



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2022

CORAM :

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

AND

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

W.P.No.1745 of 2022

V.U.Surya Prakash

.. Petitioner

Vs

1. The Chief Election Commissioner,
Election Commission of Tamil Nadu,
No.208/2, Jawaharlal Nehru Road,
Arumbakkam, Chennai-600 106.
2. The District Collector,
Tiruvallur District,
Tiruvallur.
3. The Deputy Director,
Town Panchayat,
Tiruvallur District,
Tiruvallur.
4. The Executive Officer,
Naravari Kuppam Panchayat,
Redhills, Chennai - 600 052.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents to take action to remove the voters wrongly added in Ward No.1 in Part 1 in Serial No.504 to 707 and in Thiru-vi-ka Street Serial No.461 to 469.

For the Petitioner : Mr.P.Chandrasekar

For the Respondents : Mr.S.Sivashanmugam
for respondent No.1



WEB COPY

: Mr.P.Muthukumar
State Government Pleader
for respondent Nos.2 to 4

ORDER

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

The writ petition has been filed to seek a direction on the respondents to remove the voters wrongly added in the voters list of Ward No.1 in Part 1 in Serial Nos.504 to 707 and in Thiru-vi-Ka Street in Serial Nos.461 to 469.

2. Learned counsel appearing for the petitioner submitted that the names of certain voters were wrongly added in the voters list for Ward No.1, though they are not residing in the said Ward and, accordingly, a direction is sought to remove their names from the voters list and to include their names in the voters list of the Ward where they are actually residing.

3. Learned Government Pleader has raised an objection regarding the maintainability of the writ petition as per the reference to the provisions on the subject-matter. He submitted that as per the Tamil Nadu District Municipalities Act, 1920, whenever the voters list is published, an individual has a right to make an objection, if his name has been placed in the different Ward or the name has not been shown in the voters list and on other similar issue. The petitioner has no right to espouse the cause of other voters. It is more so, when the objection raised by the individual is to be considered by the competent authority on or before the date of nomination for the election. Since no objection was given by the voters referred in Serial Nos.504 to 707 in Ward No.1 and Serial Nos.461 to 469 in Thiru-Vi-Ka-Street in the writ petition, the voters list became final. It is not permissible to shift the voters from one Ward to another after the last date of nomination. He further submitted that in case, the voters have any objection for the voters list published, they could have raised the objection on or before the last date of nomination. Thus, now it is not even legally permissible to shift the voters from one Ward to another. It is further reiterated that despite publication of the voters list on the website with due publicity, no objection in reference to the voters referred to in Serial Nos.504 to 707 in Ward No.1 and Serial Nos.461 to 469 in Thiru-Vi-Ka-Street was given by the voter concerned, and, accordingly, when an individual voter has no grievance for placing him in the voters list of Ward No.1, the petitioner has



no locus to challenge the same.

4. We have considered the rival submissions and perused the records.

5. The issue of locus of the petitioner will be taken subsequent to the legal issue raised by learned Government Pleader.

6. As per Section 44 (4-A) of the Tamil Nadu District Municipalities Act, 1920, which is quoted hereunder, the objection to the voters list ought to be given on or before the nomination date:

"44. Qualifications for inclusion in electoral roll for Municipality and publication thereof.— (1) The electoral roll of the Municipality shall be the same as the electoral roll of the Tamil Nadu Legislative Assembly prepared and revised in accordance with the provisions of law for the time being in force in a Municipality and shall be deemed to be the electoral role for such Municipality for the purposes of this Act and that no amendment, transposition or deletion of any entry in the electoral roll of the Tamil Nadu Legislative Assembly made after the last date for making nominations for election in any Municipality and before the notification of the result of such election, shall form part of the electoral roll for such election, for the purpose of this section.

(1-A) A person shall be disqualified for registration in an electoral roll, if he —

- (a) is not a citizen of India ; or
- (b) is of unsound mind and stands so declared by a competent Court ; or
- (c) is, for the time being, disqualified from voting under the provisions of section 60 or any law relating to corrupt practices and other offences in connection with elections.

(1-B) No person shall be entitled to be registered in the electoral roll for any Municipality more than once.

(1-C) No person registered in the electoral roll for a Municipality shall be entitled to be registered in the electoral roll for another Municipality, panchayat or city.



WEB COPY

Explanation.— For the purpose of this sub-section, the expression 'panchayat' and 'city' shall have the meanings respectively assigned to them in the Tamil Nadu Panchayats Act, 1958 (Tamil Nadu Act XXXV of 1958), the Chennai City Municipal Corporation Act, 1919 (Tamil Nadu Act IV of 1919) or the Madurai City Municipal Corporation Act, 1971 (Tamil Nadu Act 15 of 1971) or in any other law for the time being in force.

(1-D) Subject to the provisions of sub-sections (1), (1-A), (1-B) and (1C), every person who -

- (a) is not less than eighteen years of age on the qualifying date ; and
- (b) is ordinarily resident in a Municipality, shall be entitled to be registered in the electoral roll for that Municipality.

Explanation.— For the purpose of this section, "qualifying date" in relation to the preparation or revision of an electoral roll under this Act, means the first day of January of the year in which it is so prepared or revised.

(1-E) (a) A person shall not be deemed to be ordinarily resident in a Municipality on the ground only that he owns, or in possession of, a dwelling house therein.

(b) A person, absenting himself temporarily from his place of ordinary residence shall not, by reason thereof, cease to be ordinarily resident therein.

(c) A person who is a patient in any establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness or who is detained in prison or other legal custody at any place, shall not, by reason thereof, be deemed to be ordinarily resident therein.

(d) If in any case a question arises as to whether a person is ordinarily resident in a Municipality at any relevant time, the question shall be determined by the Tamil Nadu State Election Commission in accordance with such rules as may be prescribed.

(2) Any officer of the State Government or the Municipality Authorised in this behalf by the Tamil Nadu State Election Commission in consultation with



WEB COPY

the State Government shall, for the purposes of this Act, prepare and publish in such manner and at such time as the State Government may direct, the electoral roll for the Municipality or the alterations to such roll, as the case may be.

Explanation.— The power conferred by this sub-section on the person so authorised shall include the power to omit, in the matter and at the times aforesaid, from the electoral roll for the Municipality published under this sub-section, the name of the person who is dead or who incurs any of the disqualification specified in sub-section (1-A) or who is disqualified to be included in such part of the electoral roll for any territorial constituency of the Tamil Nadu Legislative Assembly as relates to that ward:

Provided that the name of any person omitted from the electoral roll for the Municipality by reason of a disqualification under clause (c) sub-section (1A) shall forthwith be reinstated in that roll if such disqualification is, during the period such roll is in force, removed under any law authorizing such removal.

(2-A) To assist the person authorised under sub-section (2), the Tamil Nadu State Election Commission may employ such persons as it thinks fit.

Explanation (1).— Where in the case of any Assembly constituency there is no distinct part of the electoral roll relating to the Municipality all persons who are qualified to be included] in such roll under the registration area comprising the Municipality and whose addresses are situated in the Municipality shall be entitled to be included in the electoral roll for the Municipality prepared for the purposes of this Act.

Explanation (2).— No person's name shall be included in the electoral roll for the Municipality in more than one place. (2) Any person authorized in this behalf by the State Government shall, for the purposes of this Act, prepare and publish in such manner and at such times as the State Government may direct, the electoral roll for the Municipality or the alterations to such roll, as the case may be.



WEB COPY

Explanation.— The power conferred by this sub-section on the person so authorized shall include the power to omit, in the manner and at the times aforesaid, from the electoral roll for the Municipality published under this subsection the name of any person who is dead or who is disqualified to be included in such part of the electoral roll for any Assembly constituency as relates to the Municipality or any portion thereof.

(3) When a Municipality has been divided into wards, the electoral roll for the Municipality shall be divided into separate lists for each ward.

(4) Where after the electoral roll for a Municipality or any alterations thereto have been published under sub-section (2), the Municipality is divided into wards for the first time or the division of the Municipality into wards is altered, or the limits of the Municipality are varied the person authorised under that sub-section shall, as soon as may be after such division or alteration, or variation, as the case may be, in order to give effect to the division of the Municipality into wards or to the alteration of the wards, or to the variation of the limits, as the case may be, authorize a re-arrangement and republication of the electoral roll for the Municipality or any part of such roll, in such manner as the State Government may direct.

(4-A) No alteration shall be made in any part of the electoral roll for the Municipality published under sub-section (2) as revised by any alterations thereto subsequently published under that sub-section or under sub-section (4), after the last date fixed for making nomination of candidates for election to a ward and before the result of the election for the ward is notified.

(5) The electoral roll for the Municipality published under sub-section (2), as revised by any alterations thereto subsequently published under that sub-section or under sub-section (4), shall remain in force until the publication of a fresh electoral roll for the Municipality under sub-section (2).

(6) Every person whose name appears in the



WEB COPY

electoral roll for the Municipality, as so revised, shall, so long as it remains in force, be entitled, subject to the provisions of this Act, to vote at an election; and no person whose name does not appear in such roll shall vote at an election."

(emphasis supplied)

7. It is not in dispute that the last date for nomination is 04.02.2022 for the election scheduled to be held on 19.02.2022. In view of the aforesaid, it is not permissible as per the provisions of law quoted above to issue direction for alteration in the voters list. Apart from the aforesaid legal provision, we do not find that the petitioner has locus to challenge the voters list. Once the voters list is prepared and published, it remains available on the website. If anyone has grievance about the voters list, the individual voter can make an application which may be considered by the competent authority before the last date for submission of the nomination. Since no objection to the voters list was submitted in reference to the voters list for which the writ petition has been filed, the petitioner cannot take the matter on their behalf when those voters are satisfied with the placement of their names in the voters list of Ward No.1. In view of the above, we do not even find locus in favour of the petitioner to challenge the placement of the names of certain voters in the voters list of Ward No.1.

8. In the light of the aforesaid, the writ petition fails and, it is accordingly, dismissed. No costs. Consequently, W.M.P.No.1900 of 2022 is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

bbr

To:

1. The Chief Election Commissioner,
Election Commission of Tamil Nadu,
No.208/2, Jawaharlal Nehru Road,
Arumbakkam, Chennai-600 106.



2. The District Collector,
Tiruvallur District, Tiruvallur.

3. The Deputy Director,
Town Panchayat,
Tiruvallur District, Tiruvallur.

4. The Executive Officer,
Naravari Kuppam Panchayat,
Redhills, Chennai - 600 052.

+1cc to the Government Pleader, S.R.No.7671

W.P.No.1745 of 2022

SPD(CO)
SU(09/02/2022)