



WEB COPY



CRP No.50 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2023

CORAM :

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRP No.50 of 2023

P.Tamilarasu

.... Petitioner

-Vs-

- 1.The Tamil Nadu State Election Commissioner,
Chennai.
- 2.The District Election Officer cum District Collector,
Kanchipuram, District.
- 3.The Returning Officer cum Block Development Officer,
Sriperumbudur Taluk
Kanchipuram District.

.... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India, filed against the impugned order dated 18.11.2022 in I.A No. 41 of 2021 filed by the Revision petitioner in EL.O.P No. 72 of 2021 on the file of the District and Sessions Court No.II, Kancheepuram, dismissing the application filed in EL.O.P.72 of 2021 on behalf of the Revision petitioner.

For Petitioner	: Mr.K.Ashok Kumar
For R1	: Mr.S.Shiva Shanmugam, Standing counsel for Election.
For R2 and R3	: B.Tamilnidhi Government Advocate.



WEB COPY



CRP No.50 of 2022

ORDER

Challenging the order impugned order dated 18.11.2022 in I.A No. 41 of 2021 in EL.O.P No. 72 of 2021, on the file of the District and Sessions Court No.II, Kancheepuram, the present revision petition has been filed.

2. The petitioner herein filed EL.O.P No. 72 of 2021 before the District Sessions Court No.II, Kancheepuram, to declare the counting results declared on 12.10.2021 declaring the fourth respondent herein to be the successful candidate as null and void with consequential direction to directing the election officer, the third respondent to order recounting of the votes polled in the said elections held on 12.10.2021 for the post of the Village Panchayat President, Panruti, Sriperumpudur Taluk, Kanchipuram, District, in the presence of the second respondent District Collector and declare the results afresh thereon. In the meanwhile, the petitioner filed I.A No. 41 of 2021 in EL.OP No. 72 of 2021 to direct the respondents to produce the votes polled in the Panruti Panchayat Board Election, Counter foils of the votes which were used and also the CCTV footages and kept the same in the safe custody. After considering the oral and documentary evidence the Trial Court held that Counter foils, CCTV



footages are in the safe custody, accordingly dismissed the said I.A No. 41 of 2021 in EL.OP No. 72 of 2021. Challenging the same the petitioner preferred this Civil Revision petition.

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

4. The learned counsel for the respondents submitted that there is no necessity to produce CCTV footage, counter foils since which are already in the safe custody, as rightly pointed out by the Court below it is not safe to produce the same before the Court. Further, he submitted that if the Court permits they are ready to produce the above articles.

5. Admittedly, P.W.1 was examined and posted the matter for further evidence on the side of the petitioner. In order to prove his case, the above articles are necessary for the petitioner. Therefore the respondents is directed to produce the votes polled in the Panruti Panchayat Board Election, Counter foils of the votes and also the CCTV footages before the Trial Court. Section 68 of Tamil Nadu Panchayats Election Rules is extracted hereunder;



68. Disposal of ballot papers.- (1) The returning officer shall, after declaring the results, retain in his custody or cause to be deposited in the custody of the officer as may be specified by the State Election Commission, the packets of ballot papers, whether counted, rejected, cancelled or unused, the sealed packets containing the declarations under Sub-rule (2) of rule 52 and the marked copy of the electoral roll. These packets shall not be opened and their contents shall not be inspected or produced except under the orders of an election or other competent Court.

(2) The Returning Officer or the officer specified by the State Election Commission under Sub-rule (1), shall retain the packets and the marked copies of the electoral roll for six months and shall, thereafter, unless otherwise directed by an election or other competent Court, cause them to be destroyed.

Rule 68 very specifically shows that once the Returning Officer issued declaration certificate, the package of ballot papers, whether counted or rejected, cancelled or un-used, the sealed package containing the declaration and the marked copy of the electoral roll shall remain in his custody or deposited with the Election Officer, and this shall not be inspected or produced except under the orders of other competent Court. (K.Munusamy V. State Election Commissioner, Tamil Nadu, 2008 (1) CTC 762:2077(3) LW 968 : 2007 (5) MLJ 750).

6. As rightly pointed out by the petitioner's counsel, as per Section 68 of Tamil Nadu Panchayats Election Rules, the petitioner has to file necessary application before the Trial Court for seeking direction to produce the above articles, if the Court directs, the respondents are entitle to produce the same. Therefore, the liberty is given to the petitioner to file appropriate application before the Trial Court in respect of above materials in order to mark the same as evidence before the Trial court. Further Trial Court is directed to dispose the EL.O.P No. 72 of 2021, within a period of five months from the date of receipt of a copy of this order.



CRP No.50 of 2023

7. Accordingly this Civil Revision Petition is disposed of. No costs.

Consequently connected miscellaneous petition is closed.

WEB COPY

30.03.2023

Index : Yes/No
Internet : Yes/No
pbl



WEB COPY



CRP No.50 of 2023

T.V.THAMILSELVI, J.
pbl

CRP.No.50 of 2023

30.03.2023