

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY**

**WRIT PETITION No.13294 of 2010**

**Date: 30.11.2010**

Between:

Madavaram Venkateshwara Rao, Karimnagar

**..... PETITIONER**

AND

Polu Venkata Raja Kumar and others

**.....RESPONDENTS**

**Counsel for the Petitioner: Sri M.JAGANNADHA SHARMA**

**Counsel for the Respondent No.1: SRI K.GOVINDA REDDY for**

**SRI K.VENU MADHAV**

**Counsel for the Respondent Nos.2 to 11: N.A.**

**The Court made the following :**

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**ORDER:**

This writ petition is filed for a certiorari to quash order dated 09.04.2010 in O.P.No.58 of 2006 on the file of the Election Tribunal-cum-Senior Civil Judge, Karimnagar.

Heard Sri M.Jagannadha Sharma, learned counsel for the petitioner and Sri K.Govinda Reddy, learned counsel representing Sri K.Venumadhav for respondent No.1.

The petitioner was elected as a member of Mandal Parishad Territorial Constituency of Devanpally Village, Manakondur Mandal, Karimnagar District. Respondent No.1 has filed O.P.No.58 of 2006 calling in question the validity of the petitioner's election on the ground that he incurred disqualification under Section

18 (1) of the Andhra Pradesh Panchayat Raj Act, 1994 (for short 'the 1994 Act'). After full trial, the Election Tribunal allowed the O.P by its judgment dated 09.04.2010 holding that the petitioner incurred disqualification for being elected and continuing as member of the Territorial Constituency.

At the hearing, Sri M.Jagannadha Sharma, learned counsel for the petitioner submitted that under Section 18(1) r/w Section 156(2) of the 1994 Act, to be disqualified, a person must be either President or Vice-President of the body and that as the petitioner was merely a member of the Water Users Association, he did not incur any disqualification. In order to deal with this contention, it is necessary to reproduce Section 18(1) and Section 156(2) of the 1994 Act.

**“Section 18(1)**

No village servant and no officer or servant of the Government of India or any State Government or of local authority or an employee of any institution receiving aid from the funds of the Government and no office bearer of any body constituted under a law made by the Legislature of the State or of Parliament shall be qualified for being chosen as or for being a member of a Gram Panchayat.

**Section 156 (2) :**

The provisions of Sections 18, 19, 20, 21 and 22 shall apply to a member of the Mandal Parishad as they apply to a member of the Gram Panchayat subject to the variations that for the expressions, “Gram Panchayat”, “executive

authority”, “Sarpanch”, “Upa-Sarpanch” and “District Panchayat Officer”, the expressions “Mandal Parishad”, “Mandal Parishad Development Officer”, “President”, “Vice-President” and “Chief Executive Officer”, shall respectively be substituted.”

From the above noted provisions, it is clear that one of the categories of persons disqualified for being chosen or being member is an office bearer of any body constituted under a law made by the legislature of the State or of parliament. It is not in dispute that the Water Users Association in question of which the petitioner was a member was constituted under the provisions of the Andhra Pradesh Farmers’ Management of Irrigation Systems Act, 1997 (for short ‘1997 Act’).

The only issue that has been raised by the learned counsel for the petitioner, as noted above, is that being a member the petitioner cannot be termed as an office bearer. In my opinion this contention is not worthy of acceptance because under the 1997 Act each member of the association needs to be elected and accordingly he holds office of elective member, as such, every member so elected is an office bearer of the association.

On a careful consideration of the reasoning of the Election Tribunal, I am of the opinion that it has rightly held that the petitioner was the office bearer of the Water Users Association constituted under the 1997 Act and accordingly he rendered himself ineligible to contest and to be elected as Mandal Parishad Territorial Constituency member by the legislative mandate contained in Section 18(1) r/w Section 156(2) of the 1994 Act.

For the above mentioned, I do not find any merit in the writ petition and the same is accordingly dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P.No.16768 of 2010 filed by the petitioner for interim relief is disposed of infructuous.

**C.V.NAGARJUNA REDDY, J**

Date: 30.11.2010

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