

**THE HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY**

WP Nos.14010, 15247, 15321, 16794, 19027, 20313,
20905, 21169, 22239, 22599, 22615, 23339, 24102,
24233, 24669, 24701, 24702, 24770, 25086, 25126,
25194, 25217, 25226, 25365, 25464, 25526, 25558,
25758, 25760, 25797, 25800, 25842, 25919, 25981,
25995, 26003, 26006, 26178, 26184, 26285, 26291,
26295, 26373, 26465, 26551, 26559, 26581, 26627,
26679, 26772, 26776, 26782, 26834, 26867, 27010,
27022, 27073, 27536, 27541, 27571, 27709, 27866,
27965, 27975, 28075, 28548, 28681, 28685, 28932,
28944, 29012, 29050, 29301, 29736, 29795, 30257,
30929, 32712, 32789, 32794, 32811, 32851, 32956,
33267, 33293, 33323, 33367, 33956, 34030, 34341,
34508, 34516, 34832, 34873, 34918, 34960, 34962,
34988, 34989, 35004, 35043, 35531, 35552, 35553,
35730, 35759, 36009, 36090, 36094, 36233, 36648,
36995, 37115, 37369, 38740, 39798, 42519, 46608,
46779, 47134, 47288, 47916 and 48159 of 2018 and W.P.
Nos.251, 959, 1013, 1293 of 2019

COMMON ORDER : (*per the Hon'ble Sri Justice A. Rajasheker Reddy*)

In all these connected writ petitions, the issue which has been raised is identical, hence these petitions are being heard and decided together.

02. In one set of petitions, lead case being WP No.14010 of 2018 and batch, the petitioners assail the State amendment contained in Act No.4 of 2018, for short, “Act 4 of 2018” brought in to Section 3 of the Telangana Municipal Corporation Act, 1994, for short, “Act 1994” by way of Section 3A. In another set of petitions, lead case being WP No.26465 of 2018 and batch, the petitioners assail the State amendment contained in Act No.4 of 2018 brought in to Sections 2 and 3 of the Telangana Municipalities Act, 1965, for short, “Act 1965” by way of Clause 42-aa in Section 2 and sub-Section 1(B) in Section 3, respectively of the Act 1965. It is worthwhile to extract the impugned amendments called in question in these petitions.

03. Section 3A of the Act 1994, reads thus:-

“3A. Notwithstanding anything contained in sub Sections (2) and (3), the areas mentioned in Column No.3 of Schedule-I of this Act shall stand included and form part of the area governed by the Municipal Corporations shown in

the corresponding entry of Column No.4 of the said schedule;

(a) where an elected body of the Gram Panchayat constituted for such area prior to the commencement of the Telangana Panchayat Raj Act 2018, is in existence, on the date of expiry of the term of such elected body;

(b) where no elected body of the Gram Panchayat constituted for such area prior to the commencement of the Telangana Panchayat Raj Act, 2018 is in existence, on the date of such commencement.”

04. Schedule-I appended to Section 3A of the Act 1994 provides the details as to the name of the district, areas to be included, name of the Municipal Corporation into which the areas are included, ward no. of the Municipal Corporation into which such areas are merged.

05. Clause 42-aa of Section 2 of the Act 1965, reads thus:-

“(42-aa) Notwithstanding anything contained in clause (42-a), the areas mentioned in Column No.3 of Schedule-X of this Act shall be deemed to have been constituted as the smaller urban areas as specified in the corresponding entry of Column no.4 of the said schedule:

(a) where an elected body of the Gram Panchayat constituted for such area prior to the commencement of the

Telangana Panchayat Raj Act 2018, is in existence, on the date of expiry of the term of such elected body;

(b) where no elected body of the Gram Panchayat constituted for such area prior to the commencement of the Telangana Panchayat Raj Act, 2018 is in existence, on the date of such commencement.”

06. Sub-Section (1-B) of Section 3 of the Act 1965, reads thus:-

“(1-B) Notwithstanding anything contained in sub-Section 1-A, the areas mentioned in Column No.3 of Schedule-XI of this Act shall stand included and form part of the area governed by the municipality shown in the corresponding entry of column no.4 of the said schedule:

(a) where an elected body of the Gram Panchayat constituted for such area prior to the commencement of the Telangana Panchayat Raj Act 2018, is in existence, on the date of expiry of the term of such elected body;

(b) where no elected body of the Gram Panchayat constituted for such area prior to the commencement of the Telangana Panchayat Raj Act, 2018 is in existence, on the date of such commencement.”

07. The case of the petitioners in WP No.14010 of 2018 who are villagers and Sarpanches of different Gram Panchayats of Karimnagar district is that the impugned Act 4 of 2018 has made a complete departure from the texture of the parent Act 1994 and

by introduction of Section 3A of the Act 1994, the villages which are named in Schedule-I are merged with Karimnagar Municipal Corporation without there being a notification by the Governor under Section 3 (2) of the Act 1994 muchless they are de-notified under Section 3 (f) of the Panchayat Raj Act, 1994.

The villages are beyond 3 kms distance from the limits of Karimnagar Municipal Corporation which cannot be merged. The scheme of the Act 1994 is to make a publication of a larger urban area and has to pass through the test with reference to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance and such other factors as may be prescribed. That most of the villages are mostly agricultural dominated villages and there are no non-agricultural activities. That they are still

continuing as part and parcel of the respective Grampanchayats. By operation of the impugned amendment, they are just thrusting into the territorial area of Karimnagar Municipal Corporation. As per the Act 1994 there is nothing like enlargement of territorial area of a Municipal Corporation. That the impugned Act 4 of 2018 has done away with the doing of exercise of analyzing the scientific data to be collected as stipulated in the parent Act 1994, and therefore it is unconstitutional. An amendment to an existing statute must lay down the legislative policy and avoid specific enumeration of the named villages. Unless and until the villagers/areas have got the profile of a larger urban area, the question of inclusion of that area into the existing Corporation, does not arise. Since, no guidelines or parameters are laid down in the impugned amendment, it is liable to be struck

down on both grounds of lack of legislative competence and violation of Article 14 of the Constitution.

08. Likewise, the case of the petitioners in WP No.26465 of 2018 is that by virtue of the impugned amendment Gandimasaanipeta village is merged in Yellareddy Municipality without conducting any detailed study and without hearing the Gram Panchayat members who have filed their objections opposing the inclusion of the village into Municipality. That the villagers who are mainly dependent on agriculture and got benefits under the schemes of the State and the Union Governments will lose the benefits if the merger takes place. That employment guarantee scheme is a welfare scheme which guarantees employment to agricultural labourers in the village and such a scheme is not available in the Municipality. That by virtue of the impugned amendment, the substantive provisions i.e. Section 2 (42a) and Section

Municipal Commissioner, District Collector, Commissioner of Municipal Administration and such a procedure is by-passed when the Rules are very much in force and since the impugned amending Act 4 of 2018 does not lay down any new Rules, the Rules continue to hold the field. That the decision making process is vitiated not only for non-application of mind but also because of mala-fide exercise of power inasmuch as detailed study was not conducted and there being no criteria for inclusion of Gandimasaanipeta village into Yellareddy Municipality, the inclusion of the said village is violative of Article 14 of the Constitution and the impugned amendment is liable to be struck down.

09. Counter affidavit is filed in WP No.14010 of 2018 by the 2nd respondent wherein it is stated that the instant Gram Panchayats were merged into the limits of the existing Karimnagar Municipal Corporation,

