



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

W.P.NO.1678 OF 2022

Mr.E.Sukumar

...Petitioner

Vs.

1.The Commissioner
Salem Corporation
Salem.

2.The Booth Level Officer
Suramangalam
Salem.

3.The Executive Officer
Dasanaickenpatty Panchayat
Dasanaickenpatty.

4.The Booth Level Officer
Dasanaickenpatty.

...Respondents

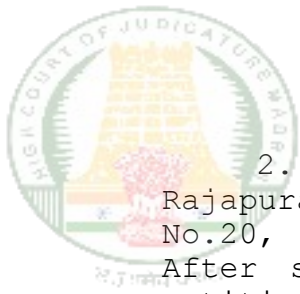
Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of mandamus, Directing the 1st respondent to include petitioner's name in the 1st respondents' electoral roll pursuant to the recommendation of the 4th respondent and the acceptance of the 2nd respondent.

For Petitioner : Mr.A.R.L.Sundaresan
[Senior Counsel]
for M/s.M.Sneha

For Respondents : Mrs.K.Bhuvaneswari
(Standing Counsel for
Salem Corporation) [R1]

O R D E R

Writ of Mandamus has been instituted to direct the 1st respondent to include the name of the petitioner in the first respondent's electoral roll pursuant to the recommendations of the 4th respondent and the acceptance of the 2nd respondent.



2. The petitioner states that he is residing at No.6/171/D1, Rajapuram, Salem, 636201. Earlier the petitioner was residing at No.20, SreeSowdambika Nagar, Dasanacikenpatty, Salem 636201. After shifting of his residence in the present address, the petitioner has been continuously residing. The earlier residential address of the petitioner falls under Veerapandi Assembly constituency and the present address falls under Salem West Assembly constituency. The election identity card no. of the petitioner is BDW1306521 and the Serial No. of his electoral roll is 744 in the third respondent's electoral roll.

3. After shifting of the residence from Dasanacikenpatty to Rajapuram, the petitioner approached the respondents during January 2021 to delete his name from the electoral rolls of Dasanacikenpatty and to add his name in the Salem Corporation electoral roll. Due to the pandemic situation, the transfer could not be effected. Thus, the petitioner casted his vote in the 2021 constituency vote from Dasanacikenpatty.

4. The petitioner submitted an application on 25.06.2021 to the Booth Level Officer namely respondents 2 and 4 to delete his name from the electoral roll of the 3rd respondent and include his name in the electoral roll of the 1st respondent. The Booth Level Officer, the 2nd and 4th respondent, who are appointed under Section 13B(2) of the Representation of the People Act, are competent to effect changes based on the applications submitted by the petitioner. Accordingly, the application was recommended for deletion of the name of the petitioner from the electoral roll of the 3rd respondent and for inclusion in the 1st respondent's electoral roll.

5. Now, the elections for Salem Corporation is announced. In view of the facts that the application submitted by the petitioner has not been considered, he is not in a position to exercise his franchise in Salem Corporation wherein he resides. The learned Senior Counsel appearing on behalf of the petitioner mainly contended that the petitioner submitted an application on 25.06.2021 and the application ought to have been considered by the competent authorities within a reasonable period of time. Despite, the effort taken by the petitioner, the application was kept in cold storage and no order has been passed. The Authorities have failed in their duty to consider the application submitted for transfer. Thus, the right of the petitioner has been violated.

6. This Court is of the considered opinion that the electoral roll must be prepared before elections. All applications submitted for inclusion, deletion and transfer must be considered before the last date notified. In the event of any failure on the part of the Authorities, the same should not



result denial of exercise of the right of a voter, wherein he ordinarily resides.

7. In the present case, even during January 2021, the petitioner approached the Authorities for deletion of his name and for inclusion of his name in Salem Corporation. An appropriate application in Form 7 was also submitted on 25.06.2021 and the acknowledgment is also enclosed by the petitioner in the typed set of papers filed along with the writ petition. While so, the inaction of the authorities competent should not affect the Fundamental Right of a citizen to cast his vote within his territorial jurisdiction where the voter resides. The non-consideration of the application filed by the petitioner would result denial of an opportunity even to contest in the elections. Thus, the infringement of Right in this regard is in violation of Fundamental Rights ensured under Part-III of the Constitution of India and therefore, the non-consideration of the application submitted by the writ petitioner within a reasonable period of time is a clear lapse, negligence and dereliction of duty on the part of the Authorities who are responsible to finalise the applications within the final date notified.

8. The learned Standing Counsel appearing on behalf of the Salem Corporation made an objection by stating that the last date is 20.01.2022. However, the learned counsel for the respondents is unable to defend the ground raised by the petitioner that his application is yet to be considered by the competent authorities. This being the factum, the petitioner is entitled for the relief. Accordingly, the 1st respondent is directed to include the name of the petitioner in the electoral roll pursuant to the recommendation of the 4th respondent. If the petitioner is otherwise eligible and his application is in accordance with the procedures as contemplated. The decision in this regard is directed to be taken and inclusion also is to be made, if the petitioner is otherwise eligible, within a period of 24 hours from the date of receipt of a copy of this order. The learned Standing Counsel is directed to inform this order immediately to the Commissioner, Salem Corporation before 6.00 p.m. today i.e. 31.01.2022. With these directions the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

shr/ska



To

1.The Commissioner
Salem Corporation
Salem.

2.The Booth Level Officer
Suramangalam
Salem.

3.The Executive Officer
Dasanaickenpatty Panchayat
Dasanaickenpatty.

4.The Booth Level Officer
Dasanaickenpatty.

+lcc to M/s.M.Sneha, Advocate Sr.No.5784

W.P.No.1678 of 2022

PM(CO)
RVM(31/01/2022)