

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No. 12999 OF 2016

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ORDER:

Heard Sri K. Venumadhav, learned counsel for the petitioner,

and Sri V.Satyam Reddy, learned Standing Counsel for the Nizamabad Municipal Corporation.

2. The prayer of the petitioner in this case is as under:

“The Hon’ble Court may be pleased to issue an order or direction more particularly one in the nature of writ of mandamus or any other appropriate writ declaring the action of the respondent no.2 in not taking any steps and not initiating any proceedings for declaring the respondent no.3’s election as Corporator of 36th division of respondent no.2 Municipal Corporation is illegal and she is a disqualified candidate for the said post, by considering the representation and material placed by the petitioner, dated

02-04-2016, even though the respondent no.3 is having 3 children and she is a disqualified candidate to continue in the said position, is nothing but arbitrary, illegal, null and void and violative of principles of natural justice and also violative of Articles 14, 19 and 21 of the Constitution of India and also violative of the provisions of Hyderabad Municipal Corporation Act. Consequently, direct the respondent No.2 to take necessary action and initiate appropriate proceedings against the respondent no.3 for filing nomination and contesting for the post of Corporator of 36th division of respondent no.2 Municipal Corporation by suppressing the fact of having 3 children, by giving false declaration, considering the representation filed by the petitioner, dated 02-04-2016, and to pass such other order or orders as this Hon’ble Court may deem fit and proper in the interest of justice.”

3. The issue arising in this writ petition fell for consideration before this Court in W.P.No.15034 of 2014 and batch which was disposed of by common order dated 02.09.2014.

4. In the light of the order proposed to be passed by this

Court, there is no necessity to put the third respondent on notice as no issue is sought to be adjudicated on merits at this stage.

5. The complaint of the petitioner is that the third respondent suffered ineligibility for being elected as a Corporator. Section 23-D of the Greater Hyderabad Municipal Corporation Act, 1955, deals with the authority to decide questions of disqualification of members and the Mayor. A similar provision in the Andhra Pradesh Municipalities Act, 1965, viz., Section 17, fell for consideration in W.P.No.15034 of 2014 and batch. This Court held that it would not be necessary for a person aggrieved to file an Election Petition and recourse could be taken to the Commissioner of the Municipal body for the purpose of examining the alleged disqualification/ineligibility.

6. For reasons alike as were mentioned in the afore-stated common order dated 02.09.2014 in W.P.No.15034 of 2014 and batch and in terms thereof, the writ petition is disposed of directing the Commissioner, Nizamabad Municipal Corporation, to exercise powers under Section 23-D of the Act and take appropriate action thereon

in accordance with law. This exercise shall be completed expeditiously and in any event, not later than four weeks from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall also stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

April 19, 2016

Note:- Furnish copy in three days.

{B/o} Lmv