

HON'BLE SRI JUSTICE A.RAJASEKHER REDDY

W.P.No.40010 OF 2017

ORDER

This writ petition is filed seeking to declare the action of the 2nd and 3rd respondents in proceeding to conduct elections to Lankavanidibba Society on 28.11.2017 by show of hands through election notification dated 21.11.2017 without considering the objections submitted by the petitioner in his representation dated 23.11.2017, as arbitrary and illegal.

The Lankavanidibba Fisheries Co-operative Society was established 30 years back and has been functioning for the welfare of the Fishermen. The petitioner is a member of the said society and he rendered his services as President of the Society for the period from 2012 to September, 2017. Now, the petitioner intends to contest in the election as President. While so, pursuant to the order of the 2nd respondent dated 2.11.2017, the 3rd respondent issued election notification on 21.11.2017 proposing to conduct election on 28.11.2017 by show of hands. Hence, the petitioner along with others submitted representations to the 2nd and the 3rd respondents and requested them to conduct election through a secret ballot paper, but no action has been taken so far. Hence, the present writ petition.

Though no counter-affidavit is filed, learned Government Pleader for Fisheries, based on written instructions, submits that as the term of the Managing Committee of the Fishermen Co-operative Society, Lankavanidibba, expired by 24.4.2017, the Fisheries Development Officer, Repalle, was appointed as person-in-charge to manage the affairs of the said society. The person-in-charge has conducted general body

meeting with the members of the society on 26.8.2017 and the society has passed a resolution requesting the authorities concerned to appoint the Election Officer to conduct the elections to the Managing Committee. But, the members of the said society have not at all requested the authorities to conduct the elections through secret ballot. After issuance of election notification, the members of the said society approached for conduct of elections through secret ballot mode on 23.11.2017.

Learned counsel appearing for the petitioner submits that the process of voting by show of hands is grossly incorrect as the members of the society are totalling 1181 members. In support of his contention, learned counsel relied on a decision of this Court in *Guggilla Raja Narsimulu v. District Collector, Karimnagar District-cum-Election Authority, Karimnagar and others*¹, wherein it was observed that wherever the membership strength of a society exceeds 50, the method of electing the representative by a secret ballot can be adopted.

On the other hand, learned Government Pleader submits that as per the A.P. Co-operative Societies Act, 1964 and Rule 22 (b) of the Rules framed thereunder, all the elections since inception of the society were conducted through show of hands mode only and the managing committee members were elected unanimously without any contest. In support of his contention, he relied on the decision of this Court in *MJ Veeramani and others v. Government of A.P. others*², wherein it was held that once the election process has started, no writ petition is maintainable to interrupt the election process.

¹ 2015(2) ALD 1

² 2002 (1) ALD 621 (DB)

It is to be seen in *Guggilla Raja Narsimulu's* case, this Court held that there is nothing wrong in the decision taken by the competent authority for conducting elections to the society by adopting the secret ballot method.

Rule 22-B of the Rules reads as follows:

“Rule 22-B. Mode of Election of Member of Committees of Weaker Section societies or societies having a small number of membership:

(a) The Election Officer shall notify the date and time and place of election. The election will be held in the premises of the registered office of the society. The voting of the members of the committee of the weaker section societies or societies having a small number of membership may be done by show of hands at the general meeting convened for election. The mode and the procedure will be as follows:

(i) Members will be admitted into the hall or premises on production of identity and after obtaining their signature or thumb impression in attendance register from 9.0 hrs to 11.00 hrs. At 11.30 hrs, the Election Officer will announce the number and category of seats on the Managing Committee to be filled. For each seat/category, he will call for nominations and announce the names of the nominations received and conduct elections as detailed below:

(ii) The Election officer will read out the names of each candidate contesting and he will call upon members to express their vote by show of hands. He will record the number of votes secured by each candidate and announce it after every count.

Provided that those who have polled the maximum votes in descending order will be declared elected depending upon the number of seats to be filled.

(b) If there is any disturbance in conduct of poll then the Elections Officer shall stop the proceedings and shall send a report to the Election Authority who will then order for conduct of repoll on any other day to be specified by issue of notice. In such circumstances, where polling was disturbed or where election authority is of the view that polling by show of hands is not possible, then the Election Authority may order for conduct of election by secret ballot. In such case, the procedure prescribed in the Rules for conduct of elections by secret ballot shall be followed through secret ballot.”

In the case on hand, the society has already passed resolution for conducting the elections and at that time, they did not raise any objection with regard to the procedure in conducting the elections. It appears, when the election process started, the members of the society submitted

representation not to conduct the elections by show of hands. As per Rule 22 (b) of the Rules, if there is any disturbance in conduct of poll, then the Election Officer shall stop the proceedings and send a report to the Election Authority, who will then order for conduct of repoll on any other day to be specified by issuing a notice.

In view of the same, this Court is of the opinion that there are no merits in the writ petition.

Accordingly, the Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending, shall stand closed.

27th November, 2017
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JUSTICE A.RAJASEKHER REDDY