
(1992) 07 AP CK 0021

In the Andhra Pradesh High Court

Case No : Writ Appeal No. 1091 of 1990

I. Venkata Ramana

APPELLANT

Vs

K. Sanyasi Naidu and Others

RESPONDENT

Date of Decision : 08-07-1992

Acts Referred:

Andhra Pradesh Gram Panchayats Act, 1964 — Section 12(6), 17, 18, 19, 20

Citation : (1992) 3 ALT 212 : (1993) 1 ALT(Cri) 618

Hon'ble Judges : Sivaraman Nair, J;Gopal Rao, J

Bench : Division Bench

Advocate : K.V. Subrahmanya Narsu, K. Subrahmanyam and N.V.A.S. Bhagavan, for the Appellant; S. Venkat Reddy Advocate, for the Respondent

Final Decision : Dismissed

Judgement

1. This appeal arisen from the judgment in Writ Petition No. 6908/90. The appellant was elected as the Sarpanch of Pothureddipalam Gram Panchayat in the election conducted on 12-3-1988. Respondents 1 and 2 were the unsuccessful candidates. First respondent filed O.P. No. 19/88 challenging the election of the appellant before the District Munsif, Yellamanchilli. Case of the first respondent was that the appellant was not qualified to be elected as sarpanch because he was disqualified in terms of Section 17 of the A.P. Gram Panchayats Act, 1964 in that he was an employee of Etikoppaka Co-operative Sugar Factory. The Election Tribunal, namely, the District Munsif, Yellamanchili after considering the evidence led before him found that the appellant being an employee of Etikoppaka Co-operative Sugar Factory, was disqualified u/s 17(1) of the A.P. Gram Panchayats Act. The Tribunal, therefore, set aside the election of the appellant.

2. Appellant filed Writ Petition No. 6908/90 challenging that order, dated 24-4-1990. He raised two contentions in the Writ Petition. Firstly, that Section 17 dealt with disqualification only of Members of Gram Panchayat and Sarpanch is not a Member. He submitted, therefore, that the Election Tribunal committed an

error of law in disqualifying him u/s 17 of the Gram Panchayats Act. His second submission is that he was only a seasonal worker in the Co-operative Sugar Factory and only regular employees suffer the disqualification u/s 17. These contentions were rejected by the learned single Judge. Hence this appeal.

3. Counsel for the appellant reiterated the contentions which he has raised before the learned single Judge. A counsel for the first respondent invited our attention to Section 12(6) of the A.P. Gram Panchayats Act to the effect that the "provisions of Sections 17 to 22 shall apply in relation to the office of the Sarpanch as they apply in relation the office of an elected member of the Gram Panchayat". It is clear from the above provision that there is no basis for the first submission of the appellant.

4. The next submission requires us to read something more than what is actually enacted in Section 17 of the Act. Section 17 provides that "No village servant and no other officer or servant of the State or Central Government or of a local authority or an employee of any Co-operative Society registered under the Andhra Pradesh Co-operative Societies Act, 1964 or an employee of any Co-operation or any industrial undertaking owned or controlled by the State or Central Government" shall be qualified for being chosen as or for being a member of a Gram Panchayat. Counsel submits that the working "employee of any Cooperative Society, etc., "refers only to a regular employee, and not in any case a seasonal employee. In other words, we have to understand the word "employee" to mean a "regular employee". That will be reading something more than what has been enacted.

5. According to us, the only requirement for a person to be considered as an employee of a Co-operative Society is that he shall have been and continues to be employed by a Co-operative Society. If the Legislature meant that only "regular employee" would be disqualified, the easiest thing would have been to say so. That not having been said, the only further questions which we have to consider are two. 1) Whether in the setting and context of Section 17 of the Act employee shall be read only as "regular employee" 2) Is it unreasonable to read the statute as it is as any employee, regular, permanent, temporary, provisional, seasonal and all other categories. The basic requirement being that there shall be employer-employee relationship with the co-operative society or the establishments specified in Section 17 of the Act and the candidate, it seems to us that the word "employee" shall have its natural meaning as a person employed. To insist that he shall be a "regular employee" will be asking for the moon, particularly in the agricultural sector in the rural parts of the State, to which the Act applies. Regular employee in the sense in which the term is understood in Government service or industrial employment may not exist in agricultural or in the rural areas. Regularity will be confined, if at all, only during agricultural seasons. Appellant's cases that he is seasonal employee of the Co-operative Sugar Factory. We are of the opinion that the Election Tribunal and the learned single judge are right in giving the term "employee" its natural meaning

without being persuaded to read more into Section 17 of the Act. We also hold that there is no need nor any justification to invite the principles of contextual construction to hold otherwise.

6. Counsel for the respondent invited our attention to the facts in evidence before the Election Tribunal consisting of the evidence of P.Ws. 1 and 2 and R.W.I and exhibits A-I to 9 to the effect that the appellant was employed as a mazdoor in Etikoppake Co-operative Sugar Factory since 1979 on a salary of Rs. 1,000/-, that his name was on the Muster rolls of the Factory, that he did not miss employment during any working season of the Factory. These indicate an unbroken regularity in his employment. In that sense, the appellant was certainly a "regular employee" even if regularity in employment was a necessary ingredient of the disqualification. We are of the opinion that we are not entitled to narrow down the scope of the terms used by the statute. We are also of the opinion that there is nothing unreasonable in spreading net of disqualification wide to take in its fold, the wider, rather than the narrower category of all persons employed by the specified establishments. The intention appears to be to ensure absolute independence of the candidates unlikely to be tainted by any bias by reason of their links with the specified establishments. A prescription that any employee shall be disqualified irrespective of the nature of his employment cannot be termed as absolutely unreasonable as to justify an exercise in interpretation so as to adopt the narrower construction. That involves reading something more than the enacted provisions of the statute.

7. We also agree with the finding entered by the learned single Judge that the election having been conducted during the sugar cane crushing season when the appellant was admittedly in employment of the Co-operative Sugar Factory, there was no merit in his challenge against the orders of the Tribunal.

8. In this view, the only course open for us is to dismiss the writ appeal in affirmance of the judgment under appeal. We do so. There will be no order as to costs.