



**TAMIL NADU
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Part VI—Section 2

**Notifications or Orders of interest to a section of the public
issued by Heads of Departments, etc.**

NOTIFICATIONS BY HEADS OF DEPARTMENTS, ETC.

TAMIL NADU STATE ELECTION COMMISSION, CHENNAI-600 106.

[ELECTIONS-ORDINARY ELECTIONS TO URBAN LOCAL BODIES 2001-ACCOUNT OF ELECTION EXPENSES-FAILURE TO LODGE-DISQUALIFIED-STAYED THE DISQUALIFICATION ORDER AND CONTESTED IN 2006 ORDINARY ELECTIONS-STAY VACATED-REVALIDATING THE DISQUALIFICATION OF THIRU M. ELANGOVAN, WARD MEMBER 23 IN MYLADUTHURAI MUNICIPALITY, NAGAPATTINAM DISTRICT-ORDERS-ISSUED.]

(S.O. No. 5/2011/TNSEC/ME-II)

READ:

1. S.O. No. 57/96/SEC, dated the 22nd October 1996.
2. S.O. No. 41/2001/TNSEC/PE-1, dated the 28th June 2001.
3. From the District Election Officer/District Collector, Nagapattinam District Lr. No. Rc. 2331/2002/PD6, dated 17th July 2003.
4. Show Cause Notice issued in Tamil Nadu State Election Commission Lr. No. 72/2004/EE2, dated 5th January 2004.
5. From the District Election Officer/District Collector, Napattinam District Lr. No. Rc. 13697/2003/PD6, dated 26th March 2004 and 20th April 2004.
6. S.O. No. 80/2004/TNSEC/ME-1, dated the 17th September 2004.
7. Interim Stay Order issued by Hon'ble High Court of Madras, dated 26th September 2006 on Writ Petition No. 21337 of 2006 and M.P. No. 2 of 2006.
8. Order of Hon'ble High Court of Madras, dated 27th July 2010 on the Writ Petition No. 21337 of 2006 and M.P. Nos. 1 and 2 of 2006.

No. VI(2)/98(b)/2011.

Whereas, in the Notification issued with the Statutory Order first read above, this Commission directed that all the contesting candidates in the elections listed therein shall lodge a true copy of their election expenses kept by them or by their respective election agent under sub-rule (1) of rule 92 of the Tamil Nadu Town Panchayats and Municipal and Corporation

Councils (Elections) Rules, 1996, in the format prescribed therefor under sub-rule (2) of rule 92 of the said Rules with the officers mentioned therein, within one month from the date of declaration of the result of the elections;

2. Whereas, in the Notification issued with the S.O. second read above, this Commission prescribed a format for the said purpose;

3. Whereas, this Commission conducted Ordinary elections to the urban local bodies during October 2001;

4. Whereas, the District Election Officer/District Collector, Nagapattinam District, in his letter third read above reported that 209 candidates contested in the said Ordinary elections for various offices failed to lodge copies of their account of election expenses as directed by this Commission;

5. Whereas, based on the report of the said District Election Officer/District Collector, a show cause notice was issued in the reference fourth read above to each of the contested candidate, who failed to lodge a true copy of the account of election expenses in the Ordinary election held during the month of October 2001, through the District Election Officer/District Collector, calling for explanation within 21 days of the receipt of the said notice, as to why action should not be taken against him as per sub-section (2-A) of Section 49 of the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920);

6. Whereas, the said District Election Officer/District Collector in his letter fifth read above, has now reported that out of the said 209 contested candidates, 90 contested candidates lodged the account of election expenses and 119 contested candidates have neither submitted their explanations nor lodged the account of election expenses inspite of the show cause notices issued to them;

7. Whereas, based on the report of the District Election Officer/District Collector, the Tamil Nadu State Election Commission disqualified 119 candidates including one Thiru M. Elangovan, Myladuthurai Municipality *vide* Statutory Order 6th read above under sub-section (2-A) of Sec.49 of the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920) for being elected as a Chairman or Councillor or Ward Member for a period of three years from the date of the said order;

8. Whereas, by filing Writ Petition No. 21337/2006 and MPs 1 and 2/2006, Thiru M. Elangovan obtained order of stay for the Statutory Order of the Tamil Nadu State Election Commission in the reference 6th cited, he again contested for the post of Councillor of Ward No. 23 of Myladuthurai Municipality and won in the Ordinary election held in 2006. He is holding the post of Councillor of Ward No. 23 of the said Municipality till date, by protracting the Statutory Order issued by the Commission;

9. Whereas, It is seen from the orders of the High Court, Madras delivered on 27-07-2010 that the Court by its earlier order dated 08-09-2009 passed a conditional stay order, whereby the petitioner was directed to pay batta for R1 and R3 on or before 01-10-2009 and to file proof of compliance immediately thereafter. Further in the order; it was categorically made clear that if the batta was not paid within the time limit, the writ petition shall stand dismissed automatically without any further reference to the Court. Accordingly, the Writ Petition and the connected miscellaneous petitions were dismissed on 27-07-2010 for non-compliance of the said condition imposed by the High Court, Madras;

10. Whereas, the stay order of the High Court of Madras was vacated on the pronouncement of the order on 27-07-2010 *vide* in the reference 8th read above and the Statutory Order of the Commission disqualifying Thiru M. Elangovan for non-filing of election expenditure comes into operation, which was made ineffective due to the cover of stay;

11. Whereas, it has been proved by the enquiry made by Tamil Nadu State Election Commission with the officials concerned that no interest was taken by administration to vacate the stay order and the individual has achieved his object of holding the post for all these years under the cover of stay and with the active cooperation of the officials concerned; and

12. Whereas, the disqualification awarded to the individual was not undergone by the individual by his tactics and the very object of the issue of the Statutory Order has been diluted and become ineffective.

13. Now, therefore in the interest of justice and to uphold the authority of the Commission, it has become expedient to implement the orders of disqualification on the individual by revalidating the said Statutory Order issued in Tamil Nadu State Election Commission. In these circumstances, the question of expiry of 3 years of disqualification period does not arise in this case.

14. Therefore, in exercise of the powers conferred by sub-section (2-A) of Sec. 49 of the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920) in the interest of Justice, the Tamil Nadu State Election Commission declares that Thiru M. Elangovan, Councillor of Ward No. 23 of Myladuthurai Municipality shall be disqualified, for being elected as a Chairman or Councillor or Ward Member for a period of three years from the date of this Order.

(By Order of the Tamil Nadu State Election Commission)

Chennai-600 106,
4th February 2011.

V.M. XAVIER CHRISO NAYAGAM,
Secretary,
Tamil Nadu State Election Commission.