

THE HONOURABLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.1955 OF 2019

ORDER

The grievance of the petitioner, the defeated candidate in the election held on 25.01.2019 to the post of Sarpanch of Thimmareddy Palli Gram Panchayat, Nawabpet Mandal, Vikarabad District, is that the election authorities did not undertake recount of votes despite the fact that the margin between the petitioner and the elected candidate, the sixth respondent herein, was only five votes.

Rules 59 and 60 of the Telangana Panchayat Raj (Conduct of Elections) Rules, 2018 are relevant. Rule 59 states that after counting of all ballot papers, the Returning Officer shall make the entries in a result sheet in Form-XXVI and announce the particulars. Rule 60, dealing with recount of votes, states that after such announcement has been made under Rule 59, a candidate may apply in writing to the Returning Officer for recounting of the votes either wholly or in part stating the grounds on which he demands such recount. Rule 60(2) provides that upon such an application being made, the Returning Officer shall decide the matter and allow the application in whole or in part or may reject it wholly if it appears to him to be frivolous or unreasonable. Rule 60(3) mandates that every decision of the Returning Officer under Rule 60(2) shall be in writing and contain the reasons therefor.

In the light of this statutory scheme, it may be noted that the petitioner applied for recount only on 28.01.2019. As per the election schedule notified in Annexure-I to the Election Notification dated 01.01.2019, the counting of votes was to be undertaken on the very same day and the result was to be declared soon after completion of counting

of votes. In the light of the delay on the part of the petitioner in moving the Returning Officer and given the law laid down by the Supreme Court in **N.P.PONNUSWAMI V/s. RETURNING OFFICER, NAMAKKAL CONSTITUENCY, NAMAKKAL, SALEM DISTRICT**¹ and later decisions, this Court is not inclined to entertain this writ petition.

Though Sri Mohd. Irfan, learned counsel for the petitioner, would contend that the petitioner made a request for recount on the date of declaration of the result but the Returning Officer refused to receive the same, at this stage it is merely the *ipse dixit* of the petitioner and cannot be acted upon.

The writ petition is accordingly dismissed. This order shall however not preclude the petitioner from taking recourse to the remedies available to her in accordance with the due procedure before the competent form, if she so chooses.

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

SANJAY KUMAR, J

1st FEBRUARY, 2019

Sv

¹ AIR 1952 SC 64