

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.31766 of 2014

Date: 02.09.2015

Between:

Pulakaram Linga Swamy s/o. Beeraiah, Aged about 41 years,
Occu:Agriculture, r/o.Muthyalammagudem, Kattangore Mandal,
Nalgonda district.

.... Petitioner

AND

Sunkaraboina Venkanna s/o.Parasha Ramulu, Aged about 31 years,
Occu: Agriculture, r/o.Muthyalammagudem, Kattangore Mandal,
Nalgonda District and others.

.... Respondents

This Court made the following :

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ORDER:

Heard learned counsel for the petitioner and the counsels for the respondents and with the consent of both counsels, this writ petition is disposed of finally at the admission stage.

2. Petitioner was elected as Sarpanch of Muthyalammagudem Gram Panchayat, Nakerekal Mandal, Nalgonda District. The election of the petitioner as Sarpanch was challenged in O.P.No.6 of 2013 in the Court of Junior Civil Judge-cum-Election Tribunal, Nakerekal. In the said O.P., petitioner therein filed I.A.No.144 of 2014 to receive the documents filed along with I.A., and mark the same as exhibits in favour of the petitioner by condoning the delay. The said I.A., was allowed by order dated 16.09.2014. Challenging the order in I.A.No.144 of 2014, dated 16.09.2014, this writ petition is filed by the petitioner, who is the respondent No.1 in the said O.P.

3. Learned counsel for the petitioner submits that the Election Tribunal is governed by the Rules notified vide G.O.Ms.No.111 Panchayat Raj and Rural Development Department, dated 03.03.1995 and has to function within the four corners of the said Rules. In terms of the provisions of the said Rules entire gambit of Civil Procedure Code is not applicable for functioning of the Election Tribunal, but only limited provisions are made applicable. According to the learned counsel, Tribunal does not have power to receive the

documents, which were not filed when petition was filed and since the Tribunal is not vested with power to receive the documents during pendency of the O.P., order passed in I.A., is *ex facie* illegal and, therefore, is liable to be set aside. In support of the said contention, learned counsel placed reliance on the decision of this Court in **S.Nagarathnamma v. P.Muralidhar Reddy and others**^[1], which decision followed the decisions of this Court in **Beerapalli Swaminatha Janaki Venkata Ramana Reddy vs. Attkuri Ammiraju and others**^[2] and **Kummari Ramulu v. Gangaram Penta Reddy and others**^[3].

4. Learned counsel therefore submits that in view of the principles laid down by the Division Bench of this Court and learned single Judge, the order passed in I.A., impugned in this writ petition is liable to be set aside.

5. The Election Tribunal is governed by the provisions of Rules notified in G.O.Ms.No.111, dated 3.3.1995. Rule 7 deals with the exercise of power by the Election Tribunal while trying Election O.P. According to this Rule, Tribunal shall have powers as vested in the Civil Court under the Code of Civil Procedure when trying a suit.

6. The issue raised in this writ petition is no more *res integra*. The Division Bench of this Court in the case of **Tadi Lakshmana Rao v. Challa Satyanarayana and others**^[4], considered the very same issue i.e., competence of the Election Tribunal to permit a party to the election dispute, to bring on record additional documents in support of the claim, during pendency of the election OP. The Division Bench has considered the earlier two decisions relied upon by the counsel for the petitioner and on construing the provision contained in Rule 7, Division Bench held that the power to receive additional documents in pending OP is incidental to conducting of trial and fall well within the

situation contemplated under Rule 7. It was further held that the issue of receiving of documents did not fall for consideration before this Court in the earlier two decisions and, therefore, the said decisions are distinguished. The Division Bench further held that incidental to conducting of trial of an election OP, all such steps can be opted for and taken recourse to which go as a step-in-aid for proper adjudication. This Court further held that Rules of Procedure should be very liberally interpreted to provide equal and sufficient opportunity to both sides. Therefore, any request filed for receipt of documents is part and parcel of such an enquiry and there can be no inhibition in this regard to any of the parties in the process of trial for all such purposes.

7. Having regard to the authoritative pronouncement of the Division Bench of this Court in **Tadi Lakshmana Rao** concerning the very same issue, I see no error in the order passed by the Election Tribunal warranting interference by this Court.

8. Accordingly the writ petition is dismissed. There shall be no order as to costs. Miscellaneous petitions if any pending in the writ petition shall stand closed.

JUSTICE P.NAVEEN RAO

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- [\[1\]](#) 2008 (6) ALT 303
 - [\[2\]](#) ILR 1971 AP 277 (DB)
 - [\[3\]](#) 2004 (3) ALT 788 (DB)
 - [\[4\]](#) 2010 (1) ALD 316 (DB)