

(2008) 09 MAD CK 0033

In the Madras High Court

Case No : Writ Petition No. 22679 of 2008

T. Paramasivam Udayar, P. Senthamarai Kannan and S.
Elavalagan

APPELLANT

Vs

The Election Commission of India and Others

RESPONDENT

Date of Decision : 17-09-2008

Acts Referred:

Citation : (2008) 09 MAD CK 0033

Hon'ble Judges : A.K. Ganguly, C.J;F.M. Ibrahim Kalifulla, J

Bench : Division Bench

Advocate : J. Nandagopal, for the Appellant; J. Raja Kalifulla, Govt. Pleader for Respondents 2 and 5 and P. Chandrasekaran, SCGSC. for Respondents 1, 3 and 4, for the Respondent

Final Decision : Dismissed

Judgement

A.K. Ganguly, C.J.—Heard the counsel for the parties. This writ petition has been filed by one T. Paramasivam Udayar and two others

purporting to challenge a notification issued by the Delimitation Commission of India on 13.8.2007 in respect of two Constituencies in the State of

Tamil Nadu. Learned Counsel for the Petitioners is seeking to challenge the notification of the said Commission in respect of Item No. 151, viz. the

Tittakudi Constituency and Item No. 159, viz. the Kattumannar Koil Constituency. Under the Delimitation Commission's Notification, both the

constituencies have been marked as Reserved Constituencies for the Scheduled Castes.

2. To such a proposal of the Delimitation Commission, objections were invited from the general public on 5.4.2007. It is not the case of the

Petitioner that any objection was filed by them and no such objection has been

disclosed in the petition either. The Commission held public sittings on 17th May, 2007 at Coimbatore, on 19th May, 2007 at Madurai, on 20th and 21st May, 2007 at Tiruchirappalli and on the 22nd of May, 2007 at Chennai. It is also not the case of the Petitioners that they participated in the said public hearings. Therefore, neither having filed any objection to the said proposal nor having participated in the said public hearing, this writ petition has straight away been filed challenging the notification issued by the said Commission.

3. It cannot be disputed and has not been disputed before us that the Delimitation Commission is an expert body, headed by a retired Judge of the Supreme Court and it consists of various experts. The said Commission is a public body and is discharging public functions in the interest of holding free and fair elections. The findings are given by the Commission on the basis of determination of various questions of fact, after inviting objections from the members of the general public and upon conducting public hearings and also considering the census position which keeps on changing from time to time. Therefore, the findings of the Commission are entitled to the highest respect. It is difficult for a writ court to interfere with the findings of such a high powered expert body, given on the basis of facts and figures and on the basis of its expertise. In such matters, the writ court should normally adopt the rule of deference unless it has been shown that the objections filed by an aggrieved person have not at all been considered or that no public hearing was given. In other words, in such finding of the Commission, unless some defects in the decisionmaking process are pointed out, it is very difficult for this Court to interfere with its decision since such decision is reached by the Commission on the basis of various vital considerations. In this case, no allegation of bias or perversity has been alleged against the members of the Commission.

4. It may be noted that in the past also, the very same Petitioners filed a writ petition challenging the notice issued by the said Commission, but the same was dismissed. This Court observes that the findings of such a high powered expert body cannot be challenged casually.

5. In that view of the matter, we do not find any merit in the writ petition, which is accordingly dismissed. There shall be no order as to costs.

Consequently, M.P. No. I of 2008 is closed.