



WEB COPY

W.P.(MD) No.3109 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY
and

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

W.P. (MD) No.3109 of 2020

and

W.M.P. (MD) Nos.2647 & 2650 of 2020

Padmanathan

... Petitioner

-vs-

1.The Secretary
Tamil Nadu State Election Commission
Koyambedu, Chennai

2.The District Election Officer /
District Collector, Pudukkottai

3.The Assistant Retaining Officer
Kathalur Village Panchayat
Viralimalai Panchayat Union
Kathalur Post, Viralimalai Taluk
Pudukkottai District

4.Ponnar

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records of the minutes of meeting dated 11.01.2020 of Kathalur Village Panchayat, Viralimalai Panchayat Union and Pudukkottai District and quash the same as illegal and arbitrary.

For Petitioner : Mr.P.Ganapathi Subramanian

For Respondents : Mr.Raja Karthikeyan
Standing Counsel for R1
Mr.K.Chellapandian
Additional Advocate General
assisted by Mr.V.R.Shanmuganathan
Special Government Pleader for R2 & R3



O R D E R

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

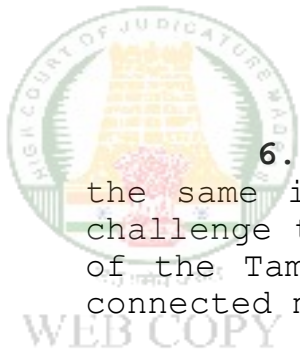
The petitioner has filed the above writ petition to issue a writ of certiorarified mandamus to call for the records of the minutes of the meeting dated 11.01.2020 of Kathalur Village Panchayat, Viralimalai Panchayat Union and Pudukkottai District and to quash the same.

2. The only contention raised by the learned counsel appearing for the petitioner is that out of nine members, who voted for the post of Vice-President of the Village Panchayat, only five members have voted in favour of the successful candidate, namely, the fourth respondent, which falls short of the majority as contemplated under Rule 94 of the Tamil Nadu Panchayats (Election) Rules, 1995.

3. The learned counsel appearing for the petitioner submitted that half of nine would come to 4.5 and if one vote is added to that, it will come to 5.5 and if it is rounded off, it will come to 6, therefore, the fourth respondent should have at least obtained six votes for winning the election.

4. The learned counsel appearing for the petitioner, in support of his contentions, placed reliance upon the decision of the Honourable Supreme Court in the case of **Ganesh Sukhdeo Gurule vs. Tahsildar**, reported in (2019) 3 SCC 211, wherein, while considering the meaning of expressions "who are for the time being entitled to sit and vote" and "not less than" and the prescribed majority when results in a fractional number (two-third majority of eight members resulting in requirement of 5.33 votes to amount as majority), that fraction has to be treated as one vote, which comes to 6 and proceeded to hold that the successful candidate requiring six votes has to be declared as the successful candidate.

5. The facts of the case therein was that out of eight votes for arriving $2/3^{\text{rd}}$ majority, the successful candidate should require 5.33 votes and the same same was to be rounded off to 6. If the same ratio is applied to the present case for obtaining majority, 4.51 votes are required out of 9 votes to be the successful candidate. If 4.51 is rounded off, it will come to 5. Admittedly, the fourth respondent had obtained five votes out of nine votes and was declared as the successful candidate. The ratio laid down by the Honourable Supreme Court in the decision cited supra squarely applies to the facts of the present case. We do not find any error or irregularity in the order passed by the Returning Officer.



6. In the result, the writ petition is devoid of merits and the same is dismissed. However, it is open to the petitioner to challenge the election of the fourth respondent under the provisions of the Tamil Nadu Panchayats Act, 1994. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To:

1.The District Election Officer /
District Collector,
Pudukkottai.

2.The Assistant Retaining Officer,
Kathalur Village Panchayat,
Viralimalai Panchayat Union,
Kathalur Post,
Viralimalai Taluk,
Pudukkottai District.

+1 CC to M/s.RAJA. KARTHIKEYAN, Advocate (SR-6743[F]

+1 CC to M/s.Special Govt.Pleader (SR-7041[F]

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SDS (26.02.2020) 3P-5C