



W.P.No.3223 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.3223 of 2022

P.Arumugam .. Petitioner

Vs.

1. The Tamil Nadu State Election Commissioner
Office of the Tamil Nadu State Election Commission
No.208/2, 100 Feet Road
Arumbakkam
Chennai 600 106.

2. The Assistant Returning Officer
Zonal Officer - IX
Ward No.117
Corporation of Chennai
Rippon Buildings
Chennai 3.

3. The Commissioner of Police
Chennai City, Egmore.

4. The Assistant Commissioner of Police
Teynampet, Chennai.

5. The Assistant Commissioner of Police
Mambalam, Chennai.

.. Respondents



W.P.No.3223 of 2022

WEB COPY

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of Mandamus directing the respondents to provide uninterrupted and additional reinforcement of police force and also for total coverage throughout the election process on 19.02.2022 in Ward No.117.

For the Petitioner : Mr.EV.Chandru

For the Respondents : Mr.S.Sivashanmugam
Standing Counsel
for respondent 1

Mrs.Karthika Ashok
for respondent 2

Mr.R.Shunmugasundaram
Advocate General
Assisted by
Mr.P.Muthukumar
State Government Pleader
for respondents 3 to 5

ORDER

(Order of the Court was made by
the Hon'ble Chief Justice)

The writ petition has been filed seeking a direction to the respondents to provide uninterrupted and additional reinforcement



W.P.No.3223 of 2022

WEB COPY

of police force and total coverage throughout the election process scheduled to be held on 19.02.2022, in Ward No.117.

2. Learned counsel for the petitioner submits that a complaint was lodged against the opponent contestant belonging to ruling party for affixing their posters on the posters already affixed by the petitioner. The petitioner has also made a representation to the respondents 1 and 2 in this regard. The petitioner has filed certain photographs to demonstrate the aforesaid action of the opponent contestant.

3. Learned counsel for the Tamil Nadu State Election Commission and the Chennai Corporation would state that affixing posters on walls in public property or private property, without permission, is an offence and liable for prosecution under the provisions of the Tamilnadu Open Places (Prevention of Disfigurement) Act, 1959 and is in breach of the circular issued by the Tamil Nadu State Election Commission on 30.11.2021 deprecating the unhealthy practice of disfigurement/defacement of



W.P.No.3223 of 2022

WEB COPY

public and private properties during the election campaign and directing the authorities to take necessary immediate action.

4. We have considered the submissions and also perused the records.

5. On perusal of the photographs filed in the typed set of papers, we find that posters have been affixed by the candidates on the walls, including the wall of the office of Ward No.117 of Chennai Corporation. Affixing posters on the wall belonging to the public office or even private office without appropriate permission is prohibited.

6. In view of the above, the petitioner was asked to show the permission obtained by him for affixing the poster or even a small sticker. The petitioner could not show any permission obtained by him in that regard. We find that the petitioner has also affixed his poster on the poster already affixed by the opponent contestant. Thus, we do not find any substance in the allegation made by the



W.P.No.3223 of 2022

WEB COPY

petitioner and for grant of prayer in this petition, otherwise no ground is made out.

7. It is disheartening to note that in the name of election, the candidates are affixing posters on the walls belonging to public or private property, without appropriate permission, thereby disfiguring the open places of the city. For that purpose, the Tamil Nadu State Election Commission and the Commissioner of Police, Chennai City are directed to ensure the strict compliance of the Act of 1959 and the circular dated 30.11.2021 issued by the Tamil Nadu State Election Commission by not allowing any candidate to affix poster either on the wall belonging to the public or the private property without proper permission and even ensure prosecution of such person for flouting the rules, by registering complaints on the candidates concerned. In this context, the relevant portion of the circular dated 30.11.2021 is reproduced hereunder:

"3) Both the Public and Private places are disfigured at the time of election by way of pasting election advertisement or posters and writings on the walls and rocks in violation of the Model Code of Conduct.



WEB COPY

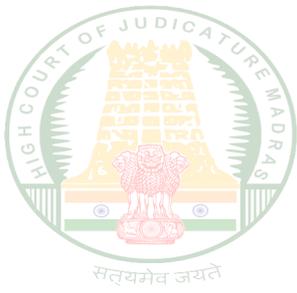


W.P.No.3223 of 2022

Needless to say that this spoils the beauty of the towns and cities and causes loss to the private house owners who keep their houses and walls neatly. In order to prevent such disfigurement, the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 (Tamil Nadu Act 2 of 1959) provides that disfigurement of any public or private place is an offence and punishable with imprisonment which may extend to one year or with fine which may extend to Five thousand rupees or with both. The offences are cognizable under the Act. Abetment of such disfigurement is also made punishable under the provisions of the Act.

4) The police officers are empowered to remove, erase, pull down and destroy objectionable advertisements.

5) The Tamil Nadu State Election Commission is of the firm view that this unhealthy practice of disfigurement/defacement of public and private properties during the election campaign should be curbed with a heavy hand by invoking the provisions of law referred above. The Tamil Nadu State Election Commission, therefore, directs the Returning



WEB COPY



W.P.No.3223 of 2022

Officers/Assistant Returning Officers of local bodies to take immediate measures, wherever necessary, for restoration to its original position of the defaced public/private properties by directing the political parties and contesting candidates to remove their posters/slogans and repaint the walls of public/private property at their own expenses. In case of failure to comply with the instructions, prosecution should be lodged against the concerned under the provisions of law referred above. Strict vigilance should be maintained to prevent such defacement of public/private property particularly during election campaign and appropriate legal action should be taken against the violators.

6) The Tamil Nadu State Election Commission, hereby, directs the District Collectors, Commissioners of Police, the Superintendents of Police and the Commissioner, Chennai Corporation to strictly enforce the implementation of Model Code of Conduct by taking necessary action by issuing suitable instructions to their subordinate officers and also by launching inspection teams from time to time during the campaign period. Prompt prosecution of offenders in the early stages of campaigning will act



WEB COPY



W.P.No.3223 of 2022

as great deterrent to others. They are also requested to give wide publicity to the provisions of the said Act and the Model Code of Conduct among the general public, political parties and contesting candidates. The Hon'ble Supreme Court of India and the Hon'ble High Court of Madras also given various Judgment in this regard to implement the provisions of the Act."

[emphasis supplied]

8. In view of the above, a copy of the order would be served today itself on learned counsel appearing for the Tamil Nadu State Election Commission, Chennai Corporation and learned Advocate General, for compliance of the direction of this order.

9. A wide publicity of this order would be given, with a direction to all the candidates not to affix posters on the walls of public property and private property, without proper permission and to remove the posters pasted on the walls immediately. The cost incurred for removal of such posters be recovered from the candidate whose poster was pasted on the wall of private property



W.P.No.3223 of 2022

सत्यमेव जयते or public property, without proper permission.

WEB COPY

10. We further direct that if anyone is now found affixing posters, by way of CCTV camera placed in the city, they would be prosecuted as per law. The details of such person would be furnished to the Court for initiating contempt proceedings for flouting the direction of the Court. Accordingly, the writ petition is disposed of .

11. Let this writ petition be listed on 21.02.2022 for filing report as to the strict compliance of this order, by all the respondents to whom direction has been given.

(M.N.B., CJ.) (D.B.C., J.)
16.02.2022

Index : Yes/No

kpl/drm



W.P.No.3223 of 2022

WEB COPY

To:

1. The Tamil Nadu State Election Commissioner
Office of the Tamil Nadu State Election Commission
No.208/2, 100 Feet Road
Arumbakkam
Chennai 600 106.
2. The Assistant Returning Officer
Zonal Officer - IX
Ward No.117
Corporation of Chennai
Rippon Buildings
Chennai 3.
3. The Commissioner of Police
Chennai City, Egmore.
4. The Assistant Commissioner of Police
Teynampet, Chennai.
5. The Assistant Commissioner of Police
Mambalam, Chennai.



WEB COPY



W.P.No.3223 of 2022

M.N.BHANDARI, CJ
AND
D.BHARATHA CHAKRAVARTHY,J.

(kpl)

W.P.No.3223 of 2022

16.02.2022