

W.P.(MD)No.22273 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.08.2025

CORAM:

THE HONOURABLE **MR.JUSTICE SHAMIM AHMED**

W.P.(MD)No. 22273 of 2025

Arulraj,
S/o.Rajendran,
No.3/150, Thiruthipatti,
Panangudi Post,
Karaikudi Taluk,
Sivagangai District.

...Petitioner

Vs

1.The Government of Tamil Nadu,
Represented by its Secretary,
Human Resources and Management Department,
Secretariat, Fort St.George, Chennai.

2.The District Collector, Sivagangai District,

3.Mr.Babu, Election Officer,
No.365/C2, North 2nd Street,
Nethaji Nagar, Venkikaal,
Thiruvannamalai District.

4.Mr.A.Duraipandi, S/o.Mr.Aadhinamilagi,
No.5A, 10, School Street, Sivagangai Taluk,
Sivagangai District.

...Respondents



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Prayer:- Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the first Respondent to conduct an enquiry based on the representation dated 07.08.2025 by following the provisions of the bye-law of the Tamil Nadu Government Official's Union within time frame stipulated by this Court.

For Petitioner : Mr.N.Jeyaram Sidharth

For Respondents : Mr.M.Lingadurai
Special Government Pleader

ORDER

Heard Mr.N.Jeyaram Sidharth, the learned counsel appearing for the Petitioner and Mr.M.Lingadurai, the learned Special Government Pleader for the Respondents.

2. This Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first Respondent to conduct an enquiry based on the representation, dated 07.08.2025, by following the provisions of the bye-law of the Tamil Nadu Government Official's Union.



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3. The facts of case, in a nutshell, led to filing of this Writ Petition and necessary for disposal of same, are as follows:-

(a) The Petitioner is serving as a Village Administrative Officer at S.R. Pattinam, Karaikudi, and is also holding the post of State Secretary in the Tamil Nadu Government Officials Union Association, a recognized body by the Government of Tamil Nadu. The then President of the Association, Mr. Shanmugarajan, retired from government service on 31.03.2023, and in view of Section 7(2) of the Bye-laws of the Association, any person retiring from service automatically ceases to hold office in the Association. Accordingly, the post of President became vacant. Pursuant thereto, the Association convened a meeting and passed a resolution appointing Mr. Amirthakumar as the in-charge President to fill the said vacancy.

(b) In accordance with Section 24(5)(e) of the Bye-laws of the Association, a formal election was conducted, and Mr. Amirthakumar was duly elected as the President of the Association. One Mr. Thandapani, who had contested for the post of President, was unsuccessful in the said election. Subsequently, due to his acts of misconduct and activities against the

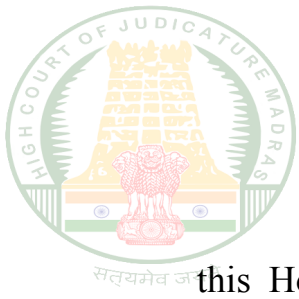


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interest of the Association, Mr.Thandapani was removed from the membership of the Association by order dated 01.02.2024, and a resolution confirming his removal was passed on 03.02.2024. The said Mr.Thandapani was also dismissed from government service on 26.06.2024 on account of proven charges of corruption. Based on the resolution of the Association and in accordance with the Bye-laws, it was decided to conduct fresh elections for the Association. Accordingly, the Petitioner, on behalf of the Association, submitted a representation to the 1st Respondent on 31.07.2025 along with the proposed schedule for the upcoming election, and the election notification was also issued on the same date. Pursuant thereto, the Association's election is scheduled to be held on 24.08.2025, and the process of filing nominations was successfully completed on 09.08.2025.

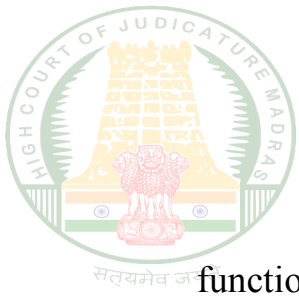
(c) While the matter stood thus, the 4th Respondent, falsely claiming to be an authority of the Association, approached the 1st Respondent seeking approval to conduct elections for the Association. However, the 1st Respondent rightly rejected the said proposal. Aggrieved by the rejection, the 4th Respondent filed a writ petition in W.P. No. 27150 of 2025 before



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this Hon'ble Court, which was subsequently closed, granting liberty to challenge the rejection order in an appropriate manner. Despite the failure of the said writ petition, the 2nd Respondent has, in collusion with the 3rd Respondent, attempted to conduct a parallel election contrary to the established Bye-laws and resolutions of the Association. The 3rd Respondent, who was previously removed from the Association on disciplinary grounds, is unlawfully using the name of the Association and issued an election notification dated 30.07.2025 for the term 2025–2028. On the same day, the 3rd Respondent issued election proceedings and arbitrarily fixed the venue of the election at Sivagangai, with the date of nomination on 12.08.2025 and the election scheduled for 29.08.2025. The aforesaid illegal act is clearly intended to create confusion, parallel authority, and an unwarranted dispute among the members of the Association. The 3rd Respondent is fully aware that the official Association election is scheduled to be conducted on 24.08.2025, strictly in accordance with the Bye-laws and based on proper notification. Despite such knowledge, the 3rd Respondent has willfully and malafidely issued a parallel election notification, thereby interfering with the lawful

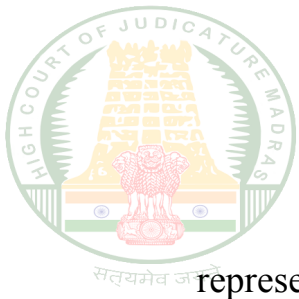


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functioning of the Association.

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(d) As per Section 7 of the Association's Bye-laws, elections are required to be conducted at the headquarters of the Association, which is located in Chennai. However, in blatant violation of this provision, the 3rd Respondent has arbitrarily fixed the venue of the proposed election at Sivagangai. Further, as per Section 10(b) of the Bye-laws, elections are to be conducted only on government holidays to ensure maximum participation by government servants. Despite this, the 3rd Respondent has scheduled the election on 29.08.2025, which is a working day for government employees. Such conduct is not only violative of the Bye-laws of the Association but also amounts to a direct contravention of the Tamil Nadu Government Officials Union Rules, 2018. The 3rd Respondent is a former member of the Association, who was expelled for misconduct and illegal activities through proceedings in Se.Mu.Order No. 52/TANAO/2024 dated 21.10.2024. The Petitioner submits that the said parallel election process initiated by the 3rd Respondent is a result of his personal enmity towards the Association and is being carried out without any lawful authority. In view of the above, the Petitioner submitted a



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representation to the 1st and 2nd Respondents on 07.08.2025, requesting immediate intervention and action to prevent the illegal election. Since the election venue has been fixed at Sivagangai, the 2nd Respondent is the competent authority to take steps to stall the said illegal election process.

(e) The Petitioner further submits that the 3rd Respondent, has undertaken the said election process without obtaining the mandatory prior permission from the 2nd Respondent, thereby acting in contravention of service rules and established norms. In these circumstances, and in light of the fact that the nomination date for the illegal election is fixed as 12.08.2025 and there is a likelihood that the results may be declared earlier. Hence, the Petitioner filed the present writ petition seeking the relief stated supra.

4. The learned counsel for the Petitioner has sought for directions to conduct an enquiry based on the representation filed by the Petitioner dated 07.08.2025, by following the provisions of the bye-law of the Tamil Nadu Government Official's Union.



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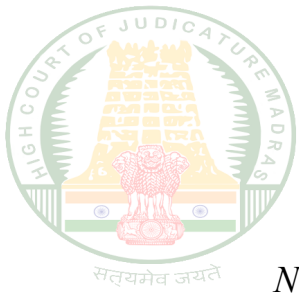
5. Mr.M.Lingadurai, learned Special Government Pleader for the Respondents submits that the present Writ Petition is not maintainable, as the election process had already been started and the date of nomination was completed on 12.08.2025 and the date of election is scheduled to be held on 29.08.2025. Therefore, he prays this Court not to entertain the present writ petition in view of the election process already started.

6. The issue arises for consideration in the present Writ Petition is as to whether the jurisdiction of the High Court to entertain petitions under [Article 226](#) of the Constitution of India and to issue directions after commencement of the electoral process.

7. Admittedly, in the present case, the date of nomination was completed on 12.08.2025 and the election is scheduled to be held on 29.08.2025.

8. Article 329 of the Constitution of India reads as under:-

“329. Bar to interference by courts in electoral matters.-



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Notwithstanding anything in this Constitution

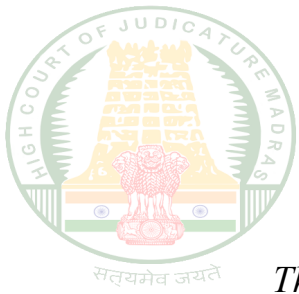
(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under [article 327](#) or [article 328](#), shall not be called in question in any court;

(b) no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented by such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature.”

9. In the case of ***Election Commission of India Vs Ashok Kumar*** ***reported in 2000 (8) SCC 216***, the Honourable Supreme Court was pleased to observe as under:-

“The term election as occurring in Article 329 has been held to mean and include the entire process from the issue of the Notification under Section 14 of the Representation of the People Act, 1951 to the declaration of the result under Section 66 of the Act.

The constitutional status of the High Courts and the nature of the jurisdiction exercised by them came up for the consideration of this Court in M.V. Elisabeth and Ors. Vs. Harwan Investment and Trading Pvt.Ltd., Goa - 1993 Supp (2) SCC 433. It was held that the High Courts in India are superior courts of record. They have original and appellate jurisdiction.

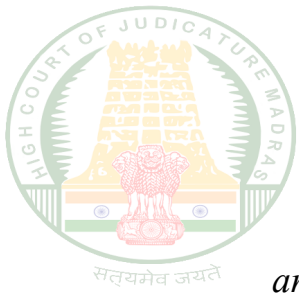


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They have inherent and supplementary powers. Unless expressly or impliedly barred and subject to the appellate or discretionary jurisdiction of Supreme Court, the High Courts have unlimited jurisdiction including the jurisdiction to determine their own powers. The following statement of law from Halsburys Laws of England, [4th Edn., Vol.10, para 713] was quoted with approval:- Prima facie, no matter is deemed to be beyond the jurisdiction of a superior court unless it is expressly shown to be so, while nothing is within the jurisdiction of an inferior court unless it is expressly shown on the face of the proceedings that the particular matter is within the cognisance of the particular court.

This Court observed that the jurisdiction of courts is carved out of sovereign power of the State. People of free India are the sovereign and the exercise of judicial power is articulated in the provisions of the Constitution to be exercised by courts under the Constitution and the laws thereunder. It cannot be confined to the provisions of imperial statutes of a bygone age. Access to court which is an important right vested in every citizen implies the existence of the power of the Court to render justice according to law. Where Statute is silent and judicial intervention is required, Courts strive to redress grievances according to what is perceived to be principles of justice, equity



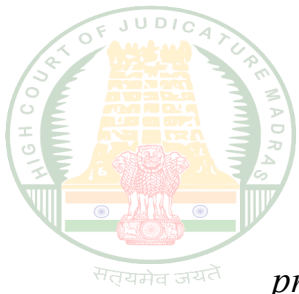
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and good conscience.

Anugrah Narain Singh and Anr. Vs. State of U.P. & Ors. 1996 (6) SCC 303 is a case relating to municipal elections in the State of Uttar Pradesh. Barely one week before the voting was scheduled to commence, in the writ petitions complaining of defects in the electoral rolls and de-limitation of constituencies and arbitrary reservation of constituencies for scheduled castes, scheduled tribes and backward classes the High Court passed interim order stopping the election process. This Court quashed such interim orders and observed that if the election is imminent or well under way, the Court should not intervene to stop the election process. If this is allowed to be done, no election will ever take place because some one or the other will always find some excuse to move the Court and stall the elections. The importance of holding elections at regular intervals cannot be over- emphasised. If holding of elections is allowed to stall on the complaint of a few individuals, then grave injustice will be done to crores of other voters who have a right to elect their representatives to the democratic bodies.

In C. Subrahmanyam Vs. K. Ramanjaneyullu and Ors. - (1998) 8 SCC 703 this Court has held that non-compliance of a

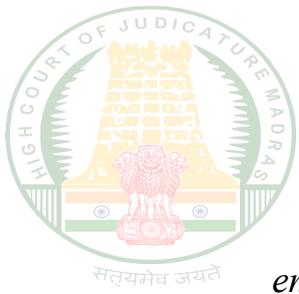


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provision of the Act governing the elections being a ground for an election petition, the writ petition under Article 226 of the Constitution of India should not have been entertained.

In Mohinder Singh Gills case (supra) the Election Commission had cancelled a poll and directed a re-polling. The Constitution Bench held that a writ petition challenging the cancellation coupled with repoll amounted to calling in question a step in election and is therefore barred by Article 329 (b). However, vide para 32, it has been observed that had it been a case of mere cancellation without an order for repoll, the course of election would have been thwarted (by the Election Commission itself) and different considerations would have come into play.

Election disputes are not just private civil disputes between two parties. Though there is an individual or a few individuals arrayed as parties before the Court but the stakes of the constituency as a whole are on trial. Whichever way the lis terminates it affects the fate of the constituency and the citizens generally. A conscientious approach with overriding consideration for welfare of the constituency and strengthening the democracy is called for. Neither turning a blind eye to the controversies which have arisen nor assuming a role of over-



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enthusiastic activist would do. The two extremes have to be avoided in dealing with election disputes.

.....

For convenience sake we would now generally sum up our conclusions by partly restating what the two Constitution Benches have already said and then adding by clarifying what follows therefrom in view of the analysis made by us hereinabove:-

- 1) If an election, (the term election being widely interpreted so as to include all steps and entire proceedings commencing from the date of notification of election till the date of declaration of result) is to be called in question and which questioning may have the effect of interrupting, obstructing or protracting the election proceedings in any manner, the invoking of judicial remedy has to be postponed till after the completing of proceedings in elections.
- 2) Any decision sought and rendered will not amount to calling in question an election if it subserves the progress of the election and facilitates the completion of the election. Anything done towards completing or in furtherance of the election proceedings cannot be described as questioning the election.
- 3) Subject to the above, the action taken or orders issued by Election Commission are open to judicial review on the well-settled parameters which enable judicial review of decisions of statutory bodies such as on a case of mala fide or arbitrary exercise of power being made out or the statutory body being shown to have acted in breach of law.
- 4) Without interrupting, obstructing or delaying the progress of the election proceedings, judicial intervention is available if



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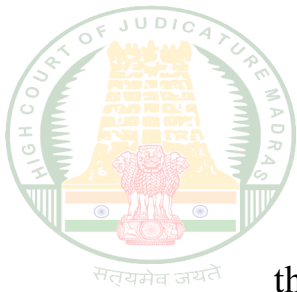
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assistance of the Court has been sought for merely to correct or smoothen the progress of the election proceedings, to remove the obstacles therein, or to preserve a vital piece of evidence if the same would be lost or destroyed or rendered irretrievable by the time the results are declared and stage is set for invoking the jurisdiction of the Court.

5) The Court must be very circumspect and act with caution while entertaining any election dispute though not hit by the bar of [Article 329\(b\)](#) but brought to it during the pendency of election proceedings. The Court must guard against any attempt at retarding, interrupting, protracting or stalling of the election proceedings. Care has to be taken to see that there is no attempt to utilise the courts indulgence by filing a petition outwardly innocuous but essentially a subterfuge or pretext for achieving an ulterior or hidden end. Needless to say that in the very nature of the things the Court would act with reluctance and shall not act except on a clear and strong case for its intervention having been made out by raising the pleas with particulars and precision and supporting the same by necessary material.”

10. In the case of *Mohindra Singh Gill and Another Vs the Chief Election Commission and others reported in AIR 1978 SC 851*, the Honourable Supreme Court was pleased to observe as under:-

The above being the legal position, [Article 329\(b\)](#) rules out the maintainability of the writ application. [Article 329\(b\)](#) provides that „notwithstanding anything in this Constitution..... no election to either house of Parliament..... shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature." It is undisputed that an election can be challenged only under the provisions of



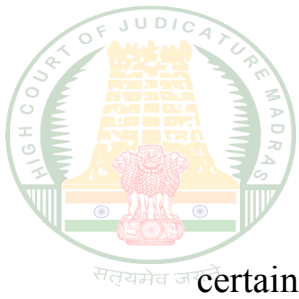
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the Act. Indeed section 80 of the Act provides that "no election shall be called in question except by an election petition presented in accordance with the provisions of"

In view of our conclusion that the High Court had no jurisdiction to entertain the writ application under [Article 226](#) of the Constitution' it will not be correct for us, in an appeal against the order of the High Court in that proceeding, to enter into any other controversy, on the merits, either on law or on facts, and to pronounce finally on the same. The pre-eminent position conferred by the Constitution on this Court under [Article 141](#) of the Constitution does not envisage that this Court should lay down the law, in an appeal like this, on any matter which is required to be decided by the election court on a full trial of the election petition, without the benefit of the opinion of the Punjab and Haryana, High Court which has the exclusive jurisdiction under [section 80A](#) of the Act to try the election petition. Moreover, a statutory right to appeal to this Court has been provided under [section 116A](#), on any question, whether of law or fact, from every order made by the High Court in the dispute"

11. In the case of [C. Subrahmanyam Vs. K. Ramanjaneyullu and others](#) Reported in (1998) 8 SCC 703, the Honourable Supreme Court has held that non-compliance of a provision of the Act governing the elections being a ground for an election petition, the writ petition under [Article 226](#) of the Constitution of India should not have been entertained.

12. The issue is no more *res integra* in view of the decision of Apex Court in the case of Ashok Kumar (supra) which has aptly laid down

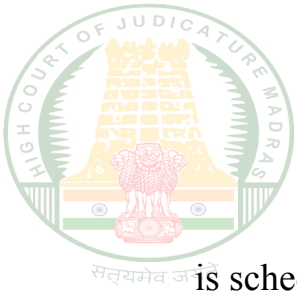


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certain principles and precautions to be exercised while invoking the power of judicial review in election matters. The said decision in the case of Ashok Kumar has considered all the earlier decisions on the point including the case of N.P. Ponnuswami Constitutional Bench decision in the case of (Mohindra Singh Gill Vs. Chief Election Commissioner) AIR 1978 SC 85, (Election Commission of India Vs. State of Haryana) AIR 1984 SC 1406; (Lakshmi Charam Sen Vs.A.K.M. Hassan Uzzaman) AIR 1985 SC 1233; (Digvijay Mote Vs. Union of India) (1993) 4 SCC 175; (Anurag Narain Singh Vs. State of U.P.) (1996) 6 SCC 303; & (S.Subrahmanyam Vs. K. Ramanjaneyullu) (1998) 8 SCC 703.

13. After considering the submissions made by learned counsel for the parties and after perusal of the averments made in the Writ Petition and in the light of the decisions referred to above, this Court is satisfied that the objections raised by the learned Special Government Pleader for the Respondents are correct and no relief can be granted to the Petitioner as prayed for in the present writ petition, as the election process had already been started and the nomination was closed on 12.08.2025 and the election



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is scheduled to be held on 29.08.2025.

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14. In view of the above discussions and in the light of the aforesaid decisions, this Court is of the view that the present writ petition cannot be entertained and is devoid of merits. Accordingly, this Writ Petition is **dismissed**. The file shall be consigned to record. There shall be no order as to costs.

13.08.2025

Index: Yes/No
Web: Yes/No
Speaking/Non Speaking
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- To:
- 1.The Secretary,
The Government of Tamil Nadu,
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 - 2.The District Collector,
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Sivagangai.



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SHAMIM AHMED, J.

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