



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.11655 of 2021

R.Gopalakrishnan

...Petitioner

Vs.

1.The Tamilnadu State Election Commissioner,
Tamil Nadu State Election Commission,
Digit 208/2, Jawaharlal Nehru Road,
Arumbakkam,
Chennai-600 106.

2.The District Collector/District Election Officer,
Madurai District,
Madurai.

3.The Commissioner,
Madurai Corporation,
Madurai.

4.The Special Tahsildar,
Flying squad-C Team,
Madurai North legislative assembly,
Madurai.

5.The Inspector of Police,
Thallakulam Police Station,
Madurai City.
(Crime No.298 of 2021).

... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the second respondent to unlock and unseal the petitioner's office, situating in D.No.140AA, Town survey no.988 & 989, ward no.10, Block No.85 in Alagar Kovil Main road, Tallakulam, Madurai city by considering the petitioner's representations dated 31.05.2021 & 23.06.2021, within the time limit that may be stipulated by this Court.

For Petitioner

For R1,R2,R4 & R5

: Mr.M.S.Jeyakarthik

: Mr.Veera Kathiravan

Senior Standing Counsel

for the State

Assisted by

Mr.M.Lingadurai

Government Advocate

: Mr.R.Murali

For R3

<https://hcservices.ecourts.gov.in/hcservices/>



ORDER

This writ petition has been filed for issuance of writ of Mandamus directing the second respondent to unlock and unseal the office of the petitioner by considering the representation made by the petitioner on 31.05.2021.

2. The case of the petitioner is that he was a former Member of Parliament representing the Madurai Constituency (MP). During his tenure as a MP, he was allotted the subject property by the Corporation to perform his official function. The petitioner claims that he was paying the monthly rent to the Corporation and this property was allotted in the year 2014.

3. The further case of the petitioner is that during the Assembly Election in the year 2021, based on a complaint, the fourth respondent came to the premises and removed the banners kept therein and sealed the premises on 19.03.2021. An FIR was also registered by the fifth respondent for the offences under Sections 4A[1][b] r/w 4 B TN Open Places [Prevention of Disfigurement] Act, 1959.

4. The grievance of the petitioner is that even after the completion of the election, the property continued to be under lock and seal and inspite of the representation made by the petitioner on 31.05.2021, it has not been removed and left with no other option, the present writ petition has been filed seeking for appropriate directions.

5. Heard Mr.M.S.Jeyakarthik, learned counsel appearing for the petitioner and Mr.Veera Kathiravan, learned Senior Standing Counsel for the State assisted by Mr.M.Lingadurai, learned Government Advocate appearing for the respondents 1,2,4 7 5 and Mr.R.Murali, learned Standing Counsel appearing for the third respondent.

6. A careful reading of the Resolution that was passed by the Corporation shows that the property in question was allotted to the petitioner in his capacity as the Member of the Parliament and in order to perform his public function by utilising the space as an office. Admittedly, the tenure of the petitioner is also over. This premises was locked and sealed by the fourth respondent during the election and the FIR was also registered and the same is pending investigation.

7. If such lock and seal had been put in the private premises of the petitioner, this Court would have immediately directed the second respondent to remove the lock and seal, since the elections are already over. However, the petitioner is utilising the property given by the Corporation as an office space and it was given to the petitioner only in his capacity as Member of Parliament. Once the petitioner ceased to be a Member of Parliament, he loses his right



to occupy the property. The petitioner does not have any vested right to continue to be in possession of the property and in fact, persons holding public office like MP or MLA are supposed to vacate and hand over the premises immediately after the tenure is completed. They are not expected to squat over a public property.

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8. In view of the above, this Court is not inclined to issue the direction as prayed for by the petitioner. The petitioner has lost his right to hold the property belonging to the Corporation immediately after he ceased to be the Member of the Parliament. It is left open to the Corporation to utilise the property after removing the lock and seal. If any of the articles inside the premises belongs to the petitioner, the same shall also be handed over to the petitioner.

9. In the result, the writ petition is dismissed. No costs. If there is any arrears of rent payable by the petitioner, it is left open to the Corporation to proceed further to recover the rent.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Tamilnadu State Election Commissioner,
Tamil Nadu State Election Commission,
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4.The Special Tahsildar,
Flying Squad-C Team,
Madurai North legislative assembly,
Madurai.

5.The Inspector of Police,
Thallakulam Police Station,
Madurai City.

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate (SR-22377[F] dated
13/07/2021)

+1 CC to M/s.SPL GP (SR-22553[F] dated 14/07/2021)

+1 CC to M/s.SPL GP (SR-22689[F] dated 15/07/2021)

W.P. (MD) .No.11655 of 2021
13.07.2021

SSS (CO)
LR (20.07.2021) 4P 9C