

THE HONOURABLE SRI JUSTICE A. RAJASHEKER REDDY

W.P.No.12795 of 2019

ORDER

This writ petition is filed seeking to declare the proceedings Rc.No.1/MPP/2019 dated 17.06.2019 issued by the 2nd respondent- Presiding Officer, Mandal Praja Parishad, disqualifying the petitioner as MPTC, Indiranagar, as illegal and arbitrary.

2. Heard learned counsel for the petitioner, learned Government Pleader for Panchayat Raj and Rural Development for respondent Nos.1,3 and 7, Sri G. Narender Reddy, learned Standing Counsel for respondent Nos.2, 5 and 6 and Sri V. Ravi Kiran Rao, learned counsel for respondent No.4.

3. The case of the petitioner is that she was elected as Mandal Parishad Territorial Constituency Member, Indiranagar, Chowdarigudem Mandal, Ranga Reddy District, as candidate of Telangana Rashtra Samithi Party, in the elections conducted on 04.06.2019. While so, the 2nd respondent has issued a show cause notice dated 10.06.2019 to the petitioner as to why she should not be disqualified as MPTC for the alleged act of disobeying the party whip and voting against the party whip in the election conducted on 07.06.2019 for electing the President. The grievance of the petitioner is that though she has submitted explanation on 14.06.2019, the 2nd respondent has issued the impugned proceedings disqualifying her as MPTC at the instance of the TRS party leaders.

4. Learned counsel for the petitioner submits that the impugned proceedings were issued without following due procedure under

Telangana Panchayat Raj (Conduct of Election) Rules, 2018. He further submits that taking advantage of illiteracy of the petitioner, the party functionaries had obtained her signatures on some blank papers informing that her name was proposed as President.

5. Learned counsel appearing for the 4th respondent has produced a copy of the notice dated 06.06.2019 issued by the authorized party whip, wherein the petitioner has put her signature. He relied upon the judgment of this Court in **N. Suharlatha v. State Election Commission, Secunderabad and others**¹, wherein it was held as under:

“It is settled principle of law from long line of precedents from Supreme Court as well as this Court and needs no reiteration that though mere availability of an alternative remedy is not a bar to entertain a writ petition under Article 226 of the Constitution of India, ordinarily when an alternative and efficacious remedy by way of appeal is provided by the statute, the writ Court do not entertain the writ petition. Ordinarily when statutorily engrafted right of appeal is available, question of not availing the said remedy and invoking the jurisdiction of this Court under Article 226 of the Constitution of India does not arise. The extraordinary jurisdiction under Article 226 of the Constitution of India can be exercised when right of a citizen is affected by a decision/order of statutory authority and there is no other effective redressal mechanism available to ventilate the grievance. Under Section 153-A of the Act, forum to prefer appeal against disqualification is the District Court. Thus, it cannot be said that the remedy of appeal is not effective and efficacious. Moreover, in exercise of power of judicial review under Article 226 of the Constitution of India, is limited and the writ Court cannot sit and consider the issues as appellate authority, whereas the appellate Tribunal can go into all aspects concerning the claim”.

6. Learned Government Pleader for Panchayat Raj submits that against the order of disqualification, right of appeal to the District

¹ 2015(5) ALD 464

Court is provided to the petitioner under Section 148 of Telangana Panchayat Raj Act, 2018 (for short 'the Act').

7. Having regard to the aforesaid submissions, the disputed questions as to whether the notice of party whip was not served upon the petitioner and whether the signatures of petitioner were obtained on blank papers taking advantage of her illiteracy, cannot be decided by this Court as appellate authority. However, the petitioner has remedy of appeal against disqualification to the District Court under Section 148 of the Act and without availing such remedy, she has approached this Court. Therefore, in view of the alternative remedy of appeal and also in view of the judgment of this Court in **N. Suharlatha's** case (1 supra), this Court is not inclined to entertain the present writ petition.

8. With the above observation, the Writ Petition is disposed of. However, it is open to the petitioner to prefer appeal against disqualification before the District Court under Section 148 of the Act along with application seeking interim order. No order as to costs.

9. Miscellaneous petitions, if any pending in this writ petition, shall stand closed.

A. RAJASHEKER REDDY, J

28th June, 2019

Note:
Issue CC by Monday.

sj