



WEB COPY

W.P(MD)No.359 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :08.01.2020

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THE HONOURABLE MR.JUSTICE M.DURAISWAMY

AND

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

W.P(MD)No.359 of 2020

and

W.M.P(MD)Nos.279 and 280 of 2020

A.Santiago

... Petitioner

Vs.

1.The Chief Election Commissioner,
Tamil Nadu State Election Commission,
No.208/2, Jawaharlal Nehru Road,
Opposite to CMBT, Arumbakkam,
Chennai 600 106.

2.The District Election Officer-cum-District Collector,
Sivagangai District, Sivagangai.

3.The Block Development Officer,
Kannangudi Panchayat Union,
Devakottai Taluk, Sivagangai District.

4.K.R.Saravanan Meyyappan

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents 1 to 3 herein to exercise power contemplated under Section 41 of Tamil Nadu Panchayats Act, 1994 and declare 4th respondent as disqualified under Section 37(3)(c) and 38(e) of Tamil Nadu Panchayats Act, 1994, within the time limit fixed by this Court.

For Petitioner : Mr.M.Vallinayagam
Senior Counsel
for Ms.D.Rukmani

For Respondents : Mr.Raja Karthikeyan for R.1

Mr.K.Chellapandian
Additional Advocate General
assisted by
Mr.VR.Shanmuganathan
Special Government Pleader for R.2 & R.3
Mr.R.Vijayakumar
for R.4



ORDER

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

The petitioner has filed the above writ petition to issue a writ of mandamus directing the respondents 1 to 3 to exercise power contemplated under Section 41 of Tamil Nadu Panchayats Act, 1994 and declare the fourth respondent as disqualified under Section 37(3)(c) and 38(e) of the Act.

2. Mr.Raja Karthikeyan, learned Counsel takes notice for the first respondent, Mr.K.Chellapandian, learned Additional Advocate General assisted by Mr.V.R.Shanmuganathan, learned Special Government Pleader takes notice for the respondents 2 and 3 and Mr.R.Vijayakumar, learned Counsel takes notice for the fourth respondent.

3. Mr.M.Vallinayagam, learned Senior Counsel appearing for the petitioner submitted that the fourth respondent was elected as a member of 6th Ward in the panchayat elections held on 30.12.2019. Further the learned Senior Counsel submitted that the fourth respondent is disqualified from contesting the election for the reason that he is having subsisting contract with the Panchayat, therefore the representation dated 06.01.2020 given to the second respondent should be referred to the Government under Section 41 of the Tamil Nadu Panchayats Act 1994.

4. Mr.R.Vijayakumar, learned Counsel appearing for the fourth respondent submitted that even prior to the issuance of notification for the Panchayat election, the fourth respondent had cancelled the contract held with the Kannangudi panchayat union and the Commissioner, Panchayat Union, had passed an order dated 06.12.2019 cancelling the contract held with the fourth respondent enabling him to contest the election and therefore, there cannot be any disqualification as contemplated under Section 38 of the Act.

5. Mr.K.Chellapandian, learned Additional Advocate General appearing for the respondents 1 to 3 submitted that in any event, the representation dated 06.01.2020 given by the petitioner would be referred to the first respondent to take a final decision as contemplated under Section 41 of the Act.

6. Having regard to the submissions made by the learned Counsel appearing on either side and recording the submissions made by the learned Additional Advocate General that the representation would be referred to the first respondent for taking a decision, we do not find any further direction need to be issued to the authorities in this matter. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs. Consequently, the



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connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

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- 3.The Block Development Officer,
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- +1 CC to M/s.K.ANBARASAN, Advocate (SR-860[F] dated 08/01/2020)
+1 CC to M/s.D.RUKMANI, Advocate (SR-890[F] dated 08/01/2020)
+1 CC to M/s.Special Govt.Pleader (SR-1220[F] dated 09/01/2020)

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