

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.13227 OF 2019

ORDER:

This writ petition is filed challenging the proceedings dt.17.06.2019 issued by the 3rd respondent disqualifying the petitioners as Mandal Parishad Territorial Constituency Members.

Sri B.Veera Reddy, learned Senior Counsel for the petitioners submits that the impugned orders were passed without following due procedure; that there is only one candidate in whose favour the party Whip is issued, and is herself disqualified since she was not seconded by anybody, as such question of disobeying Whip does not arise; and that on issuance of show cause notice regarding disqualification of the petitioners they have submitted explanations, but no speaking order is passed, which is in violation of principles of natural justice.

On the other hand learned Government Pleader for Panchayat Raj as well as learned counsel for the 4th respondent submits that petitioners have alternative remedy under Section 148 of the Telangana Panchayat Raj Act, 2018 (for short 'the Act'). They also submit that the action of the petitioners comes under disobedience of Whip which attracts disqualification. They also relied on the Judgment of this Court in WP.No.12795 of 2019.

Learned Senior Counsel for the petitioners submits that remedy under Section 148 is only an option but not a mandatory requirement or an efficacious statutory remedy. In support of this contention he relied on the word 'may' provided under Section 148 of the Act.

This Court has already taken a view in a similar writ petition, earlier, that when efficacious remedy is available under Section 148 of the Act the petitioners have to approach the District Court. More so, disputed question of facts are raised in the writ affidavit regarding service of whip and signatures of petitioners on the acknowledgment for service of whip, which cannot be decided by this Court as appellate authority.

Having regard to the aforesaid facts and circumstances the petitioners have to approach the District Court availing alternative remedy under Section 148 of the Act by following the Judgment rendered by this Court in ***N.Suharlatha v. State Election Commission, Secunderabad [2015(5) ALD 464]***. This court also in ***Yarlagadda Venkateswara Rao and others v. Government of A.P. [2007(2) ALT 65]*** held that the District Court is conferred power to grant interim orders in appropriate cases.

Accordingly, the writ petition is disposed of granting liberty to the petitioners to avail remedy under Section 148 of the Act. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

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THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY



WRIT PETITION No. 13227 of 2019

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