

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.2956 of 2019

ORDER:

The prayer of the petitioners in this case reads as under:

'For the reasons stated in the above accompanying affidavit, the petitioner herein prays that this Hon'ble Court may be pleased to issue a writ, order or direction more particularly in the nature of writ of Mandamus, declaring the action of the Fifth Respondent Returning Officer, in declaring the Sixth Respondent as Upa-Sarpanch in the Election held during January, 2019, contrary to the mandate and Majority of the Elected members, Violating G.O.Ms.No.25, Dated 19.05.2018, contrary to clause (i) of sub-section (2) of section 286 read with sub-sections (9) and (10) of Section 15 of the Telangana Panchayat Raj Act, 2018 (Act No.5 of 2018), Violation of Principles of natural Justice, and violation of Article 14, 19 and 21 of Constitution of India, consequently declare Bandaru Venkata Lakshmi W/o Rajaiah, Fifth Petitioner herein, as Upa-Sarpanch by setting aside the Form – XXIX, Dated 30.01.2019, issued in favour of the Sixth Respondent, and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.'

The Office raised an objection as to the maintainability of this writ petition. However, by order dated 13.02.2019, this Court overruled the objection being of the opinion that in the event the allegation made by the petitioners was found to be true, it would make a travesty of the democratic election process. On 14.02.2019, this Court directed Sri K.Ramachandra Reddy, learned counsel representing Sri G.Narender Reddy, learned counsel for the Returning Officer, the fifth respondent herein, to produce the record of the proceedings in terms of Rule 6 of the Telangana Panchayat Raj (Election of Upa-Sarpanch of a Gram Panchayat) Rules, 2018 (for short, 'the Rules of 2018').

Rule 6 of the Rules of 2018 states to the effect that the Presiding Officer shall prepare a record of the proceedings at the meeting and sign it and also permit any member present at the meeting to affix his/her signature.

Today, Sri K.Ramachandra Reddy, learned counsel, produced the written proceedings recorded by the Returning Officer along with the photographs taken on the date of poll.

It appears that three candidates contested for the post of Upa-Sarpanch of Mohd.Gousepally Gram Panchayat, Mohd.Gousepally Village, Mulugu Mandal, Jayashankar-Bhupalpally District, viz., the second petitioner, the fifth petitioner and the sixth respondent. The sixth respondent garnered four votes, while the second petitioner got two votes cast by the third petitioner and the fourth petitioner. The fifth petitioner got only one vote cast by the sixth petitioner. The photographs record the votes cast in favour of each of the contesting candidates and the written record bears the signatures of those who voted in favour of each of them. Perusal of the signatures in the said record demonstrates that they tally with the signatures of the petitioners in the vakalat filed in this writ petition. It is therefore clear that petitioners 1, 2, 3, 4 and 6 did not support the candidature of the fifth petitioner unanimously.

It may be noted that the second petitioner was himself a candidate for the post and it is illogical for him to support the candidature of the fifth petitioner. It appears that the petitioners ganged up only after the sixth respondent was declared elected, having secured the maximum number of votes.

The writ petition is therefore devoid of merit and is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

JUSTICE SANJAY KUMAR

Date:19.02.2019

GJ