

**\*THE HONOURABLE SRI JUSTICE P. NAVEEN RAO**

**+ CIVIL REVISION PETITION NO.737 OF 2014**

%27.03.2015

# Bangaru Sankaraiah S/o B Naganna,  
R/o Narasampalli village, Kanaganapalli mandal  
Anantapuram district  
....PETITIONER

Vs.

\$ Talari Pothalaiah S/o Linganna  
R/o Narasampalli village, Kanaganapalli mandal  
Anantapuram district & others  
.... Respondents

!Counsel for petitioner : Sri Ganduri Nageswara Rao

Counsel for the respondent No.1 : Sri V L Surendra

Counsel for respondent No.2 and 4 : Sri G Seshadri

Counsel for respondent no.3 : Smt CH.Vedavani

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>Head Note:

? Cases referred:

2001(1) ALT 235 (DB)

HONOURABLE SRI JUSTICE P. NAVEEN RAO

CIVIL REVISION PETITION No. 737 OF 2014

Date : 27.03.2015

Between :

Bangaru Sankaraiah S/o B Naganna,

R/o Narasampalli village, Kanaganapalli mandal

Anantapuram district

... Petitioner

and

Talari Pothalaiah S/o Linganna

R/o Narasampalli village, Kanaganapalli mandal

Anantapuram district & others

... Respondents

The Court made the following:

HONOURABLE SRI JUSTICE P. NAVEEN RAO

CIVIL REVISION PETITION No. 737 OF 2014

ORDER:

This revision is filed questioning the order dated 13.2.2014 in O.P.C.F. No. 2484 of 2014 on the file of the Election Tribunal cum Junior Civil Judge, Dharmavaram (for short Election Tribunal) dismissing the petition on the ground of not depositing security amount of Rs.100/-.

2. Election to the post of Sarpanch and other ward members of Narasampalli Gram Panchayat was held on 27.7.2013. The election was closely contested and first

respondent herein was elected with a margin of 14 votes. Challenging the same, petitioner filed election petition C.F.No. 2484 of 2013 before the Election Tribunal on 24.8.2013. Since the staff of the Court was on strike from 19.8.2013 to 20.10.2013, the petition was submitted before the Presiding Officer and the same petition was returned on 28.10.2013 with certain objections. One of the objections taken was on the maintainability of the petition, since security amount of Rs.100/- was not deposited along with petition. Petitioner represented the petition on 11.11.2013 duly complying with objection and filed lodgment schedule on the same day. Petitioner gave explanation for non payment of security amount along with petition stating that staff of the Court was on strike from 19.8.2013 to 20.10.2013.

3. The Election Tribunal by order dated 13.2.2014 dismissed the petition on the ground that the petition was not presented along with deposit of Rs.100/- within 30 days as mandated by Rule 5 of A.P. Panchayat Raj Election Tribunal in Respect of Gram Panchayat Rules, 1995 (for short the Rules, 1995). Aggrieved thereby the election petitioner preferred this revision.

4. Learned counsel for petitioner submits that petitioner was restrained from submitting the lodgment schedule on the day when the election petition was presented in view of the fact that entire staff of the Court was on strike and for the lapses on the part of the Court staff, petitioner cannot be blamed. He further contended that Election Petition was presented within the time granted by the relevant provision and therefore mainly on the ground that lodgment schedule was not filed, petition ought not to have been dismissed. He further submitted that it is an exceptional circumstance warranting exceptional treatment and petition filed by the petitioner could not have been dismissed and Election Tribunal ought to have exercised its discretion in entertaining the Election Petition and considering the same on merits.

5. To appreciate the above contention, it is imperative to consider Rule 5 of the Rules, 1995. Rule reads as under:

"5(i) At the time of presentation of the petition, the petitioner shall deposit with it in cash Rs.100/- (Rupees one hundred only) as security for the costs of same.

Explanation :-Where the election of more than one returned candidate is called in question a separate deposit shall be made in respect of each such returned candidate.

(ii) If the provisions of sub-rule (i) are not complied with, the Election

Tribunal shall dismiss the petition.

(iii) Upon compliance with the provision of sub rule (1) the Election Tribunal shall proceed to enquire into the petition."

6. As seen from the above extracted provision, Rule 5 (i) is in mandatory terms. It mandates election petitioner to deposit Rs.100/- in cash as security for the costs of the petition. Sub Rule (ii) is again in mandatory terms.

If the mandate of sub rule (i) is not complied with, the Election Tribunal should dismiss the petition. It is thus clear that provision in Rule 5 is mandatory and if for any reason amount of Rs.100/- is not deposited along with the election petition, the Election Tribunal has no option but to dismiss the said petition. Rule does not vest any discretion in the Election Tribunal to entertain the election petition even if for justifiable cause and reason the petitioner was restrained from complying with the said mandate, within the time fixed.

7. In ANAJAMMA Vs S PUSHPAMMA AND ANOTHER this Court considered similar issue. It is held that if petitioner in an election petition complied with the mandate of Rule 5 of the Rules in all respects and presented/represented the petition within one month, such petition is maintainable. Though on a plain reading of Rule 5 of the Rules, 1995 such course is not envisaged; this Court proceeded to give benefit of doubt to a person if Rs.100/- is not paid along with Election Petition when it was originally presented but has complied with the mandate within one month, the limitation prescribed for filing Election Petition.

8. In the case on hand, the 30 days limitation expired long ago and the fee was not paid within 30 days. Furthermore, even assuming that the petitioner has bonafide cause when he originally presented the Election Petition, petitioner ought to have been diligent in at-least filing the lodgment schedule immediately after the strike was over i.e., on 20.10.2013. Even after petition was returned, the petitioner did not take steps to file lodgment schedule immediately but filed the same only on 11.11.2013.

9. In the facts of this case the discretion exercised by this Court in ANAJAMMA cannot be extended, as the election petition was not presented within one month. There is no error in the decision arrived at by the Election Tribunal warranting interference by this Court. The decision under revision is in strict compliance of the mandate of the provisions of law by which proceedings before the Election Tribunal

are maintainable.

The revision fails and accordingly the same is dismissed. No costs. Having regard to the same, miscellaneous petitions, if any pending are closed.

P NAVEEN RAO,J

DATE: 27.3.2015

TVK

Note : L R Copy to be marked-- YES

HONOURABLE SRI JUSTICE P. NAVEEN RAO

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