

HON'BLE SRI JUSTICE S.V. BHATT

Writ Petition No.33473 of 2014

ORDER:

Heard Mr. C. Subodh for petitioner, the Assistant Government Pleader for respondents 1 and 2 and Mr. Ravindra for 4th respondent. No representation for 3rd respondent.

2. The petitioner challenges the proceedings Roc.No.1755/ 2014-A6 dated 28.10.2014, as illegal and without jurisdiction. The circumstances relevant for disposal of the writ petition are that 4th respondent filed representation/ complaint against the petitioner, who is elected Sarpanch of Bodagudipadu Gram Panchayat, by stating that petitioner has five children on the date of filing of the nomination and suffers disqualification under Section 19(3) of the A.P. Panchayat Raj Act, 1994 (for short 'the Act').

3. The 3rd respondent issued notices dated 09.09.2014 and 15.10.2014, received representation from petitioner and issued proceedings by observing that the petitioner has more than two children and suffers from disqualification under Section 19(3) of the Act.

4. The petitioner challenges the conclusion under the impugned proceedings that the District Panchayat Officer does not have adjudicatory power and it is for the learned Principal District Judge on clarification sought either by complainant or the successful candidate in this behalf.

5. In support of his contention, he relies upon the decision of this court in '*N.Tirupataiah vs. District Panchayat Officer, Nellore*¹', wherein it was held as follows:

“The Legislature has prescribed the District Court as an Authority to decide the question of disqualification. Though the provision refers to various authorities like (a) Executive Authority, (b) District Panchayat Officer, (c) Commissioner and (d) District Court, the decision making power in regard to disqualification of a member is given only to the District court and none else. Therefore, the district Panchayat Officer cannot and could not have passed the impugned order.”

6. Counsel appearing for petitioner, having regard to the scheme of Section 19 of the Act, and also binding precedent of this court in the decision referred to above, submits that the proceedings are unsustainable. The Assistant Government Pleader does not dispute the applicability of the decision referred on by petitioner.

7. The writ petition is ordered and the proceedings impugned in the writ petition are set aside. No order as to costs. Pending miscellaneous petitions if any in this writ petition shall stand dismissed in consequence.

S.V.BHATT, J

Date: 08.08.2017
BSS

¹ LAWS (APH) 2004-11-45

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