

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.14620 OF 2015

DATED:03-12-2015

Between:

P. Rajkumar ... Petitioner

And

The State of A.P.,
Rep. by its Secretary
Department of Panchayat Raj
Secretariat Buildings
Hyderabad
and others ... Respondents

COUNSEL FOR THE PETITIONER: Mr. M. Ravindranath Reddy

COUNSEL FOR RESPONDENT NOS.1 to 3: A.G.P. for Panchayat Raj
(AP)

THE COURT MADE THE FOLLOWING:

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ORDER:

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This writ petition is filed for a mandamus to set aside proceedings in Roc. No.1710/2015-G2, dt.11.5.2015, of respondent No.2, whereby he has disqualified the petitioner to hold the office of Sarpanch of respondent No.5 – Gram Panchayat on the ground that he is having three children and thereby he has incurred disqualification under Section 19(3) of the Andhra Pradesh Panchayat Raj Act, 1994 (for short, 'the Act').

I have gone through the pleadings and heard Mr. M. Ravindranath Reddy, learned counsel for the petitioner, and the learned Assistant Government Pleader for Panchayat Raj (AP).

Section 19 of the Act envisages disqualification of candidates holding elective offices on various counts. Sub-section (3) thereof disqualifies a person having more than two children for election or for continuing as Member in any local body. Section 22 of the Act envisages procedure for such disqualification. This provision reads as under:

“22. Authority to decide questions of disqualifications of members:-

- (1) *Where an allegation is made that any person who is elected as a member of a gram panchayat is not qualified or has become disqualified under Section 17, Section 18, Section 19 or Section 20 by any voter or authority to the executive authority in writing and the executive authority has given intimation of such allegation to the member through the District Panchayat Officer and such member disputes the correctness of the allegation so made, or where any member himself entertains any doubt whether, or not he has become disqualified under any of those sections, such member or any other member may, and the executive authority, at the direction of the gram panchayat or the Commissioner shall, within a period of two months from the date on which such intimation is given or doubt is entertained, as the case may be, apply to the District Court having jurisdiction over*

the area in which the office of the gram panchayat is situated for decision.

- (2) Pending such decision, the member shall be entitled to act as if he is qualified or were not disqualified.*
- (3) Where a person ceases to be the Sarpanch or Upa-Sarpanch of a gram panchayat as a consequence of his ceasing to be a member of the gram panchayat under clause (b) of Section 20 and is restored later to his membership of the gram panchayat under sub-section (2) of Section 21, he shall, with effect from the date of such restoration, be deemed to have been restored also to the office of Sarpanch or Upa-Sarpanch, as the case may be."*

From the above reproduced provision, it is clear that a specific mechanism has been evolved as per which on the reference made by the Member against whom allegation of disqualification is made or by the executive authority on the intimation by the District Panchayat Officer, the issue of disqualification shall be referred to the District Court having jurisdiction over the area in which the office of the Gram Panchayat concerned is situated, for a decision. Such reference shall be made within a period of two months from the date of giving intimation by the District Panchayat Officer or a doubt is entertained by the Member concerned, as the case may be. Thus, under the scheme of the Act, it is the District Judge who alone is conferred with the jurisdiction for adjudicating the disqualification of a Member. Therefore, respondent No.2 has absolutely no power whatsoever to disqualify the petitioner and he has acted in brazen violation of the statutory scheme referred to above in disqualifying the petitioner.

For the above mentioned reasons, the impugned order is set aside. The writ petition is allowed.

As a sequel to disposal of the writ petition, W.P.M.P.No.19066 of 2015 and W.V.M.P. No.2530 of 2015 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

03-12-2015

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