



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2022

CORAM :

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

W.P.No.4553 of 2022

M.L.Ravi

...Petitioner

Vs.

1.The Commissioner
Tamil Nadu State Election Commission
No.208/2, Jawaharlal nehru Road, Opp CMBT
Arumbakkam, Chennai 600 106.

2.The President
Dravida Munnetra Kazhagam
Anna Arivalayam
Anna Salai, Chennai 600 018.

3.The State President
Bharathiya Janatha Party
Kamalalayam
T.Nagar, Chennai 600 017.

...Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for writ of Mandamus, directing the 1st respondent to disqualify the candidates put up by the 2nd and 3rd respondent nominated by Dravida Munnetra Kazhagam and Bharathiya Janatha Party respectively. To disqualify their respective candidature for being elected as Corporation/Municipality/Town Panchayats Ward/ Councilor member in their respective ward/Council member election held on 19.02.2022 by the 1st respondent and withdraw the certificate if issued on results.

For the Petitioner : Mr.T.Sivagnanasambandan

For the Respondents : Mr.R.Shunmugasundaram
Advocate General
Asstd.by Mr.S.Sivashanmugam
Standing Counsel
for Respondent 1



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"Section 56-C: - Prohibition of public meetings on the day preceding the election day and on the election day:

(1) No person shall convene, hold or attend any public meeting within the Municipality within twenty four hours before the date of commencement of the poll or on the date or dates on which a poll is taken for an election.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees."

7. The restrictions imposed under Section 56-C is that no person shall convene, hold or attend any public meeting within the Municipality, within 24 hours before the date of commencement of the poll or on the date or dates on which the poll is taken for election. The provision aforesaid does not restrict the advertisement, rather, the public meetings within the municipality. Thus, we do not find that any violation of the provisions of the Act of 1920 has been made.

8. However, at this stage, learned counsel for the petitioner has made a reference to the order of a Division Bench of this Court, on the issue. It is in the case of G.Muthukumar v. The State Chief Election Commissioner [W.P.(MD).No.8613 of 2019 dated 11.04.2019]. It is a case where the petition filed by a candidate seeking permission to telecast his election campaign in Cable TV was not permitted.

9. In the instant case, the State Election Commission has imposed restrictions on advertisement through electronic and social media and the case was falling under the purview of the Act. Therefore, the decision in G.Muthukumar supra, which was not in reference to the advertisement in the print media, is not applicable. Learned counsel for the petitioner has cited the above decision without taking note of the facts of the said case.

10. Learned counsel for the petitioner was asked as to how the writ petition is maintainable, as, the election can be challenged only by way of an election petition as per Article 243ZG of the Constitution of India. Referring to the judgment of the Apex Court in the case of K.Venkatachalam v. A.Swamickan [Appeal (Civil) No.1719 of 1986 dated 26.04.1999], learned counsel for the petitioner submitted that the writ petition is maintainable.

11. In the case of K.Venkatachalam supra, since the nomination was made in violation of Articles 191 and 193 of the Constitution of India, the writ was entertained. However, in the



instant case, the allegation is with regard to the violation of Section 126 of the Act of 1951, which is not applicable to this election. Therefore, the said decision is also not applicable to the instant case.

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12. In view of the above, we find that the writ petition is not maintainable for challenging the result of the election and otherwise, even on merit, we do not find any case in favour of the writ petitioner. Rather, the writ petition has been filed without analysing the legal issue and even referring to the judgments without taking note of the facts of the case and whether it would be applicable to the present case or not.

13. The writ petition is, accordingly, dismissed with cost of Rs.10,000/-, to be deposited with the Tamil Nadu State Legal Services Authority within 15 days from the date of receipt of a copy of this order. The Registrar Judicial is directed to see the compliance of the order, and, if it is not made, the matter may be placed before the Court for taking appropriate steps for compliance. Consequently, W.M.P.No.4700 of 2022 is also dismissed.

Sd/-
Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

kpl/drm

To:

- 1.The Commissioner
Tamil Nadu State Election Commission
No.208/2, Jawaharlal nehru Road, Opp CMBT
Arumbakkam,
Chennai 600 106.
- 2.The President
Dravida Munnetra Khazhagam
Anna Arivalayam
Anna Salai,
Chennai 600 018.
- 3.The State President
Bharathiya Janatha Party
Kamalalayam
T.Nagar,
Chennai 600 017.



Copy To

1.The Secretary,
Tamil Nadu State Legal Services Authority,
Chennai.

2.The Registrar Judicial,
High Court, Madras.

+2ccs to Mr.T.Sivagnanasanbandan, Advocate Sr.No.13678

+1cc to the Government Pleader Sr.No.14109 (11/03/2022)

W.P.No.4553 of 2022

KK(CO)
RVM(07/03/2022)