



W.P.(MD)No.26021 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.11.2022

CORAM

THE HONOURABLE Mrs. JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition (MD) No.26021 of 2022

and

W.M.P.(MD)Nos.20164 and 20165 of 2022

K.Pushpam

.. Petitioner

Versus

1.The Commissioner,
Revenue Administration and Disaster Management,
Ezhilagam, Chepauk,
Chennai – 600 005.

2.The District Collector,
Pudukottai District,
Pudukottai.

3.The Tahsildar,
Kulathur Taluk,
Pudukottai District.

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned notification in Na.Ka.No.Aa4/6649/2019, issued by the second respondent, dated 25.10.2022, quash the same and consequently, permit the petitioner to participate in the election of Water Users Association of Thethikulam and Kuttaikulam, Vathanakkottai, Kulathur Taluk, Pudukottai District.



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For Petitioner : Mr.T.Veerakumar
For Respondents : Mr.R.Baskaran
Additional Advocate General
Assisted by
Mr.A.Kannan
Additional Government Pleader

ORDER

The petitioner has prayed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned notification in Na.Ka.No.Aa4/6649/2019, issued by the second respondent, dated 25.10.2022, and consequently, permit her to participate in the election of Water Users Association of Thethikulam and Kuttaikulam, Vathanakkottai, Kulathur Taluk, Pudukottai District.

2. Heard Mr.T.Veerakumar, learned counsel appearing for the petitioner and Mr.R.Baskaran, learned Additional Advocate General, assisted by Mr.A.Kannan, learned Additional Government Pleader, who accepts notice for the respondents. By consent of both sides, the Writ Petition is taken up for final disposal at the admission stage itself.

3. According to the learned counsel for the petitioner, the petitioner is one among the Ayacutdhars of the aforesaid Thethikulam and Kuttaikulam. However, her name does not find place in the voters list issued by the second respondent and therefore, her right to participate in the aforesaid election would be affected. The Election to the said Kanmoi Water Users Association



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has to be conducted as per the procedures contemplated under the Tamil Nadu Farmers' Management of Irrigation Systems Act, 2000 [hereinafter referred to as "the Act"]. As per the said Act, the term of the office bearers of the aforesaid Association is five years. The first respondent is empowered to prepare the list of land holders on the basis of records and based on the said list, voters list shall be prepared for each territory and the said voters list contains the names of the persons, who attained the age of 18 years and they only entitled to elect the office bearers. Further, the election for the aforesaid Kanmoi Water Users Association is scheduled to be conducted on 19.11.2022 under the said Act.

4. The learned counsel appearing for the petitioner further submitted that many Ayacutdhars names were not included in the said voters list and the names of many dead persons were also not deleted from the voters list. Further, the respondents have not included the names of the actual land holders. The prime object of the Act is only for ensuring optimum utilization of water by the farmers for effective agriculture production. If the actual land holders are not permitted to vote, then, ultimately, they may not have participated in the administration for effective disbursement of water resource among themselves. Hence, the petitioner has approached this Court by way of filing the present Writ Petition seeking to quash the said notification.



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5. The learned counsel appearing for the petitioner further submitted that the first respondent failed to follow the procedure contemplated under the Act before publishing the details of territorial constituencies of Water Users Association and Ayacutdhar's list. The first respondent also failed to follow the procedures contemplated under Rule 4(1)(2)(3) of the Tamil Nadu Farmers Management Irrigation Systems Rules, 2002, for inclusion of names of the actual land holders and also for deletion of names of the dead persons and adding the names of new land holders. Further, the first respondent failed to remove the discrepancies before publishing the final voters list.

6. The learned counsel appearing for the petitioner also submitted that the first respondent failed to publish Form-VII notice under Rule 4(3) of the said Rules. The respondents did not afford any opportunity to the Ayacutdhars before finalizing the final voters list. The first respondent failed to see that many voters have already sold their Ayacut lands to various others, but, still their names found place in the voters list and the subsequent purchasers' names yet to be brought in the voters list.

7. The learned Additional Advocate General appearing for the respondents submitted that the respondents have followed the rules and regulations and the said election notification was affixed in the notice board of the concerned Village Panchayat Office and the Village Administrative



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Officer's Office on 26.10.2022 in Form – I and Form – II and the same was informed to the general public by Megaphone system on 02.11.2022 and the same has also been published on 01.11.2022 in a daily local newspaper.

8. The learned Additional Advocate General has also produced photographs to show that the election notification has been affixed in the notice board of the concerned Village Panchayat Office and the Village Administrative Officer's Office. The learned Additional Advocate General has also produced a newspaper clipping to show that the election is going to be held on 19.11.2022 and submitted that only as per the rules, the notification has been issued and the voters list has been published and nothing contradictory to the rules and hence, prayed for dismissal of the Writ Petition.

9. Considering the aforesaid facts and circumstances of the case and the issue involved in the Writ Petition, it is relevant to extract below Rule 4 of the Tamil Nadu Farmers' Management of Irrigation Systems Rules, 2002.

"4. Preparation of landholders list, voters list and water users list. - (1) The Collector shall prepare the list of landholders on the basis of record of rights in Form-V. On the basis of the list so prepared, he shall prepare the territorial constituency-wise voters list in Form-V-A consisting of those landholders who have completed eighteen years of age as on the date of issue of notification for conducting elections in a Water Users



Association area for electing the President and members of the Managing Committee of the Water Users Association.

(2) The lists prepared under sub-rule (1) shall be displayed on the notice board of the office of the concerned Village Panchayat and Panchayat Union.

(3) Before finalizing the lists mentioned in sub-rule (1), the Collector shall invite objections against inclusion of any name. Any objection for the inclusion of any name in the said voters list shall be in Form-VI and any representation for inclusion in, or deletion from the above said voters list, as the case may be, shall be in Form-VII and Form-VIII, respectively. The Collector shall consider all such objections within a week and finalise such lists, by appending the names to be deleted or incorporated, at the end of the each list and final notice thereof shall be published in Form-IX in respect of voters list and be made available for verification.

(4) Each landholder in the Water Users Association area shall have one vote only irrespective of his land holdings in the said area. In case of a landholder holding ayacut lands in more than one Water Users Association, though he will have the voting rights in all such Water Users Association, but can hold only one official post in any one of them.

(5) (a) In case, a landholder has land in more than one Territorial Constituency of a Water Users Association area, the landholder shall opt for only one



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constituency for voting by giving a declaration as specified in Form-X to the Collector.

(b) In case, no such option is exercised by the landholder, the Collector shall allot his vote to the constituency in which the landholder holds the maximum extent of land where such land held is the same in two territorial constituencies, any of the constituency may be allotted and his decision shall be final.

(6) The lists prepared under sub-rule (1) shall be revised six months before the commencement of the elections in the manner specified in sub-rules (1) to (5)."

10. As per Rule 4(1) of the said Rules, the District Collector has to prepare the list of landholders on the basis of record of rights in Form-V. On the basis of the list prepared, he has to prepare the territorial constituency-wise voters list in Form-V-A, consisting of those landholders, who have completed 18 years of age as on the date of issue of notification for conducting elections in a Water Users Association area for electing the President and Members of the Managing Committee of the Water Users Association. As per Rule 4(2) of the said Rules, the lists shall be displayed on the notice board of the office of the concerned Village Panchayat and Panchayat Union. As per Rule 4(3), before finalizing the lists mentioned in sub-rule (1), the Collector shall invite objections against inclusion of any name. Any objection for the inclusion of any name in the said voters list shall be in Form-VI and any representation for



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inclusion or deletion from the above said voters list as the case may be shall be in Form-VII and Form-VIII, respectively. The District Collector shall consider all the objections within a week and finalize such lists, by appending the names to be deleted or incorporated, at the end of the each list and final notice thereof shall be published in Form-IX in respect of voters list and be made available for verification. As per Rule 4(3) of the said Rules, each land holder in the Water Users Association area shall have one vote only irrespective of his land holdings in the said area. In case of a land holder holding Ayacut lands in more than one Water Users' Association though he will have the voting rights in all such Water Users Association, but can hold only one official post in any one of them. As per Rule 5(a) of the said Rules, in case, a landholder has land in more than one territorial constituency of a Water Users Association area, the landholder shall opt for only one constituency for voting by giving a declaration as specified in Form-X to the Collector. As per Rule 5(b) of the said Rules, in case no such option is exercised by the landholder, the Collector shall allot his vote to the constituency in which, the land holder holds the maximum extent of land, where such land held is the same in two territorial constituencies any of the constituency may be allotted and his decision shall be final. As per Rule 6 of the said Rules, the lists prepared under sub-rule (1) shall be revised six months before the commencement of the elections in the manner specified in sub-rules (1) to (5).



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11. According to the learned counsel for the petitioner, the second respondent in a hasty manner, prepared the voters list without verifying the real Ayacutdhras and issued the impugned election notification of Water Users Association without following the procedures contemplated by the Act and the rules framed thereunder.

12. Since no material has been produced before this Court, other than the affixture of election notification in the notice board of the concerned Village Panchayat Office and the Village Administrative Officer's Office, this Court is of the view that the election has to be conducted as per the rules and regulations. Therefore, this Court directs the authorities concerned to rectify the aforesaid errors. The landholders should be given an opportunity to submit applications for inclusion of their names or deletion of names on or before 28.11.2022 and the same shall be considered and a list shall be prepared on or before 09.12.2022 and the same shall be published on 12.12.2022 and the election to be held on 17.12.2022. The same will be informed to all the Ayacutdhars by using the Megaphone method or any other method to be followed. It is made clear that this Court is not inclined to quash the election notification, however, directs the respondents to postpone the date of election to some other date, as mentioned above to follow the certain rules.

13. This Writ Petition stands disposed of with the above direction. No



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costs. Consequently, connected Miscellaneous Petitions are closed.

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Note:- Issue order copy on 18.11.2022

To

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V.BHAVANI SUBBAROYAN, J.

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