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W.P.No.2976 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.2976 of 2025

India Dravida Makkal Munnetra Katchi,
Represented by A.P.Marimuthu,
Party President,
Door No.1/4, Appakkudal, Kamarajar Colony,
Sakthi Nagar Post,
Bhavani Taluk,
Erode District - 638 315.

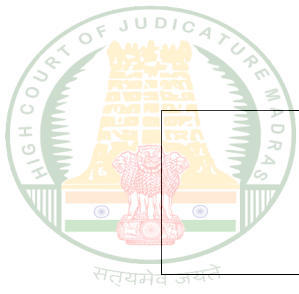
... Petitioner

Vs.

Chief Election Commissioner,
Election Commission of India,
Nirvachan Sadan, Ashoka Road,
New Delhi - 110 001.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India parying to issue a Writ of Mandamus, directing the respondent to consider the petitioner's representation dated 29.11.2023 requesting to accept the change of President and Treasurer made in pursuance of election held on 14.05.2023 during the general body meeting of the India Dravida Makkal Munnetra Katchi and update the changes in the relevant records within the time frame as fixed by this Court.



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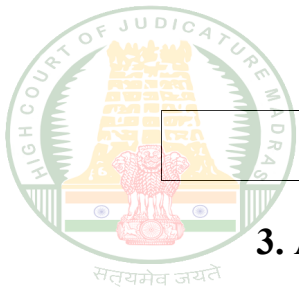
For Petitioner : Mr.B.Dharani
For Respondent : Mr.Niranjan Rajagopalan

ORDER

(Order of the Court was made by **R.SUBRAMANIAN, J.**)

The prayer is for a Mandamus to consider the representation of the petitioner dated 29.11.2023 and accept the change of President and Treasurer made pursuant to the election that was held on 14.05.2023.

2. The petitioner is a registered political party. It is claimed that an election to the office bearers of the political party was conducted on 14.05.2023 and certain people were elected as the office bearers of the said political party. The said results of the election were communicated to the Election Commission with a request to effect a change in the records relating to the office bearers of the political party. Complaining that the representation has not been acted upon, the petitioner has come up with this Writ Petition seeking a Mandamus as aforesaid.



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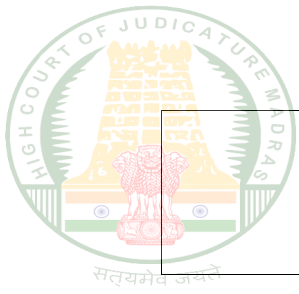
3. A counter affidavit has been filed by the Chief Electoral Officer, Tamil Nadu.

4. We have heard Ms.B.Dharani, learned counsel appearing for the petitioner and Mr.Niranjan Rajagopalan, learned counsel appearing for the respondent/ Election Commission.

5. While Ms.B.Dharani, learned counsel appearing for the petitioner would contend that once internal election of political party has been conducted and certain persons have been elected as office bearers, the Election Commission upon intimation is bound to record such change in terms of Section 29A (9) of the Representation of People Act, 1951. Section 29A (9) reads as follows:-

(9) After an association or body has been registered as a political party as aforesaid, any change in its name, head office, office-bearers, address or in any other material matters shall be communicated to the Commission without delay.

6. It has been held that this function of the Election Commission is ministerial and no enquiry is contemplated under the said provision.

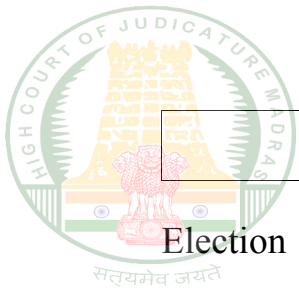


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7. Mr.Niranjan Rajagopalan, learned counsel for the Election Commission would however point out that certain other persons who are claiming to be the office bearers of the very same political party have raised objections to the recording of the change in the office bearers of the party and they also claim that they are duly elected. Therefore, there is a dispute that has arisen as to who is validly elected.

8. Mr.Niranjan Rajagopalan, learned counsel appearing for the Election Commission would fairly state that there is no machinery under the Act which sets out the procedure to decide such disputes. He would very much like to contend that the powers under Article 324 of the Constitution of India are available to the Election Commission and the Election Commission can go into these disputes.

9. But, the law is settled against the said contention of the learned counsel and this Court has held that the power that is exercised by the Election Commission under Sub-section (9) of Section 29A of the Representation of People Act, 1951 is only ministerial and no enquiry can be conducted by the

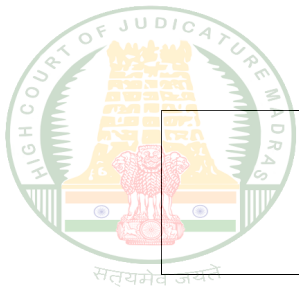


Election Commission regarding the correctness of the claims made, unless the dispute comes within Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968.

10. In the light of the above, the learned counsel would submit that when there are rival claims and the Commission is not able to *prima facie* decide as to which of the claims is true, it will be open to the parties to approach the competent civil Court and get a declaration regarding the correctness of the claims made.

11. We see some force in the contention of the learned counsel. As rightly pointed out, there is no machinery provided under the Representation of People Act, 1951, which enables the Election Commission to decide on the dispute falling within sub-Section (9) of Section 29A Representation of People Act, 1951. In the absence of such machinery, the Election Commission cannot decide on the veracity or otherwise of the claims made before it. When there are rival claims, it will be open to the Election Commission to refer the parties to a competent forum and go by the decision of the forum.

12. As pointed out in the counter when there are rival claims by various



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other people that they are the validly elected office bearers, it is better that these issues are decided by a competent Court, which can entertain evidence and pronounce upon the veracity of such evidence.

13. We therefore do not think that a Mandamus as sought for can be issued and it is seen from the counter that the Election Commission has required the parties to go before the competent civil Court. It will be open to the Election Commission to address a communication to the parties requiring them to resolve the issue in the competent forum, so that the direction issued by that forum can be implemented by the Election Commission.

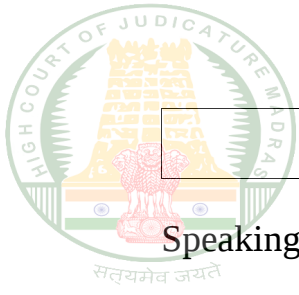
14. This Writ Petition is disposed of with the above directions. No costs.

(R.S.M.,J.) (G.A.M.,J.)
14.03.2025

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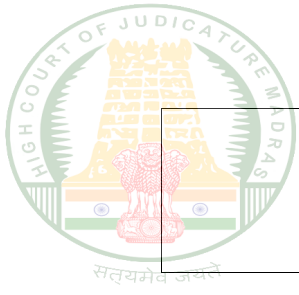
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Speaking order

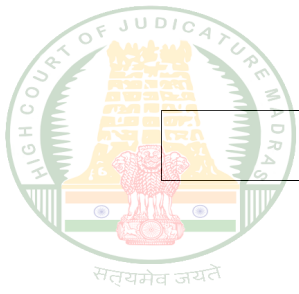
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To
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