



WEB COPY



W.P.No.3050 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.03.2024

CORAM :

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Petition No.3050 of 2024

and

WMP No. 3328 of 2024

I.Prakash

.. Petitioner

Versus

1. The Secretary,
Bar Council of Tamil Nadu & Puducherry
High Court, Gate No.4, NSC Bose Road
Chennai - 600 104

2. Mr. J. Cyrilmathis Vincent
Advocate, The Election Officer,
Pondicherry Bar Association, Puducherry.

3. Pondicherry Bar Association,
Integrated Court Complex,
Cuddalore Main Road,
Puducherry - 605 004

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents 1 and 2 to verify the Non-practicing advocates from the final voters list and exclude them who are disqualified to vote as per Rule 43.6 of the by - laws of Pondicherry Bar Association and thereafter issue fresh voter list and conduct the election thereby ensuring that the election is being conducted with genuine voters who are regularly practicing in Puducherry Courts by considering the petitioner's representation on 02.02.2024.

<https://www.mhc.tn.gov.in/judis>



W.P.No.3050 of 2024

For Petitioner : Mr. A. Thiagarajan, Senior Advocate
for Mr. D. Senthilkumar

For R1 : Mr. C. K. Chandrasekar

For R2 : Mr. John Zachariah
for M/s. Fox Mandal and Associates

For R3 : Mrs. Hema Sampath, Senior Advocate
for Mr. J. Kumaran

ORDER

(Order of the court was made by R. MAHADEVAN, J.)

Heard all the parties and perused the documents enclosed in the typed set of papers.

2. The prayer made in this writ petition is to issue a Writ of Mandamus, directing the respondents 1 and 2 to verify the inclusion of the name of Non-practicing advocates from the final voters list, exclude them as per Rule 43.6 of the bye - laws of Pondicherry Bar Association and thereafter, issue fresh voters list and conduct the election, thereby ensuring that the election is being conducted in a free and fair manner with genuine voters, who are regularly practicing in Puducherry Courts, by considering the petitioner's representation on 02.02.2024.



W.P.No.3050 of 2024

3. According to the petitioner, he is an advocate practicing in the Courts at Union Territory of Puducherry and Tamil Nadu. It is also stated that the petitioner is one of the members of Pondicherry Bar Association. The petitioner further stated that in response to the election notification issued by the first respondent, for conducting election to the Bar Council of Puducherry on 15.02.2014, he submitted his nomination for contesting the post of Executive Member. The grievance of the petitioner is that in the final list of voters published by the respondents, several persons, who are not practicing in the Courts at Puducherry, have been included. It is also his submission that those who are not practicing, should not be permitted to vote and their inclusion is against the spirit of Clause 43 of the amended bye-laws of the Pondicherry Bar Association. Stating so, the petitioner submitted a representation dated 02.02.2024 to the respondents, seeking to exclude the names of those non-practicing advocates in the final voters list. As the said representation has not been considered, he has filed this writ petition for the relief stated *supra*.

4. When this writ petition was taken up for hearing on 14.02.2024, this Court passed the following order:

At the request of the learned counsel appearing on either side, post this matter on 26.02.2024. In the mean while, both the parties are directed to



W.P.No.3050 of 2024

WEB COPY

file eligible voters list by serving an advance copy to the Bar Council of Tamil Nadu and Puducherry, on which basis, the Bar Council shall verify and file a report as to the eligible voters, before this court for consideration, so as to constitute a Teller Committee for the purpose of conduct of elections.

2.Till such time, all further proceedings pertaining to election, shall be kept in abeyance."

5. Pursuant to the aforesaid order, the first respondent filed a report dated 15.03.2024 stating that they received the voters list from the Pondicherry Bar Association with 1164 members. On verifying the same, it was found that only 821 are eligible voters and others come under "other defects". Subsequently, the first respondent received another voters list from the Pondicherry Bar Association and it was verified with the Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015. After verification, it was noticed that as on 15.03.2024, 1029 advocates are eligible to cast their franchise in the ensuing Pondicherry Bar Election.

6. By filing separate memos dated 15.03.2024, the report filed by the first respondent to the effect that only 1029 advocates / members of the third respondent, Pondicherry Bar Association, are eligible voters to cast their vote to the election of the third respondent, was accepted by the petitioner as well as the third respondent. They also accepted for the final voters list to be published by the first respondent accordingly.



W.P.No.3050 of 2024

WEB COPY

7. That apart, the learned counsel for the third respondent filed a memo suggesting Mr.G.Sendil Kumar, District Judge & Law Secretary for Government of Puducherry (Retd), residing at No.102, Bussy Street, Puducherry-1, to be appointed as Election Officer, who also expressed his consent for acting as such for conducting the Pondicherry Bar Association Election, 2024, as per the bye-laws of the third respondent Association, for which, the learned counsel appearing for the petitioner has no serious objection.

8. In the light of the submissions and memos so filed by all the parties, we have no hesitation to direct the first respondent to proceed further, with regard to conduct of the election of the Pondicherry Bar Association. The interim order already granted by this court shall stand vacated. Accordingly, this writ petition stands disposed of, with the following directions:

(i)As agreed by all the parties, Mr.G.Sendil Kumar, District Judge and Law Secretary for Government of Puducherry (Retd), is appointed as Election Officer, who shall conduct the election of the third respondent Association, according to the bye-laws of the Association. In view of the same, the second



W.P.No.3050 of 2024

respondent / election officer already appointed shall stand discharged from the duty assigned to him,

(ii)The first respondent in consultation with the Election Officer, now appointed by this court, shall publish the final voters list consisting of 1029 advocates, within a period of two weeks from the date of receipt of a copy of this order.

(iii)The Election Officer shall fix the date for election, filing of nomination, counting of votes, declaration of result etc., and publish the same, within a period of four weeks

(iv)The members of the third respondent Association, including the petitioner, shall extend their fullest co-operation for conducting the election in a free and fair manner.

(v)The Election Officer shall complete the entire election process, within a period of eight (8) weeks from the date of receipt of a copy of this judgment and file a report before this court.



W.P.No.3050 of 2024

(vi)The Election Officer is entitled to receive a sum of Rs.1,00,000/-

apart from other incidental expenses, which shall be borne by the third respondent Association.

No costs. Consequently, connected miscellaneous petition is closed.

Post the matter, after filing of the report by the election officer.

[R.M.D, J.] [M.S.Q, J.]
18.03.2024

Internet : Yes

Index : Yes / No

av/rsh

To

1. The Secretary,
Bar Council of Tamil Nadu & Puducherry,
High Court, Gate No.4, NSC Bose Road,
Chennai - 600 104.
2. Mr.J.Cyrlmathis Vincent,
Advocate, The Election Officer,
Pondicherry Bar Association, Puducherry.
3. Pondicherry Bar Association,
Integrated Court Complex,
Cuddalore Main Road,
Puducherry - 605 004.



WEB COPY



W.P.No.3050 of 2024

R. MAHADEVAN, J
and
MOHAMMED SHAFFIQ, J

av/rsh

WP No. 3050 of 2024

18.03.2024