

(2002) 06 AP CK 0073

In the Andhra Pradesh High Court

Case No : CRP No's. 2306 and 2307 of 2002

Avagadda Pinnam Naidu

APPELLANT

Vs

Varrisimhadriappadu and Others

RESPONDENT

Date of Decision : 06-06-2002

Acts Referred:

Andhra Pradesh Panchayat Raj Act, 1994 — Section 233
Representation of the People Act, 1951 — Section 81(3)

Citation : (2002) 4 ALD 706 : (2002) 6 ALT 282

Hon'ble Judges : J. Chelameswar, J

Bench : Single Bench

Advocate : E.V. Bhagiratha Rao, for the Appellant;

Final Decision : Dismissed

Judgement

J. Chelameswar, J.—These two civil revision petitions are filed under Article 227 of the Constitution of India aggrieved by two separate orders of the Junior Civil Judge, Kothavalasa, acting as Election Tribunal under the A.P. Gram Panchayats Act.

2. The petitioners in each of these petitions are the elected Sarpanches of two different villages, whose elections have been challenged before the Election Tribunal by way of E.O.Ps 1 and 5 respectively of 2001 by the 1st respondent in each of the said E.O.Ps. The Election Petitions were filed alleging various irregularities against the petitioners herein, which included allegations of corrupt practices in each case.

3. In the background of the abovementioned facts, the petitioners herein filed two Interlocutory Applications - IA Nos. 68 and 69 of 2002 -- respectively, praying that the Election Petitions be dismissed on the ground that the copies of the Election Petitions along with the annexures thereof served on the petitioners herein did not contain either verification or attestation. Apart from that, the petitioners also argue that in view of the fact that allegations of corrupt practice

were made in each of the Election Petitions, the Election Petitions are required to be accompanied by affidavits sworn to by the Election Petitioners and, as such affidavits are not filed, the Election Petitions are liable to be dismissed.

4. The learned Junior Civil Judge, Kothavalasa by two different orders dated 9th April, 2002, dismissed the abovementioned IAs., and hence, the present petitions.

5. The learned Counsel for the petitioners Sri E.V. Bhagiratha Rao, placing reliance on two judgments -- one by the Supreme Court in Harcharan Singh Josh Vs. Hari Krishan, , and the other by the Delhi High Court in Mukhtiar Singh v. Chief Election Officer, AIR 1997 Delhi 116, argued that the requirement of attesting and verifying the copies served on the respondents in an Election Petition is a mandatory requirement; also the requirement to file an affidavit wherever there is an allegation of corrupt practice, and the learned Election Tribunal erred in dismissing the Interlocutory Applications referred to earlier.

6. I am not able to agree with the submissions made by the learned Counsel for the petitioners for the reason that those two judgments referred to by the learned Counsel for the petitioners are judgments rendered on the interpretation of the, language of the Representation of Peoples Act, 1951, more particularly, the language of Section 81(3) of the said Act, which reads as follows:

"Every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition,"

and the requirement of filing an affidavit wherever there is an allegation of corrupt practice emanates insofar as the elections covered by the provisions of Representation of Peoples Act, 1951 are concerned u/s 83(1) Proviso, which reads as follows:

"Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars, thereof."

7. No such mandatory provisions are brought to my notice insofar as the A.P. Panchayat Raj Act, 1994 or the relevant rules made thereunder. In the absence of such mandatory provisions, the principles laid down by either by Supreme Court or the Delhi High Court while interpreting the provisions of Representation of Peoples Act, 1951 cannot be straightaway imported into the election petitions under the A.P. Panchayat Raj Act. The fact remains that all the rights including the right to challenge and defend an election or creation of a statute and those rights are required to be adjudicated only on the language of the enactment, which created those rights.

8. In the circumstances, I do not see any merit in these petitions. Both the revision petitions are accordingly dismissed at the admission stage.