

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 7457 OF 2000@@
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P.H. Pandian Appellant (s)

VERSUS

P. Veldurai & Anr. Respondent (s)
(With appln. for permission to submit additional documents)

Date: 11/09/2001 This petition was called on for hearing today.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE R.C. LAHOTI
HON'BLE MR. JUSTICE ASHOK BHAN

For Appellant(s) Mr. S. Sivasubramaniam, Sr. adv.
Mr. R. Nedumaran, adv.
Mr. Sagar Pathak, adv.

For Respondent(s) Mr. S Nanda Kumar, adv.
Mr. V. Vijayan, adv.
Mr. L K Pandey, adv.

UPON hearing counsel, the Court made the following
O R D E R

.....L.....I.....T.....T.....T.....T.....T.....T.....J
.SP2

The appeal is disposed of in terms of the
signed order placed on the file. Parties shall bear
their own costs insofar as this appeal is concerned.

.SP1

(Prem Prakash) (Kanchan Jain)
Court Master AR-cum-PS

Signed order is placed on the file.

P H Pandian

....Appellant

VS.

P Veldurai & Anr.

....Respondents

O R D E R@@
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This appeal, under Section 116-A of the Representation of People Act, 1951, calls in question final judgment and order made by the High Court of Madras in Election Petition No.1 of 1996 on 29th December, 1999.

Though, fresh elections have since been held to Tamil Nadu Legislative Assembly and to an extent this appeal has been rendered infructuous, the manner in which the election petition was dealt with by the High Court causes us concern and that necessitates our making reference to some salient facts.

The appellant was a candidate from 220 Charenmahadevi Assembly Constituency of Tamil Nadu Legislative Assembly at the elections held in 1996. He had represented that Constituency, according to everments made in the election petition, for four consecutive terms between 1977 and 1991. In the elections held on 27th April, 1996 he lost to respondent No.1. He filed an election petition challenging the election of the returned candidate respondent No.1, mainly on two grounds: firstly, that the respondent was a Government contractor who had a subsisting contract with Panchayat Union and the State Government and was therefore, disqualified to be chosen as a member of the Assembly under Section 9-A of the Representation of People Act, 1951 (hereinafter the Act); and secondly, the returned candidate had incurred or authorised expenditure in excess of the limits prescribed under the Act and had, thus, committed a corrupt practice under Section 123(6) of the Act. The respondent resisted the election petition and denied all the allegations. By the impugned judgment and order the election petition was dismissed, after evidence had been led by the parties.

Now to the disquieting feature: Results of elections, held on 27th April, 1996, were declared on 11th May, 1996. The Legislative Assembly was summoned soon thereafter. The appellant filed an election petition challenging the election of respondent No.1 on 24th June, 1996. The trial of the election petition continued before the learned Designated Judge till 24th February, 1998, when judgment was reserved. The election petition remained pending in the High Court during trial for almost 20 months. After judgment was reserved on 24th February, 1998, we find that the judgment was pronounced only on 29th December, 1999, i.e. 22 months after the judgment had been reserved. Such a long delay in pronouncing the judgment, in an election petition, to say the least was not at all proper. We find no justification whatsoever for the judgment to have remained reserved

for 22 months. Such long delay in pronouncing judgments gives rise to avoidable criticisms. Courts must guard against it.

That, however, is not all. There is yet another infirmity brought to our notice by learned counsel for the appellant. The appellant applied for a certified copy of the judgment within about six days of the pronouncement of the judgment, on 3rd January, 2000. It appears that the appellant was called upon to deposit stamps for copy of the judgment, 11 months later, on 5th December, 2000 only and certified copy of the judgment was actually made available to the appellant on 7th December, 2000. The total term of an Assembly is five years. Counting the period spent for the trial of the election petition and thereafter when the judgment remained reserved and the time spent in supplying certified copy, 53 months had expired. Thus, a major part of the entire term of the Assembly was spent in Court proceedings. We are at loss to understand why the election petition was dealt with so casually in the High Court. That 11 months time was taken for supplying certified copy of the judgment is itself a poor reflection on the administration of the High Court. We find it proper to request the Hon ble Chief Justice of the High Court of Madras to look into this aspect because such delays in delivery of certified copies of judgments in all cases, and more particularly in election petitions, is highly objectionable. Why and how it happened is for the Hon ble Chief Justice of the High Court to explore we say no more !

The delay of 22 months, after arguments were concluded and judgment reserved to pronounce the judgment, lends force to the submission of learned counsel for the appellant that the possibility that arguments raised at the Bar may not have been reflected upon or appreciated by the learned designated judge at the time of dictating the judgment. This flaw would have impelled us to set aside the impugned judgment of the High Court, without going into its merits, and remand the matter to the High Court for fresh disposal in accordance with law but Mr. Sivasubramaniam, learned Senior counsel appearing for the appellant, very fairly submitted that remand of the case, at this stage, would be futile because fresh elections have already taken place and the old Assembly is no longer in existence. Keeping this fact situation in view we may now consider the submission made on merits.

Insofar as allegations regarding of commission of corrupt practice by the returned candidate respondent No.1 are concerned, the evidence on the record is not sufficient to show that the returned candidate - respondent No.1 committed corrupt practice punishable under Section 123(6) of the Act. The evidence is scanty and of a non-conclusive nature. Learned counsel for the appellant was not able to support charge against respondent NO.1 on this issue. Therefore, the charge of corrupt practice against the respondent must fail. Once the charge of corrupt practice fails, rest of the appeal would be rendered infructuous because of the subsequent developments as already noticed.

Mr. Sivasubramaniam, learned Senior counsel, however, vehemently contended that the returned

candidate had a subsisting contract with the Panchayat Union and the State Government and was, therefore, disqualified to be chosen for the seat under Section 9- A of the Act. He has drawn our attention to G.O. Ms. No. 4682 dated 16th November, 1951 dealing with the specific issue of Request of Contractors for withdrawal from subsisting contracts and removal of the name from list of approved Contractors . He has, in particular, drawn our attention to paragraphs 2 to 4 of the G.O. According to Mr. Sivasubramaniam, learned Senior counsel, the High Court fell in error in not considering the above G.O. in its correct perspective. May be he has a point there but we do not wish to detain ourselves to consider this aspect of the case because the charge of corrupt practice having failed, even if the appellant was to succeed on this issue, it would be of no consequence because fresh elections have already taken place and the exercise of examining the challenge based on Section 9-A of the Act, would only be now of an academic interest. We, therefore, do not consider it proper to proceed any further with the discussion on this issue. It is settled practice of this Court not to pronounce upon matters which are only of an academic interest.

Thus, the appeal for all intent and purposes has been rendered infructuous.

The High Court, while dismissing the election petition, however, imposed costs of Rs. 7500/- on the appellant. In the facts and circumstances of this case, as we have noticed above, we set aside the order of the High Court imposing costs on the appellant.

Appeal is, accordingly, disposed of in above terms.

Parties shall bear their own costs insofar as this appeal is concerned.

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(R.C. LAHOTI)

& & & & & & & & & & & ..J
(ASHOK BHAN)

New Delhi,
September 11, 2001