

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.31148 of 2012

Dated 23.07.2015

Between:

Penke Muthyala Rao

... Petitioner

and

Fishermen Cooperative Society Ltd.,
P.Venkatapuram Village, Kakinada and 4 others.

...Respondents

Counsel for the petitioner: Mr.G.Gopala Krishna

Counsel for respondents 3 to 5: AGP for Fisheries (AP)

Counsel for respondent Nos.1 & 2: None appeared

The Court made the following:

Order:

This Writ Petition is filed for a Mandamus to declare the action of the respondents, in not considering the petitioner's objections, dated 09-09-2012, to the draft voters' list in respect of respondent No.1- Society and seeking to proceed with the election process based on the final voters' list, dated 14-09-2012, as illegal and arbitrary.

It is the pleaded case of the petitioner that upon publication of the draft voters' list, he has submitted his objections through registered post on 09-09-2012. However, in the final voters' list, dated 14-09-2012, respondent No.3 has put up a note that since no objections were received to the draft voters' list, the same was finalised and the final voters' list has been published. Feeling aggrieved by the same, the petitioner filed this Writ Petition. By reasoned Order, dated 05-10-2012, this Court has granted stay of holding election. It is instructive to reproduce the relevant part of the said order herein below:

"Prima facie the objections submitted by the petitioner to the draft voters' list on 09-09-2012 as certified by respondent No.3, were not considered. In the final voters' list, dated 14-09-2012, respondent No.3 stated that since no objections were received to the draft voters' list, the same was finalized and the final voters' list has been published.

Filing objections to the draft voters' list is an indefeasible right of the members of any society. In the face of the receipt issued by respondent No.3, a copy of which is filed by the petitioner to the effect that objections were submitted to the draft voters' list, the above mentioned note of endorsement made by respondent No.3 in the final voters' list, does not appear to reflect the true fact. Therefore, this Court treats this case as an

exceptional one for entertaining the Writ Petition even though the election process has been commenced.”

In the counter-affidavit, respondent No.1- Assistant Inspector, Fisheries, Kakinada, has not denied the fact that the petitioner has sent his objections to the draft voters’ list.

As opined by this Court in interim order, dated 05-10-2012, the right to file objections to draft voters’ list is an indefeasible right of members of the Society and preparation of final voters’ list without considering the petitioner’s objections to the draft voters’ list defeated his right. In this view of the matter, the final voters’ list, dated 14.09.2012, is quashed. Respondent No.3 is directed to consider the petitioner’s objections, dated 09-09-2012, to the draft voters’ list and prepare the final voters’ list. If respondent No.3 finds no merit in the objections of the petitioner, he shall pass a reasoned order and communicate the same to the petitioner. After the draft voters’ list is finalised, a fresh election programme shall be issued by respondent No.5.

Subject to the above directions, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition,

WPMP.No.39703 of 2012 and WVMP.No.4248 of
2012 are disposed of.

(C.V.Nagarjuna Reddy, J)

Dt: 23rd July, 2015
LUR