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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2021

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THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P.No.24854 of 2021

P.Loganathan

.. Petitioner

Vs

1. The District Collector
Ranipet
Ranipet District.
2. The Executive Officer
Panapakkam Panchayat
Panapakkam.
3. The Assistant Director of Panchayat
Assistant Director of Panchayat Office
Vellore - 632 009.
4. The Director of Panchayat
Directorate of Panchayats
Kuralagam
Chennai - 600 108.
5. The Director of Panchayats
Town Administrative Office Campus
No.75, Santhome High Road,
Chennai.

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents to dispose the representation dated 22.09.2020 sent by the petitioner to the respondents.

For Petitioner :: Mr. Mohanraj
for Mr.A.Gopinath

For RR 1, 3 to 5 :: Mrs. V.Yamunadevi
Special Government Pleader

For 2nd Respondent :: Mrs. Akila Rajendran
Government Advocate



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ORDER

The prayer sought for herein is for a Writ of Mandamus directing the respondents to dispose the representation dated 22.09.2020 sent by the petitioner to the respondents.

2. It is the case of the petitioner that, he is residing in the Town Panchayat limit of Panapakkam Panchayat /second respondent, where, according to the petitioner the total population is 11536, out of whom, the population of schedule caste community is about 3000. In the said Town Panchayat, according to the petitioner, the total number of voters are 7,400 out of which 2500 voters belongs to the schedule caste community.

3. Because of this seizable population of schedule caste community people in the second respondent Town Panchayat, the Chairman / Chairperson post of the said town Panchayat could be allotted to the schedule cast community either schedule caste general or for schedule caste woman.

4. In this regard, it is the further grievance of the petitioner that, so far several decades, the Chairman / Chairperson post of the second respondent Town Panchayat was held only by non-scheduled cast community as it has not been reserved for schedule caste general or schedule caste woman.

5. Therefore in order to reserve the said second respondent Town Panchayat Chairman / Chairperson post for schedule caste general or schedule caste woman category, the petitioner has given a representation on 22.09.2020 and in order to consider the said representation, to issue a direction to that effect to the respondents, he has moved the present Writ Petition with the afore stated prayer.

6. Heard the learned counsel appearing for the petitioner, who having reiterated the afore stated factual matrix as projected by the petitioner in the affidavit filed in support of the Writ Petition has contended that, the said representation may be directed to be considered and accordingly, needful should be directed to be undertaken by the respondents for taking action for reserving the said post of Chairman / Chairperson in the second respondent Town Panchayat either to the schedule caste general or schedule caste woman for the forthcoming local body elections.

7. At the time of earlier hearing of this Writ Petition, this Court directed the learned Government Advocate to take notice and to get a status report or counter affidavit on the plea raised by the petitioner.



8. Pursuant to which, the second respondent on behalf of all other respondents also has filed a counter affidavit wherein inter alia, the following facts have been stated:-

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"5. It is submitted that the reservation for SC, ST and SC Women is prescribed under Article 243(D) of Constitution of India, which read as follows:

"Seats shall be reserved for the persons belonging to the Schedule Castes and Scheduled Tribes in every Town Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Town Panchayat, as the population of the Scheduled Castes in the Town Panchayat area, or of the Scheduled Tribes in that Town Panchayat area, bears to the total population of that area.

Seats shall be reserved for women belonging to the Scheduled Casts and the Scheduled Tribes from among the seats reserved for the persons belonging to the Scheduled Castes and the Scheduled Tribes which shall not be less than one-third of the total number of seats reserved for the persons belonging to the Scheduled Castes and Scheduled Tribes.

Provided that the offences reserved under this sub section and under sub section (4) shall be allotted by rotation to different Town Panchayat in such manner as may be prescribed."

6. It is submitted that the Sec.3W of the T.N. District Municipalities Act, 1920, deals with Reservation of seats in Town Panchayats. The Sec.3W(4)(a) of this Act reads as follows:-

"(4)(a) The offices of the chairman of the town panchayats shall be reserved for the persons belonging to the Schedule Castes and the Scheduled Tribes and the number of offices so reserved shall bear, as nearly as may be, the same proportion to the total number of offices in the State as the population of the



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Scheduled Castes in all the town Panchayats in the State or the Scheduled Tribes in all the town Panchayats in the State, bears to the total population of all the town Panchayat in the State."

7. It is submitted that the following facts may be appreciated to distinguish the Voter Roll, Census Date and Reservation of Town Panchayats:-

i). Electoral Roll Publication and Summary Revision: Generally it is an annual and specific exercise before forthcoming elections, under the guidance of the State Election Commission, by the 1st respondent herein.

ii). Census: The population census conducts by the office of the Registrar General & Census Commissioner, India (ORGI), once in ten years.

iii). Ward Delimitation: Once in two decades, based on the increased population as ascertained in the last proceedings census, providing parity in representation in all the wards within the local body, as governed by the Ward Delimitation Rules and Ward Delimitations Regulations.

iv) Reservation of Town Panchayat for SC, ST and Women shall be in vogue for two full terms of the council, namely ten years and rotated thereafter at every ten years interval based on the next higher percentage of population of the respective groups in the proceeding census, as governed by Rule-3W, in under Chapter 1-B, Town Panchayats under the Tamil Nadu District Municipalities Act, 1920.

8. It is submitted that the total population of Panapakkam Town Panchayat was 11536, wherein the population of SC was 2333, as per the Census 2011. The delimitation of Wards in local bodies, to be conducted once in 20 years. The proceeding population census shall be the basis for delimitation of wards. The last delimitation was done in 1996; hence the subsequent delimitation was due on 2016.



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Since the Local body election was announced before the completion of delimitation, the same was challenged before the Hon'ble High Court. Therefore, the election process was deferred and the Delimitation Commission issued the Tamil Nadu Local Bodies Delimitation Regulations' 2017 vide its D.C. Order No.1/2017/TNDC/EG-1, dated 12.09.2017.

9. It is submitted that the reservation of Wards for Communal and Gender Representation is to be determined once in ten years on rotation basis. The same was due in the year 2016, upon completion of delimitation process. There was 528 Town Panchayat as on 2016 and the total population in all Town Panchayats was 8074608 and the population of SC was 1340150. Hence, the percentage of SC population was 16.60% and number of Town Panchayats to be reserved for SC category was 87, wherein 44 Town Panchayats were to be reserved for SC (Women) in proportionate to the respective population and 43 for SC (General).

10. It is submitted that the population details of SC as per Census 2011, in each Town Panchayats, were arranged in ascending order, in order to identify the Town Panchayat for reservation. Since the total population of ST was 0.63% and the number of Town Panchayats to be reserved was 3, the Town Panchayats having highest number of ST population and not reserved in the last decade was identified, reserved for and removed from the list of Town Panchayat, in the first round. In second round, the Town Panchayats already reserved for SC in the last decade was removed from the list and the Town Panchayats having highest number of SC Women population in the remaining list was identified, reserved for SC (Women) and removed from the list. In fourth round, the Town Panchayats having highest number of SC population in the remaining list was identified, reserved for SC (General) and removed from the list. Thereafter, the Town Panchayats having highest number of Women (General) and not reserved for the same in the last decade was identified and reserved so. The final list were published in Tamil Nadu



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Gazettee Notification issued in No.216, dated 16.09.2016.

11. As regard the averments made in para No. 3 of the affidavit, it is submitted that the reservation of seats and town Panchayats have been decided as per the Constitutional provisions and mandates of special Acts prevailing as on date. The Panapakkam Town Panchayat did not fall under the lists of Town Panchayats eligible for reservation to the SC category in the rotation exercise completed in the year 2016. The Town Panchayat may be considered for reservation to SC category in future, subject to population and other criteria to be followed in accordance to the rules. Nevertheless, the domiciles of the second respondent Town Panchayat, shall contest in election under general category, irrespective of caste they belongs to. Hence, the apprehension of petitioner is neither maintainable in law nor on facts.

12. It is submitted that the second respondent Town Panchayat has already considered the representation of petitioner and rejected his request vide Na.Ka.No.170/2019, dated 27.01.2021. Therefore, this Writ Petition is liable to be dismissed in limine."

9. Relying upon these averments made in the counter affidavit filed on behalf of the respondents, the learned Special Government Pleader appearing for the respondents 1 to 5 would contended that, the reservation on communal basis of various situations like Ward Members/ Constituency as well as Chairman / Chairperson of the Town Panchayat are concerned, that is to be done as per the constitutional mandate as envisaged under Article 243(D) of the Constitution. Pursuant to the said article, necessary amendment has been made in the Tamil Nadu District Municipalities Act, which is a governing legislation of both Municipalities as well as Town Panchayats in this State.

10. As per the mandate issued by the constitution as well as the provisions of the District Municipalities Act (in short would be called as Act), the communal representation of constituency in Town Panchayats have been made, based on the last census, that is, census 2011.



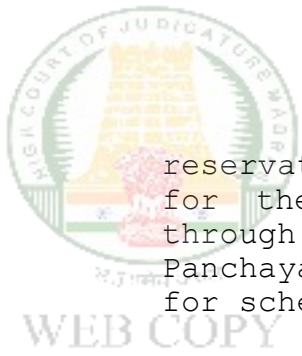
11. Based on said last census the total schedule caste population in the 528 Town Panchayats in the State have been taken and accordingly, 16.60% of seats as mandated are to be reserved for schedule caste category out of which what is the proportionate reservation to be made to the schedule caste general and what is the proportionate reservation to be made to the schedule caste women also have been demarcated and accordingly such reservations were made.

12. Since once reservation is made as stated supra that would prevail for one decade ie., for two election for 10 years and thereafter it should be kept rotated and such action of rotation has also been made. Since the total Town Panchayat is 528 in the State the total Town Panchayats to be reserved for schedule caste community ie., schedule cast general and schedule caste women is only 87. Depending upon the population of the schedule caste community in each of such Town Panchayat since the descending order list has been enumerated among whom the 87 were identified. Subsequently further rotation based on the schedule cast population at Town Panchayats would be made. That kind of rotation will come in every 10 years and thereafter if at all the Town panchayat ie., the second respondent is to be chosen based on the population as mentioned above for next rotation or next to next rotation automatically such kind of reservation would be made in respect of the second respondent Town Panchayat. Till such time, the petitioner, not as a matter of right can claim that the said Town Panchayat Chairman / Chairperson post should be reserved for either schedule caste general or schedule caste women. Hence, the plea raised in this Writ Petition is not feasible for compliance.

13. The learned Government Advocate also pointed out that, already the petitioner made a representation in this regard to the second respondent which was considered and rejected by the said respondent vide his proceedings dated 27.01.2021 and therefore, once again he raised the same plea hence for that reason also, it is untenable. Hence, the learned Government Advocate seeks dismissal of this Writ Petition.

14. I have considered the rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

15. In the teeth of the averments made in the counter affidavit filed on behalf of the respondents and the relevant portion which have already been extracted herein above, this Court finds that, after 2016 delimitation process, they identified or delimited 528 Town Panchayats totally in the State of Tamil Nadu. Out of the total population of 8074608 the schedule caste population was 1340140. Therefore, 16.60% of



reservation has to be made towards the schedule caste community for the post of Chairman / Chairperson for Town Panchayat through out the State which comes to 87 and among such Town Panchayats 44 are to be allotted to schedule caste women and 43 for schedule caste general.

16. On identification of the 87 Town Panchayats for the purpose of reservation as stated above they have already been done on the basis of the largest populated Town Panchayats for which, the descending order list of Town Panchayats have been made out of whom, the first 87 largely scheduled caste populated Town Panchayats have to be rotated. The second set of 87 Town Panchayats would be identified and reserved in the next rotation.

17. In so far as the Second Respondent is concerned, where the petitioner belongs, he wants the said Town Panchayat Chairman / Chairperson post to be reserved for schedule caste community. Since it has not been in the list of Town Panchayats, ie., 87 Town Panchayats which have already been reserved, till the turn comes for the second respondent Town Panchayat, the petitioner has to wait.

18. Moreover, there is no impediment for the petitioner if he wants to contest the election in the Town Panchayat limit either for ward member post or Chairman or Chairperson post as there is no bar in contesting the election if it is a general constituency. Therefore, that kind of right is also not infringed in respect of the petitioner. Moreover already the petitioner has raised the issue before the second respondent which had been rejected through the communication dated 27.07.2021 against which the petitioner has not made any challenge assuming that there is any good ground to challenge such rejection order.

19. Be that as it may, now the method of the identification of Town Panchayats have been made for the purpose of reservation for schedule caste community and schedule caste women and since it has been given totally based on the constitutional mandate as well as the provision of the Act as referred to above which in exhaustively have been given in the counter affidavits, after having gone through the same, this court has no hesitation to hold that, there is absolutely no merits on the contention of the petitioner. Hence, his request made in this regard to consider his plea raised through his representation dated 22.09.2020 is certainly not feasible of compliance. Hence, no Mandamus can be issued as sought for by the petitioner in this Writ Petition.



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20. Resultantly, this Writ Petition fails. Hence, this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

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To

1. The District Collector
Ranipet
Ranipet District.
2. The Executive Officer
Panapakkam Panchayat
Panapakkam.
3. The Assistant Director of Panchayat
Assistant Director of Panchayat Office
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5. The Director of Panchayats
Town Administrative Office Campus
No.75, Santhome High Road,
Chennai.

+1cc to Mr.A.Gopinath, Advocate, S.R.No.63431
+1cc to the Government Pleader, S.R.No.63471,64388

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SSN(CO)
CT 17/02/2022