

J. Ravinder Vs. State Election Commission, Telangana State, represented by its Commissioner and Others

J. Ravinder Vs. State Election Commission, Telangana State, represented by its Commissioner and Others

SooperKanoon Citation : sooperkanoon.com/1179701

Court : Andhra Pradesh

Decided On : Jan-20-2016

Judge : C.V. Nagarjuna Reddy

Appeal No. : W.P. No. 1596 of 2016

Appellant : J. Ravinder

Respondent : State Election Commission, Telangana State, represented by its Commissioner and Others

Advocate for Pet/Ap. : Mr. M.V. Pratap Kumar

Judgement :

This Writ Petition is filed for a mandamus to declare the action of respondent No.3 in rejecting the petitioner's nomination for the office of the Member of Greater Hyderabad Municipal Corporation from Ward No.65-Karwan.

I have heard Mr. M.V. Pratap Kumar, learned Counsel for the petitioner, Mr. G. Vidya Sagar, learned Senior Counsel for respondent Nos.1 and 3 and Mr.P. Kesava Rao, learned Standing Counsel for respondent No.2.

The Certificate of Scrutiny issued by respondent No.3 shows that the petitioner's nomination has been rejected on the following grounds:

(1) Property tax for 12-2-398/83 is pending - Rs.536/-, verified - Bill Collector reported it is true.

(2) The additional columns in the affidavit are mandatory but column Nos.3 and 5 are not filled. The ARO has given report. Hence objections 2 and 3 are proved.

Hence rejected.

The learned Counsel for the petitioner strenuously submitted that both the objections referred to in the impugned Certificate of Scrutiny are not sustainable in law and therefore the same is liable to be set-aside and the petitioner's nomination deserves to be considered as valid under Article 243(Z)(G)(b) of the Constitution of India, no election to any municipality shall be called in question except by way of election petition and in such manner as is provided for by or under any law made by the Legislature of a State. Section 71 of the Greater Hyderabad Municipal Corporation Act 1955 also imposed a bar on challenging an election except by way of an election petition. The law is well settled that the expression 'election' has a far wider connotation and it takes within its sweep the entire process of election commencing from the election notification till declaration of the results, including acceptance or rejection of nominations, that once the election process is commenced, individual interests should yield to larger public interest of completing the election process as per the schedule, relegating the party raising the disputes pertaining thereto to a properly constituted election petition and that no Court, including the High Court and the Supreme Court, can interfere even where the authority concerned passes erroneous orders except where such erroneous orders have the effect of impeding or hindering the process of election. (See : N.P. Ponnuswami Vs. Returning Officer, Namakkal Constituency and Ors. (AIR 1952 S.C. 64), Mohinder Singh Gill and another Vs.The Chief Election Commissioner, New Delhi and others. (1978) 1 SCC 405), Shri Sant Sadguru Janardan Swami (Moingirid Maharaj) Sahakari Dugdha Utpadak Sanstha and another vs. State of Maharashtra and others. (2001) 8 SCC 509), Manganellore Veeraraghavan Vs. District Collector (2010(6)ALT67) and Dhulipala Narendra Kumar Vs. A.P. Co-operative Tribunal and others (2011(1) ALD 292).

In the light of the constitutional bar on entertaining of the dispute raised by the petitioner except by way of an Election Petition, he is not entitled to invoke the jurisdiction of this Court under Article 226 of the Constitution of India. The Writ petition is accordingly dismissed, however, with liberty to the petitioner to raise an election dispute under Section 71 of the Act after declaration of the result of the election.

As a sequel to the dismissal of the Writ Petition, WPMP No.2017 of 2016 filed for interim relief is dismissed as infructuous.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com