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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2021

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P. No.19729 of 2021
and W.M.P. No.20997 of 2021

D.Jaisankar

...Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat,
Chennai - 600 009.
 2. The Director,
Rural Development and Panchayat Raj Department,
Panagal Maligai,
Saidapet,
Chennai - 600 015.
 3. The District Election Officer and District Collector,
Vellore District,
Vellore.
 4. The Electoral Registration Officer/
Block Development Officer,
Katpadi Panchayat Union,
Katpadi,
Vellore District.
 5. Tamil Nadu State Election Commission,
Rep. by its Secretary,
No.208/2, Jawaharlal Neehru Road,
Opp. To CMBT, Arumbakkam,
Chennai - 600 106.
- ...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned notification issued by the 1st respondent dated 03.09.2021 in Gazette Notification No.396 part II-Section 2 in so far as Reservation of Offices of President of Village Panchayat in Vellore District



in Sl. No. 2, Ammundi of Katpadi Panchayat Union and quash the same and consequently, direct the Respondents to take necessary and appropriate steps to re-notify the Ammundi Village Panchayat for Unreserved Category/General in the forthcoming elections.

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For Petitioner : Mr.K.Balu

For Respondent : Mr.R.Shanmugasundaram
Advocate General assist by
Mr.A.Selvendiran
Government Advocate
for R1 to R4

: Mr.S.Sivashamugam
Standing Counsel for R5

O R D E R

This writ petition was filed challenging the impugned Gazette Notification issued by the 1st respondent dated 03.09.2021 insofar as it relates to reservation of the post of the President of the Village Panchayat in Serial No.2, Ammundi village panchayat of Katpadi Panchayat Union.

2.The specific stand taken by the petitioner is that he is a resident of the Ammundi village and there is no candidate who belongs to Scheduled Caste or Scheduled Tribe in the entire village and therefore, according to the petitioner the reservation made for the post of President of the village panchayat in favour of SC (Women) is illegal.

3.When the matter came up for admission on 15.09.2021, the learned Advocate General appearing on behalf of the respondents made a statement based on instructions and the same was recorded and an order was also passed. For proper appreciation, the order dated 15.09.2021 is extracted hereunder:

Mr.A.Selvendiran, learned Government Advocate takes notice for the respondents 1 to 4 and Mr.Sivashanmugam, learned Standing Counsel takes notice to the 5th respondent.

2.The petitioner who is a resident of Ammundi village has challenged the Gazette Notification issued by the 1st respondent wherein the office of the President of the Village Panchayat has been reserved under SC Women category, on the ground that there are no residents in the village belonging to SC and/or ST category.



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3. When the matter was taken up for hearing today, the learned Advocate General appearing on behalf of the respondents, on instructions submitted that the stand taken by the petitioner may not be right since, as per the records, the total population of the village is 1701 out of which 284 persons fall under the SC category and 11 persons fall under the ST category. The learned Advocate General submitted that as among the persons falling under the SC category, there are 142 males and 142 females who when put together makes the total number of persons belonging to the SC community as 284.

4. In view of the specific stand taken by the respondents, there shall be a direction to the 3rd respondent to file a counter affidavit in this writ petition.

5. Post this writ petition under the caption 'For Orders' on 22.09.2021.

4. The writ petition was once again taken up for hearing on 22.09.2021. This was the last date for filing nomination to participate in the election. The learned counsel for the petitioner submitted that no one had filed the nomination belonging to SC (Women) and therefore, the stand taken by the petitioner has come true. This statement was denied by the learned Government Counsel and the learned Government Counsel sought for time to take instructions and report before this Court. Accordingly, the matter was adjourned to 23.09.2021.

5. When the matter was taken up for hearing today, the learned Government Counsel based on the written instructions received from the District Election Officer/District Collector, Vellore submitted that the earlier stand taken before this Court by the learned Advocate General based on instructions, is correct and persons belonging to SC community are living in this village. The learned Government Counsel further submitted that threat was exerted and a tensed atmosphere prevailed and as a result of the same, persons belonging to the SC community feared to submit their nominations. The Superintendent of Police also assured police protection and in spite of the same, no one came forward to file their nomination yesterday. As a result of the same, no nominations were received for the post of Village President by the end of the closing date. The learned Government Counsel submitted that this situation had arisen not because of the fact that there are no persons belonging to the SC community available in the village. But it was only due to the fact that there was a threat perspective which prevented the SC (Women) to file the nomination.



6.This statement made by the learned Government Counsel was vehemently opposed by the learned counsel for the petitioner. The learned counsel for the petitioner reiterated the stand that the data that was given by the learned Advocate General on the date of admission, does not pertain to this village and no one belonging to the SC community are living in Ammundi village. Therefore, the learned counsel submitted that the stand that was taken by the petitioner now stands affirmed by the fact that not a single person belonging to SC(Women) filed the nomination till the closing date.

7.In the considered view of this Court, there is no requirement for this Court to go in to the issues raised on either side, for the simple reason that no election is going to take place for the post of Village Panchayat President in Ammundi village during these elections.

8.In view of the above, it will be more appropriate if a direction is given to the respondents to consider the representation made by the petitioner on 07.09.2021 and deal with the same by conducting an enquiry and give a response by taking a specific stand and by providing the details. Once this exercise is done, it will be more helpful while conducting the election at a future date for the above said village panchayat.

9.In the result, this writ petition is disposed of with a direction to the 3rd respondent viz., the District Collector to consider the representation made by the petitioner on 07.09.2021 and deal with the same on its own merits and in accordance with law by conducting a detailed enquiry by affording opportunity to the parties and an order shall be passed within a period of twelve weeks from the date of receipt of copy of this order. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Principal Secretary to Government,
State of Tamil Nadu,
Rural Development and Panchayat Raj Department,
Secretariat,
Chennai - 600 009.



2. The Director,
Rural Development and Panchayat Raj Department,
Panagal Maligai,
Saidapet,
Chennai - 600 015.

3. The District Election Officer and District Collector,
Vellore District,
Vellore.

4. The Electoral Registration Officer/
Block Development Officer,
Katpadi Panchayat Union,
Katpadi,
Vellore District.

5. The Secretary,
Tamil Nadu State Election Commission,
No.208/2, Jawaharlal Neehru Road,
Opp. To CMBT, Arumbakkam,
Chennai - 600 106.

+1cc to Mr.K.Balu, Advocate, S.R.No.49141

+1cc to Mr.S.Sivashamugam, Advocate, S.R.No.48956

+1cc to the Government Pleader, S.R.No.49751

W.P. No.19729 of 2021
and W.M.P. No.20997 of 2021

AJS(CO)
CT/12/10/2021