

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

W.P.NO.22621 OF 2019

O R D E R

The present writ petition is filed to declare the decision of the 2<sup>nd</sup> respondent – Returning Officer, for not recounting the votes polled in the elections held on 10-05-2019 for the post of Zilla Parishad Territorial Constituency members held in ordinary elections to MPTCs/ ZPTCS, 2019, as illegal and arbitrary.

Sri P.Sudheer Rao, learned Standing Counsel appearing for respondents 1 and 2, submits that petitioner has alternative remedy by way of filing an election petition, and hence the present writ petition may not be entertained.

Learned counsel appearing for the petitioner submits that several irregularities have taken place in the elections in question, and hence there is no bar for this court to entertain writ petition despite the alternative remedy.

It is settled principle that where the action complained of affects the fundamental rights guaranteed under the Constitution; or that the impugned order is shown to have been passed without issuing any notice, and in violation of principles of natural justice; or that the authority which passed the order, lacks jurisdiction; or where the statutory provisions are shown to have been violated; or that the grounds raised by the party, have not been considered, and a cryptic order has been passed without assigning any reasons, and in a mechanical manner, without application of mind; or where the virus of the statute is questioned; and in similar such other circumstances, writ jurisdiction can be permitted to be invoked

despite availability of alternative remedy. But such is not the situation in the present case, and the petitioner is questioning the decision of the Returning Officer for not recounting the votes polled. This issue involves adjudication of disputed questions of fact, which this court cannot undertake under the writ jurisdiction. Hence writ petition is disposed of granting liberty to the petitioner to avail alternative remedy of approaching the Election Tribunal, raising all the grounds along with material evidence, which would be considered in accordance with law.

Interlocutory applications pending, if any, shall stand closed. No order as to costs.

-----  
A.RAJASHEKER REDDY,J

Date:17—10—2019

avs

