

(1932) 10 MAD CK 0033
In the Madras High Court

T.B. Kesava Reddiar

APPELLANT

Vs

Tahsildar of Polur and Another

RESPONDENT

Date of Decision : 25-10-1932

Acts Referred:

Citation : AIR 1933 Mad 319

Hon'ble Judges : Burn, J

Bench : Division Bench

Judgement

Burn, J.—The prayer is that this Court:

should be pleased to issue a writ of certiorari to the Election Officer... and to direct the said officer to include my name in the list of nominated candidates and then to proceed to hold the election....

2. This is obviously a prayer for a direction which would be suitable in a writ of mandamus, but is quite inappropriate in a writ of certiorari. This Court has no power to issue a writ of mandamus. (Section 50, Specific Relief Act). The petition must therefore be dismissed. Moreover, the relief sought is only nominally against the Election Officer; it is in reality against the Government who by their Order in G.O. No. 3810 L and M Mis., dated 24th September 1932, cancelled the order of the Election Officer. Polur, accepting the nomination papers of the petitioner, and further directed under Rule 35(1) of the Rules for the election of members of Local Boards, that the petitioner's name be excluded from the list of valid nominations and ballot papers. This Court has power u/s 45, Specific Relief Act, to issue mandatory orders to public servants and others to do specific acts within the local limits of its ordinary civil jurisdiction, but not against the Governor in Council Section 45, Proviso (f), Specific Relief Act nor against the Governor acting with ministers: Penugonda Venkataratnam and Another Vs. The Secretary of State for India in Council and Others, . That in my opinion is a sufficient reason for me to decline to discuss the question whether the order of the Government was intra or ultra vires. Another equally good reason is that the petitioner has refrained from making the Government a party to the petition. I

dismiss the petition with the costs separately of the Election Officer and respondent 2.