

HONOURABLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.925 OF 2019

O R D E R:

The prayer of the petitioner in this case reads as under:

“For the reasons stated in the accompanying affidavit, the petitioner herein prayed that this Hon’ble Court may be pleased to issue any Writ, order or direction, more particularly one in the nature of WRIT OF MANDAMUS, declaring the action of the respondent No.4’s Memo Rc.No.E/81/2018, dated 16.01.2019, by violation the Sec.21(3) of Telangana Gram Panchayat Act, 2018 having 3 children after May 1995 not considered the rejection of the nomination of the Respondent No.8 as illegal, arbitrary and violation of principles of natural justice, and pass such other order or orders as this Hon’ble Court may deem fit in the circumstances of the case.”

2 By the Memo dated 16.01.2019, the Deputy District Election Authority & Revenue Divisional Officer, Parkal, Warangal District, rejected the appeal filed by the petitioner on the ground that as per Rule 12 of the Telangana Panchayat Raj (Conduct of Election) Rules, 2018 (for brevity, ‘the Rules of 2018’), an appeal would lie only against rejection of a nomination and not against acceptance of a nomination by the Returning Officer. It is the case of the petitioner that the 8th respondent suffered disqualification under section 21 (3) of the Telangana Panchayat Raj Act, 2018 (for brevity, the Act of 2018’), as she has more than three children, all born after May, 1995.

3 Sri K. Buchi Babu, learned counsel for the petitioner, would contend that in terms of Rule 11 (2) of the Rules, the Returning Officer is required to examine the nomination papers and decide all objections which may be made at the time of such nomination as to any candidate being ineligible for election as a Member or as the Sarpanch of a gram panchayat under various provisions, one of which is Section 21 of the Act of 2018. It is his case that the Returning Officer failed to consider the petitioner’s objection in relation to the ineligibility suffered by the 8th respondent.

4 Rejection of the petitioner’s objection by the Returning Officer, if any, is not placed on record. It appears that the Returning Officer,

accepted the nomination of the 8th respondent and her name also finds mention in the list of contesting candidates. The election to the gram panchayat is scheduled to be held on 25.01.2019.

5 In so far as the order of the appellate authority vide the Memo dated 16.01.2019 is concerned, it is clear from Rule 12 of the Rules of 2018 that no appeal would lie against acceptance of a nomination. That being so, the action of the appellate authority in rejecting the appeal cannot be held to be in violation of the statutory Rules. Be it noted that the petitioner has not challenged the said Rule, but merely laid a challenge to the consequential action of the appellate authority in rejecting her appeal under the provisions of the said Rule.

6 The Writ Petition therefore fails and is accordingly dismissed. This order shall however not preclude the petitioner from taking recourse to appropriate remedies available to her in law if the 8th respondent is elected and the petitioner seeks to pursue her attack against the 8th respondent on the ground of her ineligibility under Section 21 (3) of the Act of 2018.

7 Pending Miscellaneous Petitions, if any, shall also stand dismissed. No order as to costs.

JUSTICE SANJAY KUMAR

22nd January, 2019
Kvsn