

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.210 OF 2020

Date: 07.01.2020

Between:

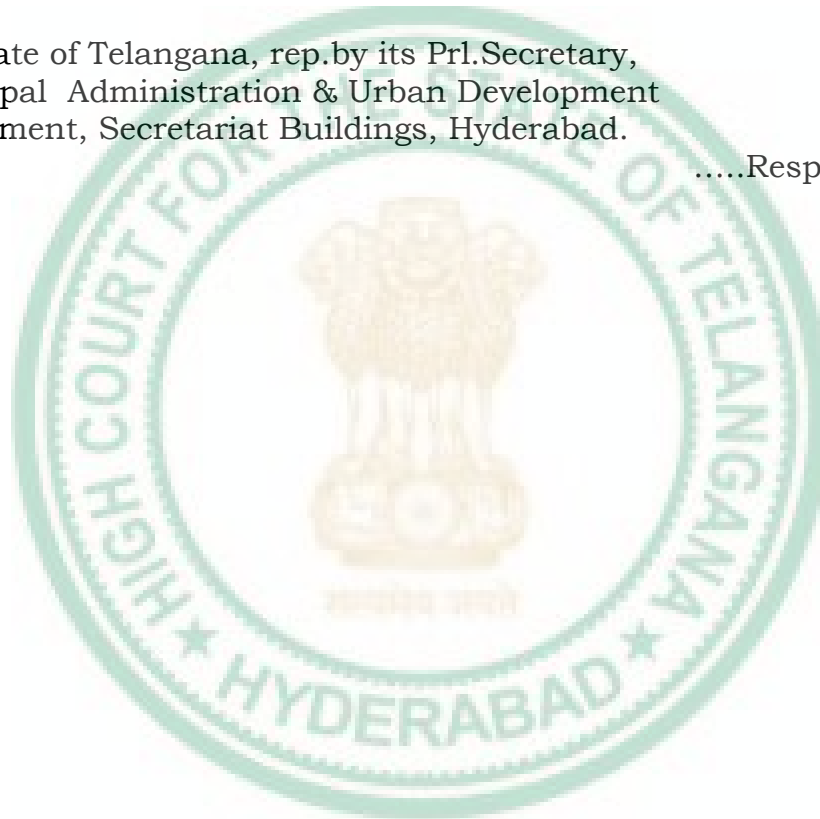
Gaddam's Enclave Welfare Association,
Regn.No.2015/2017 having its Office at
Plot No.35, Gaddam's Enclave, adjacent
Sri Srinivasapuram Colony, Gurramguda,
Balapur Mandal, Ranga Reddy district,
Rep.by its President N.Chandu and another.

.....Petitioners

and

The State of Telangana, rep.by its Prl.Secretary,
Municipal Administration & Urban Development
Department, Secretariat Buildings, Hyderabad.

.....Respondents



The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

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ORDER:

Petitioners are two Welfare Associations of Gaddam's Enclave and Gaddam Phase-III Residential Colonies. In this writ petition, petitioners challenge final notification of Wards notified vide G.O.Ms.No.328 Municipal Administration & Urban Development (MA) Department, dated 17.12.2019 against as delimitation of Wards and distribution of voters in Badangpet Municipal Corporation.

2. According to the learned counsel for petitioners, the impugned notification is vitiated, firstly on the ground that there is huge variation in the voters distribution into two Wards beyond permissible 10% limit contrary to Rule 5 of the Rules 2019 notified vide G.O.Ms.No.78 Municipal Administration and Urban Development (MA) Department dated 29.06.2019, and secondly, the area covering Gaddam Enclave Housing Colony Phases - I, II and III is shown in two wards i.e., Ward No.26 and Ward No.5. According to learned counsel for petitioners, the Housing Colony could not have been divided into two different Wards and all the houses in the said colony ought to have been shown only in one Ward. The said division is in violation of the Rule 9(e) of the Rules. He would further submit that Ward No.26 is 2 KMs away and is non-local area.

3. To demonstrate that the variation in the voters among various wards is exceeding 10%, learned counsel for petitioners referred to the voters strength in Ward Nos.2, 3, 4, 14, 24 and 28.

4. It is seen from the notification, the total number of voters enrolled in this Municipal Corporation area is 91561. The Corporation is divided into 32 Wards. From the distribution of voters into various Wards, it is seen that in Ward No.4, the voters strength is lowest at 2719 and in Ward No.27, the total voters strength is 2999. Ten percentage of 2999 is approximately 300. Adding 300 to the voters shown in Ward No.4, it would come to 3019. Thus, it cannot be said that there is variation of voters beyond permissible 10% limit and, therefore, there is no merit in the said contention.

5. Learned standing counsel representing the Additional Advocate General has drawn the attention of Rules 4 and 5 to contend that if the voters strength in a ward is more they have to be shifted to another ward and merely because housing colony is one, all voters of that colony cannot be shown in the same ward. That would be violating Rule 5.

6. Rule 4 requires organizing the wards starting from North and proceed towards East, South and West in clockwise direction. It requires to describe the boundaries of each ward starting from North. While doing so, natural boundaries, and geographical features, as far as possible, should be adopted. For any reason, if natural boundaries could not be adopted, survey numbers, important curves, junctions or lanes should be mentioned in the boundary description. According to Rule 5, distribution of voters in the wards should be equal and voting strength is uniform with margin of 10%. Thus, these are the two primary factors in organizing the wards and voters.

7. If the voters' strength in ward No.5 has reached the permissible limit, to maintain equilibrium among all the wards, it is necessary to organize the voters found in excess of that ward in adjacent ward. Though housing colony may be one, each house has independent number and voters in those houses are individuals. Merely because a common housing colony is formed, having regard to scheme of the Rules, it cannot be said that reflecting some of the houses of the petitioners' housing colonies in one ward and some houses in another colony vitiates the rules. Moreover, it cannot be said that exercise undertaken by the respondents is glaringly/palpably illegal warranting interference by this Court.

8. Further, the individual voters are not assailing the division of the voters of same area into different wards, but the association is agitating. The right to vote is a fundamental right to the citizen and the individual has to assert his right, and assail any action of the authorities that impairs/imposes restriction on that right, but not an association. Therefore, I do not see any merit in the submissions of learned counsel for petitioners warranting interference, more particularly at the threshold to the issuance of schedule of elections commencing from filing of nominations.

9. It is also contended that wife and husband living in very same house are now shown in two different wards i.e., ward nos.26 and 6, respectively, which is not valid. On *prima facie* verification of the voters list, it is seen that plot number mentioned against both of them is same and it is not known how they were shown in two different wards.

10. In response, learned standing counsel informs the Court that same would be verified and if found that it was a mistake, remedial steps would be taken to rectify the same.

11. Learned counsel for petitioner submits that about 250 voters of the petitioner Association are shown in Ward No.26 and though they made representation to include them in Ward No. 6, the same is rejected.

12. Having regard to the fact that all of them are living together for a long time, authorities ought to have considered their request but no opinion can be expressed nor any direction can be issued. However, if fresh representation is made by the petitioner association, it is open to respondents to consider such request subject to other parameters of organization of wards and voters list within the time limit prescribed in the Act and Rules.

13. Writ Petition is liable to be dismissed and is accordingly dismissed. Pending miscellaneous petitions shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 07.01.2020
Kkm/tvk

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