

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

WRIT PETITION NO. 8719 OF 2024

ORDER:

This Writ Petition is filed with the following prayer:

“to issue a writ order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent No.2 in issuing the unnumbered Notice dated 30.03.2024 as illegal, arbitrary and in violation of principles of natural justice and in violation of Articles 14, 16, 19 and 21 of Constitution of India and set aside the same and consequently direct the respondent No.2 to receive all the details and their illegalities done by the 5th respondent and his moveable and immoveable properties details and not to disturb the petitioner from discharging her duties.”

2. Heard learned Counsel for the petitioner, learned Government Pleader for Municipal Administration and Urban Development, learned Government Pleader for Revenue, learned Standing Counsel appearing for 4th respondent and with the consent of the Counsel appearing for the parties, the Writ Petition is taken up for hearing and disposal at admission stage.

3. Having regard to the manner of disposal of the Writ Petition at the admission stage, and the *lis* involved in this Writ Petition,

this Court is of the view that notice to unofficial respondent is not necessary for adjudication of the present Writ Petition.

4. The case of the petitioner, in brief, is that initially she has been elected as ward member of the 4th respondent Municipality and thereafter was elected as the Chairperson of the said Municipality and is continuing to function as such.

5. It is the further case of the petitioner that the 2nd respondent being fully aware of the election notification issued for the Parliament elections, had issued the impugned notice dated 30.03.2024 without even mentioning any ROC number which itself proves the unethical practice adopted by the 2nd respondent. On the basis of the above, the petitioner had sought for suspension of the impugned notice dated 30.03.2024.

6. Petitioner by referring to the impugned notice contends that though the same pertains to the Adibatla Municipality, the same has been issued under the signature of the 3rd respondent who is unconnected with the affairs of the said Municipality; and that no reason is specified for the issuance of such notice.

7. *Per contra*, learned Government Pleader appearing on behalf of the respondent Nos.1 to 3 submits that firstly, the claim of the petitioner continuing to hold the office of Chairperson of the Adibatla Municipality is wrong, as the petitioner was removed from the office of Chairperson in a No-confidence motion moved on 09.02.2024 and the Government having issued the G.O. Ms. No.55 M.A. & U.D department, dt. 23.03.2024, notifying the motion of No-confidence against the petitioner having been moved successfully on account of which a casual vacancy to the office of Chairperson of the Adibatla Municipality having arisen, the petitioner cannot continue to claim as the Chairperson of the Municipality; that secondly, the petitioner having unsuccessfully challenged the motion of No-confidence moved against her, and fully being aware of her not holding the position of Chairperson of the Municipality continuing to claim as Chairperson both in the cause title of the Writ Petition as well as in the affidavit filed in support of the petitioner only goes to show that the petitioner has approached this Court by suppressing the true and correct facts.

8. Learned Government Pleader further contends that consequent to the casual vacancy arising in the office of the Chairperson of the Municipality on account of No-confidence motion being moved against the petitioner and the said vacancy being notified on 23.03.2024, the Telangana State Election Commission had issued notification *vide* proceedings No.484/TSEC – ULBs/2024 dated 27.03.2024 to conduct of election to the casual vacancies in the offices of Chairperson and Vice-Chairperson, Adibatla Municipality as per the schedule appended to the notification in the form of annexure.

9. Learned Government Pleader further contends that as per the election schedule issued by the State Election Commissioner, the election to fill up the casual vacancy in the office of Chairperson and Vice-Chairperson of the subject Municipality is to be undertaken on 06.04.2024 at 11:00 a.m. or on the following day if for any reason the election could not be held on the said date.

10. Learned Government Pleader further submits that the State Election Commission by the schedule appended to the notification also specified that the notice calling for special meeting to be

convened for conduct of election to the above-mentioned casual vacancies in Form-III is to be given on or before 04.04.2024.

11. Learned Government Pleader submits the State Election Commissioner while issuing the notification dated 27.03.2024 along with the election schedule in the annexure appended to the said notification also mentioned therein that the notice is to be given by the Gazetted Officer authorised by the District Collector, Ranga Reddy District calling for a special meeting to be convened for the aforesaid purpose; and that the impugned notice has been issued by the 3rd respondent who has been authorised by the 2nd respondent to convene special meeting for election of the Chairperson and Vice-Chairperson of the subject Municipality.

12. Learned Government Pleader further contends that the action of the 3rd respondent in issuing the impugned notice is in accordance with the Rule 4 of the Telangana Municipalities (Conduct of Election of Chairperson and Vice-Chairperson of Municipal Council and Mayor and Deputy Mayor of Municipal Corporation) Rules, 2020 (for short 'Rules) as notified *vide* G.O.Ms. No.18, MA & UD (MA) Department, dated 16.02.2020.

13. The learned Government Pleader contends that the Writ Petition as filed is without proper appreciation of the relevant provisions of the Act and the Rules, apart from making wild allegations without any basis, resorting to suppression and is thus, liable to be dismissed *in limini*.

14. I have taken note of the respective contentions urged.

15. Before proceeding to consider the case of the petitioner, this Court feels it necessary to put on record the conduct of the Counsel appearing for the petitioner in trying to address this Court in a high pitched voice and also in an intimidating manner on 04.04.2024 while seeking to mention the matter for being taken up after the same has been directed to be listed before this Court by a coordinate bench on 03.04.2024 noting that the relief sought for in the writ petition relates to conduct of election of Chairperson to a Municipality and the said subject being assigned to this Court as per the roster.

16. The conduct of the Counsels addressing the Court in a high decibel, of late has become a regular practice in order to deter the Court from either taking up or not taking up their cases. It is to be

noted that the said conduct on the part of the Counsel which obstructs administration of justice amounts to Misconduct under Section 35 the Advocates Act having a wider import (*See: N.G. Dastane v. Shrikant Shivde*)¹. Counsels who adopt such practices are jeopardizing the harmony with the bench along with their professional careers, by ignoring the fact that they are not only required to conduct the case in a fair manner, but while doing so they are also officers of the Court (*See: P.D. Gupta v. Ram Murti*)². Though this Court is not deterred by such a kind of practices or tactics adopted by the Counsel, it feels necessary to place the same on record, so that it would act as a cautionary tale to the Counsels appearing before the Court.

17. Turning to the facts of the case, at the outset, it is to be noted that the petitioner had approached this Court on earlier occasions twice by filing Writ Petitions *vide* W.P. No.2922 of 2024 and W.P. No.7852 of 2024. The 1st of the above two Writ Petitions was filed questioning the Form – II issued for consideration of No-confidence motion against the petitioner on 09.02.2024. The said

¹ (2001) 6 SCC 135

² (1997) 7 SCC 147

Writ Petition was withdrawn on 08.02.2024. The petitioner thereafter suppressing the filing of the 1st of the above Writ Petition had filed the 2nd Writ Petition seeking the same relief as sought for in the 1st Writ Petition. On this Court pointing out to the Counsel for the petitioner about the petitioner approaching this Court on earlier occasion and withdrawing the Writ Petition, the Counsel appearing for the petitioner in the said writ petition while apologizing to the Court had left it to the Court for passing appropriate orders. Thus, this Court had dismissed the 2nd Writ Petition on the ground of the petitioner approaching this Court by resorting to suppression.

18. Though the relief sought for in the present Writ Petition is with regard to the issuance of notice dated 30.03.2024, it is to be noted that the petitioner in the entire affidavit filed in support of the Writ Petition did not mention about the motion of No-confidence moved against her on 09.02.2024 having been carried out as a result of which the petitioner ceased to be the Chairperson of the subject Municipality and the motion of No-confidence carried out being notified by the Government under G.O.Ms. No.55, MA and

UD (MA) Department, dated 23.03.2024. On account of the motion of No-confidence against the petitioner having been carried out, a casual vacancy had arisen in the office of Chairperson of the subject Municipality which is required to be filled up by the State Election Commission by issuing a notification.

19. It may not be out of place to place on record that one of the members of the subject Municipality who's name is mentioned by the petitioner in para-2 of the writ affidavit, had approached this Court by filing a Writ Petition *vide* W.P. No.5604 of 2024 questioning the inaction of the State Government in notifying the casual vacancy which had arisen on account of No-confidence motion against the petitioner being carried out and the State Election Commission not taking steps to fill up the casual vacancy by issuing a notification for convening a special meeting to conduct of election for electing the Chairperson.

20. This Court by order dated 26.03.2024 taking note of the submission made by the Government Pleader that the No-confidence motion against the petitioner carried out on 09.02.2024 having been notified *vide* G.O.Ms. No.55 dated 23.03.2024,

disposed of the Writ Petition by observing that the State Election Commission is required to take steps to fill up casual vacancy that had arisen on account of the No-confidence motion moved and the petitioner ceasing to hold the office of Chairperson of the subject Municipality.

21. It is after this Court disposing of the Writ Petition *vide* W.P. No.5604 of 2024, the Telangana State Election Commission had issued the notification dated 27.03.2024 (*i.e.*, following day) whereby the 2nd respondent authority was directed to take steps for conducting election to the casual vacancy in the offices of Chairperson and Vice-Chairperson of the subject Municipality by issuing the schedule for conduct of such election on 06.04.2024 at 11:00 a.m. or on the following day if for any reason election is not held on the said date fixed.

22. Though the petitioner in the present Writ Petition had challenged the notice dated 30.03.2024 issued to her by the 2nd respondent as a ward member to attend the special meeting scheduled on 06.04.2024, it is to be noted that the said challenge is based on irrelevant, unconnected and unsubstantiated allegations

which have no bearing to the issue involved, so as to cause prejudice in the mind of the court against the respondents. It is also curious to note that the petitioner who herself was Chairperson of the subject Municipality for over three (3) years and claims to have discharged her duties under the Municipalities Act, is unaware of the procedure that is to be followed for electing a Chairperson as well as moving of No-confidence motion against the Chairperson, even though the petitioner had faced both the actions firstly, when she was elected as Chairperson in the year 2020 and thereafter facing No-confidence motion in the year 2024. On the other hand petitioner seeks to gain sympathy of the court by pleading that she is a woman and belonging to Backward class, which factor does not have any bearing to the election of the Chairperson of the Municipality, which position the petitioner herself had enjoyed for over three (3) years. The said conduct of the petitioner only goes to show that the petitioner believes in adopting the approach of approbate and reprobate to suit her convenience and suffers from selective amnesia.

23. However, a perusal of the Notification issued by the Telangana State Election Commission on 27.03.2024 as placed before this court by the learned Special Government Pleader, indicates that it is the State Election Commission, which had directed the 2nd respondent to conduct election to fill up the casual vacancy in the offices of the Chairperson and Vice-Chairperson, Adibatla Municipality by convening a special meeting as per the Election Programme appended to the Notification in the form of Annexure on 06.04.2024 at 11.00 AM. The State Election Commission by the aforesaid Notification issued, had directed that the Notice of the Special Meeting is to be given by the Gazetted Officer specifically authorized by the District Collector, and in the Election Programme it has been specified that the Gazetted officer authorized by the District Collector is required to issue the notice of special meeting. It is based on the said direction both in the Notification and the Election Programme issued by the State Election Commission, the 3rd respondent who admittedly is a gazetted officer and authorized by the 2nd respondent had issued the impugned notice dt. 30.03.2024.

24. Further, Rule 4 of the Rules notified under G.O.Ms. No. 18 also provides for the Gazetted Officer authorized by the District collector to call for special meeting of the members of the Municipality. Thus, the action of the 3rd respondent in issuing the impugned notice dated 30.03.2024 does not suffer from any infirmity for it to be called in question as the is in accordance with the Notification and the Rules.

25. That apart, though the petitioner had mainly contended that on account of issuance of notification for conduct of Parliamentary election, the 3rd respondent could not have issued the impugned notice to hold the special meeting for election of Chairperson, no provision of law nor any circular whereby a bar is imposed for proceeding with the aforesaid election process is shown to this Court. Thus, it appears that the petitioner under the guise of challenging the notice dated 30.03.2024 is indirectly laying a challenge to the election process notified, *vide* notification dated 27.03.2024. At this juncture it is trite to reiterate that once a notification is issued setting in motion the election process, the

same should not ordinarily be interfered with. (See: *Shaji K. Joseph v. V. Viswanath*³.)

26. Further, since the petitioner had only claimed that the impugned notice as having been issued by the 3rd respondent in Form-III dated 30.03.2024 is at the behest of the 5th respondent, which claim of the petitioner as noted above is unfounded and also as it is not shown to this Court of the petitioner approaching either the 2nd or the 3rd respondent seeking for information with regard to the basis for fixing of date for holding a special meeting of the members of the Municipality or with regard to the authorization issued in favour of the 3rd respondent, and also having regard to the fact that the said notice has been issued pursuant to the notification dated 27.03.2024 issued by the Telangana State Election Commission to hold the special meeting of the subject Municipality for filling up of the casual vacancy of the Chairperson and Vice-Chairperson of the subject Municipality on 06.04.2024, at 11:00 a.m., this Court is of the view that the Writ Petition as filed

³ (2016) 4 SCC 429

by the petitioner is without any basis, frivolous and misconceived and is liable to be dismissed.

27. A three Judge Bench of the Hon'ble Supreme Court in the case of *Dnyandeo Sabaji Naik and Another v. Pradnya Prakash Khadekar and Others*⁴, dealing with imposition of exemplary costs had held –

“13. This Court must view with disfavour any attempt by a litigant to abuse the process. The sanctity of the judicial process will be seriously eroded if such attempts are not dealt with firmly. A litigant who takes liberties with the truth or with the procedures of the Court should be left in no doubt about the consequences to follow. Others should not venture along the same path in the hope or on a misplaced expectation of judicial leniency. Exemplary costs are inevitable, and even necessary, in order to ensure that in litigation, as in the law which is practised in our country, there is no premium on the truth.”

28. The Apex Court further held –

“14. Courts across the legal system—this Court not being an exception—are choked with litigation. Frivolous and groundless filings constitute a serious menace to the administration of justice. They consume time and clog the infrastructure. Productive resources which should be deployed in the handling of genuine causes are dissipated in attending to cases filed only to benefit from delay, by prolonging dead issues and pursuing worthless causes. No litigant can have a vested interest in delay. Unfortunately, as the present case exemplifies, the process of dispensing justice is misused by the unscrupulous to the detriment of the legitimate. The present case is an illustration of how a simple issue has occupied

⁴ (2017) 5 SCC 496

*the time of the courts and of how successive applications have been filed to prolong the inevitable. **The person in whose favour the balance of justice lies has in the process been left in the lurch by repeated attempts to revive a stale issue. This tendency can be curbed only if courts across the system adopt an institutional approach which penalises such behaviour. Liberal access to justice does not mean access to chaos and indiscipline. A strong message must be conveyed that courts of justice will not be allowed to be disrupted by litigative strategies designed to profit from the delays of the law. Unless remedial action is taken by all courts here and now our society will breed a legal culture based on evasion instead of abidance. It is the duty of every court to firmly deal with such situations. The imposition of exemplary costs is a necessary instrument which has to be deployed to weed out, as well as to prevent the filing of frivolous cases. It is only then that the courts can set apart time to resolve genuine causes and answer the concerns of those who are in need of justice. Imposition of real time costs is also necessary to ensure that access to courts is available to citizens with genuine grievances. Otherwise, the doors would be shut to legitimate causes simply by the weight of undeserving cases which flood the system. Such a situation cannot be allowed to come to pass. Hence it is not merely a matter of discretion but a duty and obligation cast upon all courts to ensure that the legal system is not exploited by those who use the forms of the law to defeat or delay justice. We commend all courts to deal with frivolous filings in the same manner.***

29. If this court were to keep the above dicta laid down by the Apex Court in mind, and apply the same to the facts of the case as detailed above, the petitioner is in the habit of taking liberties in approaching the Court by filing Writ Petitions without any basis, not disclosing all the relevant facts, making uncorroborated allegations and also resorting to suppression, wasting judicial time, warranting imposition of exemplary costs.

30. Accordingly, the Writ Petition is dismissed with exemplary cost of Rs.1,00,000/- (Rupees one lakh only) to be paid to the Telangana High Court Legal Services Committee within a period of four weeks from the date of receipt of copy of the order.

Consequently, miscellaneous petitions, if any, pending in these writ petitions shall stand closed.

T. VINOD KUMAR, J

Date: 10.04.2024.

Note: Registry is directed to mark a copy of this order to the State Bar Council, so that the Bar Council take steps to inculcate discipline in the Advocates while at the time of enrollment as well as at the time periodical renewal of the certificate of practice.

B/o
MRKR/VSV