



C.S.No.352 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2022

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THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Civil Suit No.352 of 2021
and O.A.No.784 of 2021 and O.A.No.54 of 2022
and A.Nos.4474 & 4475 of 2021
and A.Nos.214, 215, 368, 2509, 3500, 3502 of 2022
and A.No.273 of 2022

Mr.K.C.Palanisamy

... Plaintiff

versus

1. The All India Anna Dravid Munnetra Kazhagam (AIADMK)
Rep. By its Co-ordinator & Joint Co-ordinator,
Mr.O.Paneerselvam & Mr.Edapadi K.Palanisamy,
226, Avvai Shanmugam Salai, Royapettah,
Chennai – 600 014.

2. Mr.O.Paneerselvam,
Co-ordinator,
The All India Anna Dravid Munnetra Kazhagam (AIADMK),

3. Mr.Edapadi K.Palanisamy,
Joint Co-ordinator,
The All India Anna Dravid Munnetra Kazhagam (AIADMK),

4. Mr.C.Ponnaiyan,
Election Commissioner

5. Dr.PollachiV.Jayaraman,
Election Commissioner

... Defendants



Prayer: The Civil Suit filed under Order VI Rule 1 of the Original Side Rules read with Order VII Rule 1 of CPC, seeking declaration declaring that the Election Notice dated 02.12.2021 is issued by the 1st defendant is illegal, unenforceable and non-est in the eye of law and declaring that the order of removal dated 16.02.2018 passed by the 2nd and 3rd defendants removing the plaintiff from the basis membership which was not formally communicated to the plaintiff is per-se, illegal and non-est in the eye of law and for permanent injunction restraining the defendants from in any manner whatsoever conducting the election for the office of the Coordinator and Joint Coordinator of the 1st defendant party as contemplated under the Election Notification dated 02.12.2021 slated to be held on 07.12.2021 or any other dated and to appoint a retired High Court Judge as Election Officer to conduct the election for the Coordinator and Joint Coordinator as contemplated under Election Notice dated 02.12.2021 issued by the 1st defendant by declaring the electoral list and issuing a fresh election notification by providing 21 clear days as per the bye-law of the AIADMK party and for mandatory injunction directing the defendants to permit the plaintiff to participate in the election and for cost of the suit.

For Plaintiff : Mr.T.Thiageswaran
for M/s.Waraon & Sai Rams

For D1 : Mr.Vijay Narayanan, Senior Counsel
for Mr.K.Gowtham Kumar

For D2 : Ms.P.Rajalakshmi



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For D3 : Mr.N.S.Amogh Simha

For D4 & D5 : Mr.E.Balamurugan

JUDGMENT

More time has been spent discussing the background facts then on hearing the learned Senior Counsel who appeared on behalf of the applicant in Application No.273 of 2022 or of the learned counsel who appeared for the respondent/plaintiff. But the said discussion had been quite fruitful enabling me to take a decision on this application and also on the applications which are pending and filed by the plaintiff.

2. The suit had been filed by the plaintiff seeking a declaration that an election notice dated 02.12.2021 issued by the 1st defendant is unenforceable. It can be presumed that any order on this relief would invite attention from the legal representatives of the 1st defendant. The 2nd prayer is quite strangely couched on a personal note. He claimed that his removal from primary membership on 16.02.2018 without serving notice on him personally is illegal. He also seeks various other relief questioning the very



existence of the 1st defendant party/the All India Anna Dravida Munnetra Kazhagam in its present form.

3. The plaintiff owes his own existence to the said party. His status had been recognized and he had been chosen to represent the party as a member of Parliament. But owing to various acts which are not disclosed in the plaint and which this Court need not go into, the 1st defendant represented by two members/Coordinator/Joint Coordinator had removed him from the primary membership.

4. Public notice in that regard had been issued. Plaintiff expresses grievance of not being personally served with such notice.

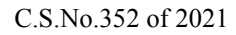
5. It is however not known whether he is entitled for privilege of personal notice. Public notice, if within his knowledge, gives him a cause to question the reasons why he had been removed from primary membership. If he chosen not to so question, then it only indicates that he is not anywhere interested in either being a member of the party or its welfare.



6. The law of limitation overrides every issue and in this particular case, if he had been reasonably put on notice and had known and it is obvious that he knew that he had been removed on 16.02.2018, which date he had himself stated in the plaint, then, the onus shifts to him to answer the issue of limitation put against him. It is clear as crystal that he is out of time.

7. There are no records placed before this Court to show that he had raised at least a whisper protesting against such removal at any point of time. He has not stated, as a persona non grata how he retains the right to question the subsequent events in the 1st defendant party. As a matter of fact, the 1st defendant does not want him to put forth his views. They do not want him to represent them in any platform, much less in the Parliament or in any other public place where he had the privilege of representing them.

8. It is stated that he held the additional position of being the spokesperson of the 1st defendant. But unfortunately, by his removal, effectively the mike which he had privilege to use to address had also been knocked away from his hands. He only can speak for himself and I doubt



right to convey the general viewers of the 1st defendant.

position he had. As of now, his very locus is questionable.

Court.



11. Here the starting point for limitation is 16.02.2018. There is no dispute that a public notice was issued for the benefit of the general public that the plaintiff has been removed from primary membership of the 1st defendant. The plaintiff cannot distance himself from being categorized as one of those general public. It is obvious that he had come to know about his removal on 16.02.2018 when he must have had the benefit of reading public notice. Once removed, I would rather the plaintiff concentrates on becoming a member again or seeking to revoke such removal in accordance with the bye-laws of the 1st defendant.

12. This Court cannot thrust a member on a party or on any society or on any organization. The 1st defendant is an in-built organization. They take decisions in accordance with the best interests of their own organization. If in the best interest of the 1st defendant, it was decided that the plaintiff should be removed, then, the only remedy for the plaintiff would be seek to approach the 1st defendant and question them as to the reasons for his removal and thereafter, take the matter forward.



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13. Without that step being taken, it is not possible for this Court, to entertain any plea in favour of the plaintiff and call upon the 1st defendant to revoke the removal and make him a party member again. This Court is not an advocate for either the plaintiff or the 1st defendant.

14. The fact remains that he was removed on 16.02.2018. The fact remains that he had not raised any protest about this removal, before this Court, within the period of three years. The fact remains that the suit was verified at Chennai on 03.12.2021. The limitation period is three years, that period has expired. Simple mathematical calculation evidences that fact.

15. Mr.T.Thiageswaran, learned counsel relied on the Judgment of the Hon'ble Supreme Court reported in *MANU/SC/801/2007 [C.Natrajan vs. Ashim Bai and Others]* reported in 2007 (14) SCC 183 wherein, according to the learned counsel, a ratio had been stated by the Hon'ble Supreme Court that the period of limitation will not commence unless there has been an clear and unequivocal threat to the right claimed by the person.



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16. In the instant case, the order of removal from primary membership is a clear and unequivocal threat to the right claimed by the plaintiff. He can no longer participate in any of the deliberations of the 1st defendant. The said order of removal itself, gives a cause to the plaintiff to question the same.

17. It was stated by the Hon'ble Supreme Court in the Judgment referred supra that only when there was a clear threat to the right, will limitation start. In that particular case, there was a defective title. There was never any issue that such mistake would be taken advantage by anybody. Therefore, when rectification was filed after the period of limitation, the Hon'ble Supreme Court held that since there had been no direct threat, the issue of limitation when rectification is sought cannot be put against the plaintiff.

18. In this case, the plaintiff was removed, from primary membership on 16.02.2018. It is complained that notice was not given, and no opportunity or reason given and no opportunity was even given to protest against such removal and no order was issued.



19. The only entity which can address these issue would be the 1st defendant. That fact is not dispute. They would have reasons why they had removed him. If the plaintiff has any grievance he has to represent to the 1st defendant and in the absence of any such representation it would be highly inappropriate on the part of this Court to now call upon the 1st defendant, to readmit the plaintiff as a primary member and if he had been removed, to revoke such removal.

20. It is the prerogative of the 1st defendant alone who has an in-house organisation to examine such complaints or grievances of the parties.

21. Primarily the suit has to fall because the plaintiff has no locus to maintain the suit. He is not a member of the 1st defendant party. He is an outsider. He could have been, at one point of time, a member of the party, but having been removed as a member of the party, he is like a cat on the wall. He can jump to the side of the Coordinator or could jump over to the side of the Joint Coordinator or he can remain on the wall. The choice is entirely his. But the Court cannot come to his rescue and call upon either



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the 1st defendant or the Coordinator or the Joint Coordinator or anybody else to revoke the dismissal of plaintiff from being a member of the 1st defendant party.

22. In view of these facts, I hold that the suit filed by the plaintiff cannot be maintained with respect to any of the reliefs sought, whether to declare the election notice dated 02.12.2021 as unenforceable or to grant permanent injunction restraining the defendants from conducting any election or to appoint the retired High Court Judge as Election Officer, to conduct the election or to direct the 1st defendant to re-admit the plaintiff as a member again. Whether he is a member or not a member of the 1st defendant is of no interest to the Court.

23. I further hold it would be extremely imprudent on my part and harsh to on any retired High Court Judge if he/she is appointed to over look the nature of procedures to be adopted in the 1st defendant.



24. The prayers do not survive the scrutiny of this Court. The plaint does not survive and the same is struck off the registers of the Court.

25. In *Arivandandam Vs. T.V.Satyapal and Anr.*, reported in **1977 4 SCC 467**, the Hon'ble Supreme Court had an occasion to comment the role of judicial officers when faced with a vexatious suit filed by a plaintiff who has no cause of action as follows:

“The learned Munsif must remember that if on a meaningful-not formal-reading of the plaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under Order VII Rule 11 of the Code of Civil Procedure, taking care to see that the ground mentioned therein is fulfilled.”

26. In the result,

1. the Suit in C.S.No.352 of 2021 is rejected and struck off the registers of the Court.

2. the application in A.No.273 of 2022, is allowed.



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3. Consequently, the connected miscellaneous petitions are closed.

27. The Assistant City Civil Court Judges to whom a copy of this order is forwarded are directed to examine the maintainability of the respective suits in the board relating to the 1st defendant and apply the Judgment in *Arivandandam Vs. T.V.Satyapal and Anr.*, reported in **1977 4 SCC 467**, and exercise jurisdiction if it is within their scope to nip them in the bud, as directed in the said Judgment.

19.09.2022
(1/3)

Index:Yes/No
Speaking Order : Yes/No
ssi

Copy to:

1. The I Assistant City Civil Judge,
For reference in O.S.No.9080/2021.
2. The IV Assistant City Civil Judge,
For reference in O.S.No.3541/2022
3. The XXIII Assistant City Civil Judge,
For reference in O.S.No.8122/2021
4. The XXIII Assistant City Civil Judge,
For reference in O.S.No.3624/2022



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C.V.KARTHIKEYAN,J.,
SSI

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