

**HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)**

THURSDAY, THE FIFTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J.SREENIVAS RAO**

WRIT PETITION NOS: 22842 and 22991 OF 2024

WRIT PETITION NO: 22842 OF 2024

Between:

Sandhaiahgari Radhika Reddy, W/o. Surendhar Reddy, Aged about 48 Years,
Occ. Housewife, R/o H.No. 1-74, Gopanpally Village, Devarkadra Mandal,
Mahabubnagar District, Telangana

...PETITIONER

AND

1. The State of Telangana, Rep. by its Chief Secretary, Secretariat, Hyderabad, Telangana
2. The State of Telangana, Rep. by its Principal Secretary, Municipal Administration and Urban Development, Secretariat, Hyderabad
3. The State of Telangana, Rep. by its Principal Secretary, Panchayat Raj Department, Secretariat, Hyderabad
4. The Chief Electoral Officer, Hyderabad, Telangana
5. The Commissioner, Panchayat Raj Department, Hyderabad, Telangana
6. The Commissioner, Municipal Administration and Urban Development, Hyderabad, Telangana

...RESPONDENTS

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 a Writ, order or Direction more particularly in the nature of Writ of mandamus challenging the constitutional validity of the Section 21(3) of the Telangana Panchayath Raj Act, 2018 which discriminates between the Panchayat Raj Local body elections and Municipality local body elections by not permitting the petitioner to contest in the local body Panchayath Raj Elections of

Sarpanch, MPTC, Ward Members and ZPTC Members who are having 3rd child as like the opportunity given by the Telangana Municipalities Act, 2019, is illegal, arbitrary and violation of Articles 14, 15, 21 and 300-A of the Constitution of India and also violation of principles of natural justice and Consequently set aside the Section 21(3) of the Telangana Panchayath Raj Act, 2018 which discriminates between the Panchayat Raj Local body elections and Municipality local body elections by not permitting the petitioner to contest in the local body Panchayath Raj Elections of Sarpanch, MPTC, Ward Members and ZPTC Members who are having 3rd child as like the opportunity given by the Telangana Municipalities Act, 2019 and also direct the respondents to allow the petitioner to contest in the Panchayath Raj local body elections, in the interest of justice.

IA NO: 1 OF 2024

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 stay the validity of the Section 21(3) of the Telangana Panchayath Raj Act, 2018 which discriminates between the Panchayat Raj Local body elections and Municipality local body elections by not permitting the petitioner to contest in the local body Panchayath Raj Elections of Sarpanch, MPTC, Ward Members and ZPTC Members who are having 3rd child as like the opportunity given by the Telangana Municipalities Act, 2019 and also direct the respondents to allow the petitioner to contest in the Panchayath Raj local body elections, pending disposal of the above Writ petition.

**Counsel for the Petitioner: SRI RAPOLU ABHINAV, REP. FOR
SRI RAPOLU BHASKAR**

Counsel for the Respondent No.1: GP FOR GENERAL ADMINISTRATION

**Counsel for the Respondent No.2 & 6: M/s. T.RAJITHA,
AGP FOR MCPL ADMN URBAN DEV**

**Counsel for the Respondent No.3 & 5: M/s. SHAZIA PARVEEN,
GP FOR PANCHAYAT RAJ & RURAL DEV.**

WRIT PETITION NO: 22991 OF 2024

Between:

Mutyala Ramulu, S/o Mutyala Anjaiah, Aged about 41 Years, Occ. Agriculture, Rio H.No. 2-31, Seetharampur, Shabad Mandal, Ranga Reddy District.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Chief Secretary, Secretariat, Hyderabad, Telangana
2. The State of Telangana, Rep. by its Principal Secretary, Municipal Administration and Urban Development, Secretariat, Hyderabad
3. The State of Telangana, Rep. by its Principal Secretary, Panchayat Raj Department, Secretariat, Hyderabad
4. The Chief Electoral Officer, Hyderabad, Telangana
5. The Commissioner, Panchayat Raj Department, Hyderabad, Telangana
6. The Commissioner, Municipal Administration and Urban Development, Hyderabad, Telangana

...RESPONDENTS

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 a Writ, order or Direction more particularly in the nature of Writ of mandamus challenging the constitutional validity of the Section 21(3) of the Telangana Panchayath Raj Act, 2018 which discriminates between the Panchayat Raj Local body elections and Municipality local body elections by not permitting the petitioner to contest in the local body Panchayath Raj Elections of Sarpanch, MPTC, Ward Members and ZPTC Members who are having 3rd child as like the opportunity given by the Telangana Municipalities Act, 2019, is illegal, arbitrary and violation of Articles 14, 15, 21 and 300-A of the Constitution of India and also violation of principles of natural justice and Consequently set aside the Section 21(3) of the Telangana Panchayath Raj Act, 2018 which discriminates between the Panchayat Raj Local body elections and Municipality local body elections by not permitting the petitioner to contest in the local body Panchayath Raj Elections of Sarpanch, MPTC, Ward Members and ZPTC Members who are having 3rd child as like the opportunity given by the Telangana Municipalities Act, 2019 and also direct the respondents to allow the petitioner to contest in the Panchayath Raj local body elections, in the interest of justice.

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**Counsel for the Petitioner: SRI RAPOLU ABHINAV, REP. FOR
SRI RAPOLU BHASKAR**

Counsel for the Respondent No.1: GP FOR GENERAL ADMINISTRATION

**Counsel for the Respondent No.2 & 6: M/s. T.RAJITHA,
AGP FOR MCPL ADMN URBAN DEV**

**Counsel for the Respondent No.3 & 5: M/s. SHAZIA PARVEEN,
GP FOR PANCHAYAT RAJ & RURAL DEV.**

The Court made the following: COMMON ORDER

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

WRIT PETITION Nos.22842 and 22991 of 2024

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

Mr. Rapolu Abhinav, learned counsel representing
Mr. Rapolu Bhaskar, learned counsel for the petitioners.

Ms. Shazia Parveen, learned Government Pleader for
Panchayat Raj and Rural Development Department for
respondent Nos.3 and 5.

Ms. T.Rajitha, learned Assistant Government Pleader
for Municipal Administration and Urban Development
Department for respondent Nos.2 and 6.

2. In these petitions under Article 226 of the
Constitution of India, the petitioners have assailed the
validity of Section 21(3) of the Telangana Panchayat Raj
Act, 2018 (briefly 'the Act' hereinafter) *inter alia* on the
ground that the same is unconstitutional and is violative of
Articles 14, 15, 21 and 300-A of the Constitution of India.

3. Learned counsel for the petitioners submits that Section 21(3) of the Act is discriminatory inasmuch as there is no corresponding provision in the Telangana Municipalities Act, 2019 and therefore, the same is violative of Article 14 of the Constitution of India.

4. We have considered the submissions made by learned counsel for the petitioners and have perused the record.

5. Section 21 of the Act provides for disqualification of candidates. Section 21 is extracted below for the facility of reference:

"21. Disqualification of candidates:-

(1) A person who has been convicted by a Criminal Court,-

(a) for an offence under the Protection of Civil Rights Act, 1955; or (Central Act 22 of 1955.)

(b) for an offence involving moral delinquency shall be disqualified for election as a Member for a period of five years from the date of conviction or where he is sentenced to imprisonment while undergoing sentence and after a period of five years from the date of expiration thereof.

(2) A person shall be disqualified for being chosen as a member if on the date fixed for scrutiny of nomination for election, or on the date of nomination under sub-section (2) of section 18 he is,-

- (a) of unsound mind and stands so declared by a competent Court;
- (b) an applicant to be adjudicated an insolvent or an un-discharged insolvent;
- (c) interested in a subsisting contract made with, or any work being done for, the Gram Panchayat, Mandal Praja Parishad, Zilla Praja Parishad or any State or Central Government:

Provided that a person shall not be deemed to have any interest in such contract or work by reason only of his having a share or interest in,—

- (i) a company as a mere share-holder but not as a Director;
- (ii) any lease, sale or purchase of immovable property or any agreement for the same; or
- (iii) any agreement for the loan of money or any security for the payment of money only; or
- (iv) any newspaper in which any advertisement relating to the affairs of the Gram Panchayat is inserted.

Explanation:- For the removal of doubts it is hereby declared that where a contract is fully performed it shall not be deemed to be subsisting merely on the ground that the Gram Panchayat, Mandal Praja Parishad, Zilla Praja Parishad, the State or Central Government has not performed its part of the contractual obligations;

- (d) already a member of a Nagar Panchayat or a Municipality constituted under the Telangana Municipalities Act, 1965, or a member of a Municipal Corporation constituted under any law

relating to Municipal Corporations for the time being in force in the State of Telangana (Act 6 of 1965);

(e) employed as paid legal practitioner on behalf of the Gram Panchayat or as legal practitioner against the Gram Panchayat;

(f) employed as a Manager or Secretary of any Company or Corporation (other than a co-operative society) in which not less than twenty-five per cent of the paid up share capital is held by the State Government;

(g) an Honorary Magistrate under the Code of Criminal Procedure, 1973 with jurisdiction over any part of the village;

(h) already a member of the Gram Panchayat whose term of office will not expire before his fresh election can take effect or has already been elected as a member of the Gram Panchayat whose term of office has not yet commenced; (Central Act 2 of 1974)

(i) in arrears of any dues including the sums surcharged otherwise than in a fiduciary capacity, to the Gram Panchayat up to and inclusive of the previous year, in respect of which a bill or notice has been duly served upon him and the time, if any, specified therein for payment has expired:

Provided that where any person has paid such dues into the Government treasury or into a bank approved by the Government to the credit of the Gram Panchayat fund and obtained a challan or receipt therefor in token of such payment, he shall not be disqualified to become a member of the Gram Panchayat on and from the date of such payment.

(3) A person having more than two children shall be disqualified for election or for continuing as member:

—

Explanation: A person having more than two children before thirty first May, 1995 shall not be disqualified so long as the number of children does not increase.”

6. From a perusal of Section 21(3) of the Act, it is evident that a person having more than two children can be disqualified for election or for continuing as a member of the Panchayat.

7. The aforesaid issue is no longer *res integra* as the validity of *pari materia* provision of Haryana Panchayat Raj Act, 1994 has already been upheld by the Supreme Court in **Javed and others v. State of Haryana and others**¹.

8. The plea of discrimination is available to a person, if equals are said to be treated as unequals, which is not the case here. Therefore, no fault can be found with Section 21(3) of the Act on the ground that such a provision does not exist in Telangana Municipalities Act, 2019.

¹ (2003) 8 SCC 369

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9. We expect the State Legislature to bestow their attention in this regard.

10. For the aforementioned reasons, we do not find any merit in these writ petitions.

11. The Writ Petitions fail and the same are, hereby, dismissed. No costs.

As a sequel, miscellaneous petitions, pending if any, stand closed.

//TRUE COPY//

SD/- T. TIRUMALA DEVI
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. One CC to SRI RAPOLU BHASKAR, Advocate [OPUC]
2. Two CCs to GP FOR PANCHAYAT RAJ & RURAL DEV., High Court for the State of Telangana at Hyderabad [OUT]
3. Two CCs to GP FOR GENERAL ADMINISTRATION, High Court for the State of Telangana at Hyderabad [OUT]
4. Two CCs to GP FOR MCPL ADMN URBAN DEV, High Court for the State of Telangana at Hyderabad [OUT]
5. Two CD Copies

BSR
GJP

Bij

HIGH COURT

DATED: 05/09/2024



COMMON ORDER

WP.Nos.22842 and 22991 of 2024

**DISMISSING BOTH THE WRIT PETITIONS,
WITHOUT COSTS**

(10)
12/09/24
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