



W.P.(MD) No.24936 of 2022

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2022

CORAM

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Writ Petition (MD) No.24936 of 2022

K.Gurunathan

.. Petitioner

Vs.

1. The Union of India
Rep. by the Election Commission of India
Nirvanchansadan
Delhi 110 001.

2. The Ministry of Law and Justice
4th Floor A-Wing
Shastri Bhawan
New Delhi 110 001.

3. The State Rep. by its
The Election Commission of Tamil Nadu
Arumbakkam
Opp side: CMBT Bus Terminus
Chennai 600 106.

4. Pariventhar

5. N.Siva

.. Respondents



W.P.(MD) No.24936 of 2022

WEB CO

Prayer: Writ Petition under Article 226 of the Constitution of India praying for a writ of Mandamus directing the respondents to pass orders on the representations dated 27.02.2021 and 18.12.2021.

For the Petitioner : Mr.Gurunathan K
Party-n-Person

ORDER

(Made by the Hon'ble Acting Chief Justice)

Mr.K.Gurunathan, son of Karuppannan, a resident of Pagalavadi Village, Thuraiyur Taluk, Trichirapalli District, has made representations on 27.02.2021 and 18.12.2021 to the respondents making multiple requests that whenever any election, either Parliament Election or Assembly Election, is conducted by the Election Commission of India, the prospective candidates should possess minimum qualifications for filing nomination and accordingly, requested the respondents to fix minimum qualification.

2. According to the petitioner, reforms in the Act with regard to the qualification for the prospective candidate to file nomination have to be made in order to get a responsible representative. Firstly, the



W.P.(MD) No.24936 of 2022

candidate should reside at least three years in the contesting Constituency. Secondly, the minimum age limit has to be prescribed. Thirdly, the candidate has to file an affidavit disclosing the particulars with regard to his movable and immovable properties, before the Returning Officer or Election Officer and also to the Income Tax Department and the Court concerned. Unless these reforms are made, the first respondent ought not to allow any person to file nomination form.

3. In this regard, it is apposite to refer to Article 84 of the Constitution of India, which reads as under:

84: - *Qualification for membership of Parliament.* - A person shall not be qualified to be chosen to fill a seat in Parliament unless he—

(a) is a citizen of India, and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;

(b) is, in the case of a seat in the Council of States, not less than thirty years of age and, in the case of a seat in



W.P.(MD) No.24936 of 2022

WEB COPY

the House of the People, not less than twenty-five years of age; and

(c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament."

4. A reading of the above would make it clear that the qualifications that a candidate should possess for filing nomination, which require to be incorporated in the Act by the petitioner, already exist.

5. As regards the first qualification, the makers of the Constitution have thought it fit to prescribe that a person should be a citizen of India to contest election. It can be anywhere in the country. It is a privilege given to the citizens of India under Article 84. The said privilege cannot be reduced to stipulate that the prospective candidate should reside in the contesting Constituency at least for three years.

6. Insofar as the second qualification is concerned, Article 84(b)



W.P.(MD) No.24936 of 2022

stipulates minimum age qualification for contesting a seat in the Council of States as 30 years and for contesting a seat in the House of People as 25 years. Thus, there is no need to prescribe any qualification with regard to age for a person to contest election.

7. With regard to third qualification, 84(c) specifically states that a person shall possess such other qualification as may be prescribed in that behalf by or under any law made by Parliament. Thus, various provisions have been made under the Representation of the People Act and other Acts, prescribing minimum qualification.

8. In view of the aforesaid, there is no need to prescribe any qualification as required by the petitioner, as the petitioner has filed this writ petition being ignorant of Article 84. Thus, finding no merit, the writ petition is dismissed. There will be no order as to costs.

(T.R., ACJ.) (D.B.C., J.)
10.11.2022

Index : Yes/No

kpl

Page 5 of 7



WEB COPY



W.P.(MD) No.24936 of 2022

To

1. The Election Commission of India
Nirvanchansadan
Delhi 110 001.
2. The Ministry of Law and Justice
4th Floor A-Wing
Shastri Bhawan
New Delhi 110 001.
3. The Election Commission of Tamil Nadu
Arumbakkam
Opp side: CMBT Bus Terminus
Chennai 600 106.



WEB COPY



W.P.(MD) No.24936 of 2022

T.RAJA, ACJ,
and
D.BHARATHA CHAKRAVARTHY,J
(kpl)

W.P.(MD) No.24936 of 2022

10.11.2022