

C. Subrahmanyam vs K. Ramanjaneyullu And Ors. on 13 March, 1996

Equivalent citations: (1998)8SCC703

Bench: J.S. Verma, S.P. Bharucha, K.S. Paripoornan

ORDER

1. Leave granted.

2. The impugned order was made by the High Court in a writ petition under Article 226 of the Constitution of India filed to challenge an order directing repoll made during the process of election. The first question was whether the writ petition should have been entertained in view of the remedy of election petition under the Act. The High Court took the view that the main point for decision was whether the order directing repoll is in violation of Section 231 of the Andhra Pradesh Panchayat Raj Act, 1994. Having taken this view, the High Court proceeded to say that a reference was made to a provision of the Constitution in that order and, therefore, the writ petition would lie and the impugned order was quashed for violation of Section 231 of the Act.

3. In our opinion, the main question for decision being the non-compliance of a provision of the Act which is a ground for an election petition in Rule 12 framed under the Act, the writ petition under Article 226 of the Constitution of India should not have been entertained for this purpose. Accordingly, the appeal is allowed. The impugned order of the High Court is set aside resulting in dismissal of the writ petition. No costs.

4. It is clarified that this order will not in any manner affect the remedy available to the aggrieved party under the Act and that should be decided without being influenced in any manner by the observations made in the High Court's order on merits, which is set aside.