Caste women population and Ward No.1 has 50.25% Schedule Caste women candidates. Therefore, as per Rule 4(2), Ward No.9 and Ward No.5 will have to be necessarily reserved for Schedule Caste women candidates. Thereafter, the 3rd in the descending order is Ward No.1 and naturally this Ward must be reserved for Schedule Caste General candidates. This has been properly done by the respondents and this Court does not find any violation of Rules, while reserving the Wards for Schedule Caste candidates.

14. In view of the above discussion, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

klt

To

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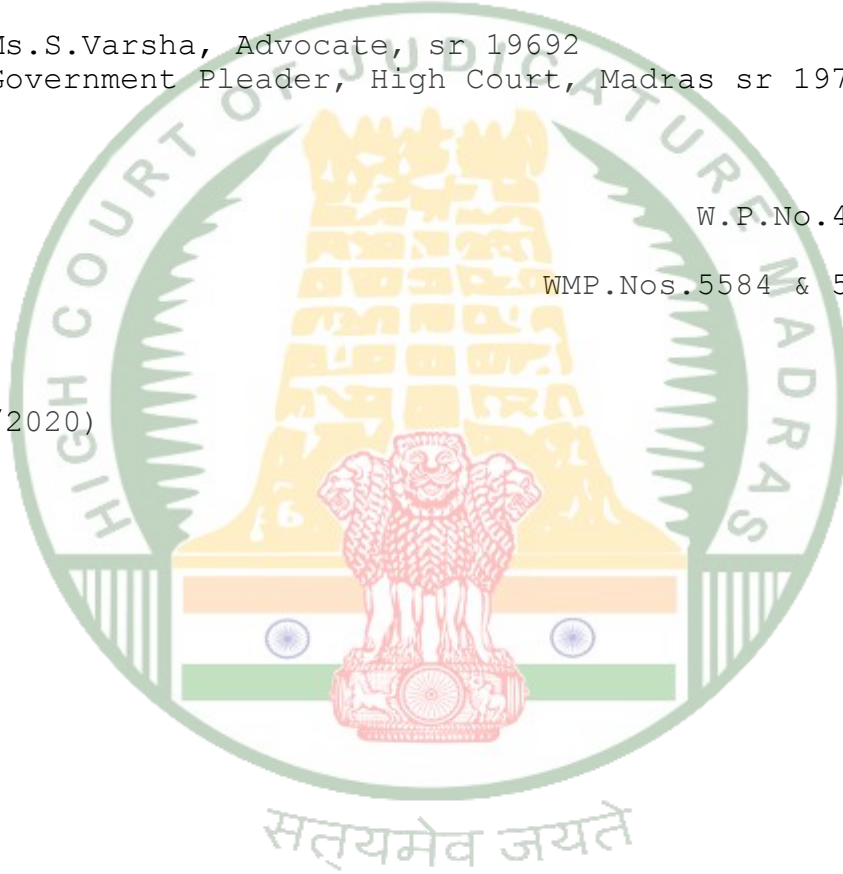
+1 CC to Ms.S.Varsha, Advocate, sr 19692

+1 CC to Government Pleader, High Court, Madras sr 19778

W.P.No.4726 of 2020
and

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RSK (CO)
AT (22/05/2020)



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