

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.19258 of 2018

ORDER:

Heard the learned counsel for petitioner, learned Government Pleader for Panchayat Raj appearing for 1st respondent, Sri Avinash Desai, learned Counsel appearing for respondent Nos.2 to 5, Sri G.Narender Reddy, learned counsel appearing for 6th respondent and learned Government Pleader for Revenue appearing for 7th respondent.

2. Petitioner has filed this Writ Petition challenging the action of 4th respondent in not including petitioner's name in the voters list prepared for the general elections for the Gram Panchayat of Thettelapadu.

3. According to petitioner, he was previously a resident of Khammam and he had applied on 04-05-2018 in Form-7 for deletion from the voters list at Khammam and thereafter he had applied on 08-05-2018 for inclusion in voters list at Thettelapadu village in Form-16.

4. Petitioner alleges that respondent Nos.2 to 5 had kept his application for deletion from voters list at Khammam on 04-05-2018 pending, and instead got issued a notice dt.21-05-2018 without mentioning his address and rejected on 19-06-2018 his application for inclusion in voters list at Thettelapadu village on the basis of some local enquiry done behind the back of the petitioner.

5. Petitioner's counsel contends that the format of the notice dt.21-05-2018 differs materially from the format in the Registration of Electors Rules, 1960 notified under Section 28 of Representation of People Act, 1950 on 10-11-1960 and that grave injustice has been done to the petitioner by respondents.

6. Counter-affidavit has been filed by respondent Nos.2 to 5 contending that the notice dt.21-05-2018 has been served on petitioner by affixing it on the wall of the house situated at the address given by the petitioner, that the house mentioned by petitioner at Thettalapadu village is not in the occupation of the petitioner, and the occupant therein declined to receive the notice offered by respondent Nos.2 to 5.

7. Petitioner however refutes the same by pointing out that a statement had been given by the Sarpanch of Thettalapadu Gram Panchayat on 07-07-2018 as well as the M.P.T.C. Member of Thettalapadu also dt.07-07-2018 wherein both have asserted about petitioner's residence in Thettalapadu village.

8. Be that as it may, it is unfortunate that petitioner's application made on 04-05-2018 in Form-7 for deletion of his name from the voters list at Khammam is kept pending by 3rd respondent till date, and his application for inclusion in the voters list at Thettalapadu village made in Form-6 on 08-05-2018 is decided before the application made on 04-05-2018 with 3rd respondent for deletion at Khammam is decided. May be the Electoral Officers are different, but it was incumbent on 3rd respondent to decide petitioner's application

dt.04-05-2018 for deletion from the voters list at Khammam expeditiously instead of keeping it pending even now on the pretext of some enquiry to be conducted. Naturally when petitioner's name continues in voters list at Khammam, without his application for deletion made on 04-05-2018 is being considered, his application for inclusion at Thettelapadu made in Form-6 on 08-05-2018, cannot be properly considered.

9. That apart, since notice dt.21-05-2018 alleged to have been sent by respondent Nos.2 to 5 to petitioner's address at Thettelapadu is alleged to have been not served on petitioner, I deem it appropriate to set aside the order dt.19-06-2018 passed by 4th respondent, and it is accordingly set aside and matter is remitted back to 4th respondent. The 4th respondent is directed to issue notice to counsel for petitioner at the address mentioned below –

Sri Swaroop Oorilla,
Advocate,
R/o.10-3-73/2, Dr.Muralidhar's Dream Villa,
Flat No.202, Teachers Colony, East Marredpaly,
Secunderabad – 500 026.

informing about the date of hearing on petitioner's application for inclusion in voters list of Thettelapadu. On receipt of such notice, petitioner is entitled to appear in person or through counsel before the 4th respondent and produce all the material in his possession to prove that he is an ordinary resident of Thettelapadu village.

10. The 3rd respondent shall also decide petitioner's application dt.04-05-2018 for deletion from voters list at Khammam within 2 (two) weeks from the date of receipt of copy of the order

without fail after complying with principles of natural justice by serving notice on petitioner at petitioner's address i.e., Sri Mittakola Srinivasa Rao, S/o.Narayana, R/o.H.No.5-41/1, Thettelapadu, Thirumalayapalem Mandal, Khammam District – 507183 and also that of the petitioner's counsel referred to above.

11. After such decision by 3rd respondent, the 4th respondent shall proceed to decide on inclusion of petitioner's name in Thettelapadu Gram Panchayat voters list and communicate his decision to the petitioner.

12. The fact that there is alternative remedy available to petitioner is no bar to entertain the Writ Petition since there is specific grievance that there is violation of principles of natural justice.

13. The Writ Petition is allowed with the above directions.
No costs.

14. Miscellaneous applications pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 09-07-2018
Vsv/