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W.A.Nos.2563 & 895 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2025

CORAM
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.A.Nos.2563 & 895 of 2024
and
C.M.P.Nos.19322 & 6273 of 2024

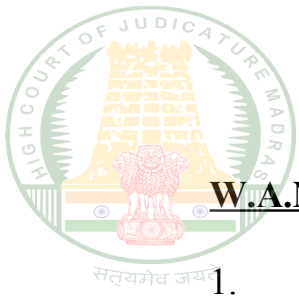
W.A.No.2563 of 2024

E.Harikrishnan

... Appellant/3rd party

Vs.

1. P.Baskar ... 1st Respondent/Petitioner
2. Government of Tamil Nadu,
Represented by its Secretary,
Rural Development & Panchayat Raj,
Fort St.George,
Chennai - 9.
3. Government of Tamil Nadu,
Represented by its Directorate of Rural Development,
& Panchayat Raj Department,
Panagal Building, Chennai - 15.
4. The District Collector,
Kancheepuram District,
Kancheepuram. ... Respondents 2 to 4/
Respondents 2 to 4



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W.A.No.895 of 2024

1. The Government of Tamil Nadu,
Represented by its Secretary,
Rural Development & Panchayat Raj,
Fort St.George, Chennai - 9.
 2. The Government of Tamil Nadu,
Represented by its Directorate of Rural Development,
& Panchayat Raj Department,
Panagal Building, Chennai - 15.
 3. The District Collector,
Kancheepuram District.
- ... Appellants /
Respondents
- Vs.
- P.Baskar
- ... Respondent/Petitioner

Common Prayer: Writ appeals filed under Clause 15 of the Letters Patent Act, to set aside the order dated 11.04.2023 in W.P.No.19308 of 2021.

In W.A.No.2563 of 2024

For Appellant	: Mr.S.Thanka Sivan
For Respondents	: Mr.J.Srinivasamohan for M/s TVJ Associates [for R1] : Mr.T.Chandrasekaran Special Government Pleader [For R2 to R4]



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W.A.Nos.2563 & 895 of 2024



In W.A.No.895 of 2024

For Appellants : Mr.T.Chandrasekaran
Special Government Pleader
For Respondent : Mr.J.Srinivasamohan
for M/s TVJ Associates [for R1]

COMMON JUDGMENT

(Order of the Court was made by **S.M.SUBRAMANIAM, J.**)

The intra-court appeals on hand have been instituted challenging the order dated 11.04.2023 passed in W.P.No.19308 of 2021.

2. The writ petition was instituted by the first respondent Mr.P.Baskar, challenging G.O.Ms.No.106, Rural Development and Panchayat Raj (PR-1) Department dated 03.09.2021, insofar as it relates to allotment of Kolathur Panchayat President post of "ST General" and consequently direct the respondents to allot Kolathur Panchayat President post to other eligible reserved category.

3. The facts are not in dispute between the parties. As per G.O.Ms.No.106, Kolathur, Panchayat President post has been reserved for "ST General".



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4. The learned Counsel appearing on behalf of the first respondent/writ petitioner would mainly contend that the President Post was reserved pursuant to the census of the year 2011 and the changes occurred subsequently are not taken into consideration. That apart, census of the year 2011 itself has been disputed by the first respondent/writ petitioner.

5. The learned Counsel appearing on behalf the private writ appellant would oppose by stating that the appellant has been elected as Vice President. He continues to function as such. Under Section 47 of the Tamil Nadu Panchayats Act, 1994, the Vice President is empowered to act as President, if the post of President falls vacant. However, in the writ order impugned, a direction was issued that the District Collector shall exercise supervisory power in respect of the affairs of the Panchayats. The said direction is in violation of the provisions of the Panchayats Act. Thus the writ appeal is to be considered.

6. Mr.T.Chandrasekaran, the learned Special Government Pleader appearing for the Official respondents/appellants would submit that the State preferred the present appeal, since G.O.Ms.No.106 dated 03.09.2021 itself



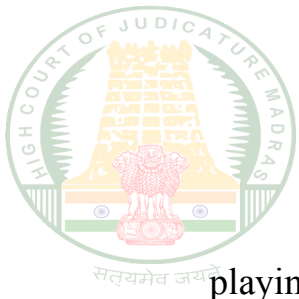
has been quashed by the learned Single Judge, insofar as it relates to Kolathur Panchayat President Post is concerned.

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7. This Court considered the submissions and found that the learned Single Judge considered all the facts raised between the parties and formed an opinion that the reservation made to Kolathur Panchayat President Post is to be reconsidered.

8. In para 10 of the writ order dated 11.04.2023, it is observed that the Official respondents have to act on the Enquiry Committee report dated 29.07.2016 and take a decision on reserving the constituency. In case, the respondents have any reservations on the report submitted by the Enquiry Committee, they shall make a fresh assessment and then take a decision on reserving the constituency as per the Tamil Nadu Panchayats (Reservation of Seats and Rotation of Reserved seats) Rules, 1995. The said exercise was directed to be completed within a period of three months.

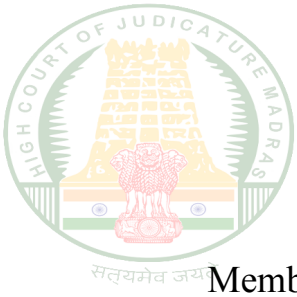
9. Due to the pendency of the writ appeals, the Government has not passed any orders in compliance with the directions issued by the writ Court.



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10. The writ court further directed that in order to create a level playing field, the Kolathur Panchayat shall act with the direct supervision of the District Collector, Kancheepuram District till the elections are held.

11. This Court is of the considered opinion that this direction would indirectly nullify the entire elections conducted for the posts of Vice President and the Ward Members. If the entire administration of the Kolathur Village Panchayat has been handed over to the District Collector, then the elected Vice President and Ward Members may not be in a position to function and it is a direct interference in the democratic elections conducted in respect of other Posts except the post of President. The dispute in the writ petition is only regarding the post of President, in the context of the reservation made in G.O.Ms.No.106, as the said post is reserved for "ST General." Therefore, nullifying the functions of other elected members would result in violation of the provisions of the Act. More-so, Article 243E of the Constitution of India ensures that the elected President, Vice President and ward members must be allowed to continue till their duration expires.



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12. Admittedly, the elected Vice President and elected Ward

Members are functioning and their term has not expired. Therefore, their functions need not be curtailed. Thus, this Court is of the considered opinion that the direction issued by the writ court handing over the supervisory power to the District Collector, Kancheepuram District is running counter to the provisions of the Panchayats Act and also the democratic principles in the matter of elections to local bodies.

13. Therefore, this Court is inclined to modify the order.

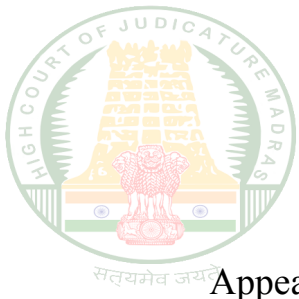
Accordingly, the Official respondents/appellants in the writ appeals are directed to comply with the directions issued by the writ Court so as to act on the Enquiry Committee report dated 29.07.2016 and take a decision on reserving the constituency. In case, the respondents have any reservation on the reports submitted by the Enquiry Committee, they shall make a fresh assessment and then take a decision on reserving the constituency as per the Tamil Nadu Panchayats (Reservation of Seats and Rotation of Reserved seats) Rules, 1995.



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14. At the outset, the Official respondents/appellants are directed to decide the said issues on merits and in accordance with law within a period of one month from the date of receipt of a copy of this order. On taking such a decision, the election to the post of President is to be conducted by following due procedures within a period of 2 months, on expiry of the period of one month. Till such a time new President is elected for Kolathur Panchayat, Kancheepuram District, the Vice President shall be permitted to function as President, in view of Section 47 of the Tamil Nadu Panchayat Act, 1994.

15. The learned Counsel for the first respondent/Mr.P.Baskar would submit that against the Vice President, criminal cases are pending. It is for all the stakeholders or the citizens to file a complaint, if any, against the Vice President and in the event of receiving any such complaint, it is to be looked into and further actions are to be initiated by following the procedures as contemplated under the Act and the Rules.



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With the above modifications in the writ order, both the Writ

Appeals stand disposed of. No costs. Connected miscellaneous petitions are closed.

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[S.M.S,J.] [K.R.S,J.]

18.02.2025

veda

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

To

1. Government of Tamil Nadu,
Represented by its Secretary,
Rural Development & Panchayat Raj,
Fort St.George,
Chennai - 9.
2. Government of Tamil Nadu,
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