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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2021

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.A.Nos.2608 & 2609 of 2021 and
C.M.P.Nos.17063 & 17068 of 2021

W.A.No.2608 of 2021

Latha

.. Appellant

VS.

- 1.The Tamil Nadu State Election Commissioner,
No.208/2, Jawaharlal Nehru Road,
Opp. to CMBT, Arumbakkam,
Chennai - 600 106.
- 2.The District Election Officer,
The District Collector,
Thiruvannamalai District.
- 3.The Assistant Project Officer,
(Housing & Health)-cum-Returning Officer,
Panchayat Union Ward Council Elections,
Thandarampattu Block,
Thiruvannamalai District.
- 4.The Tahsildar,
Thandarampattu Taluk,
Thiruvannamalai District.
- 5.The District Revenue Officer,
Thiruvannamalai Collectorate,
Thiruvannamalai District.



6.The Revenue Divisional Officer,
Annasalai NH-66,
Thiruvannamalai - 606 601.

7.The Tamil Nadu State Level Scrutiny Committee,
Rep. By its Chairman and Secretary,
Adi Dravidar & Tribal Welfare Department,
Namakkal Kavignar Maligai,
Secretariat, Fort St. George,
Chennai - 600 009.

8.G.Parimala, D/o. P.Govindan,
Thandarampet Panchayat Union,
Thiruvannamalai District.

.. Respondents

W.A.No.2609 of 2021

Selvi

.. Appellant

vs.

1.The Tamil Nadu State Election Commission,
Inner Ring Road,
Jai Nagar,
Koyambedu,
Chennai - 600 106.

2.The District Election Officer/District Collector,
Thiruvannamalai,
Collectorate,
Vengikkal, Thiruvannamalai - 606 604.

3.The Returning Officer,
Thandarampattu Panchayat Union,
Assistant Project Officer (Housing & Sanitation),
District Rural Development Agency,
Thiruvannamalai.

4.The State Level Scrutiny Committee,
Rep. by its Chairman,
Adi-Dravidar and Tribal Welfare Department,
Fort St. George, Chennai - 600 009.



5.G.Parimala, D/o.P.Govindan,
Vanapuram Village,
Thandarampattu Block,
Thiruvannamalai District.

.. Respondents

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Common Prayer: Writ Appeals filed under clause 15 of the Letters Patent praying to set aside the order passed by this Court in W.P.Nos.5884 & 5617 of 2020 dated 14.09.2021.

Prayer in W.P.Nos.5884 of 2020: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiarified Mandamus calling for the records on the file of the 3rd Respondent leading to the Impugned Notice dated 25.02.2020 and quash the same and consequently directing the 3rd Respondent to conduct the Indirect Elections for Thandarampattu Union as per the mandatory provisions of the Tamil nadu Panchayats Act 1994 and Tamil Nadu Panchayats (Election) Rules 1995.

Prayer in W.P.Nos.5617 of 2020: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiarified Mandamus Calling for the records of the first respondent comprised in the impugned notification dated 24.02.2020 bearing No. Na.Ka. 7361 / 2019 / PE2 quash the same as illegal arbitrary unconstitutional and consequently direct the 4th respondent to expeditiously and in a time bound manner complete the verification process of the 5th respondents community status and comply with the order dated 29.01.2019 passed in W.P.No. 4287 / 2020 and further direct the respondents 1 to 3 herein not to hold elections for the post of Chairman Thandarampattu Panhayat Union untill the proceedings pertaining to community certificate of the 5th respondent herein is finally concluded as specified in the 2nd respondnets order dated 29.01.2020 bearing No.RC19/2020/PC4.

For Appellant : Mr.P.H.Aravindh Pandian,
in both W.As. Senior Counel
for Mr.L.P.Shanmugasundaram

For RR-1, 2 & 4 to 7 : Mr.D.Ravichander
in W.A.No.2608/2021 State Government Counsel
For RR-1, 2 & 4
in W.A.No.2609/2021



For R3
in both W.As.

: Mr.C.Jayaprakash
Government Counsel

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COMMON JUDGMENT
(delivered by PUSHPA SATHYANARAYANA, J.)

As no adverse order is going to be passed against the private respondent, notice is dispensed with. These Writ Appeals have been filed challenging the order dated 14.09.2021 made in W.P.Nos.5884 and 5617 of 2020.

2. The appellant in W.A.No.2608 of 2021 has filed W.P.No.5884 of 2020, challenging the notice dated 25.02.2020 and sought for a direction to the third respondent/third appellant herein to conduct indirect elections for Thandarampattu Union as per the mandatory provisions of the Tamil Nadu Panchayats Act, 1994 and Tamil Nadu Panchayats (Election) Rules, 1995.

3. The appellant in W.A. No.2609 of 2021 has filed W.P.No.5617 of 2020, challenging the notification dated 24.02.2020 and sought for a direction to the fourth respondent/The State Level Scrutiny Committee to expedite the verification process of the private respondent G.Parimala's Community status, etc.

4. The learned Single Judge, who heard the writ petitions together, held that W.P.No.5617 of 2020 is not sustainable, since the writ petitioner is seeking for the postponement of the election till the final report is given by the Scrutiny Committee. So far as W.P.No.5884 of 2020 is concerned, the learned Single Judge has stated that, as long as the Community Certificate of G.Parimala, who is 8th respondent in W.A. No.2608/2021 and 5th respondent in W.A. No.2609/2021, is cancelled in the manner known to law, it is deemed to be valid for all purposes.

5. Heard the learned Senior Counsel appearing for the appellant and the learned Government Counsels appearing for the respondent Nos.1 to 7.

6. Mr.P.H.Arvind Pandian, learned Senior Counsel appearing for the appellant in both the appeals, pointed out



that the Revenue Divisional Officer has already conducted a preliminary enquiry and had recommended cancellation of the community certificate of the said G.Parimala as she does not belong to 'Hindu Kuruman'. Now the writ appellants as well as the said G.Parimala are elected members. It is the indirect election for selecting the Chairman and Vice Chairman, which is in question.

7. It is the further contention of the appellant that the respondent-G.Parimala does not belong to S.T. Community and her selection itself would become invalid in the event the State Level Scrutiny Committee upholds the recommendation of the RDO that she does not belong to the S.T. Community. It is also unfortunate that after the orders passed by the Revenue Divisional Officer in the year 2015, recommending cancellation of her community certificate, there is no progress till today and it is the State Level Scrutiny Committee, which has to take a call on the same. It is also unfortunate that the appellant has to seek for cancellation of the election, because one of the members, does not belong to the S.T. Community. Even presuming that the respondent-G.Pramila does not belong to the S.T. Community and she is contesting in the election, she will be disqualified, as per Section 38(3)(e) of the Tamil Nadu Panchayats Act, 1994. The said provision reads thus:

"38. Disqualification of members:

(3) Subject to the provisions of Section 41, a member shall cease to hold office as such, if he--

(e) is found that he does not belong to Scheduled Caste or Scheduled Tribe, but has been elected from the seat reserved for Scheduled Caste or Scheduled Tribe;"

8. In view of the above, in the event the said G.Parimala found to be not belonging to S.T. Community, she will automatically be disqualified. In the light of the above, we only modify the order of the learned Single Judge as follows:

- (1) The indirect election, as scheduled, can go on;
- (2) The State Level Scrutiny Committee is directed to consider the community status of the respondent-G.Parimala, after affording her an opportunity of personal hearing and permitting her to furnish relevant documents and pass appropriate orders in accordance with law, within a period



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of two weeks from the date of receipt of a copy of this order. In the event, she found to be not belong to S.T. Community, she will be bound by Section 38 of the Tamil Nadu Panchayats Act, 1994.

8. With the above directions, these writ appeals are disposed of. No costs. Consequently, the connected civil miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VI)

// True Copy //

Sub Assistant Registrar

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To

- 1.The Tamil Nadu State Election Commissioner,
No.208/2, Jawaharlal Nehru Road,
Opp. to CMBT, Arumbakkam,
Chennai - 600 106.
- 2.The District Election Officer,
The District Collector,
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Thandarampattu Block,
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- 4.The Tahsildar,
Thandarampattu Taluk,
Thiruvannamalai District.
- 5.The District Revenue Officer,
Thiruvannamalai Collectorate,
Thiruvannamalai District.



6.The Revenue Divisional Officer,
Annasalai NH-66,
Thiruvannamalai - 606 601.

7.The Chairman and Secretary,
Tamil Nadu State Level Scrutiny Committee,
Adi Dravidar & Tribal Welfare Department,
Namakkal Kavignar Maligai,
Secretariat, Fort St. George,
Chennai - 600 009.

8.The Returning Officer,
Thandarampattu Panchayat Union,
Assistant Project Officer (Housing & Sanitation),
District Rural Development Agency,
Thiruvannamalai.

+1CC to M/s.L.P.Shanmuga Sundaram, Advocate, SR.No. 53456
+1CC to The Government Pleader, SR.No. 53515

W.A.Nos.2608 & 2609 of 2021

JP II(CO)
B.VC (26/10/2021)