

(2007) 12 AP CK 0049

In the Andhra Pradesh High Court

Case No : CRP No's. 1731 and 1842 of 2007

Burra Soundarya

APPELLANT

Vs

Thoutam Rama Devi and Others

RESPONDENT

Date of Decision : 28-12-2007

Acts Referred:

Andhra Pradesh Panchayat Raj (Election Tribunals in respect of Gram Panchayats, Mandal Praja Parishads and Zilla Praja Parishads) Rules, 1995 — Rule 3
Civil Procedure Code, 1908 (CPC) — Order 6 Rule 2

Citation : (2008) 2 ALD 308 : (2008) 2 ALT 284

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : P. Prabhakar Reddy, for the Appellant; G. Vidyasagar, for the Respondent

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—Elections to the Gram Panchayat of Bhupalpally were held on 29.7.2006. The 1st respondent; the petitioner, and respondents 5 to 10 contested the election. The petitioner was declared elected. The 1st respondent filed O.P. No. 8 of 2006 in the Election Tribunal-cum-Junior Civil Judge, Parkal, challenging the election of the petitioner. It was pleaded inter alia that the husband of the petitioner functioned as Sarpanch in the previous term, and using his influence, he got about 400 invalid votes counted in favour of the petitioner. In the paragraph relating to cause of action, the date of election was mentioned as 28.7.2006.

2. The petitioner filed I.A. No. 29 of 2007, with a prayer to reject the O.P., on the ground that it lacked necessary particulars, as contemplated under Rule 3(i)(ii) of the A.P. Panchayat Raj (Election Tribunals in respect of Gram Panchayats, Mandal Parishads and Zilla Parishads) Rules, 1995 (for short "the Rules"). The 1st respondent filed I.A. No. 30 of 2007, with a prayer to amend the date of election, wherever it occurred in the O.P. She pleaded that the date - 28.7.2006,

be/ substituted with the date - 29.7.2006. While; the petitioner opposed I.A. No. 30 of 2007, the 1st respondent opposed I.A. No. 29 of 2007, by filing counter-affidavits. Through a common order dated 9.3.2007, the Tribunal dismissed I.A. No. 29 of 2007 and allowed I.A. No. 30 of 2007. Hence, these two revisions.

3. Sri P. Prabhakar Reddy, learned Counsel for the petitioner, submits that the proceedings in an election petition are governed by the rules, and any noncompliance thereof, must entail in dismissal. He contends that the petition is silent, as to the nature of alleged irregularities, or the source of information to the 1st respondent. Placing reliance upon the judgment of this Court in Chaluvadi Hanumayamma Vs. Sandrapati Jainabee and Others, , learned Counsel submits that the Tribunal ought to have allowed I.A. No. 29 of 2007. He further submits that a wrong date was mentioned in the paragraph, relating to cause of action, and such an important omission cannot be permitted to be corrected by way of amendment.

Sri G. Vidya Sagar, learned Counsel for the 1st respondent, on the other hand, submits that the necessity to furnish particulars would arise, if only any corrupt practices are alleged, and in all other respects, the election petition is required to be concise as regards statement of facts. Learned Counsel contends that the 1st respondent specifically pleaded that nearly 400 votes, which were otherwise invalid; were counted in favour of the petitioner, and the best person to speak about it, is the Election Officer. It is also his case that a wrong date was mentioned, on account of some mistake in the computer, and no prejudice can be said to have been suffered by the petitioner, on account of the correction of the date.

4. The proceedings instituted to challenge the election of a candidate are governed by the respective statutes. Strict compliance thereof, is required. Any omission or deviation would naturally result in rejection of the same. The reason is that the Courts must strike a decent balance between the sanctity of the mandate, on the one hand, and purity and transparency in the election process, on the other hand. Rule 3 of the Rules, prescribes as to what should be the broad content of an election petition. It reads as under:

Rule 3: (i) The election petition shall be presented within thirty days from the date of the declaration of the result of the election.

Explanation: If the Court of the Subordinate Judge or the District Munsiff, as the case may be, or the Office of the Officer of the Government who is the Election Tribunal is closed on the last day of the thirty days aforesaid, the petition may be presented to the Election Tribunal on the next day afterwards on which such Court or Tribunal is open.

(ii) The petition shall contain a statement in concise form, the material facts on which the petitioner relies and the particulars of any corrupt practices which he alleges and shall, where necessary, be divided into paragraphs numbered consecutively. It shall be signed by the petitioner and verified in the manner

prescribed for verification of pleadings in the Code of Civil Procedure, 1908.

5. It may be noted that Clause (ii) maintains a clear distinction between material facts, on the one hand, and particulars of corrupt practices, on the other hand. While the former are required to be stated in concise form, the latter are required to be stated in detail. In the instant case, the 1st respondent did not allege any corrupt practices, against the petitioner. The only material fact, pleaded by her, is, that about 400 votes, which are otherwise invalid; were counter in favour of the petitioner. The said material fact is required to be pleaded in a concise form, and its particulars are to be supplemented in the evidence.

It is not without purpose, that the corrupt practices are required to be stated with detailed particulars. It is only when a person accused of, resorting to corrupt practices; is put on notice of the particulars, that he would be in a position to respond to the same, in his defence. Material facts, on the other hand, stand on a different footing. It is only the broad feature thereof, that must be stated, so that, it can be supplemented through evidence, at a later point of time. In fact, this accords with Rule 2 of Order VI CPC.

In the judgment referred to above, this Court referred to the precedents, rendered by the Supreme Court, and a distinction, maintained between material facts and material particulars; was explained. Nowhere it is pointed out that even material facts must be stated in detail, in contrast to, the corrupt practices.

6. Therefore, this Court is not inclined to agree, that the petition lacked material facts. It is for the 1st respondent to adduce necessary evidence, and to satisfy the Court, that any votes, which were otherwise invalid, were counted in favour of the petitioner, and that the same materially effected the result of the election.

So far as the application filed for amendment of the pleadings is concerned, it is not in dispute that the Tribunal is vested with the power, and the effort was only to correct the date of election, which is, in fact, a matter of record.

Hence, the CRPs are dismissed. There shall be no order as to costs.