
(1956) 02 AP CK 0007
In the Andhra Pradesh High Court

Venkata Krishnarao

APPELLANT

Vs

G. Appalaswamy and Another

RESPONDENT

Date of Decision : 27-02-1956

Acts Referred:

Constitution of India, 1950 — Article 226
Penal Code, 1860 (IPC) — Section 171A, 171B

Citation : AIR 1957 AP 845 : (1956) ALT 376

Hon'ble Judges : Subba Rao, C.J.;Viswanatha, J;Sastry, J

Bench : Full Bench

Judgement

Subba Rao, C.J.—This is an appeal against the order of Rajagopala Ayyangar, J., of the Madras High Court dismissing the petition filed by the appellant under Article 226 of the Constitution of India for quashing the order of the Election Commissioner, who set aside the election to the office- of the President of the Panchayat Board, Satyavolu.

2. The election was held on 23rd April, 1953. The appellant and the 1st respondent were the contesting candidates. The appellant got 633 votes and the respondent secured 582 votes and the appellant was declared duly elected. The respondent filed a petition before the Election Commissioner for setting aside the election on the ground among others" that the appellant was guilty of an offence u/s 171B of the Indian Penal Code. The Commissioner held that the appellant gave some land to P.W. 6 as bribe for refraining from voting at the election. On that ground and also in view of his findings on the other points raised, the election was set aside. The appellant filed a writ petition before the High Court of Madras and that was dismissed on 6th May, 1954.

3. The only question is whether the learned Judge was right in holding that the appellant was guilty of an offence under B. 171-B of the Indian Penal Code, which reads : "Whoever gives a gratification to any person with the object of inducing him or any other personnel to exercise any electoral right or of rewarding any person for having exercised any such right, commits the offence

of bribery".

4. Mr. Rama Rao, learned Counsel for the appellant, contends that prevention of a person from exercising his vote is not an offence of bribery within the meaning of Section 171B and, in support of his contention, he relies upon the words "object of inducing him to exercise any electoral right." It is argued that the exercise of an electoral right implies doing a positive act, i.e., voting at the election. But this argument ignores the definition of "electoral right," in the Penal Code. "Electoral right" u/s 171A means:

The right of a person to stand or not to stand as or to withdraw from being, a candidate or to vote or refrain from voting at an election.

If the words "electoral right" in Section 171B are substituted by the relevant part of the definition, it is obvious that to induce a person not to vote or to refrain from voting would be to induce him not to exercise his electoral right. In this view, we agree with Rajagopala Ayyangar J. that the appellant is guilty of bribery within the meaning of that section.

5. Learned Counsel further contends that the document on the basis of which the Commissioner held that an offence of bribery was committed is not admissible in evidence inasmuch as it was not registered. Under the said. document, no doubt two cents of land were given to P.W. 6. But that document was not relied upon by the Commissioner for the purpose of recognising the right conferred thereunder but only for the collateral purpose of considering whether an offence of bribery was committed. We therefore, hold that the document was admissible in evidence for that limited purpose.

6. No other point arises. The appeal fails and is dismissed with costs. Advocate's fee Rs. 150/-.