

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.38240 OF 2014

ORDER

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This writ petition is filed for a writ of mandamus declaring the action of the 3rd respondent in passing order in Rc.No.S/26/2014 dated 16.08.2014, as illegal, arbitrary and violative of the provisions of Andhra Pradesh Panchayat Raj Act and for a consequential direction to set aside the same.

The case of the petitioner is that she was elected as a MPTC member for I.Polavaram Constituency from YSR Congress Party (Yuvajana Sramikha Rythy Congress Party) in the election held in the month of March, 2014. While so, the 3rd respondent issued show cause notice dated 21.07.2014 to the petitioner on the allegation that she violated the Whip issued by him. Ultimately, the 3rd respondent passed impugned order dated 16.08.2014, disqualifying the petitioner as MPTC member of Rampachodavaram Mandal. Aggrieved by the same, the petitioner filed election petition in S.R.No.629414 before the Principal District Judge, Rajahmundry. But the same was returned on 18.09.2014 on the grounds that provision of law should be noted, provision of Order 14 and 15 decree should be complied with, Additional affidavit should be filed and Rule 69 and 70 CRP should be complied with. Thereupon, the petitioner has resubmitted the same on 25.09.2014 complying the said objections. Again, the office of the Principal District Judge, returned the petition on 27.09.2014 stating that the petition should be filed before the proper Court having jurisdiction. Hence, the present writ petition is filed challenging the proceedings dated 16.08.2014.

Learned counsel for the petitioner submits that the petition filed by the petitioner is maintainable under Section 153-A of A.P.Panchayat Raj Act (for short 'the Act') as per which, the disputes relating to cessation for disobedience of party whip, the effected member disputing the correctness of the proceedings, may apply to District Court having

jurisdiction over the area in which the office of the Mandal Praja Parishad is situated for a decision.

On the other hand, the learned Assistant Government Pleader for Panchayat Raj appearing for respondent Nos.3 and 4 stated that Section 153-A of the Act is applicable in respect of disobedience of Whip by the MPTC members.

Learned counsel for the respondent Nos.1 and 2, on instructions submits that as per Section 153-A of the Act, the District Court is having jurisdiction over the area in which the office of the Mandal Praja Parishad is situated.

In the present petition, it is to be seen that the petitioner filed election petition so casually without mentioning the provisions of law. Even, while returning the election petition, the office of the Principal District Judge did not make a mention about Section 153-A of the Act. After returning the petition, the learned counsel for the petitioner in the court below has not made an effort to make a mention of the provisions of law. Further, instead of resubmitting the petition mentioning the correct provision of law, the present writ petition is filed. The casual approach of the learned counsel for petitioner before the Court below and the office of the District Court is not appreciable. Hence, it is open for the petitioner to resubmit the petition by mentioning the correct provision of law and the same is to be dealt with properly by the Office of the District Court.

With the above direction, the Writ Petition is disposed of. As a sequel, miscellaneous petitions pending if any, shall stand closed.

A.RAJASHEKER

REDDY,J

Date: 19.01.2015

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