

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.1380 of 2019

ORDER:

The grievance of the petitioner, a contestant for the post of Sarpanch of Chervugattu Village, Narkatpally Mandal, Nalgonda District, in the ensuing elections to be held on 30.01.2019, is that the election authorities erred in accepting the nomination of the seventh respondent herein as he suffered disqualification under Section 21(3) of the Telangana Panchayat Raj Act, 2018 (*for brevity*, 'the Act of 2018'), as he had three children, all born after 31.05.1995.

It is the case of the petitioner that the Returning Officer, Chervugattu Village, rejected the nomination of the seventh respondent in the first instance but in appeal, the Revenue Divisional Officer & District Sub-Election Officer, Nalgonda District, overturned the said rejection and accepted the nomination.

Perusal of the material placed on record reflects that three birth certificates were produced in proof of the seventh respondent having three children. The first Birth Certificate dated 15.05.2018 indicates that a child was born on 28.11.2005 to Malga Ramana and Malga Bala Krishna, the seventh respondent. The name of the child is merely mentioned as 'Malga'. The registration number of this birth certificate is shown as 2806 and the date of registration is 29.12.2005. The second Birth Certificate dated 14.05.2013 indicates that a child by name Malga Pavan was born on 28.11.2005 to Malga Manjula and Malga Lingaswamy. The registration number is shown as 2805 and the date of registration is 20.12.2005. The third Birth Certificate dated 02.12.2017 reflects that Malga Kavya was born on 06.09.2007 to Malga Ramana and Malga Bala Krishna, the

seventh respondent. The registration number in this birth certificate is shown as 3916 and the date of registration is 30.09.2007.

Sri P.Venkata Subba Rao, learned counsel for the petitioner, would contend that these documents would clearly show that the seventh respondent has three children, all born beyond the stipulated date. He would further state that the seventh respondent offered one of his children in adoption under the registered Adoption Deed bearing Document No.95/IV/2011 dated 03.08.2011.

However, perusal of this Adoption Deed demonstrates that Malga Bala Krishna, S/o Bikshamaiah, the seventh respondent, along with his wife, Malga Bharathamma, gave in adoption their son - Pavan. It may be noted that the birth certificates relied upon by the petitioner do not reflect the name of the wife of Malga Bala Krishna, the seventh respondent, as Malga Bharathamma but as Malga Ramana. That apart, as already noted *supra*, Malga Pavan was not born to Malga Bala Krishna but to Malga Lingaswamy.

In the light of the aforestated controversial issues that arise in the context of the documents sought to be relied upon by the petitioner, it cannot be said with certainty at this stage that the seventh respondent suffers the disqualification contemplated under Section 21(3) of the Act of 2018. The matter would necessarily have to be enquired into at length before any conclusion can be arrived at.

That apart, 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** and other later decisions, it would not be open to this Court to interfere in electoral matters after issuance of the election notification unless such interference

¹ AIR 1952 SC 64

would aid and further the election process and would not have the effect of obstructing or stalling it.

In the case on hand, the election is scheduled to be held on 30.01.2019. At this stage, any interference by this Court behind the back of the seventh respondent would have the effect of eliminating him from the fray without even giving him an opportunity of hearing to explain his stand. Further, when the petitioner himself is a contesting candidate, such interference would only aid him and would not be in furtherance of the free election process.

The writ petition therefore does not deserve consideration on merits and 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 seventh respondent is elected.

Pending miscellaneous petitions, if any, shall also stand dismissed.
No order as to costs.

JUSTICE SANJAY KUMAR

Date:25.01.2019

Note:

Furnish C.C. by 28.01.2019.
(B/o) PGS