



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.19304, 5884, 5591, 5617 of 2020
W.M.P.No.6544, 6546, 6573, 6571 & 6896 of 2020

WP No.19304 of 2020

P.Murugesan

...Petitioner

-Vs-

1. The Tamil Nadu State Election Commission,
Rep. By its Secretary,
No.208/2, Jawaharlal Nehru Road,
Opposite to CMBT, Arumbakkam, Chennai 600 106.

2. The District Election Officer,
Thiruvannamalai District.

3. Block Development Officer,
Thandarampattu Panchayat Union,
Thiruvannamalai District

...Respondents

WP No.5884 of 2020

Latha

..Petitioner

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 and 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, Tiruvannamalai 606601.

7. The Tamil Nadu State Level Scrutiny Committee,
Rep. by its Chairman and
Secretary Adi Dravidar and Tribal Welfare
Department, Namakkal Kavingar Maligai,
Secretariat, Fort St. George, Chennai - 9

8. G. Parimala
W/o.Govindan Thandrapet Panchayat Union
Tiruvannamalai District.

...Respondents

WP No.5591 of 2020

G.Parimala

Vs

...Petitioner

1. The Tamil Nadu State Election Commission,
Rep. by its Secretary No.208/ 2,
Jawaharlal Nehru Road, Opp. To CMBT,
Arumbakkam, Chennai 600106

2. The District Election Officer,
Thiruvannamalai District

3. The Returning Officer
For the Election to the post of Chairman of
Thandarampattu Panchayat Union, Thiruvannamalai District

4. Thiru. Kandasamy I.A.S.
District Collector, Thiruvannamalai

5. C.Selvan
Block Development Officer cum
The Returning Officer
For the Election to the post of Chairman of
Thandarampattu Panchayat Union
Thiruvannamalai District.

..Respondents

WP No.5617 of 2020

Selvi

..Petitioner

Vs.

1. The Tamil Nadu State Election Commission,
Inner Ring Road, Jai Nagar,
Koyambedu, Chennai 600106



2. The District Election officer,
District Collector, Thiruvannamalai
Collectorate , Vengikkal
Tiruvannamalai 606 604

3. The Returning officer,
Thandarampattu Panchayat Union,
Assistant roject Officer (Housing and Sanitation)
District Rural Development Agency
Thiruvananmalai

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

..Respondents

Prayer in WP No.19304 of 2020: Writ Petition under Article 226 of the Constitution of India to issue a writ of Mandamus Directing the 1st Respondent to conduct election to the posts of Chairman and Vice-Chairman of Thandarampattu Panchayat Union on Thiruvannamalai District with an observer to be appointed by the 1st Respondent adequate police protection and video coverage throughout the entire process till the declaration of result.

Prayer in WP No.5884 of 2020 :- Writ Petition under Article 226 of the Constitution of India to issue a writ of Certiorarified 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 WP No.5591 of 2020 :- Writ Petition under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings in Rc. 19/ 2020/ PC4 dated 29.01.2020 on the file of the 2nd Respondent and consequential notice dated 30.01.2020 on the file of the 3rd Respondent postponing election sine-die to the post of Chairman and Vice-Chairman of Thandarampattu Panchayat Union in Thiruvannamalai District and quash the same consequentially direct the Respondents 1 and 2 to conduct the said election at the office of the 2nd Respondent by appointing another Returning Officer in the place of the 5th Respondent along with an observer to be appointed by the 1st Respondent with adequate police protection and video coverage throughout the entire process till the declaration of result, without postponing the election schedule on 04.03.2020, as per the



notification dated 24.02.2020 issued by the 1st respondent.

Prayer in WP No.5617 of 2020 :- Writ Petition under Article 226 of the Constitution of India to issue a writ of Certiorarified 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 respondents order dated 29.01.2020 bearing No.RC19/2020/PC4.

For Petitioner in WP No.19304 of 2020	:	Mr.P.Wilson, Senior Counsel for M/s.P.Wilson Associates
For Petitioner in WP No.5884 of 2020	:	Mr.A.U.Lakshmi Narayanan
For Petitioner in WP No.5591 of 2020	:	MR.R.Neelakandan
For Petitioner in WP No.5617 of 2020	:	Mr.Rahul Balaji
For Respondents	:	Mr. Siva Shanmugam Standing counsel for R1 in all Wps
For Respondents 2 and 3 in WP No.19304 of 2020	:	Mr.A.Selvendran Government counsel
For Respondents 2 to 7 in WP No.5884 of 2020	:	Mr.U.Bharanidharan Government counsel
For Respondents 2 & 3 in WP No.5591 of 2020	:	Mr.A.Selvendran Government counsel
For Respondents 2 to 4 in WP No.5617 of 2020	:	Mr.U.Bharanidharan Government counsel



C O M M O N O R D E R

The issue involved in all these writ petitions are common and hence, they are taken up together, heard and disposed of through this common order.

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2. All these writ petitions pertain to the election to the posts of Chairman and Vice Chairman of Thandarampattu Panchayat Union in Thiruvannamalai District. W.P.No. 19304 of 2020 and 5591 of 2020 have been filed for a direction to the Election Commission to conduct the election within the time frame fixed by this Court. Whereas, W.P.No. 5617 of 2020 and W.P.No. 5884 of 2020 have been filed to keep the election pending till the community status of one G.Parimala is determined by the State Level Scrutiny Committee.

3. Heard learned counsel for the petitioners and learned counsel appearing on behalf of the respondents.

4. In the present case, the Tamil Nadu State Election Commission notified the election schedule to conduct elections to the Rural local bodies in 27 districts. Based on the same, the elections were conducted and the elected members assumed office on 02.01.2020. Thereby insofar as Thandarampattu Panchayat Union is concerned, totally 28 ward members were elected and they have assumed office.

5. As among the ward members, they have to elect 2 persons for the posts of Chairman and Vice Chairman and this is more in the nature of an indirect election. The petitioner in W.P.No. 5591 of 2020 is contesting for the election to the post of Chairman, which is reserved for persons belonging to the ST Community. The petitioner claims to belong to the ST community based on community certificate that was issued in her favour by the RDO, Thiruvannamalai District on 21.09.2013.

6. The election to the posts of Chairman and Vice Chairman was repeatedly postponed on the ground that the community certificate issued in favour of the petitioner in W.P.No. 5591 of 2020 is not valid and the same requires scrutiny and also for the reason that there will be a law and order problem, if the elections are conducted, during the relevant point of time.

7. The State Election Commission has filed a counter affidavit. A stand has been taken to the effect that the election will be conducted after the verification of the community certificate issued in favour of the petitioner in W.P.No. 5591 of 2020 by the State Level Scrutiny Committee. A further stand has also been taken to the effect that the elections were postponed since there was a clear apprehension of



a law and order problem and therefore, there was sufficient cause to postpone the elections.

8. It is an admitted case that 28 ward members have been selected and they have assumed office on 02.01.2020. It is nearly 1 year and 9 months since the Panchayat Union has not elected its Chairman and Vice Chairman. There are two reasons that are assigned for not conducting the election. The first reason is that the community certificate issued in favour of the petitioner in W.P.No. 5591 of 2020 is not genuine and the same requires the scrutiny of the State Level Committee. It is also brought to the notice of this Court that the process of scrutiny is yet to be completed and no official decision has been taken by the Committee. The second reason is that there is an apprehension that a law and order problem will arise, if the election is conducted.

9. Insofar as the first reason that has been assigned by the State Election Commission, the same is not sustainable. It is clear from the records that the petitioner in W.P.No. 5591 of 2020 has been issued with a community certificate by the competent authority and it shows that the petitioner belongs to the Scheduled Tribe community. It is now a settled law that a community certificate till it is canceled in the manner known to law, will be valid and has to be acted upon for all purposes. The State Election Commission cannot take a stand that the indirect election to the posts of Chairman and Vice Chairman will be kept in limbo till the scrutiny committee comes up with the final decision on the community certificate of the petitioner in W.P.No. 5591 of 2020. The stand has been taken by the State Election Commission based on some objections made by some of the elected ward members. This stand taken by the State Election Commission runs contrary to the settled position of law. Therefore, the first reason that has been assigned for postponing the election is unsustainable and requires the interference of this Court.

10. Insofar as the second ground is concerned, the learned standing counsel appearing on behalf of the State Election Commission submitted that the law and order problem was prevalent during the relevant point of time and the Election Commission will comply with any directions issued by this Court in conducting the elections to the posts of Chairman and Vice Chairman in the Panchayat union.

11. Insofar as the relief sought for in W.P.No. 5617 of 2020 is concerned, the same is not sustainable, since the petitioner is seeking for the postponement of the election till the final report is given by the Scrutiny Committee. In other words, the petitioner in this writ petition who is also an



electd ward member is toeing the line of the State Election Commission which has already been held by this Court as unsustainable.

12. It goes without saying that if ultimately the community certificate issued to the petitioner in W.P.No. 5591 of 2020 is canceled by the Scrutiny committee, obviously the petitioner has to face the consequences and the law will take its own course. However, that cannot be a reason for postponing the election to the posts of Chariman and Vice Chairman endlessly.

13. In view of the above discussion, there shall be a direction to the Tamil Nadu State Election Commission to conduct the election to the posts of Chariman and Vice Chariman, Thandarampattu Panchayat Union in Thiruvannamalai District and complete the process, within a period of four weeks from the date of receipt of the copy of this order. If the first respondent anticipates any law and order problem, it is always left open to the 1st respondent to make a requisition before the Superintendent of Police, Thiruvannamalai and take Police protection in order to conduct the election. If the Election Commission wants to be more transparent in the manner in which the election takes place, it is also left open to the Election Commission to video graph the entire election process.

14. All these writ petitions are disposed of with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Sha/rka

To

1. The Secretary,
The Tamil Nadu State Election Commission,
No.208/2, Jawaharlal Nehru Road,
Opposite to CMBT, Arumbakkam, Chennai 600 106.
2. The District Election Officer/The District Collector
Thiruvannamalai District.
3. Block Development Officer,
Thandarampattu Panchayat Union,
Thiruvannamalai District



4. The Assistant Project Officer,
(Housing and Health) -cum- Returning Officer
Panchayat Union Ward Council Elections
Thandarampattu Block, Thiruvannamalai District.
5. The Tahsildar,
Thandarampattu Taluk, Thiruvannamalai District.
6. The District Revenue Officer,
Thiruvannamalai Collectorate,
Thiruvannamalai District.
7. The Revenue Divisional Officer,
Annasalai NH-66, Tiruvannamalai 606601.
8. The Chairman and Secretary
The Tamil Nadu State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavingar Maligai, Secretariat, Fort St. George,
Chennai - 9
9. The Returning Officer For the Election to the post of
Chairman of Thandarampattu Panchayat Union,
Thiruvannamalai District
10. The Tamilnadu State Election Commission,
Inner Ring Road, Jai Nagar, Koyambedu.
11. The Chairman,
The State Level Scrutiny Committee,
Adi-Dravidar and Tribal Welfare Department,
Fort St.George, Chennai - 600 009.
12. Thiru. Kandasamy, I.A.S.,
District Collector, Thiruvannamalai.

+1cc to the Government Pleader, S.R.No.46902
+2cc to M/s.L.P.Shanmugasundaram, Advocate, S.R.No.47046
+1cc to the Government Pleader, S.R.No.46877
+2cc to Mr.P.Wilson Associates, Advocate, S.R.No.46548,46549
+2cc to Mr.S.Sivashanmugam, Advocate, S.R.No.46402, 46401

Writ Petition No.19304, 5884, 5591, 5617 of 2020
W.M.P.No.6544, 6546, 6573, 6571 & 6896 of 2020

PMK (CO)
RGA (11/10/2021)