

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.1133 of 2019

ORDER:

The grievance of the petitioner is with regard to the failure of the election authorities in considering his representations dated 14.01.2019 and 16.01.2019. By the said representations, the petitioner sought to attack the eligibility of the fifth respondent to contest in the election for the post of Sarpanch, Thallasankeesa Gram panchayat, Kuravi Mandal, Mahaboobabad District, on the ground that she had three children, the last of whom was born after 31.05.1995, thereby attracting the disqualification contemplated by Section 21(3) of the Telangana Panchayat Raj Act, 2018 (*for brevity*, 'the Act of 2018').

Ms.Priyanka Singh, learned counsel representing Mr.P.Sudheer Rao, learned standing counsel for the State Election Commission, would inform this Court on instructions that the election to the subject Gram Panchayat is scheduled to be held on 25.01.2019 and the scrutiny of the nominations was undertaken upto 5.00 PM on 14.01.2019. She would further state that the first representation made by the petitioner on 14.01.2019 was received by the Returning Officer at about 4.30 PM and by that time, the scrutiny of the fifth respondent's nomination was already completed. She would further state that along with the said representation dated 14.01.2019, the petitioner only filed the SSC certificate of Chinthamalla Ramu, the son of the fifth respondent, without furnishing any details of the other two children. She would therefore state that on the strength of this inchoate material, the Returning Officer could not have rejected the nomination of the fifth respondent.

Though Sri K.Ravinder Reddy, learned counsel for the petitioner, would contend that the fifth respondent merely disclosed the factum of

her having two children and suppressed that she had a son by name Chinthamalla Ramu and therefore, the election authorities could have straightaway assessed the disqualification suffered by the fifth respondent in terms of Section 21(3) of the Act of 2018, there is no material placed before this Court in support of the said contention.

It may be noted that in the light of the law laid down by the Supreme Court in **N.P.PONNUSWAMI V/s. THE RETURNING OFFICER, NAMAKKAL CONSTITUENCY, NAMAKKAL, SALEM DISTRICT¹**, it is not open to this Court to interfere with the election process after issuance of the election notification unless such interference would aid the progress of the election and not impede it. In the case on hand, the election notification was issued as long back as on 01.01.2019 and disqualification of the fifth respondent's candidature at this stage behind her back would not aid the election process as it is admitted that the petitioner's wife would then remain the sole candidate in the fray for election to the subject post.

On the above analysis, this Court finds that this writ petition cannot be entertained or adjudicated on merits. The writ petition is accordingly dismissed. This order shall however not preclude the petitioner from invoking appropriate remedies available to him in accordance with law, in the event the fifth respondent is elected.

Pending miscellaneous petitions, if any, shall also stand dismissed.

No order as to costs.

JUSTICE SANJAY KUMAR

Date:23.01.2019

Note:

Furnish C.C. by tomorrow.

(B/o)PGS

¹ AIR 1952 SC 64