

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V.BHATT

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W.A.No.907 OF 2015

PC: (per Hon'ble Sri Justice S.V.Bhatt)

Heard Sri L.Prabhakar Reddy, learned counsel for appellant, Smt. K.V.Rajasree, learned counsel for respondent No.1, learned Government Pleader for Panchayat Raj (TS) for respondents 2 and 3 and Sri P.Rama Chandra for respondents 4 and 5.

The unsuccessful writ petitioner is the appellant. The appellant prayed for writ of Certiorari to call for the records leading up to and inclusive of the order dated 16.09.2014 in I.A. No.144 of 2014 in Election O.P. No.6 of 2013 on the file of Election Tribunal-cum-Junior Civil Judge, Nakrekal, Nalgonda District and to set aside the same, as illegal without jurisdiction and violative of A.P. Panchayat (Election Tribunals in respect of Grampanchayats, Mandal Parishads and Zilla Parishads)Rules,1995 (for short 'the Rules').

The controversy in the appeal is in a narrow compass. To appreciate the rival submissions, we would like to excerpt the order in I.A. No.144 of 2014 which reads as follows”

“In this case, both parties contesting the suit. The documents filed by the petitioner along with this petition are issued by Mee Seva person and Head Master Duginevelly village and they are public documents in the eye of Law. It is the contention of the respondents that the documents filed by the petitioner are created one for the purpose of this case and filed at a belated stage and no reasons submitted by the petitioner for such delay. Though the respondents submitted that the documents filed are created one for the purpose of this case and also contended that the said Aadhar cards do not contain the digital signatures of the issuing authority and the documents contains only the signatures of Mee Seva person. In this present case the said Aadhar card were issued by Meeseva which is a Government affiliated

institution and which was duly attested by USDP-NGDP Operator-I and the original letter issued by Head Master, ZPHS School which is duly stamped in this capacity of Head Master it is also a public education institution so, both the documents are comes under the purview of public documents. I am of the opinion that as the documents filed by the petitioner are public documents and the reasons submitted by him that he is received recently and more particularly the case is filed to declare him as Sarpanch, Gram Panchayath, Muthyalammagudem. Moreover this court also relied the judgment vide decision **M.L.Sethi Vs. R.P. Kapur (1972) 2 SCC 427 equivalent AIR 1972 SC 2379** wherein the Hon'ble Court decided that "the documents sought to be discovered need not to be admissible in evidence in the inquiry or proceedings. It is sufficient if the documents would be relevant for the purpose of throwing light on the matter in controversy. Every document which will throw any light on the case is a document relating to a matter in dispute in the proceedings, though it might not be admissible in evidence. In other words, a document might be inadmissible in evidence yet it may contain information which may either directly or indirectly enable the party seeking discovery either to advance his case or damage the adversary's case or which may lead to a trial of enquiry which may have either of these two consequences. But if the documents are irrelevant or immaterial to the question in controversy or the prayer is made with a view to delay the proceedings, the application will be rejected." However the admissibility of document decided at the time of appreciation of evidence. Here in present case merely non containing of digital signature of issuing authority over the Aadhaar card and seal of the Z.P.H.S. school on Birth Certificate, the right of filing the said public documents by the petitioner would not be forfeited.

It is just and necessary to give an opportunity to consider the documents filed by him during the trial and to dispose of the suit with a fair manner, considering the submissions made by the counsel for the petitioner, I see there are reasonable grounds and merits to allow the petition and accordingly, the petitioner is allowed and received the documents filed by him for marking, subject to proof and relevancy."

The complaint of appellant is that the Election Tribunal is governed by the procedure and rules stipulated in G.O.Ms.No.111, Panchayat Raj and Rural Development Department dated 03.03.1995 and the Tribunal cannot exercise more power than what is conferred on the Tribunal by the said Government Order. The Tribunal in the case on hand assumed the powers conferred on civil Court by the Civil Procedure Code and thus committed illegality. The Tribunal by receiving documents which were not filed along with the petition committed illegality. Learned counsel for the appellant relied upon following decisions in **S.Nagarathnamma v.**

P.Muralidhar Reddy and others, Beerapalli Swaminatha Janaki Venkata Ramana Reddy v. Attkuri Ammiraju and others and Kummari Ramulu v. Gangaram Penta Reddy and others and contended that the acceptance of prayer by the Tribunal is illegal and without jurisdiction.

Learned Single Judge referred to the ratio of **Tadi Lakshmana Rao v. Challa Satyanarayana and others** and dismissed the writ petition. Hence the appeal.

Sri L.Prabakar Reddy, learned counsel for the appellant while reiterating his submissions advanced before the learned Single Judge, contends that by conferring the power on Tribunal to receive documents, this Court would be reading new power into the Tribunal's jurisdiction than what is conferred by G.O. referred to above. Firstly, he prays for allowing the appeal and alternatively, if any divergence of opinion in the decisions referred above relied on by him and the decision followed by the learned Single Judge is perceived by this Court, the issue may be referred to a Full bench for authoritative pronouncement.

We have perused the ratio laid down by this Court in the decisions relied upon by the appellant as well as the decision followed by the learned Single Judge to dismiss the writ petition. The decisions relied upon by the appellant are distinguishable on fact. In our view, the learned Single Judge has rightly held that the power under Rule 7 of the Rules enables the Tribunal to receive the documents as ancillary and incidental to conduct trial by the Tribunal. As we are in full agreement with the view expressed by the learned Single Judge, we see no merit in either of the submissions of learned counsel for appellant.

The appeal fails and is dismissed.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

DILIP B.BHOSALE, ACJ

S.V.BHATT,J

Date: 06.10.2015

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