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HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

Writ Petition No.2848 of 2021

ORDER:

This Writ Petition is filed seeking declaration that the acts of the respondent police officials in directing the petitioners not to canvass for the candidate who is contesting for the election of Sarpanch, Gram Panchayat scheduled to be held on 09.02.2021 and in preventing the petitioners from exercising their franchise, as illegal, unconstitutional and arbitrary and consequently, direct the respondents to desist from preventing the petitioners from exercising their franchise in the said elections.

2). Heard learned counsel for the petitioners and learned Assistant Government Pleader for Home appearing for the respondents.

3). Both the petitioners are brothers. It appears that the daughter of the 1st petitioner by name Ms.Gandham Vendasri has been contesting the election for the post of Sarpanch, Gram Panchayat, R.Nagulavaram Village, Kurnool District, which is scheduled to be held on 09.02.2021. It is stated that when they have been canvassing for the candidature of said Ms.Vendasri, the respondent police officials have been preventing them from canvassing on behalf of the candidate viz., Ms.Gandham Vendasri. It is also alleged that the respondent police officials are also making efforts to prevent the petitioners from exercising their right of franchise on the date of election i.e. 09.02.2021. Alleging that the said action on the part of the respondent police officials is unconstitutional, arbitrary and illegal, the petitioners

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sought for declaration that their acts are unconstitutional and consequently, to direct the respondent police officials not to prevent the petitioners from exercising their franchise in the ensuing elections scheduled to be held on 09.02.2021.

4). Learned Assistant Government Pleader for Home, on instructions, would submit that both the petitioners are rowdy-sheeters and in view of their past history involving in criminal acts that rowdy sheets have been opened against both the petitioners and the same are still pending. Therefore, only to prevent the petitioners from indulging in any unlawful activities during the period of elections and on the date of election that the respondent police officials are only taking preventive measures to maintain law and order in the village and they never prevented the petitioners from canvassing on behalf of their candidate, who is contesting in the elections and they never made any efforts to prevent the petitioners from exercising their franchise in the said elections. He would further submit that if the petitioners indulge in any unlawful acts during the period of elections that the respondent police officials have got duty to take appropriate legal action against them and this Writ Petition is filed with all false allegations only to prevent the respondent police officials from discharging their duties to maintain the law and order in the village. Therefore, he prayed for dismissal of the Writ Petition.

5). The fact that rowdy sheets have been opened against both the petitioners and the same are in force is not in dispute. Therefore, as the petitioners are rowdy sheeters, the respondent police officials have got duty to prevent them from indulging in

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any unlawful activities and to maintain law and order in the village during the period of elections and on the date of election. Therefore, if any action is initiated by the respondent police officials in a lawful manner to prevent the petitioners from indulging in any unlawful activities to maintain law and order, the same cannot be found fault with. However, at the same time, the right of the petitioners to exercise their franchise, being registered voters in the said elections, is also valuable right and a legal right which is also required to be protected in the facts and circumstances of the case.

6) Therefore, without there being any case registered against the petitioners for any unlawful act that is committed by the petitioners, the petitioners cannot be illegally detained by the respondent police officials which may have the effect of depriving them from exercising their right of franchise on the date of election.

7). Therefore, in the said facts and circumstances, this Court is of the considered view that to strike a balance between the legitimate duties that are to be discharged by the respondent police officials to prevent law and order problem during the period of elections and also the right of the petitioners to exercise their franchise in the said elections, that an appropriate fiat is essential both to the petitioners and the respondent police officials directing the petitioners not to indulge in any unlawful activities during the course of elections, and to cooperate with the respondent police officials in maintaining law and order in the village during the period of elections and for peaceful conduct of

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the elections on 09.02.2021 and also directing the respondent police officials not to unnecessarily arrest the petitioners without there being any crime registered against them.

8). Therefore, in the said facts and circumstances of the case, this Writ Petition is disposed of with a direction to the petitioners not to indulge in any unlawful activities on the date of elections or during the course of elections, and also to cooperate with the respondent police officials in maintaining the law and order in the village and to peacefully conduct the elections on 09.02.2021. The respondent police officials are hereby directed not to prevent the petitioners from exercising their right of franchise in the ensuing elections on 09.02.2021 and also not to prevent them from canvassing on behalf of the candidate of their choice in a lawful manner during the permissible hours.

9). The Writ Petition is, accordingly, disposed of. No costs.

10). As the elections are scheduled to be held tomorrow only i.e. on 09.02.2021, the Learned Assistant Government Pleader for Home is hereby directed to inform about the aforesaid directions given in this order to the respondent police officials by 5.00 P.M. today.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE CHEEKATI MANAVENDRANATH ROY

Date:08.02.2021.

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