

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.38273 OF 2014

ORDER:

This writ petition is filed seeking *Writ of Mandamus* directing the respondents 1 to 5 to take appropriate action against the 6th respondent on the notice of the petitioner dated 09.04.2014.

The case of the petitioner is that she is the legally wedded wife of one Nachagoni Venkat Goud and they lived happily for a period of 6 years. Thereafter, her husband started neglecting her and his two sons and that she came to know on enquiry that her husband is leading a marital life with the 6th respondent, who is also blessed with two children. Thereupon, she filed a private complaint against her husband, 6th respondent and others, before the Police Madduru, Warangal District and a case has been registered in CrimeNo..60 of 2011. After investigation, a charge sheet was also filed for the offences punishable under Sections 498(A), 494 I.P.C., 3 & 4 of Dowry Prohibition Act against her husband, 6th respondent and others. The said case is pending in C.C.No.26 of 2012 on the file of learned Judicial First Class Magistrate at Janagoan. While so, the 1st respondent issued election notification dated 10.03.2014 for local body elections, including election for Z.P.T.C members of Madduru Mandal, Warangal District. In pursuance to the same, the 6th respondent filed her nomination as Z.P.T.C member of Congress Party and also submitted her affidavit before the 5th respondent stating that she is the wife of one Nachagoni Venkat Goud and that no cases are pending against her. Subsequently, she was declared as Z.P.T.C. member by the 5th respondent. Thereafter, the petitioner through the Right to Public Information Act obtained nomination form and affidavit filed by the 6th respondent and found that the 6th respondent has submitted false affidavit stating that no criminal case is pending against her. In that regard, she made a representation dated 09.04.2014 to the respondents 1 to 5 requesting them to take action against her. But no action has been taken by the respondents so far. Aggrieved by the

same, the present writ petition is filed.

Learned counsel for the petitioner submits that since the false affidavit is filed by the 6th respondent, the petitioner made a representation dated 09.04.2014 to respondents 1 to 5 to conduct enquiry and take action against respondent No.6 and since no action has been initiated thereupon, the present writ petition is filed.

On the other hand, learned Senior counsel Sri A. Sudharshan Reddy appearing for 6th respondent submits that once the election process is completed, the only remedy available to the petitioner is to approach the Election Tribunal by filing a petition under Section 233 of A.P.Panchayat Raj Act, 1994 (for short 'the Act') read with Article 243-O(b) of Constitution of India.

In the present case, interim order sought for, is a direction to the 2nd respondent for suspension of the membership of the 6th respondent as Z.P.T.C. member. The petitioner is unable to show any provision of law under the Act for taking action against the 6th respondent. As such, the only remedy available to the petitioner is to approach the Election Tribunal under Section 233 of the Act read with Article 243-O(b) of Constitution of India challenging the election. A report is called for regarding the allegations made against the 6th respondent by way of interim order. It is open for the concerned authority to take action as per law. But as far as the election is concerned, the remedy lies under Section 233 of the Act against the same.

In view of the above facts and circumstances, the writ petition is misconceived and hence, the same is dismissed. However, the petitioner is at liberty to avail alternative remedy available as per law. There shall be no order as to costs. As a sequel, miscellaneous petitions, pending, if any shall stand closed.

A.RAJASHEKER REDDY, J

19.03.2015

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