



C.R.P(MD)No.1144 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.07.2024

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P(MD)No.1144 of 2024
and
C.M.P(MD)Nos.6424 & 8641 of 2024

Devi

... Petitioner/2nd Respondent
4th Respondent

Vs.

1.The State Election Commissioner,
Tamil Nadu State Election Commission,
No.106, Jawaharlal Nehru Road,
Koyambedu, Chennai-106.

2.The District Collector,
Sivagangai District,
Sivagangai.

3.The Election Officer/
Block Development Officer,
Sakkottai Panchayat Union,
Karakudi Taluk,
Sivagangai District.

... Respondents 1 to 3/Petitioners
Respondents 1 to 3

4.Priyadharshini

... 4th Respondent/1st Respondent
Petitioner

1/8



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PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.No.6 of 2024 in E.O.P.No.27 of 2023 on the file of the Principal District and Sessions Court, Sivagangai, dated 02.04.2024.

For Petitioner : Mr.J.Barathan
for Mr.D.Venkatesh

For R-1 to R-3 : Mr.S.R.A.Ramachandran
Additional Government Pleader

For R-4 : Mr.P.Thiyagarajan

ORDER

The Civil Revision Petition is preferred against the fair and decreetal order passed in I.A.No.6 of 2024 in E.O.P.No.27 of 2023. By the said order, the Trial Court has permitted the respondents 1 to 3 in the election petition to file 4 documents, which were there on their file. The said documents are the ward chit accounts in Form 20, 29 numbers, dated 30.12.2019, the objections given by the petitioner in the election petition, dated 02.01.2020 to the Election Officer as well as the Election Supervisor and the order passed by the Returning Officer ordering recount of the election on 03.01.2020.



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2. The primary objection which was raised by Mr.J.Barathan, learned Counsel appearing on behalf of the petitioner was that, when the petitioners earlier filed I.A.No.5 of 2024, without any liberty, they withdrew the said petition and the present petition is filed. Therefore, the second application is not maintainable. It is his further contention that, regarding the objections which are said to have been filed by the election petitioner, it is his bounden duty to produce the same along with the election petition and when the rules does not permit him to file any additional documents, the respondents cannot try to supplement the petitioner and fill up the lacuna. The documents are now sought to be introduced, only because the respondents 1 to 3 are favorably disposed in favour of the election petitioner. As a matter of fact, even originally, the Returning Officer without any power or authority, set aside the election and ordered recount and ultimately, the same was interfered by this Court under Article 226 of the Constitution of India in W.P(MD)Nos.183 of 2020, etc., and even the Special Leave Petition filed against the said order was dismissed by the Hon'ble Supreme Court of India and only



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thereafter, the present election petition came to be filed. He would further submit that, when election petition is to be conducted in a time bound manner, the official respondents cannot introduce the document casually with this belated stage.

3. Per Contra, the learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 would submit that, when the documents were not produced originally along with the counter statement, these documents which were part of the file, in support of the stand taken in the counter statement was sought to be produced. Only in view thereof, the leave was sought for. When earlier I.A.No.5 of 2024 was filed, there was an innocuous defect in not mentioning the name of the petitioner in the petition itself and the Trial Court instead of permitting the amendment and permitted a new petition by withdrawing the earlier petition. The same is duly recorded by the Trial Court on 26.03.2024 itself. Therefore, when the application has been duly filed, the documents being part of the record are now sought to be produced before the Trial Court.



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4. The learned Counsel appearing on behalf of the fourth respondent / election petitioner would submit that, it is the specific case of the petitioner also even in the election petition that such an objection has been given. The other documents relate to the process of conduct of the counting, etc, which are all official records. If at all, there is any *mala fide* or any other bias which is alleged, the same can be taken during the cross examination of the witness and there is no bar for the respondents to produce the document, which they are relying in support of their counter affidavit.

5. I have considered the rival submissions made on either side and perused the material records of the case.

6. Already the nature of the four documents which are now sought to be produced by the official respondents are extracted *supra*. It is supposed to be part of their file and they are producing the same pursuant to the counter affidavit, which they have filed to the election petition.



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Therefore, even if there is any doubt as to the objections were originally raised or not, there is ample opportunity for the petitioner to cross examine the witness and argue with reference to the reliability, proof or otherwise in respect of the said document. Therefore, when for the first time, pursuant to their counter, such an application is made by the respondents 1 to 3, who are also parties to the election petition, they cannot be shunted out at the outset. Therefore finding no merits, the Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

22.07.2024

NCC : No
Index : No
Internet : Yes
BTR



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To

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- 1.The Principal District and Sessions Court,
Sivagangai.
- 2.The Section Officer,
Vernacular Record Section,
Madurai Bench of Madras High Court,
Madurai.



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D.BHARATHA CHAKRAVARTHY, J.

BTR

Order made in
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