



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.08.2021

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THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.15521 of 2021

and

W.M.P(MD) .No.12446 of 2021

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J.Dishore Jayananath

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by its Chief Secretary,
Secretariat, St.George Fort,
Chennai - 09.
2. The Principal Secretary to the Government,
Health and Family Department,
Secretariat, St.George Fort,
Chennai - 09.
3. The Principal Secretary to the Government,
Higher Education Department,
Secretariat, St.George Fort,
Chennai - 09.
4. The Director of Higher Education,
Directorate of Collegiate Education,
9th floor, EVK Sampath Buildings,
College Road, Chennai - 600 006.
5. District Collector,
Vettunimadam, Ramavarmapuram,
kanyakumari - 629 001.
6. Revenue Divsional Officer,
Nagercoil Division,
District Collectorate,
Nagercoil - 629 001.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records in proceedings vide No.R.O.C.A3/2824/2021 dated 25.08.2021 passed by the sixth respondent and quash the same being violative of G.O.Ms.No.504 dated 07.08.2021 and G.O.Ms.No.522 dated 21.08.2021 passed by the first respondent.



For Petitioner : Mr.Kamalakannan
for M/s.K.Jayasudha
For Respondents : Mr.P.Subbaraj,
Counsel for State for R1 to R6
Mr.V.Selvaraj for Bishop(Intervenor)

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O R D E R

The petitioner challenges an order dated 25.08.2021 issued by the Sub-divisional Magistrate and Revenue Divisional Officer, Nagercoil.

2. The petitioner states that he is a council member of the Kanyakumari Diocese, Church of South India. It is stated that the diocese council consists of 1020 members and the election to the said diocese council is scheduled on 26, 27 and 28th August, 2021, at the Women's Christian College, Nagercoil. The principal grievance of the petitioner is that the Revenue Divisional Officer initially issued an order dated 24.08.2021 by which not more fifty persons were permitted to be present inside the premises at a given point of time. The petitioner states that the said condition was waived by the impugned order dated 25.08.2021. In such circumstances, the said order is assailed.

3. Mr.P.Subbaraj, learned counsel for the State, accepts notice on behalf of all the respondents. He submits that the impugned order is in line with the relevant Government orders in this connection. He also submits that the impugned order sets out the protocol to be followed during the conduct of elections. Therefore, he submits such order does not call for interference.

4. Mr.V.Selvaraj, learned counsel, appears on behalf of the Bishop of the CSI, Kanyakumari Diocese. He submits that the Bishop is the person in charge of the conduct of elections and is a necessary party who should have been joined in the present writ petition. His next submission is that at any given point of time not more than 50 persons would be present in the booths to cast their votes. The third submission is that all COVID-19 related restrictions would be adhered to and that, therefore, there is no reason to interfere with the electoral process. Indeed, he points out that the Division Bench of this Court permitted the conduct of such elections to other Dioceses.

5. Upon consideration of the rival contentions, the first aspect to be noticed is that the elections are scheduled on 26, 27 and 28th. Therefore two days of such elections have concluded. The only legal aspect to be considered is whether the impugned order



of 25.08.2021 violates any Government order in relation to COVID appropriate behaviour in force at the present. G.O.Ms.No.522 of 2021 dated 21.08.2021 relates to the period between 4.00 A.M. of 10.05.2021 to 6.00 A.M. of 23.08.2021. It appears that this is the last of the Government orders issued as on date. Clause (i) of such Government order permits cinema houses to function with fifty per cent of seating capacity by following Standard Operating Procedure. This indicates that the Government has decided to do away with the ceiling of fifty persons which was in vogue during an earlier period. When the impugned order is tested against the aforesaid G.O.Ms.No.522 of 2021, it is noticeable that the impugned order specifies both under Clause I and IX that not more than 50% of capacity should be there inside the room and that not more than fifty per cent of members are allowed in and around the place. Therefore, the impugned order does not contravene the applicable Government orders in this regard. The impugned order also sets out various COVID appropriate norms that should be followed during the conduct of elections. It is needless to say that the conditions subject to which permission was granted for the elections should be strictly complied with.

6. In the aforesaid facts and circumstances, the petitioner has failed to make out a case to interfere with the impugned order. In the result, W.P(MD).No.15521 of 2021 is dismissed without any order as to costs. Consequently, W.M.P(MD).No.12446 of 2021 is closed.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1. The Chief Secretary,
Government of Tamil Nadu,
Secretariat, St.George Fort,
Chennai - 09.
2. The Principal Secretary to the Government,
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Secretariat, St.George Fort,
Chennai - 09.



3. The Principal Secretary to the Government,
Higher Education Department,
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4. The Director of Higher Education,
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+1 CC to M/s.SPL GP (SR-27645[F] dated 31/08/2021)

W.P. (MD)No.15521 of 2021
27.08.2021

PS (CO)
SB(07.09.2021) 4P 8C