
(2022) 12 TEL CK 0080

In the Telangana High Court

Case No : Writ Petition No. 14613 Of 2005, Writ Petition (PIL). No. 48 Of 2020

Yasam Raju

APPELLANT

Vs

Govt Of A.P., Rep By Its Secretary

RESPONDENT

Date of Decision : 19-12-2022

Acts Referred:

Constitution Of India, 1950 — Article 243ZC(3)

Telangana Panchayat Raj Act, 2018 — Section 3(2)

Citation : (2022) 12 TEL CK 0080

Hon'ble Judges : Ujjal Bhuyan, CJ;C.V.Bhaskar Reddy, J

Bench : Division Bench

Advocate : Vasudha Nagaraj

Final Decision : Disposed Of

Judgement

1. Heard Ms. Vasudha Nagaraj, learned counsel for the petitioners in both W.P.No.14613 of 2005 and W.P (PIL).No.48 of 2020. We have also heard Mr. A.Sanjeev Kumar, learned Special Government Pleader attached to the office of the learned Additional Advocate General for the State of Telangana representing the respondent in W.P.No.14613 of 2005 and respondents No.1 to 5 in W.P (PIL).No.48 of 2020; Mr. P.Kishore Rao, learned counsel appearing for respondent No.6 in W.P (PIL).No.48 of 2020; and Mr. G.Vidya Sagar, learned Senior Counsel appearing for respondent No.7 in W.P (PIL).No.48 of 2020.

2. In W.P.No.14613 of 2005, the following prayer has been made:

It is therefore prayed that this Court may be pleased to issue an order, direction or writ, more particularly in the nature of writ of mandamus declaring that:

(i) The A.P.Municipalities Act, 1965, has no application to the Scheduled Areas of the State;

(ii) No Municipality can be constituted in the Scheduled Areas of the state until Parliament extends Part IX-A of the Constitution to the Scheduled areas as

envisaged in Article 243ZC(3) of the Constitution; and

(iii) G.O.Ms.No.525 dated 21.05.2005 and 559 dated 31.05.2005 are ultra vires the powers of the respondent and hence illegal.

3. In the public interest litigation an identical prayer has been made, which is as follows:

It is therefore prayed that this Court may be pleased to issue a writ, order or direction more particularly one in the nature of a writ of mandamus declaring that i) the Telangana Municipalities Act, 2019 has no application to the Scheduled Areas of the State of Telangana being in violation of Article 243ZC(3) in Part IX A of the Constitution and ii) the inaction of the respondents in not conducting elections to the Gram Panchayat of Bhadrachalam and thereby depriving the rights of the people of Bhadrachalam Gram Panchayat to self governance as arbitrary, discriminatory and unconstitutional and c) suspend the proceedings dated 01.08.2018 and 03.10.2018 issued by the respondent No.5 as ultra vires the powers of respondent No.5 and consequently direct the respondent No.7 to conduct elections in the Bhadrachalam Gram Panchayat and pass such other order or orders as deemed fit and proper in the circumstances of the case.

4. Matters relate to inclusion of Bhadrachalam Gram Panchayat, which is basically a tribal area, under the Telangana Municipalities Act, 2019. Therefore, both the writ petitions were heard together. In this connection, the following order was passed by this Court on 03.11.2022:

In W.P.No.14813 of 2005, issue involved is inclusion of Scheduled Areas in municipalities, more particularly municipalities of Bhadrachalam and Manuguru and consequently, not holding elections in the Panchayats covered by Bhadrachalam and Manuguru. The said writ petition is pending for the last seventeen years, yet no counter-affidavit has been filed by the State though counter-affidavit has been filed by the State in W.P.(PIL) No.48 of 2020.

On request of Mr. Harender Pershad, learned Special Government Pleader, we reluctantly grant two weeks' time to the respondents to file counter-affidavit in W.P.No.14813 of 2005 so as to enable us to pass effective order on the next date one way or the other.

5. In the counter affidavit filed by the District Collector, Bhadrachalam District, in W.P (PIL).No.48 of 2020, stand taken is that at the time of amendment of the Telangana Panchayat Raj Act, 2018, Municipal Administration & Urban Development Department had proposed constitution of Bhadrachalam, Sarapaka, Asifabad and Utnoor i.e., Schedule V area Gram Panchayats as Municipalities. Therefore, the above Panchayats were not included in Schedule VIII (list of Gram Panchayats) of the Telangana Panchayat Raj Act, 2018. Consequently, during the elections to Gram Panchayats in 2019, elections were not conducted to Bhadrachalam, Sarapaka, Asifabad and Utnoor Gram Panchayats. Later on, a proposal for constitution of above Gram Panchayats as

Municipalities was moved and the matter was referred to Tribal Advisory Committee. On resolution of Tribal Advisory Committee to constitute the aforesaid Municipalities as Gram Panchayats, Utnoor was proposed for inclusion in Schedule VIII. For day to day administration in Bhadrachalam Gram Panchayat, District Collector was appointed as Special Officer and grants are being released to Bhadrachalam Gram Panchayat as per instructions of the Government for taking developmental activities. In paragraph 11 of the counter affidavit it is stated that the Government has considered to take action for restoring Bhadrachalam as Gram Panchayat by including in the Schedule VIII of the Telangana Panchayat Raj Act, 2018, and the process is underway.

6. In the counter affidavit filed by the Principal Secretary to the Panchayat Raj & Rural Development Department similar stand has been taken.

7. In its counter affidavit, Telangana State Election Commission has stated that Bhadrachalam in Bhadradi Kothagudem District is not notified in Schedule VIII of the Telangana Panchayat Raj Act, 2018, nor is it notified in Schedules I and II of the Telangana Municipalities Act, 2019. Because of the aforesaid situation, Telangana State Election Commission is not in a position to conduct elections in Bhadrachalam either under the Telangana Panchayat Raj Act, 2018, or under the Telangana Municipalities Act, 2019. As and when Bhadrachalam is included under the Telangana Panchayat Raj Act, 2018, or under the Telangana Municipalities Act, 2019, respondent No.7 in W.P (PIL).No.48 of 2020 will take appropriate steps for holding elections.

8. In the counter affidavit filed by the Panchayat Raj and Rural Development Department, Government of Telangana, in W.P (PIL).No.48 of 2020, it is stated that Government has considered to take action for restoring Bhadrachalam as Gram Panchayat by including in Schedule VIII of Telangana Panchayat Raj Act, 2018, and that steps in this regard are under process.

9. In the hearing today, Mr. A.Sanjeev Kumar, learned Special Government Pleader has produced before us copies of G.O.Ms.No.45, dated 16.12.2022. It is stated therein that in exercise of powers conferred by sub-section (2) of Section 3 of the Telangana Panchayat Raj Act, 2018, Government has declared formation of Bhadrachalam, Sarapaka and Rajampet Agency Village as one or more Gram Panchayats with the details mentioned therein. Insofar Bhadradi Kothagudem District is concerned, the following details are mentioned in G.O.Ms.No.45, dated 16.12.2022:

Sl.

No.

District

Mandal

Village

Revenue Village

Survey No.

Extent

(In Acrs)

No. of

Members

1.

Bhadradi Kothagudem

Bhadrachalam

Bhadrachalam

Bhadrachalam

1 to 51,

121 to 126,

Part of 127,

Part of 128,

Part of 132

700.4

21

2.

Bhadradi

Kothagudem

Bhadrachalam

Seetharam

nagar

Bhadrachalam

52 to 90

349.77

17

3.

Bhadradi Kothagudem

Bhadrachalam

Shanthi nagar

Bhadrachalam

91 to 120,

Part of 121,

Part of 127,

Part of 128,

129 to 131,

part of 132,

133 to 207

997.00

17

4.

Bhadradri Kothagudem

Burgampahad

Sarapaka

Sarapaka

1 to 5,

7 to 13,

146 to 223,

226 to 248,

Part of 262

1732.00

17

5.

Bhadradri Kothagudem

Burgampahad

ITC

Sarapaka

6, 14 to 35,

39 to 42,
87 to 99,
102 to 145,
224, 225,
249 to 260,
263, Part of
262
2512.18

15

10. Director of Panchayat Raj & Rural Employment, Hyderabad, has been directed to take necessary action by sending proposal for amendment of Schedule VIII of the Telangana Panchayat Raj Act, 2018.

11. Though substantial progress has been made regarding restoration of the Gram Panchayat status of Bhadrachalam and other Gram Panchayats in Bhadradri Kothagudem District, important consequential steps are still required to be taken without which the fruits of G.O.Ms.No.45 would not reach the intended beneficiaries.

12. Accordingly, we direct the Director of Panchayat Raj & Rural Employment Department, Hyderabad, to submit necessary proposal for amendment of Schedule VIII of the Telangana Panchayat Raj Act, 2018, in terms of G.O.Ms.No.45, dated 16.12.2022, forthwith to the Panchayat Raj & Rural Development Department, Government of Telangana, to enable it to place the same before the Telangana Legislative Assembly in the immediate next session for carrying out amendment to Schedule VIII of the Telangana Panchayat Raj Act, 2018. Once the amendment is carried out, we further direct the Panchayat Raj & Rural Development Department to move the necessary proposals before respondent No.7 in W.P (PIL).No.48 of 2020 i.e., Telangana State Election Commission, for holding elections to the Gram Panchayats.

13. We hope and trust that the consequential steps will be taken by the concerned authorities so that the tribal villagers of the concerned restored Gram Panchayats situated in scheduled areas are able to enjoy the benefits of the Telangana Panchayat Raj Act, 2018. However, if for any reason there is delay in the process or if the concerned stakeholders, including the petitioners, continue to remain aggrieved by any inaction, it would be open to them to approach the appropriate forum for redressal of their grievance.

14. This disposes of both W.P.No.14613 of 2005 and W.P (PIL).No.48 of 2020.

Miscellaneous applications pending, if any, shall stand closed. However, there

shall be no order as to costs.