IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE ELEVENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH

THE HON'BLE SRI JUSTICE G.M. MOHIUDDIN

WRIT PETITION NO: 34083 OF 2025

Between:

Yadishwar Nakka, S/o. Sailu, aged about 38 years, Occ. Advocate, r/o.H.No.2-134, Thanedarpally village, Marriguda mandal, Nalgonda Distrct-508245, Telangana State.

...PETITIONER

AND

1. The Election Commission of India, Nirvachan Sadan, Ashoka Road, New Delhi-110001 rep. by its Secretary.
2. The Chief Electoral Officer, Telangana State, 9th Floor, BRKR Bhavan, Tank Bund, Adarsh Nagar, Hyderabad - 500063, Telangana State.
3. The Commissioner, GHMC & District Election Officer, Hyderabad (W.E) Telangana State.
4. Returning Officer, 61-Jubilee Hills, Assembly Constituency and RDO, Secunderabad Division, Hyderabad, Telangana State.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the inaction of the respondent nos.1 to 4 on representation, dt.03/11/2025 as injustice, arbitrary, violation of principles of Natural justice and undemocratic to the Election process and unfair and violation of the representation of people's Act, 1956, and misuse of powers, unconstitutional and violation of article 14 of constitution of India and consequently direct the

respondent authorities to consider the representation dt.03/11/2025 to put allotted symbol as it is in the EVMs and Ballot papers in the bye elections to Telangana State Legislative Assembly from 61-Jubilee Hills Assembly.

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay bye-election to the Telangana State legislative Assembly from 61-Jubilee Hills Assembly constituency pending disposal of the above writ petition.

Counsel for the Petitioner: SRI M.A. MUJEEB, APPEARING ON BEHALF OF SRI GOVARDHAN.B

Counsel for the Respondents: SRI KOPAL SHARRAF, S.C. FOR ELECTION COMMISSION OF INDIA

The Court made the following: ORDER

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH

AND

THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN

WRIT PETITION No.34083 of 2025

ORDER:

The present Writ Petition is filed by a candidate set up by the Telangana Republican Party (TRP), who is contesting by-election to the 61-Jubliee Hills Assembly Constituency, seeking a declaration that the inaction of respondent Nos.1 to 4 i.e., the Election Commission of India, the Chief Electoral Officer, Telangana State, the Commissioner, GHMC and the Returning Officer, 61-Jubliee Hills, Assembly Constituency & RDO, Secunderabad Division, Hyderabad on the representation of the petitioner dated 03.11.2025, as illegal and arbitrary.

2. Heard Sri M.A.Mujeeb, learned counsel appearing on behalf of Sri Govardhan, learned counsel for the petitioner; Sri Kopal Sharraf, learned Standing Counsel for Election Commission of India for the respondents and perused the record.

3. The core grievance of the petitioner is that he was allotted the free symbol i.e., "Sl.No.101 - Mike". And that on 03.11.2025 during a mock poll, the petitioner noticed that the "Mike symbol" displayed on the Electronic Voting Machines (EVMs) and the Ballot Papers was not "as it is" specified by the Election

Commission of India. The petitioner alleges that the displayed symbol had a poor quality and was of a different thickness and was not showing the line at the bottom of the mike, which could confuse the voters and undermine his candidature.

4. The petitioner has made a formal representation dated 03.11.2025 (Ex.P1) to respondent No.4 i.e., the Returning Officer, requesting rectification of the symbol displayed. The respondent No.4 by endorsement dated 06.11.2025 (Ex.P2) rejected the request made by the petitioner, stating that the application of the petitioner could not be considered at this juncture. The respondent No.4 further noted that the request had been filed during the mock polls, after the completion of the commissioning of the EVMs and VVPATs. In the endorsement, respondent No.4 also asserted that ample opportunity had been provided earlier to the candidates for verification.

5. The petitioner made another representation to respondent No.2 through a letter dated 07.11.2025 (Ex.P3) and has also approached this Court on the very same day by way of the present Writ Petition seeking a writ of *mandamus* to declare the inaction of respondent Nos.1 to 4 on the representation dated 03.11.2025 *vide* Ex.P1, as illegal and arbitrary and further seeking a direction

to the Election authorities to rectify his symbol displayed on the EVMs, Ballot papers and VVPATs.

Contentions on behalf of the petitioner:

6. Learned counsel for the petitioner contended that the inaction and the refusal on the part of respondent No.4 to correct the display of the symbol is illegal, arbitrary and unjust besides being misuse of the power under the Representation of the People Act, 1951.

7. Learned counsel further contended that the incorrectly rendered/displayed symbols with poor quality will inevitably confuse the electorate, thereby, preventing voters from identifying their chosen candidate, this, according to the learned counsel for the petitioner, constitutes a substantial defect in the election process that makes democracy a mockery.

8. Learned counsel further contended that the petitioner has no other efficacious alternative remedy to secure the relief of correction of his election symbol before the election, which compelled him to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

9. Learned counsel further contended that the objection with regard to the poor quality of his election symbol as displayed in

the EVMs, Ballot Papers and VVPATs was noticed only on 03.11.2025 during the mock poll and immediately, upon the said defect/deficiency being noticed, the petitioner has made a representation to respondent No.4 on the very same day. Contending thus, learned counsel for the petitioner sought respondent officials to display the symbol allotted to the petitioner "as it is" in the EVMs, Ballot Papers and VVPATs in the by-election to the Telangana State Legislative Assembly from 51-Jubliee Hills Assembly constituency.

Contentions on behalf of the respondents:

10. *Per contra,* learned Standing Counsel for Election Commission of India appearing for the respondents contended that once the election notification has been issued and the EVMs have been commissioned, the election process cannot be interfered with and the only remedy available to the writ petitioner is to file an Election Petition.

11. Learned Standing Counsel for the respondents further contended that the specific issue regarding the displayed symbol is merely an irregularity relating to the preparation of the election materials, which forms an integral part of the election process. Therefore, the decision of respondent No.4 i.e., Returning Officer

vide Ex.P2 is final and cannot be interfered with on the ground of an alleged poor quality of display of the election symbol on the EVMs and Ballot Papers.

12. Learned Standing Counsel furthermore contended that the legal remedy for any irregularity or illegality in the election process, including improper display of symbol is by way of an Election Petition under Representation of the People Act, 1951.

13. Learned Standing Counsel for the respondents finally contended that the objection regarding the quality of display of the symbol was raised by the petitioner belatedly after the process of commissioning of EVMs and VVPATs was completed despite the petitioner having been given ample opportunity for verification of the same earlier. It was further contended that the judicial intervention at this stage would inevitably cause detrimental delay to the scheduled election, for which all necessary preparation was already been completed.

Analysis and reasoning:

14. Having heard the learned counsel for the petitioner and the learned Standing Counsel for Election Commission of India, we find that the present Writ Petition is barred under the express terms of Article 329 of the Constitution of India which

categorically stipulates that "no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an Election Petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature". The term election under this Article encompasses the entire electoral process starting from the issuance of the election notification to the final declaration of the result.

15. The Hon'ble Supreme Court of India in the land mark case of ***N.P.Ponnuswamy v. Returning Officer, Namakkal Constituency and others***[1] which was reaffirmed in several other cases established a clear unequivocal principle that the High Court acting under Article 226 of the Constitution of India would not intervene or interfere with the ongoing election process. Any challenge pertaining to the alleged illegality or irregularity occurring during the election must be reserved for an Election Petition to be filed after the completion of the election.

16. The petitioner's grievance regarding the quality of the display of the allotted symbol – 'Mike' being very thin and of poor quality and not being "as it is" falls squarely within the meaning of electoral matter. It is an irregularity occurring during the

[1] 1952 1 SCC 94

immediate and the highly time sensitive stage of preparing EVMs and Ballot Papers, which is inseparable from the election process and forms an integral and intrinsic part thereof.

17. The Representation of the People Act 1951 and particularly, Section 80 thereof provides the manner of calling an election into question. The petitioner is not left without a remedy. If the alleged defect in the display of the symbol is found to be true and substantive, the petitioner is entitled to raise this issue as a ground in the Election Petition to be filed under the Representation of the People Act, 1951 contending that the defect/poor quality of the symbol as materially affected the result of election.

18. The relevant provision of the Representation of People Act, 1951 reads as under:

> ***Section 80. Election Petitions-*** *No election shall be called in question except by an election petition presented in accordance with the provisions of this Part.*
>
> ***Section 100. Grounds for declaring election to be void-*** *[(1) Subject to the provisions of sub-section (2) if [the High court] is of opinion—*
>
> *(a) *****
> *(b) *****
> *(c) *****
> *(d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected—*
>
> *(i) *****
> *(ii) *****

(iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or
(iv) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act,

[the High Court] shall declare the election of the returned candidate to be void.]

19. The record clearly shows that the petitioner filed his representation on 03.11.2025 after the commissioning of the EVMs and VVPATs was completed. The present Writ Petition is filed on 07.11.2025 within ongoing electoral schedule for by-elections, which were scheduled on 11.11.2025. Grant of relief sought by the petitioner namely: directing the Election Officials to open the commissioned EVMs and VVPATs and to re-commission them with a newly rendered symbol would necessitate an inevitable disruption, delay and the suspension of the entire election schedule. It is settled law that the High Court under Article 226 of Constitution of India has to exercise restraint in passing an order that impedes or stalls the election process.

20. For the foregoing reasons, we hold that the Writ Petition is misconceived, lacking in merit and is constitutionally barred. The alleged grievance of the petitioner however genuine, it may be, pertains to a stage after the commencement of the election process and must be raised through the appropriate and exclusive remedy

of an Election Petition under the Representation of the People Act, 1951.

21. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

As a sequel, miscellaneous petitions, pending if any, stand closed.

SD/-P. PONNA KRISHNA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

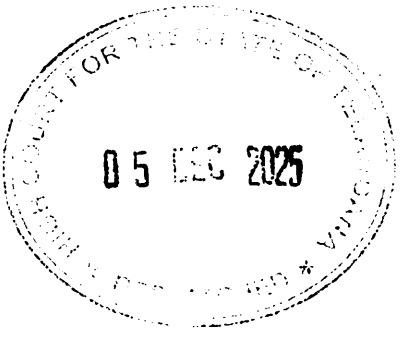
To

1. One CC to SRI GOVARDHAN B., Advocate [OPUC]
2. One CC to SRI KOPAL SHARRAF, S.C. for Election Commission of India [OPUC]
3. Two CD Copies

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HIGH COURT

DATED:11/11/2025



ORDER

WP.No.34083 of 2025

DISMISSING THE WRIT PETITION
WITHOUT COSTS

(5)

kps
28/11/25