

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P.No.12591 of 2021

B.Ramkumar Adityan

.. Petitioner

Vs

1 The Chief Election Commissioner
O/o. Election Commission of India
Nirvachan Sadan, Ashoka Road
New Delhi - 110 001.

2 The Chief Electoral Officer
O/o.The Chief Electoral Officer
Tamil Nadu Secretariat
Fort St George, Chennai - 600 009.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to properly upload Form 7A - the List of the Contesting Candidates, Form A and Form B under submitted by the contested, rejected and withdrawn sponsored candidates of the Recognised National and State Political Parties, Form-21.C Declaration of the Result of Election and Form 21 E - the return of Election Certificate of all the constituencies during the Tamil Nadu Legislative Assembly General Election 2021 and the No.39.Kanyakumari Parliamentary Bye Election 2021 in the websites of the Respondents well before 15.7.2017, the last date of filing the Election Petition in Tamil Nadu within stipulated time.

For Petitioner : Mr.S.Sankar

For Respondents : Mr.G.Rajagopalan
Senior Counsel
for M/s.G.R.Associates

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

The petitioner complains of all documents available with the Election Commission pertaining to the recently concluded State Assembly elections not being uploaded on the Commission's website.

2. There has to be an element of reasonableness exercised in every endeavour and the matter of practical difficulties must also be appreciated. The Election Commission may be in possession of divers documents, including the paper trail relating to voting in the electronic voting machines. However, these documents are not required to be uploaded or even made available to any person, unless there is a challenge to the election in accordance with the procedure established therefor and the question is before the appropriate forum. A general kite-flying exercise to obtain such details cannot be permitted without an election petition being brought. It is needless to say that a person has to have the requisite locus to institute an election petition and all and sundry may not question an election unless such person is a defeated candidate.

3. The Election Commission has filed an affidavit indicating that several of the documents are uploaded for general information on the Commission's website. The Election Commission says that there are other documents available with the Election Commission, from which extracts may be supplied upon any person applying for certified copies thereof. Such other documents are also open to inspection. The substance of the Election Commission's submission is that the entire material cannot be opened up to any bystander or passerby to obtain copies unless such person was a candidate at the election relating to that constituency.

4. It will be open to the petitioner to make do with the copies of the material available on the Election Commission's website and such other material that the rules governing the Election Commission permit the Election Commission to issue certified copies thereof.

5. W.P.No.12591 of 2021 is disposed of with a request to the Election Commission to ensure that if certified copies of any documents are sought and it is open to the petitioner to obtain the same, such certified copies are issued as expeditiously as possible upon payment of the due charges therefor.

There will be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

sasi

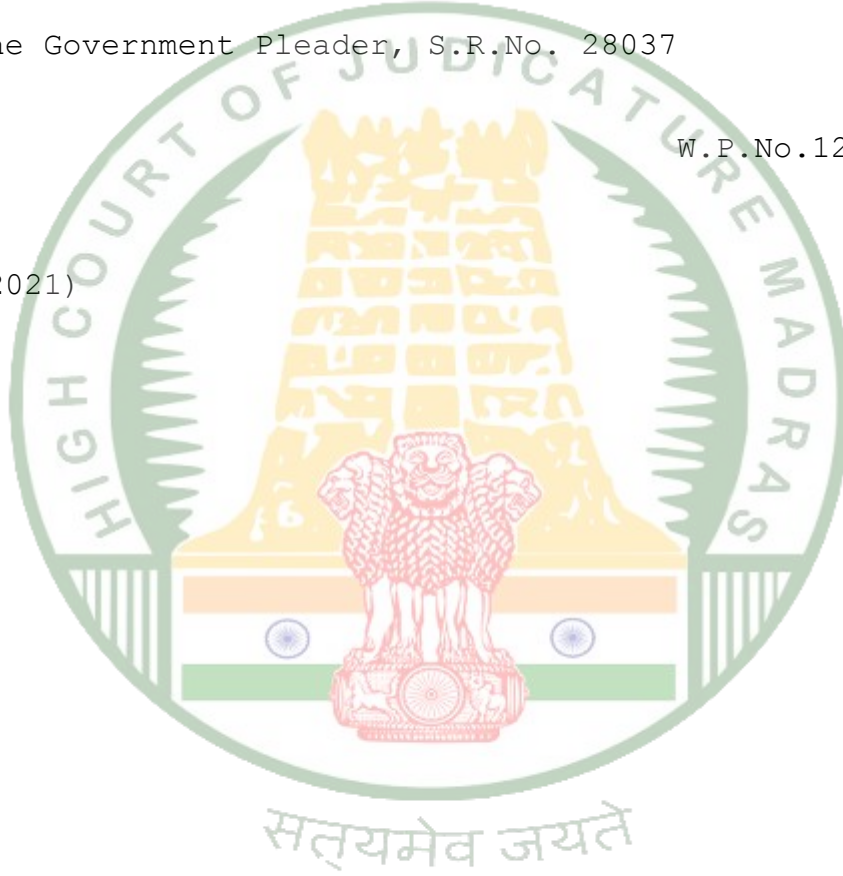
To:

- 1 The Chief Election Commissioner
O/o. Election Commission of India
Nirvachan Sadan, Ashoka Road
New Delhi - 110 001.
- 2 The Chief Electoral Officer
O/o.The Chief Electoral Officer
Tamil Nadu Secretariat
Fort St George, Chennai - 600 009.

+lcc to the Government Pleader, S.R.No. 28037

W.P.No.12591 of 2021

SR II(CO)
GN(01/07/2021)



WEB COPY