
(2009) 03 AP CK 0066

In the Andhra Pradesh High Court

Case No : Writ Petition No. 4686 of 2009

Katikireddy Narasimha Rao and Another

APPELLANT

Vs

District Panchayat Officer and Others

RESPONDENT

Date of Decision : 18-03-2009

Acts Referred:

Andhra Pradesh Panchayat Raj Act, 1994 — Section 22

Citation : AIR 2009 AP 137 : (2009) 4 ALD 297 : (2009) 3 ALT 426 : (2010) 8 RCR(Civil) 2210

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : Bobba Vijaya Lakshmi, for the Appellant; G.P. for Revenue for Respondent Nos. 1 and 2 and M. Prabhakar Rao, for the Respondent

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J.—The 2nd petitioner is the wife of the 1st petitioner. Both of them, contested as Ward Members of Kontheru Gram Panchayat, Yelamanchili Mandal, West Godavari District, in the elections held in August, 2006 and were elected from Ward Nos. 10 and 8, respectively. The 1st petitioner was also elected as Upa Sarpanch.

2. Representations were made by Smt. T. Nagalaxmi and Sri P. Naga Vijaya Bhaskar, alleging that the petitioners incurred disqualification, on account of they gave birth to a third child after 30th May 1995. They have also filed W.P.No.26997 of 2007 before this Court, complaining that no action has been taken on their representation. The writ petition was disposed of on 31.01.2008, directing the respondents therein to take necessary steps in accordance with law.

3. The District Panchayat Officer, 1st respondent herein, issued proceedings dated 19.03.2008, intimating the petitioners herein that the representations were made to the effect that they have incurred disqualification and that necessary steps, in this regard, need to be taken as per Section 22 of the A.P.

Panchayat Raj Act, 1994 (for short "the Act"). At the end of the proceedings, he made it clear that pending adjudication u/s 22 of the Act, the persons, who are alleged to have incurred disqualification, would hold the positions.

4. The Panchayat Secretary, the 3rd respondent herein, issued separate proceedings, dated 17.02.2009, against the petitioners, informing that they have incurred disqualification. He made reference to the orders passed by this Court in W.P. No. 26997 of 2007 and the proceedings of the 1st respondent dated 19.03.2008. The petitioners challenge the same.

5. Heard learned Counsel for the petitioners, learned Government Pleader for Panchayat Raj and learned Standing Counsel for the 3rd respondent.

6. This Court is rather surprised and shocked to note that the 3rd respondent has assumed to himself the power to disqualify the petitioners. He was also summoned to the Court to explain his conduct.

7. Section 22 of the Act prescribes a detailed procedure to be followed, in the context of attaching disqualifications of different categories of the persons holding elected office. The disqualification can stand attached to an elected representative, only as a result of adjudication by the District Court. The proceedings before the District Court can be instituted either by the person, who disputes the allegation as to the disqualification, or those who make such allegations. It is also competent for the Chief Executive Officer of the concerned local body to institute such proceedings, subject to certain conditions. The 1st respondent, who virtually heads the Panchayat Raj Department in the District, is just assigned the role just of giving intimation of disqualification. The Executive Officer of any local body is assigned the role of liaison or transmission of the proceedings and nothing more.

8. The 3rd respondent has crossed all limits of restraint and straight away proceeded to disqualify the petitioners. He made a reference to the proceedings, dated 19.03.2008, issued by the 1st respondent. It was clearly mentioned therein that intimation about the disqualification is given to the petitioners and that they shall continue to hold the office, till an adjudication takes place u/s 22 of the Act. The 3rd respondent deviated that also, and obviously, acted to the tune of somebody else. His conduct is despicable.

9. The Writ Petition is accordingly allowed and the impugned proceedings are set aside, as those issued without jurisdiction. A sum of Rs. 5,000/- (rupees five thousand only) is imposed as costs upon the 3rd respondent. He shall pay the said amount from his own funds to the Zilla Parishad High School of the Village within one month from today. The Head Master of the institution shall spend that amount for purchasing the equipment useful for demonstration to the students such as maps, charts, scientific equipment etc. through proper vouchers and bills. It shall be open to the petitioners to verify as to whether the amount was paid and it was properly spent, and to bring to the notice of this Court, any deviations in this regard.

10. There shall be no order as to costs.