



WEB COPY

W.P(MD)No.4721 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2020

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P (MD)No.4721 of 2020

and

W.M.P (MD)Nos.4094 and 4096 of 2020

Vimalleswaran

... Petitioner

Vs.

1.The State represented by
The District Collector,
Theni District,
Theni.

2.The Superintendent of Police,
Theni District,
Theni.

3.The Election Officer cum
District Registrar,
Chinnamanur Panchayat Union,
Theni District.

4.The Block Development Officer,
Chinnamanur Panchayat Union,
Theni District.

5.The Inspector of Police,
Bodinayakanur Rural Police Station,
Theni District.

6.Nivedha,
Chairman,
Chinnamanur Panchayat Union,
Theni District.

7.Jeyanthi,
Vice Chairman,
Chinnamanur Panchayat Union,
Theni District.

... Respondents

**[R.6 & R.7 were suo motu impleaded as party
respondents vide order of this Court, dated
05.03.2020 made in W.P (MD)No.4721 of 2020.]**

Prayer : Petition filed under Article 226 of the Constitution of India, seeking to issue a writ of Mandamus to forbear the

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respondents 1 and 3 from conducting election to the posts of Panchayat Union Chairman and Vice Chairman at Chinnamanur Panchayat Union, Theni District, till tracing out the petitioner's mother, namely, Shanthi, wife of Ramaraj, aged about 60 years and consequently, direct the respondents 1 and 3 to enable the petitioner's mother Shanthi, wife of Ramaraj to participate in the election to the posts of Panchayat Union Chairman and Vice Chairman at Chinnamanur Panchayat Union, Theni District.

For Petitioner : Mr.Niranjan S.Kumar

For Respondents : Mr.Raja.Karthikeyan for R.1

Mr.K.Chellapandian
Additional Advocate General
assisted by
Mr.R.Sethuraman
Special Government Pleader for R.2 to R.5

* * * * *

ORDER

[Order of the Court was made by **P.N.PRAKASH,J.**]

On 05.03.2020, this Court passed the following order:

"Mr.K.Chellapandian, learned Additional Advocate General, takes notice for the respondents.

2. Heard the learned counsel for the petitioner and the learned Additional Advocate General for the respondents.

3. Mr.V.Dharmar, Inspector of Police, Bodinayakkanur Taluk Police Station, Theni District and Mr.S.Sakthivel, Election Assistant, Chinnamanur Panchayat Union Office, Chinnamanur, are present in Court.

4. The dispute in this case is with regard to the election of Chairman and Vice Chairman for Chinnamanur Panchayat Union in Theni District.

5. It is seen that 10 members were elected from each Panchayat to the Panchayat Union and they were required to elect a Chairman and Vice Chairman under the Tamil Nadu Panchayats (Elections) Rules, 1995. It is seen that 5 out of 10 members formed a flock and the other 5 members, another flock. Election was notified on 11.01.2020, but, election could not be conducted because of the ruckus created by both groups. The election was further adjourned



not be conducted because of problem created by both parties. The next date of election was fixed to 04.03.2020. It is alleged that on 03.03.2020, R.Shanthi, mother of the petitioner, who was one of the candidates for the post of Chairman, went missing from the afternoon of 03.03.2020. In this regard, the petitioner gave a police complaint, for which, a petition enquiry in C.S.R.No.75 of 2020, dated 03.03.2020 was registered by Bodinayakkanur Police (the fifth respondent herein). Apprehending that the election would go on 04.03.2020, the petitioner came to this Court and prayed for an urgent lunch motion. This Court denied the relief, but, granted permission for listing this case today (05.03.2020).

6. Today, when the matter was taken up for hearing, it is brought to the notice of this Court that out of 10 members, 4 members belonging to the group of R.Shanthi including R.Shanthi did not attend the meeting and the election officials proceeded with the election with the available 6 members, despite the fact that they were informed of the abduction of R.Shanthi and the pendency of the police investigation to secure her. It is reported that one Mrs.Nivedha was elected as Chairman and Mrs.Jeyanthi was elected as Vice Chairman.

7. However, the learned Additional Advocate General submitted that the authorities proceeded with the election by strictly following Rule 73(4) of the Tamil Nadu Panchayats (Elections) Rules, 1995.

8. On a conspectus of the facts obtaining in this case, it is apparent to this Court that the election has been conducted in a tearing hurry, ignoring the fact that one of the candidates has been abducted and three other members were also not available. Furthermore, the spirit of Rule 73(4) of the Tamil Nadu Panchayats (Elections) Rules, 1995, has been ignored by the officials in conducting the election hurriedly. In such view of the matter, this Court, in exercise of extra-ordinary jurisdiction, grants interim injunction restraining Mrs.Nivedha and Mrs.Jeyanthi from functioning as Chairman and Vice Chairman, for a period of one week.

9. This Court suo motu impleads Mrs.Nivedha, Chairman, Chinnamanur Panchayat Union and Mrs.Jeyanthi, Vice Chairman, Chinnamanur Panchayat Union as respondents 6 and 7.



10. The petitioner is directed to take private notice to the respondents 6 and 7 returnable in one week.

11. With regard to the missing of R.Shanthi, mother of the petitioner herein, the learned Additional Advocate General submitted that a Sub-Inspector of Police has been specially deputed to trace her.

12. The police are directed to produce R.Shanthi before this Court as and when they secure her.

13. The Registry is directed to carry out necessary amendment in the cause-title.

14. Post the matter on 12.03.2020."

2. Today, Mr.V.Dharmar, Inspector of Police, Bodi Taluk Police Station, is present.

3. On instructions, the learned Additional Advocate General submitted that the petitioner's mother - Shanthi, had gone on her own volition to Kurangani to her relative's house and she was not abducted. She is also present before this Court and she conceded the same.

4. This Court cannot close the matter simply. On account of the hue and cry created by the petitioner, this Court was led to pass an extraordinary order of interim injunction restraining the two elected representatives, namely, the respondents 6 and 7, from functioning as Chairman and Vice Chairman for a period of one week.

5. In such view of the matter, this writ petition is dismissed with costs of Rs.50,000/- (Rupees Fifty Thousand only), out of which, a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each, shall be paid by the petitioner to the respondents 6 and 7, within a period of two weeks from the date of receipt of a copy of this order. Consequently, the connected writ miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar(CS)

rsb



To

1.The District Collector,
Theni District,
Theni.

2.The Superintendent of Police,
Theni District,
Theni.

3.The Election Officer cum
District Registrar,
Chinnamanur Panchayat Union,
Theni District.

4.The Block Development Officer,
Chinnamanur Panchayat Union,
Theni District.

5.The Inspector of Police,
Bodinayakkanur Rural Police Station,
Theni District.

+1 CC to M/s.RAJA.KARTHIKEYAN, Advocate (SR-11815[F] dated
16/03/2020)

+1 CC to M/s.NIRANJAN S.KUMAR, Advocate (SR-11714[F] dated 13/03/2020)

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-11882[F] dated 16/03/2020)

W.P (MD) No.4721 of 2020

and

W.M.P (MD) Nos.4094 and 4096 of 2020

13.03.2020

RSB

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