

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NOs. 17242, 28165 & 29146 OF 2019

Date: 07 .01.2020

W.P.No.17242 of 2019:

Between:

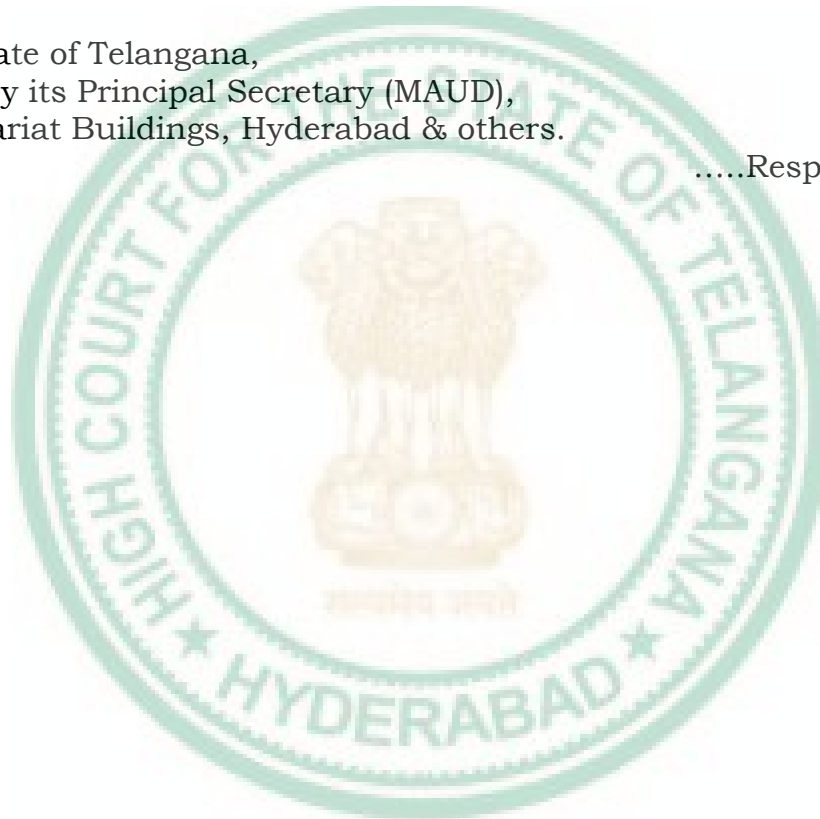
K.Devender S/o.Meenaiah
Aged about 50 yrs, R/o.H.No.7-116/1,
Shamshabad Village & Mandal,
Ranga Reddy District & another.

.....Petitioners

And

The State of Telangana,
Rep., by its Principal Secretary (MAUD),
Secretariat Buildings, Hyderabad & others.

.....Respondents



The Court made the following:

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COMMON ORDER:

Petitioners in these three writ petitions claim to be residents of newly formed Shamshabad Municipality. These writ petitions are filed aggrieved by the draft notification dated 03.12.2019 dealing with delimitation of wards in Shamshabad Municipality and the notification dated 17.12.2019 finalizing the delimitation of wards.

2. Heard learned counsel for the petitioners and learned Additional Advocate General for other respondents and learned standing counsel for State Election Commission.

3. According to learned counsel for the petitioners, on 02.07.2019, similar draft notification was issued dealing with delimitation of wards and apportionment of voters in the respective wards and on 07.07.2019 final publication was made. Pointing out several illegalities in the exercise undertaken to determine the wards and the voters, W.P.Nos.10570 & 14305 of 2019 were filed. The Court having found the alleged lapses in organizing the wards passed interim order on 12.07.2019. Following the orders in W.P.No.10570 of 2019, in W.P.No.14305 of 2019, interim stay was granted.

4. According to learned counsel for the petitioners, after final disposal of batch of writ petitions, revised exercise was undertaken, but even in the revised exercise, the same irregularities are continued. According to learned counsel there is variation in the voters list, beyond the permissible 10% limit. To demonstrate the variation, learned counsel drew the attention to

the voters, shown in Ward No.9 and Ward No.6. In Ward No.6, the total number of voters now shown is 1533, whereas in Ward No.9 it is now shown as 1407. He would submit that variation is more than 10%. Therefore, it is contrary to Rule 4 of the Rules notified vide G.O.Ms.No.78 dated 29.06.2019. He further submits that the arrangement of wards is not made clockwise and therefore provision in Rule 5 is violated. The same mistakes were committed earlier and in spite of pointing out the earlier mistakes, only namesake verification was conducted. He further submits that the Shamshabad Municipality is abutting the National Highway and Outer Ring Road (ORR). The ORR passes through the Shamshabad Municipality.

5. According to learned counsel for the petitioners, some of the wards were created by clubbing two colonies, which are divided by the ORR and the same is contrary to the Rules. He would further submit that adjacent house numbers were shown in different wards which have no connectivity. He would further submit that the names of same family members are shown in different wards. He would therefore, submit that these irregularities are grave and vitiates the election process. Unless and until these mistakes are rectified properly, the elections to the Municipality cannot be conducted.

6. However, learned Additional Advocate General stated that all the objections were properly complied and there are no deviations in formation of wards in clockwise and the apportionment of voters to various wards, even assuming that the illegalities pointed out are yet to be rectified, the issue for consideration is whether, those

illegalities are grave enough for vitiating the entire election process, requiring interference by this Court on the threshold of issuing election notification.

7. The learned standing counsel denied the allegations of ORR dividing the wards, but NH is passing through the Municipality. He would submit that having regard to provision in Rules 4 and 5, the location of ward separated by High Way could not be avoided.

8. The Shamshabad Municipality was earlier a Gram Panchayat and by merging six Gram Panchayats, Municipality is formed.

9. The petitioners in W.P.No.17242 of 2019 are the petitioners in W.P.No.28165 of 2019. In W.P.No.28165 of 2019, the draft notification dated 03.12.2019 is challenged.

10. W.P.No.17242 of 2019 is filed when the initial exercise was undertaken and alleging that the illegalities pointed out in the earlier writ petition are not rectified even now, learned counsel submitted that the grievance ventilated in the writ petition would still subsist and requires consideration. According to learned counsel, the objections were mechanically rejected and there was no application of mind in considering the objections.

11. No material is filed to show which wards are divided by the ORR and by such division, how the Rule is violated. The basic exercise required to be undertaken is to organize the wards clockwise and distribute voters evenly to all the wards. While undertaking that exercise, if a ward is divided by a Highway, it cannot be said that formation of ward in that manner is vitiated.

How to organize the affairs of ward divided by the ring road/high way would be an entirely different aspect.

12. Though it is contended that the adjacent house numbers are shown in different wards, the delimitation of wards is based on clockwise arrangement and even distribution of voters. While doing so, the authorities are required to ensure to the extent possible, reflection of adjacent house numbers in the same ward. However, while doing so, the mandate of Rules 4 and 5 take precedence to any other aspect. Thus, while undertaking such exercise it is permissible to reflect two adjacent houses in two different wards. From the material placed on record, it is seen that though the adjacent houses are shown in different wards, but the wards are adjacent to each other.

13. I, therefore, see no merit in the submissions of learned counsel for petitioner and W.P.No.29146 of 2019 is liable to be dismissed.

14. W.P.No.28165 of 2019 is filed seeking the following relief :

“.....to issue a Writ, Order or Direction one more particularly in the nature of Writ of Mandamus declaring the draft notification of wards dated 03.12.2029 and the entire procedure adopted by 5th Respondent for division and delimitation of the Shamshabad Municipality, Ranga Reddy District as illegal, arbitrary, unlawful and ultra vires Telangana Municipalities Act and the Rules there under and set aside the said draft publication by further directing the Respondents to undertake the entire exercise once again in strict accordance with the Telangana Municipalities Act and the Rules there under and pass such other

15. In W.P.No.28165 of 2019 petitioners are challenging the draft notification. The draft notification culminated in final

notification of delimitation of wards and division of voters. In view of the subsequent developments, the cause in the writ petition does not survive. Writ Petition is liable to be dismissed on this ground.

16. W.P.No.17242 of 2019 is filed seeking the following relief :

“.... to issue a Writ, Order or Direction one more particularly in the nature of Writ of Mandamus declaring the action of the 3rd respondent in not considering the petitioners objections regarding the finalization of wards in Shamshabad Municipality and publishing draft publication of wards dated 01.07.2019 and 05.07.2019 and the entire procedure adopted by 3rd respondent for division and delimitation of the Shamshabad Municipality, Ranga Reddy District as illegal, arbitrary, unlawful and ultra vires Telangana Municipalities Act and the Rules there under and set aside the said draft publication by further directing the 3rd respondent to undertake the entire exercise once again in strict accordance with the Telangana Municipalities Act and the Rules there under and pass such other....”

17. W.P.No.17242 of 2019 is filed at the initial stage of undertaking exercise. The entire exercise was withdrawn and a fresh process commenced. In view of the subsequent developments, cause in the writ petition does not survive and is liable to be dismissed on this ground.

18. Writ petitions are accordingly dismissed. Pending miscellaneous petitions shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 07.01.2020
Rds/kkm

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