



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 02.11.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.24817 of 2022

and

W.M.P(MD)Nos.18901 and 18905 of 2022

1.Siva Ayyappan

2.Manjumalathi

3.Abdul Gafoor

4.Ramakrishnan

5.Anwar Mohideen

6.K.Selvakumar

7.S.Mariappan

..Petitioners

Vs

1.The Secretary,
Government of Tamil Nadu,
Municipal Administration and Urban Development(M)
Department, Secretariat,
Chennai.

2.The District Collector,
Tirunelveli Municipal Corporation,
Tirunelveli.

3.The Commissioner,
Tirunelveli Municipal Corporation,
Tirunelveli.

4.The Regional Director of Municipal Administration,
Tirunelveli.

5.The Returning Officer(Not constituted as per Rule 12),



Town Vending Committee Election,
North Car Street,
Tirunelveli Town,
Tirunelveli.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of impugned election notification issued by the third respondent herein in his nil proceedings, dated 17.10.2022 and quash the same as illegal and further direct the respondents 3 to 5 to implement the order dated 9.6.2022 in W.P(MD)No.8466 of 2022 on the file of this Court and finalize the list of street vendors in the Tirunelveli Municipal Corporation Limits and thereafter to constitute a Town Vending Committee as per the provisions of Street Vendors Act, 2014 and Tamil Nadu Street Vendors(Protection of Livelihood, Regulation of Street Vending and Licensing)Rules, 2016.

For Petitioners :Mr.V.Meenakshisundaram
for M/s.D.Nallathambi

For Respondents :Mr.Veerakathiravan
1,2 and 4 Addl.Advocate General
assisted by
Mr.D.Gandhiraj
Special Govt.Pleader

For Respondent-3:Mr.A.Sivanupandian
Standing Counsel.

ORDER

This Writ Petition is filed seeking issuance of a Writ of Certiorarified Mandamus calling for the records of impugned election notification



provisions of the Central Act 7 of 2014 and Tamil Nadu Street Vendors(Protection of Livelihood, Regulation of Street Vending and Licensing)Rules 2015 within three months time. In order to regulate the street vending activities, the above said Rules, 2015 has been enacted by Parliament and the aim of the Rules is to secure the right to livelihood of street vendors, ensuring congestion free public spaces and street and convenience of vending services for the customers. All these act and rules are all self contained code.

4.As per Rule 12(2) of Rules 2015 as referred to above, the concerned local authority has to appoint a Returning Officer for conducting Election of Street Vending Committee representing the street vendors, however, the respondents 3 to 5 has not taken any steps to appoint such an officer as Returning Officer. Moreover, there is no compliance of the above rule in the impugned election notification. As per Section 13(5) of the Rules 2015, the concerned local authority has to prepare a list of street vendors, who are all eligible to vote in the present election and final list has to be published before 10 days of the election date. As per Rule 2015, the local authority has to appoint a Returning Officer for conducting election.The respondents 3 to 5 has to appoint any officer as Returning officer and as per Rule 13(5) the authority has to give notice thirty days prior to the date fixed for the purpose of election and a copy of the list shall be supplied by the Town Vending Committee of



the local authority or returning officer, as the case may be, to any street vendor on payment of such fee as specified by the local authority and in the present case, no such list of street vendors has been published by the respondents 3 to 5. and hence, the election has to be struck down for the reason of violation of Rule 13(5) of the above Rules, which speaks about the preparation of list of street vendors(voters list).In the present case, nomination (Form D) is issued under Rule 13(6) of the Rules 2015 and it was issued in complete violation of Rule 13(6), Rule 13(7) and Rule 13(8) of the Rules. The third respondent is not ready to receive the security deposit and there is no announcement of the Returning Officer for conducting the present election. Hence, the present Writ Petition has been filed for the relief stated supra.

5.The learned Additional Advocate General appearing for the respondents 1,2 and 4 would submit that the above said election was postponed due to administrative reasons and separate information will be given to the street vendors, who are all eligible for voting and election will be conducted in an appropriate manner, after following the due process of law and as per the existing rules in force.

6.In view of the above submission, this Court directs the Tirunelveli City Municipal Corporation to conduct the elections as notified above only as per the Rules and Acts established therein and the authorities



concerned shall not proceed further in violation of the existing rules in this regard and after giving an opportunity of hearing to all the eligible members, the list shall be prepared in a perfect manner and thereafter, to release the list of the voters, by the authorities concerned and to conduct the election in a proper manner as per the Rules and Act in this regard.

7. With these directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

02.11.2022

Index : Yes/No

Internet: Yes/No

vsn

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V.BHAVANI SUBBAROYAN,J
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ORDER MADE IN

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