

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

WRIT PETITION No.37650 of 2015

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19.11.2015

Between:

Smt.Kondamudi Madhavi

.. Petitioner

and

The State of Andhra Pradesh,

represented by its Principal Secretary,

Panchayat Raj and Rural Development Department,

Hyderabad and others

.. Respondents

Counsel for the petitioner: Mrs.K.Aruna

Counsel for respondent No.1: Assistant Government Pleader

for Panchayat Raj (AP)

Counsel for respondent No.2: Assistant Government Pleader for Revenue (AP)

Counsel for respondent Nos.3 and 4: --

Counsel for respondent No.5: Mr.V.V.Prabhakar,

standing counsel for State Election Commission

The Court made the following:

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ORDER:

The petitioner, who is a Member of Mandal Parishad Territorial Constituency, Tripuranthakam Mandal, Prakasam District, filed this writ petition feeling aggrieved by the inaction of respondent No.5 in filling up the casual vacancy of the post of Vice President, Mandal Praja Parishad, Tripuranthakam Mandal, arising on account of the death of its Vice President.

The petitioner has pleaded that the Vice President, Mandal Praja Parishad, Tripuranthakam Mandal, died on 01.10.2014 and that on the constant pursuance made by her and the other Members, respondent No.3 officially intimated the said fact to respondent No.5 on 05.05.2015. The petitioner has relied upon Section 186 of the Andhra Pradesh Panchayat Raj Act, 1994 (for short 'the Act') (learned counsel for the petitioner submitted that the said provision was wrongly quoted as the same is applicable to the vacancies to be filled up in Zilla Parishads and that Section 153(6) of the Act is the relevant provision for filling up the vacancies in Mandal Parishads) in support of her plea that non-filing up of the vacancy in question within six months is in violation of the statutory mandate.

Mr.V.V.Prabhakar, learned standing counsel for the State Election Commission appearing for respondent No.5, submitted that as the State Election Commissioner

has laid down his office on 31.12.2014 and the said vacancy is not filled up so far, election could not be notified for filling up the vacancy in question.

This Court in W.P.No.19874 of 2015 dealt with a similar issue and held by its order, dated 06.11.2015, as under:

“In my opinion, if non-appointment of the State Election Commissioner is the only reason for not holding the elections to the office of President and Vice-President of Yetapaka Mandal Praja Parishad of East Godavari District, the State Government shall take immediate steps for appointing the State Election Commissioner so as to ensure that Yetapaka Mandal Praja Parishad of East Godavari District has the elected President and Vice-President as, it is not desirable to allow Mandal Praja Parishad to remain without the democratically elected President and Vice-President for its proper administration.”

The above noted observations are reiterated in this writ petition as well with a further direction to respondent No.1 to ensure that the vacancy of the State Election Commissioner is filled up as soon as possible and not later than two months from the date of receipt of a copy of this order so as to enable filling up of the vacancies in the local bodies as per the legislative mandate contained in Sections 153(6) and 186 of the Act.

Subject to the above directions, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, W.P.M.P.No.48427 of 2015 filed by the petitioner for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

19th November, 2015

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