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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.5179 of 2021

Ahimsa Socialist Party,
Founder and President T.Ramesh @ Gandhian Ramesh,
D.No.5/125, West Palapatty,
Sellampatty (P.O), Namakkal District,
Tamil Nadu - 637 019. .. Petitioner

Vs.

- 1.Chief Election Commissioner,
Nirvachan Sadan,
No.1, Ashoka Road,
New Delhi - 110 001.
- 2.Chief Electoral Officer,
Secretariat,
St. George Fort,
Chennai - 600 009.
- 3.District Election Officer/
District Collector,
Vellore Parliament Constituency,
Vellore District. .. Respondents

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Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the first and second respondents to consider the representation dated 16.7.2019 and 18.7.2019 which is of same content in directing the Ministers and Opposition Leader to restrain to campaign for their party candidates contest in the general elections (except their candidature), holding the public office and drawing salary from public funds.

For Petitioner : Mr.T.Sivagnanasambandan

For Respondents : Mr.Niranjan Rajagopal

ORDER

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

The petitioner seeks a prohibition on Ministers and the like from campaigning in the elections as they hold public offices, draw salary from the government and are in a position to exert undue influence.

सत्यमेव जयते

2. The petitioner wants its representation to be appropriately considered by the Election Commission.

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3. In an ideal world, there should be a level playing field where the government functionaries do not use the perks and benefits in office while they campaign for election purposes. These exacting standards were met by many a politician, but has gone out of fashion these days. There are also other considerations which come into play in the modern world. There are security concerns. Thus, even though a Minister may be willing to shed his official bandobast to attend a rally merely as a politician, the very status of the Minister and the requirement to give him security cover may not permit the freedom that would be required for the purpose. This goes more so with higher officials like Chief Ministers and those holding cabinet positions at the Centre.

4. To such extent, the petitioner's idealism may be slightly out of place. However, a strict Election Commission can, nonetheless, put some guidelines in place, in addition to the existing guidelines indicated in the model code, at least to ensure that the government funds are not brazenly used for campaigning purposes as is usually being indulged in at present. The Election Commission has sufficient authority to put checks and balances in place that allow a Minister or

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the like to enjoy the status yet not spend official funds for campaigning or election purposes.

5. However, the malaise is now deep-rooted. One has to wear allegiance to a political leader, if not on the sleeve at least visibly crying out of the pocket. And these are not only at election time but adopted as a perennial measure, almost as a talisman to ward off the evil eye.

6. For whatever is worth, the Election Commission will deal with the petitioner's representation, if not for the upcoming elections, for the future elections.

7. W.P.No.5179 of 2021 is disposed of without any order as to costs. Consequently, W.M.P.No.5743 of 2021 is closed.

(S.B., CJ.) (S.K.R., J.)

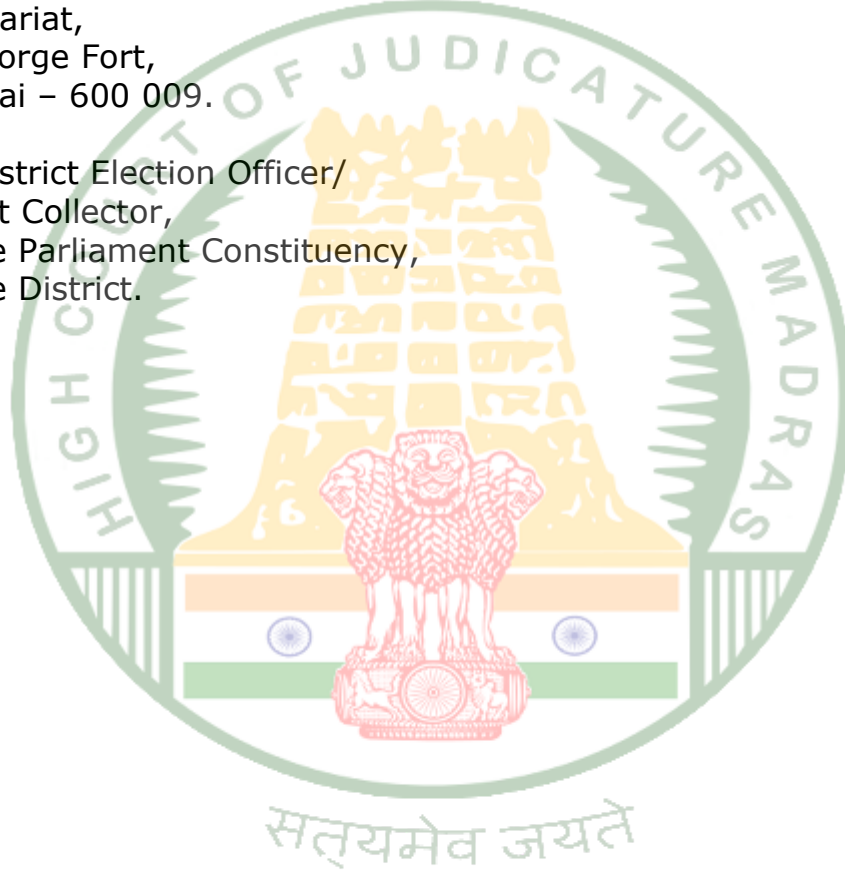
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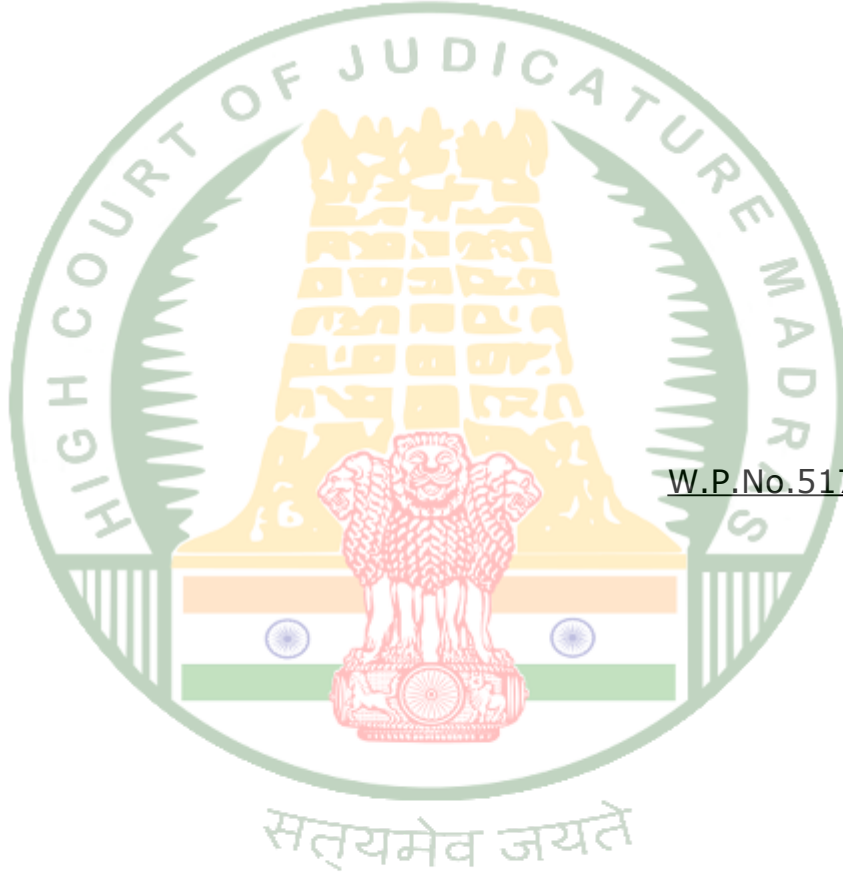
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THE HON'BLE CHIEF JUSTICE
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