

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.30759 of 2017

ORDER:

The petitioner was elected as member of Mandal Parishad Territorial Constituency in the general elections held in 2014 under BC General category from Nalgonda. It appears that the second respondent addressed a letter on 07.03.2017 to the third respondent asking to conduct an enquiry and submit a report on the complaint lodged by one G.Venkanna alleging that the petitioner is having three children and, therefore, he was disqualified to hold the post of MPTC. In pursuance of the same, the petitioner received a letter on 30.03.2017 from the Extension Officer, Panchayat Raj, Nalgonda, asking the petitioner to appear before him on 07.04.2017. Accordingly, the petitioner appeared and sought copies of the complaint and other papers. However, without furnishing the copies of the complaint and other papers, he appears to have submitted a report to the second respondent. The second respondent issued a notice on 02.05.2017 asking the petitioner to submit his explanation and the petitioner submitted his explanation on 07.05.2017 stating that he gave one of the children in adoption and at present he is having only two children. He further submitted that at the time of election he was having only two children and the third child was born in 2016. So he did not incur any disqualification. In spite of the same, without considering the said explanation, when an order was passed on 08.08.2017 holding that the petitioner is disqualified to hold and continue as MPTC, the present Writ Petition is filed.

Section 156 of the Andhra Pradesh Panchayat Raj Act, 1994, deals with disqualifications. Sub-section (2) thereof provides that the

provisions of Sections 18 to 22 of the said Act shall apply to a member of Mandal Parishad as they apply to a member of Gram Panchayat. As per Section 22 of the said Act, in case of any dispute, the matter should be referred to the District Court and the petitioner also can apply to the District Court in order to have a decision on the qualification to continue as a member of MPTC.

In the instant case, no decision of the District Court is available. But, the second respondent decided that the petitioner is disqualified to hold the post. In view of the same, the impugned order can be treated as intimation, and it is open to the petitioner to approach the District Court within one month from the date of receipt of a copy of this order to have a decision on his qualification to continue as MPTC, and till such decision is rendered by the competent Court, the petitioner is entitled to act as if he is qualified. If the petitioner does not apply to the District Court, it is open to the second respondent to pass appropriate order.

The Writ Petition is, accordingly, disposed of. The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

12.09.2017
vs