



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2022

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.3021 of 2022

Syed Ibrahim

.. Petitioner

Vs

- 1.The Tamil Nadu State Election Commissioner,
Jawaharlal Nehru Road,
Koyambedu,
Chennai - 600 106.
- 2.District Election Officer & District Collector,
Collectorate Building,
Coimbatore - 641 018.
- 3.The Returning Officer and Commissioner,
Coimbatore Corporation,
No.45/14E, Venkatasamy Road,
R.S.Puram,
Coimbatore - 641 002.
- 4.The Electoral Deputy Thasildar,
North Taluk Office,
Bala Sundaram Road,
ATT Colony,
Gopalapuram, Coimbatore - 641 018.
- 5.The Director General of Police,
Dr. Radhakrishnan Salai Road,
Mylapore, Chennai,
Tamil Nadu - 600 004.
- 6.Officer in charge of Monitoring (Election Expenditure),
No.45/14E, Venkatasamy Road,
R.S.Puram,
Coimbatore - 641 002.
- 7.The Assistant Returning Officers,
Urban Election 2022,
Coimbatore.



WEB COPY

8.The Commissioner of Police,
No.62, Old Post Office Road,
Near Railway Station, Opp. Collector Office,
Gopalapuram, Coimbatore,
Tamil Nadu - 641 018.

9.The Deputy Commissioner of Corporation,
No.45/14E, Venkatasamy Road,
R.S.Puram,
Coimbatore - 641 002.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents 1, 2, 5 and 8 to refrain from restricting the petitioner for election campaign all through the area of 95th ward in Coimbatore Corporation and all other urban local body election constituencies of Tamil Nadu.

For the Petitioner	: Mr.R.C.Paul kamagaraj
For the Respondents	: Mr.R.Shunmugasundaram Advocate General assisted by Mr.S.Siva Shanmugam Standing Counsel for 1st respondent
	: Mr.P.Muthukumar State Government Pleader for respondent R2, R6 & R7
	: Mr.A.Gopinath Govt. Advocate (Crl. Side) for respondents 5 and 8
	: Mrs.Karthikaa Ashok Standing Counsel for 9th respondent
	:Mr.K.Magesh SC for R3 & R4

ORDER

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

The writ petition has been filed to refrain respondents 1, 2, 5 and 8 from restricting the petitioner to campaign for elections all through the area of 95th Ward in Coimbatore



Corporation for the elections scheduled on 19.2.2022.

2. Learned counsel for the petitioner submits that the police and other officers are restraining the petitioner from going for the election campaign all through the area of 95th Ward in the Coimbatore Corporation and thereby his fundamental right guaranteed under Article 21 of the Constitution is infringed. A direction may, accordingly, be issued on the respondents to refrain themselves from restricting the petitioner from campaigning in the area of 95th Ward of Coimbatore Corporation.

3. When the writ petition was heard on 14.2.2022, learned Advocate General informed that the petitioner was entering a sensitive area of Ward No.95 and there was not only fear of disturbance of law and order, but even threat to the petitioner. Thus, an order was issued on 5.2.2022 with a copy to the petitioner that when petitioner wants to enter the sensitive area, prior information to the authorities may be given. The petitioner tried to take law into his hands, thus, a criminal case was registered. It was against the other party also in view of the conflict between two groups/persons.

4. On the statement aforesaid, learned counsel for the petitioner submits that his client is not aware about the registration of FIR and the respondents have not addressed any letter to the petitioner requiring him to inform the authorities 24 hours before entering the sensitive area.

5. On the statement aforesaid, a direction was given to learned counsel for the petitioner to file an affidavit to controvert the statement made by learned Advocate General. Pursuant to the detailed order passed by this court on 14.2.2022, an affidavit has been filed stating that the registration of case by the police is not in the knowledge of the petitioner and at the same time, it is further stated that there is no express prohibitory order served on the petitioner.

6. A perusal of the order dated 14.2.2022 shows that an affidavit was sought to be filed by the petitioner that a case has not been registered against him by the petitioner and at the same time, no notice was ever served or tried to be served on him. Thus, the petitioner has not given the affidavit, as directed, and otherwise learned Advocate General has produced a copy of the letter dated 5.2.2022 endorsed and received by the petitioner, where the fact, as stated by learned Advocate General on 14.12.2022, has been mentioned. The aforesaid confirms the statement of learned Advocate General and exposes the conduct of the petitioner. Despite receipt of the letter dated 5.2.2022 to the effect that whenever he wants to enter the



sensitive area, an information may be given 24 hours in advance, the petitioner failed to pay heed to such instruction. The fact aforesaid was suppressed by the petitioner.

7. When a specific direction was given by the court to file an affidavit whether he was in receipt of the said letter or not, the petitioner deliberately did not comment on the aforesaid, rather he stated that no prohibitory order has been issued. The aforesaid shows the conduct of the petitioner to suppress the material fact from the court and at the same time not to submit the affidavit of the nature directed by the court and for ready reference, the order dated 14.2.2022 passed by this court is quoted hereunder:

"The learned Advocate General appearing for the respondents submits that a case has been registered against the petitioner and otherwise he was entering into the sensitive area and thus was advised to inform the police in advance so that no problem of law and order situation would arise. The petitioner was not accepting the aforesaid and therefore, a case was registered against him and also against others. The petitioner was served with a notice as well.

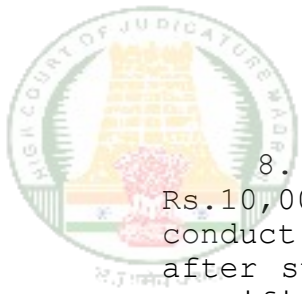
2. The learned counsel for the petitioner contested the aforesaid submission of the learned Advocate General.

3. On perusal of the material, we find that no such facts have been disclosed in the writ petition and therefore, it is necessary for us to seek an affidavit from the petitioner that a case has not been registered against him by the police and at the same time, no notice was ever served or tried to be served on him.

4. Let the aforesaid affidavit be filed within a day and the matter be posted on 15.02.2022.

It is made clear that in case the affidavit is found to be false, then it may have the consequences even of the prosecution against the petitioner."

8. Taking into consideration the facts of this case and, more especially, the conduct of the petitioner, we find no reason to accept the prayer for the reasons already specified by learned Advocate General and otherwise mentioned in the letter dated 5.2.2022, which is taken on record.



8. Accordingly, we dismiss this writ petition with costs of Rs.10,000/-. The costs have been imposed considering the conduct of the petitioner, as he had preferred the writ petition after suppression of facts and even thereupon he did not file a specific affidavit, as directed, rather tried to twist the facts. The costs would be deposited with the Tamil Nadu State Legal Services Authority within two weeks from today. The Registrar (Judicial) would ensure the compliance of the said direction and if it is not made, the disposed of writ petition may be listed before the court for appropriate order for compliance.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To:

1. The Tamil Nadu State Election Commissioner,
Jawaharlal Nehru Road, Koyambedu,
Chennai - 600 106.
2. The District Election Officer & District Collector,
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Copy to

1. The Registrar (Judicial)
High Court, Madras.
2. The Secretary,
TN State Legal Services Authority,
Chennai.
3. The Section Officer,
Writ Section,
High Court, Madras.

+1cc to Mr.K.Magesh, Advocate, S.R.No.9420

+1cc to Mr.D. Alexis Sudhakar, Advocate, S.R.No.9404

+1cc to the Government Pleader, S.R.No.9848

W.P.No.3021 of 2022

NK(CO)
CT/23/02/2021