

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NOs.90 and 213 of 2020

Date: 07.01.2020

W.P.NO.90 of 2020:

Between:

E.Aravind Reddy s/o. E.Srinivas,
Aged about 34 years, occu: Business,
R/o. H.no.4-2-99, NFC Colony,
Kalimandir, Bandlaguda, Ranga Reddy
District.

.....Petitioner

And

The State of Telangana, rep.by its
Prl.Secretary (MAUD), Secretariat
Buildings, Hyderabad and others.

.....Respondents



The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

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COMMON ORDER:

In these two writ petitions, petitioners challenge the final notification of division of Municipal Corporation into wards notified vide G.O.Ms.No.312 Municipal Administration & Urban Development (MA) Department, dated 17.12.2019. Petitioner in W.P.No.90 of 2020 claimed to be resident of Bandlaguda Jagir Municipal Corporation. It is not stated whether he intends to contest the elections to the Municipal Corporation, but contends that he is the affected party on account of publication of wards and apportionment of voters into wards. In W.P.No.213 of 2020, both petitioners claim that they intend to contest in the upcoming elections to the Bandlaguda Jagir Municipal Corporation. As prayers in both Writ Petitions are identical and the challenge is to the final notification dated 17.12.2019 concerning Bandlaguda Jagir Municipal Corporation, these two Writ Petitions are disposed of by this common order.

2. Heard Mr. Katika Ravinder Reddy, learned counsel for petitioners in both writ petitions; learned Additional Advocate General for Municipal Administration & Urban Development for all respondents, except State Election Commission; and Sri P.Sudheer Rao, learned standing counsel for Elections.

3.1. According to the learned counsel for petitioners, the total voters' strength of Bandlaguda Jagir Municipal Corporation is 59088. Municipal Corporation is divided into 22 wards, whereas the total voters' strength of Meerpet Municipal Corporation is

82000 and the said Corporation is divided into 46 wards. He would submit that though the variation in the voters' strength of these two Municipal Corporations is only marginal, whereas more than double the wards are created in that Corporation only few wards are created in this Corporation, and the same is illegal.

3.2. He would submit that as per the previous round of litigation, respondents were required to consider the objections filed by the individuals by affording personal hearing, but without affording personal hearing the objections are rejected mechanically and the arrangement of wards is finalized. Only as on eyewash, few corrections were made.

3.3. He would further submit that the arrangement of wards is not made clockwise, starting from North as required by Rule 4 and wards are arranged in zig-zag manner. He further submits that the variation in voters' strength of wards is more than 10%. In support of his contention, he has drawn the attention of the voters' list published by the respondents, photocopy of which is filed as exhibit P6. According to the learned counsel, the few voters are shown in ward No.8 and the highest voters' strength is shown in ward no.17. In ward no.8, total number of voters' shown is 2181, whereas in ward no.17, the voters' strength is 3023. It is thus seen that variation is more than 10% and, therefore, the exercise is vitiated on the ground that wards are not arranged in clockwise manner and the voters' strength variation exceeding 10%.

3.4. He would further submit that the voters of the same colony living in adjacent houses are allotted to two to three different wards. He would further submit that Rule 9(e) of the Rules,

notified vide G.O.Ms.No.78 Municipal Administration and Urban Development (MA) Department dated 29.06.2019, requires issuance of certificate that no area has been included in more than one ward, whereas the same area is included in more than one area in the instant case. Even though the same was brought to the notice of the Municipal Corporation, it is not rectified and reflecting the adjacent house numbers of the same colony in two different wards is illegal.

3.5. He would further submit that there is no provision of rejection of objections in the Rules. The Municipal Corporation is required to compile the objections filed and forward the same to the Director of Municipal Administration, whereas the objections are rejected.

3.6. He would therefore submit that on account of these violations, entire process is vitiated and the elections cannot be held based on such illegal exercise.

4. According to learned standing counsel representing the learned Additional Advocate General, petitioners have not even filed objections and therefore the writ petitions are not maintainable. On the allegation of petitioners that wards are not arranged in clockwise direction and there is variation in voter's strength of wards exceeding 10%, the respondents have arranged the wards clockwise directions and published the final publication of ward-wise voters list within permissible limits of 10% strictly as per the Rules notified vide G.O.Ms.No.78 dated 29.06.2019. The inclusion or deletion of voters into the electoral roll is continues process and subsequent increase in the voters lists of respective

wards is based on the voters list furnished by the Election Commission of India. The said exercise is nothing to do with arrangement of wards and proportionate distribution of voters into the wards.

5. Though petitioners assert that they filed objections on the exercise undertaken by the respondents, the copies of the objections are not filed. It is not stated in the affidavits also as to what were the objections raised by them and how those objections were dealt with by the respondents. In the absence of specific plea raised, the contentions urged on not considering the objections and mechanically disposing of the objections and finalizing delimitation of wards and voters cannot be appreciated. Further, it is not the case of petitioners that they also requested for personal hearing, but the same was not accepted, assuming giving opportunity of hearing as noted by this Court in the common order dated 29.11.2019 in W.P.no.10461 of 2019 and batch, disposing of writ petitions on various aspects of Municipal elections, would mean affording of personal hearing.

6. The further contention of the learned counsel that formation of only 22 wards as compared to higher number of wards in the adjacent Municipal Corporation cannot be appreciated in the absence of specific plea as to how petitioners are affected by formation of less number of wards. Further, the Rules do not prescribe formation of number of wards. It only requires formation of wards clockwise and distribution of voters evenly in all wards. Schedule-II appended to the Act 11 of 2019 prescribes the number of wards to each Municipality/Municipal Corporation.

Bandlaguda Jagir Municipal Corporation is shown against serial no.7 in Schedule-II and provided 22 wards. This provision is not under challenge. Therefore, the issue of formation of 22 number wards cannot be gone into in the absence of challenge to the provision in the Act.

7. Though it was vehemently contended that allotment of voters in the same colony into two or three different wards as illegal, no particulars are furnished as to in which colony the adjacent house numbers are reflected in two wards. In paragraph 13 of W.P.No.90 of 2020 and in paragraph 10 in W.P.No.213 of 2020, vague assertions are made on allotment of voters to different wards. As per the Rules notified vide G.O.Ms.No.78, dated 29.06.2019 what is required is arrangement of wards in clockwise and distribution of voters evenly. While undertaking exercise of distribution of voters evenly to the various wards, it cannot be said that authorities cannot allot adjacent house numbers to two wards. Merely because houses are located in the same colony, it is not a ground to oppose allotment of voters into two different wards. When there is no statutory prescription for allotment of all voters of the same colony in the same ward, the exercise undertaken by the respondents cannot be held as *per se* illegal warranting interference. Further, according to Rule 5 of the Rules, it is mandatory to ensure even distribution of voters. Thus, in a given situation, in one area, if the voters are found more than the average of total voters, there is need to distribute excess voters to wards to ensure even distribution of voters in all wards. To achieve this even distribution, it is permissible to distribute the voters in the same area to different wards. As no material is

placed on record to show that such division was done in a *mala fide* and biased manner, no opinion can be expressed holding such allocation as vitiated and warrants interference by this Court. Similarly it is not demonstrated as to how Rule 9(e) is violated in order to undertake judicial review of the exercise undertaken by the respondents.

8. The preparation of alignment of wards clockwise, allocation of voters, and reservation of wards is an exercise required to be completed before the final election notification is issued. However, with reference to the eligibility to cast vote, the State Election Commission is required to revise the electoral list based on the revised list furnished by the Election Commission of India till issuance of notification i.e., 07.01.2020. Thus, it is permissible to undertake revision of voters list subsequent to 23.12.2019. Therefore, I do not see any error in the exercise undertaken in revising voters list. In the process of such revision, if there is increase in the voters more than permissible under Rule 5 of the Rules notified vide G.O.Ms.No.78, dated 29.06.2019, the same cannot be said illegal as increase is the result of the revision of voters list by the Election Commission of India. Subsequent reflection of new voters in the respective wards is based on their residential status in those wards as reflected in the electoral rolls furnished by the Election Commission of India. After completion of exercise as per the Rules 4 and 5 of the Rules notified vide G.O.Ms.No.78 dated 29.06.2019 and furnishing of revised electoral rolls, there is no requirement to revise the allocation of voters by maintaining the proportionality principle. Whereas, ward-wise revision of voters list as per revised list furnished by Election

Commission of India and as discernable from Section 195-A of the Act is mandatory. Thus, the said contention of the learned counsel for petitioner is stated to be rejected.

9. Therefore, I see no merit in the contentions urged in the Writ Petitions. Writ Petitions are accordingly dismissed. Pending miscellaneous petitions shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 07.01.2020
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