

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.02.2020

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 3316 of 2020

and

W.M.P.Nos. 3839 & 3841 of 2020

K.Loganathan

.. Petitioner

..Vs..

1. Joint Commissioner of HR & CE
Villupuram.

2. Asst. Commissioner of HR & CE
Cuddalore.

3. The Special Officer/Inspector
Arulmigu Throwpathiamman Thirukoil
Kattumannarkoil,
Office at Panruti,
Cuddalore District.

4. A.Gunasekaran

5. R.Narasimhalu

6. R.Purushothaman

7. S.Babu

8. S.Ravichandran

9. J.Vijayakumar

10. R.Karthick

11. G.Ravishankar

12. K.P.Babu

.. Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings

dated 05.02.2020 on the file of the 3rd Respondent and quash the same; consequently direct the 1st Respondent to conduct the election in a free and fair manner, by appointing another competent official in the place of the 3rd Respondent, by videographing the entire election process.

For Petitioner : Mr.M.Mathiyalagan

For Respondents : Mr.M.Karthikeyan

O R D E R

The petitioner has filed the present writ petition in the nature of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings dated 05.02.2020 on the file of the 3rd respondent and quash the same and consequently, direct the first respondent to conduct the election in a free and fair manner, by appointing another competent official in the place of the 3rd respondent, by videographing the entire election process.

2. The third respondent is a Special Officer/Inspector, Arulmigu Throwpathiamman Thirukoil, Kattumannarkoil, Office at Panruti, Cuddalore District. The petitioner K.Loganathan appears to have approached this Court seeking relief over the same issue. He filed a Writ Petition in W.P.No.2158 of 2020, before the Hon'ble Division Bench of this Court. In the said writ petition, the relief granted reads as follows:

"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."

3. Mr.M.Karthikeyan, learned Special Government Pleader takes notice on behalf of the respondents.

4. The learned counsel for the petitioner submitted that the petition was dismissed on the ground that it is not a public interest litigation. However, the learned Special Government Pleader submitted that it was also dismissed on the ground that the writ petitioner had approached the Court belatedly. That writ petition filed on 28.01.2020 itself was categorised as having been filed belatedly. The relevant paragraphs in the order passed in R.P.No. 94/2018 on the file of the HR & CE Admn. Department, Chennai - 34 is extracted hereunder:

" 6. Clause 4 of the Scheme framed in O.A.No. 39/1982 reads as follows;

The above temple and its properties shall be administrated by a Board of Trustee consisting of not more than 5 Trustees appointed by the appropriate authority from among the panel of 10 persons to be elected by the adult male members who have completed the age of 25 years hailing from Kavara Naidu and Kavara Chettiyar Communities people of the Kattumannargudi town by means of Secret voting system and submit the list to the competent Authority."

5. The grievances of the learned counsel for the petitioner is that the third respondent should give an opportunity to both community people. However, according to the learned counsel for the petitioner, the list of 10 members, who were issued nomination forms by the petitioner, involves a member from another community. Therefore, the learned counsels states that the Court has to interfere with the proceedings of this election.

6. The petitioner had approached this Court for the same issue again and again. The earlier writ petition has been filed in the nature of Public Interest Litigation before the Division

Bench of this Court. The second writ petition being filed claiming to be on different ground cannot be accepted. There is no reason as to why the present reasons have not been alleged in the earlier writ petition. Therefore, I am not inclined to grant any relief as sought for in the petition. The Writ Petition is dismissed in the admission stage itself. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kmm

To

1. Joint Commissioner of HR & CE
Villupuram.

2. Asst. Commissioner of HR & CE
Cuddalore.

3. The Special Officer/Inspector
Arulmigu Throwpathiamman Thirukoil
Kattumannarkoil,
Office at Panruti,
Cuddalore District.

+lcc to Mr.M.Mathiyalagan, Advocate, S.R.No.10764

+lcc to the Government Pleader, S.R.No.12007

सत्यमेव जयते

W.P.No. 3316 of 2020

BS (CO)
RSI (21/05/2020)

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