



2024 : DHC : 313-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 399/2024**

**CITIZENS FOR DEMOCRACY
THROUGH ITS SECRETARY**

..... Petitioner

Through: Mr. Devdatt Kamat, Senior Advocate
with Mr. Sughosh Subramanyam, Mr.
Harsh Pandey and Mr. Shashank
Chaturvedi, Advocates

versus

**THE ELECTION COMMISSION
OF INDIA & ORS.**

..... Respondents

Through: Mr. Sidhant Kumar and Ms. Manyaa
Chandok, Advocate for R-1
Mr. Rajiv Nayar, Mr. Mahfooz Nazki,
Mr. Sahil Raveen and Ms. Rajeswari
Mukherjee, Advocates for R-2 and 4

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Date of Decision: 12th January, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMOHAN, ACJ : (ORAL)

CM APPL. 1813/2024 (for exemption)

1. Allowed, subject to just exceptions.
2. Accordingly, this application is disposed of.

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3. Present public interest litigation has been filed seeking directions to the Respondent No.1 to not utilize the services of the Gram

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Volunteers/Ward Volunteers and Village Secretariats/Ward Secretariats for the preparation of Electoral Rolls. The Petitioner further prays for setting aside of the impugned G.O.Ms.No.104 dated 22nd June, 2019, titled 'Panchayat Raj & Rural Development (MDL-I) Department', whereby the Andhra Pradesh State Government has deployed volunteers in rural areas (@one volunteer for 50 households) for delivering Government services at door step of households.

4. Learned senior counsel for the Petitioner states that vide the impugned notification, the Andhra Pradesh State Government interfered in the preparation of the electoral rolls for the Parliamentary and Assembly election process through involvement of Gram Volunteers/Ward Volunteers and Village Secretariats/Ward Secretariats (who are effectively the party cadre of the ruling party), instead of involving the teachers in the process of registration of voters. He further states that such induction of members of the ruling party under the garb of 'volunteering' and subsequent establishment of the Village Volunteer System vide the G.O.Ms. No. 33 dated 13th April, 2020, has posed a serious threat to the effective functioning of local self-governance institutions as envisaged under the 73rd Constitutional Amendment. This according to him is in violation of Articles 21 and 243 of the Constitution of India.

5. Learned counsels for the Respondents, who appear on advance notice, raise a preliminary objection to the maintainability of the writ petition on the ground of territorial jurisdiction. They state that as the G.O.M dated 22nd June, 2019 has been issued by the State of Andhra Pradesh, the present writ petition should have been filed before the High Court of Andhra Pradesh and not before Delhi High Court.



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6. They point out that the learned Division Bench of Andhra Pradesh High Court has already upheld the legality and validity of the impugned G.O.M dated 22nd June, 2019 in Writ Petition (PIL) No. 109 of 2019.

7. In rejoinder, learned senior counsel for the Petitioner states that this Court has the jurisdiction to hear and decide the matter. In support of his contention, he relies upon the jurisdiction paragraph in the writ petition at page 42 of the paper book which reads as under:

“I. It may be noted that cause of action arises in Delhi as the Election Commission situated at Delhi would be the concerned authority to note involve village volunteers, as appointed by the Respondent no. 2 State, in the election process such as verifying the electorate, seeding of electorate, and seeding of AADHAAR with voter card etc.

II. It may be relevant to note that G.O.Ms. No. 104 dated 22.06.2019, passed by the state govt. of Andhra Pradesh, was earlier challenged before the High Court of Andhra Pradesh inter alia on the ground that such village volunteer scheme extensively involved YSRC party cadre as portrayed above. This Writ Petition was transferred before the Delhi Court by the Hon’ble Supreme Court in SLP (C) No. 4855-4857 of 2023 vide Order dated 17.04.2023. The aforesaid matter is pending before his Hon’ble High Court.

III. The Petitioner herein had filed a Writ Petition under Article 32 before the Supreme Court of India, wherein the Hon’ble Supreme Court allowed the petitioners to file this Writ Petition before the Delhi High Court (appropriate Court) vide Order dated 04.12.2023.

IV. As the Chief Minister of the State of Andhra Pradesh is one of the parties in the other litigation, it would be in the public interest to adjudicate the present matter along with the other pending matter before a neutral forum. It is in this regard that this Hon’ble High court serves the most appropriate jurisdiction to entertain the present Writ Petition.”

8. He points out that the Petitioner had initially filed a writ petition before the Supreme Court under Article 32 of the Constitution of India which has been disposed of with liberty to file a writ petition before ‘the appropriate High Court as may be permissible under the law’.



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9. He also contends that as the foundational fact in the writ petition being challenge to G.O.M dated 22nd June, 2019 is pending adjudication before this Court in W.P.(C) 9096/2023, which has been transferred to this Court by the Supreme Court, the present writ petition is maintainable.

10. This Court is of the view that as the grievance of the Petitioner is directed at the G.O.M. dated 22nd June, 2019 issued by the State of Andhra Pradesh, it is the High Court of Andhra Pradesh that would have the jurisdiction to hear and decide the writ petition.

11. Moreover, in the present case, the integral facts pleaded in support of the cause of action constitute a cause empowering the Andhra Pradesh High Court to decide the dispute. Consequently, applying the doctrine of forum convenience, this Court is of the view that Andhra Pradesh High Court would have the jurisdiction to decide the matter. [See: ***Sterling Agro Industries Ltd. vs. Union of India & Ors., 2011 SCC OnLine Del 1385; State of Goa vs. Summit Online Trade Solutions Private Limited & Ors. (2023) 7 SCC 791***].

12. The Apex Court vide a detailed order dated 17th April, 2023 in S.L.P.(C) No. 4855-4857/2023 has transferred only one writ petition being W.P. No.3041/2023 from Andhra Pradesh High Court to this High Court (now bearing the number W.P.(C) 9096/2023). It is not stated in the said transfer order that all challenges to the G.O.M dated 22nd June, 2019 shall be entertained by this Court alone.

13. It is also pertinent to mention that the Election Commission was not a party to the order dated 17th April, 2023 passed by the Supreme Court in S.L.P.(C) 4855-4857/2023.



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14. Further, the submission of the Petitioner that as the Chief Minister of the State of Andhra Pradesh is one of the parties to the litigation, it would be in public interest to adjudicate the same before a neutral forum like Delhi High Court is untenable in law.

15. This Court also finds that the Supreme Court while disposing of the Petitioner's writ petition being W.P.(C) 1227/2023 has only stated that the writ petition should be filed before an appropriate High Court as permissible in law. Since this Court is of the opinion that the '*appropriate High Court*' to entertain and decide the present writ petition would be the High Court of Andhra Pradesh, the present writ petition is disposed of with liberty to the Petitioner to raise its grievances before the Andhra Pradesh High Court.

16. This Court clarifies that it has not commented on the merits of the controversy. The rights and contentions of all the parties are left open.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

JANUARY 12, 2024/msh

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