



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2022

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WEB COPY

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

W.P(MD)Nos.2628 of 2022

S.Jabeen Sulthana

..Petitioner

Vs.

1.The State Election Commission,
rep. by its Secretary,
No.208/2, Jawaharlal Nehru Road,
Arumbakkam,
Chennai-600 106

2.The Election Officer,
Thanjavur Corporation,
Thanjavur.

3.The District Collector,
Thanjavur.

.. Respondents

Prayer : Writ Petitions filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the second respondent herein to accept the nomination and include the name of the petitioner in the final list of candidates for election to Ward no.20 of Thanjavur Corporation pursuant to the election notification dated 28.01.2022 for local bodies in the State of Tamilnadu.

For Petitioner : Mr.ARL Sundaresan, Sr. Counsel for
Ms.A.L.Ganthimathi

ORDER

(Made by PARESH UPADHYAY, J.)

The petitioner claims that she is the candidate set up by DMK to contest the election for the Thanjavur Corporation - Ward no20. The Petitioner apprehend rejection of her nomination form by the Returning Officer.



2. Mr.Sundaresan, learned Senior counsel for the petitioner at the out set stated that, though when the petition was filed it was on apprehension, but now the nomination of the petitioner is already rejected and that rejection is also conveyed to the petitioner. He has submitted that the rejection of nomination of the petitioner being illegal this petition be entertained.

3. We note that in almost identical circumstances, yesterday, we have dismissed W.P(MD) Nos.2563 & 2564 of 2022. No different view needs to be taken.

4. What can not be done directly, can also not be done indirectly. Even if the grievance of the petitioner is right that her nomination form is 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. In totality we find that this petition can not be entertained. This petition is therefore need to be dismissed. We also note that since we have not entertained this petition at all, we have also not gone into the merits of the rejection / apprehended rejection of the nomination form. Therefore in the event of the petitioner resorting to the remedy available to her in accordance with law (other than the writ petition), dismissal of this petition would not come in her way on merits.

5. This Writ Petition is disposed of with the above observation. No costs.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To:

1.The Secretary,
State Election Commission,
No.208/2, Jawaharlal Nehru Road,
Arumbakkam,
Chennai-600 106



2.The Election Officer,
Thanjavur Corporation,
Thanjavur.

3.The District Collector,
Thanjavur.

+1 CC to M/s.SPL.GP (SR-5010[F] dated 09/02/2022)

+1 CC to M/s.AL.GANTHIMATHI, Advocate (SR-4839[F] dated
08/02/2022)

W.P (MD) No.2628 of 2022
08.02.2022

km(CO)
TR(15.02.2022) 3P 6C