

(2011) 10 MAD CK 0144

In the Madras High Court

Case No : Writ Petition No. 22924 of 2011 and M.P. No's. 1 to 3 of 2011

V. Krishnaveni

APPELLANT

Vs

Assistant Election Officer cum Zonal Deputy Tahsildar,
Avinashi Panchayat Union, Tiruppur District

RESPONDENT

Date of Decision : 04-10-2011

Acts Referred:

Tamil Nadu Panchayats (Election) Rules, 1995 — Rule 26(4), 29(5)

Citation : (2012) 2 MLJ 78

Hon'ble Judges : D. Hariparanthamun, J

Bench : Single Bench

Advocate : V. Raghavachari for MAP. Thangavel, for the Appellant; A. Navaneethakrishnan Advocate General Assisted by Ms. M.E. Raniselvam Additional Government Pleader, for Respondent, for the Respondent

Judgement

D. Hariparanthamun, J.—Heard both sides. By consent, the writ petition itself is taken up for final disposal. Election to Local Bodies was notified in Tamil Nadu and the same is to take place on 17.10.2011 and on 19.10.2011. Nominations were filed by candidates and the same were scrutinized on 30.9.2011. After scrutiny, the invalid nominations were rejected and the list of valid nominations was prepared. On 3.10.2011, the validly nominated candidates were given option to withdraw from the contest, if they so desire.

2. While so, the petitioner made nomination on 27.9.2011. However, her nomination was rejected by the Returning Officer stating as follows:

That is, the serial number of the proposer has been wrongly mentioned in the nomination form.

3. The learned counsel for the petitioner submits that the nomination of the petitioner was rejected on trivial grounds contrary to and in violation of Rules 26(4) and 29(5) of the Tamil Nadu Panchayats (Elections) Rules, 1995. Those rules are also in terms of the Representation of the People Act, 1950. Rules 26(4)

and 29(5) of the Tamil Nadu Panchayats (Elections) Rules, 1995 are extracted hereunder:

26(4) On the presentation of a nomination paper, the Returning Officer shall satisfy himself that the names and electoral roll numbers of this candidate and his proposer as entered in the nomination paper are the same as those entered in the electoral roll:

Provided that the Returning Officer shall permit any misnomer or inaccurate description or clerical or printing error in the nomination paper in regard to the said names or numbers to be corrected or to bring them in conformity with the corresponding entries in the electoral roll and wherever necessary, direct that any clerical or printing error in the said entries shall be overlooked.

29(5) The Returning Officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character.

Explanation.- For the purpose of this sub-rule, failure to complete or any defect in completing the declaration as to symbols in a nomination paper relating to election of members of Panchayat Union Councils or of District Panchayats shall not be a defect of a substantial character.

4. The impugned order dated 3.10.2011 filed by the petitioner at page No. 4 of the typed set refers to the petitioner's letter dated 3.10.2011 wherein, it is mentioned that on 30.9.2011, the error has been brought to the notice of the Returning Officer. In this regard, the relevant passage from the letter dated 3.10.2011 of the petitioner is extracted hereunder:

5. On the other ground, the learned Advocate General sought to sustain the order rejecting the nomination filed by the petitioner.

6. Taking into account the urgency involved the same was heard at 2.15 p.m., on 3.10.2011 and the learned Advocate General was present. This Court expressed its view that since the petitioner approached this Courts before the last date for withdrawal of nomination, her case could be considered separately. It is a different matter, if the petitioner approaches after the symbols are allotted and ballot papers are printed. In such cases, the persons aggrieved over their rejection of nominations, could have only option to agitate against the order of rejection, by way of election petition. Therefore, I have no hesitation to hold that the order rejecting the nomination of the petitioner is not proper and legal.

7. Considering the facts and circumstances of the case, I am of the view that the rejection is based on trivial grounds and in violation of Rules 26(4) and 29(5) of the Tamil Nadu Panchayats (Elections) Rules, 1995 and also the instructions given to the Returning Officers, based on those rules. In these circumstances, the writ petition is disposed of with a direction to the respondent to consider the nomination of the petitioner in the light of above observation and to pass appropriate orders, within two days from today. No costs. Consequently, connected miscellaneous petitions are closed.