

High Court for the State of Telangana

**THE HONOURABLE THE CHIEF JUSTICE
SRI RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY**

**I.A.No.1 of 2020
IN/AND
W.A.No.120 of 2020**

Date: 19.02.2020

Between:

B.Naresh

... Petitioner/Appellant

A N D

Sukka Shiva Kumar
and four others

... Respondents

Counsel for the appellant : Mr.C.Naresh Reddy

Counsel for the respondents : Mr.Katika Ravinder Reddy (R-1)
Mr.GVidyasagar (R-3 & 4)
Mr.N.Praveen Kumar
(SC FOR MC) (R-5)
GP for MA U UD (R-2)

The Court made the following:

COMMON JUDGMENT: *(Per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)*

I.A.No.1 of 2020 has been filed by the appellant, a third party, seeking leave to file the appeal against the order dated 09.01.2020 passed by a learned Single Judge in W.P.No.826 of 2020, whereby relying on the earlier order passed by a learned Coordinate Bench, the learned Single Judge had allowed the writ petition filed by the respondent No.1 herein, and has set aside the disqualification order dated 28.12.2017 passed by the State Election Commission.

2. The learned counsel for the petitioner, appellant, submits that since the learned Single Judge had set aside the disqualification order passed by the State Election Commission, the respondent No.1, Mr. Sukka Shiva Kumar, had contested the election from Ward No.11 of Badangpet Corporation. According to the petitioner, he too had contested the said election. However, while Mr. Sukka Shiva Kumar had won the election, the petitioner had lost the election. Therefore, the petitioner should be permitted to challenge the order dated 09.01.2020. Hence, the present application seeking leave of this Court.

3. The application filed is rather misplaced. For, if the petitioner is aggrieved by the election won by Mr. Sukka Shiva Kumar, he has the alternative remedy of filing an election petition challenging the said election.

4. Moreover, a bare perusal of the impugned order dated 09.01.2020 clearly reveals that the said order is passed on a decision rendered by a learned Single Judge on 20.03.2019 passed

in W.P.No.2630 of 2018 and batch. The issue before this Court was whether the Election Commission would be justified in disqualifying an elected person after an inordinate delay, or whether the disqualification is to be declared within a reasonable time or not? The learned Single Judge was of the opinion that the power to disqualify a person, bestowed on the Election Commission, necessarily has to be exercised within a reasonable time. Thus, a person cannot be disqualified after an inordinate delay or an unreasonable time. Once the said principle was established by a learned Single Judge, another learned Single Bench was duty bound to follow the said precedent. This is precisely what the learned Single Judge has done in his order dated 09.01.2020.

5. Therefore, for the reasons stated above, this Court is not inclined to grant leave to the petitioner to challenge the impugned order dated 09.01.2020. The application seeking leave and the writ appeal are hereby dismissed. There shall be no order as to costs.

The miscellaneous petitions pending, if any, shall stand closed.

(RAGHVENDRA SINGH CHAUHAN, CJ)

(A.ABHISHEK REDDY, J)

19th February, 2020

Lrkm