

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

W.P. No.21967 OF 2013

ORDER:

This writ petition is filed under Article 226 of Constitution of India by Gandreti Ganesh of Denkada Mandal, Vizianagaram District against respondents 1 to 5 viz., 1)Government of A.P, rep. by its Principal Secretary, Panchayat Raj and Rural Development Department, Secretariat, Hyderabad, 2)Commissioner, Panchayat Raj and Rural Development, Hyderabad, 3) District Collector, Vizianagaram District, Vizianagaram, 4)Revenue Divisional Officer, Vizianagaram Division, Vizianagaram District and 5)A.P.State Election Commission, Hyderabad rep. by its Commissioner for the following relief:

“...declaring the action of the respondents in including the Akulapeta Village in the elections for Gram Panchayats and reserving Sarpanch post for SC when the said village does not figure in the village wise population as per 2011 Census in respect of Denkada Mandal, Vizianagaram District and also the action of the respondent in unreserving the post of Sarpanch for the Modavalasa Gram Panchayat which is very much included in the population as per 2011 census in respect of Denkada Mandal, Vizianagaram District, as being illegal, arbitrary, unconstitutional and contrary to the A.P. Panchayat Raj (Reservation of seats and offices of Gram Panchayats, Mandal Parishads and Zilla Parishads) Rules, 2006 (as amended by G.O. Ms. No.279, dated 01.06.2013 and consequently direct the respondents to set right the said anomaly and reserve Sarpanch post for SCs for Modavalasa Gram Panchayat and conduct elections and pass such other order or orders as may deem fit and proper in the circumstances of the case.”

2) The brief averments of the writ petition are that the writ petitioner belonging to S.C community of Modavalasa Village of Denkada Mandal, Vizianagaram District. When the notification has been issued by 3rd respondent, he filed an application under RTI Act to inform the reservations for the offices of Sarpanch and Ward members of Gram Panchayats situated in Denkada Mandal, which has been furnished to

him. On its perusal, it indicates that the office of Sarpanch of Modavalasa Grampanchayat was shown as unreserved, whereas the Akulapeta Village, which is Halmet of Modavalasa, is reserved for SC (W). He also sought information under RTI Act with regard to village wise population as per 2011 census in respect of Denkada Mandal and that was also furnished and from its perusal, the said Akulapeta Village is not at all found but in the Modavalasa Village SC population is considerably high when compared to Akulapeta Village.

3) As per Rule 7 (1) of A.P. Panchayat Raj (Reservation of seats and offices of Gram Panchayats, Mandal Parishads and Zilla Parishads) Rules 2006 (G.O. Ms. No.279 dated 01.06.2013), the Commissioner of Panchayat Raj and Rural Development shall determine in the first instance the number of offices of Sarpanch to be reserved in each Mandal Parishad for STs and SCs, subject to condition that the number of offices reserved for STs shall be 6.28% and for SCs 19.43% of the total number of Sarpanch of Grampanchayats in the Non-Scheduled area of the State and then allot to each District on the basis of proportion of the population of STs or SCs in the District to the total ST/ SC population of the State. Be that as it may, the 5th respondent— A.P. State Election Commission, Hyderabad, issued election notification on 06.07.2013 for various Gram Panchayats. As per the said notification, the concerned officials shall receive nominations between 9th and 13th July, 2013 and elections in Denkada Village will be held on 27.07.2013.

4) Learned counsel for writ petitioner submits that the respondents mechanically without application of mind included the Akulapeta Village in the list of reservations for the offices of Sarpanches

and Ward Members of Grampanchayat and reserved Sarpanch post for SC (W), when the said village does not figure in the village wise population as per 2011 census in respect of Denkada Mandal. In respect of Modavalasa Gram Panchayat, which is included in the population as per 2011 census in respect of Denkada Mandal the post of Sarpanch was shown as unreserved. Thus, the said action of respondents is illegal and contrary to the Rules, 2006 which caused irreparable loss and injury to the Scheduled Castes of the said village including the writ petitioner and in those circumstances, the writ petitioner has no efficacious alternative remedy except to approach this court by way of writ petition. Hence, to grant the relief as prayed for.

5) Heard learned counsel for the writ petitioner and perused the material on record.

6) No counter is filed by the respondents nor any material is placed before the Court including the correctness of the material placed on record by the writ petitioner of the village wise population as per 2011 census in respect of Denkada Mandal furnished to him by Tahsildar, Denkada Mandal on 02.07.2013 and the reservation for the offices of Sarpanch and Ward members of Gram Panchayats of Denkada Mandal for 26 villages including Akulapeta Village, Modavalasa Gram Panchayat in serial numbers 2 and 18, which was also furnished to him under RTI Act. Copy of G.O Ms.No.279, Panchayat Raj and Rural Development (E & R) Department dated 01.06.2013 filed herewith wherein Rule 7 (1) of G.O. Ms. No.220 dated 25.05.2006 was amended to work out the reservation.

7) Having regard to the above, the writ petition is disposed of directing the respondents to consider the grievance of the writ

petitioner sought in the writ petition within a period of one (1) month from the date of receipt of a copy of this order. No order as to costs.

7) Consequently, pending miscellaneous petitions, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

Dt.20.02.2017
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HON' BLE Dr. JUSTICE B.SIVA SANKARA RAO

W.P. No.21967 OF 2013



Date: .02.2017

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