

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

W.P. No.24842 of 2017

ORDER:

The Writ Petitioner is the elected Ward Councillor for Ward No.25, Kamareddy Municipality. The elections were conducted on 30.03.2014. There was postponement of the declaration of the result to 12.05.2014. As per Section 343-ZC under Chapter-V of the Telangana Municipalities Act, 1965 (for short, 'the Act') which reads as follows:-

Account of election expenses: (1) Every candidate, at any election held under this Act shall, either by himself, or by his election agent, keep a separate and correct account of all expenditure incurred in connection with the election, between the date of which the candidate concerned has been nominated, and the date of declaration of the result of the election, both dates inclusive(hereinafter in this chapter referred to as 'election expenses')

(2). The account of election expenses shall contain such particulars, as may by order, be specified by the State Election Commission.

that the account of election expenses between the dates on which the candidate concerned has been nominated and the date of declaration of result of election (both days inclusive) shall be submitted and the same is to be submitted within 45days as per Section 343-ZD of the Act, which reads as follows:-

Lodging of account with the District Election Authority: Every contesting candidate at an election shall, within forty five days from the date of declaration of result of the election, lodge with the District Election Authority, an account of his election expenses, which shall be a true copy of the account kept by him, or by his election agent, under Section 343-ZC;

2. The impugned order of the Telangana State Election Commission No.493/ TSEC-L-2015(82),dt.12.05.2017 running in two pages speaks with reference to the two provisions that 45 days contemplated by Section 343-ZC of the Act, expired on 25.06.2014 and the District Election Authority in his order dated 20.07.2015 referring the order dt.01.07.2011

and letter dated 04.02.2015, reported to the State Election Commission on 20.07.2015 of 97 contested candidates of Kamareddy Municipality failed to submit the final expenditure of the election expenses within stipulated time of 45 days supra so to take necessary penal action as per the Municipalities Act and the Rules made thereunder and among the 97 defaulters, the writ petitioner Smt. S Radhika is one, as such in this regard in saying u/sec.15-B of the Act read with the order of the Commission dt.03.08.2015, said Smt. S Radhika who failed to lodge final expenditure of the election expenses within the stipulated time by calling to show cause within 20 days of the receipt of the notice as to why she should not be disqualified u/sec.15-B of the Act and the Collector-cum-District Election Authority by letter supra informed the Commission that said Radhika failed to give any reply/representation in response to show cause notice issued by the State Election Commission and not submitted her election expenditure particulars and the State Election Commission is thereby satisfied of her failure is for no good reason for justification thereby declared her to be ceased to hold office and also ineligible for the period of three years from the date of issue of the order to contest in election to be held under the Act which is received by her on 21.07.2017 as acknowledged by her and impugned the same in the present Writ Petition.

3. There is nothing with reference to notice from the Collector-cum-District Magistrate on the writ petitioner Smt.S Radhika to give such reply, however fact remains of she submitted the election expenditure that was acknowledged by the Returning Officer-cum-Election Officer on 28.03.2014 itself showing the expenditure till that date and as per the statutory time provided by the provisions she could submit upto 25.06.2014 and submitted well in advance as per Section 343-ZD.

4. The contention of Sri P.Sudheer Rao, the learned Standing Counsel for the respondents is that the letter of the Collector-Cum-District Election Authority is very clear of there is no response and there is non-submission much less within statutory time and thereby the impugned proceedings cannot be questioned and the Writ Petition is liable to be dismissed.

5. On perusal of the material submitted with the counter affidavit of the 1st respondent shows said Radhika signed about receiving of the notice dt.03.08.2015 on the even date of service with phone number. The petitioner is disputing the same. It requires to be verified with the contemporary relevancy of the record available with the Election Authority of her signature therein. Once such is the case, she cannot pretend as if she was not served with notice.

6. Leave it as it is whether reply submitted or not from the writ petition enclosures showing the expenditure was submitted on 28.03.2014 itself for the Election held on 30.03.2014 which is well within time as per Section 243-ZD of the Act, the only thing to consider there is any such submission. Leave about, had it been really submitted, what prevented to issue a reply and even no reply inadvertently for the same cannot be all and end all.

7. Having regard to the above, the Writ Petition is disposed of directing the 1st respondent to consider the two aspects supra and issue fresh proceedings after hearing the petitioner preferably within four(4) weeks from the date of receipt of the order. It is made clear that the impugned proceedings ceases its operation as fresh proceedings are required to be given.

Consequently, miscellaneous petitions, if any pending in this Writ Petition shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date:09.02.2018

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