

HON' BLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.1562 of 2017

ORDER:

Heard. Leave about the fact that pending admission of this Writ Petition with the prayer "to issue a writ order or direction more fully one in the nature of Writ of Mandamus declaring the action of the respondents No 2 and 3 in rejecting petitioners Nomination for the post of Joint Secretary of Hyderabad Cricket Association Elections scheduled to be held on 17-01-2017 is illegal improper arbitrary discriminatory malafide and violative of Article 14 of the Constitution of India besides being opposed to the principles of natural justice and consequently direct respondents No 2 and 3 herein to accept the Nomination of petitioner for the post of Joint Secretary of Hyderabad Cricket Association scheduled to be held on 17-01-2017 and allow him to contest for the same" against the respondents viz: the State of Telangana rep. by its Principal Secretary, the Hyderabad Cricket Association rep.by its Secretary, Rajiv Gandhi International Cricket Stadium and the Election Officer, the Hyderabad Cricket Stadium, there was an interim order passed by this Court in W.P.M.P.No.1788 of 2017,dt.16.01.2017 which reads as follows:

"The main writ petition is filed by the petitioner seeking to declare the action of respondents 2 and 3 in rejecting petitioner's nomination for the post of Joint Secretary of Hyderabad Cricket Associations Elections scheduled to be held on 17.01.2017 as illegal, improper, arbitrary, discriminatory and violative of Article 14 of the Constitution and consequently to direct respondents 2 and 3 herein to accept the nomination of the petitioner for the post of Joint Secretary.

In this M.P., he prays for similar order and permit him to contest for the post of Joint Secretary of Hyderabad Cricket Association scheduled to be held on 17.01.2017, pending disposal of the writ petition.

Heard Smt. K. Sesharajyam, learned senior counsel for the writ petitioner. Notice is given to the Government Pleader for 1st respondent.

Sri V. Ramchander Goud, learned counsel, filed vakalat on behalf of one Mr. K.John Manoj, S/o K.R.Williams, said to be the Secretary of the 2nd respondent.

Notice is not given to the 3rd respondent, but batta is paid. Learned counsel for the petitioner would submit that they tried to give notice to the 3rd respondent, but he was not available even by phone and hence batta was paid.

Learned counsel for the petitioner would submit that the petitioner at first filed nominations for the posts of Treasurer, Joint Secretary and Secretary and as per the election schedule, the date fixed for withdrawal of nominations was 12.01.2017 and since one person can contest for one post alone, he withdrew his nomination on 12.01.2017 for the posts of Secretary and Treasurer while retaining the nomination for the post of Joint Secretary and submitted a withdrawal letter to Returning Officer and obtained his endorsement also. In spite of his withdrawal of nomination in respect of other two posts and his other eligibilities to contest the elections, surprisingly the respondents 2 and 3 have rejected his nomination on the sole ground that he attained disqualification due to multiple nominations which is factually incorrect. Learned counsel for the petitioner would urge that the petitioner had already withdrawn his nomination for the other two posts as can be seen from the letter dated 12.01.2017 attested by the Returning Officer and his endorsement thereon. As such, the rejection on the ground of his attaining disqualification due to multiple nominations is unjust and illegal and herefore the petitioner may be permitted to contest the elections scheduled to be held on 17.01.2017.

Learned counsel for the 2nd respondent, Sri V.Ramachander Goud, would submit that the 3rd respondent herein was appointed against the directions of the Hon'ble Apex Court and therefore he has no authority to conduct the elections and the 2nd respondent has already filed C.R.P.No.174 of 2017 before the Hon'ble High Court and as per the order dated 11.01.2017 the High Court declined to stay the election process, but ordered stay of announcement of the result of the elections until further orders and posted the C.R.P. to 18.01.2017. Learned counsel for the 2nd respondent did not specifically argue anything regarding the petition averments.

As can be seen, the main plank of submission of the petitioner is that earlier he filed nominations for three posts i.e., Treasurer, Joint Secretary and Secretary as there was no restriction for filing multiple nominations, but since one can contest only for one post, the petitioner withdrew his nominations for the posts of Secretary and Treasurer and retained the nomination for the post of Joint Secretary and submitted a letter dated 12.01.2017 to that effect to the Returning Officer and also obtained his endorsement. A perusal of the letter dated 12.01.2017 filed along with the material papers shows as if the petitioner addressed the letter to the Returning Officer on 12.01.2017 stating that he was withdrawing the nominations for the posts of Treasurer and Secretary while retaining the nomination for the post of Joint Secretary. The endorsement to the effect 'received withdrawal letter signed by J.Govardhan Reddy the Returning Officer' is available on the said letter. Since the 3rd respondent is not available, there is no occasion for this Court to check the veracity of the said letter. Therefore, this Court for the time being accepts the sworn affidavit of the petitioner and the material produced by him. They would show prima facie case and balance of convenience in favour of the petitioner to the effect that he has submitted his withdrawal of nominations in respect of other two posts and retained the nomination for the post of Joint Secretary, but still his nomination was rejected. Hence, if he is not permitted to contest the elections for the said post, he would suffer irreparable loss.

Accordingly, the respondents are directed to accept the nomination of the petitioner for the post of Joint Secretary and allow him to contest the election scheduled to be held on 17.01.2017. However, since it is brought to the notice of the Court that in C.R.P.No.174 of 2017 stay of announcement of the results of the elections was already ordered, there shall be a stay of announcement of the result of the post of Joint Secretary also, until further orders."

Pursuant to said interim order, despite there is stay of announcement of the result by permitting to accept the nomination which is subject to the final result of the writ petition, it is the submission that violating the stay order, result was declared and against which there is a Contempt Case filed and against the declaration of the result, election petition has been already filed and is pending.

In view of the above, the Writ Petition is closed for deciding all issues in the election petition stated pending.

Consequently, miscellaneous petitions, if any, pending in this writ petition shall stand closed.

20.04.2018
vvr



Dr. B. SIVA SANKARA RAO, J