

HONOURABLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.6630 OF 2019

ORDER:

1 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 writ or direction more particularly one in the nature of writ of Mandamus Mandamus declaring the action of the respondents No 2 to 4 in not considering petitioner representation dated 1432019 as illegal arbitrary and violative Articles 14 16 19 21 of Constitution of India and direct the respondents to recount the votes in respect of the Election to the Post of Sarpanch GrampanchayathMustyalapally village Nadikuda (M) Warangal Rural District and to pass such other relief or reliefs as this Hon’ble Court deems fit and proper in the circumstances of the case.”

2 The admitted fact is that the 5th respondent was elected as the Sarpanch of Mustyalapally Gram Panchayat, Nadikuda Mandal, Warangal Rural District, in the election held on 25.01.2019.

3 In terms of Rule 59 of Telangana Panchayat Raj (Conduct of Elections) Rules, 2018 (for brevity, the Rules of 2018’), after counting of all the ballot papers contained in the ballot boxes, the Returning Officer shall make entries in the result sheet in Form XXVI and announce the particulars. Rule 60 of the Rules of 2018 deals with recount of votes and provides 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) of the Rules of 2018 empowers the Returning Officer either to allow such application in whole or in part or reject it altogether if it appears to him to be frivolous or unreasonable. Rule 60 (3) of the Rules of 2018 provides that every decision of the Returning Officer under Rule 60 (2) shall be in writing and contain reasons there for.

4 Perusal of the representation dated 14.3.2019 demonstrates that the petitioner did not even seek recount of the votes on the date of the poll as mandated by the Rules. Having failed to do so, it is not open to the petitioner to seek belated recount of the votes long after the declaration of the result.

5 The Writ Petition is utterly misconceived and is accordingly dismissed. This order shall however not preclude the petitioner from taking recourse to alternative remedies, if any, in accordance with law before the competent forum.

6 Pending Miscellaneous Petitions, if any, shall also stand dismissed. No order as to costs.

JUSTICE SANJAY KUMAR

April 1, 2019.
Kvsn

