



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2020

CORAM

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**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI**

W.P. (MD) .No.5461 of 2020

R.Magudeeswari

.. Petitioner

/Vs./

1. The State Election Commissioner,
Tamil Nadu State Election Commission,
Jawaharlal Nehru Road,
Jai Nagar, Koyambedu, Chennai - 600 106.

2. The District Collector,
District Election Officer,
Dindigul District, Dindigul.

3. The Proceeding Officer/
Block Development Officer,
Dindigul Panchayat Union,
Dindigul.

4.N.Amudha

.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India for issuance of writ of Mandamus, directing the 1st respondent herein to issue necessary direction to the 3rd respondent herein to recount the total votes polled in the local body election for Ward No.7 of Pallapatti Panchayat within the time limit of the 3rd respondent Panchayat Union, held on 27.12.2019, based on the petitioner's represented, dated 24.01.2020 made to the 1st respondent herein.

For Petitioner : Mr.K.Kannan

For Respondents : Mr.K.Chellapandian, for R1 to R3
Additional Advocate General assisted by
Mr.V.R.Shanmuganathan,
Special Government Pleader



O R D E R

(Order of this court was made by **S.S.SUNDAR, J.**)

The petitioner contested as an independent candidate in the local body election conducted for Ward No.7 of Pallapatti Panchayat within the limit of third respondent Panchayat union.

2. The petitioner states that the total votes polled in the Booth were 416 and he secured 174 votes as against the 4th respondent who secured 175 votes and declared elected. Admittedly, the Form 22 was drawn on 02.01.2020 and declaration of results was also given by the third respondent by issuing Form 24 on 02.01.2020. However, petitioner submitted a representation for recounting of votes only on 20.01.2020.

3. It is relevant to refer Rule 66 of the Tamil Nadu Panchayat Election Rules which reads as follows:

"66.Re-count of votes. - (1) After the completion of the counting and recording in Form 22, the total number of votes polled by each candidate under sub-rule(2) of rule 64, the Returning Officer shall announce the same. After such announcement and before the declaration of the result of the election, a contesting candidate or, in his absence, his election agent, may apply in writing to the Returning Officer for a re-count of all or any of the votes already counted stating the grounds on which he demands such re-count.

(2) On such application being made, the Returning Officer shall decide the matter and may allow the application in whole or in part, or may reject it in toto if it appears to him to be frivolous or unreasonable.

(3) Every decision of the Returning Officer under sub-rule (2) shall be in writing and contain the reasons therefor.

(4) If the Returning Officer decides under sub-rule(2) to allow an application, either in whole or in part, he shall-

(a)count the votes again in accordance with his decision;

(b)amend the result sheet in Form 22 to the extent

necessary after such re-count; and



(c) announce the amendments so made by him.

(5) After the total number of votes polled by each candidate has been announced under sub-rule (1) or under sub-rule (4) of this rule, the Returning Officer shall complete and sign the result sheet in Form 22 and no application for a re-count shall be entertained thereafter;

Provided that no step under this sub-rule shall be taken on the completion of the counting until the candidates or the election agents present at the completion thereof have been given a reasonable opportunity to exercise the right conferred by sub-rule (1)."

4. As per Rule 66, a request for recounting is permissible immediately after the completion of counting and recording in Form 22 and before declaration of result of the election. If only an objection or request for recounting is submitted before the declaration of results and immediately after the completion of counting and recording Form 22, the request for recounting can be considered. In the present case though Form 24 was issued by declaring the results on 02.01.2020, the request for recounting was submitted on 20.01.2020. Hence, it is not permissible for this Court to entertain this writ petition as the application for recounting was submitted belatedly and contrary to Rule 66.

5. The learned Additional Advocate General pointed out that after declaration of results no election of a President or a Chairman or a member shall be called in question except by an election petition presented to the District Judge of the district in which the Panchayat is situated, within forty five days from the date of the publication of the result of the election under this Act. It appears that the petitioner has not even filed a petition challenging the election as contemplated within the time as stipulated under 258 (1) of the Tamil Nadu Panchayat Act. Hence, this Court has no reason to entertain this writ petition.

6. Accordingly, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



To

1. The State Election Commissioner,
Tamil Nadu State Election Commission,
Jawaharlal Nehru Road, Jai Nagar, Koyambedu,
Chennai - 600 106.

2. The District Collector,
District Election Officer,
Dindigul District, Dindigul.

3. The Proceeding Officer/ Block Development Officer,
Dindigul Panchayat Union,
Dindigul.

+1 CC to M/s.K.KANNAN, Advocate (SR-11810[F] dated 16/03/2020)

+1 CC to M/s.SPL GP (SR-12247[F] dated 18/03/2020)

Order made in
W.P.(MD)No.5461 of 2020
16.03.2020

SRS/ 08.05.2020/ 4P/6C