

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

WRIT PETITION No.7589 OF 2017

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed for a direction to the respondents to reject the nomination of the 7th respondent for the post of Sarpanch of Gajalapuram Grampanchayat (ST Reserved), which fell vacant due to the resignation of the then Sarpanch.

2. According to the petitioner, he belongs to Erukala Community, which is a Schedule Tribe and is a resident of Gajalapuram Village, Thripurarm Mandal, Nalgonda District. It is alleged in the affidavit filed in support of the writ petition that the 7th respondent belongs to Bapunagar Ameenabad Village of Chennaraopet Mandal, Warangal Rural District and she neither belongs to Gajalapuram Village nor she belongs to Schedule Tribe community. It is further alleged in the writ affidavit that at the behest of one Sri Polagani Krishnaiah, Upa-Sarpanch, now acting as Sarpanch, the name of the 7th respondent is entered in the voters list 2017 of Gajalapuram Grampanchayat at Sl.No.827.

3. According to the learned counsel for the petitioner, the 7th respondent is not entitled to contest in the elections.

4. When the matter is taken up, a preliminary objection with regard to maintainability of the writ petition is taken up by the learned Government Pleader stating that since the authorities already issued a notification and as the election process has

already commenced, the present writ petition is not maintainable under Article 226 of the Constitution of India in view of the constitutional mandate as enshrined in Article 243(O) of the Constitution, which reads as under:

“243-O. Bar to interference by courts in electoral matters.—Notwithstanding anything in this Constitution—

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies made or purporting to be made under article 243K, shall not be called in question in any court;

(b) no election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any Law made by the Legislature of a State.”

5. In the instant case, as the respondents issued the election notification and as the election process has already commenced, in view of the constitutional mandate as extracted supra, this Court is not inclined to entertain the present writ petition, under Article 226 of the Constitution of India. However, it is open for the petitioner herein to avail the remedies open to him.

6. With the above observation, this writ petition is disposed of. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

06.03.2017
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