



W.P.Nos.27375 of 2019 & 12684 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.27375 of 2019 & 12684 of 2021

W.P.No.27375 of 2019

M.L.Ravi

.. Petitioner

Vs.

1. Chief Election Commissioner
Election Commission of India
Nirvachan Sadan
Ashoka Road
New Delhi 110 001.
2. Chief Electoral Officer
Public Elections Department, Tamil Nadu
Secretariat, Fort St. George
Chennai 600 009.
3. Returning Officer & District Collector
No.25, Perambalur Parliament Constituency
Perambalur Collectorate, Perambalur.
4. Returning Officer & District Collector
No.13, Villupuram Parliament Constituency
Villupuram Collectorate, Villupuram.



W.P.Nos.27375 of 2019 & 12684 of 2021

5. Returning Officer & District Collector
No.17, Erode Parliament Constituency
Erode District, Erode.
6. Returning Officer & District Collector
No.16, Namakkal Parliament Constituency
Namakkal District, Namakkal.
7. Returning Officer & District Revenue Officer
No.37, Tenkasi (SC) Parliament Constituency
District Collector Office, Tirunelveli.
8. President/General Secretary/Authorised Signatory
Dravida Munnetra Kazhagam (DMK)
Anna Arivalayam
Anna Salai, Chennai 600 018.
9. President/General Secretary/Authorised Signatory
All India Dravida Munnetra Kazhagam (AIADMK)
Lloyds Road, Royapettah
Chennai 600 014.
- 10.T.R.Paarivendhar
11.D.Ravikumar
12.A.Ganesha Moorthy
13.P.Chinraj
14.Dr.K.Krishnasamy .. Respondents

W.P.No.12684 of 2021

M.L.Ravi .. Petitioner

Vs.

1. Chief Election Commissioner
Election Commission of India
Nirvachan Sadan, Ashoka Road
New Delhi 110 001.
2. Chief Electoral Officer



W.P.Nos.27375 of 2019 & 12684 of 2021

WEB COPY

Public Elections Department, Tamil Nadu
Secretariat, Fort St. George. Chennai 600 009.

3. T.Sadhan Thirumalai Kumar
4. M.Bhoominathan
5. K.Chinnappa
6. A.R.R.Raghuraman
7. M.J.Jawahirullah
8. E.R.Eswaran
9. T.Velmurugan
- 10.M.Jagan Moorthy

- 11.President/General Secretary/Authorised Signatory
Dravida Munnetra Kazhagam - DMK
Anna Arivalayam
Anna Salai, Chennai 600 018.

- 12.President/General Secretary/Authorised Signatory
All India Anna Dravida Munnetra Kazhagam - AIADMK
Lloyds Road, Royapettah
Chennai 600 014.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking

(i) a writ of Mandamus directing the 1st respondent to declare the acceptance of the Form B submitted by respondents 10 to 14 is illegal and against the prescribed Rules and Act. Consequently, the results declared by the Election Commission of India for the said respondents in the General Lok Sabha Elections 2019 to the said respective constituencies as null and void; and

(ii) a writ of Mandamus directing the 1st respondent to declare the acceptance of the Form B submitted by respondents 3 to 10 is illegal and against the prescribed Rules and Act. Consequently, the results declared by the Election Commission of India for the said respondents in the Tamil Nadu General Legislative Assembly Elections 2021 to the said respective constituencies as null and void.



WEB COPY

W.P.Nos.27375 of 2019 & 12684 of 2021

For the Petitioner in
both W.Ps.

: Mr.T.Sivagnanasambandan

For the Respondents
in W.P.No.27375/19

: Mr.Niranjan Rajagopalan
For M/s.G.R.Associates
for Respondents 1 to 7

Mr.S.Manuraj
for Respondent-8

Mr.A.P.Balaji
For Mr.K.Gowtham Kumar
for Respondent-9

Mr.B.Sudhir Kumar
for Respondent-10

Mr.Richardson Wilson
For M/s.P.Wilson Associates
for Respondent-11

Mr.R.Govindaraj
for Respondent-12

Mr.V.P.Sengottuvel
Senior Counsel
For Mr.A.Akshay Kumar
for Respondent-13

Mr.J.Saravanel
for Respondent-14

For Respondents in
W.P.No.12684/21

: Mr.Niranjan Rajagopalan
For M/s.G.R.Associates
for Respondents 1 & 2



WEB COPY



W.P.Nos.27375 of 2019 & 12684 of 2021

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.T.Sivagnanasambandan, learned counsel for the petitioner, Mr.Niranjan Rajagopalan, learned counsel for the respondents 1 to 7 in W.P.No.27375 of 2019 and for the respondents 1 and 2 in W.P.No.12684 of 2021, Mr.S.Manuraj, learned counsel for the 8th respondent, Mr.A.P.Balaji, learned counsel for Mr.K.Gowtham Kumar, learned counsel for the 9th respondent, Mr.B.Sudhir Kumar, learned counsel for the 10th respondent, Mr.Richardson Wilson, learned counsel for the 11th respondent, Mr.R.Govindaraj, learned counsel for the 12th respondent, Mr.V.P.Sengottuvel, learned Senior Counsel for Mr.A.Akshay Kumar, learned counsel for the 13th respondent and Mr.J.Saravanel, learned counsel for the 14th respondent in W.P.No.27375 of 2019.

2. The petitioner seeks a direction against the first respondent to declare the acceptance forms of the respondents 10 to 14 in W.P.No.27375 of 2019 and respondents 3 to 10 in W.P.No.12684 of 2021 are illegal and against the prescribed Rules and the Act and



W.P.Nos.27375 of 2019 & 12684 of 2021

consequently, the results declared by the Election Commission of India of the said respondents be held as null and void.

3. Learned counsel for the petitioner submits that these respondents were parties of one political party and contested the election on the symbol of another political party which is impermissible in law. Learned counsel for the petitioner places reliance upon the guidelines prescribed by the Election Commission of India in exercise of the powers conferred under Article 324 of the Constitution of India and Section 29A of the Representation of People Act, 1951. According to him, an affidavit duly signed by the President/Secretary of the applicant party and sworn before the First Class Magistrate to the effect that no Member of the organisation is a member of any other political party registered with the Election Commission has to be filed. The affidavits filed by these persons on the face of it are false. Form B issued is illegal.

4. Learned counsel for the petitioner submits that this Court can entertain the writ petition. To buttress his submission, reliance is



W.P.Nos.27375 of 2019 & 12684 of 2021

WEB COPY

placed upon the judgment of the Supreme Court in ***K.Venkatachalam v. A.Swamickan [Appeal (Civil) 1719 of 1986 dated April 26, 1999]***.

5. Learned counsel for the respondents who contested the elections submit that they are the members of the political party on whose symbol they had contested the election. The reference is also made to the Election Symbols (Reservation and Allotment) Order, 1968 of the Election Commission of India wherein it is stated that a candidate set up by State party at an election in any constituency in a State in which such party is a State party, shall choose and shall be allotted the symbol reserved for that party in that State and no other symbol.

6. Article 329B of the Constitution of India provides that the election of a legislative candidate can only be assailed by way of an election petition.



W.P.Nos.27375 of 2019 & 12684 of 2021

WEB COPY

7. In the case of **K.Venkatachalam** (supra) relied upon by learned counsel for the petitioner, the candidate who had contested the election was not a voter in the constituency. His name did not appear in the electoral roll. On the face of it, it was held that he was not competent to sit as a member of the Legislative Assembly in Tamil Nadu and as such, writ of quo warranto was issued.

8. In the present case, the disputed questions of fact exist as to whether these persons are members of two political parties or one and at the same time, whether they were the members of the political party on whose symbol they had contested the election and whether they are the members of one political party and contested election on the party symbol of other political party. All these disputed questions of fact cannot be gone into in a writ petition.

9. In the light of that, the grievance raised by the petitioner cannot be considered in the present writ petitions. The writ petitions, as such, stand disposed of. There shall be no order as to costs. Consequently, W.M.P.Nos.4920 of 2020, 13474 and 8510 of 2021 are



W.P.Nos.27375 of 2019 & 12684 of 2021

WEB COPY closed.

(S.V.G., CJ.)

(D.B.C., J.)

09.01.2024

Index : Yes/No
Neutral Citation : Yes/No

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To

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W.P.Nos.27375 of 2019 & 12684 of 2021

WEB COPY

Namakkal District, Namakkal.

7. Returning Officer & District Revenue Officer
No.37, Tenkasi (SC) Parliament Constituency
District Collector Office, Tirunelveli.



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W.P.Nos.27375 of 2019 & 12684 of 2021

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W.P.Nos.27375 of 2019 & 12684 of 2021

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