

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

I.A.Nos.4 & 5 OF 2018

in/ and

WRIT PETITION No.26351 of 2018

COMMON ORDER:

Heard Counsel for Writ Petitioner, the Government Pleader for Panchayat Raj appearing for 1st respondent and Sri V.Srinivas, Counsel appearing for respondents 5 to 13.

2. In the elections held for Mandal Praja Parishad Territorial Constituency (MPTC) of Mattampally Mandal on 04.07.2014, petitioner and respondents 5 to 13 got elected as MPTC and also took oath on the same day. Thereafter, election of co-opted member took place on the same day and subsequent thereto, petitioner was elected as President of the MPP.

3. On 06.07.018, a requisition was given by respondents 5 to 13 of their intention to move a no-confidence motion to the 3rd respondent in Form-II prescribed under G.O.Ms.No.200 dt.28.04.1998.

4. On the basis of the said requisition, the 3rd respondent issued a notice in Form-V to the petitioner proposing to hold a meeting on 28.07.2018 to consider the said no-confidence motion.

5. Assailing the same, this Writ Petition is filed.

6. Counsel for petitioner contended that under proviso (1) to sub-Section (1) of Section 263 of Telangana State Panchayat Raj Act, 2018, no notice of motion expressing want of confidence in the President of an MPP shall be made within four (04) years of the date of assumption of office by the person against whom motion is sought to be moved; that the petitioner took charge of the Office of the President of the MPP on 16.07.2014; the 4th respondent had given a letter dt.06.04.2018 certifying that the petitioner took charge as President only on 16.07.2014; the four year period fixed under the proviso (1) to sub-Section (1) of Section 263 expires only on 16.07.2018 and there is a prohibition for moving of a requisition for no-confidence motion against the petitioner on 06.07.2018. Therefore he contends that the meeting pursuant to the notice of 3rd respondent for no-confidence on 28.07.2018 should not be allowed to go on.

7. On 27.07.2018, this Court directed the result of the no-confidence may not be announced, but did not stop the holding of the meeting to consider the no-confidence motion.

8. The said order was extended from time to time.

9. I.A.Nos.4 and 5 have been filed by the 3rd respondent and respondents 5 to 13 respectively, to vacate the said order.

10. It is the contention of the vacate stay petitioners that petitioner himself stated in para 3 of the affidavit filed in

support of the Writ Petition that ever since 04.07.2014 he was discharging duties as President of the MPP, that the petitioner took office as President on 04.07.2014, and so he is deemed to have taken charge on that day; that current MPDO (4th respondent) had filed a counter affidavit stating that under mistake he had issued the certificate dt.06.04.2018, that it was taken when he was doing other work and there was a typographical error which occurred therein with regard to the date of assumption of the charge of the petitioner.

11. Counsel for the Writ Petitioner contended that he had applied under Right to Information Act, 2005 to the 3rd respondent to produce evidence as to the activity of the MPP between 04.07.2014 and 16.07.2014 and that the same is not furnished.

12. However, counsel for petitioner is unable to explain why between 04.07.2014 and 16.07.2014, the alleged date of taking of charge by the petitioner, the petitioner, having been successful in election as MPTC and also as a President, did not assume the Office/take charge of the Office for a period of 12 days.

13. Across the Bar, it is contended by the counsel for petitioner that there was no auspicious day for the petitioner to take charge. But, there is no such pleading in the affidavit

filed by the petitioner in support of the Writ Petition or additional affidavit filed by the petitioner.

14. When a person spends considerable time and money to get elected to an Office, unless there is a serious impediment to the said person to assume office, the normal course of conduct is that he would take charge as soon as possible and would not put it off for a period of 12 days.

15. Since the MPDO letter dt.06.04.2018 relied upon by the petitioner is now explained by the 4th respondent by stating that it was a mistake and was not based on records, the only basis of the petitioner's claim that he took charge on 16.07.2014 is no longer available to him.

16. In this view of the matter, I see no reason to continue the interim order granted on 27.07.2018 or to grant any relief to the petitioner in the Writ Petition.

17. Accordingly, the I.A.Nos.4 and 5 of 2018 are allowed and the Writ Petition is dismissed. No order as to costs.

18. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

05th October, 2018.
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