

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

AND

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)No.22168 of 2022

and

W.M.P.(MD)No.16313 of 2022

M.Murugaprabhu

... Petitioner

-Vs-

1.The Secretary,

Bar Council of Tamil State & Pondicherry,

High Court Campus, Chennai-600104.

2.The Election Officers,

Sivakasi Bar Advocate Association,

Sivakasi Combined Court Complex,

Sivakasi, Virudhunagar District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to permit the petitioner to pole his vote in the Sivakasi Bar Advocate Association Election 2022-2023 by including the petitioner's name in the voter's list as notified by the 2nd respondent in virtue of the members list as provided by the 1st respondent by considering the petitioner's representation dated 12.09.2022.

For Petitioner : Mr.V.Meenakshi Sundaram,
For Mr.S.Selvakumar
For Respondents : Mr.K.R.Laxman

ORDER

[Order of the Court was made by R.MAHADEVAN, J.]

The prayer sought for in the Writ Petition is to issue a Writ of Mandamus, directing the 2nd respondent to permit the petitioner to cast his vote in the Sivakasi Bar Advocate Association's Election 2022-2023, by including his name in the voters' list as notified by the 2nd respondent by considering the petitioner's representation dated 12.09.2022.

2.Mr.K.R.Laxman, learned counsel takes notice for the respondents.

By consent of both parties, this Writ Petition itself is taken up for final disposal at the stage of admission.

3. According to the petitioner, he enrolled as an Advocate in the year 2007 and was practising in this Court till 2016. Thereafter, he moved to Sivakasi and enrolled himself as a member of the Sivakasi Advocate Bar Association in the year 2018 and also participated in the election of the said Bar Association for the year 2017-2018. However, he could not cast his vote in the said election for the year 2018-2019 due to the death of his father. In the meantime, the said Bar Association without issuing any notice to the petitioner, removed his name in the members' list. Hence, the petitioner made a representation on 15.02.2022, for inclusion of his name, however, the same has not been considered till date. Now, the election to the Sivakasi Bar Association for the year 2022-2023, is scheduled to be held on 21.09.2022. Therefore, the petitioner made a representation dated 09.09.2022 to the 1st respondent, requesting to issue a list of recent members of the Sivakasi Bar Association to the 2nd respondent and direct the 2nd respondent to conduct election based on the

said list. The 1st respondent has also considered the representation of the petitioner and issued fresh list of members of the Sivakasi Bar Association to the 2nd respondent on 12.09.2022, wherein the petitioner's name and other missing names have been found place. Thereafter, the petitioner submitted his nomination for the post of Joint Secretary of the Sivakasi Bar Association and deposited a sum of Rs.10,000/- (Rupees Ten Thousand Only) with the 2nd respondent on 14.09.2022. The said nomination was also accepted by the 2nd respondent. Now, the grievance of the petitioner is that till date, the eligible voters' list has not been notified by the 2nd respondent and it is also not known whether the 2nd respondent will conduct the on coming election based on the old voters list or the new list issued by the 1st respondent. Hence, this Writ Petition.

4.Heard the learned counsel for the petitioner and the learned counsel for the respondents.

5.The inclusion or deletion of any members in the voters' list of the 2nd respondent Bar Association is exclusively within the domain of the 2nd respondent, depending upon the satisfaction of the eligibility criteria by such

members and this Court cannot issue any Mandamus in this regard. However, considering the fact that the list of members of the Sivakasi Bar Association issued by the 1st respondent pursuant to the representation of the petitioner dated 09.09.2022 contains the petitioner's name at Serial No.74, without expressing any opinion on the claim made by the petitioner, we direct the 2nd respondent to consider the representation of the petitioner dated 12.09.2022 and pass appropriate orders purely on its own merits and in accordance with law forthwith.

6.With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] & [J.S.N.P., J.]

20.09.2022

Index : Yes / No

Internet : Yes / No

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Note: Issue Order copy on 20.09.2022.

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R.MAHADEVAN, J.

AND

J.SATHYA NARAYANA PRASAD, J.

Myr

To

1.The Secretary,

Bar Council of Tamil State & Pondicherry,

High Court Campus, Chennai-600104.

2.The Election Officers,

Sivakasi Bar Advocate Association,

Sivakasi Combined Court Complex,

Sivakasi, Virudhunagar District.

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