

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM
WRIT PETITION No.20838 OF 2016

ORDER:

The writ is filed questioning the action of the respondents 2 to 4 in not following the provisions of Section 22 of the A.P. Panchayat Raj Act, 1994 (for short "the Act").

The facts are not in dispute. It is the case of the petitioner that that 5th respondent was found to have had more than two children and thereby the disqualification attached to him under Section 19(3) of the Act making him ineligible to continue as a Member or Sarpanch of Uppal Gram Panchayat. Bringing the disqualification earned by the 5th respondent, petitioner along with several members of the Gram Panchayat submitted representations to the respondents 2 to 4, but no action has been taken against the 5th respondent so far. Hence, the present writ petition.

Sri Srinivas Bodduluri, learned counsel for the petitioner by placing reliance on the judgments of this Court reported in **N. Tirupataiah v. District Panchayat Officer, Nellore and others**^[1] and **G. Janaki Ramudu v. State of Andhra Pradesh and another**^[2] submits that even though the petitioner along with several members of the Gram Panchayat brought the fact of 5th respondent having more than two children to the notice of the respondents 2 to 4, the respondents 2 to 4 are not initiating any action against the 5th respondent and hence he prays to allow the writ petition.

Heard the Learned Government Pleader for Panchayat Raj (TS) as well as the G. Narender Reddy learned standing counsel for the respondents 3 and 4.

Further, this Court by an order dated 06.11.2015 in W.P.No.36235 of 2015 had held that the respective parties are at liberty to approach the appropriate District Court to sort out the issue as per Section 22(1) of the Act. As in the present case, it is the election of the Member of the Ward, Section 22(1) of the Act would be required to mention hereunder.

Section 22 (1) of the Act reads as under:

"(1) Where an allegation is made that any person who is elected as a member of a gram panchayat is not qualified or has become disqualified under Section 17, Section 18, Section 19 or Section 20 by any voter or authority has given intimation of such allegation to the member through the District Panchayat Officer and such member disputes the correctness of

the allegation so made, or where any member himself entertains any doubt whether, or not he has become disqualified under any of those sections, such member or any other member may, and the executive authority, at the direction of the gram panchayat or the Commissioner shall, within a period of two months from the date on which such intimation is given or doubt is entertained, as the case may be, apply to the (District Court) having jurisdiction over the area in which office of the gram panchayat is situated for decision.”

To discharge the functions under Section 22 of the Act, the Executive Officer on receipt of a complaint/intimation about the disqualification of an elected member is required to put on notice the concerned Member about the complaint and on receiving the response he is required to take further steps to enable the competent authority to take appropriate decision; whether to initiate proceedings by filing an Election O.P before the District Court or not.

In the present set of facts, petitioner along with several members of the Gram Panchayat had made representations to the respondents 2 to 4 and the respondents 2 to 4 having received the same, they are required to intimate about the complaint to the 5th respondent. If no response is received by them within the stipulated time either admitting or denying the allegations, necessary steps would have to be taken by the respondents 2 to 4 in terms of Section 22(1) of the Act after obtaining necessary instructions from the Gram Panchayat. Even if the respondents 2 to 4 failed to act within the stipulated time, the petitioner along with the other members are at liberty to approach the concerned District Court by filing an election O.P seeking adjudication of disqualification of the 5th respondent in terms of Section 22(1) of the Act.

Subject to the above observations, the writ petition is disposed of. No order as to costs.

The Miscellaneous Petitions pending, if any, shall also stand dismissed.

CHALLA KODANDA RAM,J

Date:29.06.2016.
Gk.

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

-
-
-
-
-
-

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

WRIT PETITION No.20838 OF 2016

-

Date:29.06.2016.

Gk.

-

[\[1\]](#) 2005(1) ALD 181
[\[2\]](#) 2010 (5) ALD 589