

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.01.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

WP.No.20426/2020

[Video Conferencing]

N.Chitrarasu

... Petitioner

Versus

1.Election Commission of India,
rep.by the Senior Principal Secretary
Nirvachan Sadan, Ashoka Road
New Delhi 110 001.

2.Chief Electoral Officer
& Secretary to Government,
State of Tamil Nadu,
Public [Elections] Department
1st Floor, Main Building
Secretariat, Fort St George
Chennai 600 009.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondent No.2 to delete the names of dead electors and correct other discrepancies in the draft electoral roll after conducting proper field verification before the publication of final roll and comply with the guidelines specified in Letter No.23/2020-ERS dated 07.08.2020 issued by respondent No.1 to respondent No.2.

For Petitioners : Mr.S.Manuraj

For Respondents : Mr.Niranjan Rajagopal
Standing counsel

ORDER

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

- (1) By consent, the writ petition is taken up for final disposal and is disposed of by this order.
- (2) Mr. Niranjana Rajagopal, learned Standing counsel accepts notice on behalf of respondents.
- (3) The petitioner, in the affidavit filed in support of this writ petition would aver among other things that he is the District Secretary of Chennai West District of Dravida Munnetra Kazhagam [in short 'DMK'] which is a registered and recognised political party by the Election Commission of India [ECI] - the 1st respondent herein. The petitioner would further aver that he is the duly appointed Booth Level Agent-1 [in short 'BLA-1'] of the said Party for Chepauk, Triplicane, Thousand Lights and Anna Nagar Assembly Constituencies.
- (4) The learned counsel for the petitioner has drawn the attention of this Court to the Notification dated 07.08.2020 bearing NO.23/2020-ERS issued by the 1st respondent to the Chief Electoral Officers of all States and Union Territories except Bihar, Haryana, Maharashtra and Union Territories of Jammu and Kashmir and Ladakh, as to the Special Summary Revision of Photo Electoral Rolls w.r.t., 01.01.2021 as the qualifying date and specifically drawn the attention of this Court to paragraph No.8.3, which speaks about the safeguards against wrongful deletions. Further attention of this Court has also been invited to sub-para [i] of 8.3 which reads that 'in case of registered death, deletion shall be made only after proper verification/production of death certificate etc.'
- (5) The primordial submission made by the learned counsel for the petitioner is that the petitioner had submitted Form-7 preferred under Rule 13[2] and Rule 26 of the Registration of Electors Rule, 1960 and would submit that some of the persons found on electoral rolls, are no more and to evidence the fact, he has also enclosed their death certificates along with Form - 7 and despite that, no action has been taken so far to delete their names. It is the further submission of the learned counsel for the petitioner that a representation dated 11.12.2020 has also been submitted in this regard, raising serious allegations of non-deletion of the dead electors as well as non-adherence of the above cited rules and also non-compliance of the Circular/Letter dated 07.08.2020 issued by the 1st respondent - ECI.
- (6) It is the further submission of the learned counsel for the petitioner that despite the said representation, the concerned officials insist for furnishing of the death certificate along with Form-7 to amend the roll for the purpose of removal of the dead voters and it is the bounden duty and obligation on the

part of the Registration Officer to access and verify the Registers based on the objections to the roll as per Rule 9 of the Registration of Electors Rule, 1960 and prays for appropriate orders.

(7) Per contra, Mr.Niranjan Rajagopal, learned Standing counsel appearing for the respondents has invited the attention of this Court to sub-section [3] of Section 23 as well as Section 24 of the Representation of People Act, 1950 [Central Act 43 of 1950] and would submit that in the light of the said Rules, the representation dated 11.12.2020 submitted by the petitioner would be considered and given a disposal and further points out that in the light of the specific statutory provision in the form of sub-section [3] to section 23, the apprehension expressed by the petitioner is wholly unfounded and that apart, in the event of any adverse order/communication, an appeal remedy is also provided under Section 24 of the Representation of People Act, 1950 and hence, prays for dismissal of the writ petition.

(8) This Court paid its best attention to the rival submissions and also perused the materials placed before it.

(9) Rule 13 of the Registration of Electors Rule, 1960, speaks about Form for claims and objections and Rule 14 speaks about the manner of lodging claims and objections and it is relevant to extract the same:-

'13.For for claims and objections:-

[1]Every claim shall be-

[a]in Form 6 ; [and]

[b]signed by the person desiring his name to be included in the roll;

[2]Every objection to the inclusion of a name in the roll shall be-

[a]in Form 7 ; [and]

[b]preferred only by a person whose name is already included in that roll ;

[3]Every objection to a particular or particulars in an entry in the roll shall be-

[a]in Form 8 ; and

[b]preferred only by the person whom that entry relates.

[4]Every application for transposition of an entry from one part to another part of the roll shall be in Form 8A.

14.Manner of lodging claims and objections:-
Every claim or objection [or application for correction of particulars or transposition of entries] shall-

[a]either be presented to the registration officer or to such other officer as may be designated by him in this behalf ; or

[b]be sent by post to the registration officer ; or
[c]be submitted electronically to the registration officer.

- (10) There is a corresponding Form-7-application for objecting inclusion or seeking deletion of the name in the electoral roll. A perusal of the typed set of documents would disclose among other things that Form-7 have been filed by enclosing the death certificates of the concerned persons of the electorate as to their demise and the grievance expressed by the petitioner is that despite receipt and acknowledgment of Form-7, enclosing the death certificate, no action has been taken to remove the names of the dead persons from the electoral roll and since the Assembly election is round the corner, the non-deletion of the dead persons from the electoral roll may give rise to some unlawful activities and the representation submitted in this regard, is yet to invoke any kind of response.
- (11) A perusal of the above cited statutory provisions along with Form-7 would disclose that once the Form is submitted, the obligation is cast upon the electoral Registration Officer to do the needful and in the Note appended to Form-7, it has also been stated that "any person who makes a statement or declaration which is false and which he either knows or believes to be false or does not believe to be true, is punishable under section 31 of the Representation of People Act, 1950 [Central Act 43 of 1950]".
- (12) This Court taking note of the apprehension expression by the petitioner coupled with the above cited statutory provisions as well as the submission of the representation dated 11.12.2020 submitted by the petitioner to the 2nd respondent, directs the 2nd respondent to consider and dispose of the said representation on merits and in accordance with law and pass appropriate orders within a period of two weeks from the date of receipt of a copy of this order / uploading the order in the website and communicate the decision taken, to the petitioner.
- (13) The writ petition stands disposed of accordingly. No costs.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

AP

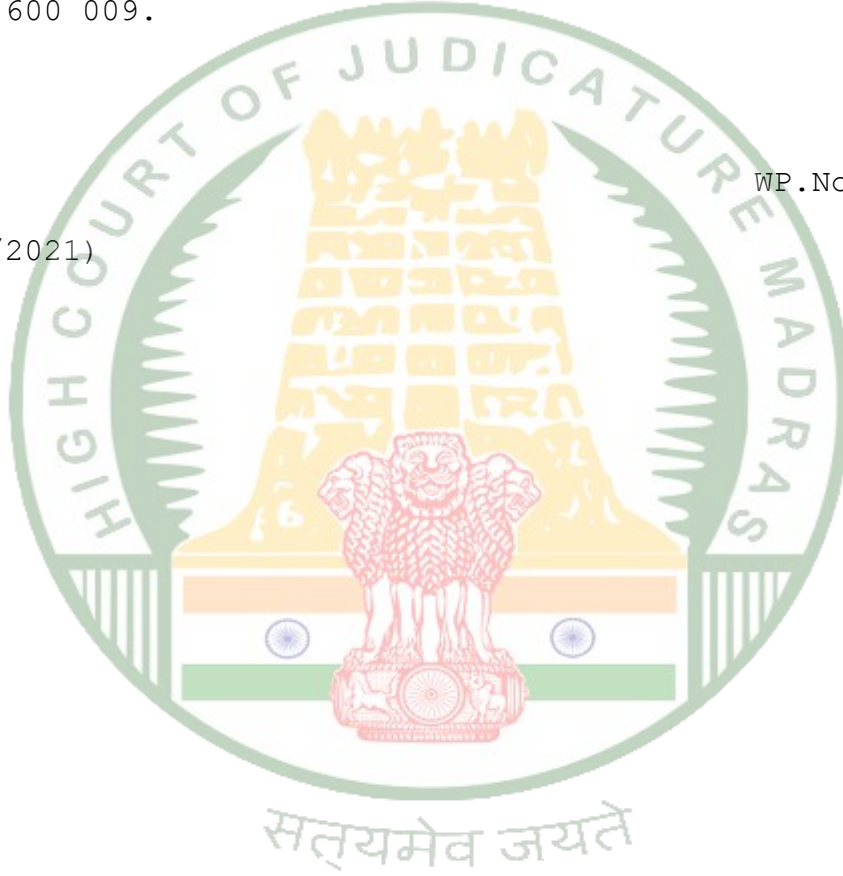
To

1.The Senior Principal Secretary
Election Commission of India,
Nirvachan Sadan, Ashoka Road
New Delhi 110 001.

2.Chief Electoral Officer
& Secretary to Government,
State of Tamil Nadu,
Public [Elections] Department
1st Floor, Main Building
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Chennai 600 009.

AJS (CO)
NRA (08/02/2021)

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