



WP(MD)No.22858 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP (MD) No.22858 of 2023

and

WMP (MD) Nos.19101 and 19104 of 2023

Subramanian

... Petitioner

Vs

- 1.The District Collector,
Tirunelveli Collectorate,
Tirunelveli - 627009.
- 2.The District Revenue Officer,
Tirunelveli,
Tirunelveli District.
- 3.The Revenue Divisional Officer,
Palayamkottai,
Tirunelveli District.
- 4.The Tahsildar,
Palayamkottai,
Tirunelveli District.
- 5.The Superintending Engineer,
Water Resource Department,
Tamilraparani Water Basin Sub Division,
Palayamkottai,
Tirunelveli District.
- 6.The Executive Engineer,
Water Resource Department,
Tamilraparani Water Basin Sub Division,
Palayamkottai, Tirunelveli District.



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7. The Assistant Engineer,
Water Resource Department,
Tamilraparani Water Basin Sub Division,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for a writ of certiorarified mandamus calling for the records pertaining to the impugned order passed by the 1st respondent vide office proceedings Na.Na.Oo. 6/14032/2019, dated 29.08.2023 published in the Tirunelveli District Gazette and quash the same as illegal and consequently direct the 1st respondent to include the petitioner's name and those names of the real land owners and farmers who filed claim petitions to include their names as per established law in the present voter list by considering the petitioner's representation dated 11.09.2023 and conduct the election within a stipulated time that may be fixed by this Court.

For petitioner : Mr.R.Karunanidhi

For Respondent : Mr.M.Sarangan,
Nos.1 to 3 Additional Government Pleader

ORDER

The petitioner with a grievance that his name has not been included in the eligible voters' list



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for the election for the water users association has submitted a representation to the authority concerned and his request has been rejected. Challenging the same, this writ petition has been filed.

2.The learned Counsel for the petitioner submits that he is one of the users of Naiynar Water Tank and is eligible to be a member of Naiynar Kulam Water Users Association. Though the petitioner has purchased the property and is eligible to become a member of the Association, the 1st respondent has not provided any opportunity to him for enrolling himself themselves as the member of the said Association. The learned Counsel has filed a typed set of papers stating that with the voters list, which was prepared twenty years ago, the 1st respondent / the District Collector is proceeding with the election, without including the actual members and eligible voters.

3.The learned Counsel also demonstrated that in the published eligible voters list, 44 persons are dead and there is no drive for enrolling the new



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eligible persons / the legal heirs of those dead and those who have purchased lands in the past 10 years. He has also relied on the Rules 4, 5 and 6 of the Tamil Nadu Farmer's Management of Irrigation System Election Rules, 2003 and submits preparation of landholders list and water users list have not been prepared as contemplated under the above Rules.

4.The learned Additional Government Pleader submits that the District Collector by his proceedings dated 01.08.2022 called upon this Tahsildar to finalise the eligible voters list. Accordingly, the eligible voters list have been identified. Even before that on 25.09.2022, the notification has been made to the public through a Tamil Daily dated 25.09.2022 calling upon the users to enroll themselves in Form V and V-A, however, the petitioner has not utilised the opportunity. The voters list has been published on 30.01.2023, Gazette publication was made on 12.05.2023 and , the notification was issued on 03.09.2023. Only thereafter, the petitioner has made a representation



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on 11.09.2023. The learned Additional Government Pleader also emphasised that this petitioner is the Ward Member in Tirunelveli Municipal Corporation. The petitioner is not having any *locus standi* to maintain this writ petition as he is not having any patta nor any adangal to show that he is the user of Nainyar Kulam.

5.This Court considered the rival submissions and perused the materials placed on record.

6.The preparation of the lists of eligible voters and the water users are stated under Rules 4, 5 and 6 of the Tamil Nadu Farmer's Management of Irrigation Systems Election Rules, 2003 and the said Rules are extracted hereunder:

"4. Preparation of landholders list, voters list and water users list.

- (1) The Collector shall prepare the list of landholders on the basis of record of rights in Form-V. On the basis of the list so prepared, he shall



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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.

(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



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

(5) (a) In case, a landholder has land in more than one Territorial Constituency of a Water Users Association area, the landholder 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 landholder, the



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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 maybe 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).

5. Appeal for correction of voters list.— If any discrepancy has been noticed by any person, in respect of the voters list prepared under rule 4, such person may prefer an appeal to the Commissioner whose decision shall be final.

6. Delineation of Distributory Committee Area.— (1) The Government may, keeping in view the operational viability and in consultation with the Collectors, for the purpose of constituting the Distributory Committee, delineate the command area



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for major and medium irrigation system in Form-Ill and declare them as Distributory Committee areas as they consider proper.

(2) In delineating a Distributory Committee area, no Water Users Association area shall be divided or bifurcated into parts.

[(3)The Collector shall prepare the voters list for the election of the President and members of the Managing Committee of the Distributory Committee. The voters list shall be in Form V-B.]”

7.The learned Additional Government Pleader has also produced the proceedings of the District Collector addressed to the Tahsildar in Na.Ka.No.Oo.6/14032/2019, dated 16.09.2022, calling upon them to finalise the voters list and FORM V and V-A were also directed to be published in all offices of the Village Administrative Officer and Office of the Panchayat President for



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the perusal of the public from 19.07.2022 to 28.09.2022. As per the request of the District Administration, it was also published in Tamil Daily Hindu on 25.09.2022. Though the petitioner claims that he has purchased the land on 05.05.2017, it appears that the petitioner has not taken any steps to get the patta transferred in his name. Similarly he is not having any adangal to show that he is cultivating in the lands. The petitioner has also failed to apply in Form V and V-A to enroll himself a member of the water users association as notified in the paper publication on 25.09.2022. The election notification has already been made on 07.09.2023.

8.The Courts are not expected to interfere with the election process as a matter of routine, unless and until there is any malafidness in the election process. Here in this case, the petitioner has not taken any steps to enroll



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himself as a member, but has approached this Court and at this stage this Court is not inclined to interfere with the election process. Therefore, this writ petition is dismissed with liberty to the petitioner to obtain patta and adangal for his land and thereafter, approach the authorities in Form V and Form V-A to enroll himself as a member. No costs. Consequently connected miscellaneous petitions are closed.

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

DSK
To

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B . PUGALENDHI , J .

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