

(2010) 12 KAR CK 0103

In the Karnataka High Court

Case No : Writ Petition No. 40693 of 2010 and C/W Writ Petition No. 40746 of 2010

Malathi

APPELLANT

Vs

Karnataka State Election Commission
 Smt. K. Lalitha
Vs Chief Election Commissioner and Others

RESPONDENT

Date of Decision : 16-12-2010

Acts Referred:

Electors Rules, 1960 — Rule 21, 21A

Citation : (2010) 12 KAR CK 0103

Hon'ble Judges : Ashok B. Hinchigeri, J

Bench : Single Bench

Advocate : A. Hanumanthappa and K.N. Puttegowda, for the Appellant; Vaishali Hedge, for K.N. Phanindra, for R1 in Writ Petition No. 40693/2010 and for R1 and R5 in Writ Petition No. 40746/2010 and H.T. Narendra Prasad, HCGP for R2 to R4 in Writ Petition No. 40693/2010 and for R2, R3, R4 and R6 in Writ Petition No. 40746/2010, for the Respondent

Judgement

Ashok B. Hinchigeri, J.—Sri K.N. Phanindra is directed to take notice for the Respondent No. 1 in W.P. No. 40693/10 and Respondent Nos. 1 and 5 in W.P. No. 40746/10 and Sri H.T. Narendra Prasad, the learned High Court Government Pleader for all other Respondents.

2. W.P. No. 40693/10 and W.P. No. 40746/10 are connected, heard together and are being disposed of by this common order.

3. The Petitioner's grievance in W.P. No. 40693/10 is that her name is deleted from the voters' list of Venkateshapura Village. She proposes to contest the election to Davanagere Zilla Panchayat from Anaburu constituency. Her learned Counsel, Sri A. Hanumanthappa, submits that the Petitioner's application filed on 25.11.2010 in Form No. 6 (Annexure-B) for the re-inclusion of her name in the voters' list of Venkateshapura Village has remained unconsidered.

4. Sri K.N. Puttegowda, the learned Counsel for the Petitioner in W.P. No.

40746/10 submits that the Petitioner's name was earlier figuring in the voters' list of Hunsur Town. On her shifting to Gungral Chatra Village, Illavala Hobli, Mysore Taluk, she has sought the inclusion of her name in the voters' list of Gungral Chatra. He submits that she has filed an application, dated 10.11.2010 in Form No. 6 (Annexure-B). He submits that the requirements of displaying the application in a conspicuous place, calling for the objections, holding the enquiry, etc. are already over in this case. He brings to my notice the endorsement issued by the Tahsildar, Mysore Taluk on 13.12.2010 (Annexure-D) to the effect that the consideration of the Petitioner's application in Form No. 6, is already in progress.

5. Smt. Vaishali Hegde for Sri K.N. Phanindra for the Respondent No. 1 in W.P. No. 40693/10 and Respondent Nos. 1 and 5 in W.P. No. 40746/10 and Sri H.T. Narendra Prasad, the learned High Court Government Pleader for other Respondents in both the cases take exception to the Petitioners approaching this Court in the eleventh hour. The learned Counsel for the State Election Commission submits that the Commission has already issued the clarificatory circular, dated 9.12.2010 that the Registration Officer has to consider the applications for deletion/inclusion/ amendment/transposition in the electoral roll in accordance with law any time before the last date for the filing of the nomination forms (20.12.2010).

6. The matter is no more res-integra. It is covered by this Court's decision passed on 13.12.2010 in W.P. No. 39563/10 and other connected matters. The operative portion of the said decision is extracted hereinbelow:

15. Considering Rule 21 and 21A on the one hand and Rule 26 on the other hand, the case on hand can be divided into two classes:

a) If the Petitioners' names are omitted or deleted inadvertently without any contribution from the Petitioners' side, the Registration Officer/Officers shall correct the same immediately i.e. within 15.12.2010 in compliance with Rule 21 and 21A.

b) If the applications for inclusion/exclusion/ transposition, based on their voluntary act, are to be considered under Rule 26, the Registration Officer has to consider the same in accordance with law and as expeditiously as possible.

16. It is not known whether the Registration Officer has called for the objections to the applications falling in (b) class. The Registration Officer is directed to consider passing the orders on their applications [falling in class (b)] before 15.12.2010, if possible.

7. These petitions are disposed of in terms of the afore-extracted orders directing the Registration Officer to pass the orders on the Petitioners' applications on or before 20.12.2010, if their cases fall under Rule 21 and 21A of the Registration of Electors Rules 1960 (hereinafter called as "1960 Rules"); if the applications fall under Rule 26, the Registration Officer is directed to consider passing the orders on them before 20.12.2010, if possible.

8. These petitions are accordingly disposed of. No order as to costs.