

**HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD**

\* \* \* \*

WP No.10195 of 2019

**Between:**

DODLA ESHWER REDDY

...Petitioner

&

THE STATE ELECTION COMMISSIONER, STATE ELECTION  
COMMISSION, PTI BUILDING, 1<sup>st</sup> FLOOR, DTCP, AC GUARDS,  
HYDERABAD & OTHERS

...Respondents

DATE OF JUDGMENT PRONOUNCED: 17-10-2019

SUBMITTED FOR APPROVAL:

1. Whether Reporters of local newspapers  
may be allowed to see the Judgment? Yes/No
2. Whether the copies of judgment may be  
marked to Law Reporters/Journals Yes/No
3. Whether Your Lordships wish to  
see the fair copy of the Judgment? Yes/No

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A. RAJASHEKER REDDY, J

**\*THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY**

**+ WP No.10195 of 2019**

% 17-10-2019

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...Respondents

< **GIST:**

> **HEAD NOTE:**

**! Counsel for Petitioner: Dr. Venkat Reddy Donthi Reddy**

**^Counsel for 1<sup>st</sup> Respondent : Sri G. Vidyasagar, Sr. Counsel for Sri P. Sudheer Rao, learned SC for R1**

**^Counsel for 7<sup>th</sup> Respondent : Sri V. Ramakrishna Reddy**

**? Cases referred**

1. (2007) 1 ALT 40
2. (2001) 5 ALT 568
3. (2008) 2 ALT 768
4. (1996) 4 ALT 454 (DB)
5. 2005 SCC OnLine All 1192
6. (1985) 4 SCC 628

**THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

WP No.10195 of 2019

**ORDER :**

The petitioner being a candidate sponsored by a recognized political party contested to the post of Mandal Praja Parishad, (MPTC) Gaggalapally in Nagarkurnool Mandal and District by filing his nomination on 22-04-2019. Two other candidates, one of them, the 7<sup>th</sup> respondent being candidate also sponsored by a recognized political party filed his nomination on 24-04-2019 for the said MPTC post. Out of the three candidates, one of the candidates withdrew his nomination within the time stipulated for such withdrawals of nominations and two candidates, *i.e.* the petitioner and the 7<sup>th</sup> respondent were in fray. According to the petitioner, the 7<sup>th</sup> respondent also voluntarily withdrew his nomination on 28-04-2019 and the petitioner being the sole contestant was declared as elected for the post of MPTC unanimously and Form-X was issued to him. That on 29-04-2019, the 7<sup>th</sup> respondent has given a complaint to the 4<sup>th</sup> respondent-Returning Officer alleging that he was abducted and forcibly made to withdraw from the contest for election to the post of MPTC by the petitioner with the help of four other accomplices and that the petitioner offered an amount of Rs.20.00 lacs and has paid Rs.10.00 lacs for withdrawal

from the contest. The petitioner also filed a complaint on 30-04-2019 disowning any role in withdrawal of the candidature of the 7<sup>th</sup> respondent from contest. That after 24 hours of withdrawal of his nomination, the 7<sup>th</sup> respondent has given a complaint against the petitioner solely due to the pressure of protest by the villagers. That the 1<sup>st</sup> respondent contrary to the procedure established ordered for enquiry by the 3<sup>rd</sup> respondent. The 3<sup>rd</sup> respondent- District Collector & District Election Authority, in turn vide his proceedings dated 01-05-2019 addressed to the 1<sup>st</sup> respondent- State Election Commission opined that the allegation of forcibly making the 7<sup>th</sup> respondent to sign the withdrawal form is not true and appears to be an after thought. As regards the bribe allegedly paid for withdrawing the nomination, though the money of Rs.10 lacs has been deposited with the Police along with the complaint, the source of money could not be clearly established and the matter is to be examined by the Police which is subject matter of a criminal case registered in that behalf. While opining so, the 3<sup>rd</sup> respondent- District Collector & District Election Authority sought necessary directions as to declaring the results to the post of MPTC Gaggalapally under “unanimous” category, as there was no contest. The 1<sup>st</sup> respondent- State Election Commission, in turn after calling for inputs on the incident from the 3<sup>rd</sup> respondent-

District Collector and 6<sup>th</sup> respondent-Superintendent of Police, having regard to the involvement of huge sum of money of Rs.10 lacs paid for withdrawal from the contest of election and that the amount of Rs.10 lacs was admittedly handed over to the Police by the 7<sup>th</sup> respondent, declared the election process as void in so far as it relates to the election notification dated 20-04-2019 in respect of the Gaggalapally MPTC and ordered for notification for conduct of election for the said post afresh. Hence this writ petition.

**02.** The 1<sup>st</sup> respondent-State Election Commission, represented by its Secretary filed counter affidavit wherein *inter alia* it is stated that sporadic instances wherein concerted efforts were made by powerful elements to thwart the competition in elections in order to fabricate “unanimous” election through abuse of money coupled with exertion of extreme social and political influence on vulnerable contestants. That in order to curb the abuse of money power and counter the undue influence of anti-social forces, undermining the freedom and fairness of election process, the 1<sup>st</sup> respondent-State Election Commission has issued order dated 28-04-2019 directing all the Returning Officers to obtain clearance from the District Collectors before issuing the election certificate in Form-X in all cases of unanimous election. That the District Collector concerned shall satisfy himself on the voluntary nature of unanimous election

before issuing clearance to declare the result and; in cases where auctioning or use of undue influence is evidenced, the same should be reported to the State Election Commission for further instructions.

**03.** That in the instant case there was an instantaneous protest in the village of Gaggalapally against the foul play played by certain influential persons in order to secure the withdrawal of the candidature of the 7<sup>th</sup> respondent and it swung into action based on a news item appeared in Andhra Jyothi newspaper dated 30-04-2019 that the petitioner forcibly bribed the 7<sup>th</sup> respondent to withdraw from the contest of election to the post of MPTC. That the 1<sup>st</sup> respondent-State Election Commission after careful examination of the information called for and received in the matter declared the process of election in respect of Gaggalapally MPTC of Nagarkurnool Mandal and District as void as the process was vitiated by open and flagrant abuse of money power and exertion of exceptional influence on the contestant for obtaining an unanimous election. That there is no truth in the statement of the petitioner that he was issued with Form-X and declared him unanimously elected.

**04.** 7<sup>th</sup> respondent filed counter affidavit wherein he denied that he voluntarily withdrew from the election fray. That the petitioner has resorted to use of undue influence and also pressurized him and his family members and offered huge money for withdrawal of nomination. That the petitioner and others taken his signature on the withdrawal form by using force; taken him to the 4<sup>th</sup> respondent-Returning Officer and submitted the withdrawal form.

That the petitioner failed to establish any violation or infraction of any statutory rule on the part of the 1<sup>st</sup> respondent-State Election Commission in declaring the election process as void and the various issues raised by the petitioner are disputed questions of fact, which cannot be gone into in a proceeding under Article 226 of the Constitution of India. That immediately on 29-04-2019 itself he made a complaint before the 4<sup>th</sup> respondent-Returning Officer describing all the facts and circumstances under which he was compelled to submit the withdrawal form and also approached the 3<sup>rd</sup> respondent and the 4<sup>th</sup> respondent for handing over the bribed amount of Rs.10 lacs given by the petitioner, but as the 4<sup>th</sup> respondent refused to receive the said amount, he approached the local Police and deposited the bribed amount of Rs.10 lacs with the Police, the news of which was also widely reported in the Press on 30-04-2019. That he also lodged a complaint on 30-4-2019 and

the Police registered a case against the petitioner and others vide FIR no.98 of 2019, dated 30-04-2019. That the writ petition filed by the petitioner is liable to be dismissed and the 1<sup>st</sup> respondent-State Election Commission be permitted to issue notification for conducting election to the post of MPTC Gaggallapally afresh.

**05.** Heard Dr.Venkat Reddy Donthi Reddy, learned counsel for the petitioner, Sri G. Vidyasagar, learned senior counsel appearing for the 1<sup>st</sup> respondent-State Election Commission and Sri V. Ramakrishna Reddy, learned counsel for the 7<sup>th</sup> respondent.

**06.** *The point that arises for consideration is whether petitioner is declared as elected by issuing Form-X declaration, if so; whether the 1<sup>st</sup> respondent has power to declare the election as void?*

**:: POINT::**

**07.** The case of the petitioner is that pursuant to the withdrawal of nomination by two candidates including the 7<sup>th</sup> respondent voluntarily on 28-04-2019 from contest of the election, Form-X is issued in his favour duly declaring him as elected candidate for the post of MPTC Gaggallapally as envisaged under Rule 15 (2) Telangana Panchayat Raj (Conduct of Elections) Rules, 2018, (for short, "the Rules"). Rule 15 of the Rules provides for declaration of results of uncontested election, reads as under:-

*“15. Declaration of Result of Uncontested Election:- (1) If the number of contesting candidates is more than one, poll shall be taken.*

*(2) If there is only one validly nominated candidate, the Returning Officer shall forthwith declare such candidate as duly elected in **Form-X** and send the same to the State Election Commission, Election Authority and the District Election Authority.”*

**08.** Rule 63 of the Rules speaks of grant of election certificate after the Returning Officer declare the candidate as duly elected in Form-X and Rule 64 with publication of results thereof, reads thus:-

*“63. Grant of Election Certificate:- As soon as may be after a candidate has been declared by the Returning Officer under Rule 15 or, as the case may be, under rule 62 to have been elected, the Returning Officer shall grant such candidate a certificate of election in **Form XXIX** and obtain from the candidate an acknowledgement of its receipt duly signed by him immediately.*

***64. Publication of Results.-** The Returning Officer shall publish on the notice board in the Office of the Gram Panchayat/Mandal Praja Parishad/Zilla Praja Parishad concerned a notification signed by him, stating the names of the candidates duly elected.”*

**09.** It is contended by learned counsel for the petitioner that once Form-X is issued by the Returning Officer declaring the results of the election, in the light of language employed under Rule 15 of the Rules, the 1<sup>st</sup> respondent-State Election Commission becomes *functus officio* and any dispute arising in connection with the election is to be redressed under Section 242 of the Act by way of approaching the Election Tribunal duly constituted to decide all the questions relating to disqualification and corrupt practices. It is

also stated that the Returning Officer issued Form-X certificate under Rule 15 of the Rules as such it is the end of the election process in respect of an uncontested election and election process is complete in all respects. Taking cue from this, it is contended that 1<sup>st</sup> respondent-State Election Commission instead of advising the 7<sup>th</sup> respondent to approach appropriate forum for adjudication of his grievance, without jurisdiction and authority declared the election of the petitioner as *void*. Even otherwise, it is contended that the guidelines issued by the 1<sup>st</sup> respondent-State Election Commission vide order dated 28-04-2019 requiring the Returning Officers to obtain clearance from the District Election Authority-District Collector and in all cases of unanimous election, the District Election Authority in turn is required to obtain further instructions from the State Election Commission in all cases where auctioning of use of undue influence is evidenced, the day on which Form-X is stated to be issued to the petitioner declaring him as elected could not be complied by the Returning Officer and District Election Authority as there was no possibility of reaching those instructions to them on the same day. It is also contended by the learned counsel that the opinion expressed by the 3<sup>rd</sup> respondent-District Election Authority that the 7<sup>th</sup> respondent willingly withdrew his nomination and was not under threat as alleged by

him is not taken into consideration by the 1<sup>st</sup> respondent-State Election Commission nor explained any reason why it has chosen to eschew the report of the 3<sup>rd</sup> respondent. Decisions in ***PALAMANDA PRABHAKAR vs. STATE ELECTION COMMISSION***,<sup>1</sup> ***KAYATHI JAIPAL REDDY vs. STATE ELECTION COMMISSION***,<sup>2</sup> ***BUKKE LAKSHMA NAIK vs. STATE ELECTION COMMISSION***,<sup>3</sup> ***GANGARAM vs. STATE ELECTION COMMISSION***<sup>4</sup> & ***SUNITA PATEL vs. STATE OF U.P***<sup>5</sup> are relied on by the learned counsel for the petitioner.

**10.** Sri G. Vidyasagar, learned senior counsel appearing for the 1<sup>st</sup> respondent-State Election Commission submitted that once the candidature of the petitioner is not declared as elected by issuing Form-X, the election process is not complete and it is within the power of the State Election Commission to declare the election process *void* by virtue of and in the light of the involvement of bribe and corrupt practices for withdrawal of nomination by force thereby securing unanimous election by the petitioner, in exercise of power conferred under Article 243 (K) of the Constitution of India, r/w Rule 6 of the Rules.

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<sup>1</sup> (2007) 1 ALT 40

<sup>2</sup> (2001) 5 ALT 586

<sup>3</sup> (2008) 2 ALT 768

<sup>4</sup> (1996) 4 ALT 454 (DB)

<sup>5</sup> 2005 SCC OnLine All 1192

**11.** Learned counsel for the 7<sup>th</sup> respondent submitted that the 1<sup>st</sup> respondent-State Election Commission issued order dated 28-04-2019 and given instructions to the Returning Officers, District Election Authorities and Police authorities and in compliance of those instructions, the Returning Officer and the 3<sup>rd</sup> respondent sent up reports and having satisfied that there was involvement of corrupt practices of giving bribe of Rs.10 lacs to the 7<sup>th</sup> respondent for withdrawal from the election by the petitioner and such act amounts to corrupt practice under Section 211 (1) of the Telangana Panchayat Raj Act, 2018 and the result of the election of the petitioner was not declared, the process of election was declared as *void*.

**12.** By virtue of Article 243-K (1) of the Constitution of India the superintendence, direction and the control of preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall vest in State Election Commission. Article 243-K (1) of the Constitution of India reads as under:-

*“243K. (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.*

*(2), (3) & (4) omitted.”*

**13.** The nature of jurisdiction and the extent of power conferred on the State Election Commissioner in respect of elections to

Panchayats are in *pari-materia* with power conferred, under Clause (1) of Article 324 of the Constitution of India on the Chief Election Commissioner of India. In **GANGARAM vs. STATE ELECTION COMMISSION**<sup>6</sup>, the Division Bench of this Court at para 28 had succinctly explained the scheme of Article 243-K (1) of the Constitution, which reads thus:-

*28. By Article 243-K (1) of the Constitution, the superintendence, direction and the control of preparation of electoral roll for and the conduct of elections to the Panchayats shall be vested in a State Election Commission, consisting of a State Election Commissioner to be appointed by the Government. The nature of jurisdiction and the extent of power conferred on the State Election Commissioner in respect of elections to the Panchayats are in pari-materia with the power conferred, under clause (1) of Article 324, on the Election Commission in respect of elections to Parliament, Legislature of every State and election to the office of the President and Vice President of India. Section 200 of the Act also speaks of superintendence, direction and control of the State Election Commissioner in respect of the preparation of electoral rolls and conduct of elections to the Panchayat Raj Institutions. Section 201 says that all elections to the Panchayat Raj Institutions shall be held under the provisions and control of the State Election Commission and for this purpose, it shall have power to give such directions as it may deem necessary to the Commissioner, District Collector or any officer or servant of the Government and the Panchayat Raj Institutions so as to ensure efficient conduct of the elections under this Act. Section 233, in emphatic terms, lays down that no election held under the Act shall be called in question except by an election petition presented to such authority and in accordance with such rules as may be made in this behalf". Rule 13 (2) of the Rules, already extracted supra, enjoins the Presiding Officer to declare the result if there was only one candidate duly proposed. If there is more than one candidate, he is required, by sub rule (4), to record the number of votes polled for each of such candidates ascertained by show of hands. He shall announce the number of votes secured by each candidate and shall declare the candidate who secures the highest number of votes, as elected. By Rule 14, the Presiding Officer is required to prepare a record of the proceedings and shall publish on the notice board, a notice signed by him stating the name of the person elected and submit*

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<sup>6</sup> (1996) 4 ALT 454 (DB)

a copy of the notice to the State Election Commissioner, District Collector and the Commissioner of Panchayat Raj.”

**14.** Though the above Article is self explanatory, but as observed by this Court in **Bukke Lakshma Naik’s** case (3 supra), the said Article does not indicate anything about conclusion of declaration of results except to draw an inference that declaration of election of a candidate is complete after issuance of certificate in Form-X. In such situations, the only option is to see at what stage the process of election is complete and the role of Election Commission ceases. As observed in a catena of judgments, the term “election” includes all steps and entire proceedings commencing from the date of notification of elections till the date of declaration of result. The word “election” in Article 324 is used in a wide sense so as to include the entire process of election which consists of several stages and embraces many steps, some of which may have an important bearing on the result of the process. (see **KANHIYA LAL OMAR vs. R.K. TRIVEDI**).<sup>7</sup> There is no dispute and there cannot be any dispute with the proposition that with the declaration of the election results in the format so provided, the Election Commission becomes *functus officio* and the only remedy for the aggrieved party is to challenge the election by way of an election petition as per

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<sup>7</sup> (1985) 4 SCC 628

Section 242 of the Act and as ordained under Article 234-O (b) of the Constitution.

**15.** It is the case of the petitioner is that Form-X was issued to him and his candidature was declared as elected unanimously.

Rule 15 of the Rules stipulates that the declaration of a candidate as elected to the post either by way of contest or unanimous election is complete by issuance of Form-X. After declaration of

result of the election and issuance of Form-X, any allegation of electoral malpractices or corrupt practices, the aggrieved as to approach the Election Tribunal to declare the election to be void. It

is an admitted fact that once Form-X declaration is issued declaring the election of a candidate in terms of Rule 15 of the

Rules by the Returning Officer, the Election Commission becomes *functus officio* and it is only the Election Tribunal duly constituted

to decide the questions relating to disqualification and involvement of corrupt practices and render its decision thereon. In

***Palamanda Prabhakar's*** case (1 supra), it was an election being

unanimous and after issuance of certification in Form-X as provided under Sub-rule (2) of Rule 15 of the Rules, grant of

election certificate under Rule 63 could be not issued and at that stage reports in relation to the large scale forgery of signatures of

the candidates on the withdrawal forms and genuity thereof poured

in and inasmuch as the issue of forgery of signatures on withdrawal forms of nomination goes to the root of purity of elections, the election of the candidates who were declared elected was suspended, which order when called in question in the above case was quashed and the writ petition was allowed. What was observed in the decision by this Court is when once the election is declared by way of declaration in Form-X as provided under Rule 15 of the Rules, other steps are ministerial acts and the only redressal forum is Election Tribunal. Para 30 of the said order reads thus:-

*“30. Certain submissions were made that though the election as such was over, being unanimous, it cannot be said that the election process is over unless the Certificate is given and at that stage since report was received in relation to the large scale forgery, the State Election Commission is empowered to interfere. Yet another contention is that to ascertain the truth or otherwise since this investigation is going on and unless a decision is taken in this regard, it cannot be said that the writ petitioners are having any right to approach this Court and in a way these writ petitions are premature. On a careful analysis of the relevant Constitutional provisions and also the scheme of the Act and the Rules framed thereunder, this Court is of the considered opinion that though the State Election Commission can exercise the plenary powers, definitely questions of this nature which may have to be adjudicated being serious factual controversies, especially after the declaration of results, cannot be usurped and enquired into by the State Election Commission. Different provisions of the Constitution and the scheme of the Constitution and the different provisions of the Act and the scheme of the Act and also the different provisions of the Rules may have to be harmoniously construed and the State Election Commission cannot be permitted to be an adjudicatory body at a belated stage to go into these factual controversies which may have to be adjudged by the aggrieved parties by way of*

*Election Petitions. This appears to be the predominant view expressed by different Courts. In such a case, after declaration of results, on the ground that there was some large scale forgery and some complaints have been received by the District Collector and on such report the action had been initiated by the State Election Commission, in the opinion of this Court, the same cannot be sustained. This Court also is satisfied that the election process as such by virtue of the declaration of results had been completed and issuance of the certificate being only a ministerial act which is just a consequential follow up action, merely because the same was not completed, the State Election Commission cannot be permitted to contend before this Court that the process of election is incomplete and hence at this stage the State Election Commission definitely cannot (sic can) seek some expert opinion for the purpose of adjudicating such factual controversies. This role sought to be played by the State Election Commission at this stage, in the opinion of this Court, is definitely without jurisdiction and the same would not fall within the concept of plenary powers which are being advanced before this Court. Even otherwise, this Court is satisfied that the material on which the said decision had been taken appears to be not sufficient. Viewed from any angle, the remedy of such parties who had complained about these factual controversies, would be elsewhere. It is needless to say that when the candidates had been democratically elected unopposed, they should not be prevented from assuming their respective offices unless and otherwise such election is set aside by a competent Election Tribunal.”*

**16.** The instant case stands on a slight different footing. It is the specific case of the 1<sup>st</sup> respondent-State Election Commission that Form-X declaration as required under Rule 15 of the Rules was not issued by the Returning Officer to the petitioner duly declaring him as elected unanimously to the post of the MPTC. This can be gathered from the report sent up by the 3<sup>rd</sup> respondent-District Collector to the 1<sup>st</sup> respondent-State Election Commission. The District Collector in his report after elaborately referring to the

sequence of events ultimately sought for necessary directions to declare the result of the Gaggalapally MPTC being an unanimous category, which itself evinced that the result of the unanimous election of the petitioner remained undeclared. Though a photocopy of Form-X is filed by the petitioner as material paper along with the affidavit filed in support of the writ petition, in view of the specific denial by the 1<sup>st</sup> respondent and the 3<sup>rd</sup> respondent as also the Returning Officer denying issuance of any Form-X declaration, in absence of any reply affidavit filed by the petitioner controverting the counter averments made by the 1<sup>st</sup> respondent, the necessary corollary follows that the process of election of the petitioner unanimously could not pass through the stage of issuance of Form-X declaration. When once Form-X declaration is not issued, it is to be construed that election result is not declared as such it is within the plenary power and jurisdiction of the 1<sup>st</sup> respondent-State Election Commission to declare the election as *void* and the impugned decision, which declared the election process as *void* is based on the material called for and received in the matter. Accordingly the point is answered. In ***Palamanda Prabhakar's*** case (1 supra) and ***Bukke Lakshma Naik's*** case (3 supra) result of the candidate was declared by giving Form-X declaration. The facts in ***Kayathi Jaipal Reddy's*** case (2 supra)

are distinguishable. The decisions in **Gangaram's** case (4 supra) and **Sunita Patel's** case (5 supra) are also distinguishable and therefore the ratio therein is in-applicable to the facts of the present case. The facts of the case in **Kayathi Jaipal Reddy's** case, the petitioner therein alone was shown as the contesting candidate in Form No.8 and fresh notification was sought to be issued merely on the allegations of a person entered into the office, poured kerosene on papers and snatched away the nominations forms filed by the candidates. There was no serious allegation of corrupt practices in that case as in this case, the 7<sup>th</sup> respondent alleges that he was forcibly made to withdraw his candidature and that he was offered Rs.20 Lacs and was paid Rs.10 Lacs for withdrawing and that amount has been handed over to the Police. In **ASHWANI KUMAR SINGH vs. U.P. PUBLIC SERVICE COMMISSION**,<sup>8</sup> Hon'ble Supreme Court at para 10 of the judgment held as under:-

*“10. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are not to be read as Euclid's theorems nor as provisions of the statute. These observations must be read in the context in which they appear. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for Judges to embark upon lengthy discussions, but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments.*

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<sup>8</sup> (2003) 11 SCC 584

*They interpret words of statutes; their words are not to be interpreted as statutes.....”*

It is understood that judgments cannot be construed as statutes without considering the fact situations and the extent it is applicable to the facts of each case. While framing Rule 15 of the Rules, the rule makers, perhaps, did not anticipate the contingencies that arise in cases of only one validly nominated candidate in fray and declaration of results by the Returning Officer in the event of allegations of corrupt practices. In sub-Clause (2) of Rule 15 of the Rules the words used “*the Returning Officer shall forthwith declare such candidate as duly elected in Form-X*” and as there is no mechanism in case of allegations of corrupt practices against/by the only one validly nominated candidate, the Election Commission of India, to supplement the said Rule, issued notification No.103/TSEC-PR/2019, dated 08-01-2019 and order No. 1763/TSEC-PR/2019, dated 28-04-2019 requiring the Returning Officers to obtain the clearance from District Election Authority in all cases of unanimous elections and further the District Election Authority is in turn required to obtain further instructions from the State Election Commission, in all cases where auctioning or use of undue influence is evidenced.

**17.** The Supreme Court in **MOHINDER SINGH GILL vs. CHIEF ELECTION COMMISSIONER, NEW DELHI**<sup>9</sup> held that Article 324 of the Constitution has to be read in the light of the constitutional scheme and the said Article operates in areas left unoccupied by legislation and the words “superintendence, direction and control” as well as “conduct of all elections” are in the broadest terms. In paras 114 and 115 it was held thus:-

*“114. The Chief Election Commissioner has thus to pass appropriate orders on receipt of reports from the Returning Officer with regard to any situation arising in the course of an election and power cannot be denied to him to pass appropriate orders. Moreover, the power has to be exercised with promptitude. Whether an order passed is wrong, arbitrary or is otherwise invalid, relates to the mode of exercising the power and does not touch upon the existence of the power in him if it is there either under the Act or the Rules made in that behalf, or under Article 324(1).*

*115. ....The Commission is, therefore, entitled to exercise certain powers under Article 324 itself, on its own right, in an area not covered by the Acts and the Rules. Whether the power is exercised in an arbitrary or capricious manner is a completely different question.”*

The notifications referred to above are purportedly to have been issued by the 1<sup>st</sup> respondent in exercise of superintendence powers; the conditions imposed in the notifications to refer to the District Election Authority in all cases of unanimous elections and further to the State Election Commission in all cases where auctioning or use of undue influence is evidenced is to maintain the purity of elections and nurture the values of democracy and its framework.

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<sup>9</sup> (1978) 1 SCC 405

Even otherwise, the said notifications are not in challenge in this proceedings.

**18.** This Court is of the considered view that the 1<sup>st</sup> respondent having regard to the totality of the facts and circumstances and inputs called for and received concluded and declared the election process *void*, which does not suffer from any illegality or irregularity warranting interference from this Court in exercise of extraordinary equitable jurisdiction under Article 226 of the Constitution. In the result, the writ petition fails being devoid of merits and it is accordingly dismissed. As a sequel to the dismissal, miscellaneous petitions, if any, pending shall stand closed. There shall be no order as to costs.

Dated: 17-10-2019  
NRG

**A.RAJASHEKER REDDY, J**

**THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**



//WEB//

Dated: 17 -10-2019

NRG

