



W.P.No.25537 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2022

CORAM

**THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE
and**

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

**W.P.No.25537 of 2022
and W.M.P.No.24531 of 2022**

S.Dhandapani

.. Petitioner

-VS-

1. The Chief Election Commissioner,
Tamil Nadu State Election Commission,
No.208/2, Jawaharlal Nehru Road,
Arumbakkam, Chennai 600 106.
2. The District Collector,
District Collectorate,
Villupuram, Villupuram District.
3. The Assistant Director of Panchayats,
Villupuram, Villupuram District.
4. The Block Development Officer,
Marakkanam Block, Markkanam,
Villupuram District.
5. The Deputy Block Development Officer,
Marakkanam Block, Markkanam,
Villupuram District.



W.P.No.25537 of 2022

6. The President
Anumandhai Village Panchayat,
Anumandhai Post,
Marakkanam Taluk,
Villupuram District.

7. N.Kaliamurthi

..Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Declaration declaring the election conducted by the 4th respondent to the post of Vice-President of the Anumandhai Panchayat on 06.09.2022 and orally declaring the 6th respondent elected as Vice President as null and void and consequently direct the respondents 1 to 4 to hold an election afresh for electing the Vice- President of Anumandhai Panchayat.

For Petitioner : Mr.S.Ayyathurai
For Respondents : Mr.S.Sivashanmugam
for R-1
: Mr.P.Muthukumar
State Govt. Pleader for RR 2 to 5

* * * * *

ORDER

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

Mr.S.Dhandapani, S/o.Subbarayan, a resident of Vadakuthopu, Anumandhai and Post, Marakanam Taluk, Villupuram District, has come



W.P.No.25537 of 2022

to this Court with a peculiar prayer for issuance of writ of declaration declaring the election conducted by the 4th respondent on 06.09.2022 to the post of Vice-President of Anumandhai Panchayat as null and void with a consequential direction to the respondents 1 to 4 to hold the election afresh for electing the Vice-President of Anumandhai Panchayat.

2. Mr.S.Ayyathurai, learned counsel appearing for the petitioner submitted that in October 2021, an election was held to the Anumandhai Village Panchayat for the posts of ward members and the President of the Panchayat which is having 9 wards and the petitioner was elected as Ward Member of the 3rd Ward. The first respondent announced the holding of election to various posts on 24.08.2022. As the post of Vice-President also became vacant in the fifth respondent Panchayat, the fourth respondent held the election on 06.09.2022. The petitioner and one Kaliamurthy, the 6th respondent herein, filed their nominations for the post of Vice-President on 06.09.2022. As the fourth respondent orally rejected the nomination of the petitioner and declared the sixth respondent as elected Vice-President, a representation has been given on 06.09.2022 to the respondents 1



W.P.No.25537 of 2022

WEB COPY

and 2 complaining about the action of the fourth respondent orally declaring the sixth respondent as Vice-President. Thereafter, the fifth respondent Panchayat also passed a resolution on 08.09.2022 against the action of the fourth respondent. Since the fourth respondent has orally rejected the nomination of the petitioner and declared the sixth respondent as Vice-President, it is prayed that this Court, which has got enormous powers to interfere with the said action of the fourth respondent, has to allow the writ petition.

3. Mr.P.Muthukumar, learned State Government Pleader appearing for the respondents, taking support from Article 243-O(b) of the Constitution of India, submitted that no election to any panchayat shall be called in question except by an election petition presented to such authority. Therefore, the petitioner, if at all has got any grievance, has to work out his remedy in the manner known to law. The learned State Government Pleader also brought to our notice Section 258 of the Tamil Nadu Panchayats Act, 1994. By virtue of said provision, no election of a President or a Chairman or a member shall be called in question except by an election petition presented to the District Judge.



W.P.No.25537 of 2022

WEB COPY

4. Mr.S.Sivashanmugam, learned counsel appearing for the first respondent, State Election Commission, taking support from Rules 122 and 123 of the Tamil Nadu Panchayats (Elections) Rules, 1995, urged this Court to dismiss the writ petition stating that no election held under the Act shall be called in question except by an election petition presented in accordance with Section 28 of the Act or the Rules, to the District Judge under whose jurisdiction the Panchayat or the Planning Committee or other statutory Committees fall.

5. We find merit on the submissions made by both the learned State Government Pleader and the learned counsel appearing for the State Election Commission. Article 243-O(b) of the Constitution of India states as follows:

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

(a)

(b) no election to any Panchayat 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.



W.P.No.25537 of 2022

WEB COPY

The above Article makes it clear that no election to any panchayat shall be called in question except by an election petition presented to such authority. Section 258 of the Tamil Nadu Panchayats Act, 1994 and Rules 122 and 123 of the Tamil Nadu Panchayats (Elections) Rules, 1995 also reiterated the same provision as in Article 243-O(b). We find that when the aforementioned provisions are staring at the petitioner, the petitioner has come to the wrong forum.

6. Therefore, we do not find any merit in the writ petition. Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently, W.M.P.No.24531 of 2022 is also dismissed.

(T.R., ACJ.) (P.D.A., J.)
22.09.2022

Speaking/Non-speaking order

Index : Yes / No
Internet : Yes / No

sra



W.P.No.25537 of 2022

WEB COPY

To

1. The Chief Election Commissioner,
Tamil Nadu State Election Commission,
No.208/2, Jawaharlal Nehru Road,
Arumbakkam, Chennai 600 106.
2. The District Collector,
District Collectorate,
Villupuram, Villupuram District.
3. The Assistant Director of Panchayats,
Villupuram, Villupuram District.
4. The Block Development Officer,
Marakkanam Block, Markkanam,
Villupuram District.
5. The Deputy Block Development Officer,
Marakkanam Block, Markkanam,
Villupuram District.



WEB COPY



W.P.No.25537 of 2022

T.Raja, ACJ.
and
P.D.Audikesavalu, J.

(sra)

W.P.No.25537 of 2022

22.09.2022