



W.P.(MD)No.6289 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.(MD)No.6289 of 2023

and

W.M.P.(MD)Nos.5974 and 5976 of 2023

Daniel Kumar

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Represented by its Secretary,
Public Works Department,
Fort St.George,
Chennai - 600 009.
2. The District Collector,
Trichy District,
Trichy.
3. The Tahsildar,
Marungapuri,
Trichy District.
4. The Chief Engineer,
PWD Water Resources Department,
Trichy Region,
Trichy District.



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5. The Assistant Executive Engineer,
PWD Water Resources Department,
Manapparai,
Trichy District.

6. The Assistant Engineer,
PWD Water Resources Department,
Manapparai,
Trichy District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records pertaining to the impugned notification issued by the second respondent vide his proceedings in Na.Ka.No.A1/30341/2019, dated 03.03.2023 and quash the same as illegal.

For Petitioner : Mr.M.Pitchai Muthu

For Respondents : Mr.J.Ashok
Additional Government Pleader

O R D E R

This Writ Petition has been filed in the nature of certiorari seeking records relating to impugned notification issued by the second respondent / District Collector, Trichy District in proceedings in Na.Ka.No.A1/30341/2019, dated 03.03.2023 and quash the same.



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2. In the affidavit filed in support of the Writ Petition, the writ petitioner had stated that he is a resident of No.13, T.Idayapatti, Marungapuri Taluk, Trichy District. He claimed that he is residing in the said address. He also stated that his father had died. He also stated that he has extensive properties in and around the village. He does agricultural activities in the land. It is also stated that an Association has been formed called 'Nellikulam Water Users Association' under the Tamil Nadu Agriculturist Water Users Association Act, 2000. He also stated that the respondents, namely, the second respondent / the District Collector, Trichy District, the third respondent / the Tahsildar, Marungapuri, Trichy District, the fourth respondent / the Chief Engineer, PWD Water Resources Department, Trichy District, the fifth respondent / the Assistant Executive Engineer, PWD Water Resources Department, Manapparai, Trichy District and the sixth respondent / the Assistant Engineer, PWD Water Resources Department, Manapparai, Trichy District and the first respondent / The Government of Tamil Nadu, Represented by its Secretary, Public Works Department, Chennai, conduct elections for the post of President and Members of the Managing Committee of the said 'Nellikulam Water Users



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Association'. It had been stated that the second respondent had issued aforementioned notification on 03.03.2023 for conducting election for new President and Members of the Managing Committee. It is scheduled to be taken place on 26.03.2023. Filing of nomination was on 13.03.2023. The final voters list was also issued.

3. It had been stated by the petitioner that the persons who own agricultural lands and are carrying on agriculture activity by using Nellikulam Water, are persons to be listed as members by the second respondent in accordance with the Tamil Nadu Agriculturalist Water Users Association Act, 2000. It is stated that all those persons are eligible to vote in the election. The petitioner also stated that he has agricultural land in the said village and therefore, he is also an eligible person to be added in the list. He also uses Nellikulam Water for agricultural purpose for his land. He found that his name was not added in the list. He was not in a position to participate in the election. He was not in a position to vote in the election. It is claimed that like him, there are a number of eligible persons whose names have been left out in the list.



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4. It is under those circumstances, has the present Writ Petition been filed seeking to quash the entire election notification. Along with the Writ Petition, the petitioner had enclosed a string of documents including the notification and also the list of vote.

5. In the list of voters, the name of the father of the petitioner is found. In the revenue records, for the lands of the petitioner which the petitioner claims to own, the name of the father alone is to be found.

6. The grievance of the petitioner is that the father had died and subsequently, the name of the petitioner should have been reflected as owner of the land and that his name should also have been reflected as one of the voters and therefore, expressing that his name has been left out, he seeks to quash the entire election notification.

7. I am afraid that I am not in a position to consider that particular request made by the petitioner. Even on the earlier hearing date, the petitioner was asked to produce his credentials, namely, the details relating



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to his documents.

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8. Today, the Aadhar Card and the Voters Identification Card have been produced by the petitioner herein.

9. It is complained by the learned counsel for the petitioner that there has been violation of Rule 4 of the Tamil Nadu Agriculturalist Water Users Association Act, 2000. The said Rule 4, is as follows:

"4.Preparation of Landholders list, Voters list and Water Users List:-

*(1) The Collector shall prepare the list of landholders on the basis of **records of rights, in Form V.** On the basis of the list so prepared, he shall prepare the **territorial constituency-wise voters list in Form V-A** consisting of those landholders who have **completed eighteen years of age as on the date of issue of notification for conducting elections** in a Water Users Association area for electing the President and Members of the Managing Committee of the Water Users Association area for electing the President and Members of the Managing Committee of the Water Users*



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Association.

(2) The lists prepared under sub-rule (1) shall be displayed on the notice board of the office of the concerned village panchayat and panchayat union.

*(3) Before finalizing the lists mentioned in **sub-rule (1)**, the Collector shall invite objections against inclusion of any name. Any objection for the inclusion of any name in the said voters list shall be in **Form VI** and any representation for inclusion in or deletion from the said voters list as the case may be shall be in **Form VII and Form VIII** respectively. The Collector shall consider all such objections within a week and finalise such lists, by appending the names to be deleted or incorporated, at the end of the each list and final notice thereof shall be published in **Form IX in respect of voters list** and be made available for verification.*

(4) Each land holder in the Water Users Association area shall have one vote only irrespective of his land holdings in the said area. In case of a land holder holding ayacut lands in more than one Water Users Association, though he will have the voting rights in all such Water Users Associations, but can hold only one official post in any one of them.



*(5) (a) In case, a land holder has land **in more than Territorial Constituency of a Water Users Association area**, the land holder shall opt for only one Constituency for voting by giving a declaration as specified **in Form X** to the Collector.*

*(b) In case no such option is exercised by the land holder the **Collector shall allot** his vote to the constituency in which the landholder holds the **maximum extent of land**; where such land held is the **same in two territorial** constituencies any of the constituency may be allotted and his decision shall be final.*

*(6) The lists prepared under sub-rule (1) **shall be revised six months** before the commencement of the elections in the manner specified in sub-rules (1) to (5)."*

10. A reading of the above Rule shows that the Collector should first:

(i) Prepare a list of the land holders;

(ii) This list must be prepared on the basis of the Records of the

Rights and

(iii) On the basis of the list of land owners, he must prepare the constituency-wise voters list.



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11. It is, thus, seen that the steps which the second respondent / District Collector has to take is to first prepare the list of land owners. Admittedly, in the revenue records, with respect to the lands for which, the petitioner claims title, the name of the father is still found. There is no direct answer given as to why the petitioner had not mutated his name as the land owner subsequent to the death of his father.

12. The learned counsel stated that the petitioner had several brothers and that it would have been a long drawn process and therefore, the name of the petitioner was not included as the owner of the lands in the revenue records.

13. In the affidavit, he has not disclosed as to who are the legal heirs of his father. All of them have an equal right to be recognized as land owners after the death of the father. The petitioner cannot take that particular right for himself alone. There is no explanation given as to why the name of the father is still reflected in the revenue records.



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14. The Collector cannot presume and assume a particular individual's death, unless information is given to him. The first source of information about the death is by the very same family members of that particular family. The petitioner should have had the responsibility to inform the revenue authorities that his father had died and seek to mutate his name in the revenue records. If there are internal problems within the family members, then, the revenue authorities cannot go to the rescue of the petitioner herein. Since the revenue records still reflect the name of the father of the petitioner, and the voters list is also prepared accordingly, the voters list only had the name of the father.

15. The learned counsel for the petitioner specifically relied on Rule 6 which had been extracted above namely, that the list should have been revised six months before the commencement of the elections in the manner specified in sub Rules (1) to (5).



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16. There would be a revision of a particular name only if that said individual had died or for any other reason, the name has to be struck off from the voters list. A persons' names cannot be struck off from the voters list, if there is no definite information about his death.

17. Primarily as stated, the principal persons who can inform about the death of a person are the family members. Unless that fact has been informed by the petitioner that his father had died, the name of the land owner will not be changed in the records.

18. It is also specifically stated by the respondents that a draft list of the voters had been put up. The petitioner had not given any representation. The petitioner had not enclosed any representation. The petitioner had not protested at that particular point of time when the draft list was put up that the name of the father should be deleted and that his name should be incorporated, even then, his name alone will not be incorporated. The petitioner cannot claim exclusive right as land owner. There are other members of his family. Their details are not given.



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19. The petitioner cannot seek that the entire election should be struck down. His fault is that he had not informed the death of his father and had not taken steps to include him as the land owner. His fault is not examining the draft voters list. Even in the draft list, his name was not included since there was no mutation of his name in the revenue records.

20. This Writ Petition fails and hence, it is dismissed. Consequently, connected Miscellaneous Petitions are closed. There shall be no order as to costs.

24.03.2023

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

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