

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.01.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

WP.No.1381 of 2021

R.Sadasivam

..Petitioner

Versus

1. The Election Commission of India,
rep.the Chief Election Commissioner,
Nirvachan Sadan, Ashoka Road,
New Delhi 100 001.
2. The Chief Electoral Officer (CEO) of Tamil Nadu
Public (Election) Department,
Secretariat, Fort St.George,
Chennai 600 009.
3. The Commissioner and District Election Officer,
Greater Chennai Corporation,
Ripon Building, No.1131, EVR Periyar Salai,
Park Town, Chennai 600 003.
4. The Zonal Officer / Electoral Registration Officer,
Chennai Corporation Zonal Office,
Zone - IX (Teynampet),
No.4, 4th Cross Street, Lake View Road,
Nungambakkam, Chennai 600 034.

..Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to carry out purification of Voters lists of the 19-Chepauk-Thiruvallikeni Assembly Constituency and 20-Thousand Light Assembly Constituency on the basis of which the General Election to the 1st Tamil Nadu Legislative Assembly, 2021 to be conducted by deleting 'Shifted Voters' in respect of the 19-Chepauk-Thiruvallikeni Assembly Constituency and 20-Thousand Light Assembly constituency by constituting a special team under the 1st respondent before conducting the General Election to the 16th Tamil Nadu Legislative Assembly, 2021 by taking into account of the petitioner representation dated 23.12.2020.

For Petitioner : Mr.P.S.Kothandaraman

For RR1 to 4 : Mr.Niranjan Rajagopalan

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J. through video conferencing]

The petitioner apart from claiming that he is a practicing Advocate and tax payer also would state that he is the Constituency Secretary of the "Puratchi Thalaivi Amma Peravai", a Wing of "All India Anna Dravida Munnetra Kazhagam" (AIADMK) incharge of Thousand Lights and Chepauk-Thiruvallikeni, South Chennai-North (East) District. It is the case of the petitioner that there were number of voters / persons shifted from No.20, Thousand Assembly Constituency by virtue of the housing allotments made by the Tamil Nadu Slum Clearance Board and they are numbering 4188 and similar exercise has also been carried out in respect of No.19-Chepauk-Thiruvallikeni Assembly Constituency and they are numbering 2871. It is also pointed out by the petitioner that slum dwellers lying adjacent to the banks of Coovam River in the city of Chennai has also been evicted and they have been given alternative accommodation, despite that their names continue to be shown in the said Constituency.

2. The learned counsel appearing for the petitioner would submit that the petitioner, in this regard, had submitted representations dated 04.12.2020, 07.12.2020, 09.12.2020, 10.12.2020, 14.12.2020, 23.12.2020 and 06.01.2021 to the respondents, praying for appropriate action for deletion of the voters list and despite that fact, no action has been taken and the voters, who have been shifted from the said Constituency continue to be shown in the electoral list and prays for appropriate orders.

3. Mr.Niranjana Rajagopalan, learned Standing Counsel accepts notice on behalf of the respondents 1 to 4 and drawn the attention of this Court to the communication of the 2nd respondent dated 29.12.2020, bearing Letter No.8160/Ele-I/2020-1, and would submit that in the light of the representation dated 23.12.2020, received from the petitioner, necessary communication has been sent to the 3rd respondent to take appropriate action as per the extant instructions of the Election Commission of India and to send Action Taken Report to the 2nd respondent on or before 07.01.2020, by according top priority. It is the further submission of the learned Standing counsel, on instructions, that totally 12,032 have been deleted in respect of Chepauk-Thiruvallikeni Constituency and in respect of 2000 persons, notices have been issued as to their removal and in the light of the above cited communication of the 2nd respondent, necessary action is being taken strictly in accordance with the relevant provisions of the Representation of the People Act, 1950 and prays this Court to pass appropriate orders.

4. This Court has carefully considered the rival submissions and also perused the materials placed before it.

5. It is relevant to extract Section 22 of the Representation of the People Act, 1950:

'22. Correction of entries in electoral rolls.-If the electoral registration officer for a constituency, on application made to him or on his own motion, is satisfied after such inquiry as he thinks fit, that any entry in the electoral roll of the constituency-

(a) is erroneous or defective in any particular,

(b) should be transposed to another place in the roll on the ground that the persons concerned has changed his place of ordinary residence within the constituency, or

(c) should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident in the constituency or is otherwise not entitled to be registered in that roll, the electoral registration officer shall, subject to such general or special direction, if any, as may be given by the Election Commission in this behalf, amend, transpose or delete the entry (after proper verification of facts in such manner as may be prescribed):

Provided that before taking any action on any ground under clause (a) or clause (b) or any action under clause (c) on the ground that the person concerned has ceased to be ordinarily resident in the constituency or that he is otherwise not entitled to be registered in the electoral roll of that constituency, the electoral registration officer shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him (after proper verification of facts in such manner as may be prescribed).''

6. In the light of the submission made by the learned standing counsel appearing for the respondents 1 to 4, on instructions that the above cited statutory provisions would be complied with, as they are under mandate to do so and also in the light of the above cited communication of the 2nd respondent dated 29.12.2020, to the 3rd respondent, no further orders are necessary in this Writ Petition. However, taking into consideration the anxiety exhibited by the petitioner, who claims to be a Member of the Ruling Party, this Court directs the respondents 3 and 4 to complete the said exercise before the announcement of the date of poll for the ensuing Tamil Nadu Legislative Assembly election.

7. The Writ Petition is disposed of with the above observations. No costs.

s/d
Assistant Registrar

True Copy

Sub-Assistant Registrar

sk

To

1. The Chief Election Commissioner,
The Election Commission of India,
Nirvachan Sadan, Ashoka Road,
New Delhi 100 001.
2. The Chief Electoral Officer (CEO) of Tamil Nadu
Public (Election) Department,
Secretariat, Fort St.George,
Chennai 600 009.
3. The Commissioner and District Election Officer,
Greater Chennai Corporation,
Ripon Building, No.1131, EVR Periyar Salai,
Park Town, Chennai 600 003.
4. The Zonal Officer / Electoral Registration Officer,
Chennai Corporation Zonal Office,
Zone - IX (Teynampet),
No.4, 4th Cross Street, Lake View Road,
Nungambakkam, Chennai 600 034.

+lcc to Mr.Thirugumaran, Advocate, SR.No.3990

+lcc to M/s.G.R.Associates, Advocate, SR.No.4671

सत्यमेव जयते

WP.No.1381 of 2021

PP (CO)
KKV/09/03/2021

WEB COPY