



W.P.Nos.12113 and 12115 of 2022

WEB COPY

W.P.Nos.12113 and 12115 of 2022

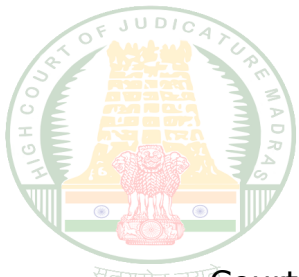
and W.M.P.Nos.11546, 11548, 11551 and 11553 of 2022

R.MAHADEVAN, J.
and
S.ANANTHI, J.

(Order of the Court was made by R.MAHADEVAN, J.)

1.1. Earlier, the petitioners herein along with one J.Pregash Kumar, filed WP.Nos.22288, 22289 and 22301 of 2021, challenging the notifications in G.O.Ms.No.51/LAS/2021 and G.O.Ms.No.52/LAS/2021 both dated 06.10.2021 issued by the second respondent. At the time of admission of the said writ petitions, this court, by order dated 11.10.2021, directed the respondents to keep in abeyance all further proceedings in the matter of conduct of election to the Municipalities and Commune Panchayats in Union Territory of Puducherry till 21.10.2021 enabling the respondents to file their counter.

1.2. Thereafter, by order dated 01.12.2021, those writ petitions were dismissed as withdrawn with liberty to the petitioners to approach the Hon'ble Supreme Court. Pursuant to the same, the petitioner in WP.No.22288 of 2021 approached the Hon'ble Supreme



W.P.Nos.12113 and 12115 of 2022

WEB COPY

Court by filing SLP(C)No.54 of 2022, which, by order dated 28.03.2022, was dismissed as withdrawn, with liberty to the petitioner to approach the High Court. The relevant portion of the said order is reproduced hereunder:

"This writ petition has been filed under Article 32 of the Constitution of India assailing the validity of the notifications dated 06.10.2021 and 07.10.2021 and for a consequential direction to the respondents to conduct elections to all local bodies of the State of Puducherry while providing reservations for Backward Classes and Scheduled Tribes. As the issue raised in this writ petition is not integrally connected with any matter that is pending in this court, we permit the writ petitioner to withdraw this writ petition with liberty to approach the High court by filing a writ petition under Article 226 of the Constitution of India which shall be decided on its own merits. We make it clear that we have not expressed any opinion on the merits of the matter."

In view of the aforesaid liberty granted by the Hon'ble Supreme Court, the petitioners have come up with these two writ petitions, to quash the notifications in G.O.Ms.No.51/LAS/2021 and G.O.Ms.No.52/LAS/2021 both dated 06.10.2021 issued by the second respondent.



W.P.Nos.12113 and 12115 of 2022

WEB COPY

2.By the impugned notifications, the earlier notifications providing reservation of seats for Backward class – 33.5% and Scheduled Tribes – 0.5% in Municipal Councils and Panchayats at all levels, by respective notifications in G.O.Ms.No.47/LAS/2019 Puducherry dated 07.03.2019 and G.O.Ms.No.48/LAS/2019 Puducherry dated 07.03.2019, were rescinded as *ultra vires* the constitution and other statutes governing local body elections in the Union Territory of Puducherry.

3.1. Mr.P.Wilson, learned senior counsel appearing for the petitioner in WP.No.12115 of 2022, contended that the withdrawal of reservation for Scheduled Tribes, despite identification of existence of such Scheduled Tribes within Union Territory of Puducherry, stands as infraction of constitutional mandate under sections 243D(1) and 243T(1) which provides for reservation of seats in Municipalities and Panchayats for Scheduled Tribes proportional to the population. Adding further, it is contended that the withdrawal of reservation is antithesis to social justice which inturn, is against the principle of equality as enshrined under Article 14 of the Constitution of India.



W.P.Nos.12113 and 12115 of 2022

WEB COPY

3.2. It is also submitted by the learned senior counsel that when the State Government intends for continuation of reservation of seats for politically backward communities and in furtherance of such intention has constituted a commission headed by the Hon'ble Mr. Justice K.K.Sasidharan, Retired High Court Judge, Madras, in line with the Constitution Bench decision in *Krishnamurthy's* case, the act of the State Election Commission in contemplating to conduct local body elections for Municipalities and Commune Panchayats within the Union Territory of Puducherry without providing reservation for OBC category or ST category, warrants interference by this court. It is further submitted that under the guise of implementing the order of this Court dated 05.10.2021 in W.P.No. 21067 of 2012 etc. batch, wherein, it was directed for withdrawal of earlier Election Notification and issuance of fresh Election Notification only to remove anomalies in allocation of reserved seats for Scheduled caste, the respondents have clandestinely withdrawn the reservation for Backward Class and Scheduled Tribes and the same is nothing but fraud played upon this court.



W.P.Nos.12113 and 12115 of 2022

WEB COPY

4.On the other hand, Mr.V.Balamurugane, learned counsel, taking notice for the Government of Puducherry, while seeking a short accommodation for placing materials relating to census details and tentative programme for conduct of local body election, submitted that the Government will follow all the legal mandates for the same.

5.Concededly, the conduct of local body election is a mandate as enshrined under the Constitution and there cannot be any undue delay in compliance of the same. However, the withdrawal of reservation for Backward classes and Schedules Tribes, cannot be simply ignored. Therefore, the respondent authorities shall furnish the requisite particulars, so as to enable this court for passing further orders. Accordingly, the writ petitions stand adjourned to 08.06.2022. Issue notice and private notice to the third respondent by then.

(R.M.D., J.) (S.A.I., J.)
06.05.2022

sra



WEB COPY



W.P.Nos.12113 and 12115 of 2022

**R.MAHADEVAN, J.
and
S.ANANTHI, J.**

sra/rk

W.P.Nos.12113 and 12115 of 2022

06.05.2022