

**HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE A. RAJASHEKER REDDY**

WRIT APPEAL No.56 of 2019

JUDGMENT: *(per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)*

This appeal is against the order of the learned Single Judge refusing to interfere with the decision of the Revenue Divisional Officer allowing the private respondent to contest in an election under the Telangana Panchayat Raj Act, 1994.

2. We have heard the learned counsel for the appellant and the learned Government Pleader for Panchayat Raj appearing for respondent No.1.

3. The primary contention of the appellant is that the candidate, namely, the seventh respondent, has three children and therefore, he is disqualified from contesting the election. It is not in dispute that the election is notified. The learned Single Judge relied on the decision of the Apex Court in **N.P. PONNUSWAMI v. THE RETURNING OFFICER, NAMAKKAL CONSTITUENCY, NAMAKKAL, SALEM DISTRICT**¹ to hold that it would not be open for the Court to interfere after issuance of election notification unless such interference would aid in furthering the election process and would not have the effect by obstructing or stalling it.

¹ AIR 1952 SC 64

4. While it may be true that the nomination was rejected by the Returning Officer, the seventh respondent was permitted to contest through the appellate decision of the Revenue Divisional Officer. Even that will be subject to no finality, if the seventh respondent were declared elected and thereafter, such election is challenged through a properly constituted Election Petition before the competent authority under the Telangana Panchayat Raj Act, 1994. The position under that Act is not different from what would be obtained under the Representation of the People Act, 1951. We do not therefore find any way to interfere with the impugned order. To clarify, any observations made by the learned Single Judge or this Court in this judgment will not stand in the way of the parties raising grounds in any Election Petition, if and when it may become necessary after the results of the election declared.

5. Subject to the aforesaid, the Writ Appeal is dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. There shall be no order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

Date: 29.01.2019

A. RAJASHEKER REDDY, J

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