



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2022

CORAM :

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

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.(MD)No.3029 of 2022

Arumugam

.. Petitioner

Vs

1. The Tamil Nadu State Election Commissioner
Tamil Nadu State Election Commission
Chennai - 106.
2. The Member Secretary
Delimitation Commission
Tamilnadu - 600 106.
3. The District Collector
Pudukkottai District
Pudukkottai.
4. The Commissioner/Election Officer
Pudukkottai Municipality
Pudukkottai.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus to call for the records regarding the rejection of 4th respondent in Na.Ka.No.C3/4870/2021, dated 13.12.2021, served on 27.1.2022, and quash the same and consequently direct the respondents to reserve the Ward No.22 in Pudukkottai Municipality for Schedule Caste Community.

For the Petitioner : Mr.M.Ramu

For the Respondents : Mr.S.Sivashanmugam
Standing Counsel
for 1st respondent

: Mr.R.Shunmugasundaram
Advocate General
assisted by
Mr.P.Muthukumar
State Government Pleader
for respondents 2 and 3

: Mr.P.Mahendran
for 4th respondent



ORDER

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

The writ petition has been filed on the rejection of the representation made by the petitioner against the reservation of the Ward No.22 in Pudukkottai Municipality for Scheduled Caste community.

2. The facts of the case show that delimitation of the Ward and reservation of the Ward was notified on 20.05.2019. It is alleged to be without considering the objections by the petitioner, though required to be considered in the light of Regulation 8 of the Tamil Nadu Local Bodies Delimitation Regulations, 2017.

3. The petitioner has made a representation on 29.11.2021, but the same was not decided and therefore, he has filed the writ petition, being W.P.(MD) No.1174 of 2022, before the Madurai Bench of Madras High Court. The said writ petition was disposed of by an order dated 11.02.2022 and a copy of which has not been placed on record. The disposal of the writ petition was with liberty to challenge the order passed on the representation of the petitioner.

4. The issue essentially involved in the matter is against the delimitation notification as well as the notification of reservation of ward issued on 20.05.2019. As per the statement of learned counsel for the petitioner, he was making repeated representations against the notification for not carving out the Ward for Scheduled Caste community despite their population. The representation of the petitioner was rejected by the order dated 13.12.2021.

5. Since the present writ petition has been filed essentially to challenge the notification of the delimitation, the same is not maintainable in view of Article 243-ZG of the Constitution of India, as quoted thus:

"243-ZG. Bar to interference by courts in electoral matters.— Notwithstanding anything in this Constitution,—

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243ZA shall not be called in question in any court;

(b) no election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any



law made by the Legislature of a State.

6. The issue of delimitation, if at all has to be considered, could be only by the competent authority under the Tamil Nadu Local Bodies Delimitation Regulations, 2017. In any case, the challenge to the delimitation cannot be maintained by a writ petition in view of the judgment of the Apex Court in the case of Meghraj Kothari v. Delimitation Commission and others, AIR 1967 SC 669, The relevant paragraph is extracted hereinunder:

"20. In this case we are not faced with that difficulty because the Constitution itself provides under Art. 329(a) that any law relating to the delimitation of constituencies etc. made or purporting to be made under Art. 327 shall not be called in question in any court. Therefore an order under s. 8 or 9 and published under s. 10(1) would not be saved merely because of the use of the expression 'shall not be called in question in any Court'. But if by the publication of the order in the Gazette of India it is to be treated as law made under Art. 327, Art. 329 would prevent any investigation by any court of law."

[emphasis supplied]

7. The aforesaid is only one part, as otherwise, we do not find any justification for the delay in challenging the notification for delimitation and reservation of ward, which was issued on 20.05.2019. The repeated representations of the petitioner cannot condone laches in maintaining a writ petition and the writ petition would not also be maintainable only for the reason that the last representation was decided recently on 13.12.2021. Even if the challenge to the rejection order dated 13.12.2021 can be maintained, the interference therein cannot be made after issuance of the notification for local body elections on 28.01.2022.

8. For the foregoing reasons, the writ petition is not maintainable, as otherwise it also suffers from laches and, therefore, the same is dismissed. No costs. Consequently, W.M.P.(MD) No.2648 of 2022 is closed.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

bbr



To:

1. The Tamil Nadu State Election Commissioner
Tamil Nadu State Election Commission
Chennai - 106.

2. The Member Secretary
Delimitation Commission
Tamilnadu - 600 106.

3. The District Collector
Pudukkottai District
Pudukkottai.

4. The Commissioner/Election Officer
Pudukkottai Municipality
Pudukkottai.

+1cc to the Government Pleader, SR.No.10804(21/03/2022)

W.P. (MD) No.3029 of 2022

PMK(CO)
SB(01/03/2022)