
(2001) 08 AP CK 0097

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 16485 and 16521 of 2001

B. Vanaja Rani

APPELLANT

Vs

Government of A.P. and Others

RESPONDENT

Date of Decision : 09-08-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 6 ALD 80

Hon'ble Judges : B. Sudershan Reddy, J

Bench : Single Bench

Advocate : A. Satyaprasad, for the Appellant; Additional Advocate-General and V.V. Prabhakar, SC for State Election Commission, for the Respondent

Judgement

B. Sudershan Reddy, J.—In these two writ petitions, the petitioners impugned the decision of the fourth respondent - Election officer rejecting their nominations for the post of Sarpanch of Venkatraopalli Gram Panchayat, and Pcddampeta Gram Panchayat, Kamanpur Mandal, Karimnagar District respectively. The said decision is confirmed in appeal by the 3rd respondent - Revenue Divisional Officer, Manthani.

2. Before advertng to the question as to whether this Court can interfere at this stage, it would be useful to notice few relevant factors.

3. The petitioners were appointed as Anganwadi Workers by the duly constituted committee. It is admitted that they have been receiving the honorarium as fixed by the State Government under G.O. Ms. No.79, dated 1-9-1997.

4. The Government of Andhra Pradesh issued G.O. Ms. No.7, dated 7-3-1996 pursuant to the representations made by the Andhra Pradesh Anganwadi Workers and Helpers Union accepting the various demands of the said Union with which we are not concerned for the present except one particular item in the said G.O. which reads as follows :

"Anganwadi Workers are permitted to hold any elected post like Sarpanch, MPTC

Member etc., and if any Anganwadi Worker/Helper was removed on this ground will be reinstated immediately."

5. The Government of Andhra Pradesh by the impugned G.O. Ms. No.23, dated 4-8-2000 issued amendment to G.O. Ms. No.7, dated 6-7-1996 deleting item 2 in para 2 of the said G.O. The effect of the G.O obviously is that the Anganwadi Workers/Helpers will not be entitled to hold any elected post like Sarpanch, MPTC Member, etc.

6. In these two writ petitions, the learned Counsel for the petitioners challenge the said deletion. It is submitted that the Returning Officers/Election Officers throughout the State relying upon the abovesaid G.O. have rejected the nominations filed by the Anganwadi Workers/Helpers to the post of Sarpanch and Ward Members. In these two writ petitions also, the nominations of the petitioners have been rejected on the ground that they are not qualified to contest the election.

7. Mr. Satya Prasad, the learned Counsel for the petitioners is absolutely right in contending that the question as to whether a candidate at an election is qualified or not to contest the election and as to whether the nominations have to be accepted or rejected is to be decided by the Returning Officer/Election Officer and the State Government in no manner can guide or structure the exercise of discretion by the Returning Officer/Election Officer. Whether a candidate is qualified to contest the election and as to whether the nomination is to be accepted is required to be strictly decided by the Returning Officer himself with reference to the provisions of Andhra Pradesh Panchayat Raj Act, 1994 and the Rules framed thereunder. Of course, the Returning Officer/Election Officer can also take into consideration the instructions, if any, issued by the State Election Commission.

8. Having regard to the facts and circumstances of the case, I consider it appropriate to dispose of these writ petitions declaring that the Returning Officers/ Election Officers shall scrutinize each of the nomination of the candidate concerned including the Anganwadi Workers in accordance with law and take an appropriate decision for themselves without being influenced by either G.O. Ms. No.7, dated 7-3-1996 or G.O. Ms. No.23, dated 4-8-2001.

9. Sri Satya Prasad, learned Counsel for the petitioners submits that in such view of the matter, the rejection of the nominations of the petitioners is void and therefore a consequential direction may be issued by this Court to treat the petitioners nominations as a valid one. I express my inability to do so. The process of election had already begun and this Court cannot judicially review the order passed by the Returning Officer either accepting or rejecting the nomination. The only remedy that is available to the petitioners is to file an election petition to challenge the same. The remedy of the petitioners is left open. It is needless to observe that if any such petition is filed by the petitioners, the same shall be considered in accordance with law and in accordance with the

law declared by this Court in this order.

10. The writ petitions are accordingly disposed of.