

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

**TUESDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

**THE HONOURABLE SRI JUSTICE P. SAM KOSHY
AND
THE HONOURABLE SRI JUSTICE SUDDALA CHALAPATHI RAO**

WRIT PETITION NO: 32536 OF 2025

Between:

Arif Hussain, S/o Mahaboob Hussain Aged 63 years, Occ: Retired Government Employee And contested Candidate to the 61- Jubilee Hills Assembly Constituency set up by Republican Party of India (A) R/o RTP-15-31, B-44/202, Malaysian Township North Phase, Near D-Mart, KPHB, JNTU Kukatapally, Medcha, Medchal-Malkajgiri District Telangana State.

...PETITIONER

AND

1. The Chief Election Commission of India, Nirvachan Sadan, Ashok Road, New Delhi 110001
2. The Secretary (ECI Secretariat), Election Commission of India, Nirvachan Sadan, Ashok Road, New Delhi-110001
3. The Chief Electoral Officer, CEO Telangana State at. 9th Floor, BRKR Bhavan, Tank Bund Road, Hyderabad. Telangana State.
4. The District Collector/ Election Authority, Hyderabad district Telangana State.
5. The Election Observer, 61-Jubilee Hills Assembly Constituency, through Election Commission of India, Telangana State CEO Hyderabad.
6. The Returning Officer, 61- Jubilee Hills Assembly Constituency Office at Shaikpet Mandal Tahsildar Office, Road No.2, Banjara Hills, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring: the action of the 6th respondent in rejecting the nomination form of the petitioner stating that the Part SI.NO. 1227 in the Format for issuing Certified copy of Extract form Electoral Roll (with Photograph) Annexure.54 issued by the Electoral Registration officer 046-Kukatpally Assembly Constituency and at the time of rejection shown the fresh copy with Part SI.NO. 1227 not accepted is illegal, arbitrary, contrary to law and

violation of Representation of Peoples Act, 1950 and consequently direct the respondents to accept the petitioner nomination dated 21/10/2025 while receiving the Format for issuing Certified copy of Extract form Electoral Roll (with Photograph) Annexure.54 issued by the Electoral Registration officer 046-Kukatpally Assembly Constituency with Part SI.NO. 1227 by including the name of the petitioner in the final list of 61- Jubilee Hills, Assembly Constituency, Hyderabad district, Telangana State.

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to accept the petitioner nomination dated 21/10/2025 while receiving the Format for issuing Certified copy of Extract form Electoral Roll (with Photograph) Annexure.54 issued by the Electoral Registration officer 046-Kukatpally Assembly Constituency with "Part SI.NO. 1227 " by including the name of the petitioner in the final list of 61- Jubilee Hills, Assembly Constituency, Hyderabad district, Telangana State pending disposal of the Writ petition.

**Counsel for the Petitioner: SRI MOHD. ANWAR ALI REPRESENTING FOR
SRI P. KHALEEL AHMED**

**Counsel for the Respondent No.1,2,3,5 & 6: SRI AVINASH DESAI,
SR. COUNSEL REP. FOR
SRI OMAR FAROOQ**

Counsel for the Respondent No.4: GP FOR REVENUE

The Court made the following: ORDER

**THE HONOURABLE SRI JUSTICE P.SAM KOSHY
AND
THE HONOURABLE SRI JUSTICE SUDDALA CHALAPATHI RAO**

Writ Petition No.32536 of 2025

ORDER : *(Per Hon'ble Sri Justice P.Sam Koshy)*

The instant Writ Petition has been filed by the petitioner under Article 226 of the Constitution of India praying the Court for issuance of a writ, order or direction, more particularly one in the nature of Writ of Mandamus by declaring the action of 6th respondent in rejecting the nomination as illegal and consequently directed the respondents to consider petitioner's nomination for the Bye-Election of Jubilee Hills Assembly Constituency pursuant to the notification dated 13.10.2025 issued by the respondents.

2. Heard Mr.Mohd Anwar Ali, learned counsel representing Mr.P.Khaleel Ahmed, learned counsel for the petitioner, and Mr. Avinash Desai, learned Senior Counsel appearing on behalf of Mr. Omar Farooq, learned counsel for the respondents.

3. The grievance of petitioner herein is that he has filed nomination through Republican Party of India. The notification for the said elections was published on 13.10.2025. The last date for

submission of nominations was 21.10.2025. The petitioner submitted the nomination on 21.10.2025. The Returning Officer / 6th respondent scrutinized the nomination submitted by the petitioner as also by the other candidates and found the nomination to be improper, and therefore the Election Officer rejected the same on 22.10.2025.

4. Aggrieved, the present writ petition has been filed by the petitioner.

5. Learned counsel for the petitioner submitted that rejection of the nomination of petitioner was contrary to the provisions of Representation of People Act, 1951 (**for short, 'the Act'**) on the ground that an opportunity ought to have been provided to the petitioner to rectify lacunas / defects before rejecting the nomination. He therefore contended that having not granted such an opportunity, the rejection of nomination by the respondents is *per se* contrary to the Representation of People Act, 1951; and therefore prayed for allowing of the writ petition by setting aside the rejection of nomination of the petitioner.

6. On the other hand, Mr. Avinash Desai, learned Senior Counsel appearing on behalf of Mr. Omar Farooq, learned counsel for the respondents, contended that the instant Writ Petition at the threshold is not maintainable for the reason that under the Representation of People Act, 1951, Section 80 specifically lays down an embargo on challenging an election except by way of an election petition. He further referred to Section 100 of the Act and stated that improper rejection of the nomination also is a ground available for challenging the rejection of nomination, but it has to be by way of an election petition alone.

7. Having heard the contentions put forth on either side, it is relevant at this juncture to refer to the decision of the Hon'ble Supreme Court in the case of **N.P. Ponnuswami vs. Returning Officer, Namakkal Constituency, Namakkal, Salem District¹**, wherein a larger Bench of the Hon'ble Supreme Court held as under, viz.,

"27. Before concluding, I should refer to an argument which was strenuously pressed by the learned counsel for the

¹ AIR 1952 SC 64

appellant and which has been reproduced by one of the learned Judges of the High Court in these words :

“It was next contended that if nomination is part election, a dispute as to the validity of nomination is a dispute relating to election and that can be called in question only in accordance with the provisions of Article 329(b) by the presentation of an election petition to the appropriate Tribunal and that the Returning Officer would have no jurisdiction to decide that matter, and it was further argued that Section 36 of Act 43 of 1951 would be ultra vires inasmuch as it confers on the Returning Officer a jurisdiction which, Article 329(b) confers on a Tribunal to be appointed in accordance with the article.”

This argument displays great dialectical ingenuity, but it has no bearing on the result of this appeal and I think it can be very shortly answered. Under Section 36 of the Representation of the People Act, 1951, it is the duty of the Returning Officer to scrutinize the nomination papers to ensure that they comply with the requirements of the Act and decide all objections which may be made to any nomination. It is clear that unless this duty is discharged properly, any number of candidates may stand for election without complying with the provisions of the Act and a great deal of confusion may ensue. In discharging the statutory duty imposed on him, the Returning Officer does not call in question any election. Scrutiny of nomination papers is only a stage, though an important stage, in the election process. It is one of the essential duties to be performed before the election can be completed, and anything done towards the completion of the

election proceeding can by no stretch of reasoning be described as questioning the election. The fallacy of the argument lies in treating a single step taken in furtherance of an election as equivalent to election. The decision of this appeal however turns not on the construction of the single word "election", but on the construction of the compendious expression – "no election shall be called in question" in its context and setting, with due regard to the scheme of Part XV of the Constitution and the Representation of the People Act, 1951. Evidently, the argument has no bearing on this method of approach to the question posed in this appeal, which appears to me to be the only correct method.

28. We are informed that besides the Madras High Court, seven other State High Courts have held that they have no jurisdiction under Article 226 of the Constitution to entertain petitions regarding improper rejection of nomination papers. This view is in my opinion correct and must be affirmed. The appeal must therefore fail and is dismissed. In view of the nature and importance of the points raised in this appeal, there should be no order to costs."

8. In the instant case also, the nomination forms were to be filled up by 21.10.2025. The petitioner filed nomination on 21.10.2025, but the nomination was scrutinized on 22.10.2025 which stood rejected by the Election Officer. In the event nomination of the petitioner getting rejected, the only recourse now available for the petitioner in terms of provisions of law, i.e., Section 80 read with Section 100 of the Representation of People

Act, 1951 would be to raise a dispute by way of an election petition.

9. For all the aforesaid reasons, this Court is of the firm view that no strong case has been made out by the learned counsel for the petitioner calling for interference by this Court under Article 226 of the Constitution of India. The writ petition being devoid of merits deserves to be and is accordingly rejected. No costs.

10. As a sequel, miscellaneous petitions pending if any shall stand closed.

SD/- U. SUDHA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. One CC to SRI P. KHALEEL AHMED, Advocate [OPUC]
2. One CC to SRI OMAR FAROOQ, Advocate [OPUC]
3. Two CCs to GP FOR REVENUE, High Court for the State of Telangana.
[OUT]
4. Two CD Copies

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HIGH COURT

DATED:28/10/2025

ORDER

WP.No.32536 of 2025



**REJECTING THE WRIT PETITION
WITHOUT COSTS**

7 copies
KJ
12/11/25