

(2015) 08 KAR CK 0054

In the Karnataka High Court

Case No : Writ Petition Nos. 35642 to 35644 of 2015 (LB-ELE)

Janardhana M. and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 25-08-2015

Acts Referred:

Karnataka Panchayat Raj Act, 1993 — Section 47

Citation : (2015) 6 KarLJ 643 : (2016) 1 KCCR 261

Hon'ble Judges : R.S. Chauhan, J.

Bench : Single Bench

Advocate : Lohitaswa Banakar, Advocate, for the Appellant; D. Ashwathappa, High Court Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

R.S. Chauhan, J.—The petitioners have challenged the notice dated 17-8-2015 issued by the Nominated Election Officer-cum-Block Executive Officer, Taluk Panchayat, Doddaballapura, whereby the Election Officer has called for holding of the election to the post of Adhyaksha and Upadhyaksha on 26-8-2015. Briefly the facts of the case are that the petitioners 1 and 2 have been elected as member of the Heggadihalli constituency, whereas, the petitioner 3 has been elected from Gulya constituency. Along with the petitioners, eleven other members were also elected as members to the said Grama Panchayat. By notification dated 18-6-2015, the Deputy Commissioner reserved the post of President of the said Grama Panchayat in favour of Scheduled Caste (Women), and reserved the post of Vice-President in favour of the General category. On 22-6-2015, the Election Officer issued a notice for holding the election for the post of President on 3-7-2015.

2. Out of the fourteen members of the Grama Panchayat, only two women, namely Smt. S. Gayathri and Smt. Narayanamma belonged to Scheduled Caste (Women) category. Initially they filed their nomination papers for the post of Adhyaksha. Subsequently, they withdrew their nominations. Therefore, the post

of President fell vacant.

3. On 3-7-2015, the Panchayat Development Officer addressed a letter to the Deputy Commissioner, informing him that the post of President in the said Grama Panchayat has fallen vacant due to the withdrawal of the two nominations by the two Scheduled Caste (Women). On 17-8-2015, the Election Officer issued a notice fixing the date of election for the post of President on 26-8-2015. The said post continued to be reserved for the Scheduled Caste (Women). Hence, the present petitions before this Court.

4. Mr. Lohitaswa Banakar, the learned Counsel for the petitioners, has vehemently contended that since the only possible candidates for the post of President have withdrawn their nominations, to keep the post still reserved for Scheduled Caste (Women) category would create an anomalous situation. For, the only two eligible candidates are not willing to contest for the post of President, therefore, the post would continuity to lie vacant. Thus, in such a scenario, the category reserved for the post should have been changed. Hence, the notice dated 17-8-2015 deserves to be set aside.

5. On the other hand, Mr. D. Ashwathappa, the learned Counsel for the State, has contended that under Section 47 of the Karnataka Panchayat Raj Act, 1993, in case the post of President is vacant, the Vice-President can be asked to discharge the functions of the President. Even if the Vice-President does not discharge the said functions, an Administrator can be appointed. Therefore, the law takes care of the contingency that if the post of President falls vacant, or continues to be vacant, an alternative arrangement can be made. Secondly, the reservation category cannot be changed during the pendency of the tenure of the Grama Panchayat. For, the change of the category of one Panchayat will have a cascading affect on the categories reserved in other Grama Panchayats. Therefore, the notice dated 17-8-2015 should not be interfered with by this Court.

6. Heard the learned Counsel for the parties.

7. Section 47 of the Karnataka Panchayat Raj Act, 1993, is as under:

"47. Appointment of Adhyaksha during vacancy in the office.--During a vacancy in the office of the Adhyaksha of the Grama Panchayat, the Upadhyaksha and when there is no Upadhyaksha, an officer appointed by the Deputy Commissioner shall exercise the powers and perform the duties of the Adhyaksha until an Adhyaksha is duly elected."

8. The said provision take cares of the possible scenario in case the post of the President falls vacant, or continues to be vacant, then what needs to be done. Under the provision, the Vice-President can officiate as the President. In case, the Vice-President does not officiate as the President, then an Administrator can be appointed for the Grama Panchayat. Since the law takes care of such a possibility, the contention raised by the learned Counsel that it would create an

anomalous situation is unacceptable.

Therefore, this Court does not find any illegality in the impugned notice. Thus, these petitions, being devoid of any merit, are hereby dismissed.