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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESEVALU

W.P.No.1149 of 2022

B.Rajan Baranbass

.. Petitioner

Vs

1. Government of Tamil Nadu,
rep. by its Secretary,
Department of Municipal Administration
and Water Supply,
Fort St. George,
Chennai - 600 009.

2. The Principal Secretary/Commissioner,
The Greater Chennai Corporation,
Rippon Building,
Chennai - 600 003.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the record of proceedings of the 2nd respondent in impugned notification No.VI(2)/4(d)/2022 in Part VI - Section 2 of the Tamil Nadu Government Gazette, Extraordinary dated 17.01.2022 in respect of Ward No.31 of Chennai City Municipal Corporation and quash the same and consequently, direct the respondents to reserve Ward No.31 of Chennai City Municipal Corporation for Schedule Caste (General) as per notification No.VI(2)/46(d)/2019 in Part VI-Section 2 of the Tamil Nadu Government Gazette, Extraordinary dated 24.05.2019.

For the Petitioner

: Mr.R.Murali
for M/s.C.Prabakaran



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For the Respondents : Mr.R.Shunmugasundaram
Advocate-General
assisted by
Mr.P.Muthukumar
State Government Pleader
for respondent No.1

: Mrs.J.Karthika Ashok
Standing Counsel
for respondent No.2

ORDER

(Order of the Court was made by
the Hon'ble Acting Chief Justice)

The writ petition has been filed to challenge the notification dated 17.01.2022, whereby Ward No.31 of the Chennai City Municipal Corporation was reserved for Scheduled Caste (Women). The prayer is to reserve it for Scheduled Caste (General).

2. Learned counsel for the petitioner submits that as per Article 243(T) of the Constitution of India, the respondents are under obligation to rotate the reservation of Wards to different categories. The respondents have failed to follow the mandate of the Constitution and thus, a challenge is made to the impugned notification.

3. Learned Advocate-General appearing for the first respondent submits that the respondents have not violated any mandate of the Constitution. In fact, earlier, elections were held based on the census of 2001 and thereafter, census of 2011 was undertaken. The election was scheduled to be held in 2016, but for certain reasons, it could not be held. The delimitation took place in between based on the census, resultantly, alteration of boundaries of Wards. As a consequence of it, Ward No.31 was reserved for Scheduled Caste (Women). The Constitution provides delimitation in every 10 years and the rotation of seats cannot be maintained ignoring the delimitation. The effect of delimitation and the rotation have to be taken note of. In the instant case, the respondents have not violated any of the mandate of the Constitution and, therefore, a prayer is to dismiss the writ petition.



4. We have considered the rival submissions and perused the materials available on record.

5. The challenge to the impugned notification dated 17.01.2022 is precisely alleging non-compliance of the mandate of Article 243(T) of the Constitution of India, which provides for rotation of reservation of Wards for different categories. The argument aforesaid has been made without taking care of another mandate of the Constitution, which permits delimitation every 10 years. The available records show that delimitation took place as per 2011 census and as a consequence thereupon, elections should have taken place in the year 2016. The election could not take place in 2016 and it would be the first election thereupon. It should have been based on the census of 2021. The census in 2021 could not take place due to the pandemic and, therefore, the delimitation and the reservation of Wards were done based on the earlier census. The respondents have not violated any rule of reservation, rather the reservation in favour of the Scheduled Caste (Women) was made as a consequence of the delimitation. The delimitation may result in alteration of the boundaries of Wards. The reservation is to be given based on the delimitation.

6. In view of the above, we do not find that any of the mandate of the Constitution has been violated by the respondents. Rather, Article 243(T) of the Constitution of India has to be read as a whole and cannot be in part. Accordingly, we do not find any merit in the writ petition and the same is dismissed. No costs. Consequently, W.M.P.Nos.1214 and 1216 of 2022 are closed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

bbr

To:

1. The Secretary,
Government of Tamil Nadu,
Department of Municipal Administration and Water Supply,
Fort St. George,
Chennai - 600 009.



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