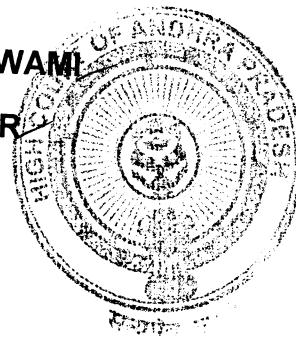


IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI  
FRIDAY, THE FIFTH DAY OF FEBRUARY  
TWO THOUSAND AND TWENTY ONE

:PRESENT:  
HONOURABLE THE CHIEF JUSTICE ARUP KUMAR GOSWAMI  
AND  
THE HONOURABLE SRI JUSTICE C.PRAVEEN KUMAR



WP (PIL) NO: 31 OF 2021

Between:

Angrekula Nageswara Rao,, S/o. Kariavula Raju,

AND

1. The Union of India,, Department of Ministry of Communication and Information Technology, Electronics Niketan, 6, CGO Complex, Lodhi Road, New Delhi, Delhi 110003 Rep., by its Secretary,
2. The Election Commission of India, NirvachanSadan, Ashoka Road, New Delhi-110011 Rep. by its Commissioner
3. The State Election Commission, Floor, New Hod's Building, Opp. Indira Gandhi Municipal Stadium, M. G. Road, Vijayawada, Krishna District, Andhra Pradesh 520010 Rep.. by its Secretary.
4. Mr.Nimmagadda Ramesh Kumar, The State Election Commissioner, 1<sup>st</sup> Floor, New Hod's Building, Opp. Indira Gandhi Municipal Stadium, M. G.Road, Vijayawada, Krishna District, Andhra Pradesh - 520010
5. The State of Andhra Pradesh,, Panchayat Raj Department, Secretariat, Velagapudi, Amaravathi, Guntur District rep., by its Principal Secretary.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein, the High Court may be pleased to issue appropriate writ(s), direction(s) or order(s), more particularly in the nature of

a. Writ of Mandamus declaring the action the respondent No.4 in abrupt launching of E-Watch Online Application for reporting violation of Model Code of Conduct (MCC) and to curb malpractices during the Gram Panchayat/Local Body Elections without compliance of the National Cyber Security Policy, 2013 and the Andhra Pradesh Cyber Security Policy, 2017 guidelines issued by the respondent No.1 and 5 respectively and ignoring the existing cVIGIL Mobile Application developed by the respondents No.2 and 5 respectively, that too in the midst of the election process as arbitrary, illegal, colourable exercise of power, as with an ulterior motive, malafide intention and in violation of the powers conferred on him and consequently direct the respondents No.3 and 4 to make use of the existing Online Applications i.e., cVIGIL Mobile Application developed by the respondent No.2 or NIGHAA Mobile Application developed by the respondent No.5 and also to Webcast the polling, which is being held pursuant to the Notification dated 25.01.2021.

b.Writ of prohibition prohibiting the respondent No.4 from using the e WATCH Mobile Application in the present Gram Panchayat Elections/Local Body elections, which are being held pursuant to Election Notification, dated 25.01.2021.

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 direct the respondent No.3 and 4 to make use of existing apps i.e., cVIGIL Mobile Application developed by the respondent No.2 or NIGHAA Mobile Application developed by the respondent No.5 and also to Webcast the Polling, which is being held pursuant to the Notification, dated 25.01.2021, pending disposal of WP(PIL) 31 of 2021, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri V.R. Reddy Kovvuri Advocate for the Petitioner, Sri N. Harinath, Asst Solicitor General for the Respondent No.1, Sri Avinash Desai, Standing Counsel for Respondent No.2, Sri N. Ashwani

Kumar, Standing Counsel for Respondent No.3 & 4 and of Sri C. Sumon, GP for Panchayath Raj for Respondent No.5, the Court made the following.

**ORDER:**

*(Taken up through video conferencing)*

Heard Mr. V. R. Reddy Kovvuri, learned counsel for the petitioner in W.P.(PIL).No.31 of 2021, Mr. S. Sharath Kumar, learned counsel representing Mr. M. Jayaram Reddy, learned counsel for the petitioner in W.P.(PIL).No.32 of 2021 and Mr. G.R. Sudhakar, learned counsel for the petitioner in W.P.(PIL).No.33 of 2021.

Mr. N. Harinath, learned Assistant Solicitor General, appears on behalf of Union of India.

Mr. N. Ashwani Kumar, learned standing counsel, appears on behalf of the A.P. State Election Commission.

Mr. Avinash Desai, learned counsel, appears on behalf of the Election Commission of India.

Mr. C. Sumon, learned Government Pleader, appears on behalf of the State Government.

By these petitions, essentially, the petitioners are seeking directions to the State Election Commission not to use the e-Watch Mobile Application for the purpose of present Ordinary Elections to the Gram Panchayats.

One of the grounds urged by the learned counsel for the petitioners is that necessary Security Audit Certificate is yet to be obtained and, therefore, without such certificate, it will be impermissible for the State Election Commission to use the Application.

Mr. C. Sumon, learned Government Pleader appearing for the State Government, submits that on 04.02.2021, the Secretary of the Andhra Pradesh State Election Commission had written a letter to the Managing Director, Andhra Pradesh Technology Services, which is stated to be the nodal agency for certifying the Applications/Websites in respect of cyber security, requesting issuance of Security Audit Certificate for hosting the e-Watch Application in the Andhra Pradesh State Data Centre server. He has also submitted that the process of certification normally takes about five days at the first instance.

Mr. N. Ashwani Kumar, learned counsel appearing for the State Election Commission, states that he is not aware of the said development and wants to take instructions on that aspect as well as on certain other aspects in relation to the assertions made in the petitions.

Considering the matter in its entirety, we deem it appropriate to take up these petitions on 09.02.2021 for further consideration. List accordingly.

Till then, e-Watch Mobile Application shall not be given effect to by the State Election Commission. ✓

Sd/-M.RameshBabu  
ASSISTANT REGISTRAR  
*Rslan*  
SECTION OFFICER

//TRUE COPY//

For

To

1. The Secretary, Department of Ministry of Communication and Information Technology, Union of India, Electronics Niketan, 6, CGO Complex, Lodhi Road, New Delhi, Delhi 110003 Rep., by its Secretary,
2. The Commissioner, Election Commission of India, NirvachanSadan, Ashoka Road, New Delhi-110011
3. The Secretary, State Election Commission, Floor, New Hod's Building, Opp. Indira Gandhi Municipal Stadium, M. G. Road, Vijayawada, Krishna District, Andhra Pradesh 520010.
4. Mr.Nimmagadda Ramesh Kumar, The State Election Commissioner, 1<sup>st</sup> Floor, New Hod's Building, Opp. Indira Gandhi Municipal Stadium, M. G.Road, Vijayawada, Krishna District, Andhra Pradesh - 520010
5. The Principal Secretary, State of Andhra Pradesh,, Panchayat Raj Department, Secretariat, Velagapudi, Amaravathi, Guntur District (1 to 5 by RPAD)
6. One CC to Sri V. R. Reddy Kovvuri Advocate [OPUC]
7. One CC to Sri N. Harinath, Asst Solicitor General, High Court of A.P at Amaravati [OPUC]
8. One CC to Sri V.R. Reddy Kovvuri, Advocate (OPUC) —
9. One CC to Sri N. Ashwani Kumar, Standing Counsel (OPUC) ✓
10. One CC to Sri Avinash Desai, Standing Counsel (OPUC) ✓
11. Two CC to GP for Panchayat Raj, High Court, High Court of A.P, High Court of A.P Amaravati (OUT) ✓
12. One spare copy ✓

TVR

HIGH COURT

HCJ & CPKJ

DATED:05/02/2021

ORDER

WP(PIL).No.31 of 2021

DIRECTION

