

TELANGANA STATE ELECTION COMMISSION
1st Floor, DTCP Building, Opp: PTI Building, A.C. Guards, Hyderabad – 500 004.

NOTIFICATION

No.2237/TSEC-PR/2019

dated:07.06.2019

Whereas, recognizing the constitutional imperative regarding (reservation of seats for Scheduled Caste and Scheduled Tribes in the Office of Chairpersons of the three categories of Panchayats), the State Election Commissioner by notification No. 293/SEC/1995, dated: 16.03.1995, in exercise of the powers conferred under Section 201 of the Panchayat Raj Act, 1994 and after taking cognizance of the fact that in certain Mandals and Zilla Praja Parishads only one candidate belonging to the reserved category got elected, expressed the opinion that there was no need to call for a special meeting and consequently directed the Collectors & District Election Authorities to declare the candidate as the Chairperson for the concerned Mandal/ Zilla Parishad. The relevant portion of the notification is in the following terms:

“When the Chairperson of the said Mandal/Zilla Parishad is reserved for that category and in such circumstances, the State Election Commission, feels, considering the mandatory provisions and directions in the Constitution of India and A.P Panchayat Raj Act, it is not required to call for a special meeting of the elected members to elect the lone candidate of reserved category for the office of the Chairperson of Mandal/Zilla Parishad of that category. In such situation, the State Election Commission, in exercise of his powers conferred under Article 243K directs the Collectors and District Election Authorities to declare that candidate as the Chairperson for that Mandal/ Zilla Parishad.”

And Whereas, the State Election Commission in reference No. 113/SEC-B1/2001, dated: 19.07.2001 issued a notification directing that, where there is only one member belonging to the concerned reserved category to which the office of President of Mandal Praja Parishad, or as the case may be, the Chairman of Zilla Praja Parishad is reserved, such member can herself/himself file the nomination and it shall be treated as a valid nomination even without a proposer or a seconder and such candidate shall be declared to have been elected as President or, as the case may be, as chairman by the Presiding Officer concerned of the special meeting convened for the election of the President, Mandal Praja Parishad/ Chairman, Zilla Praja Parishad, whether or not there is quorum in such meeting.

And Whereas, the State Election Commission issued another similar notification in reference No. 1241/SEC-B1/2006, dated: 27.06.2006 reiterating the same directions issued in the notification No. 113/SEC-B1/2001, dated: 19.07.2001.

And Whereas, in the Judgment dated: 29.08.1996 in W.P. No. 1533 and 3474 of 1996 (Gangaram and Others Vs State Election Commission and Others) the Hon'ble AP High Court, among others, contended that -

If Rule 12 is to be made applicable to a case where there is only one duly proposed and seconded nomination, it will lead to absurd situations resulting in defeating the object and intendment result of the constitutional mandate and the statutory requirement. Where unintended results emerge, the language of a statute or rule should be innovatively and realistically interpreted to accord with the object and intendment of the statute, is a well accepted canon of interpretation. The principle stated by Maxwell:

“Where the language of statute, in its ordinary meaning and grammatical construction, leads to a manifest contradiction of the apparent purpose of the enactment, or to some inconvenience or absurdity, hardship or injustice, presumably not intended, a construction may be put upon it which modifies the meaning of the words, and even the structure of the sentence.”

Was accepted by our Supreme Court in Tirat Singh v. Bachittar Singh, MANU/SC/0048/1955: [1955]2SCR457. How a statutory provisions should be interpreted when there is a conflict between literal interpretation and what was intended by the Legislature, was explained by the Supreme Court in I.T. Commr. Bangalore v. J.H. Gotla,:

“Where the plain literal interpretation of statutory provision produces a manifestly unjust result which could never have been intended by the legislature, the Court might modify the language used by the Legislature so as to achieve the intention of the Legislature and produce a rational construction. The task of interpretation of a statutory provision is an attempt to discover the intention of the Legislature from the language used. It is necessary to remember that language is at best an imperfect instrument for the expression of human intention. It is well to remember the warning administered by Judge Learned Hand that one should not make a fortress out of dictionary but remember that statutes always have some purpose or object to accomplish and sympathetic and imaginative discovery is the surest guide to their meaning.”

To the same effect is the ruling in Giridhari Lal and Sons v. Balbir Nath, MANU/SC/0544/1986: [1986]1SCR383.

And Whereas, since new Panchayat Raj Act, 2018 (Act No.5 of 2018) is enacted and new Rules relating to the Conduct of indirect Elections, 2018 were issued and the numbers of Sections in the new Act and Serial Numbers of the Rules in the new Rules vary with the old Act, 1994 and Rules, 1994, it is necessitating the issue of fresh notification under new Panchayat Raj Act and rules reiterating the directions issued earlier.

Whereas, the Rules relating to the Conduct of Election of Member (Co-opted) and President and Vice-President of Mandal Praja Parishad and Member (Co-opted) and Chairperson and Vice-Chairperson of Zilla Praja Parishad require that, a candidate for election to the office of President of Mandal Praja Parishad or Chairperson of Zilla Praja Parishad shall be proposed by one member and seconded by another member.

And Whereas, cases have been reported where there is only a solitary elected member belonging to the concerned reserved category to which the office of President of Mandal Praja Parishad is reserved and there are no members elected from the party to which such member belongs to propose and second the member belonging to the reserved category for election to the office of President of Mandal Praja Parishad.

And Whereas, the same situation might arise in the case of a solitary independent elected member belonging to the reserved category to which the office of President of Mandal Praja Parishad or as the case may be Chairperson of Zilla Praja Parishad is reserved.

And Whereas, Article 243D of the Constitution of India read with Sections 146, 147, 175 and 176 of Telangana Panchayat Raj Act, 2018 contemplate reservation to schedule Caste, Schedule Tribes, Backward Classes and Women and it is imperative to give effect to the Constitutional mandate and Statutory Provisions.

And Whereas, the existing Statutory Provisions do not provide for dealing with such situations, thereby requiring the State Election Commission to exercise its plenary powers under Article 243K of the Constitution of India.

NOW, THEREFORE, in exercise of the powers conferred by Article 243K of the Constitution of India, the State Election Commission, **hereby, directs that, where there is only one member belonging to the concerned reserved category to which the office of President of Mandal Praja Parishad, or as the case may be, the Chairperson of Zilla Praja Parishad is reserved and if such candidate does express willingness, without a proposer and seconder, he/she shall be declared to have been elected as President of Mandal Praja Parishad or, as the case may be as chairperson of Zilla Praja Parishad by the Presiding Officer concerned of the special meeting convened for the election of the President, Mandal Praja Parishad/ Chairperson, Zilla Praja Parishad, whether or not there is quorum in such meeting.**

(BY ORDER AND IN THE NAME OF STATE ELECTION COMMISSIONER)

**Sd/- M. Ashok Kumar
Secretary**

To

All the Collectors and District Election Authorities.

All the Presiding Officers of MPPs through C & DEAs.

All the CEOs of ZPPs

All the MPDOs through C & DEAs

Copy to

The Commissioner, Panchayat Raj & Rural Employment, Telangana.

//Attested//

N. Jayaram Reddy
JOINT SECRETARY

