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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2021

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THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. No.25237 of 2021

Devarajan

...Petitioner

Vs

1.The District Collector,
Tiruvallur District,
Tiruvallur.

2.T.Neraimathi
3.K.Subulakshmi

4.Returning Officer,
Block Development Officer
Office of the Block Development Officer,
Poonamallee, Thiruvallur District,
Tamil Nadu.

...Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the Principal District and Sessions Court, Tiruvallur to dispose off the Election Petition No.155 of 2020 filed by the petitioner within a time frame.

For Petitioner : Ms.R.Janagi

For Respondents : Mrs.V.Yamuna Devi

Special Government Pleader for R1 & 4

O R D E R

The prayer sought for herein is for a writ of mandamus directing the Principal District and Sessions Court, Tiruvallur to dispose off the Election Petition No.155 of 2020 filed by the petitioner within a time frame.

2. The petitioner is an unsuccessful candidate in the Panchayat Election where the 2nd respondent was elected as the President. Against the said election, the petitioner had filed an Election Petition in E.P.No.155 of 2020 before the Principal



District Judge, Tiruvallur on 14.02.2020 questioning the election of the 2nd respondent as President of the concerned Village Panchayat. In this regard, the grievance of the petitioner is that, though such an Election Petition was filed earlier in February 2020, for nearly about 2 years, there has no progress been shown by the Court concerned to complete the trial of the Election Petition and decide the same, despite the mandate issued in this regard to complete the trial and pass orders on Election Petition filed questioning the election within a period of six months, as contemplated under Section 258(6) of the Tamil Nadu Panchayat Act, 1994.

3. Only in that context, with the aforesaid prayer, the present writ petition has been filed.

4. On having this prima facie case projected by the petitioner, this Court, by order dated 26.11.2021, passed the following order:

"The petitioner has filed E.P.No.155 of 2020 before the learned Principal District Judge, Tiruvallur on 14.02.2020, questioning the election of the second respondent as President of the concerned Village Panchayat.

2. The grievance of the petitioner is that, though the election petition was filed as early as on 14.02.2020, till date even the counter / response to the election petition has not been filed by the contesting respondent and in this regard, he pointed out that, under Section 258(6) of the Tamil Nadu Panchayats Act, 1994 (In short 'the Act'), it is mandated that every election petition shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date on which the election petition is presented to the District Judge for trial.

3. In view of the time limit prescribed under the said provision of the Act, the long pendency of the election petition without seeing any considerable progress even till date, is against the spirit of Section 258 of the Act.

4. Considering the prima facie case projected by the learned counsel for the petitioner, this Court is inclined to seek the remarks from the learned Principal District Judge, Tiruvallur as to why the Election Petition No.155 of 2020 has been kept pending without making any considerable progress and in this



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regard, when the case was first taken up for hearing and what progress has been shown till date in the teeth of Sub-section (5) as well as sub-section (6) of Section 258 of the Act? and a report to that effect shall be filed on or before the next date of hearing."

5. In the said order, remarks were called for from the Principal District Judge as to why the Election Petition No.155 of 2020 has been kept pending without making any considerable progress.

6. In response to the said query raised by this Court, the Principal District Judge, Tiruvallur, by reply dated 08.12.2021 addressed to the Registrar General of this Court, has made the following:

"In this connection, I submit that from March 2020, there was surge in Covid-19 Pandemic through out the state and more particularly in Three Districts (viz., Chennai, Tiruvallur, Kancheepuram) and declared as Red Zone. As per direction of the Hon'ble High Court, Madras in Official Memorandum in ROC.No.1363/2020/R9, Dated 30.05.2020. The Court was functioning virtually with limited cases posted and cases were taken up through Video Conferences only. The cases in which both sides were ready to appear alone were taken up through virtual mode. Therefore, the said case was adjourned time to time for filing counter and production of stay order copy.

In this connection, I humbly submit that, on perusal of the said case after I assumed charge as Principal District Judge, Tiruvallur on 22.04.2021, I found that the case stands posted for counter of R1 to R3 and production of stay order copy.

I submit that, due to intervention of summer vacation the case was posted to 11.06.2021 and as per Hon'ble High Court's Official Memorandum in ROC.No.41440-A/2021/C3, dated 17.05.2021, due to steady surge in Covid-19 cases to prevent further spread of infection, as directed to suspend all Judicial work in Subordinate Courts except for Remand purpose and other unavoidable matters.

Further I humbly submit that, as per order of the Hon'ble High Court ROC.No.41440-A/2021/C3 dated: 28.05.2021 and 10.06.2021 issued instructions to ensure the physical hearing of cases be taken up with limited number of cases, only listed matters and urgent matters be taken up, restricting manageable



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number of cases in a day, on time slot, both side ready matters are taken up for hearing as far as practicable through Video Conferencing and also instructed that all other cases posted for the day be adjourned en masse to a specific future convenient date. Accordingly, the above case was periodically posted to 29.07.2021 and 30.09.2021.

I submit that, on further perusal of the dismissal order copy of Tr.CMP.SR.No.1761/2021 received by this Court, the case was posted to 09.12.2021 for counter of R1 to R3.

In this circumstances, I humbly submit that, necessary steps will be taken to dispose the said case at the earliest by posting the same on day to day basis. I further request that Three months time may be granted in this regard for disposal.

I am humbly submitting the remarks as called for by the Hon'ble High Court for the perusal and for kind consideration and oblige."

7. Heard Mrs.V.Yamuna Devi, learned Special Government Pleader appearing for respondents 1 and 4. In view of the order going to be passed in this writ petition, notice to the respondents 2 and 3 is hereby dispensed with.

8. Since the learned Principal District Judge has stated that, due to covid-19 first wave as well as second wave and due to the pendency of the Tr.C.M.P.SR.No.1761 of 2021, which was disposed of very recently, there has been delay in taking up the trial of the Election Petition.

9. Though such a reason has been stated for the delay by the learned Principal District Judge, based on her remarks, this Court feels that, for filing the counter by R1 and R2, time had been given for more than a year for several hearings and in respect of filing the counter, the covid-19 situation would not alter the position as counter could have been filed well in time. Even after the normalcy restored after covid-19 first wave as well as second wave, till date no counter has been filed by the respondents in the Election Petition. In this regard, the Principal District Judge should take earliest effort to ensure that, the counters are filed by the respondents, failing which, it is open to the learned Judge to proceed with the trial on the basis of the available records as the very mandate provided under Section 258 of the Tamil Nadu Panchayat Act cannot be denuded by having the election petition without showing any progress for such a long period.



10. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

That there shall be a direction to the Principal District Judge, Tiruvallur to take up the said Election Petition No.155 of 2020 and decide the same by hearing the matter on day-to-day basis within a period of three months from the date of receipt of a copy of this order.

11. With this direction, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

Sg

To

1. The Principal District Judge
Tiruvallur.
2. The District Collector
Tiruvallur District
Tiruvallur
3. Returning Officer,
Block Development Officer
Office of the Block Development Officer,
Poonamallee, Thiruvallur District,
Tamil Nadu.

+1 CC to Mr.V. Rajesh, Advocate sr 66513

+1 CC to The Government Pleader sr 66617

W.P. No.25237 of 2021

GPL(CO)
SP(16/02/2022)