

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

W.P. No.24803 of 2017

ORDER:

The Writ Petitioner is the elected Ward Councillor for Ward No.19, 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(62),dt.13.06.2017 running in two pages speaks with reference to the two provisions that 45 days contemplated by Section 343-ZD 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. A. Shashirekha 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. A. Shashirekha 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 A. Shashirekha 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. A. Shashirekha to give such reply, however fact remains of she submitted the election expenditure that was acknowledged by the Returning Officer-cum-Election Officer on 21.08.2015 itself showing the expenditure till 12.05.2014 and as per the statutory time provided by the provisions she could submit upto 25.06.2014.

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 A.Shashirekha received the notice dt.03.08.2015. The petitioner is not even disputing the same while admitting at para-5 however by saying she submitted the expenditure particulars on 21.08.2015. In fact, the very submission of the expenditure by reply to the notice is in dispute. It requires to be verified with the record available with the Election Authority as to authenticity of the same since in dispute.

6. Having regard to the above, the Writ Petition is disposed of while setting aside the impugned proceedings No.493/ TSEC-L/ 2015-(62) dt.13.06.2017 of the 2nd respondent-State Election Commission with a direction to conduct fresh enquiry pursuant to this material placed on record in the writ petition showing said information was submitted already as to the correctness of the same and if really submitted the same, to record the same; and if not submitted really but later manipulated to show as if submitted, to prove further pursuant to the impugned notice as per law.

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

JUSTICE Dr. B.SIVA SANKARA RAO

Date:21.02.2018
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