



C.R.P.No.4100 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.4100 of 2024 &
CMP.No.22531 of 2024

Shalini

.. Petitioner

Versus

1.N.Vijayakumari

2.The Returning Officer/Commissioner,
Kancheepuram City Municipal Corporation,
Nellukkara Street, Big Kanchipuram

3.The State Election Commissioner,
No.208, Jawaharlal Nehru Road,
Opp.Koyambedu Bus Terminal,
Arumbakkam, Chennai – 600 106.

4.Annapoorani

5.Kamakshi

6.Nivetha

7.Neelavathy

8.Pavithra

9.Divyabarathi

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order of the learned Principal District and Sessions



C.R.P.No.4100 of 2024

Judge-II, Kancheepuram dated 20.09.2024 against I.A.No.7 of 2024 in Election O.P.No.22 of 2022.

For Petitioner : Mr.Karthikeyan
for Mr.K.M.Mrithun Jayan

For Respondent 1 : Ms.R.Mahamandra Rajalakshmi

For Respondent 2 : Mr.A.Anandan,
Government Advocate

For Respondent 3 : Mr.S.Shiva Shanmugham

ORDER

This civil revision petition arises against the order passed by the learned II Principal District and Session Judge, Kancheepuram in I.A.No.7 of 2024 dated 13.09.2024.

2. EOP.No.22 of 2022 had been presented by the first respondent herein seeking for the following reliefs:

“(a) declaring the election of the 3rd respondent for the post of the Ward Councilor for Ward No.27 as Null and Void and in consequences thereof ordering for repolling the election for the post of Ward Councillor for Ward No.27 in Nathapettai by fixing a convenient date;



C.R.P.No.4100 of 2024

WEB COPY

(b) Since the petitioner is secured second place with more votes may be declared as a winner for Ward No.27;

(c) to award the costs of this petition.

3. The simple case of the first respondent is that the petitioner belongs to Hindu Vanniyar Community, which is classified as a Most Backward Class and does not belong to Hindu Adi Dravidar community. She pointed out that when the civil revision petitioner was studied in BMS Government Higher Secondary School, it was declared that the petitioner belongs to Vanniyar Community. In stark contrast to the same, she had obtained a certificate from the jurisdictional Tahsildar stating that she belongs to Hindu Adi Dravidar Community. On the strength of this certificate, the civil revision petitioner stood for election in the ward No.27, Nathapettai, Kancheepuram City Municipal Corporation. This ward is reserved for women belonging to Schedule Caste Community alone.

4. In the election, the civil revision petitioner had polled 1680 votes and the first respondent had polled 1288 votes. Consequently, the civil revision petitioner had been declared elected. The plea of the first



C.R.P.No.4100 of 2024

WEB COPY

respondent was that as the civil revision petitioner does not belong to a SC community, she is not entitled to hold the post of Ward Member.

5. Summons were served on all the parties. Thereafter, the civil revision petitioner filed an application in I.A.No.7 of 2024 seeking for rejection of the election petition. She relied upon the judgment in ***Kumari Madhuri Patil vs. Additional Commissioner Tribal Development and Others, (1994) 6 SCC 241*** and pleaded that unless and until the designated caste committee declares a certificate to be fraudulent, the election court would have to accept the community certificate that has been issued by the jurisdictional Tahsildar.

6. A counter was filed to the said petition.

7. After consideration of the petition and counter, the learned II Principal District and Sessions Judge, Kancheepuram came to a conclusion that whether the petitioner belongs to Schedule Caste community or otherwise can be decided only after evidence is recorded. Hence, he



C.R.P.No.4100 of 2024

WEB COPY

dismissed the petition for rejection of election petition. Aggrieved by the same, the present revision has come before this court.

8. I had issued notice to the respondents. Mr.S.Parthasarathy, learned senior counsel represented P.Dinesh Kumar for the contesting respondent.

9. After hearing both sides, I was able to find out that the certificate issued by the Tahsildar in favour of the civil revision petitioner has not undergone the test of genuineness by the committee constituted, pursuant to the Judgment in ***Kumari Madhuri Patil***'s case.

10. At that stage, Mr.Karthikeyan, appearing for the petitioner, pointed out in 2023, the Government of Tamil Nadu had decided to modify the manner of verification of community certificate and had issued G.O.Ms.No.104 Adi Dravidar and Tribal Welfare (CV-1) Department, dated 21.08.2023. Inviting my attention to clause 4 of the said Government Order, Mr.Karthikeyan stated that the certificate issued by the jurisdictional Tahsildar, if disputed, has to be verified by the District Level Vigilance Committee of the concerned district.



C.R.P.No.4100 of 2024

WEB COPY

11. Mr.Karthikeyan also expressed his willingness for the certificate to undergo the test of genuineness at the hands of the District Level Vigilance Committee. Mr.S.Parthasarathy and Mr.A.Anandan, Government Advocate did not have any objection for referring the matter to the District Level Vigilance Committee. Accordingly, I directed the District Level Vigilance Committee to verify the genuineness of the certificate bearing no TN-5201907296661 dated 06.09.2019 for verification and directed the District Level Vigilance Committee to submit its report today (11.12.2024).

12. When the matter was taken up for enquiry, Mr.Anandan produced the proceedings of the District Level Vigilance Committee bearing No.10829/2021/A2 dated 10.12.2024.

13. The District Level Vigilance Committee had come to a conclusion that the civil revision petitioner had obtained the community certificate as a Hindu Adi Dravidar based on the certificate issued to her husband, A.Velu, who belongs to the Hindu Adi Dravidar community. The committee, prior to coming to this conclusion, had examined the foster parents of the civil



C.R.P.No.4100 of 2024

WEB COPY

revision petitioner, namely Thiru.Mani and Tmt.Vasanatha. They stated that they found the civil revision petitioner as an abandoned three months old child at the Renukambal temple in Padavedu, Thiruvannamalai District. They had also stated that they did not have any idea about the biological parents or their caste. They further pleaded that they had not adopted her legally but had brought her up according to their caste and customs, namely, as Hindu Vanniyars. They later pointed out that as the petitioner got married to one Velu, who belongs to the Hindu Adi Dravidar community, the petitioner had been benefited with a certificate stating that she also belongs to the Hindu Adi Dravidar. After the aforesaid discussion, the District Level Vigilance Committee come to a conclusion that the certificate issued to the civil revision petitioner by the Tahsildar, Kancheepuram on 06.09.2019 is null and void.

14. In the light of the report of the District Level Vigilance Committee, nothing further remains to be adjudicated by the learned Principal District and Sessions Judge-II at Kancheepuram.



C.R.P.No.4100 of 2024

WEB COPY

15. The entire case is revolved around the genuineness of the certificate of the petitioner issued by the Tahsildar on 06.09.2019. The basis on, which the nomination of the petitioner was accepted, to ward No.27 in Kancheepuram was this certificate. When that certificate was found to be void, the consequences have to follow.

16. Therefore, I am of the view that keeping EOP.No.22 of 2022 on the file of the II Principal District and Sessions Court at Kancheepuram is not going to be of any use to the civil revision petitioner. The election court cannot go into the validity of the certificate in terms of ***Kumari Madhiri Patil***'s case. Jurisdiction to test the validity of a certificate is with the duly constituted committee. An order passed by the committee is revisible by this court in exercise of the powers under Article 226 of the Constitution of India.

17. At this stage, Mr.Karthikeyan makes a plea that the petitioner should be granted breathing time to challenge before this court and till then, she should be permitted to continue as a ward member.



C.R.P.No.4100 of 2024

WEB COPY

18. Even when I referred the matter to District Level Vigilance Committee on 04.11.2024, I had pointed out that further orders will be passed on the basis of the report of the committee. The order passed by the authority is valid, till, it is set aside. That being the situation, since the committee has found the certificate to be void, while dismissing the civil revision petition, I pass the following directions:

(i) Election petition in EOP.No.22 of 2022 will stand decreed, insofar as prayer No.1 is concerned. The election of the civil revision petitioner / third respondent therein is declared to be null and void. This is because a person belonging to a Most Backward Class cannot stand for election in a constituency reserved for a person belonging to a Schedule Caste community.

(ii) The petition insofar as prayer Nos.2 to 4 are concerned, it will stand dismissed. The learned Principal District and Sessions Judge-II shall record this order and appropriately pass final orders in EOP.No.22 of 2022.

19. Mr.Karthikeyan pleads that he should be permitted to challenge the order dated 10.12.2024 before this court. It is needless to add, it is the right of the civil revision petitioner to approach this court invoking its writ



C.R.P.No.4100 of 2024

WEB COPY

jurisdiction. I have to further add that Mr.Anandan has also served the original of the order dated 10.12.2024 in proceedings No.10829/2021/J2 on Mr.Karthikeyan.

20. With the above directions, this civil revision petition is dismissed.

No costs. Consequently, the connected miscellaneous petition is closed.

11.12.2024

nl

Index : yes/no

Speaking order/Non-speaking order

Neutral Citation : yes/no



WEB COPY



C.R.P.No.4100 of 2024

V.LAKSHMINARAYANAN, J.

nl

To

1. The Principal District and Sessions Judge-II, Kancheepuram

C.R.P.No.4100 of 2024

11.12.2024