

The State Of Andhra Pradesh vs The Andhra Pradesh State Election ... on 18 March, 2020

Bench: Chief Justice, B.R. Gavai, Surya Kant

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ITEM NO.7

COURT NO.1
S U P R E M E C O U R T O F
RECORD OF PROCEEDINGS

SECTION X
I N D I A

Writ Petition(s)(Civil)

No(s).437/2020

THE STATE OF ANDHRA PRADESH

VERSUS

Petitioner(s)

THE ANDHRA PRADESH STATE ELECTION COMMISSION

Respondent(s)

(FOR ADMISSION and IA No.45000/2020-APPROPRIATE ORDERS/DIRECTIONS
and IA No.46188/2020-PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES and I.A. No...../2020 – for
impleadment/intervention)

WITH Writ Petition
mentioning)

(C) Diary No.10157/2020 (Taken up to

Date : 18-03-2020 The petition(s) was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE SURYA KANT

For Petitioner(s)

Mr. ANS Nadkarni, Ld. ASG
Mr. Shyam Divan, Sr. Adv.
Mr. S. Sriram, Ld. Advocate General
Mr. Mahfooz Nazki, AOR
Mr. G. N. Reddy, AOR
Mr. Polanki Gowtham, Adv.
Mr. Vijay Bhaskar Reddy, Adv.
Ms. Arzu Paul, Adv.

Mr. A.K. Sanghi, Sr. Adv.
Mr. V. Sridhar Reddy, Adv.
For Mr. Abhijit Sengupta, AOR

For Respondent(s)/
Applicant(s)

Mr. Shekhar Naphade, Sr. Adv.
Mr. K. Parameshwar, AOR
Mr. M.V. Mukunda, Adv.

Mr. Kapil Sibal, Sr. Adv.
Mr. Devdutt Kamat, Sr. Adv.

Mr. Guntur Pramod Kumar AOR

Signature Not Verified

UPON hearing the counsel the Court made the following

Digitally signed by

SANJAY KUMAR

Date: 2020.03.18

O R D E R

15:57:26 IST Reason:

The petitioner – State of Andhra Pradesh has filed this writ petition challenging the action of the respondent – Andhra Pradesh State Election Commission (for short, the ‘Election Commission’) in issuing a Notification dated 15.03.2020 postponing the elections for the local bodies such as Panchayats and Municipal Bodies by six weeks or any other date on the ground of spread of Corona virus (COVID 19).

We do not see any reason why this Court should interfere with the decision of the respondent - Election Commission to postpone the elections particularly since the postponement is due to possible outbreak of Corona virus (COVID 19) epidemic in the country. We therefore decline to interfere with the said decision of the Election Commission.

However, it appears that one of the grievances raised by the petitioner – State needs to be addressed. According to Mr. ANS Nadkarni, learned Additional Solicitor General appearing for the State, a large number of developmental activities have been suspended due to the imposition of the Model Code of Conduct for the aforesaid Elections in the State of Andhra Pradesh.

Mr. Nadkarni, learned Additional Solicitor General, submits that the imposition of the Model Code of Conduct would not be justified if the Elections are postponed.

We see much substance in the above submissions of the learned Additional Solicitor General. We therefore direct that the Election Commission shall impose the Model Code of Conduct four weeks before the notified date of polling.

Mr. Shekhar Naphade, learned Senior Counsel appearing for the respondent – Election Commission, submits that the State of Andhra Pradesh is not entitled to move this Court by way of filing writ petition under Article 32 of the Constitution of India. We are not inclined to go into this question in the present writ petition due to the emergent circumstances in which the same is filed. The said question is left open for determination in an appropriate case.

Mr. Nadkarni, learned Additional Solicitor General for the petitioner – State, submits that the Election Commission was not entitled to postpone the elections without appropriate consultation with the State Government. He relies upon the decision of

this Court in Kishansing Tomar Vs. Municipal Corporation of the City of Ahmedabad and Others – (2006) 8 SCC 352.

According to Mr. Naphade, learned Senior Counsel for the respondent – Election Commission, the decision in Kishansing Tomar (Supra) does not require prior consultation. This is also not a controversy which we consider appropriate for decision in this case in view of the order we propose to pass. We direct that since the Election Commission has already taken the decision to postpone the Elections, there shall be a post decisional consultation with the State of Andhra Pradesh before the next date is notified by the Election Commission. The Model Code of Conduct for the elections shall be reimposed four weeks before the date of polling.

We further direct that the present development activities which have already been undertaken shall not be interrupted till the Model Code of Conduct is reimposed.

However, if the State Government wishes to undertake any fresh developmental activities, they shall do so only with the prior permission of the respondent – Election Commission. In no circumstance, the State Government shall be prevented from taking necessary steps to curb the menace of Corona Virus (COVID 19) epidemic.

The instant writ petition is disposed of in the above terms. Pending interlocutory applications, if any, stand disposed of. Writ Petition (C) Diary No.10157/2020 Taken up on Board.

Heard Mr. A.K. Sanghi, learned Senior Counsel appearing for the petitioner and perused the record.

The instant writ petition is disposed of in terms of the aforesaid order passed in Writ Petition (C) No.437/2020. Pending interlocutory applications, if any, stand disposed of.

(SANJAY KUMAR-II)
ASTT. REGISTRAR-cum-PS

(INDU KUMARI POKHRIYAL)
ASSISTANT REGISTRAR