

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.11189 of 2020

N.Bhanumathi
W/o P.K.Nandakumar,
3/40, North Street,
Poolavadi, (Post),
Udumalpet,
Tiruppur District.

... Petitioner

Vs.

1. The Chief Election Commissioner,
Jawaharlal Nehru Road,
Koyambedu,
Chennai.
2. The District Collector,
Collectorate Buildings,
Tiruppur District.
3. The Superintendent of Police,
Office of the Superintendent of Police,
Tiruppur District.
4. The Election Officer cum
Commissioner of Panchayat Union Block,
Gudimangalam.
5. The Inspector of Police,
Gudimangalam Police station,
Udumalpet,
Tiruppur District.
6. Mohana Priyanka,
4th Ward Member,
Poolavadi Panchayat,
Udumalpet Taluk,
Tiruppur District.

..Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus or any other appropriate writ order or direction directing the 1st respondent to issue suitable instructions to the 4th respondent to take appropriate action against the 6th respondent for having violated the model code of conduct by forwarding the complaint to the 5th

respondent so as to enable the 5th respondent to take appropriate action in accordance with law.

For Petitioner : Mr. N. Umapathi

For Respondents : Mr. M.S.Palanisamy,
Standing Counsel for R1

: Mr. S.M.Parthasarathi,
Government Advocate,
for R2 to R5

O R D E R

This writ petition has been filed to issue a Writ of Mandamus directing the first respondent to issue instructions to the fourth respondent to initiate Criminal proceedings against the sixth respondent for violation of model code of the election, based on the complaint given by the petitioner dated 27.02.2020.

2. The case of the petitioner is that the first respondent conducted the Local Body Election in Tamilnadu in December 2019. The petitioner as well as the 6th respondent had participated in the election and contested for the post of Ward Member. According to the petitioner, the 6th respondent involved in corrupt practices and he violated the model code of Conduct. In support of the said allegation, the petitioner has filed various photographs. The petitioner therefore gave a representation on 27.02.2020 to the first respondent bringing to his notice the various acts committed by the 6th respondent, which according to the petitioner is in violation of the code of conduct. Since the same was not acted upon, the present writ petition has been filed before this Court seeking for appropriate directions.

3. The learned counsel for the petitioner brought to the notice of this Court the model code of conduct for the Local Body Election, that was issued by the first respondent. The learned counsel specifically relied upon clause 23 and pointed out that the corrupt practices are electoral offences, which are defined in the code of conduct. The learned counsel further submitted that for the violation of code of conduct, it is only the first respondent, who can take action by giving a complaint against the 6th respondent. The learned counsel for the petitioner also brought to the notice of the Court Section 171(d) of IPC which deals with the offence relating to an election where the giving of gratification with the object of inducing an voter, has been made as an offence. The learned counsel for the petitioner submitted that the petitioner cannot give a complaint to that effect. That apart, the learned counsel submitted that action to be taken

by the first respondent has nothing to do with the individual steps taken by the petitioner, challenging, the very election is concerned.

4. Heard Mr.M.S.Palanisamy, Government Advocate, appearing for the first respondent and Mr.S.M.Parthasarathi, Government Advocate, appearing for the respondents 2 to 5.

5. Taking into consideration the facts and circumstances of the case and also the limited relief sought for in this petition, there shall be a direction to the first respondent to deal with the representation made by the petitioner on 27.02.2020 strictly in accordance with law and take the decision within a period of four weeks from the date of receipt of a copy of this order. The petitioner is directed to give a fresh representation to the first respondent along with a copy of this order.

6. This writ petition is disposed of with the above direction. No cost.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrp

To

- 1.The Chief Election Commissioner,
Jawaharlal Nehru Road,
Koyambedu,
Chennai.
- 2.The District Collector,
Collectorate Buildings,
Tiruppur District.
- 3.The Superintendent of Police,
Office of the Superintendent of Police,
Tiruppur District.
- 4.The Election Officer cum
Commissioner of Panchayat Union Block,
Gudimangalam.
- 5.The Inspector of Police,
Gudimangalam Police station,
Udumalpet,
Tiruppur District.

6.The Government Pleader,
High Court, Madras.

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RR(CO)
CB(14/10/2020)



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