

(SHOW CAUSE NOTICE BEFORE ADMISSION)

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF JANUARY TWO THOUSAND AND TWENTY ONE

:PRESENT:

THE HONOURABLE SRI JUSTICE M.GANGA RAO

WRIT PETITION NO: 1158 OF 2021

Between:

The State of Andhra Pradesh, Represented by its Principal Secretary, Panchayat Raj and Rural Development Department, Velagapudi, Secretariat Buildings Amaravati

Petitioner

AND

1. The State Election Commission Vijayawada, Represented by its Secretary, 1st Floor, New HODs Building, Indira Gandhi Municipal Stadium, MG Road, Vijayawada 520 010
2. Mr.N.Rames Kumar, S/o.Late Ravindranath Chowdary, Working as the State Election Commissioner, New HODs Building, Indira Gandhi Municipal Stadium, MG Road, Vijayawada 520 010
3. Union of India, Represented by its Secretary, Ministry of Health and Family Welfare, Nirman Bhawan, C-Wing, New Delhi – 110001.
4. Union of India, Represented by its Home Secretary, Ministry of Home Affairs, North Block, Central Secretariat, New Delhi – 110001.

Respondents

WHEREAS the Petitioner above named through GP for Panchayat Raj & Rural Development presented this Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st Respondent in declaring the schedule of elections for the local bodies vide the proceedings No.513/SEC-B2/2020, dt.08.01.2021 and imposing the model code of conduct and the consequential proceedings banning transfers vide proceeding No.04/SEC-B2/2021, dated 08.01.2021, as arbitrary and illegal vitiated by consideration of material extraneous to record, arbitrary and irrational rejection of the views of the Government and on surmises, conjectures and assumptions, vitiated by malice in law and thus offending Article 14 of the Constitution of India and issue a consequential direction to the respondent No.1 to forbear from proceeding further with the proposed election process to the local bodies, in pursuance of the impugned proceedings, dt.08.01.2021.

AND WHEREAS the High Court upon perusing the petition and affidavit filed herein and upon hearing the arguments of Advocate General for GP for Panchayat Raj & Rural Development for the Petitioner, Sri N.Ashwani Kumar, learned Standing Counsel for Respondent Nos.1 & 2, and of Sri.N.Harinath, Assistant Solicitor General for Respondent Nos.3 & 4, directed issue of notice to the Respondents herein to show cause as to why this WRIT PETITION should not be admitted.

You viz:

1. The Secretary, State Election Commission Vijayawada, 1st Floor, New HODs Building, Indira Gandhi Municipal Stadium, MG Road, Vijayawada 520 010
2. Mr.N.Ramesh Kumar, S/o.Late Ravindranath Chowdary, Working as the State Election Commissioner, New HODs Building, Indira Gandhi Municipal Stadium, MG Road, Vijayawada 520 010

[2696]



3. The Secretary, Ministry of Health and Family Welfare, Union of India, Nirman Bhawan, C-Wing, New Delhi – 110001.
4. The Home Secretary, Ministry of Home Affairs, Union of India, North Block, Central Secretariat, New Delhi – 110001

are directed to show cause either appearing in person or through an Advocate, as to why in the circumstances set out in the petition and the affidavit filed therewith (copy enclosed) this WRIT PETITION should not be admitted before 15.02.2021, on which date the case stands posted for hearing.

IA NO: 1 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of the impugned Proceedings No.513/SEC-B2/2020, dt.08.01.2021 including the consequential proceedings 04/SEC-B2/2021, dated 08.01.2021 in the interests of public health, public interest and equity, pending disposal of WP No. 1158 of 2021, on the file of the High Court.

THE COURT MADE THE FOLLOWING ORDER:

Notice before admission.

Sri N.Ashwani Kumar, learned Standing Counsel takes notice for the 1st and 2nd respondents and Sri N.Harinath, learned Assistant Solicitor General of India takes notice for the 3rd and 4th respondents.

Waives further notice and seeks time to file counters.

Heard Sri Sriram, learned Advocate General for the petitioner and Sri N.Ashwani Kumar, learned Standing Counsel and Sri N.Harinath, learned Assistant Solicitor General of India.

Having carefully considered the peculiar facts and circumstances of the case and considering the submissions of the counsel, perused the record, this court prima facie came to the conclusion that the 1st respondent issued the impugned order without preceded by any pragmatic decision, based on the decisional consultation with the state government as per the orders of the Hon'ble Supreme Court passed in Writ Petition (Civil) No.437 of 2020 and orders of this Court in Writ Petition No.22900 of 2020. The 1st respondent failed to consider the inputs supplied by the 1st respondent government objectively, in its proper perspective. This court, in its considered opinion found that the impugned decision of the 1st respondent is violative of Article 14 and 21 of the Constitution of India. The 1st respondent decision to conduct elections certainly hampers and create hindrance to mammoth vaccination programme taken up by the Union of India and has to be implemented by the State Government to contain the Covid-19 and its mutation and the interest of public health, the impugned orders are hereby suspended.

Post on 15.02.2021.

Sd/- K. Jaganmohan
DEPUTY REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. The Secretary, State Election Commission of A.P., Vijayawada, 1st Floor, New HODs Building, Indira Gandhi Municipal Stadium, MG Road, Vijayawada 520 010
2. Mr.N.Ramesh Kumar, S/o.Late Ravindranath Chowdary, Working as the State Election Commissioner, New HODs Building, Indira Gandhi Municipal Stadium, MG Road, Vijayawada 520 010
3. The Secretary, Ministry of Health and Family Welfare, Union of India, Nirman Bhawan, C-Wing, New Delhi – 110001.
4. The Home Secretary, Ministry of Home (1 to 4 by RPAD- along with a copy of petition and affidavit)
5. Two CCs to Advocate General, High Court of A.P., (OUT)
6. One CC to GP for Panchayat Raj & Rural Development, High Court of A.P. [OPUC]
7. One CC to Sri N. Ashwani Kumar, Standing Counsel [OPUC]
8. One CC to Sri.N. Harinath, Asst Solicitor General [OPUC]
9. One spare copy

SRL

HIGH COURT

MGRJ

DATED:11/01/2021

NOTE: POST ON 15.02.2021

NOTICE BEFORE ADMISSION

WP.No.1158 of 2021

DIRECTION

