



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.02.2022

CORAM

THE HONOURABLE MR. JUSTICE PARESH UPADHYAY
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P (MD) Nos. 2563 & 2564 of 2022
WMP (MD) Nos. 2251, 2252, 2255 & 2256 of 2022

M. Vijayakumar .. Petitioner in WP (MD) No. 2563 of 2022
R. Murugan .. Petitioner in WP (MD) No. 2564 of 2022

Vs.

1. The State Election Commissioner,
Office of the State Election Commission,
Inner Ring Road,
Jai Nagar, Koyambedu,
Chennai-600 106.

2. The Returning Officer/Municipality Commissioner,
Oddanchatram Municipality,
Dindigul District.

3. The Assistant Returning Officer,
Oddanchatram Municipality,
Dindigul District.

.. Respondents in both WP (MD) s.

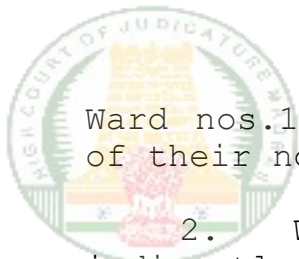
Prayer : Writ Petitions filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to accept the petitioners' nomination papers and consequently direct the respondents to allow the petitioner to contest in the Ward Councillor Election for the Ward nos. 18 & 16 respectively, comes under Oddanchatram Municipality in a fair and democratic manner (prayer in both WP (MD) s).

For Petitioners
(in both WP (MD) s) : Mr. K. Govindarajan for
Mr. S. Deepak

ORDER

(Made by PARESH UPADHYAY, J.)

The petitioners claim that they are the candidates set up by the Tamil Nadu Government to contest the election for the Oddanchatram Municipality -



Ward nos. 18 & 16 respectively. The Petitioners apprehend rejection of their nomination forms by the Returning Officer.

2. What can not be done directly, can also not be done indirectly. Even if the grievance of the petitioners is right that their nomination forms are either rejected or sought to be rejected illegally by the returning officer, the course of action provided under the statute is different than the writ petition. Though the exercise of powers under Article 226 of the Constitution of India is plenary in nature, what not to do in exercise of that power is also well defined.

3. In totality, we find that these petitions can not be entertained. These petitions are therefore need to be dismissed. We also note that since we have entertained these petitions at all and therefore have also not gone into the merits of the rejection / apprehended rejection of the nomination forms, in the event any such order is served on the petitioner(s), and further in the event of them resorting to the remedy available to them in accordance with law (other than the writ petition), dismissal of this petition would not come in the way on merits.

4. These Writ Petitions are dismissed with above observations. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

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2.The Returning Officer/Municipality Commissioner,
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Dindigul District.

3.The Assistant Returning Officer,
Oddanchatram Municipality,
Dindigul District.

+2 CC to M/s.F.DEEPAK, Advocate (SR-4659, 4660,[F] dated 08/02/2022
)

W.P (MD) No.2563 & 2564 of 2022
07.02.2022

RK(17.02.2022) 3P 6C