

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

W.P. No. 22967 OF 2014

-
ORDER :
-

This writ petition is filed seeking writ of mandamus declaring the action of the respondents in not receiving the application made by the petitioner for being considered for the post of co-opted member from minority community as per Section 5(v) of AP Municipalities Act as illegal and unconstitutional and consequently to declare the notification vide Roc.No.1419/2013-G1, dated 01.08.2014 issued by the 4th respondent is not in tune with GO Ms.No.229, dated 16.05.1995 issued by R1 and the SO 267(E) dated 27.01.2014 issued by Government of India and declare that Jain community is deemed to be in the list of Minority for the appointment of Co-option members and consequently in addition to the five minority communities and direct the 4th respondent to issue fresh notification, if necessary, by naming Jain community in the notification.

2. The case of the petitioner is that he is aged 42 years, resident of Taylorpet, Narasapuram, West Godavari District and that his voter ID is in Ward-5 of Narasapuram Municipality and that he is exercising his voting right in all the elections. He belongs to Jain Community and participated in the social welfare activities. It is stated that recently municipal elections were held in the month of March, 2014 and newly elected body took oath and 3rd respondent has to elect three Co-option members under Section 5(2)(v) & (vi) of the A.P. Municipalities Act. Section 5(2)(vi) provides that two persons belonging to the minorities of whom one shall be woman be co-opted as members of the Nagar Panchayat or Municipality in the prescribed manner by the members specified in clauses (i) to (iv) from among the persons who are registered voters in the Nagar Panchayat or Municipality as the case may be and who are not less than twenty-one-years of age.

G.O.Ms.No.229 dated 16.05.1995 provides that minority means communities specified by the Union of India vide SO 816 (E), dated 23.10.2013 and they to be co-opted under Section 5(2)(vi) of the A.P. Municipalities Act, 1965. The petitioner has challenged the same on the ground that the Central Government has issued a notification dated 27.01.2014, wherein the Jain Community is also declared as minority community under Section 2(c) of the National Commission for Minorities Act, 1992. Since the petitioner belongs to Jain Community and eligible for co-option of members, he approached the 3rd respondent for submitting application, but the same has been refused in spite of showing the Gazette notification issued by the Government of India. Aggrieved by the same, the present writ petition is filed.

3. Counter affidavit is filed by the 4th respondent stating that the 3rd respondent has not received any orders from the first respondent about the notification issued by the Government of India dated 27.01.2014 and also not received any instructions by any circular along with other listed communities mentioned in Circular No.Roc.No.9719/2014/D1, dated 11.07.2014, as such, they are not in position to take any action. It is further stated that the 3rd respondent has convened a Special Meeting on 30.08.2014 for the purpose of Co-opted member belonging to Minority and co-opted a member namely Shaik Hussien vide proceedings dated 30.08.2014.

4. Heard learned counsel for the petitioner as well as learned Standing Counsel for the respondents.

5. This Court, by order dated 12.08.2014 directed the 4th respondent to consider the representation of the petitioner on merits and pass orders.

6. Learned counsel for the petitioner states that the case of the petitioner shall be considered as and when any vacancy arises for co-option of members among the minority communities.

In view of the submission of the learned counsel for the petitioner, the 3rd respondent is directed to take into consideration the notification issued by the Government of India dated 27.01.2014 for considering the candidature of co-opted members from the Jain community also along with other minority communities, if they are otherwise eligible. The first respondent is also to issue necessary orders by taking into the notification issued by Government of India dated 27.01.2014 under Section 2(c) of National Commission for Minorities Act, 1992.

Accordingly, this Writ Petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any pending in this writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

22.01.2015.
KVS

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

-
-
-
-
-
-
-
W.P.No.22967 OF 2014

-
-
-
-
-
-
-
Date: 22-01-2015

KVS

