

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE DR JUSTICE SHAMEEM AKTHER

Writ Petition Nos.9586 and 9095 of 2017

COMMON ORDER: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

W.P.No.9586 of 2017 is filed questioning the failure of the Chief Electoral Officer in according permission to 47 persons to be accompanied by a companion.

Sri Vedula Venkataramana, learned Senior Counsel appearing on behalf of the petitioners in W.P.No.9586 of 2017, has placed before us a copy of the endorsement dated 16.03.2017 wherein the petitioners' application, for being granted the benefit of a companion, was rejected on the ground that they had failed to submit their applications before 5:00 PM on 13.03.2017. Learned Senior Counsel would also draw our attention to the Handbook for Returning Officers for Elections to the Council of States & State Legislative Councils, and more particularly to paragraphs (29.1) and (29.2) thereof which relate to voting by illiterate, blind and infirm voters, to contend that permission should have been accorded.

Paragraph 29.2 of the Handbook prohibits a helper or companion inside the polling booths, for helping/assisting the voters, except in the case of an illiterate/blind/infirm voter in terms of Rule 40A of the Conduct of Election Rules, 1961. It further stipulates that, in case an elector wishes to avail the facility of a companion because of his illiteracy, blindness or infirmity, he must give advance intimation to that effect to the Returning Officer atleast 3 days before the date of polling. The Returning Officer is required to examine the eligibility of the elector for getting the

facility of a companion and, in case the Returning Officer finds the elector eligible as per the laid down provision, he/she shall indicate the same on the electoral roll by making a mark against the name of the elector. Further on the date of polling, before voting, such voters must also submit a declaration in the proforma enclosed that he/she is illiterate/blind/infirm, and thereafter action is required to be taken by the Presiding Officer concerned as per Rule 40A of the Conduct of Elections Rules, 1961.

Sri P.Veera Reddy, learned Senior Counsel appearing on behalf of the petitioner in W.P.No.9095 of 2017, has placed before us a copy of the letter addressed by the Collector, YSR District to the Chief Electoral Officer dated 14.03.2017 wherein a reference is made to the requirement of the applications being submitted before 5 PM on 13.03.2017. It does appear from the said letter that a clarification was sought from the Chief Electoral Officer who, by memo dated 13.03.2017, appears to have indicated that the application, for permission for allowing companion or helper (in the proforma prescribed) which was communicated by proceedings dated 13.03.2017, should be submitted by 11:00 am on 14.03.2017. Yet the letter dated 14.03.2017 records that the 18 applications submitted beyond 5:00 PM on 13.03.2017, and 34 applications submitted upto 9:00 AM on 14.03.2017, did not necessitate any action, as they were received after 5:00 PM on 13.03.2017.

While the submission of Sri Vedula Venkataramana, learned Senior Counsel appearing on behalf of the petitioners in W.P.No.9586 of 2017, is that the three day period should be computed before commencement of polling, which is at 8:00 PM on

17.03.2017, and therefore all the applications submitted before 8:00 AM on 14.03.2017 ought not to have been considered, cannot be said to be without merit, the fact remains that the Handbook requires the applications thereafter to be examined by the Returning Officer, regarding the eligibility of the elector for getting the facility of a companion; in case the Returning Officer finds the elector eligible, he is required to indicate the same on the electoral roll by making a mark against the name of the elector; and thereafter, on the date of polling and before voting, the voter is required to submit a declaration.

As voting has already commenced today morning at 8:00 AM, any direction to the Returning Officer to consider the petitioners' request would be an exercise in futility. This Court would not issue futile writs. We see no reason, therefore, to entertain W.P.No.9586 of 2017 and it is, accordingly, dismissed.

Sri P.Veera Reddy, learned Senior Counsel appearing on behalf of the petitioner in W.P.No.9095 of 2017, seeks permission to withdraw W.P.No.9095 of 2017. Consequently, W.P.No.9095 of 2017 is dismissed as withdrawn. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(DR. SHAMEEM AKTHER, J)

17th March, 2017
JSU

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Date: 17.03.2017

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