

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.5300 of 2017

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, for the following relief:

“To issue a Writ, Order or Direction particularly one in the nature of Writ of Mandamus declaring the impugned action of the Respondents in reserving the office of the Sarpanch, Gram Panchayat of Gajalapuram Village, Tripuraram Mandal, Nalgonda District in favour of Scheduled Tribe who have zero population in the village and not allowing the voters of the village to have a regular elected Sarpanch by virtue of the said reservation as totally illegal, in violation of Rule 8 of Telangana State Panchayat Raj (Reservations of Seats & Offices of Gram Panchayat, Mandal Parishads & Zilla Parishads) Rules 2006' and in violation of right to dignity of life of the electoral of the village guaranteed under Article 21 of Constitution of India as well as enrolling the Respondents 7 & 8 ordinarily residents of Garakuntapalem, Kannekal gram panchayat, Nidamanur Mandal, Nalgonda District in the Gajalapuram Village, Tripuraram Mandal, Nalgonda District electoral roll without an enquiry as per Rules as totally illegal, without jurisdiction and consequently direct the Respondents to revise and re-allot the reservation to the office of Sarpanch, Gram Panchayat, Gajalapuram Village, Tripuraram Mandal, Nalgonda District in accordance with Rule-8 of Telangana State Panchayat Raj (Reservations of Seats & Offices of Gram Panchayat, Mandal Parishads & Zilla Parishads) Rules 2006' and conduct the election thereon.”

2. Heard Sri S.Laxma Reddy, learned Senior counsel representing the counsel for the petitioner on record Sri Rahul Reddy and the learned Government Pleader for Panchayat Raj for the respondents herein.

3. According to the learned Senior Counsel, the respondent authorities are proceeding contrary to Rules 7 and 8 of the Telangana Panchayat Raj (Preparation & Publication of Electoral Rolls) Rules, 2006. It is the further submission of the learned Senior Counsel that though the population of Schedule Tribe in the subject Grampanchayat is zero, the respondent authorities have reserved the same in favour of the Schedule Tribe and the

same is contrary to Rule (8) (1) of the above said Rules, which reads as under:

“Rule 8 (1) The Revenue Divisional Officer on determining the number of offices of Sarpanchas to be reserved in each Mandal Parishad for the members belonging to Schedule Tribes, Scheduled Castes, Backward Classes and Women, shall allot offices to the Scheduled Tribes in the first instance where the proportion of the population of the Scheduled Tribes to the total population of the Gram Panchayat concerned is the highest in the descending order.”

4. In support of his submission, learned Senior counsel has placed on record the judgment of this Court in *KOMIRISETTY RAMA RAO v. COLLECTOR, GUNTUR (COMMISSIONER OF PANCHAYAT RAJ) AND OTHERS*¹. Paragraph No.18 of the said judgment reads as under:

“18. Therefore, we are convinced that there is force in the submission made by the learned Counsel for the petitioner. Nonetheless, having regard to the provisions of 243-K of the Constitution of India whereunder superintendence, direction and conduct of elections to Panchayats is vested in the State Election Commission, we deem it proper to request the State Election Commission to consider the representation of the petitioner expeditiously within a period of one week from today and take such decision including postponing the election or changing the reservation in tune with the provisions of the Constitution of India and the Act and the rules. The petitioner shall be at liberty to approach the State Election Commission by making a representation. Needless to add the State Election Commission may decide the issue having regard to the observations made in this judgment.

5. Article 243 K of the Constitution of India reads as under:

“243K. Elections to the Panchayats The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor

(2) Subject to the provisions of any law made by the Legislature of a State the conditions of service and tenure of office of the State Election Commissioner shall be such as the Governor may by rule determine: Provided that the State Election Commissioner shall not be removed from his office except in like manner and on the like ground as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment

¹ 2001 (5) ALD 243 (DB)

(3) The Governor of a State shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by clause (1)

(4) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Panchayats.”

6. On the contrary, it is submitted by the learned Government Pleader that the State Election Commission vide Lr.No.144/TSEC-PR/2017-1, dated 20.02.2017, issued a notification also proposing to conduct elections and the said process cannot be interdicted by this Court under Article 226 of the Constitution of India.

7. In the instant case, for redressal of the grievance, petitioner herein submitted representation on 03.02.2017 before the State Election Commission/second respondent herein and the same is pending consideration.

8. Since the said representation is pending consideration before the State Election Commission, this Court deems it appropriate to direct the second respondent/State Election Commissioner herein to take appropriate action on the representation dated 03.02.2017.

9. Accordingly, the writ petition is disposed of, directing the second respondent/State Election Commissioner herein to take appropriate action on the representation dated 03.02.2017 said to have been submitted by the petitioner herein, within a period of one week from the date of receipt of a copy of this order, as per law and in the light of the observations made by the Division Bench of this Court in the above referred Judgment and communicate the same to the petitioners herein. As a sequel, the miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:20.02.2017
grk

THE HON'BLE SRI JUSTICE A.V.SESHA SAI



W.P.No.5300 of 2017

Dated 20.02.2017

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