

THE HONOURABLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.29108 OF 2018

ORDER

The petitioners filed this writ petition in August, 2018 aggrieved by G.O.Ms.No.73, Panchayat Raj & Rural Development (Pts.III) Department, dated 01.08.2018 issued by the Government of Telangana, whereby the Government exercised powers under Section 136(3) of the Telangana Panchayat Raj Act, 2018 (*for brevity*, 'the Act of 2018'), and appointed Special Officers for the Gram Panchayats for which the term had expired on 01.08.2018. These Special Officers were to continue till the date of assumption of office by the elected Members and Sarpanches of the Gram Panchayats.

The grievance of the petitioners, to some extent, stands settled as the authorities initiated the process of elections to Gram Panchayats in the State and the Telangana State Election Commission issued Election Notification dated 01.01.2019 stipulating that the elections to the Gram Panchayats would be held in three phases on 21.01.2019, 25.01.2019 and 30.01.2019.

However, as rightly pointed out by Sri K.Rama Subba Rao, learned counsel for the petitioners, it is not open to the State to claim ignorance of the impending expiry of the terms of the elected Gram Panchayats whereby it can resort to make such stop-gap arrangements without undertaking the process of elections within time so that there is no hiatus created due to the expiry of the terms of the elected Members.

It may also be noted that the power available to the Government under Section 136(3) of the Act of 2018 is relatable to an isolated case where the election could not be completed before expiry of the term of an elected incumbent. This is clear from the phraseology of the provision which speaks of appointment of a Special Officer or a Person-in-charge to a Gram Panchayat, in the singular, if, for any reason, the process of election to such Gram Panchayat is not completed. Therefore, the power under this provision is not to be exercised *en bloc* in relation to all Gram Panchayats as has been done in the case on hand.

It would also be apposite to refer to the observations of the Supreme Court in **KISHANSING TOMAR V/s. MUNICIPAL CORPORATION OF THE CITY OF AHMEDABAD**¹ in the context of municipal elections. These observations read as under:

‘14. So, in any case, the duration of the municipality is fixed as five years from the date of its first meeting and no longer. It is incumbent upon the Election Commission and other authorities to carry out the mandate of the Constitution and to see that a new municipality is constituted in time and elections to the municipality are conducted before the expiry of its duration of five years as specified in clause (1) of Article 243-U.’

The aforestated observations would apply with equal force to Gram Panchayats in the context of Articles 243-E and 243-K of the Constitution.

At this stage, as the State of Telangana and the State Election Commission have already taken steps to do the needful, no relief requires to be granted to the petitioners in terms of directing conduct of elections, but this Court deems it appropriate to declare that the State and its authorities and more particularly, the State Election Commission, are bound to take timely steps for holding elections, being fully aware of when the terms of elected Bodies would expire, at least in the future.

The writ petition is disposed of with the aforestated declaration. Pending miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.

30th JANUARY, 2019

Sv

SANJAY KUMAR, J

¹ (2006) 8 SCC 352