



WEB COPY



W.P.No.533 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2023

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.533 of 2023

S.Senthilkumar

.. Petitioner

Vs

Union of India,
rep. by its Secretary,
Ministry of Home Affairs,
North Block,
Cabinet Secretariat,
Raisina Hall, New Delhi.

.. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the official respondent to enact a new Bill/Act for abolition of the family political members from holding the high office of the States by the members of the political parties in India pursuant to the petitioner's representation dated 26.4.2022 to enact a new Act in the Parliament for abolition of family politicians from holding the high office of the States in India.



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For the Petitioner : Mr.V.Kannan

For the Respondent : Mr.A.R.Sakthivel
Special CGSC

ORDER

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

S.Senthil Kumar, son of Dr.N.A.Subramanyan, has filed this writ petition seeking issuance of a writ of mandamus directing the respondent to enact a new Bill/Act for abolition of the family political members from holding the high office of the States by consider the petitioner's representation dated 26.4.2022.

2. It is trite that this court exercising jurisdiction under Article 226 of the Constitution of India cannot issue a mandamus to command the Legislature to enact a law. The Supreme Court in ***Vivek Krishna v. Union of India and others, 2022 SCC OnLine SC 1040***, held as under:

"9. Even otherwise, a writ of Mandamus cannot be issued to direct the Respondents to enact law and/or to frame rules even under the wider



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powers conferred under Article 226 of the Constitution. A Mandamus lies for enforcement of a fundamental right or a statutory right, or the enforcement of a fundamental duty related to enforcement of a fundamental right or a statutory right. In exceptional cases, a writ may even lie for enforcement of an equitable right. The breach or threat to breach a fundamental, statutory or may be enforceable equitable right, is the sine qua non for issuance of a writ of Mandamus.

...

14. Whether under Article 32 or Article 226 of the Constitution of India, the Court can give directions in order to prevent injustice. **This Court and/or a High Court cannot direct the Legislature to enact a particular legislation or the Executive to frame rules.** This Court, and/or the High Court, does not give any direction to the State to enforce an Act passed by the Legislature. Nor does the Court enforce instructions in a Departmental Manual not having statutory force, any non-statutory scheme or concession which does not give rise to any legal right in favour of the Petitioner, far less, any recommendation made by an authority such as the Election Commission. It is for the Union of India to



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take a decision on the recommendation of the Election Commission, in accordance with law. It is not for this Court to decide what should be the policy of the Government. Policy matters are never interfered with, unless patently arbitrary, unreasonable or violative of Article 14 of the Constitution."

[emphasis supplied]

3. In view of the law enunciated by the Supreme Court in the case of **Vivek Krishna**, supra, the writ petition is dismissed. There will be no order as to costs.

(T.R., ACJ.) (D.B.C., J.)
09.01.2023

Index : No
Neutral Citation : No
sasi

To

The Secretary,
Union of India,
Ministry of Home Affairs,
North Block,
Cabinet Secretariat,
Raisina Hall, New Delhi.



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T.RAJA, ACJ.
AND
D.BHARATHA CHAKRAVARTHY, J.

(sasi)

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