



C.R.P(MD).No.2542 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P(MD).No.2542 of 2022

and

CMP(MD)No.12473 of 2022

M.Arumugam

... Petitioner/5th Respondent/5th Respondent

Vs.

1.K.Paramasivam

2.The District Election Officer,
The District Collector,
Tiruchirappalli District,
Tiruchirappalli.

3.The Election Commissioner,
State Election Commission,
State of Tamil Nadu,
No.208/2, Jawaharlal Nehru Street,
Arumbakkam, Chennai – 106

4.The Returning Officer/The Block Development Officer,
For Ward No.14,
Musiri Panchayat Union, Musiri.

5.The Election Officer/The Block Development Officer,
Musiri Panchayat Union,
Musiri.

... Respondents 2 to 5/
Respondents 1 to 4/Respondents 1 to 4

6.B.Balakumar



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7.M.Balumani
8.K.Sridhar

... Respondents 6 to 8/Respondents 6 to 8/
Respondents 6 to 8

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PRAYER:- This Civil Revision Petition has been filed under Article 227 of the Constitution of India, to allow the civil revision petition by setting aside the fair and decreetal order passed in I.A.No.1 of 2022 in EL.O.P.No.21 of 2020 on the file of the Principal District Court, Tiruchirappalli, dated 22.11.2022.

For petitioner : Mr.H.Arumugam
For R1 : Mr.R.Narayanan
For R2, R4 & R5 : Mr.G.Siva Raja
Government Advocate
For R3 : No Appearance
For R6 to R8 : Ex-parte

ORDER

This petition has been filed to set aside the fair and decreetal order passed in I.A.No.1 of 2022 in EL.O.P.No.21 of 2020 on the file of the Principal District Court, Tiruchirappalli, dated 22.11.2022.

2.EL.O.P.No.21 of 2020 was filed by the first respondent herein to conduct recounting of all polled votes and declare the election proceedings of Ward No.14 of Musiri Panchayat Union as null and void and direct to conduct a fresh election. The petitioner herein is the fifth respondent in EL.OP.No.21 of 2020, who was declared as the winning candidate of Ward



No.14 of Musiri Panchayat Union. The first respondent has also filed an application in I.A.No.1 of 2022 in EL.O.P.No.21 of 2020 under Order XVI Rule 1 of CPC to give evidence and details of 16 FIRs that is pending against the petitioner herein by issuing summon to the witness namely, the Station House Officer, Tamil Nadu Prohibition Enforcement Wing, Musiri. The Trial Court has allowed that application filed by the first respondent.

3.The petitioner challenged the said impugned order on the ground that mere pendency of 16 FIRs against the petitioner is not a ground for disqualification. Though, the Election Petition was filed in EL.OP.No.21 of 2020 by the first respondent before the Principal District Judge, Tiruchirappalli, it is submitted that there is no pleading relating to alleged involvement of the petitioner in 16 FIRs that were filed against the petitioner by the Station House Officer, Tamil Nadu Prohibition Enforcement Wing, Musiri. It is submitted that in the absence of pleading in the Election Petition relating to the alleged involvement of the petitioner in 16 FIRs, the application should have not been allowed on account of no oral evidence.

4.On the other hand, the learned counsel for the first respondent/petitioner in EL.OP.No.21 of 2020 would submit that para 12 of



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the Election Petition is having sufficient details regarding allegations which includes insufficient declaration made by the petitioner at the time of filing of his nomination. Therefore, it is submitted that the present Civil Revision Petition is pre-mature and liable to be dismissed. Further it is submitted that the petitioner is attempting to scuttle the evidence which may be produced before the Trial Court at the time of trial in the Election O.P.

5.I have considered the submission advanced by the learned counsel for the petitioner, the learned Government Advocate, for the official respondents and the learned counsel for the respondents 6 to 8.

6.Para 12 of the Election Petition in EL.OP.No.21 of 2022 filed under Section 258 of Tamil Nadu Panchayat Act is wide enough to show that there is a challenge to the declaration made by the petitioner at the time of filing of his nomination. Only facts are to be stated in the Election Petition, based on which, reliefs are claimed. It is not necessary for the Election petitioner to plead the evidence in the petition.

7.In my view, there are no sufficient grounds which would warrant the Court to interfere under Act 227 of the Constitution. In any event, relevancy,



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admissibility of 16 FIRs which were summoned to be marked through the Station House Officer, Tamil Nadu Prohibition Enforcement Wing, Musiri, can be subject to test during argument at the time of final hearing in El.OP.No. 21 of 2020. Right have the petitioner to raise all the legal submissions relating to marking of 16 FIRs and other documents summoned stands preserved.

8.The documents that have been summoned can be marked subject to proof, relevancy and admissibility. This Civil Revision Petition is dismissed with the above observation. No costs. Consequently, the connected miscellaneous petition is closed.

09.03.2023

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

To

1.The Principal District Court,
Tiruchirappalli.

2.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court, Madurai.



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C.SARAVANAN,J.

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