

W.P.Nos.27375 of 2019 & 12684 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.27375 of 2019 & 12684 of 2021

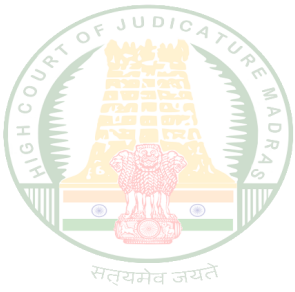
W.P.No.27375 of 2019

M.L.Ravi

.. Petitioner

Vs.

1. Chief Election Commissioner  
Election Commission of India  
Nirvachan Sadan  
Ashoka Road  
New Delhi 110 001.
2. Chief Electoral Officer  
Public Elections Department, Tamil Nadu  
Secretariat, Fort St. George  
Chennai 600 009.
3. Returning Officer & District Collector  
No.25, Perambalur Parliament Constituency  
Perambalur Collectorate, Perambalur.
4. Returning Officer & District Collector  
No.13, Villupuram Parliament Constituency  
Villupuram Collectorate, Villupuram.



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5. Returning Officer & District Collector  
No.17, Erode Parliament Constituency  
Erode District, Erode.
6. Returning Officer & District Collector  
No.16, Namakkal Parliament Constituency  
Namakkal District, Namakkal.
7. Returning Officer & District Revenue Officer  
No.37, Tenkasi (SC) Parliament Constituency  
District Collector Office, Tirunelveli.
8. President/General Secretary/Authorised Signatory  
Dravida Munnetra Kazhagam (DMK)  
Anna Arivalayam  
Anna Salai, Chennai 600 018.
9. President/General Secretary/Authorised Signatory  
All India Dravida Munnetra Kazhagam (AIADMK)  
Lloyds Road, Royapettah  
Chennai 600 014.
- 10.T.R.Paarivendhar
- 11.D.Ravikumar
- 12.A.Ganesha Moorthy
- 13.P.Chinraj
- 14.Dr.K.Krishnasamy .. Respondents

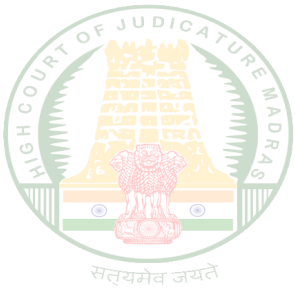
W.P.No.12684 of 2021

M.L.Ravi .. Petitioner

Vs.

1. Chief Election Commissioner  
Election Commission of India  
Nirvachan Sadan, Ashoka Road  
New Delhi 110 001.
2. Chief Electoral Officer

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Public Elections Department, Tamil Nadu  
Secretariat, Fort St. George. Chennai 600 009.

3. T.Sadhan Thirumalai Kumar
4. M.Bhoominathan
5. K.Chinnappa
6. A.R.R.Raghuraman
7. M.J.Jawahirullah
8. E.R.Eswaran
9. T.Velmurugan
- 10.M.Jagan Moorthy

11.President/General Secretary/Authorised Signatory  
Dravida Munnetra Kazhagam - DMK  
Anna Arivalayam  
Anna Salai, Chennai 600 018.

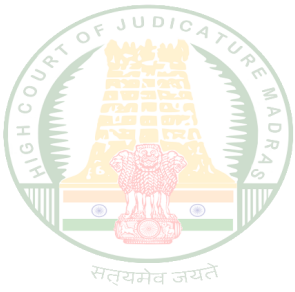
12.President/General Secretary/Authorised Signatory  
All India Anna Dravida Munnetra Kazhagam - AIADMK  
Lloyds Road, Royapettah  
Chennai 600 014.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking

(i) a writ of Mandamus directing the 1<sup>st</sup> respondent to declare the acceptance of the Form B submitted by respondents 10 to 14 is illegal and against the prescribed Rules and Act. Consequently, the results declared by the Election Commission of India for the said respondents in the General Lok Sabha Elections 2019 to the said respective constituencies as null and void; and

(ii) a writ of Mandamus directing the 1<sup>st</sup> respondent to declare the acceptance of the Form B submitted by respondents 3 to 10 is illegal and against the prescribed Rules and Act. Consequently, the results declared by the Election Commission of India for the said respondents in the Tamil Nadu General Legislative Assembly Elections 2021 to the said respective constituencies as null and void.



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For the Petitioner in  
both W.Ps.

: Mr.T.Sivagnanasambandan

For the Respondents  
in W.P.No.27375/19

: Mr.Niranjan Rajagopalan  
For M/s.G.R.Associates  
for Respondents 1 to 7

Mr.S.Manuraj  
for Respondent-8

Mr.A.P.Balaji  
For Mr.K.Gowtham Kumar  
for Respondent-9

Mr.B.Sudhir Kumar  
for Respondent-10

Mr.Richardson Wilson  
For M/s.P.Wilson Associates  
for Respondent-11

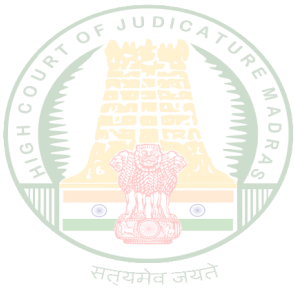
Mr.R.Govindaraj  
for Respondent-12

Mr.V.P.Sengottuvel  
Senior Counsel  
For Mr.A.Akshay Kumar  
for Respondent-13

Mr.J.Saravanel  
for Respondent-14

For Respondents in  
W.P.No.12684/21

: Mr.Niranjan Rajagopalan  
For M/s.G.R.Associates  
for Respondents 1 & 2



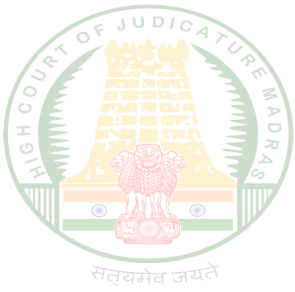
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**ORDER**  
(Made by the Hon'ble Chief Justice)

We have heard Mr.T.Sivagnanasambandan, learned counsel for the petitioner, Mr.Niranjan Rajagopalan, learned counsel for the respondents 1 to 7 in W.P.No.27375 of 2019 and for the respondents 1 and 2 in W.P.No.12684 of 2021, Mr.S.Manuraj, learned counsel for the 8<sup>th</sup> respondent, Mr.A.P.Balaji, learned counsel for Mr.K.Gowtham Kumar, learned counsel for the 9<sup>th</sup> respondent, Mr.B.Sudhir Kumar, learned counsel for the 10<sup>th</sup> respondent, Mr.Richardson Wilson, learned counsel for the 11<sup>th</sup> respondent, Mr.R.Govindaraj, learned counsel for the 12<sup>th</sup> respondent, Mr.V.P.Sengottuvel, learned Senior Counsel for Mr.A.Akshay Kumar, learned counsel for the 13<sup>th</sup> respondent and Mr.J.Saravanavel, learned counsel for the 14<sup>th</sup> respondent in W.P.No.27375 of 2019.

2. The petitioner seeks a direction against the first respondent to declare the acceptance forms of the respondents 10 to 14 in W.P.No.27375 of 2019 and respondents 3 to 10 in W.P.No.12684 of 2021 are illegal and against the prescribed Rules and the Act and



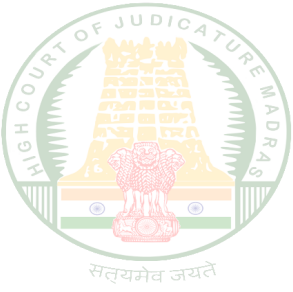
W.P.Nos.27375 of 2019 & 12684 of 2021

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consequently, the results declared by the Election Commission of India of the said respondents be held as null and void.

3. Learned counsel for the petitioner submits that these respondents were parties of one political party and contested the election on the symbol of another political party which is impermissible in law. Learned counsel for the petitioner places reliance upon the guidelines prescribed by the Election Commission of India in exercise of the powers conferred under Article 324 of the Constitution of India and Section 29A of the Representation of People Act, 1951. According to him, an affidavit duly signed by the President/Secretary of the applicant party and sworn before the First Class Magistrate to the effect that no Member of the organisation is a member of any other political party registered with the Election Commission has to be filed. The affidavits filed by these persons on the face of it are false. Form B issued is illegal.

4. Learned counsel for the petitioner submits that this Court can entertain the writ petition. To buttress his submission, reliance is

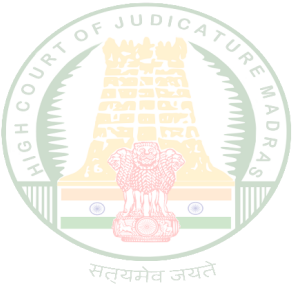


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placed upon the judgment of the Supreme Court in ***K.Venkatachalam v. A.Swamickan [Appeal (Civil) 1719 of 1986 dated April 26, 1999]***.

5. Learned counsel for the respondents who contested the elections submit that they are the members of the political party on whose symbol they had contested the election. The reference is also made to the Election Symbols (Reservation and Allotment) Order, 1968 of the Election Commission of India wherein it is stated that a candidate set up by State party at an election in any constituency in a State in which such party is a State party, shall choose and shall be allotted the symbol reserved for that party in that State and no other symbol.

6. Article 329B of the Constitution of India provides that the election of a legislative candidate can only be assailed by way of an election petition.



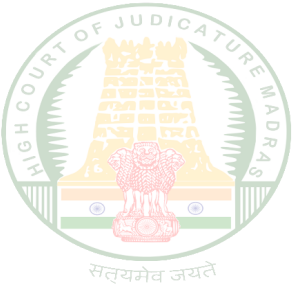
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WEB COPY 7. In the case of **K.Venkatachalam** (supra) relied upon by learned counsel for the petitioner, the candidate who had contested the election was not a voter in the constituency. His name did not appear in the electoral roll. On the face of it, it was held that he was not competent to sit as a member of the Legislative Assembly in Tamil Nadu and as such, writ of quo warranto was issued.

8. In the present case, the disputed questions of fact exist as to whether these persons are members of two political parties or one and at the same time, whether they were the members of the political party on whose symbol they had contested the election and whether they are the members of one political party and contested election on the party symbol of other political party. All these disputed questions of fact cannot be gone into in a writ petition.

9. In the light of that, the grievance raised by the petitioner cannot be considered in the present writ petitions. The writ petitions, as such, stand disposed of. There shall be no order as to costs. Consequently, W.M.P.Nos.4920 of 2020, 13474 and 8510 of 2021 are





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WEB COPY closed.

(S.V.G., CJ.)

(D.B.C., J.)

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Index : Yes/No

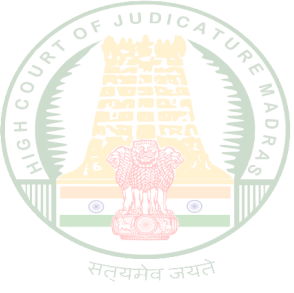
Neutral Citation : Yes/No

kpl

To

1. Chief Election Commissioner  
Election Commission of India  
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2. Chief Electoral Officer  
Public Elections Department, Tamil Nadu  
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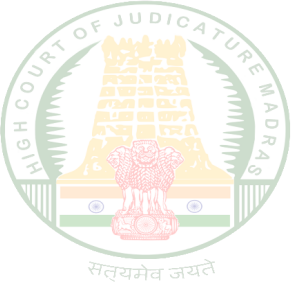
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7. Returning Officer & District Revenue Officer  
No.37, Tenkasi (SC) Parliament Constituency  
District Collector Office, Tirunelveli.



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THE HON'BLE CHIEF JUSTICE  
AND  
D.BHARATHA CHAKRAVARTHY, J

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