



W.P.No.3937 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

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Marumalarchi Makkal Iyakkam, Covai
rep. by its President V.Eswaran
40/3, Sengappa Konar Street,
Kurichi, Sundarapuram,
Coimbatore-641 024.

.. Petitioner

Vs

- 1.The Tamil Nadu State Election Commission,
rep. by its Secretary,
208/2, Jawaharlal Nehru Road,
Arumbakkam,
Chennai-600 106.
- 2.The Election Officer,
Coimbatore Corporation,
Coimbatore.
- 3.The Commissioner of Police,
Office of the Commissioner of Police,
Coimbatore-641 018.
- 4.The Deputy Commissioner of Police,
Law and Order,
Coimbatore District.



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5.Coimbatore Corporation,
rep. by its Commissioner,
Coimbatore.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondents 1 and 2 to cancel the election held for Coimbatore Corporation and form a committee under the head of Hon'ble Justice of this Hon'ble Court to probe the incidents of rampant distribution of cash to voters by considering the petitioner's representation dated 19.02.2022.

For the Petitioner : Mr.N.Ponraj

For the Respondents : Mr.S.Siva Shanmugam
for respondent No.1

: Mr.K.Mahesh
for respondent Nos.2 and 5

: Mr.S.Rajakumar
Addl. Public Prosecutor
for respondent Nos.3 and 4

ORDER

(Order of the court was made by the Hon'ble Chief Justice)

We have heard Mr.N.Ponraj, learned counsel for the petitioner; Mr.S.Siva Shanmugam, learned counsel for the first respondent; Mr.K.Mahesh, learned counsel for respondents 2 and 5



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and, Mr.S.Rajakumar, learned Additional Public Prosecutor for respondents 3 and 4.

2. The petitioner seeks a direction to cancel the election held for Coimbatore Corporation and form a Committee headed by a Judge of this Court to probe the incidents of rampant distribution of cash to voters by considering the petitioner's representation dated 19.02.2022.

3. Learned counsel for the petitioner submits that during the elections held for Councilors of Coimbatore Corporation on 19.02.2022, rampant malpractices have taken place. Corrupt practices were resorted to by the candidates and their agents. According to learned counsel, there are 100 Wards. It was found that the candidates and their agents were intensively taking steps to give bribe for voters in the form of cash, goods or services with intent to get their due amount in the political horse-trading while electing the Mayor and Deputy Mayor.



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4. According to learned counsel for the petitioner, all parties with a view to win the elections were maneuvering and indulging in corrupt practices. Section 123 of the Representation of People Act, 1951 prohibits such corrupt practices. The newspaper reports also depict and prove the allegation of the petitioner. The action was taken by the first respondent only in few cases. The representation was given by the petitioner, but no action was taken. One of the incidents on the date of election is that in a marriage hall by name Saraswathy Mahal, Ramanathapuram situated in Ward No.63 of Coimbatore Corporation, money was distributed for purchasing votes. Many such instances had taken place.

5. Learned counsel for the petitioner submits that even paper reports could have been relied and action needs to be taken. Reliance is placed on the judgment of this Court in the case of *All India Anna Dravida Munnertra Kazhagam v. The State Election Commissioner and others*, W.P.No.39400 of 2006 dated 16.2.2007, reported in 2007 (1) CTC 705.



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6. We have also heard the submissions of learned counsel for the first respondent and the other respondents.

7. Article 243ZG of the Constitution provides that no election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of the State.

8. Elections have already taken place more than a year back i.e. 19.02.2022. The candidates are elected. They are not parties before us.

9. The judgment in the case of *All India Anna Dravida Munnertra Kazhagam* (supra) relied by learned counsel for the petitioner only deals with the preponderance of probabilities to be taken into consideration by the Court when large number of newspapers have reported about the prohibited activities.



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10. In the present case, the Election Commission has filed an affidavit about the steps undertaken by the Election Commission. If some cash is found, that itself would not indicate that each and every candidate involved in corrupt practices. The Election Commission has filed FIRs in respect of the incidents that have come to their light. They recovered cash, liquor bottles and have taken steps.

11. In view of the constitutional bar engrafted under Article 243ZG, it would not be possible to accede to the request of the petitioner that the entire elections be set aside in the present writ petition.

12. Any voter has a right to file the election petition against the candidate who has indulged in corrupt practice. The said steps are required to be resorted to in deserving cases and in accordance with law.



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13. In the light of that, the writ petition stands disposed of. There will be no order as to costs. Consequently, W.M.P.No.4084 of 2022 is closed.

(S.V.G., CJ.)

(P.D.A., J.)

12.07.2023

Index : Yes/No
Neutral Citation : Yes/No
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To

- 1.The Secretary,
Tamil Nadu State Election Commission,
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Arumbakkam,
Chennai-600 106.
- 2.The Election Officer,
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THE HON'BLE CHIEF JUSTICE
AND
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