



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

W.P (MD) No.639 of 2020

and

W.M.P (MD) No.471 of 2020

N.Ramakrishnan

... Petitioner

Vs.

1.The State Election Commissioner,
208/2, Jawaharlal Nehru Salai,
Arumbakkam, Chennai - 106.

2.The District Electoral Officer cum
District Collector,
Theni District, Theni.

3.The Returning Officer,
Chinnamanur Panchayat Union,
Chinnamanur, Theni District.

4.C.Jeyanthi

5.All India Anna Dravida Munnetrakazhagam,
Rep. by its Organizer, O.Paneer Selvam
226, Avvai Shanmugam Salai,
Royapettah, Chennai - 600 014.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of declaration, declaring that the declaration made by the third respondent in favour of the fourth respondent declaring her as a elected Ward Councilor of the Chinnamanur Panchayat Union in Ward No.1 as illegal, void and unconstitutional.

For Petitioner : Mr.Veera Kathiravan,
Senior Counsel.

For R - 1 : Mr.Raja Karthikeyan
For RR 2 & 3 : Mr.K.Chellapandian,
Additional Advocate General.
Assisted by
Mr.VR.Shanmuganathan,
Special Government Pleader.



ORDER

(Order of the Court was made by **M. DURAISWAMY, J.**)

The petitioner has filed the above Writ Petition to issue a Writ of declaration, declaring that the declaration made by the third respondent in favour of the fourth respondent declaring her as a elected Ward Councilor of the Chinnamanur Panchayat Union in Ward No.1 as illegal, void and unconstitutional.

2.It is the case of the petitioner that the fourth respondent contested the Panchayat election for Ward No.1 of Chinnamanur Panchayat Union as a candidate of the DMK party. In the election, she was declared as a successful candidate on 02.01.2020 by the third respondent. Thereafter, the fourth respondent joined as a member of ruling AIADMK party and changed her political affiliation as a AIADMK member. The petitioner contended that since the fourth respondent contested the election as a DMK candidate and succeeded in the election, her selection to the post of ward member should be set aside for the reason that she later joined the ruling party.

3.In these circumstances, the petitioner sought for a declaration to declare the election of the fourth respondent as unconstitutional. Admittedly, there is no proviso under the Tamil Nadu Panchayats Act, 1994 or in the Constitution of India prohibiting the elected members of the Panchayat to switch over to the other party after the declaration of the results.

4.In the absence of any bar either under the Constitution of India or under the Tamil Nadu Panchayats Act, 1994, switching over to the other party cannot be termed as unconstitutional. In these circumstances, the relief sought for in the Writ Petition cannot be granted. However, it is open to the petitioner to challenge the election of the fourth respondent by way of an Election Petition under Section 258 of the Tamil Nadu Panchayats Act, 1994.

5.For the reasons stated above, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



To

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2.The District Electoral Officer cum
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3.The Returning Officer,
Chinnamanur Panchayat Union,
Chinnamanur, Theni District.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-1543[F] 10/01/2020)
+1 CC to M/s.RAJA.KARTHIKEYAN, Advocate (SR-1861[F] 13/01/2020)
+1 CC to M/s.SPL.GP (SR-1948[F] dated 20/01/2020)

W.P (MD) No. 639 of 2020
10.01.2020

ps

SDS(28.01.2020) 3P-7C