



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P. (MD) No.2085 of 2021

and

W.M.P (MD) Nos.1754 of 2021 and 1755 of 2021

WEB COPY

M.Muthukumar

...Petitioner

Vs.

- 1.The Principal Secretary,
Election Commission of India,
Nirvachan Sadhan,
Ashok Road,
New Delhi.
- 2.The Chief Election Commissioner,
Election Commission of Tamil Nadu,
100 ft. Road,
Vadapalani, Chennai.
- 3.The District Collector,
Sivagangai District,
Sivagangai.
- 4.The Superintendent of Police,
Sivagangai District,
Sivangangai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the first respondent in No.437/6/1/INST/ECI/FUNCT/MCC/2020 dated 18.12.2020 and quash the same insofar as the guidelines No.(i) at para No.3 and consequently direct the fourth respondent to effect general transfer for Tamil Nadu State Assembly Election-2021 by considering the petitioner's representation dated 29.01.2021.

For Petitioner : Mr.K.Baalasundharam

For R-1 : Mrs.L.Victoria Gowri
Assistant Solicitor General of India

For R-2 : Mr.Rajakarthikeyan

For R-3 and R-4 : Mr.P.Mahendran
Additional Government Pleader

O R D E R

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.



2.The petitioner is aggrieved against the inter-departmental communication between the Election Commission of India and the Chief Secretary of various Government Department including the Government of India, whereby, certain arrangements have been made for transfer and postings of Government Officials, for the purpose of conducting a free and fair election.

3.The learned counsel for the petitioner would place reliance on similar guidelines issued in the year 2019 for the Lok Sabha and State Legislative Assembly Election for other States dated 16.01.2019 and submit that there is a discrimination, in the sense, that the Election Commission of India has deviated from its earlier guidelines, which would affect the petitioner, if he is transferred.

4.I am not in agreement with such a submission. In order to ensure that there is a free and fair election, the Election Commission of India has followed a consistent policy, to the effect, that the Officer directly connected with the conduct of the elections are not posted in their home districts or places where they have served for considerably long period. Such a decision also seems to be rational. The Election Commission of India has been conferred with powers to pass such guidelines in order to ensure a fair election and it would be their prerogative to impose such guidelines, as evidenced in the present impugned order.

5.The petitioner is not the only person, whose service may be interfered with and therefore, if any orders are passed by this Court, interfering with the impugned guidelines, it would have a huge impact on the transfer/posting arrangements, which the Election Commission intend to make. Just because the Election Commission had a different set of guidelines in the earlier elections, the petitioner may not be any legal right to seek for similar guidelines for the ensuing election also.

6.In the absence of any legal grounds, no interference is required to the present impugned order. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

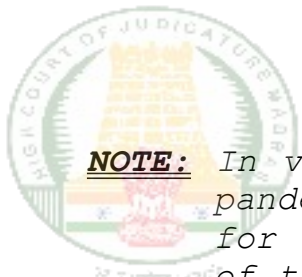
Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Collector,
Sivagangai District, Sivagangai.

2.The Superintendent of Police,
Sivagangai District,
Sivagangai.

+1 CC to M/s.GP (SR-4009[F] dated 09/02/2021)

+1 CC to M/s.K.BAALASUNDHARAM, Advocate (SR-4326[F] dated 10/02/2021)

W.P. (MD) No.2085 of 2021

08.02.2021

AC (CO)

KK(25.02.2021) 3P 5C