

**IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH AT HYDERABAD.**

HON'BLE SRI JUSTICE V.V.S. RAO

Writ Petition No.18547 of 2005

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Dated: 31st August 2005

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Between:

Godike Vijayakumar and another ... Petitioners

And

The Revenue Divisional Officer,
Sanga Reddy –cum- The Electoral Registration
Officer of Sanga Reddy Division –cum- The
Special Officer for Zaheerabad Municipality,
Medak District and two others.

... Respondents

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Oral Order:

The petitioners are residents of Zaheerabad Mandal. The second petitioner is the wife of the first petitioner. They submitted Form No.6 to the first respondent, who is the Electoral Registration Officer for Sanga Reddy Division. The same was forwarded by the Mandal Revenue Officer, Zaheerabad

Municipality, the second respondent herein, to the District Collector, duly marking a copy to the first respondent. Therefore, the present writ petition is filed seeking a direction to respondents to delete the names of the petitioners from Jadimalkapur Village in Zaheerabad Mandal and include their names in the electoral rolls of Zaheerabad Municipality in accordance with Section 23 of the Representation of People Act, 1950 (Central Act No.43 of 1950).

The matter was initially listed before this Court on 23-8-2005. This Court while directing the learned Government Pleader for getting instructions in the matter adjourned the case. The matter came up before this Court again on 29-8-2005 and it was directed to be posted today.

I have heard the learned counsel for the petitioners and the learned Standing Counsel for the third respondent.

Section 11 of the A.P.Municipalities Act, 1965 (for short 'the Act') provides for the preparation and publication of electoral roll for a Municipality. According to the said provision, the electoral roll for a Municipality shall consist of such part of the electoral roll for the Assembly Constituency published under Act No.43 of 1950, as revised or amended under the said Act up to qualifying date, as it relates to a Municipality or any portion thereof. Proviso to sub-section (1) of

Section 11 is to the effect that any amendment, transposition, deletion or inclusion of names in the electoral roll of the Assembly Constituency made by the Electoral Registration Officer under Section 22 or 23, as the case may be, of Act 43 of 1950 up to the date of election notification shall be carried out in the electoral roll of the Municipality.

The "election notification" was not issued when the petitioner made application to the Electoral Registration Officer i.e., first respondent herein, or on the date on 7-8-2005 or when the said application was forwarded by the Mandal Revenue Officer on 8-8-2005.

Be that as it is, under Section 23 (2) of the Representation of People Act, if the Electoral Registration Officer is satisfied that the applicant is entitled to be registered in the electoral roll, he may do so directing to include the name of the applicant, duly informing the other Electoral Registration Officer to strike of the name from the roll in which the applicant's name was included. Therefore,

reading Section 23 of Act 43 of 1950 and Proviso to Section 11 (1) of the Municipalities Act, it is competent to Electoral Registration Officer under Section 23 to amend, transpose or delete or include the names of the persons in the electoral roll up to the date of “election notification”.

In this case, though the petitioners made application well in advance, the first respondent did not initiate any action. Therefore, the first respondent should forthwith take action in accordance with

Section 23 (2) of the Representation of People Act, 1950 and pass appropriate orders for inclusion of the petitioners in the electoral roll of Zaheerabad Municipality, duly deleting their names from the electoral roll of Jadimalkapur Village, Zaheerabad Mandal in accordance with the Proviso to sub-section (1) of Section 11 of the A.P. Municipalities Act.

The writ petition with the above observations is accordingly disposed of at the admission stage.

(V.V. S. Rao, J)

Note:

Office to issue operative portion
of the order by wire at party's cost.

(By order)

svs