



W.P(MD)No.5673 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.5673 of 2023

and

W.M.P(MD) Nos.5279 & 6247 of 2023

V.Elayaperumal

... Petitioner

Vs.

- 1.The District Collector
Thoothukudi District,
Thoothukudi.
- 2.The Assistant Collector
Thoothukudi,
Thoothukudi District.
- 3.The Tahsildar
Srivaikundam Taluk,
Thoothukudi District.
- 4.The Executive Engineer
Public Works Department (WRO),
Thamirbarani Basin Division,
Tirunelveli.



W.P(MD)No.5673 of 2023

5.The President

Thamirabarani - Maruthur, Melakkal,
Vellurkulam Water users Association
Vellur,
Srivaikundam Taluk,
Thoothukudi.

... Respondents

(Respondent No.5 is impleaded as per order
of this Court dated 11.04.2023 in
W.M.P(MD) No.6247 of 2023)

PRAYER : Writ Petition is filed under Article 226 of the Constitution of
India praying to issue a Writ of Mandamus directing the respondents 1
and 2 to hear the objections of the petitioner / ayacutdhar before
finalizing the voters list for the election of Thamirabarani - Maruthur,
Melakkal, Vellurkulam Water users Association.

For Petitioner : Mr.R.J.Karthick

For Respondents : Mr.N.Muthu Vijayan - for R1 to R4
Special Government Pleader

Mr.Ragul Raja - for R5

ORDER

There has to be an elections for the Thamirabarani -
Maruthur, Melakkal, Vellurkulam Water Users Association, Vellur,
Srivaikundam Taluk, Thoothukudi District.



W.P(MD)No.5673 of 2023

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2. The elections are conducted on the voters' list as prepared by the District Collector. Voters' list are normally prepared on the basis of the revenue records. If the land owners name is reflected in the revenue records then, such land owners are also reflected in the voters' list . The name of the petitioner herein was found in the voter's list. The petitioner had no grievance at that particular point of time. A Writ Petition in W.P.(MD) No.4364 of 2023 came to be filed by one R.Muthuraja and a learned Single Judge of this Court by an order dated 02.03.2023 issued a direction that the voters' list should be re-examined. The voters' list was thereafter re-examined consequent to such directions and of all the persons, the petitioner name was removed. This has given cause to the petitioner to file the present writ petition. Before filing the present writ petition, the writ petitioner appears to have given a representation on 10.03.2023.

3. All these litigations, would only frustrate the object of conducting elections. Conducting the elections is the prerogative of the officials nominated and stated in the Tamil Nadu Farmers Management of Irrigation Systems Act, 2000, and the writ jurisdiction should never be



W.P(MD)No.5673 of 2023

invoked either to finalise the voters' list or to examine the correctness of the voter's list or to direct how the elections are to be conducted. The Writ Court is certainly not the Election Officer to conduct the election.

4. At any rate, a direction is given to the first respondent to further direct the second respondent to examine the representation of the petitioner in the light of the fact that the name of the petitioner was found in the draft voters' list as Serial No.369. The provisions of the Act may also be examined by the authorities. It is trite in law to point out that if any name is to be removed from the draft voters' list then that particular individual must be put on notice. One of the fundamental principles which guide democracy is that every person who has a right to vote should be permitted to exercise such right to vote and if that is to be denied, then proper reasons must be adduced for such denial. The petitioner's name was found in the draft voters' list and if it is to be removed by any official act, the petitioner should and must be put on notice. His explanation must be heard. He must be given an opportunity.



W.P(MD)No.5673 of 2023

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5. I would therefore, issue a direction to the first respondent who may direct the second respondent to examine the representation of the petitioner, examine whether the petitioner is a resident of that particular village, examine whether the petitioner can be classified as a member of Thamirabarani - Maruthur, melakkal, Vellurkulam Water Users Association, Vellur, Srivaikundam Taluk, Thoothukudi District, examine whether the name of the petitioner is found in the revenue records and thereafter, also examine as stated by the learned counsel section 4(2) of the Tamil Nadu Farmers Management of Irrigation Systems Act, 2000, and pass necessary orders. The said order may be passed within a period of 10 working days from the date of receipt of a copy of this order, since it touches upon the fundamental right of a individual to exercise his vote.

6. No further orders are required.

7. W.M.P.(MD) No.6247 of 2023 had been filed to implead the Association represented by the President. Since the association is the



W.P(MD)No.5673 of 2023

object of the entire exercise as the office bearers will have to be elected,
the said **W.M.P(MD) No.6247 of 2023 is allowed.**

8. The Registry before issuing the order copy may carry out necessary amendment by indicating the proposed respondent as a fifth respondent in the Writ Petition.

9. With the above direction, the Writ Petition stands disposed of. No costs. Consequently, connected W.M.P(MD) No.5279 of 2023 is closed.

11.04.2023

Index : Yes/No
Internet : Yes/No
NCC : Yes / No

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Note : Issue Order copy on 12.04.2023

Note: Registry is directed to carry out necessary amendment in the cause title



W.P(MD)No.5673 of 2023

To
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W.P(MD)No.5673 of 2023

C.V.KARTHIKEYAN, J.

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W.P(MD)No.5673 of 2023

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