

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Writ Petition No.12932 of 2017

Order: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

The allegation in this writ petition is that the 3rd respondent had falsely declared his educational qualifications at the time of submitting his nomination form for contesting the State Assembly Elections held in the years 2009 and 2014. It is the petitioner's case that he is a voter in the Constituency for which the 3rd respondent had contested the election; in the affidavit filed in support of the nomination form, for the elections held for the State Legislative Assembly in 2009 and 2014, the 3rd respondent had declared his educational qualifications as BBA (USA) and B.B.A. (Alabama University); in the affidavit filed in support of the nomination form for the Legislative Council Elections held in the year 2017, he had stated that his educational qualification was Intermediate; this shows that the earlier affidavits are false; and the Election Commission should, therefore, be directed to take action against the 3rd respondent.

Sri Avinash Desai, learned Standing Counsel for the Election Commission of India, would submit that a complaint, under Section 125-A of the Representation of the People Act, 1951 (for short 'the Act'), can be made by any person before a Magistrate; and a Division Bench of this Court, in **Dubbaka Narsimha Reddy vs. Election Commission of India & Others**¹, had, after noticing the Circular issued by the Election Commission of India dated 26.4.2014 wherein it is stated that it is open to any aggrieved party

¹ 2014 (6) ALD 569

to move a petition before the appropriate Court of competent jurisdiction under Section 125-A of the Act, refused to grant the relief to the petitioner therein, and had granted him liberty to take action in accordance with law.

In **Dubbaka Narsimha Reddy**¹, a Division Bench of this Court, after referring to Section 125-A of the Act and the Circular issued by the Election Commission of India, left it open to the petitioner therein to take steps in accordance with law.

As the Circular of the Election Commission of India makes it clear that it is open to any aggrieved party to move a petition before the appropriate Court of competent jurisdiction, for action to be taken under Section 125-A of the Act, we see no reason to entertain this writ petition. Suffice it to make it clear that this order shall not preclude the petitioner from availing his legal remedies, including filing of an application before the competent Court under Section 125-A of the Act.

The writ petition fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(Dr. SHAMEEM AKTHER, J)

28th April, 2017

Note:
 Furnish c.c. in one week
 b/o
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