



C.R.P.(MD).Nos.2620 and 2621 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2024

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THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD).Nos.2620 and 2621 of 2023
and C.M.P.(MD).No.13702 of 2023

P.Kavitha

... Petitioner/Petitioner

Vs.

1.B.Manjula Devi

**2.The Assistant Returning Officer,
K.Abishekapuram Division,
Urban Local Body Elections to Tamil Nadu, 2022,
O/o. The Assistant Returning Officer – cum –
Assistant Commissioner,
Tiruchirappalli – 620 001.**

**3.The Returning Officer,
Tiruchirappalli City Municipal Corporation,
Urban Local Body Elections to Tamil Nadu, 2022,
O/o. The Returning Officer – Cum – Commissioner,
Tiruchirappalli City Municipal Corporation,
Tiruchirappalli – 620 001.**

**4.Tamil Nadu State Election Commissioner,
Tamil Nadu State Election Commission,
No.208/2, Jawaharlal Nehru Salai,
Opp. To Koyembedu Bus Terminal,
Arumbakkam, Chennai – 600 106.**



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5. The District Collector,
Tiruchirappalli.

... Respondents/Respondents

(R5 is suo motu impleaded as per the order of this Court dated 06.03.2024 made in C.R.P.(MD).No.2620 and 2621 of 2023)

COMMON PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the common fair and decreetal order dated 21.09.2023 passed in I.A.Nos.12 and 13 of 2023 in Election O.P.No.107 of 2022 on the file of the Principal District Judge, Tiruchirappalli.

For Petitioner : Mr.M.Saravanan

For Respondents : Mr.C.Balamurugan for R1
Mr.R.Baskaran for R2 & R3
Senior Counsel for
M/s.R.B.Associates
Mr.J.Ashok, for R4 & R5
Additional Government Pleader

COMMON ORDER

These petitions have been filed against the common fair and decreetal order, dated 21.09.2023, passed in I.A.Nos.12 and 13 of 2023 in Election O.P.No.107 of 2022 on the file of the Principal District Judge, Tiruchirappalli.



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2.The facts in brief:

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The Election Petition in E.O.P.No.107 of 2022 is filed by the revision petitioner challenging the election held for the post of Municipal Councilor for the ward No.56, Tiruchirappalli City Municipal Corporation. The main allegation in the election petition is that the first respondent namely the Returning candidate Manjula Devi indulged in corrupt practices involved in vote rigging, impersonation, etc. During the course of the enquiry, the revision petitioner filed a petition in I.A.No.5 of 2023 under Rule 76 of Civil Rules of Practice, to produce the CCTV footages relating to the subject Election that was held on 19.02.2022 and for some Certified copies, etc., That was dismissed by the Election Court by the order dated 11.04.2023. Against which C.R.P.(MD).No.1385 of 2023 was filed by her. That petition came to be dismissed by this court, by the order, dated 26.06.2023, granting liberty to the revision petitioner to file appropriate petition or application as per Order 16 Rules 14 to 16 CPC to summon the document.

3.In pursuance of the above said liberty, the revision petitioner moved the present applications in I.A.Nos.12 and 13 of 2023 requesting



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for production of CCTV footage. That came to be dismissed by the Election Court stating that in pursuance of the order passed by this Court, no immediate steps were taken by the Election Petitioner. Apart from that it is also noticed that now the election petition is posted for arguments. Against which, these two civil revisions are preferred.

4.At the out set this Court is completely not in position to appreciate the reasons assigned by the Election Court in dismissing the above said interlocutory applications. Already liberty was granted to the petitioner to move appropriate application before the Election Court to produce or sent for the concerned document. When that is being so, the delay on the part of the revision petitioner in pursuing the matter ought not to have been taken seriously by the Election Court.

5.The main reason for my observation is that as noted in the preamble portion of the order, the main allegation is that there was rigging during the polling, there was impersonation committed by the first respondent herein. So unless CCTV footages that were available during the polling time, truth will not come to the light. So the



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production of CCTV footage will also give ample opportunity to both sides as well as the Court to find out what were the true happenings. To find out the truth the application ought to have been allowed by the Election Court.

6.It is admitted by the learned Additional Government Pleader by filing a Circular that after the elections are over all the documents were to handed over to the District Collector as per the relevant Rules. We can also extract the Rule 98 of the Tamil Nadu Election Rules 1995, which is relevant.

“98. Packing and sealing of ballot papers and other records.- (1)The Returning Officer shall, then, make up the ballot papers into a packet, seal up the packet and note thereon a description of its contents, the election to which it relates and the date thereof.

(2) These packets shall not be opened and their contents shall not be inspected or produced except under the order of an Election Commission or other competent Court.

(3) The packet shall be retained in safe custody in the office of the Panchayat Union in which the



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Panchayat is situated for a year and shall then, unless otherwise directed by the orders of an election or other competent Court, be destroyed.”

7.Now it is admitted by the learned Additional Government Pleader that the documents are available in the custody of the District Electoral Officer namely District Collector. So let the above said CCTV footage be produced before the Election Court by the 5th respondent herein. The Election Court shall accept the same and proceed with the enquiry process further.

8.With these directions, these two civil revision petitions stands allowed. No costs. Consequently, connected miscellaneous petition is allowed.

21.03.2024

Index : Yes / No

Internet : Yes / No

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Note: Issue order copy on 25.03.2024.

To

1.The Principal District Judge, Tiruchirappalli.



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- 5.The District Collector,
Tiruchirappalli.
- 6.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

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