

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE S.V. BHATT

WRIT APEAL No. 569 OF 2015

08-07-2015

Between:

Guguloth Ramulu

... Appellant

And

The State of Telangana, rep., by its Principal Secretary, Panchayat Raj
and Rural Development Department, Secretariat, Hyderabad and
seven others

... Respondents

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HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

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WRIT APEAL No. 569 OF 2015

PC: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

This writ appeal is directed against the order dated 03-06-2015 passed on WPMP No.19432 of 2015 in Writ Petition No. 14979 of 2015, whereby interim prayer made by the appellant has been rejected.

The writ petition challenges the order dated 06-05-2015 in Election O.P No.5 of 2013 passed by the 6th respondent disqualifying the appellant on the ground that he had more than two children on the appointed date. The last child of the appellant was born, according to him, on 01-01-1995, whereas according to the authority and the objector, the correct date of birth is 10-07-1997 and, therefore, he suffered disqualification under Section 29 of the Andhra Pradesh Panchayat Raj Act, 1994.

The challenge to the order dated 06-05-2015 was two fold. Firstly, birth date of the last child was not 10-07-1997, but it was 01-01-1995 and secondly, the election petition was wrongly filed before the Revenue Divisional Officer (RDO) who cannot be stated to be Election Tribunal within the meaning of sub-Rule (2) of Rule 2 of the Andhra Pradesh Panchayat Raj (Election Tribunals in respect of Gram Panchayats, Mandal Parishads and Zilla Parishads) Rules, 1995 (for short, 'the Rules').

Learned counsel for the appellant did not make any submission

on the point whether the child was born after the appointed date and he focussed only on the point of jurisdiction contending that the 6th respondent which considered and dealt with the election petition is not Agency Divisional Officer (ADO), as contemplated by the provisions of the Rules. He submitted that under the Rules, RDO has no authority in law to deal with the election petition.

In view of the submission made by learned counsel for the appellant, we are not examining the question whether the child was born before the cut-off date as claimed by the appellant and we proceed to examine the second question taking that the last child was born after the cut-off date. We have perused the order passed by the learned Judge considering the second submission regarding the jurisdiction of the Tribunal. It would be relevant to reproduce the observations made by the learned Judge, which read thus:

“As per the interpretation clause 2(2) of A.P. Agency Rules, 1924, the Agency Divisional Officer means an Officer-in-charge of a Revenue Sub-Division which is wholly or partly agency.

Prima facie, as seen from 1995 Rules, the Rules specifically designated the Agency Divisional Officer as Election Tribunal and these rules are formulated in exercise of power vested by Act, 1994. The Revenue Divisional Officer is Agency Divisional Officer. When a specific authority is designated as Election Tribunal and the Election O.P. was considered by such authority, it cannot be said that the order impugned is vitiated on account of lack of jurisdiction and competence.”

In any case, we are not ready to accept the proposition of law tried to be canvassed on behalf of the appellant, at this stage, for more than one reason. It is not clear from the record that the concerned officer at Kothagudem was performing the functions of both RDO and ADO. There is absolutely nothing on record to indicate that there exist two independent officers at Kothagudem, namely, RDO and ADO. As a matter of fact, the title of the petition clearly shows that functions of RDO and ADO are being performed by same officer and he dealt with

the election petition. Hence, we do not find any merit in the appeal.

Writ appeal is dismissed.

Miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

08-07-2015
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