APHC010570552026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3458]**
(Special Original Jurisdiction)

TWENTY EIGHTH DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

WRIT PETITION NO: 31179/2026

Between:

1. SMT. NADIGEDDA RESHMA,, D/O NADIGEDDA EMAMULU, AGED ABOUT 27 YEARS, OCCUPATION. SELF EMPLOYEE, RIO. D.NO.6/77-D, SARASWATHIPURAM, RAJAMPETA, Y.S.R. KADAPA DISTRICT.516115

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP., BY ITS PRINCIPAL SECRETARY MUNICIPAL ADMINISTRATION DEPARTMENT, SECRETARIAT BUILDINGS, VELGAPUDI, AMARAVATHI, GUNTUR DISTRICT. 522238
2. THE STATE ELECTION COMMISSION, , VIJAYAWADA, NTR DISTRICT., REP BY ITS STATE ELECTION COMMISSIONER., NEW HOD'S BUILDING, OPP. INDIRA GANDHI MUNICIPAL STADIUM, M.G ROAD, VIJAYAWADA520010
3. THE DISTRICT COLLECTORCUMELECTION OFFICER, KADAPA, Y.S.R DISTRICT.516001
4. THE RETURNING OFFICER, RAJAMPETA MUNICIPALITY, Y.S.R. KADAPA DISTRICT. 516115

5. DONTHAM GAYATRI, D/O. DONTHAM SIVA PRASAD, AGED ABOUT 24 YEARS, OCC. STUDENT, R/O. DOOR NO.6/944, NOONEVARI PAILI, RAJAMPETA, Y.S.R KADAPA DISTRICT.516115

...RESPONDENT(S):

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 toto issue an appropriate Writ, Order or direction more particularly one the nature of Writ of Mandamus declaring the action of the respondent No.4 in issuing From-II Declaration, dated 25.10.2026 straight away, declaring that the respondent No.5 is elected as Chairperson of Rajampeta Municipality, without publishing the final list of contesting candidates, that too, without disclosing the status of the nomination submitted by me or communicating any decision thereon, as arbitrary, illegal, colorable exercise of power and contrary to the instructions issued by the respondent No.2 and also well established legal principles apart from being violative of the fundamental rights guaranteed to me under Article 14 and 21 of the Constitution of India and consequently set aside From-II Declaration, dated 25.10.2026 issued by the respondent No.4

IA NO: 1 OF 2026

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 grant stay of all further proceedings inpursuance of From-II Declaration, dated 25.10.2026 issued by the respondent No.4, pending disposal of the above Writ Petition

Counsel for the Petitioner:

1. V R REDDY KOVVURI

Counsel for the Respondent(S):

1. GP FOR REVENUE
2. GP MUNCIPAL ADMN AND URBAN DEV AP

THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

WRIT PETITION NO: 31179/2026

ORDER:-

Head Sri V. R. Reddy Kovvuri, learned counsel for the petitioner and Sri Ashwini Kumar, leaned Standing Counsel for SEC appearing for respondent No.2, learned Government pleader for Municipal Administration and Urban Development appearing for respondent Nos.1 & 4 and learned Assistant Government pleader for Revenue appearing for respondent No.3.

2. Instant Writ Petition is filed challenging the action of the respondents in issuing the Form-II declaration dated 25.10.2026, declaring that respondent No. 5 is elected as Chairperson of Rajampeta Municipality, without publishing the final list of contesting candidates and without disclosing the status of the nomination submitted by the petitioner as illegal and arbitrary; consequently, it seeks to set aside the Form-II declaration dated 25.10.2026 issued by respondent No.4.

3. It is contended that pursuant to the notification issued by the State Election Commission on 14.10.2026, the petitioner had submitted his nomination papers for election to the Office of Municipal Chairperson, Rajampeta Municipality. The said applications were scrutinized on 19.10.2026. In such

scrutiny, the petitioner's authorized representative was informed that the nomination had been allegedly rejected on the ground that the petitioner did not furnish a ‘No Due Certificate’ and a certificate of Police Clearance. However, the petitioner was not informed of the reasons for rejection. The only information the petitioner received was a telephonic conversation, without any copy of the rejection order. On the date scheduled for publication of the contesting candidates, the petitioner came to understand that the 5th respondent was elected as Chairperson of Rajampeta Municipality.

4. The Learned counsel for the petitioner contends that he had made a representation to the State Election Commissioner. As the Commissioner did not respond, the petitioner filed a Writ Petition in W.P.Sr.No.45237 of 2026, which was listed on 24.10.2026 as a House motion. At the respondent's request, the matter was adjourned to 25.10.2026 to ascertain the status of the petitioner's nomination. On 25.10.2026, the learned Standing Counsel could not place any material on the status of the petitioner's nomination papers. However, the Form-II declaration was issued. Challenging the same, the instant Writ Petition is filed. It is further contended that the State Election Commission and its Officers have failed to discharge their duties in terms of the Constitutional mandate.

5. It is further contended that on 21.10.2026, the 2nd respondent issued a clarification to all Returning Officers that nomination papers shall not be

rejected on the ground of non-submission of a Police Clearance Certificate and a No Objection Certificate. In light of the said Circular, the respondent had no occasion to reject the nomination papers on the ground of non-submission of the No Objection Certificate and the Police Clearance Certificate.

6. In light of the same, learned counsel Sri V.R. Reddy Kovvuri, argues that the petitioner was not informed of the rejection. His nomination papers are deemed accepted. In such a situation, declaring the 5th respondent as the elected candidate for the post of Municipal Chairperson is not sustainable, and the same should not be given effect. It is further contended that in order to ensure free and fair elections the judicial review of the proceedings of the election authority is warranted.

7. The learned counsel for the petitioner placing reliance on the judgment of the Hon'ble Apex Court in the case of ***Election Commission of India Vs. Ashok Kumar and Others***[1]***,*** contends that the relief sought in the Writ Petition would not amount to interdicting the process of election. In fact it sub serves the progress of the election and is in furtherance of completion of the election. Thus constitutional bar would not apply to the instant case, in as much as his grievance, is that the petitioner was not informed of the status of her

[1] (2000) 8 Supreme Court Cases 216

nomination papers in Form-II and without publishing the list of contesting candidates, the declaration issued is unsustainable.

8. The learned Standing Counsel appearing for the respondents, Sri Ashwini Kumar, submits that once the election results are declared, the remedy available to the petitioner is to approach the election tribunal. The constitutional bar operates, and this Court cannot examine the correctness of the election process involved in declaring the 5th respondent as the elected candidate. In support of his contentions, he relies on the following judgments:-

I. The decision of the Hon'ble Apex Court in the case of ***N.P. Ponnuswamy Vs. Returning Officer, Namakkal Constituency and Others***[2];

II. The decision of the Hon'ble Apex Court in the case of ***Meenakshi Natarajan Vs. Election Commission of India and Another***[3];

III. The decision of the Hon'ble Apex Court in the case of ***Sandeep Singh Bora Vs. Narendra Singh Deopa and Others***[4],

[2] (1952) 1 Supreme Court Cases 94
[3] 2026 SCC Online SC 1133
[4] (2026) 5 Supreme Court Cases 747

IV. Full Bench judgment of erstwhile High Court of Andhra Pradesh in ***W.A.No.1221 of 2004 dated 26.10.2004.***

V. The decision of this Court in ***I.A.No.1 of 2021 in W.P.No.5113, 5139 and 5141 of 2021***.

9. The learned Standing Counsel further submits that the relief sought in the Writ Petition is challenging the declaration. The prayer of the petitioner is for a declaration that the respondent's action of declaring respondent No. 5 as Chairperson of the Municipality is illegal. The said prayer itself is not maintainable under Article 226 of the Constitution of India. He further contends that the moment Form-II is issued, the election is concluded, the Returning Officer has no *locus* in cases and he cannot gather information to furnish to the petitioner. The alternative remedy is by way of election petition before election Tribunal.

10. Considered the submissions.

11. Under the provisions of the Andhra Pradesh Municipalities and Nagar Panchayats (Conduct of elections to the Office of Chair persons and Ward Members in the Municipalities and Nagar Panchayats) Rules, 2026 (hereinafter referred to as ‘the Rules’). Rule 11 of ‘the Rules’ provides that on the last date fixed for receipt of nomination papers and immediately after the hour for their receipt is past, the Election Officer or the authorized person shall publish in the

municipal office a list in Form-III of all nominations to the office of chairperson/Ward Member informing that nomination papers would be taken up by the election officer for scrutiny at the municipal office.

12. The scrutiny of nominations as provided under Rule 12 of ‘the Rules’ provides for a specific procedure such as on the day appointed for the scrutiny of nominations, the candidates, the agents, and one proposer of each candidate, and one other person, duly authorized in writing by each candidate, except for assisting the Election Officer, may attend at such time and place as may be specified under Rule 11, and the Election Officer shall give such persons all reasonable facilities to examine the nomination papers of all candidates which have been received within time. The Election Officer shall then examine the nomination papers and shall decide all objections which may be made at the time to any nomination and may either on such objection or on his own motion, after such summary inquiry, reject, as he thinks necessary, any nomination on any of the grounds provided under as Rule 12 of ‘the Rules’. After scrutiny, the Commission shall publish a list of validly nominated candidates in Form-IV for the elections to the office of Chairperson and Ward Member separately.

13. Rule 13 of ‘the Rules’ provides that any candidate for the election of Chairperson or Ward member may withdraw his candidature by issuing notice in writing in Form-V signed by him and delivered personally to the Election Officer

at any time. After presentation of nomination papers before 03:00 o'clock in the afternoon, on the second day after the date fixed for scrutiny of nominations.

14. After the expiry of the time allowed for withdrawal of candidature under Rule 13 of ‘the Rules’, the Election Officer shall prepare a list in Form-VIII of persons whose nominations for election as Chairperson or Ward Member have not been rejected and who have not withdrawn their candidature, and publish the list of contesting candidates.

15. As noted from the procedure prescribed, the scrutiny of nominations, the scheme of the Rules provides for a procedure, which is in the presence of the candidates, and all persons concerned will be provided a reasonable opportunity to examine the nomination papers of all the candidates which have been received within time.

16. In light of the same, the contention of the petitioner that he was not given an opportunity and was kept in the dark is not sustainable; further, in light of the constitutional bar under Art 243ZG(b) of the Constitution of India, the relief sought by the petitioner is not maintainable.

17. At this juncture, it is apposite to refer to the judgments of the Hon’ble Apex Court and the Full Bench decision of the erstwhile High Court of Andhra

Pradesh, on which the reliance has been placed by the learned Standing Counsel appearing for the respondents Sri N. Ashwini Kumar.

I. The Hon'ble Apex Court in the case of ***N.P. Ponnuswamy Vs. Returning Officer, Namakkal Constituency and Others,*** **has** held that:

> *"20. It was argued that since the Representation of the People Act was enacted subject to the provisions of the Constitution, it cannot bar the jurisdiction of the High Court to issue writs under article 226 of the Constitution. This argument however is completely shut out by reading the Act along with Article 329(B). It will be noticed that the language used in that article and in Section 80 of the Act is almost identical, with this difference only that the article is preceded by the words "notwithstanding anything in this Constitution." I think that those words are quite apt to exclude the jurisdiction of the High Court to deal with any matter which may arise while the elections are in the progress.*
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> *25. The conclusions which I have arrived at may be summed up briefly as follows :-*
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> > *(1) Having regard to the important functions which the legislatures have to perform in democratic countries, it has always been recognized to be a matter of first importance that elections should be concluded as early as possible according to time schedule and all controversial matters and all disputes arising out of elections should be postponed till after the elections are over, so that the election proceedings may not be unduly retarded or protracted.*
> >
> > *(2) In conformity with this principle, the scheme of the election law in this country as well as in England is*

that no significance should be attached to anything which does not affect the "election": and if any irregularities are committed while it is in progress and they belong to the category or class which, under the law by which elections are governed, would have the effect of vitiating the "election" and enable the person affected to call it in question, they should be brought up before a Special Tribunal by means of an election petition and not be made the subject of a dispute before any court while the election is in progress.

* * *

29. The points which emerge from this decision may be stated as follows :-

(1) The right to vote or stand as a candidate for election is not a civil right but is a creature of statute or special law and must be subject to the limitations imposed by it.

(2) Strictly speaking, it is the sole right of the Legislature to examine and determine all matters relating to the election of its own members, and if the legislature takes it out of its own hands and vests in a special tribunal and entirely new and unknown jurisdiction, that special jurisdiction should be exercised in accordance with the law which creates it."

II. The Hon'ble Apex Court in the case of ***Meenakshi Natarajan Vs. Election Commission of India and Another***; has held that:

"12. It is vehemently put forth by Dr. Abhishek Manu Singhvi that in a case of this nature where the illegality in rejection of nomination is glaring and manifest, this Court must step in to curb the injustice, otherwise the very sanctity of the election process would be affected. However, this argument cannot be accepted in view of the law laid down in

Ponnuswami (supra). If this Court accepts such argument to find out such glaring cases, which are required to be interfered with under Articles 32 or 226 of the Constitution of India and the other set of cases in which the rejection is not so improper prima facie relegating them to avail the remedy of filing election petition, this Court would be reading some principle which is not provided for under Article 329 of the Constitution of India. We are afraid, any such interpretation, that in some cases this Court can entertain a petition wherein a candidate's nomination paper has been improperly rejected, while leaving some others to avail the remedy of filing an election petition before the election tribunal, should not be encouraged, being in direct conflict with the law laid down in Ponnuswami (supra)."

III. The Hon'ble Apex Court in the case of ***Sandeep Singh Bora Vs. Narendra Singh Deopa and Others***, has held that:

"28.1. By virtue of the express constitutional embargo contained in Article 243-O of the Constitution of India, the High Court is precluded from exercising jurisdiction under Article 226 of the Constitution where a law enacted by the State Legislature provides for the remedy of an election petition to redress grievances arising during the course of an election.

* * *

28.3. In respect of individual grievances, the ultimate and exclusive remedy lies by way of an election petition. Given the non-obstante nature of Article 243-O of the Constitution, its mandate is required to be adhered to in both letter and spirit. Where the statute provides a complete and efficacious mechanism for redressal, the extraordinary exercise of jurisdiction under Article 226 of the Constitution would

defeat the very object for which Article 243-O was enacted as a non-obstante provision."

IV. Full Bench judgment of erstwhile High Court of Andhra Pradesh in W.A.No.1221 of 2004 dated 26.10.2004, wherein it is observed as under:

"24. We are, therefore of the considered view that the Supreme Court right from Ponnuswami's case (supra) has consistently laid down the law that election covers the entire process i.e from the issue of the notification under the relevant legislation to the declaration of the result. Having regard to the important functions which the legislatures have to perform in democratic countries, it had always been recognized to be a matter of first importance that elections should be concluded as early as possible according to the time schedule and all controversial matters and all disputes arising out of elections should be postponed till the elections are over. The person interested in questioning the elections has to wait till the election is over and institute a petition in accordance with the law calling in question the election of the successful candidate. Any matter, which has the effect of vitiating an election, should be brought up only at appropriate stage in an appropriate manner before a Special Tribunal constituted for the purpose and should not be brought up at an intermediate stage before any Court. In other words, in election matters, only one remedy is available, that remedy being by an election petition to be presented after the election is over, and there is no remedy provided at any intermediate stage. High Court should not exercise its extraordinary jurisdiction under Article 226 of the constitution to entertain petitions regarding Improper rejection of nomination papers."

18. In the light of the foregoing, the Writ Petition is not maintainable, in light of the constitutional bar under Article 243ZG(b) of the Constitution of India, and the judgments of the Hon'ble Supreme Court referred *supra*.

19. The judgment of the Hon’ble Apex Court relied upon by the learned counsel for the petitioner in the case of ***Kuldeep Kumar Vs. U.T. Chandigarh and Others*** in Civil Appeal No.2874 of 2024 arises out of the proceedings in connection with the misconduct of the Presiding Officer putting his own mark on the ballot papers to create a ground for treating the ballot to have been invalidly cast. In the said context, the Hon’ble Apex Court had held that Presiding Officer had made a deliberate effort to deface eight ballots, which were cast in favour of the appellant therein. The said observations made taking note of an electoral misconduct by the Presiding Officer himself.

20. The judgment of the Patna High Court in Civil Writ Jurisdiction No.13098 of 2024, relied upon by the petitioner is also distinguishable. In as much as in the said case, State Election Commission itself was of the view that the Returning Officer has committed dereliction of duties and has misused his powers. The facts in the instant case are distinguishable.

21. The prayer sought by the petitioner is for setting aside of Form-II declaration dated 25.10.2026, where under the unofficial respondent has been

declared elected. In the said regard, in the light of the provisions of Article 243ZG(b) of the Constitution of India, and judgments of the Hon'ble Supreme Court referred *supra*, this Court is not inclined to entertain the instant Writ Petition.

22. Accordingly, the Writ Petition is dismissed. However the petitioner is at liberty to pursue its alternative remedies available under law. The observations made herein above are only for the purpose of deciding the instant Writ Petition. There shall be no order as to costs.

As a sequel, all pending miscellaneous applications shall stand closed.

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JUSTICE KIRANMAYEE MANDAVA

Dated:28-10-2026
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THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

WRIT PETITION NO: 31179 of 2026

Date:28.10.2026

MVK