

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA**

PUBLIC INTEREST LITIGATION No.281 of 2015

ORDER: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Heard Sri D.Prakash Reddy, learned Senior Counsel appearing on behalf of the petitioner, and the learned Government Pleader appearing on behalf of the learned Advocate General for the State of Andhra Pradesh. This Public Interest Litigation Writ Petition is filed questioning the inaction of the Government in conducting elections to the Water Users Associations, Distributory Committees and Project Committees, as required under the A.P. Farmers' Management of Irrigation Systems Act, 1997 (hereinafter called 'the 1997 Act').

The petitioner's complaint in the writ petition is that the statutory requirement of Section 4 of the 1997 Act, of holding periodic elections for constitution of the Managing Committee of each Water Users' association, has not been complied with; and transitional arrangements are being continued for the past nearly four years ever since 12.02.2013.

Section 4 of the 1997 Act relates to election of the President, Vice-President and Members of the Managing Committee of Water Users Association and, under sub-section (1) thereof, there shall be a Managing Committee for each Water Users' Association comprising members of the territorial constituencies as specified in Section 3 (2), elected directly by the water users as specified in clause (i) of Section 3(4) of the 1997 Act from their respective territorial constituencies. Under the proviso thereto two members, nominated by the Gram Panchayat of whom one shall be a woman, shall be the members of the Managing Committees of Minor Irrigation Water Users

Associations, without voting rights. Section 4 (2) stipulates that the Managing Committee of the Water Users Association shall be a continuous body, with one third of the elected members retiring every two years as specified in Section 4 (3). Under Section 4 (3) of the 1997 Act, the term of office of members of the territorial Constituencies shall, if not recalled or removed or disqualified under the provisions of the Act, be six years from the date of the first meeting of the Managing Committee appointed by the Commissioner. Under the proviso thereto, at the first election, all the territorial constituency members shall be elected at one time, out of which one-third of the members thereof shall retire as soon as may be on the completion of two years, another one-third shall retire after completion of four years, and the remaining one third shall retire after completion of six years in office; and their term of retirement shall be decided by drawal of lots.

Section 4 of the 1997 Act, in effect, requires the Managing Committee for each Water Users Association to be a continuous body with each of the members continuing for a terms of six years, and one third of the body retiring every two years. G.O.Ms.No.20 dated 12.02.2013 refers to the letter of the Commissioner, CAD, Hyderabad dated 15.10.2012 seeking permission of the Government to conduct elections to the 2/3rd vacant territorial constituencies. It also states that the Government, in the exercise of its powers under Section 34 of the 1997 Act, had appointed certain officers to exercise the powers, and perform the functions, of the farmers' organization, and the Managing Committee thereof, till such time the Farmers' Organizations were newly constituted or reconstituted; and the

Managing Committee assumed office under the provisions of the 1997 Act.

Section 34 of 1997 Act relates to transitional arrangements and enables the Government, by notification, to appoint an officer or officers, or the outgoing President or Chairman of the farmers organisations whose performance is adjudged as good, to exercise the powers, and perform the functions, of a farmers organisation, and the Managing Committee thereof, till such time such farmers organisation is duly constituted or reconstituted, and such Managing Committee assumes office under the provisions of the Act. Section 34 of the 1997 Act was amended by the A.P. Farmers Management of Irrigation Systems (Amendment) Act, 2015 and, in addition to the aforesaid two categories which existed earlier, a third category was prescribed to consist of the President, Vice-President and four Members as appointed by the General Body of the farmers organisation by consensus. This transitional arrangement is stated to be continuing for the past more than 3 ½ years and the Managing Committee which, under Section 4 (1) of the 1997 Act, was to be a continuous body has ceased to exist.

In the counter affidavit filed, on behalf of the respondents, by the Secretary to the Government, Water Resources Department, on 16.04.2016, a period of 25 months (a month more than two years) is sought to hold elections to the Water Users Associations.

While we do not propose to sit in judgment over the views of the executive in this regard, a bare perusal of the time lines suggested by the respondent indicates that an expert committee has been constituted to propose amendment to the Act and, pursuant

thereto, the Act is proposed to be amended. Learned Government Pleader, appearing on behalf of the learned Advocate General (AP), would submit that amendments are proposed to the 1997 Act; such proposals are under active consideration of the Government; and no direction should be issued to hold elections till the 1997 Act is suitably amended.

We must express our inability to agree. If, and till, it is suitably amended, the 1997 Act, more particularly Section 4 thereof, necessitates strict compliance. The mere fact that the law may be amended by the Legislature in future, does not absolve the executive of its duty to discharge its statutory obligations, under the 1997 Act, to hold elections periodically. As the Water Users Association is conceived, under Section 4 of the 1997 Act, to be a continuous body, the very object of the 1997 Act, in prescribing a continuous body to manage the Water Users Association, would be defeated if elections are not held periodically and in a time bound manner.

As 1/3rd of the members of the Managing Committee are required, under the proviso to Section 4(3) of the 1997 Act, to retire once in two years, the time line now sought of more than two years to hold elections, goes even beyond the period within which 1/3rd of the members of the Managing Committee of the Water Users Association would retire. Sri D.Prakash Reddy, learned Senior Counsel appearing on behalf of the petitioners, would submit that all the elected Managing Committee members of the Waters Users Association have retired; these Associations are now under the control of the unelected; and the respondents should be directed to conduct elections within two months. As the voters' list may need revision, and a fresh list of members of the Water Users Association may be required to be finalised, we consider it appropriate to direct

the respondents to hold and complete elections at the earliest, and in any event not later than six months from today.

The Writ Petition is, accordingly, disposed of. No order as to costs. The miscellaneous petitions pending, if any, shall stand closed.

(RAMESH RANGANATHAN, ACJ)

(A.SHANKAR NARAYANA, J)

Date: 01.11.2016
v v

