

HONOURABLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.5906 of 2019

ORDER:

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

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus declaring the inaction of Respondent Nos.2 to 4 in taking the action as per law against the Respondent No.5 as arbitrary, illegal and violation of Article 14 of Constitution of India and violation of Section 213 read with Section 25A of Telangana Panchayat Raj Act, 2018, and against the basic principles of Law and Justice and consequently direct Respondent Nos.2 to 4 to take appropriate action against Respondent No.5 as per Sec 27 of The Telangana Panchayat Raj Act, 2018, and to pass such other order or orders as this Honourable Court may deem fit and proper in the facts and circumstances of the case.”

In the light of the order proposed to be passed by this Court without going into the merits of the matter, it would not be necessary to put respondent No.5 on notice at this stage or afford him an opportunity of hearing.

Petitioner No.2 submitted representation dated 19.02.2019 to the Panchayat Secretary, Sundilla Gram Panchayat, Ramagiri Mandal, Peddappalli District, alleging that respondent No.5, who was elected as the 4th Ward Member of Sundilla Gram Panchayat and thereafter as Upa-Sarpanch, was disqualified under Section 21 (3) of the Telangana Panchayat Raj Act, 2018 (for short 'the Act of 2018'), as he had more than three children all born after 31.5.1995.

Perusal of the representation dated 19.02.2019 bears out that the office of the Panchayat Secretary received it on the very same

day. Petitioner No.2 therefore called upon the Panchayat Secretary to take appropriate action as per law.

The grievance of the petitioners presently is that despite receiving the aforestated representation, no steps have been taken by the panchayat authorities.

Section 27 of the Act of 2018 deals with the subject issue. It states to the effect that where a complaint is made by any voter to the Panchayat Secretary in writing that any person who is elected as a member of a Gram Panchayat is not qualified under Section 21, amongst other sections, the Panchayat Secretary has to give intimation of such an allegation to the member concerned through the District Panchayat Officer and in the event such member disputes the correctness of the allegation, the Panchayat Secretary, upon the direction of the Gram Panchayat or the District Collector, shall within two months from the date on which such intimation is given, apply to the District Court, having jurisdiction over the area in which the office of the Gram Panchayat is situated, for decision.

In the light of the aforestated statutory scheme which stipulates a time frame for the Panchayat Secretary to approach the District Court, it is not open to the Panchayat Secretary and the District Panchayat Officer concerned to remain somnolent.

The Writ Petition is accordingly disposed of directing respondent Nos.2 to 4 to take note of the aforestated statutory scheme and take appropriate action as per the due procedure upon

petitioner No.2's representation dated 19.02.2019. This exercise shall be initiated expeditiously and in any event, not later than two weeks from the date of receipt of a copy of this order, be it from whatever source.

Pending Miscellaneous Petitions, if any, shall stand closed in the light of this final order. No order as to costs.

22nd March, 2019
dr

JUSTICE SANJAY KUMAR

