

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 373 of 2019

ORDER :

Order dated 28.07.2017 disqualifying the petitioner for a period of three years from contesting the elections on the ground that he had not accounted for the amount expended for the elections conducted in 2014, is challenged in this Writ Petition.

Heard learned counsel for the petitioner as well as learned Standing Counsel for the 2nd respondent State Election Commission.

A perusal of the impugned order discloses that there is non-application of mind on the part of the 2nd respondent, as rightly contended by the learned counsel for the petitioner. While reiterating the provision of law, the 2nd respondent had set out that a notice to show cause was issued directing the petitioner to submit explanation, by invoking Section 15B of the Telangana Municipalities Act, 1965. It is further recorded that notice was issued alleging that the petitioner had failed to submit the details with respect to the election expenses, as mandated under the Rules within 45 days from the date of elections. Immediately thereafter, it is noted, the election expenditure of Rs.14,000/- was submitted along with vouchers and other related papers. As a matter of fact, the impugned order records that the petitioner had responded to the show cause notice and submitted the election expenditure accounts, and also explained that due to his ill-health, he could not submit the same within 45 days as stipulated. However, strangely, it was recorded that the petitioner had failed to lodge the account of expenses as required by law and also had not

shown good reason or justification for the same. The allegation recorded in the impugned order that the petitioner had failed to lodge the account of election expenses is contrary to the very finding recorded by the 2nd respondent that election expenditure account was submitted on receipt of the show cause notice. In other words, the said reason is not sustainable.

The second ground is that the petitioner had failed to show good reason or justification for the delay in submission. Once the 2nd respondent had chosen to issue the notice calling for the explanation and in response thereto, when once the petitioner had submitted details of the expenditure as required, the reasons for delay would become irrelevant. Inasmuch as the authorities themselves had chosen to issue the notice calling for the explanation, even assuming the delay is required to be explained, the version of the petitioner as per the impugned order itself is that due to health problems, he did not submit the same. The said reason could either be acceptable or not, but the authority cannot say the same is not a good reason. In those circumstances, since the 2nd respondent had passed the impugned order non-chalantly, the same is liable to be set aside.

The Writ Petition is therefore, allowed, setting aside the order dated 28.07.2017. No costs.

Consequently, the miscellaneous Applications, if any shall also stand closed.

CHALLA KODANDA RAM, J

21st January 2019

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