

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE**

**AND**

**THE HON'BLE SRI JUSTICE N.V.SHRAVAN KUMAR**

**WRIT PETITION No.31240 of 2023**

**ORDER:** *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. L.Ravi Chander, learned Senior Counsel representing Mr. Y.Rama Rao, learned counsel for the petitioner.

Mr. Avinash Desai, learned Senior Counsel representing Mr. Mohammed Omer Farooq, learned Standing Counsel for the Election Commission of India.

2. The petitioner is a resident of Dindichinthapally Village, which is within the State Assembly Constituency of Achampet. The petitioner went through the electoral rolls of Achampet Assembly Constituency and found that the name of respondent No.5 is included in the electoral roll of 12-Nagarkurnool (Parliamentary Constituency) and 82-Achampet (Assembly Constituency in Telangana).

3. The petitioner thereupon submitted an application on 27.10.2023 and representations dated 31.10.2023 and 01.11.2023 before the official respondents in which a prayer was made to delete the name of respondent No.5 from the electoral rolls. However, the application submitted by the petitioner was rejected by the District Election Officer on 01.11.2023 on the ground that after the announcement of the schedule of elections, no deletion in the electoral rolls can be made. The petitioner thereupon filed this writ petition in which he has prayed for quashment of the order dated 01.11.2023 and has sought a direction to delete the name of respondent No.5 from the electoral rolls of 12-Nagarkurnool (Parliamentary Constituency) and 82-Achampet (Assembly Constituency in Telangana).

4. Learned Senior Counsel for the petitioner submitted that the first electoral roll of the 82-Achampet (Assembly Constituency in Telangana) was published on 05.01.2023 and thereafter the same was revised on 21.08.2023 and 04.10.2023. It is submitted that the impugned order

passed by the District Election Officer dated 01.11.2023 has been passed in violation of clause 13.7.1 of the Manual on Electoral Rolls. It is submitted that the District Election Officer was under an obligation to make a reference to the Election Commission. Therefore, the decision making process is vitiated.

5. On the other hand, learned Senior Counsel for the Election Commission of India submits that as per the Manual which was issued in the month of March, 2023, and as per the clarifications issued on 11.08.2023, no application for deletion of a name from the electoral roll can be entertained after announcement of the election schedule. Therefore, it is submitted that the order passed by the District Election Officer is in consonance with the law and the elections for the State Legislative Assembly have already been announced on 09.10.2023 and therefore no interference in exercise of powers under Article 226 of the Constitution of India is called for at this stage.

6. We have considered the rival submissions made on both sides and have perused the record.

7. The Manual on Electoral Rolls was issued by the Election Commission of India. Chapter 11 of the said Manual deals with the process of revision of electoral rolls. Chapter 13 of the aforesaid Manual contains certain important aspects relating to preparation and revision of electoral rolls. The relevant paragraph, namely paragraph 13.7.1, is extracted below for the facility of reference:

The Election Commission has directed that no deletion or modification of entries in the electoral rolls shall be done by the Electoral Registration Officer either suo moto or on the basis of forms received after the announcement of elections. If it becomes necessary to delete or modify certain entries after the announcement of elections, the Electoral Registration Officer shall make a reference to the Election Commission through the District Election Officer and Chief Electoral Officer and the Election Commission shall take an appropriate decision in the matter.

8. Thereafter, the Election Commission of India has issued a clarification on 11.08.2023. The relevant extract of the aforesaid clarification reads as under:

4. It is obvious from the above that though as per laws, ERO has statutory power to delete an entry from

electoral roll on his own motion, subject to such general or special direction, if any given by the Election Commission in this behalf. The Commission, taking all aspects into consideration, including with a view to obviate possibility of a wrongful deletion during election year, has directed that EROs shall not resort to a deletion without a Form 7 and without following due process of verification. Accordingly, the Commission, hereby issues the following directions on deletion of entries in electoral roll:-

5. Broadly, there are following three grounds for deletion of entries from electoral roll:

**(i) Multiple Entries (ME)** - These multiple Photo Similar Entries (PSE)/ Demographic Similar Entries (DSEs) are generated by the system or reported by individual /BLOs/political parties, in which the elector's particulars i.e. name, relation's name, relation type, age, gender and address, etc. are same or one or two entries are different.

**(ii) Shifted Electors:** (a) Cases where an elector applies for shifting of Residence/change of Address through Form-8, for addition at the new place by new ERO and simultaneous deletion of names from the previous place of registration by the previous ERO or (b) intimation of elector not residing at the given address may come from any source including through Form-7.

**(iii) Dead electors:** (a) On the basis of Death certificate from competent authority or List of deceased electors

collected from database of Registrar of Birth and Death, identity of deceased is established or (b) An application in Form-7 is received from field.

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#### **7. Deletion in an election year**

(i) As per Section 23 (3) of the RP Act, 1950 no amendment, addition or deletion shall, be made in the electoral roll of a constituency, after the last date for making nominations for an election in that constituency and before the completion of that election. It is clear from the above, that addition, deletion and modification in roll is allowed up to the last date of making nominations. However, in the light of Rules 18 and 26 of RER, 1960, where a provision is made for mandatory seven days notice period before disposal of any claims and objections, updation of only those forms can be done in electoral roll which have been received at least 10 days (seven days notice period + three days for preparation of the list of addition/deletion/modification) before the last date of filing nominations.

(ii) Further, the Commission, taking in view the practical difficulties for printing of an electoral roll updated on the basis of the supplements to be generated on the last date of making nomination by the EROs for conduct of election due to short time available with them for the purpose, has decided that no corrections of entries and deletion of names shall be done after 10<sup>th</sup> day of announcement of election programme, to enable EROs to print updated electoral roll up to that date.

However, addition in electoral roll (through Form-6 in case of new registration or through Form-8 in case of shifting shall remain continue till the last date of making nominations, as there is no change in the mother roll due to such additions.

(iii) Accordingly, all Form-7, and all Form-8 for the purposes other than shifting of residence (within constituency/outside constituency), received after the date of announcement of election programme by the Election Commission shall be kept pending and will be taken up for disposal by EROs only after completion of election process in that constituency. As explained in the preceding paragraph, all Form-6 and Form-8 seeking shifting of address (within constituency/outside constituency) received 10 days before the last date of filing nominations in that constituency shall be disposed off after due process and names of eligible persons shall be added after the last entry of the part roll in chronological order on the last date of making nominations when the roll is frozen. The additions list containing all names entered into the ER database during the continuous updation period shall be appended to electoral roll already printed, for preparation of an electoral roll for elections.

(iv) It is further clarified that Form-8 in which change of address on the ground of shifting has been sought, shall be processed for addition at shifted place, however, no simultaneous action for deletion of such name at the old address shall be done by the respective ERO, instead, the name of such elector shall be put in ASD list.

Specific instructions shall be given to the concerned polling team to check identity of such elector on the basis of his latest residence proof, if the person visits the polling station at the time of election. The process of simultaneous deletion of the names of electors who are listed in ASD list (due to their shifting and enrolment at new place) shall be started by the respective ERO of old place immediately after completion of election, after following the procedure already explained.

9. Thus, it is evident that the order dated 01.11.2023 passed by the District Election Officer is in consonance with the clarification dated 11.08.2023.

10. Admittedly, the elections to the State Assembly have already been announced on 09.10.2023 and the process of election has already commenced. The election schedule reads as under:

- a. The 10<sup>th</sup> November, 2023 (Friday), as the last date for making nominations;
- b. The 13<sup>th</sup> November, 2023 (Monday), as the last date for the scrutiny of nominations;
- c. The 15<sup>th</sup> November, 2023 (Wednesday), as the last date for the withdrawal of candidatures;
- d. The 30<sup>th</sup> November, 2023 (Thursday), as the date on which a poll shall, if necessary, be taken;



- e. The 5<sup>th</sup> December, 2023 (Tuesday), as the last date before which the election shall be completed.

11. The jurisdiction of this Court to interfere with the process of election once the same has commenced is well defined by a catena of decision. It is trite law that only when an action of the Returning Officer results in stalling or stoppage of elections, this Court under Article 226 of the Constitution of India can interfere (See **Manda Jagannath v. K.S.Rathnam**<sup>1</sup>). Even otherwise, in case the respondent No.5 is elected, her election can be challenged on the ground of improper acceptance of nomination paper in an Election Petition under Sections 82 and 83 read with Section 100 of the Representation of the People Act, 1951.

12. For the aforementioned reasons, we do not find any merit in this writ petition.

13. The writ petition is accordingly dismissed.

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<sup>1</sup> (2004) 7 SCC 492

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

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**ALOK ARADHE, CJ**

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**N.V.SHRAVAN KUMAR, J**

15.11.2023  
vs