

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No. 21698 OF 2019

ORDER :

This writ petition is filed challenging the action of the 2nd respondent in issuing proceedings dt.19.09.2019 vide R.C.No.1273/S/SCEA/2019, notifying elections to the Managing Committee of the Accountant Generals Office Employees Cooperative Housing Society Limited-6th respondent Society.

Sri S.Niranjan Reddy, learned Senior Counsel appearing for the petitioner submits that petitioner is a Central Government employee and as per Office Memorandum dt.05.08.2019 issued by the 5th respondent, he will be allowed to hold elective office in any body, whether incorporated or not, for a period of two terms or for a period of four years, whichever is earlier. He also submits that since the term of the elective post of the 6th respondent Society is five years, as per the provisions of Telangana Co-operative Societies Act, 1964, the Chairman/Person-in-charge of the 6th respondent submitted a representation dt.09.08.2019 to the 5th respondent stating that the aforesaid Office Memorandum dt.05.08.2019 bars Government Employees from getting elected for more than two terms or four years, whichever is earlier and that the said Office Memorandum is also making the Government Employees ineligible to contest, elect and run the societies. When the said representation is pending, the 3rd respondent issued impugned election notification. He also submits that petitioner being the member of the Co-operative society and in service, his right to contest gets affected, if the elections are held as per the impugned notification. He

further submits that the respondent authorities could have waited for the decision of the 5th respondent on the representation of 6th respondent.

On the other hand learned Government Pleader for Co-operation submits that Section 31(2) of the Telangana Co-operative Societies Act provides the elected term of the elected body as five years and Article 243ZJ(2) also provides the elected term of the Co-operative body as five years. He also submits that after issuance of election notification election process starts, as such, the same cannot be interdicted and that the correspondence between the petitioner and the 5th respondent cannot be a ground for postponing the elections.

In this case it is to be seen that as on today Section 31(2) of the Co-operative Societies Act provides the term of the elected body of the Co-operative society as 5 years and Article 243 ZJ(2) of Constitution of India also provides for the same and the same also provide for conducting elections in a time bound manner.

Neither the provisions Cooperative Societies Act i.e. 31(2) of the Act nor Article 243ZJ (2) of the Constitution of India are challenged. The elections have to be conducted basing on the provisions of the Act, keeping in view the Constitutional provisions but not at the whims and fancies of the Person-in-charge of Co-operative Societies and the Officers of the Co-operation. Department cannot be made to postpone conducting of elections without any valid reason. If the petitioner is aggrieved by the Office Memorandum dt.05.08.2019 restricting their right to hold office for a period of four years in terms of the Act and Constitution, they could have

challenged the said Office Memorandum. But, the same is not under challenge. In the absence of challenge the said Office Memorandum and Statutory provisions, elections cannot be stayed or postponed. The submission of one of the members of the Society before its employer does not bar conducting of elections nor it can be a ground for postponing the elections. Right to contest election is neither a Constitutional nor a fundamental right and the petitioner is an employee and bound by service rules in contesting election.

Though learned Government Pleader contended that petitioner can raise election dispute after results are declared as per Section 61(3) of the Act, but I am of the view that the same will not come within the purview of that provision as Central government imposed restrictions on its employees limiting the term of election officer for holding the elected office.

In view of the above, the writ petition is misconceived and accordingly the same is dismissed. 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

16.10.2019
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