



W.P.No.5840 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2023

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THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Writ Petition No.5840 of 2023

M.Kannan

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Petitioner

Vs.

1. The Chief Election Commissioner of India
Election Commission of India
Nirvachan Sadan
New Delhi.

2. The District Collector
Erode.

3. Director General of Police
Kamarajar Salai
Mylapore, Chennai 600 004.

4. The Chief Electoral Officer
State of Tamil Nadu
St. George Fort, Secretariat
Chennai 600 009.

5. Returning Officer
Erode East Assembly Constituency
Erode, Tamil Nadu.

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Respondents



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Prayer: Writ Petition under Article 226 of the Constitution of India praying for a writ of Mandamus directing the fourth and fifth respondents to consider the petitioner representation dated 21.02.2023.

For the Petitioner : Mr.G.Dakshinamurthy

For the Respondents : Mr.G.R.Niranjan Rajagopal
for Respondents 1, 4 & 5

Mr.R.Shunmugasundaram
Advocate General
Assisted by
Mr.Damodaran
Additional Public Prosecutor
Ms.A.G.Shakeena
for Respondent-2

Mr.Hasan Mohamed Jinnah
State Public Prosecutor
Assisted by
Mr.Suganthanan
Government Advocate (Crl.Side)
for Respondent-3

ORDER

(Made by the Hon'ble Acting Chief Justice)

The petitioner, claiming to be a practising Advocate and an independent candidate contesting in the bye-election of Erode East Assembly Constituency to be held on 27.02.2023, with the symbol of



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coconut grove, has filed this writ petition seeking a direction to the respondents 4 and 5 to consider his representation dated 21.02.2023.

2. According to the petitioner, there are 226867 voters in the Constituency, out of which, 39000 names were shown in the list of ineligible voters. The ruling political party and Congress party were distributing money and also giving pressure cooker as gift to the voters. Further, at Krishnam Palayam, the ruling political party took the voters in a van at 7 am and sent them after giving money and providing breakfast, lunch and dinner. Hence, he made a written complaint to the fifth respondent on 20.02.2023. Since the fifth respondent refused to receive the complaint, he sent it to the fourth and fifth respondents, through registered post, on 21.02.2023. Contending that the respondents 4 and 5 have not taken any action, the petitioner has come up with this writ petition.

3. Learned counsel appearing for the petitioner contended that unless a direction is issued to the respondents to take steps to ensure a free and fair bye election, there will be a complete breakdown of law



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and order and also violation of Code of ethics in the Representation of Peoples Act, 1950 in the bye-election.

4. Learned counsel appearing for the respondents 1, 4 and 5 submitted that 6 Flying Squads and 4 Static Surveillance Teams which have been deployed in the Constituency since 18.01.2023, have been increased to 12 Flying Squads and 12 Static Surveillance Teams from the date of notification of election, namely 31.01.2023, as observed in the order dated 20.02.2023 made in W.P.No.4789 of 2023 [C.Ve.Shanmugam v. Election Commission of India] to ensure free and fair election. Therefore, if the petitioner is aggrieved by any act of any person or political party, he can lodge a complaint with details, since the complaint given by the petitioner does not throw any light on the alleged occurrence. He further submitted that if any complaint is received by the Chief Electoral Officer, the same would be considered.

5. A perusal of the complaint given by the petitioner discloses that the complaint is bereft of particulars with regard to the alleged occurrence, namely date, time and the place and also the names of



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the voters who had been taken in van and provided with money, breakfast, lunch and dinner. Thus, we do not see any merit in the grievance of the petitioner.

6. That apart, it is settled law that once the election process is initiated, the Court, exercising jurisdiction under Article 226 of the Constitution of India, cannot interfere with the same, as it would tantamount to stoppage of election.

7. In view of the above, this writ petition is dismissed. However, it is made clear that if any complaint is given by the petitioner, the same shall be considered by the respondents. There will be no order as to costs. Consequently, WMP Nos.5826 and 5827 of 2023 are also dismissed.

(T.R., ACJ.) (D.B.C., J.)
24.02.2023

Index : Yes/No
Neutral Citation : Yes/No

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