



W.P(MD)No.14288 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2023

CORAM :

**THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
The HON'BLE MR.JUSTICE P.VADAMALAI**

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Harinath

... Petitioner

Vs.

1.The Commissioner,
Rameswaram Municipality,
Rameswaram,
Ramanathapuram District.

2.The Chairman,
Rameswaram Municipality,
Rameswaram,
Ramanathapuram District.

3.Murugan @ JRM Murugan

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus, to direct the first respondent to take appropriate action as against the third respondent as per Section 32 of the Tamilnadu Urban Local Bodies Act, 1988 by considering the petitioner's representation, dated 20.05.2023 and to disqualify the third respondent from the Post of Councillor of the first respondent Municipality within the time that may be stipulated by this Court.



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For Petitioner : Mr.S.Jeyakarthik
For R-1 : Mr.M.Kannan
For R-2 : No Appearance
For R-3 : Mr.M.Ajmal Khan,
Senior Counsel, for
M/s.Ajmal Associates

ORDER

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

We have heard Mr.S.Jeyakarthik, learned counsel for the petitioner, Mr.M.Kannan, learned counsel for the first respondent and Mr.M.Ajmal Khan, Senior Counsel for M/s.Ajmal Associates, learned counsel for the third respondent.

2. The learned counsel for the petitioner submits that the third respondent is elected as Councillor of the second respondent Municipality in March, 2022. The wife of the third respondent was awarded a contract by the second respondent on 28.07.2022. In view of Section 32(1)(e) r/w Section 12(6)(c) of the Tamil Nadu Urban Local Bodies Act, 1998, the third respondent incurs disqualification and is required to be disqualified.



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3. The learned counsel for the third respondent submits that the Tamil Nadu Urban Local Bodies Act, 1998, came into force with effect from 13.04.2023. Prior to that, the Tamil Nadu District Municipalities Act, 1920, was applicable. There was no disqualification prescribed under the Tamil Nadu District Municipalities Act, 1920. The work was given to the wife of the third respondent on 28.07.2022 and it was work for three days, which came to an end before 31.07.2022. No work was subsisting as on the date the Tamil Nadu Urban Local Bodies Act, 1998, was brought in force.

4. We asked the learned counsel for the petitioner as to the date on which the Tamil Nadu Urban Local Bodies Act, 1998, came into force. The learned counsel for the petitioner accepts that the said Act came into force on 13.04.2023.

5. Section 50 of the Tamil Nadu District Municipalities Act, 1920, only prescribed that the person should not acquire any interest in subsisting contract made with, or work being done, for the council. The provision was not elaborate as the one under the Tamil Nadu Urban Local Bodies Act, 1998.



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6. If the Tamil Nadu Urban Local Bodies Act, 1998, would have applied, then certainly the case of the petitioner was required to be considered to disqualify the third respondent. However, as admittedly, the Tamil Nadu Urban Local Bodies Act, 1998, was not applicable as on the date the transaction was entered into.

7. The relief claimed by the petitioner cannot be granted. The writ petition as such is disposed of. No Costs.

(S.V.G., CJ.)

(P.V.M., J.)

28.08.2023

NCC :Yes/No
Index :Yes/No
PM



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THE HON'BLE CHIEF JUSTICE
and
P.VADAMALAI, J.

PM

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