



W.P.(MD)No.25019 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2022

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.(MD)No.25019 of 2022

K.Maripriya

.. Petitioner

v.

1. The Tamil Nadu State
Election Commissioner
Tamil Nadu State Election Commission
Jawaharlal Nehru Road
Koyambedu
Chennai - 106
2. The Secretary
The Tamil Nadu State Election Commission
Jawaharlal Nehru Road
Koyambedu
Chennai - 106
3. The District Collector
Tirunelveli
Tirunelveli District



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4. The Block Development Officer
Manur Union, Manur Taluk
Tirunelveli District

5. The Election Officer/Secretary
District Panchayat Office
Tirunelveli
Tirunelveli District

.. Respondents

Petition under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, forbearing the Respondents from holding election to the post of Vice Chairman of Manur Panchayat Union, Tirunelveli District in pursuance of Notification issued by the 2nd Respondent in his proceedings in ந.க.எண்.9020/2022/உள்தே2 dated 27.10.2022 without first holding election to the post of Ward Councillors for 14th & 18th Wards of Manur Panchayat Union, Tirunelveli District.

For Petitioner :: Mr.S.Nambi Arooran for
M/s Ajmal Associates

For Respondents :: Mr.S.Sivashanmugam
Standing Counsel for R1 & R2
Mr.P.Muthukumar
State Government Pleader
for R3 to R5

ORDER

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

When the Notification was issued on 27.10.2022 in
ந.க.எண்.9020/2022/உள்தே2 by the second respondent for holding election



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to the post of Vice Chairman of Manur Panchayat Union, Tirunelveli District, this writ petition was filed by the petitioner on 02.11.2022 before the Madurai Bench seeking for issuance of a mandamus to forbear the respondents from holding election to the post of Vice Chairman of Manur Panchayat Union, Tirunelveli District, without first holding election to the post of Ward Councillors for 14th & 18th Wards of Manur Panchayat Union, Tirunelveli District, and the matter has been subsequently transmitted to the Principal Seat, by virtue of the Notification No.33/2021 dated 18.02.2021, in which it is stated that the Writ Petitions relating to the Tamil Nadu State Election Commission are to be taken up by the First Division Bench in the Principal Seat at Madras.

2. Learned counsel appearing for the petitioner submitted that the petitioner is the Councillor of 21st Ward of Manur Panchayat Union, which is one of the Panchayat Unions in Tirunelveli District. When there are 25 Wards in Manur Panchayat Union, Mr.Uchimakali, the Councillor representing 14th Ward passed away on 22.08.2022 and unfortunately, one



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another Ward Councillor Mr.Nainar Mohammed Shabathulla representing 18th Ward, holding the post of Vice Chairman, also died on 24.09.2022.

Therefore, the grievance of the petitioner is that without holding election to the vacancies that have arisen for the 14th and 18th Wards of Manur Panchayat Union, the election to the post of Vice Chairman cannot be filled up hurriedly. Hence, the respondents should be enjoined from holding the election to the post of Vice Chairman of Manur Panchayat Union and a direction shall be given to the respondents to first hold the election for the vacancies in the 14th and 18th Wards, without which the democratic process would be severely breached and violated.

3. Mr.S.Sivashanmugam, learned Standing Counsel appearing for the State Election Commission, objecting to the maintainability of the writ petition, placing reliance on Rule 91(2) of the Tamil Nadu Panchayats (Elections) Rules, 1995, which is given as under,

"91. Election of Vice-Chairman of District Panchayat or Panchayat Union Council.-

(1)



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(2) In the case of a casual vacancy of Vice-Chairman of a District Panchayat or Panchayat Union Council, as the case may be, the meeting for the election of Vice-Chairman shall be conducted on the day fixed by the State Election Commission which shall be within sixty days from the date of occurrence of the vacancy.,

submitted that in the case of a casual vacancy of Vice Chairman of a Panchayat Union Council, the meeting for the election of Vice Chairman shall be conducted within sixty days from the date of occurrence of the vacancy. In the present case, when Mr.Nainar Mohammed Shabathulla, the Councillor functioning as Vice-Chairman, representing 18th Ward, passed away on 24.09.2022, on or before the expiry of sixty days, as mandated under Rule 91(2), election has to be held to the post of Vice Chairman, failing which the Manur Panchayat Union will not be able to cater to the needs of the people. The second contention of the learned counsel appearing for the State Election Commission is that when the election to the post of Vice Chairman is going to be held today (08.11.2022) at 2.30 P.M., in pursuance of the Notification dated 27.10.2022 issued by the second



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respondent, the present writ petition filed at the eleventh hour cannot be entertained. It was also submitted that the non-filling of the two vacancies for the 14th and 18th Wards of Manur Panchayat Union cannot greatly influence or tilt the balance amongst the 23 Ward Councillors, who are present and eligible to vote in the election.

4. We also find that when there are 23 Ward Councillors, excluding the two vacancies that have arisen on account of the demise of Mr.Uchimakali-14th Ward and Mr.Nainar Mohammed Shabathulla-18th Ward on 22.08.2022 and 24.09.2022 respectively, present and eligible to vote in the election for the post of Vice Chairman of Manur Panchayat Union to be held today (08.11.2022) at 2.30 P.M., and considering the fact that the election to the post of Vice Chairman has to be held within sixty days from the date of occurrence of the vacancy, as mandated under Rule 91(2) of the Tamil Nadu Panchayats (Elections) Rules, 1995, as extracted above, in pursuance of the Notification issued by the second respondent on 27.10.2022, we do not find any merit in this writ petition. Secondly, when



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the petitioner has also approached this Court at the eleventh hour, we are not inclined to entertain the writ petition. Accordingly, the writ petition is dismissed. Consequently, W.M.P.(MD)Nos.19119 & 19120 of 2022 are also dismissed. However, there is no order as to costs.

Speaking/Non speaking order

(T.R.,A.C.J.) (D.K.K.,J.)

Index : yes/no

08.11.2022

ss

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THE HON'BLE ACTING CHIEF JUSTICE
AND
D.KRISHNAKUMAR,J.

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