

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.15521 of 2019

Date: 07.01.2020

Between:

D.Narsing Rao s/o. B.Pentaiah, Aged about 36 years,
Occu:Business, r/o. H.No.1-140/1, Balajinagar,
Ghatkesar village and mandal, Malkajgiri district.

.....Petitioner

And

State of Telangana, rep.by its Prl.Secretary,
Municipal Administration & Urban Development Dept.,
Secretariat Buildings, Hyderabad and others.

.....Respondents



The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

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ORDER:

Heard Sri C.Naresh Reddy, learned advocate for petitioner, learned Additional Advocate General for Municipal Administration & Urban Development, Mr. P.Sudheer Rao, learned standing counsel for respondent No.3, and Mr. N.Praveen Kumar, learned standing counsel for respondent no.4.

2. Challenging the final notification of the division of Municipality into wards vide G.O.Ms.No.110 Municipal Administration & Urban Development (MA) Department, dated 07.07.2019, this writ petition is filed.

3. Learned counsel for petitioner would submit that having regard to the various infirmities noticed by the Court in undertaking pre-election process, by order dated 24.07.2019 stay of conducting of elections to Ghatkesar Municipality was ordered. Batch of writ petitions are filed pointing out similar illegalities in various Municipalities. Court initially granted stay of conducting of elections. Batch of writ petitions were disposed of finally granting liberty to the State to undertake revised exercise. Consequent to the disposal of writ petitions, revised exercise is undertaken. On 03.12.2019 draft notification of division of wards was issued. Insofar as this Municipality is concerned, 18 wards are formed, voters' strength is also indicated against each of the wards and area covering the ward is also mentioned in the notification. On 17.12.2019, final draft notification was issued finalizing the formation of wards. The voters' strength of respective

wards is also finalized. Petitioner filed I.A.No.1 of 2020 praying to amend the prayer in the writ petition and praying to declare the final notification of wards dated 17.12.2019 and entire pre-election procedure adopted by the respondents for Ghatkesar Municipality as unlawful, arbitrary, illegal and ultra vires of the provisions of the Telangana Municipality Act, 2019 and to seek consequential directions to undertake the entire pre-election process.

4. Learned counsel for petitioner stated that he is confining to the issue of violation of Rule 5 of the Rules notified vide G.O.Ms.No.78 Municipal Administration & Urban Development (MA) Department dated 29.06.2019. According to the learned counsel, Rule 5 requires distribution of voters evenly to all the wards with permissible variation of 10% in the voters' strength. While so, the variation in the distribution of voters is very high and more than 10%. According to the learned counsel, in ward no.22, the total number of voters now shown is 1172, whereas in ward nos.1, 9 and 17, the voters strength is more than 1600, and in ward nos.11 and 15, it is more than 1300. Thus, it is apparent that variation is more than 10% and on this ground alone the entire exercise is liable to be set aside. He would submit that wrong information was furnished to the Court when hearing of batch of writ petitions were taken up. According to the learned counsel, the statement at page no.22 filed along with I.A.No.1 of 2020 was presented before the court when the batch of writ petitions were heard. In this statement, it was shown that the average voters strength is 1471 and distribution of voters to the various wards is within the permissible limit of 10%, whereas the

voters strength now published, as can be seen from page nos.32 onwards, is beyond the permissible limit.

5. 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.

6. In the writ petition, petitioner challenges the final notification vide G.O.Ms No. 110 dated 7.7.2019. The respondents withdrew final notification and has undertaken fresh exercise. In view thereof, the cause in the writ petition does not survive. However, I.A. No. 1 of 2020 is filed praying to amend the prayer in the writ petition. Learned counsel for petitioner sought to contend that the infirmities pointed out in the writ petition are yet to be reconciled and false statement was made before the Court. Only ground against the notification dated 17.12.2019 is that the voters strength is not maintained evenly as per Rule 5.

7. Learned counsel for petitioner sought to contend that the variation in the voters strength is beyond the permissible limit and thus, the exercise is vitiated on that ground. Even if these contentions are permitted to be urged, no opinion can be expressed as this aspect requires response from the Municipality and they did not have sufficient opportunity to respond on the specific allegation of petitioner and as the amendment of prayer to challenge the final notification is filed on 2.1.2020, just five days before impending notification.

8. However, 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 154-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 Petition. Writ Petition is accordingly dismissed. Pending miscellaneous petitions shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 07.01.2020
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