

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.40787 OF 2018

ORDER:

The present writ petition came to be filed seeking to declare the proceedings F1099350-A1/2018 dated 5.11.2018, issued by the 3rd respondent-District Collector, permitting to re-commence the election process of 5th respondent-society from the stage at which it was interrupted and complete the date of poll on 14.11.2018, duly following the election procedure under Rule 22(b) of the APCS Act, 1964 (for short, "the Act"), for conducting of election to the managing committee of the 5th respondent society, as illegal and arbitrary.

The 1st petitioner is the Secretary and the 2nd petitioner is the Vice President of the 5th respondent society, filed the present writ petition questioning the voters list and also showing the dead persons as voters in the voters list of the 5th respondent-society's election. It is also stated that there are some irregularities with regard to the election of the 5th respondent society, which lead to filing of the present writ petition.

Learned counsel for the petitioners submits that the voters list may be rectified before proceeding with the election process. Learned counsel for the 5th respondent as well as the learned Government Pleader for Fisheries, would submit that once the election process starts, the question of entertaining the writ petition does not arise. Apart from that it is also stated that permitting to re-commence the election process of 5th respondent-society from the stage at which it was interrupted and complete the date of poll on 14.11.2018 duly following the election procedure as prescribed under Rule 22(b) of the APCS Act, 1964 (for short, "the Act"), for conducting of election to the

managing committee of the 5th respondent society, in pursuance of the order dated 17.9.2018, passed by this Court in W.P.No.34730 of 2018. As seen from the record, earlier a draft notification was issued on 17.8.2018, pursuant to the direction given by this Court and the election of the 5th respondent society was scheduled to be conducted on 18.9.2018. The same was challenged in W.P.No.34730 of 2018 wherein this Court while setting aside the Government Memo No.3520/Fish/A2/2018, dated 17.9.2018, directed the respondents therein to take further action in the matter from the point where the election was postponed. The said order was passed on 10.10.2018.

As seen from the above, it is clear that the election was commenced and a draft notification was published in the month of September, 2018 and the polling date was fixed on 14.11.2018. Therefore, the question of entertaining the present writ petition is no longer *res integra*, in view of the judgment of the Division Bench of this court reported in **MJ. Veeramani and others v. Government of A.P and others**¹, wherein it has been held that when once the election process has started no writ petition is maintainable to interrupt the election process.

Having regard to the law laid down by the Division Bench of this Court, I am of considered view that entertaining of the present writ petition filed questioning the election process which is a day prior to the date of polling, may not be proper, correct and the writ petition is liable to be dismissed.

¹ 2002(1) ALD 621 (DB)

Accordingly, the writ petition is dismissed. No order as to costs.

Miscellaneous Petitions pending consideration, if any, in this Writ Petition shall stand closed.

C. PRAVEEN KUMAR,J

Date:13.11.2018.
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