

HONOURABLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.1336 OF 2019

O R D E R:

1 The grievance of the petitioner is that the Deputy District Election Authority & Revenue Divisional Officer, Thorrur, Mahabubabad District, the 4th respondent, failed to consider his appeal against the order of the Returning Officer, Botimeedi Thanda Village, accepting the nomination of the 6th respondent herein. A consequential direction is sought to the election authorities to disqualify the 6th respondent under Section 21 (3) of the Telangana Panchayat Raj Act, 2018 (for brevity, 'the Act of 2018') on the ground that she has three children, the last of whom was born after 31.05.1995.

2 Perusal of the impugned order dated 22.01.2019 passed by the 4th respondent demonstrates that the appeal filed by the petitioner was rejected on the sole ground that an appeal could only be maintained against rejection of a nomination and not against acceptance thereof. In terms of Rule 12 of the Telangana Panchayat Raj (Conduct of Elections) Rules, 2018, an appeal would only lie against rejection of a nomination. Therefore, the opinion expressed by the appellate authority while dismissing the petitioner's appeal cannot be said to be invalid in law.

3 In the light of the law laid down by the Supreme Court in **N.P. Ponnuswami vs. Returning Officer, Nammakkal Constituency, Nammakkal, Salem District**¹ and later decisions, it would not be open to this Court to exercise its extraordinary jurisdiction under Article 226 of the Constitution in electoral matters after the issuance of an election notification unless such interference would aid the election process and not have the effect of stalling or obstructing it. In the case on hand, the election to the post of Sarpanch of Botimeedi Thanda Village, is scheduled to be held on 30.01.2019. At this stage, if the candidature of the 6th respondent is eliminated by this Court behind her back, it would

¹ AIR 1952 SC 64

not have the effect of aiding the process of free elections as it would reduce the competition for the post in question without even affording an opportunity of hearing to the 6th respondent as to whether she actually suffered a disqualification under Section 21(3) of the Act of 2018. In such circumstances, it would be wholly premature for this Court to jump to any conclusion with regard to the alleged disqualification of the 6th respondent.

4 The Writ Petition is accordingly dismissed on this short ground. This order shall however not preclude the petitioner from invoking appropriate remedies available to him in law in accordance with due procedure in the event the 6th respondent is elected.

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

25th January, 2019
Kvsn

JUSTICE SANJAY KUMAR