

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.34406 OF 2017

ORDER:

Heard Mr.K.V.L Narasimha Rao for petitioner and the learned Government Pleader for Home for respondents.

One Kondampalli Swapna wife of Mastanvali is the petitioner. The petitioner prays for writ of Mandamus directing the 2nd respondent to permit the husband of petitioner namely Kondampalli Mastanvali @ Mastanvali @ Mastan s/o. late Babaiah @ Balanna, aged 41 years, President of Chagalamarri Mandal Praja Parishad to attend the meeting of Mandal Praja Parishad, Chagalamarri Mandal, scheduled to be held on 21.10.2017.

The case of petitioner is that due to political rivalry against the petitioner's husband and their family, several cases have been foisted against Mastanvali. The details of crimes given in the writ affidavit are: Crime No.30 of 2015 of Mydukur Police Station, Crime No.41 of 2016 and Crime No.115 of 2013 of Chagalamarri Police Station, and C.C.No.356 of 2015 of Kalasapadu Police Station is pending on the file of Judicial Magistrate of First Class, Badwel Kadapa District. The petitioner alleges that Mastanvali was arrested and for the present, he is in judicial remand.

The husband of petitioner is the President of Chagalamarri Mandal Praja Parishad. Notice dated 06.10.2017 is served on the petitioner informing the date of meeting of the Mandal Praja Parishad on 21.10.2017. On 25.03.2017 and 21.06.2017 on account of the husband of petitioner in judicial remand, he could not

attend the meetings. Now the case of petitioner is that the husband of petitioner if does not take part in the meeting scheduled to be held on 21.10.2017, her husband attracts disqualification under Section 20 read with 156(2) of the A.P. Panchayat Raj Act, 1994. Under these circumstances, the petitioner prays for Mandamus directing the 2nd respondent to permit the husband of petitioner by name Kondampalli Mastanvali @ Mastanvali @ Mastan to attend the meeting of Mandal Praja Parishad, Chagalamari Mandal scheduled to be held on 21.10.2017 and pass necessary orders.

The learned Government Pleader firstly refers to the Andhra Pradesh Prisons Rules, 1979 particularly, Chapter 44 and submits that the husband of petitioner since is in judicial remand, the procedure is to apply for bail and subject to the conditions imposed by the Court, the person in judicial remand can be allowed to go out and attend the meeting and come back. Further no representation was filed before the Jail authorities for considering the request of the petitioner and thirdly the cases referred in the affidavit are five, but according to instructions they are more cases. As there is no procedure to permit a prisoner with the present status to go and attend the meeting, she prays for dismissing the writ petition.

Learned counsel Mr.K.V.L. Narasimha Rao vehemently contends that by not allowing the husband of petitioner to attend the meeting scheduled to be held on 21.10.2017 for all purposes the same amounts to stifling the democratic process and further that

the disqualification if is attracted to the husband of the petitioner for consequently not attending the meeting, such situation amounts to defeating the will of people who have elected him as President of Mandal Praja Parishad. Therefore, he prays for invoking the jurisdiction or discretion of the Court at least for attending the meeting scheduled to be held on 21.10.2017.

I have heard the counsel, perused the record and also A.P. Prisons Rules, 1979. Fairly stated, the petitioner has described the status of Mastanvali as a person in Judicial remand. Neither the affidavit nor hearing any rule or safeguard enjoyed by a person in judicial remand is brought to my notice which enables this Court to consider right of person in judicial remand to attend meetings. The right to which a person in judicial remand is entitled to will have to be worked out as provided for under Criminal Procedure Code. Since A.P. Prison Rules do not refer to permitting or providing for escorting persons in judicial remand to attend meetings and come back, this Court is not persuaded to exercise the jurisdiction or discretion in considering the writ prayer. The writ petition fails and is dismissed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

Date: 20.10.2017
 Note:
 C.C. by evening.
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