
(2001) 07 AP CK 0022

In the Andhra Pradesh High Court

Case No : Writ Petition No. 13178 of 2001

Bharat Heavy Electricals Limited, Ramachandrapuram

APPELLANT

Vs

State Election Commission, Secunderabad and another

RESPONDENT

Date of Decision : 13-07-2001

Acts Referred:

Andhra Pradesh Districts (Formation) Act, 1974 — Section 3, 3(1), 3(2)
Andhra Pradesh Gram Panchayats Act, 1964 — Section 1(2), 2(1), 2(23), 2(45), 5(2)
Andhra Pradesh Panchayat Raj (Conduct of Elections) Rules, 1994 — Rule 4(2)
Andhra Pradesh Panchayat Raj Act, 1994 — Section 1(2), 148, 149, 177, 5

Citation : (2001) 5 ALD 240

Hon'ble Judges : S.B. Sinha, C.J.;V.V.S. Rao, J

Bench : Division Bench

Advocate : Mr. E. Kalyan Ram, for the Appellant; Additional Advocate-General, for the Respondent

Final Decision : Dismissed

Judgement

S.B. Sinha, C.J.—The short question which arises for consideration in this application is as to whether election under the Panchayat Raj Act, 1964 can be held in Ramachandrapuram where Bharat Heavy Electricals Limited (hereinafter referred to as the Company) is situate on the ground that it has been declared to be a Township. The Company is a Government of India Undertaking and its unit is spread over in an area of 2,000 acres. The major portion of Township falls within the jurisdiction of R.C. Puram and a small portion falls within the jurisdiction of Serilingampalli Municipality. The Company contends that it provides all basic facilities which are to be provided for by the local authorities.

2. G.O. Ms. No.512, dated 8-8-1988 was issued whereby and whereunder Ramachandrapuram was bifurcated into (1) Township of R.C. Puram, BHEL. (2) separate Panchayats of R.C. Puram and Bandlaguda. Yet again, by proceedings dated 11-8-1998, R.C. Puram was bifurcated into three divisions. A notification u/s 5(2) of A.P. Gram Panchayat Act was also issued.

3. A writ petition was filed questioning the said notification which was disposed of by this Court directing the respondents thereof to grant an opportunity of hearing to the concerned Gram Panchayats. Upon compliance of the said order, G.O 365, Panchayat Raj and Rural Development dated 27-8-1998 was issued by the Government of Andhra Pradesh in terms of Section 5 of the Panchayat Raj Act bifurcating the Township from R.C. Gram Panchayat. Again a writ petition was filed before this Court which was marked as WP No.33849 of 1998 questioning the validity of the said notification. The writ petition was dismissed by a Division Bench of this Court on 27-3-2001.

4. The contention now raised in this application is that having regard to the provisions of Section 5(3) of the Panchayat Raj Act, no election thereunder can take place. Admittedly, the election notification dated 22-6-2001 has been issued by the State Election Commission which reads as under:

In exercise of the powers conferred by Article 243-K of the Constitution of India and Section 201 of Andhra Pradesh Panchayat Raj Act, 1994 (Act 13 of 1994) read with Rule 4(2) of the Andhra Pradesh (Conduct of Elections) Rules, 1994 the State Election Commission, Andhra Pradesh hereby calls upon the registered voters in

(i) all the Zilla Parishad Territorial Constituencies in the State (except Rajahmundry (Rural), Rajanagaram and Amatapuram ZPTCs in East Godavari District) to elect a Member thereto; and

(ii) All the Mandal Parishad Territorial Constituencies in the State (except those located in Rajahmundry (Rural) Rajanagaram and Amalapuram Mandal Parishads in East Godavari District and Bukkayasamudhram Mandal Parishad in Anantapur District) to elect a Member thereto; and

Also notifies the programme for conduct of the said elections in the Annexure to this notification.

5. The learned Additional Advocate-General appearing on behalf of the respondents would urge that having regard to the provisions contained in Section 2(1) of the said Act, although no election for Gram Panchayat can be held within the Township, the election for Mandal Parishad Territorial Constituencies and Zilla Parishad Territorial Constituencies can be held.

6. The said Act was enacted to provide for the constitution of Gram Panchayats, Mandal Parishads Zilla Parishads. The Act applies to the entire State of Andhra Pradesh except the areas mentioned in clauses (a) to (e) of subsection (2) of Section 1 of the Panchayat Raj Act, 1964. A Township does not come within the exceptions mentioned therein.

7. "Mandal" has been defined in Section 2(22) to mean such area in a district as may be declared by the Government by notification to be a Mandal u/s 3 of the Andhra Pradesh (Formation) Act, 1974. "Mandal Parishad" has been defined in Section 2(23) to mean a Mandal Parishad constituted or reconstituted u/s 148 of

the Act. "Zilla Parishad" has been defined in Section 2(45) to mean a Zilla Parishad constituted u/s 177.

8. Part II of the Act deals with constitution, administration and control of Gram Panchayats. Section 3 thereof deals with declaration of a village for the purposes of the Act. Section 3(1) and the explanation appended thereto read thus:

Declaration of a village for the purposes of the Act:--(1) The Commissioner may, by notification, and in accordance with the rules made by the Government in this behalf, declare any revenue village or hamlet thereof or any part of a Mandal to be a village for the purposes of this Act and specify the name of the village.

Explanation :--For the purpose of this sub-section, the expressions "Mandal" and "revenue village" shall mean respectively any local area which is recognised as a Mandal or village in the revenue accounts of Government after excluding therefrom the area, if any, included in-

(a) a Municipal Corporation governed by the relevant law relating to Municipal Corporations for the time being in force in the State;

(b) a Municipality governed by the law relating to Municipalities for the time being in force in the State;

(c) a mining settlement governed by the Andhra Pradesh (Telangana Area) Mining Settlements Act, 1956 (Act XLIV of 1956);

(d) a cantonment settlement governed by the Cantonments Act, 1924 (Central Act 2 of 1924).

9. Section 5 of the said Act empowers the Government to declare by a notification in the Andhra Pradesh Gazette a village or any other area to be a Township if it is an industrial or institutional colony, a labour colony, a project area, a health resort or a place of religious importance. Section 5(2) of the Act reads thus:

5(2) If the areas declared as Township under sub-section (1) comprises a village or forms part of a village, the Commissioner shall, under sub-section (2) of Section 3, cancel the notification issued under sub-section (1) of that section in respect of such village, or as the case may be, exclude such part from the village.

10. Thus, no Gram Panchayat can be constituted in a Township. However, Section 148 provides for constitution and incorporation of Mandal Parishads and the area of the Revenue Mandal can be altered in terms of the provisions of the District Formation Act, 1974. The proviso appended to Section 148 confers power upon the State to constitute or reconstitute Mandal Praja Parishad. Section 149 provides for composition of Mandal Parishad. Section 177 of the said Act provides for constitution, incorporation composition, powers and functions of Zilla Parishads.

11. A Township can be excluded from village in terms of Section 5 of the said

Act. But the same can be included in a Mandal Parishad or Zilla Parishad.

12. As noticed hereinbefore, subsection (2) of Section 1 of does not exclude, the applicability of the said Act in relation to a Township. A conspectus of the aforementioned provisions clearly lead to the conclusion that where no election can be held in a Township for constitution of a village Panchayat, there is no bar on holding any election for Mandal Parishad territorial constituencies or Zilla Parishad territorial constituencies. For the said purpose, therefore, the State Election Commissioner had the requisite jurisdiction to issue the aforementioned notification dated 22-6-2001.

13. For the reasons aforementioned, there is no merit in the writ petition. It is accordingly dismissed. No costs.