

(2007) 10 MAD CK 0138

In the Madras High Court

Case No : Writ Petition (MD) No. 8770 of 2006 and M.P. No. 2 of 2006

G. Sivam

APPELLANT

Vs

The Election Officer/The District Collector, The State Election
Commissioner and The Secretary, Rural Development and
Panchayat Raj Department, Government of Tamil Nadu

RESPONDENT

Date of Decision : 01-10-2007

Acts Referred:

Tamil Nadu Panchayats (Reservation of Seats and Rotation of Reserved Seats) Rules,
1995 — Rule 6, 6(1), 6(1C), 7

Tamil Nadu Panchayats Act, 1994 — Section 2, 57(1), 57(1D)

Citation : (2007) 10 MAD CK 0138

Hon'ble Judges : P.R. Shivakumar, J;P.K. Misra, J

Bench : Division Bench

Advocate : M. Gurudas, for the Appellant; R. Janaki Ramulu, Special
Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

P.K. Misra, J.—Heard Mr. Gurudas, learned Counsel for the petitioner and Mr. R. Janakiramulu, learned Special Government Pleader for

the respondents.

2. This writ petition was filed on 15.09.2006 with a prayer for issuing a writ of certiorarified mandamus to quash the order of the third respondent

in G.O.(Ms) No. 107, Rural Development and Panchayat Raj (C) Department, dated 01.09.2007, published in Tamil Nadu Government Gazette

Extraordinary No. 228, Part-II Section 2, dated 02.09.2006, in respect of Tanjakoor Panchayat and to direct the respondents to allow all the

people to contest in the ensuing election for the post of office of the president of Tanjakoor Panchayat on the basis of the complaint made by the

petitioner dated 13.09.2006.

3. The petitioner belongs to Tanjakoor village in Sullangudi Panchayat Union, which consists of four Panchayats viz., Sullangudi, Kattikulam,

Vilathur and Tanjakoor. The grievance of the petitioner is to the effect that as per the provisions contained in the Tamil Nadu Panchayats Act

1994, hereinafter referred to as ""the Act"", and the Tamil Nadu Panchayats (Reservation of Seats and Rotation of Reserved Seats) Rules 1995,

hereinafter referred to as ""the Rules"", Tanjakoor Village panchayat should not have been considered as reserved panchayat for the purpose of

election to the office of the president and as per Rule 7 of the Rules, Kattikulam panchayat should have been reserved.

4. The provisions contained in the Act indicate that as per Section 57(1) of the Act, office of the Presidents of Village panchayats shall be reserved

for the persons belonging to the Scheduled Castes and Scheduled Tribes and the number of seats so reserved shall bear as nearly as, may be, the

same proportion to the total number of offices in the State, as the population of the Scheduled Castes in the State or the Scheduled Tribes in the

State bear to the total population of the State. As per Section 57(1-D) proviso, the Offices reserved under this Section, shall be allotted by

rotation to different panchayats at each level in such manner, as may be prescribed.

5. Rule 6(1) of the Rules contemplates that seats shall be reserved in the Offices of Presidents of Village panchayats for the persons belonging to

Scheduled Castes and Scheduled Tribes. The total number of seats so reserved for the offices of the Panchayat President should bear as nearly as

may be, the same proportion to the total number of offices in the panchayats in the State as the population of the Scheduled Castes and the

Scheduled Tribes bear to the total population of the State.

As per Rule 6(1-C), the Offices of the Presidents of Village panchayats reserved shall be allotted to every panchayat union taking into

consideration the population of the Scheduled Castes and the Scheduled Tribes in every such panchayat union, in such a manner that the total

number of offices so allotted in all the village panchayats does not exceed the total number of the offices reserved under Sub-rule (1) of Rule 6.

Rule 7 prescribes that there shall be rotation of reservation of offices under Rule

6. It provides that reservation shall be made in the panchayat where the population of Scheduled Castes and Scheduled Tribes is comparatively large to the total population of the panchayat by adopting a list of panchayats arranged in the descending order of the percentage of Schedules Castes.

6. The contention of the petitioner is to the effect that in the election held in 1996 the office of the President of Sullangudi was reserved for

Scheduled Caste based on the percentage of population therein. It is further stated that as per the actual population, by applying the rule of rotation

as contemplated in Rule 7, the next panchayat in descending order is Kattikulam but, by mistake, the authorities have reserved Tanjakoor

panchayat. In this contest it is contended that in the census for the year 1991 it had been shown that there were only 21 persons belonging to

Scheduled Caste in Tanjakoor panchayat but, during the year 2001 census, it was erroneously indicated that persons belonging to Scheduled caste

is 366, which must be considered as obvious mistake as the population of the Scheduled Caste would not have been multiplied more than 15

times. It is further contended that if correct figures of Scheduled Caste population would have been ascertained during 2001 census, Tanjakoor

panchayat would not have been reserved as proportion Scheduled caste population therein was the lowest. It is submitted that because of the

obvious mistake committed during 2001 census, Tanjakoor panchayat has been erroneously reserved and the people of such panchayat have been

deprived of their right. It is further submitted by the learned Counsel for the petitioner that the figure in the census report of 2001 was incorrect.

7. The aforesaid contention of the counsel for the petitioner obviously raises a question of fact which cannot be gone into in a writ petition. Apart

from the above, there is no dispute that if the present panchayat namely, Tanjakoor panchayat, would not have been treated as a reserved

panchayat for the purpose of Office of President, some other panchayat would have been treated as reserved category. Election in both such

panchayats has already taken place, but the elected Presidents have not been impleaded. It is obvious, if we set aside such election on the ground

of wrong reservation, as alleged by the petitioner, the elected Presidents of both the panchayats would be affected.

8. For the aforesaid reasons, we are disinclined to issue a writ of certiorarified mandamus for quashing the election. However, the dismissal of the present writ petition will not stand in the way of the appropriate authority considering the question of reserving any other panchayat instead of Tanjakoor panchayat during the next election. No costs. Connected M.P. No. 2 of 2006 is also dismissed.