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W.A(MD)Nos.1494 & 1495 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.A(MD)Nos.1494 & 1495 of 2022
and
C.M.P(MD)Nos.12374 & 12382 of 2022**

W.A(MD)No.1494 of 2022:-

Prabha

... Appellant/3rd Party

vs.

1.Ravichandran

... 1st Respondent/Writ Petitioner

2.The District Collector,
Office of the District Collector,
Pudukkottai District.

3.The Revenue Development Officer,
Pudukkottai, Pudukkottai District.

4.The Tahsildar,
Thirumayam Taluk,
Pudukkottai District.

... Respondents 2 to 4/
Respondents 1 to 3

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 18.11.2022 passed in W.P(MD)No.26060 of 2022, on the file of this Court.

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For Appellant	: Mr.B.Saravanan for Mr.C.Jeganathan
For R – 1	: Mr.D.S.Haroon Rasheed
For RR 2 to 4	: Mr.R.Baskaran Additional Advocate General Assisted by K.Balasubramanian Special Government Pleader

W.A(MD)No.1495 of 2022:-

- 1.Ramaiah
- 2.Dharmalingam
- 3.Kailasam

... Appellants/3rd Parties

vs.

- 1.Udaiappan
- 2.The District Collector,
Office of the District Collector,
Pudukkottai District.
- 3.The Tahsildar,
Thirumayam Taluk,
Pudukkottai District.
- 4.The Assistant Executive Engineer,
Water Resource Department,
South Pambaru Basin Division,
Karaikudi Road,
Thirumayam Taluk,
Pudukkottai District.

... 1st Respondent/Writ Petitioner

... Respondents 2 to 4/
Respondents 1 to 3



W.A(MD)Nos.1494 & 1495 of 2022

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 18.11.2022 passed in W.P(MD)No.26009 of 2022, on the file of this Court.

For Appellant	: Mr.C.Jeganathan
For R – 1	: Mr.A.Balaji
For RR 2 to 4	: Mr.R.Baskaran Additional Advocate General Assisted by K.Balasubramanian Special Government Pleader

COMMON JUDGMENT

[Judgment of the Court was made by D.KRISHNAKUMAR, J.)

Challenging the orders passed by the learned Single Judge in W.P(MD)Nos.26060 & 26009 of 2022 dated 18.11.2022, the appellants/third parties have filed the instant Writ Appeals.

2.The first respondent/writ petitioner-Ravichandran filed a Writ Petition in W.P(MD)No.26060 of 2022, directing the respondents to conduct the Election for PAM-057 Singanan Kanmoi, Kurichi Kanmoi, Karukkankudi Kanmoi Water Users Association, after publishing the fresh voters list



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consisting of actual land holders and after deleting the dead person names and deleting the erstwhile land holders name, by considering the petitioner's representation dated 12.11.2022.

3.The first respondent/writ petitioner-Udaippan filed a Writ Petition in W.P(MD)No.26009 of 2022, to quash the impugned election notification passed by the first respondent vide No.34, dated 26.10.2022 in Pudukottai District Gazette and consequently, directing the first respondent to publish the election notification afresh, by following the due process of law.

4.This Court, by order, dated 18.11.2022, after hearing the parties on merits, passed a detailed order directing the authorities concerned to rectify the errors in the voters list and the landholders should be given an opportunity to submit their applications for inclusion of their names or deletion of their names on or before 28.11.2022 and the same shall be considered and a fresh list be prepared on or before 09.12.2022 and the same shall be published on 12.12.2022 and the election to be held on 17.12.2022 and further directed that the same shall be informed to all the Ayacutdhars by using the Megaphone method or any other method to be



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followed. It is made clear that this Court is not inclined to quash the election notification, however, directs the respondents to postpone the date of election to some other date, as mentioned above to follow the certain rules. With the above directions, these Writ Petitions were disposed of.

5.Assailing the orders passed by the learned Single Judge in W.P(MD)Nos.26060 & 26009 of 2022 dated 18.11.2022, the appellants/elected candidates have filed the intra court appeals before this Court.

6.One of the contention raised by the learned counsel appearing for the appellants is that though the Writ Petitions were filed on 14.11.2022, the Election Commissioner has issued the election certificate to the elected candidates viz., Prabha, Ramaiah, Dharmalingam and Kailasam, who are the appellants herein, on 11.11.2022. The aforesaid facts were not brought to the notice of this Court by the Election Officer at the time of hearing the Writ Petitions.

7.The learned Additional Advocate General, on instructions, has not refuted the said facts. Therefore, we are of the view that the concerned



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officials have not given proper instructions to the learned Additional Advocate General appearing before this Court and the concerned officer must appraise the facts of the case to the law officers, especially, to the learned Additional Advocate General, but on the facts of the case, where the law officers have not properly instructed the learned Additional Advocate General on the hearing date. Thus, the Writ Court heard the arguments of all the parties concerned and passed a detailed order, which according to this Court, is unnecessarily wasting the judicial time by passing such an order. At that time, there is no adjudication required in the Writ Petitions in the light of the fact that the Election Commissioner has already issued the certificates in the Writ Petitions. Further, the appellants also preferred the present Writ Appeals challenging the said order which was also causing irreparable loss and hardship to the appellants, because of not properly placing these facts before the Writ Court.

8. When the Writ Appeals came up for hearing on 15.12.2022, we passed the following order:-

Challenging the orders passed by the learned Single Judge, dated 18.11.2022 made in W.P(MD)Nos.26060 and 26009 of 2022, the appellants/third parties have filed the instant Writ Appeals.



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2. At the time of hearing of the writ petitions, in W.P(MD)Nos.26060 and 26009 of 2022, Mr.R.Baskaran, learned Additional Advocate General appeared for the respondents 2 to 4 and after the submission of the respective parties concerned, the Writ Court has directed the respondents 2 to 4 to postpone the date of election and to finalize the voters. Challenging the said orders, the appellants have preferred writ appeals before this Court stating that on 11.11.2022, since no one has filed any nomination and hence, the appellants were declared as elected by the Election Officer and issued the certificates to the elected candidates. The said fact was not placed before this Court on 18.11.2022. Resulted, the Writ Petitions were disposed of with direction. Therefore, according to the appellants, the orders passed by the Writ Court cannot be implemented by the authority concerned, unless the said selection has been set aside by the authority concerned. The learned Additional Advocate General admitted that the aforesaid fact was not placed before the Writ Court, at the time of hearing the Writ Petitions.

3. Today, when the matter is taken up for hearing, Mr.R.Baskaran, learned Additional Advocate General appeared before this Court and fairly submitted that the authority concerned has not given proper instructions to him for placing the aforesaid relevant material.



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4. *Not only in the instant case, we come across several cases that the concerned officials have not given the proper instructions to the Law Officer, particularly, to the learned Additional Advocate General, who is holding the highest post of the law officers and only the Assistant and Superintendent have been assisting the learned Additional Advocate General. At the time of hearing of the cases, this Court has already informed to the learned Government Pleader to issue necessary instructions of the Officer concerned for assisting the learned Additional Advocate General.*

5. *The Chief Secretary, the Government of Tamil Nadu, Secretariat, Chennai – 600 009 shall issue necessary instructions to all the Secretaries and to the concerned District Collectors to appraise the facts of the case to the learned Additional Advocate General at the highest level of the officials in-charge of the case concerned.*

6. *Considering the facts and circumstances of the case, there shall be an order of interim stay for a period of four weeks.*

7. *Notice to the respondents returnable by four weeks. Private notice is also permitted.*

8. *Post on 19.01.2023.”*



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9.Pursuant to the order, dated 15.12.2022, the Chief Secretary has issued D.O.Letter No.1146/L.O/2022-1, dated 18.01.2023 and the relevant paragraphs are extracted hereunder:-

"2.In order to present the true facts before the Hon'ble High Court, it is necessary that the facts are appraised appropriately and properly to the Law Officers, including the learned Additional Advocate General. It is therefore, imperative that officials at the appropriately highest level brief the law officers concerned in all the cases, so that, all the facts can be presented before the Hon'ble High Court properly.

3.In view of the above, all the Secretaries, the Head of the Departments and the District Collectors are directed to ensure that the above directions of the Hon'ble High Court is complied with, without fail."

10.On coming to the facts of the case, the appellants were declared as elected candidates by the Election Commissioner on 11.11.2022 and election certificates have also been issued and as such, the prayer



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sought for by the first respondent/writ petitioners have become infructuous and the orders passed by the Writ Court are liable to be set aside and consequently, the impugned orders passed by the learned Single Judge in W.P(MD)Nos.26060 & 26009 of 2022, dated 18.11.2022, are set aside.

11.We make it clear that the appellants as elected candidates, have filed the Writ Appeals and the certificates have also been issued by the Election Officer, therefore, the orders passed by the Writ Court will not have any affect on the appellants, viz., Prabha in respect of PAM057, Singanam Kanmoi, Kurunchi Kanmoi, Karankakudi Kanmoi situated at Kurichi Village Thirumayam Taluk, Pudukkottai District; Ramaiah in respect of PAM054 Chettikanmoi, Marichalankaathan Kanmoi, Prathankudi Kanmoi and Idayan Kanmoi situated at Valaramaanickam and Idaiyanvayal Village, Thirumayam Taluk, Pudukkottai District; Dharmalingam in respect of PAM056 Kulikattan Kanmoi, Nali Kanmoi, Antic Kanmoi, Nemmeli Kanmoi and Ilangudi Kanmoi situated Kurichi Village, Thirumayam Talum, Pudukkottai District and Kailasam in respect of PAM052 Regunatha Samithriram Kanmoi situated at Valavamanthan Village, Thirumayam Taluk, Pudukkottai District, who are elected as President 11.11.2022. These Appeal Orders are applicable only for the appellants alone and not for others, who have not preferred any appeal

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as against the order passed by the writ Court. Therefore, we are not expressing any view on the orders passed by the learned Single Judge in W.P(MD)Nos.26060 & 26009 of 2022, dated 18.11.2022. We clarify the said orders and the orders passed by the Writ Court is modified to the extent.

12.Accordingly, these Writ Appeals are partly allowed to the extent as stated above. Liberty is also granted to the first respondent/writ petitioners, to challenge the election before the appropriate forum in the manner known to law, if they are so advised. No costs. Consequently, the connected Miscellaneous Petitions are closed.

[D.K.K.,J.] & [R.V.,J.]
31.01.2023

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

- 1.The District Collector,
Office of the District Collector,
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- 2.The Revenue Development Officer,
Pudukottai,
Pudukkottai District.
- 3.The Tahsildar,
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D.KRISHNAKUMAR,J.

and

R.VIJAYAKUMAR,J.

ps

**ORDER MADE IN
W.A(MD)Nos.1494 & 1495 of 2022**

31.01.2023