



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 19<sup>TH</sup> DAY OF APRIL, 2024**

**BEFORE**

**THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

**WRIT PETITION NO. 11367 OF 2024 (GM-RES)**

**BETWEEN:**

V S MANJUNATH

...PETITIONER

(BY SRI. JAGAN MOHAN M T., ADVOCATE)

**AND:**

1. CHIEF ELECTION COMMISSIONER  
ELECTION COMMISSION OF INDIA  
NIRVACHANA SADAN  
ASHOKA ROAD,  
PANDITH PANTH MARG ROAD,  
SANSAD MARG AREA  
NEW DELHI - 110001
2. CHIEF ELECTROL OFFICER  
AND PRINCIPAL SECRETARY TO GOVERNMENT  
OFFICE OF THE PUBLIC (ELECTIONS)  
DEPARTMENT,  
NIRVACHANA NILAYA  
MAHARANI COLLEGE CIRCLE  
SHESHADRI ROAD  
BANGALORE - 560001

Digitally signed  
by NAGAVENI  
Location: HIGH  
COURT OF  
KARNATAKA



3. ELECTION RETURNING OFFICER  
AND DEPUTY COMMISSIONER  
NO.18, CHITRADURGA (SC)  
LOKASABHA CONSTITUENCY  
CHITRADURGA - 577501

...RESPONDENTS

(BY SRI. SHARATH DODAWAD, CGC FOR R1)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER DTD 05.04.24 PASSED BY THE RESPONDENT NO.3 IN NO.CHUNAVNE CR 399/23-24 BY REJECTING THE NOMINATION PAPERS OF PETITIONER WHO IS CONTESTING AS INDEPENDENT CANDIDATE FOR GENERAL LOKASABHA ELECTION 2024 FORM THE NO. 18 CHITRADURGA (SC) LOKASABHA CONSTITUENCY, VIDE ANNEXURE-D AND ETC.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

The petitioner is before this Court calling in question an order dated 05.04.2024 passed by the third respondent - the Election Returning Officer and Deputy Commissioner of Chitradurga (SC), lok Sabha Constituency.

2. Heard the learned counsel Sri.Jagan Mohan M.R., appearing for the petitioner and the learned Central Government Counsel Sri.Sharath Dodawad, appearing for respondent No.1.



3. The petitioner is appointed as a lecturer in Government First grade college, Hosadurga in Chitradurga District, which the petitioner claims to have been appointed on temporary basis as a guest lecturer. The petitioner desires of contesting the ensuing elections to the parliament seek to file his nomination as a candidate from Chitradurga Lok Sabha Constituency, which is reserved for Scheduled Caste, for which purpose, the petitioner submits Form No.26 along with the nomination papers. The nomination of the petitioner comes to be rejected on the ground that the petitioner is working as a lecturer in a college coming under the Education Department and is disqualified to contest elections, as he is holding an office of profit under Article 102(i) of the Constitution of India. It is this, that has driven the petitioner, to this Court, in the subject petition.

4. The learned counsel appearing for the petitioner submits that the petitioner is only a guest lecturer. What is paid to his is only an honorarium. Therefore, the rejection is illegal. He seeks a direction to print his name as a candidate contesting for the said Lok Sabha Constituency.



5. Per contra, learned Central Government Counsel Sri.Sharath Dodawad, representing the Election Commission of India would submit that the petition is to be dismissed, as it is not entertainable at this stage. It is for the petitioner to file a full-blown election petition, in the event need would arise in future.

6. I have given my anxious consideration to the contentions of respective learned counsel and have perused the material on record.

7. The afore-narrated facts are not in dispute. The only issue is rejection of a nomination paper. Rejection of a nomination of the petitioner on whatsoever ground, it is during the process of election and this Court cannot entertain the petition amidst the election. It becomes apposite to refer to the judgment rendered by the co-ordinate bench of this Court in the case of ***Syed Yasin vs. The Chief Election Commissioner***



**and Election Commissioners, Election and others<sup>1</sup>**, which reads as follows:

" 11. The Election Commission issued press note dated 29.03.2023 publishing schedule for the General Assembly Election to the Legislative Assembly of State of Karnataka. The petitioner filed his nomination paper to Raichur-54 Assembly Constituency on 20.04.2023 in terms of Annexure-B.

12. On scrutiny, the petitioner's nomination paper is rejected on the following three grounds:

"1. Rejected because Less than 10 proposes one proposes not tally with electoral roll.

2. Not filed nomination in the prescribed annexure 2B

3. Affidavit Col.3(iii) 5, 6, Part- B not filed."

13. It is an admitted fact that the nomination of the petitioner is rejected on the above grounds. Election would mean the process from the date of issuance of scheduled of General Assembly Election or Calendar of Events by the Election Commission till results are published. The Hon'ble Apex Court in **N.P. Ponnuswami** case (supra) has held that the word 'election' is used to embrace the whole procedure of election and is not confined to final result thereof-Rejection or acceptance of nomination paper is included in the term. Thus rejection of nomination is in the process of election.

14. Section 80 of 1951 Act provides for election petition questioning the election. Section 100 of Act 1951 provides for grounds for declaring election to be void. Section 100(1)(c) reads as follows:

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<sup>1</sup> **W.P.No.201340/2023**



**"100. Grounds for declaring election to be void.-(1)**  
Subject to the provisions of sub-section (2) if the  
High Court is of opinion-

- (a) xxx
- (b) xxx
- (c) that any nomination has been improperly  
rejected; or"

15. As the rejection of nomination is also one of the grounds for declaring election to be void, it is for the petitioner to challenge the rejection of the nomination paper in a properly instituted election petition.

16. The Hon'ble Apex Court in the case of **Manda Jaganath Vs. K.S. Rathnam and Ors.** reported in (2004) 7 SCC 492 has held that Representation of People Act, 1950 provides a proper forum for adjudicating the election disputes and no forum other than one so constituted competent to decide the disputes. It has further observed that only those actions of the Returning Officer which have the effect of interfering in the free flow of scheduled elections or hinder the process of election, amenable to writ jurisdiction. In the instant case, it is not the case of the petitioner that the action of the Returning Officer would have effect on the free flow of scheduled election process or hinders the progress of the election.

17. The decision relied upon by the learned Senior Counsel in **L. Ramakrishnappa (supra)** and **Mohinder Singh Gill (supra)** would not assist the petitioner.

18. In **L. Ramakrishnappa (supra)**, the Division Bench of this court at conclusion(1) has observed that this court under Article 226 of the Constitution has the jurisdiction to interfere with the illegality committed in the course of holding election to the offices of any authority/body which is regulated by statutory provisions and specifically excluded the election to the parliament and state legislature. In **Mohinder Singh Gill (supra)**, the Hon'ble Apex Court was considering the power of the Election Commission under Article 324 and the scope of Article 329(b) of the Constitution of India, has observed that the Election Commission under Article 324 of Constitution would be responsible for free and



*fair election and responsibility would cover, powers, duties and functions of many sorts, administrative or other, depending upon the circumstances. The Hon'ble Apex Court placing reliance on the **N.P. Ponnuswami** (supra) has specifically made it clear that under Article 329(b) of Constitution the sole remedy for an aggrieved party, if he wants to challenge any election, is an election petition and this exclusion of all other remedies includes constitutional remedies like Article 226 because of the non-obstante clause. Thus, I am of the view that writ petition challenging the rejection of nomination to Raichur-54 Assembly Constituency would not be maintainable and the remedy for the petitioner is to file election petition in terms of Section 80 of 1951 Act. The contention that the Returning Officer shall not reject the nomination if defect is not substantial, cannot be gone into in this writ petition. This court under Article 226 of the Constitution would not be in a position to examine as to whether the grounds on which nomination is rejected is flimsy or whether it is substantial or not.*

*Accordingly, the petition is disposed of as not maintainable."*

In the light of the facts narrated hereinabove and the judgment rendered by the co-ordinate bench (supra), the petition deserves to be rejected and is accordingly rejected.

**Sd/-  
JUDGE**

KG  
List No.: 3 Sl No.: 2