

Ningappa Siddappa Chougala Vs. the Secretary to the Department of Urban Development and Panchayath and ors.

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Court : Karnataka

Decided On : Feb-18-2005

Reported in : 2005(3)KarLJ370

Judge : V. Gopala Gowda, J.

Acts : [Karnataka Panchayat Raj Act, 1993](#) - Sections 46

Appeal No. : Writ Petition No. 1360 of 2005

Appellant : Ningappa Siddappa Chougala

Respondent : The Secretary to the Department of Urban Development and Panchayath and ors.

Advocate for Def. : H.B. Narayan, Government Pleader for Respondents-1, 3 and 4 and ;K.N. Phanindra, Adv. for Respondent-2

Advocate for Pet/Ap. : Ravikumar D. Gokakakar, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

V. Gopala Gowda, J.

1. Since this writ petition can be disposed of at the preliminary hearing stage itself, Sri H.B. Narayan, learned High Court Government Pleader is directed to take notice on behalf of respondents 1, 3 and 4 and Sri K.N. Phanindra to take notice on behalf of 2nd respondent.

2. Heard the learned Counsels for the parties.

3. The petitioner is the Adhyaksha of Harugeri Gram Panchayat. He is seeking a prohibition to declare election to the said Gram Panchayat until his tenure is over. According to the petitioner, he has got another 6 months tenure of office.

4. The prohibition sought for by the petitioner cannot be granted. Declaration of election is not made. In paragraph 5 of the writ petition the petitioner has stated as under:

'The petitioner apprehends and also reliable learnt that by the end of December 2004 a process of preliminary preparation for declaring the election to the said Panchayat is directed to be completed and thereafter very soon the necessary election notification would be issued by the 2nd respondent'.

It is only the apprehension of the petitioner that by the end of December 2004 preliminary process to declare election will be completed. Despite that, the writ petition was filed on 11-1-2005, after the apprehended period was over. Further, there is no cause of action for the petitioner to file this writ petition. That apart, in view of Section 46 of the [Karnataka Panchayat Raj Act, 1993](#), election cannot be declared until the term of office stipulated therein is over. If elections are held before the tenure is over, he is at liberty to challenge the same in accordance with law.

5. The writ petition is dismissed with the aforementioned liberty.

6. Learned High Court Government Pleader to file memo of appearance in two weeks.

