

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

+W.P.No.29897 of 2014

% 20-01-2016

#Smt. Yandava Ramanamma ..
Petitioner

Vs.

\$The Government of Andhra Pradesh,
Represented by its Principal Secretary,
Department of Panchayat Raj,
Hyderabad and others ..
Respondents

<GIST:

>HEAD NOTE:

!Counsel for petitioner : Mr. R.K. Suri

^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 No.3 : Mr. V.V. Prabhakara Rao

Counsel for respondent No.4 : Mr. V. Sudhakar Reddy

? CASES REFERRED:

1. AIR 1966 SC 671

2. AIR 1990 SC 1984

3. (2000) 7 SCC 668
4. (2004) 1 SCC 547

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Between:

Smt. Yandava Ramanamma ..
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And

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Respondents

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Counsel for respondent No.3 : Mr. V.V. Prabhakara Rao
Counsel for respondent No.4 : Mr. V. Sudhakar Reddy

The Court made the following:

ORDER:

This Writ Petition is filed for a mandamus to set-aside order dated 20-09-2014 issued by respondent No.3 in Form No.V-C declaring the petitioner as having ceased to be a Member of Hiramandalam-1 Mandal Parishad Territorial Constituency, Srikakulam District.

The petitioner was elected as a Member of Hiramandalam-1 Mandal Praja Parishad on the Y.S.R. Congress Party ticket. In connection with the election for the office of the President of the Mandal Praja Parishad, a whip was issued by the Y.S.R. Congress Party to all its members. A complaint was made by the Whip of the said Political Party before respondent No.3 that the petitioner has

cast his vote in the election held for the office of the President of the Mandal Praja Parishad, Hiramandalam-1 in violation of the whip. Based on the said complaint, respondent No.3 has issued a show cause notice to the petitioner. The petitioner has submitted her reply. By the impugned order, respondent No.3 has declared that the petitioner has ceased to be a Member of Hiramandalam-1 Mandal Praja Parishad Territorial Constituency.

Mr. R.K. Suri, the learned Counsel for the petitioner, strenuously submitted that having issued the show cause notice and invited explanation, respondent No.3 has failed to consider the petitioner's explanation and passed a thoroughly non-speaking order and that therefore, the impugned order is liable to be set-aside on this ground alone.

Mr. V.V. Prabhakara Rao, learned Counsel for respondent No.3 and Mr. V. Sudhakar Reddy, learned Counsel representing the impleaded respondent No.4, submitted that the Writ Petition itself is not maintainable in view of the availability of alternative remedy under Section 153-A of the A.P. Panchayat Raj Act 1994 (for short "the Act") as per which the petitioner is entitled to approach the District Court concerned questioning the order of disqualification. In support of his submission, the learned Counsel has placed reliance on the Judgment dated 20-02-2007 in W.A.No.174 of 2007, of the Division Bench of this

Court, of which I am a party.

From a perusal of the above mentioned Judgment of the Division Bench, it is clear that a person aggrieved by the order of disqualification has to avail the remedy under Section 153-A of the Act. However, on the facts of the present case, I am not inclined to non-suit the petitioner on this ground for the reason that respondent No.3 failed even to refer to the explanation submitted by the petitioner, leave alone considering it while declaring her as having ceased to be a Member of the Mandal Praja Parishad in question. The very purpose of issuing a show cause notice as envisaged under the extant rules is to provide an opportunity to the person who is proposed to be disqualified to project his/her point of view and defend himself/herself against the proposed disqualification. By not considering the explanation of the petitioner, respondent No.3 has rendered the very object behind the statutory provision contemplating issue of show cause notice, nugatory. It is a well settled legal principle that an order which results in serious adverse consequences to a party, must be supported by reasons as they constitute the heart and soul of an order, whether passed by a judicial or an administrative authority (See: **M.P.Industries Limited v. Union of India**^[1], **S.N. Mukherjee v. Union of India**^[2], **Charan Singh v. Healing**

Touch Hospital^[3], State of Punjab v. Bagh Singh^[4]). An order passed without reasons is nonest in law and therefore the question of availing the alternative remedy to question such an order does not arise.

For the above mentioned reasons, the impugned order is set-aside. The matter is remitted back to respondent No.3 for passing a reasoned order after considering the explanation of the petitioner within a period of one month from the date of receipt of this order. Mr. V.V. Prabhakar Rao, submitted that as the Presiding Officer was appointed for the limited purpose of holding the elections in 2014 to the offices of the President and the Vice President, it is not known whether the same Presiding Officer is presently functioning as such. In the light of this submission, respondent No.2 is directed to verify whether the Presiding Officer who passed the impugned order is still in service and if so, entrust the function of passing a fresh order to him. If the said Officer is not in service, respondent No.2 shall engage any other Gazetted Officer as envisaged under Rule 3 of G.O.Ms.No.173, Panchayat Raj & Rural Development (Election Rules) Department, dated 10-5-2006, within two weeks from the date of receipt of this order. The Presiding Officer so appointed shall complete the process of passing a fresh order within six weeks thereafter.

The Writ Petition is accordingly allowed to the extent

indicated above.

As a sequel to the disposal of the Writ Petition, WPMP No.37356 of 2014 and WVMP No.3920 of 2014 stand disposed of.

Justice C.V. Nagarjuna Reddy

Date : 20-01-2016

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[\[1\]](#) AIR 1966 SC 671

[\[2\]](#) AIR 1990 SC 1984

[\[3\]](#) (2000) 7 SCC 668

[\[4\]](#) (2004) 1 SCC 547