

## IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2014

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE  
and  
THE HON'BLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.25123 of 2014

Bharathiya Janata Party,  
Rep. By its Head Quarter Secretary  
of Tamilnadu State Unit, Mr.K.Sarvothaman.

... Petitioner

VS

- 1.Tamilnadu State Election Commission,  
Rep. By its Commissioner/Secretary,  
No.208/2, Jawaharlal Nehru Street,  
Arumbakkam, Chennai.
- 2.The Director General of Police,  
Office of the Director General of Police,  
State of Tamilnadu, Mylapore,  
Chennai.
- 3.All India Anna Dravida Munnetra Kazhagam,  
Rep. by its General Secretary,  
Selvi.J.Jayalalitha, Avvai Shanmugam Salai,  
Royapettah, Chennai.
- 4.The District Collector,  
Kancheepuram District,  
Kancheepuram.
- 5.The District Collector,  
Villupuram District, Villupuram.
- 6.The District Collector,  
Nilgiris District, Nilgiris.
- 7.The District Collector,  
Ariyalur District, Ariyalur.

8.Ganesan  
Municipal Council Member, Ward No.2,  
Pallavaram Municipality,  
Pallavaram, Chennai.

9.Komala  
Municipal Council Member, Ward No.33,  
Tambaram Municipality,  
Tambaram, Chennai.

..Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records relating to the by-election notification issued by the 1st respondent in proceeding No.Press Note No.4/2014 dated 28.08.2014, quash the same, further direct the 1st respondent herein to notify fresh by-elections to the local bodies.

For Petitioner .. Mr.P.S.Raman, S.C.  
for M/s.P.R.Raman

For Respondents .. Mr.A.L.Somayaji, S.C.  
for Mr.B.Nedunchezhan for R-1  
.. Mr.R.Muthukumarasamy, S.C.  
for Mr.E.Manoharan for R-3  
.. Mr.S.T.S.Moorthy  
Govt. Pleader for State Govt.  
\* \* \* \* \*

### **ORDER**

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

We have heard the learned counsel for parties.

2.In so far as the issue of the legal validity of the notification is concerned, learned senior counsel appearing for the petitioner/Party cannot dispute that the same is covered by our judgment dated 12.08.2014 rendered in W.P.Nos.24018 to 24048 of 2014.

3.Learned senior counsel appearing for the petitioner/Party, however, seeks to contend that there is rampant malpractice even at the stage of filing and acceptance of nominations, to which a serious thought is required to be given by the State Election Commission.

4.On the other hand, the learned senior counsel appearing for the State Election Commission, seeks to contend that necessary measures have been taken and certain officers have been appointed to look into the specific grievances. He submits that there are even individual petitions filed by certain candidates before the Madurai Bench and gives illustrations that one of them was rejected and in another, orders are reserved. He further submits that a circular dated 12.09.2014 has been issued by the State Election Commission to ensure free and fair election.

5.In view of the aforesaid position, we, but, need to re-emphasize that the circular must be observed in its letter and spirit and necessary arrangements are made for conduct of fair and transparent elections. If there are individual affected candidates, it is open to them to raise their grievances in accordance with law.

6.The last representation given by the petitioner/Party is

dated 11.09.2014, which contains the grievances qua certain specific candidates and issues.

7. Though learned senior counsel appearing for the State Election Commission states that either action has been taken or even some complaints were withdrawn and the same were disposed of on the same day vide a letter of the even date, the State Election Commission is not averse to giving a hearing to the petitioner/Party in case it wants to point out certain specific issues so that precautionary measures are taken.

8. In this behalf, the hearing will be held by the State Election Commission at 3.00 p.m. today. It is open to the petitioner/Party to nominate any senior office bearer of the Party for the purpose of personal hearing and needless to say that if complaints are found to be genuine, the State Election Commission would take necessary corrective action.

9. Writ Petition, accordingly, stands disposed of. No costs. Consequently, M.P.Nos.1 and 2 of 2014 stand closed.