

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No. 5128 of 2015

Date: 03.03.2015

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Between:

D.V. Rao

... Petitioner

And

The Election Commission of India,
Through its Principal Secretary,
New Delhi & others.

... Respondents

This Court made the following:

**THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR**

WRIT PETITION No. 5128 of 2015

ORDER: (Per the Hon'ble the Chief Justice Sri Kalyan Jyoti Sengupta)

In our view the writ petition cannot be entertained by us to grant the relief as prayed for. But, the question raised in the writ petition cannot be overruled. Nowadays, in any sort of election irrespective of the size of the electorate, money has become a great factor. Therefore, if the money becomes a factor it is doubtful whether the election can be said to be fair or not, for the simple reason one with sufficient funds will have an edge over the opponent, who does not possess enough fund or mobilize resources. In this case, the petitioner seeks to contest for the post of MLC from a graduates' constituency. When the enactment was made, the number of graduates were not so many as it is now. Therefore, time has come to review the situation with increase of the population and with the socio economic growth. At present, we find from the law that upper limit of election expenditure is applicable only in case of MLAs and MPs, and not for any other election. But the Court cannot legislate. It is for the Government to take the initiative and at the first instance, if possible, the matter may be placed before the Law Commission of India.

Union of India is not a party in this matter. We therefore add Union of India, represented by its Secretary, Ministry of Law and Legislative Affairs, New Delhi, as party respondent to this writ petition

and direct the Secretary, Ministry of Law, to consider this aspect, if the Ministry thinks the matter may be placed before appropriate Law Commission. The decision may be taken preferably within a period of three months from the date of receipt of a copy of this order.

The writ petition is accordingly closed.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

K.J. SENGUPTA, CJ

SANJAY KUMAR, J

Date: 03.03.2015
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