

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.27932 of 2017

ORDER:

Heard learned counsel for the petitioners.

This writ petition was filed challenging the action of respondent No.3-Andhra Pradesh State Election Commission in issuing election notification on 03.08.2017 for conducting elections to Kakinada Municipal Corporation in hasty manner and only to circumvent the contempt proceedings in C.C.No.2486 of 2016.

The aforesaid notification was issued on 03.08.2017 indicating the schedule for conducting elections to Kakinada Municipal Corporation. By the date of filing the present writ petition, publication of final list of contesting candidates was completed on 16.08.2017. This writ petition is filed on the following grounds:

- (a) The intention of the Government to include 37 Gram Panchayats into Kakinada Municipal Corporation as such the elections were not conducted though it was due from 2010.
- (b) Only to circumvent the contempt case, the Election Commissioner without following the rules and regulations has issued the impugned notification dated 03.08.2017 and the same is evident from the reply dated 08.08.2017 given by the Election Commissioner.
- (c) The elections for Kakinada Municipal Corporation shall be conducted for 50 Wards. However, the election for Kakinada Municipal Corporation is being conducted only for 48 divisions which is impermissible under law.
- (d) The division of Wards have not properly done by the Election Commission and the same is evident from the voters list

published in newspaper dated 15.08.2017. The voters list ought to have published much prior to the notification.

- (e) The voters whose names are found for general elections are not found for Kakinada Municipal Corporation elections as such there was no chance for the voters to make their urge as the list of voters have published only after the election notification.
- (f) The revenue is being collected by the Municipal Corporation from Swamynagar, S.Achuthapuram and Teachers Colony in Ganganapally. However, excluding those villages and conducting the election for remaining Kakinada Municipal Corporation is wholly illegal, arbitrary and contrary to law.
- (g) The elections being conducted by the Election Commissioner based on 2011 census. In fact, thereafter, there were many additions and deletions and the genuine voters are being deprived of.

None of the grounds raised above warrants exercise of extraordinary jurisdiction by this Court at this stage. In fact, it appears that several public interest litigations were filed and they were disposed of by this Court on various dates prior to the issuance of the notification impugned.

The petitioners themselves state that though G.O.Ms.No.83, dated 04.03.2017 was issued approving the Ward Division proposal of Kakinada Municipal Corporation for 50 Wards and G.O.Ms.No.298, dated 01.08.2017, was issued specifying reservation for various communities, when W.P.No.25983 of 2017 was filed, this Court gave liberty to the respondents therein to proceed with the election except Ganganapalli, Swamynagar and S.Achuthapuram villages and when such an order is existing, it is not open to the petitioners to file the present writ petition.

Petitioner No.1 states that he submitted a representation on 07.08.2017 to the Election Commissioner for postponing the elections and the Election Commissioner gave a reply stating that in view of the directions issued in the contempt case, he was forced to conduct the elections by giving a notification on 03.08.2017.

The petitioners in their affidavit did not state whether they are voters of Kakinada Municipal Corporation or not. No arguable point is involved in the present writ petition.

In the circumstances, the writ petition is dismissed with costs of Rs.5000/- (Rupees five thousand only) to be paid by the petitioners each to respondent No.4-Kakinada Municipal Corporation, within 30 days from the date of receipt of a copy of this order, and in case of failure, it is open to respondent No.5-District Collector, East Godavari, to collect the said amount from the petitioners as arrears of land revenue and remit the said amount to respondent No.4.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

A.RAMALINGESWARA RAO,J

Dt:28.08.2017

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