



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

WP.NO.2371 OF 2022

Chinnathirai Nadigar Sangam
Registered under the Indian Trade Union Act No.2999 CNI,
Rep by its President Mr.A.Ravivarma,
Having its office at No1/75, Venkatesa Nagar Extn.I,
2nd Street, Virugambakkam, Chennai- 92.

...Petitioner

Vs

- 1.The Commissioner of Police,
Greater Chennai Commissionerate,
Office of the Commissioner of Police,
Vepery, Chennai - 7.
- 2.The Assistant Commissioner
R8 Vadapalani Police Station,
Vadapalani, Chennai -32.
- 3.The Inspector of Police,
R5 Virugambakkm Police Station,
Virugambakkam, Chennai-92.
- 4.The Commissioner of Chennai Corporation,
Ribbon Buildings, Chennai.
- 5.The Asst.Health Officer,
Division 10, Ward 128,
Kodambakkam, Chennai - 24.
- 6.The No.I, Joint Commissioner of Labour,
Labour Welfare Office,
DMS Compound, Teynampet,
Chennai-6.
- 7.Sangeetha Balan,

(R7 impleaded vide order dated 26.04.2022
made in WMP No.4562/2022 in W.P.No.2371 of 2022)

...Respondents



Prayer : Writ petition is filed under Article 226 of Constitution of India to issue a writ of Mandamus or any other appropriate Writ or Order or Direction in the nature of Writ, to direct the respondents 1 to 3 to provide security police assistance for smooth conducting of the Election to the petitioner's Sangam, including of a direction to the 4th & 5th respondent to give due permission, apart from sending of their respective observers and the observes of the 6th respondent to overseas and watch over the election process to be held on 16.02.2022 or on any other day as fixed by this Court.

For Petitioner : Mr.V.Jayachandran

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor
for R1 to R6.

Mr.TKS.Gandhi
for Mr.J.T.Rajasuriya for R7.

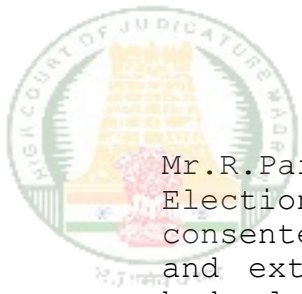
O R D E R

This writ petition has been filed to direct the respondents 1 to 3 to provide security police assistance for smooth conducting of the Election to the petitioner's Sangam, including a direction to the 4th & 5th respondent to give due permission, apart from sending of their respective observers and the observes of the 6th respondent to overseas and watch over the election process to be held on 16.02.2022 or on any other day as fixed by this Court

2. The brief facts of the case is as follows :-

The case of the petitioner is that the petitioner is a Registered Association, under the Indian Trade Union Act, having registration No.2999 CNI for the welfare of TV artistes and it has been functioning smoothly right from the year 2003 onwards and it is the further case of the petitioner is that there are 1860 enrolled members and the members list has been finalised for conducting the election for the office bearer of the Association for a period of three years from 2022 to 2025. It is the further case of the petitioner is that as per the bye-laws of the Association, the election has to be conducted at regular interval once in three years and for the convenience of the members, the election would be conducted in any of the 2nd Sundays of the English calendar month, due to holiday in the industry.

3. The General Body Meeting of the Association was officially held on 12.12.2021 and with the due approval of the office bearers and members of the Association, one



Mr.R.Paranjothi, District Judge (retired) was appointed as Election Officer to conduct the election and he has also consented for the same. The Election Officer had made complete and extensive arrangements for conducting the election and he had also formulated due procedures by fixing respective dates for election process. The approved members have formed into three teams namely (i)Vasantham Team (ii)Uzhaikkum Karangal Teach and (iii)Pudhu Udayam Team and they have filed there nomination for contesting the respective posts. The petitioners have applied for grant of police protection from the respondents 1 to 3 for smooth conduct of elections. However, since no action has been taken by the respondents, the present petition has been filed.

4. Mr.V.Jayachandran, the learned counsel appearing for the petitioner's Association would submit in the General Body Meeting held on 12.12.2021 Mr.R.Paranjothi, Retired District Judge has been appointed as Election Officer with the consent and approval of all members and he had also consented for the same. The petitioner's Association had also sent request to various authorities to give security and other permission to conduct the election in a smooth manner. The representation of the petitioner's Association was not considered, and there was delay. In the meanwhile, the Election Officer nominated to conduct election has also left to USA on his personal visit. He would further submit that earlier there was difference of opinion between two groups particularly the present office bearers and the group of the impleaded 7th respondent with regard to the conduct of elections and now the dispute have been resolved and settled between the contesting parties and a consensus has been arrived at between the parties. Pursuant to the resolution of dispute, a joint memo has been filed between the parties and the parties have no objection in the election being conducted by any retired District Judge, appointed by this Court. He would pray that suitable direction may be issued to the respondents 1 to 6 to give security and assistance for conducting election in a smooth manner on any day fixed by the Election Commissioner to be appointed by this Court.

5. Learned Additional Public Prosecutor would submit that among the contesting groups there are two rival groups and since the request was not made by the Election Commissioner and further taking into consideration the Covid protocol prevailing at that period there had been some delay on the part of the authorities to respond to the request of the petitioner's Association and now a consensus had been arrived between the petitioner and the 7th respondent. The respondents 1 to 3 are ready to provide suitable protection on any date, in the event a request is given by the Election Commissioner appointed by this Court.



6. Mr.J.T.Rajasuriya, learned counsel appearing for the 7th respondent would submit that the 7th respondent group had objected for conducting the election, by the election officer appointed earlier on the ground that the list of members were not been properly considered and the election process was also not done in accordance with the bye laws of the Association. He would further submit that now a consensus had been arrived at between the parties and the parties have also filed joint memo before this Court and they have no objection in the election being conducted on the terms of memo by any Election Commissioner appointed by this Court in accordance with the bye laws of the petitioner's Association.

7. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents 1 to 6 and the learned counsel for the 7th respondent and perused the materials available on record.

8. This writ petition has been filed during January 2022. During the General Body Meeting of the Association Mr.Paranjothi, Retired District Judge had been nominated as the Election Officer. The nomination and the election process initiated by the Election Officer was objected by the impleaded 7th respondent. Meanwhile, the nominated Election Officer has also gone out of the country on his personal commitments. On the proposal made by both counsel, this Court appointed Mr.P.Ganesan, Retired District Judge residing at No.211/3, Dr.Ambedkar Salai, Madipakkam Bus Terminus, Chennai - 91, as Election Officer/Commissioner to conduct the election for the Association and directed the parties to file the Joint Memo, pursuant to which it is filed today.

9. The relevant paragraphs of the Joint Memo of affidavit is reproduced hereunder :-

1.It is submitted that the intention of the petitioner and the 7th respondent are to conduct fair and free election among the eligible members/voters of the petitioner's association to elect officer bearers and as by the bye laws and hence held discussions and deliberations and are filing this joint memo as under:

2.It is submitted that the Petitioner had filed the present Writ petition praying for a direction to the officials Respondents to provide police assistance for smooth conduct of elections to the petitioner's Chinnathirai Nadigar Sangam under the supervision of the Joint Commissioner of Labour - 1 - cum Registrar of Trade Unions.



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3.It is submitted that the 7th respondent was permitted to be implead in the matter on her application filed, bearing WMP.No.4562/2022 vide order dated 26/04/2022 and without any objection, she is impleaded in the matter.

4.It is prayed that an Advocate Commissioner/ Election Officer, namely Mr.P.Ganesan, the District Judge (Rtd..) having his address at No.211/3, Dr. Ambedkar Salai, Madipakkam Bus Terminus, Chennai 600 091, Mobile No.9600045571 may be appointed by this Hon'ble Court to ensure free and fair elections and towards smooth conduct of the fresh election for a period of 3 years, from 2022 to 2025, as per the bye laws of the petitioner's association.

5.The election process shall be started from the beginning i.e. from the task of finalizing members eligible for voting and filing nomination. The already existing list shall not be considered and a fresh list shall be prepared to the satisfaction of the Election commissioner.

6.The Election commissioner shall ensure free and fair elections to the Union. Towards this he shall provide reasonable opportunity of hearing for all persons in order to address genuine grievances if any. However, the Election commissioner shall be empowered to take decisions as per his own discretion.

7.On election day the entire event shall be captured by CCTV camera at appropriate locations.

8.The Joint Commissioner of Labour - 1 - cum Registrar of Trade Unions shall monitor or send observer as per his discretion and convenience so as to satisfy himself that the entire election process right from start to end was to his satisfaction.

9.The entire election expenses including that of the remuneration to the Election commissioner and his assistants shall be borne by Chinnathirai Nadigar Sangam. Since the main account of the Union with M/s Canara Bank, Saligramam Branch is presently frozen, the money available in parallel account with M/s Indian Bank operated by Thiru A.Ravi Varma shall provide for the entire expenses and once the newly elected office bearers take charge the accounts shall be reconciled and ensure that the Election expenses are provided out of the funds



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available with Chinnathirai Nadigar Sangam.

10.It is submitted that during the hearing of the case, since the relief, request and prayer of the petitioner and the 7th respondent are one and the same and are common, namely for a free, fair and smooth conduct of the election to the petitioner's society, the both are making this joint request for smooth, fair and free election to the petitioner's association.

11.It is submitted that the both parties undertake to abide by rules and regulation and the bye of the association and abide by the direction of this Hon'ble Court in appointing the above-named Advocate Commissioner's/Election Officer, empowering him to conduct a fair and free election to the petitioner's association.

12.It is submitted that there shall be no breach of peace or any law and order problem and the petitioner and the 7th respondent shall offer fullest extent of co- operation to the Election Officer appointed by this Hon'ble High Court and the election process is conducted in a dignified and peaceful manner for smooth conduct of the election through the Advocate Commissioner's/Election Officer and shall abide by his direction and guidelines.

13.It is submitted that the remuneration fixed by this Hon'ble Court shall be payable out of the funds of the petitioner's association and the Election officer is free to exercise his discretion independently and impartially for conducting of the election to the petitioner's association.

14.It is submitted that the petitioner and the contesting respondent, namely the 7th respondent shall abide by order and the direction of the Election Officer appointed by this Hon'ble Court in this writ petition for a fair and free and smooth conduct of the election.

15.It is submitted that the petitioner and the 7th respondent shall no way create any law-and-order problems, either during and after the election process and till the officer bearers are properly elected to the petitioner's association. The Petitioner and 7th Respondent shall co - operate.

16.It is submitted that the intention of the 7th respondent was to conduct a free and fair election to the petitioner's association



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and on account of this arrangement in this present writ petition, the 7th respondent undertakes to withdraw the writ petition bearing WP.No. 225/2022 or undertakes to withdraw the same by recording this very same terms of the joint memo filed herein.

17.It is submitted that the petitioner and the 7th respondent are the contesting parties in this writ petition and other respondents are statutory body and official respondents and are formal parties to the present proceedings.

18.It is submitted that the petitioner and the 7th respondent shall abide by the decision of the Election Officer and shall provide utmost co-operation with respect and honour.

19.It is submitted that the Election Officer shall be empowered to seek any police assistances if any or any other appropriate authority towards peaceful and effective conduct of the free and fair election.

20.Both parties agree to abide by any other condition imposed by this Hon'ble Court for smooth, free and fair completion of the election process to the petitioner's association. Hence pray accordingly."

10. In view of the above, Mr.P.GANESAN, Retired District Judge is appointed as the Election Officer/Commissioner to conduct the election for the petitioner's association for the period 2022 to 2025 by initiating the election process afresh as per the bye laws of the Association.

(i)The Election Officer/Commissioner shall be entitled to the remuneration of Rs.1,00,000/- (One Lakh only) for the entire election process and he is entitled to appoint two other Advocates to assist him in the election process, who shall be paid a sum of Rs.25,000/- each (Twenty Five thousand only).

(ii)Apart from the remuneration, the Election Officer/Commissioner is at liberty to claim the actual expenses incurred by him in conducting the election on submission of necessary bills for the same.

(iii)In the event of requiring any police protection, the Election Commissioner shall approach the respondents 2 and 3, and they shall inturn depute sufficient strength to give adequate protection and to manage the crowd on the date of Election.

(iv)The Election Commissioner shall take due steps to start the Election process within two weeks from the date of receipt of a copy of this Order and he shall complete the election process as per the bye-laws of the petitioner's association.



(v) The Election Commissioner shall also seek the assistance of respondents 4 to 6 for the smooth conduct of Election, if necessary.

11. With the above observation, the writ petition stands disposed of. No costs.

Sd/-
Deputy Registrar (CS)

// True Copy //

Sub Assistant Registrar

jas/tsh

To

1. Mr. P. Ganesan,
Retired District Judge/
Election Officer / Commissioner,
778, 4th Street,
Kagithapuram,
S. Kolathur (Sunnampu Kolathur)
Back side to Nila Super Market,
Chennai - 600 117.
2. The Commissioner of Police,
Greater Chennai Commissionerate,
Office of the Commissioner of Police,
Vepery, Chennai - 7.
3. The Assistant Commissioner
R8 Vadapalani Police Station,
Vadapalani, Chennai - 32.
4. The Inspector of Police,
R5 Virugambakkam Police Station,
Virugambakkam, Chennai - 92.
5. The Commissioner of Chennai Corporation,
Ribbon Buildings, Chennai.
6. The Asst. Health Officer,
Division 10, Ward 128,
Kodambakkam, Chennai - 24.
7. The No. I, Joint Commissioner of Labour,
Labour Welfare Office,
DMS Compound, Teynampet,
Chennai - 6.



8.The Public Prosecutor,
High Court, Madras.

+1cc to M/s.T.K.S.Gandhi, Advocate, Sr.No.30111

+1cc to Mr.V.Jayachandran, Advocate, Sr.No.29362 [12/05/2022]

W.P.No.2371 of 2022

RP (CO)
RVM(11/05/2022)