

ITEM NO.46

COURT NO.6

SECTION XII

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

Petition(s) for Special Leave to Appeal (C) No(s). 11237/2022

(Arising out of impugned final judgment and order dated 23-06-2022 in CMP No. 9962/2022 passed by the High Court Of Judicature At Madras)

THIRU K. PALANISWAMY

Petitioner(s)

VERSUS

M. SHANMUGAM & ORS.

Respondent(s)

(ONLY SLP(C) NO. 15705-15706/2022 IS LISTED

IA NO.25854/2023- I/A FOR IMPLEADMENT AND IA 25855/2023-I/A FOR DIRECTIONS)

(IA No. 88919/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 88915/2022 - EXEMPTION FROM FILING O.T., IA No. 90016/2022 - EXEMPTION FROM FILING O.T., IA No. 89831/2022 - EXEMPTION FROM FILING O.T., IA No. 177065/2022 - INTERVENTION/IMPLEADMENT, IA No. 89829/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 88914/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 90015/2022 - PERMISSION TO FILE ADDITIONAL, DOCUMENTS/FACTS/ANNEXURES AND IA No. 88917/2022 - PERMISSION TO FILE LENGTHY LIST OF DATES)

WITH

SLP(C) No. 11579/2022 (XII)

(IA No. 89276/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT AND IA No. 89279/2022 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 11578/2022 (XII)

(IA No. 89597/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT AND IA No. 89599/2022 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 15753/2022 (XII)

(IA No. 147689/2022 - APPLICATION FOR PERMISSION, IA No. 131994/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT AND IA No. 131992/2022 - EXEMPTION FROM FILING O.T., IA No. 131993/2022 - PERMISSION TO FILE LENGTHY LIST OF DATES)

SLP(C) No. 15705-15706/2022 (XII)

(IA No. 131077/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 131075/2022 - EXEMPTION FROM FILING O.T., IA No. 131076/2022 - PERMISSION TO FILE LENGTHY LIST OF DATES, IA NO.25854/2023- I/A FOR IMPLEADMENT AND IA 25855/2023-I/A FOR DIRECTIONS)

Date : 03-02-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DINESH MAHESHWARI
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Parties

Mr. Mukul Rohatgi, Sr. Adv.
Mr. C A Sundaram, Sr. Adv.
Mr. Gowtham Kumar, Adv.
Mr. Balaji Srinivasan, AOR
Mr. Shiva Krishnamurti, Adv.
Mrs. Lakshmi Rao, Adv.

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Mr. Balaji Srinivasan, AOR
Mr. Thangadurai, Adv.
Mr. Shiva Krishnamurti, Adv.
Ms. Rohini Musa, Adv.
Mr. Gowtham Kumar, Adv.

Mr. Guru Krishna Kumar, Sr. Adv.
Mrs. P. Rajalakshmi, Adv.
Mr. Goutham Shivshankar, AOR
Ms. Ruchira Goel, Adv.
Mr. Shantanu Singh, Adv.
Mr. Ravi Sehgal, Adv.
Mr. Adit Jayeshbhai Shah, Adv.

Mr. Parag P. Tripathi, Sr. Adv.
Mr. Amit Sharma, AOR
Mr. Dipesh Sinha, Adv.
Ms. Pallavi Barua, Adv.

*Mr. Shyam Divan, Sr. Adv.
Ms. Awantika Manohar, AOR

Mr. Goutham Shivshankar, AOR

Ms. Diksha Rai, AOR
Mr. Ankit Agarwal, Adv.
Mr. Gowtham Kumar, Adv.
Mr. Prateek Dhankhar, Adv.

Mr. Vinodh Kanna B., AOR

Ms. Garima Jain , AOR

Mrs. Lakshmi Rao, Adv.

Mr. Pai Amit, AOR
 Ms. Pankhuri Bhardwaj, Adv.
 Mr. Abhiyudaya Vats, Adv.
 Mr. Saurabh Agrawal, Adv.
 Ms. Komal Mundra, Adv.
 Ms. Sonali Suryawanshi, Adv.

Mr. Arunava Mukherjee, AOR
 Mr. Ashutosh Kumar, Adv.
 Ms. Mahamaya Chatterjee, Adv.

Mr. P.V. Yogeswaran, Adv.
 Mr. Ashish Kumar Upadhyay, Adv.
 Mr. Sachin Kumar Verma, Adv.
 Mr. Surya Narayan Patro, Adv.
 Ms. Yakeen Bishoyi, Adv.
 Mr. Akshat Shrivastava, AOR

Ms. Anzu. K. Varkey, AOR

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

In continuity with and as per the permission granted in the order dated 30.01.2023, we have heard learned counsel for the parties for the limited purpose in relation to the bye-election of 98-Erode (East) Assembly Constituency.

We have taken note of the respective stand of the contesting parties as also the Election Commission of India in these matters.

As the judgment remains reserved, we do not wish to elaborate on any of the contentious issues involved in the matters. However, having taken note of the fact that bye-election for 98-Erode (East) Assembly Constituency has already been announced

where the last date for filing nominations is 07.02.2023, in our view, a workable solution/interim arrangement appears to be in the interest of the political party concerned as also in the larger interest of democracy with participation of the party's candidate in the forthcoming bye-election.

Hence, after taking note of the submissions and counter-submissions of the learned counsel appearing for the contesting parties as also the propositions of the learned counsel appearing for the Election Commission of India, we deem it appropriate to make the interim arrangement only in relation to the forthcoming bye-election and only for the purpose of participation of a candidate of the party concerned.

In regard to the above, without prejudice to the rights of any of the parties and without conferring any additional right in any of the parties, it is considered appropriate and hence provided thus :

- (1) The proposal as regards choosing the candidate of the party shall be placed for consideration and for final decision by the

General Council of the party.

- (2) As regards the decision-making process of the General Council for choosing the candidate and looking to the time constraints, it is also provided that this process may be taken up by placing the necessary resolution for consideration by way of circulation.
- (3) In this process of decision-making by the General Council for arriving at the name of a candidate to be put up by the party in the forthcoming bye-election of 98-Erode (East) Assembly Constituency, the persons who had allegedly been expelled from the party [namely S/Shri O. Panneerselvam (appellant), R. Vaithilingam, J.C.D. Prabakar and P.H. Manoj Pandian] and whose expulsion is also a matter of contentions, it is provided that such expulsion shall not operate so far as the present purpose is concerned, i.e., for the purpose of decision by the General Council to choose the candidate for the forthcoming bye-election of 98-Erode (East) Assembly Constituency. In other words, the aforesaid four persons shall be entitled to

put forward their votes in the circulation process for this limited purpose of selection of the candidate of the party for the said bye-election.

- (4) The ultimate decision of the General Council, as regards choice of the candidate shall be conveyed to the Election Commission of India by the Presidium Chairperson, Dr. A. Tamizh Magan Hussain; and such communication of the decision of General Council shall be accepted by the Election Commission of India as being the authorization on behalf of the party for the limited purpose of putting up its candidate in the forthcoming bye-election and the returning officer shall take necessary steps accordingly.

We again make it clear that the judgment in the main matters remains reserved and this interim arrangement shall otherwise not be of conferring any additional right in any of the parties nor of taking away any of the rights of the parties. The interim arrangement in terms of this order shall remain confined to the process of bye-election of 98-Erode (East) Assembly Constituency and not

beyond.

Copy of this order be provided to all the parties as also to the Election Commission of India.

Having regard to the overall circumstances and the nature of order passed hereinabove, we do not find any necessity of impleadment as such of the Election Commission of India in these proceedings nor any other order appears requisite. Therefore, both the applications (for impleadment and directions) stand disposed of.

Judgment remains reserved.

(NEETU KHAJURIA)
ASTT. REGISTRAR-cum-PS

(RANJANA SHAILEY)
COURT MASTER

*Appearance not received.