

* HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V. BHATT

+ WRIT APPEAL No.1586 of 2018

% 3-12-2018

Mallikanti Anjamma,
 R/o. Mattampally Village and Mandal,
 Suryapet District.

...Appellant

Vs.

\$ The State of Telangana,
 Represented by its Principal Secretary,
 Panchayat Raj Department,
 Hyderabad and others.

.... Respondents

! Counsel for the appellant: Mr.Karunakar Reddy

Counsel for Respondent No.1 : Learned Govt. Pleader for Panchayat Raj &
 Rural Development.

Counsel for Respondent Nos.2 & 3: Learned Government Pleader for Revenue

Counsel for Respondent No.4 : Mr. G. Narender Reddy

Counsel for Respondent Nos. to 11 and 13: Mr. V. Srinivas

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**HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V. BHATT**

W.A. No.1586 of 2018

JUDGMENT (Oral) : (Per Hon'ble The Chief Justice Sri Thottathil B. Radhakrishnan)

We have heard the learned counsel for the appellant, learned Government Pleader for Panchayat Raj for respondent No.1, learned Government Pleader for Revenue for respondent Nos.2 and 3, Sri G. Narendra Reddy, learned Standing Counsel for respondent No.4 and the learned counsel for the contesting private respondents.

2. The appellant-writ petitioner was successful in an ordinary election to the Mandal Praja Parishad of Mattampally Mandal. Pursuant to that, she was elected as President of that Mandal Praja Parishad on 04.07.2014. On 06.07.2018, the private respondents and others gave their notice of intention to move a No Confidence Motion against the appellant. On the basis of that requisition, the competent authority fixed a meeting on 28.07.2018 to consider the No Confidence Motion.

3. The writ appellant moved the learned Single Judge pleading that the block period of four years during which the No Confidence Motion could not be moved, had not expired before the proposal of the No Confidence motion. Initially, there was an order of stay granted by the learned Single Judge permitting the No Confidence Motion to be moved; however that, the result of the No Confidence motion was prevented from being disclosed or announced, until otherwise ordered. Through the order impugned in this writ appeal, the learned Single Judge has vacated that interlocutory order and has dismissed the Writ Petition.

4. The learned counsel for the contesting private respondents pointed out that even by the pleadings in the Writ Petition, the date on which the appellant became the President was 04.07.2014.

5. The learned counsel for the appellant submits that an interlocutory application was filed before the learned Single Judge seeking amendment of the Writ Petition because, in the submission of the writ petitioner, the date 04.07.2014 was erroneously made in the Writ Petition and the petitioner had taken charge of the Office of the President of the Mandal Praja Parishad only on 16.07.2014.

6. The learned Single Judge, in our view, quite rightly posed the question as to what prevented the writ appellant from taking charge at least for around twelve days, if her case was genuine. It appears that the answer offered by her before the learned Single Judge, through the counsel at hearing, was that the days were considered as inauspicious for entering office.

7. Administering oath or entering office is not something that would govern such situation, having regard to the clear terms of Section 147 of the Telangana Panchayat Raj Act, 2018 (hereinafter referred to as "the Act"). Sub-section (13) of that Section provides that save, as otherwise expressly provided in, or prescribed under that Act, the term of office of the President or Vice-President, who is elected at an ordinary election shall be five years from the date of appointment by the State Election Commissioner for the first meeting of the Mandal Praja Parishad, after the ordinary election. Therefore, there is no gestation period for an elected President to enter office by receiving oath of office and secrecy and thereupon contending that she has assumed charge only from the date on which such oath could be

administered. The term of office of the President results out of the automatic efflux of time based on Sub-section (13) of Section 147 of the Act. The “date of assumption of office” in the first proviso to Section 263(1) of the Act, is necessarily to be understood in such a manner; since otherwise, the protective covenant of such nature can be used depending upon the volition of the person who is to enter office and discharge duties and functions of an elected office. This will be a clear contradiction of the Act and, resultantly, the Constitution.

8. For the aforesaid reasons, we do not find that the conclusions arrived at by the learned Single Judge are contrary to law or unavailable on the facts, warranting interference through an intra-Court appeal under the Letters Patent. The Writ Appeal, therefore, fails.

9. In the result, this Writ Appeal is dismissed subject to the aforesaid observations. There shall be no order as to costs.

As a sequel to the dismissal of the writ appeal, miscellaneous petitions pending, if any, shall stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

S.V. BHATT, J

Date: 03.12.2018

Note:

L.R. Copy to be marked.

b/o

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