

**(1992) 10 AP CK 0030**  
**In the Andhra Pradesh High Court**  
**Case No : Writ Petition No. 2912 of 1988**

Yadavalli Apparao

APPELLANT

Vs

The Collector, (PT Wing) and Another

RESPONDENT

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**Date of Decision :** 23-10-1992

**Acts Referred:**

Andhra Pradesh Gram Panchayats Act, 1964 — Section 12(1)  
Constitution of India, 1950 — Article 226  
Gram Panchayat Rules — Rule 7(1)

**Citation :** (1992) 3 ALT 475

**Hon'ble Judges :** P. Venkatarama Reddi, J

**Bench :** Single Bench

**Advocate :** S. Sriramachandra Murthy, for the Appellant; Govt. Pleader for Panchayat Raj, for the Respondent

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## Judgement

P. Venkatarama Reddi, J.—This writ petition is filed by a resident of Markondapadu village of Chagallu Mandal, West Godavari district seeking for a declaration that the notification dated 19-2-1988 issued by the 1st respondent reserving the office of the Sarpanch of Markondapadu Gram Panchayat for the Scheduled Caste voters as illegal and to direct the 1st respondent to renotify the office of the Sarpanch of the said Gram Panchayat as "General Office".

2. The Second proviso to Section 12(1) of the A.P. Gram Panchayats Act mandates that 15% of the total number of offices of the Sarpanch in a Mandal other than a scheduled area shall be reserved by the District Collector, by rotation from term to term, for the members belonging to the scheduled castes in such a way that the Gram Panchayat in respect of which the office of Sarpanch is so reserved shall as far as practicable, be the gram panchayat where the proportion of the population of the Scheduled castes to the total population of the village is the largest. The word "village" is defined by the Act as any local area which is declared to be a village under the Act. Section 3 provides for the declaration of a village for the purposes of the Act. The village so declared need not be co-terminus with revenue village. In order to give effect to the

aforementioned proviso, the rules are framed by the Government in G.O.Ms. No. 611, Panchayat Raj, dt. 19-12-1986 which was amended by G.O.Ms. No. 552, dated 25-9-1987. Rule 7 is the relevant rule, which reads thus:-

"7. Reservation of office of Sarpanchas of Gram panchayat in favour of members of the scheduled castes;

(1) The District Collector shall, subject to the provisions of these rules determine and notify in respect of each Mandal on the eve of each ordinary election, the names of Gram Panchayats in each mandal in the district, which shall be reserved in favour of members of scheduled castes for election to the office of sarpanchas of gram panchayats.

(2)(a) The District Collector shall compute fifteen per cent of the members of offices of Sarpanchas in each Mandal after excluding those reserved for the members belonging to the Schedule Tribes, in the Scheduled areas of the Madal."

The allegation in the writ petition is that the proportion of persons belonging to Scheduled Castes to the total population of the local area comprised in Markondapadu Gram Panchayat comes to 30.82 per cent whereas the proportion works out to 36% in the case of Gownipalli Gram Panchayat. The District Collector by the impugned notification reserved Daravaram and Markondapadu Gram Panchayats for Scheduled Castes. If the contention of the petitioner is to be accepted, Daravaram and Gownipalli should have been reserved. It is this action of the District Collector that has been challenged in this writ petition.

3. While admitting the writ petition on 26-2-1988, this court granted interim stay of election. The stay continues even today, as a result of which no election has been held and at present, the Upa Sarpanch has been discharging the functions as Sarpanch. This is an unfortunate state of affairs brought about by the inaction of the respondents. Even after the lapse of almost five years, no counter has been filed and the learned Government Pleader for Panchayat Raj states that he has not received any instructions in the matter. In fact, the case was adjourned even after it became part-heard at the request of the Govt. Pleader. It is surprising that no information has been furnished so far to the Government Pleader by the concerned respondents, not to speak of filing a counter. In a matter like this where the election was stayed and the disposal of the writ petition depends mainly on the factual clarification regarding the population of the village, one would have expected the respondents to act with alacrity and promptitude. The supine indifference of the authorities concerned has stultified the democratic process of election. I am only saying all this in the hope that some remedial action will be taken by the Government to prevent the recurrence of such lapses. The learned Government Pleader confronted as he is with the handicap in not having the factual information could only clarify the legal position which of course beyond dispute.

4. The next question is what relief or direction that has to be given in this writ petition. It is brought to my notice that the next date of ordinary election to the

Gram Panchayat is fast approaching and the term of office of an elected Sarpanch would have come to an end by February or March, 1993. In the absence of the denial of basic facts by filing counter or by producing the record, the allegation in the affidavit that the proportion of the population of Markondapadu Gram Panchayat is less than that of Gownipalli, has to be accepted. The result therefore is that if it is intended to hold the election before the date of next election the office of Sarpanch of the Gram Panchayat should be treated as a non-reserved one. However, in view of the short interval left for holding the next ordinary election, if it is considered not feasible to hold the election, it is open to the respondents to maintain status quo. I also direct that before issuing the notification under second proviso to Section 12(1) read with Rule 7(1), the District Collector shall consider the question of reservation of Markondapadu Gram Panchayat de novo having due regard to the population figures of the local areas concerned and the rule of rotation.

5. The writ petition is disposed of accordingly. No costs.