
(2005) 02 KAR CK 0071
In the Karnataka High Court
Case No : Writ Petition No. 9246 of 2005

Jayapal Reddy

APPELLANT

Vs

State Election Commission and Others

RESPONDENT

Date of Decision : 25-02-2005

Acts Referred:

Citation : (2006) ILR (Kar) 1495 : (2005) 2 KarLJ 552 : (2005) 2 KCCR 916

Hon'ble Judges : V. Gopala Gowda, J

Bench : Single Bench

Advocate : Ram Bhat and Sripada Associates, for the Appellant; K.N. Phanindra, for Respondent-1 and H.B. Narayan, Government Pleader for Respondents-3 and 4, for the Respondent

Final Decision : Dismissed

Judgement

V. Gopala Gowda, J.—Since this writ petition can be disposed of at the preliminary hearing stage itself, H.B. Narayan, learned High Court Government Pleader is directed to take notice on behalf of respondents 2 to 4 and Sri K.N. Phanindra to take notice for the first respondent.

2. Heard the learned Counsels for the parties.

3. The petitioner is seeking a direction to respondents 1 to 4 to restrain respondents 4 to 16 from casting their votes. The case of the petitioner is that they are not the residents of the constituency of 5th respondent-Gram Panchayat but they got their names included in the voters list at Annexure-A of the same constituency. The petitioner has produced Annexure-B to F to show that their names are found in Jayanagar Constituency.

4. The reliefs sought for by the petitioner cannot be granted for the following reasons.--

(i) The petitioner is seeking injunction against respondents 6 to 18 from casting their votes in the Gram Panchayat election. The proper forum for granting

injunctory relief is the competent Civil Court. The said relief cannot be granted in writ jurisdiction.

(ii) The prayer itself is misconceived. Respondent 4 being the Tahsildar and respondent 5 being the Hennagara Gram Panchayat, they will not cast votes. Despite that, injunction relief is sought restraining these respondents also from casting their votes.

(iii) The voters list at Annexure-A is of the year 2005 whereas the voters lists at Annexure-B to F pertain to the year 1998. After 1998, respondents 6 to 18 might have shifted to 5th respondent-Gram Panchayat jurisdiction. The said probability cannot be ruled out.

(iv) The voters list at Annexure-A was published on 31-1-2005 and the election is scheduled on 27-2-2005. But, the writ petition is filed today (25-2-2005). Since election is scheduled day after tomorrow, interference at this juncture is not proper. The petitioner is not diligent in approaching this Court. On this ground alone the writ petition is liable to be dismissed.

(v) Petitioner has not contested the election. Therefore, even if respondents 6 to 18 cast their votes in the election, he will not be affected in any manner. Therefore, he is not the "aggrieved person" to file this writ petition. Therefore, he has no locus standi to maintain writ petition.

(vi) Even according to the petitioner, he has set-up his relative one Manjunath as a candidate. The said candidate has not raised any grievance and he has not filed the petition. The writ petition filed on behalf of the so-called candidate set-up by the petitioner cannot be entertained in the absence of any power of attorney given to the petitioner by the said candidate. The writ petition is wholly misconceived and liable to be dismissed in limine.

5. For the foregoing reasons, the writ petition is dismissed.

6. Learned High Court Government Pleader and Mr. K.N. Phanindra are permitted to file memo of appearance in two weeks.