

**IN THE HIGH COURT OF ANDHRA PRADESH: AT AMARAVATI**

**\*\*\*\*\***

**WRIT PETITION No.34107 OF 2025**

Between:-

K.Suresh Babu

... Petitioner

AND

The State of Andhra Pradesh,  
Rep., by its Principal Secretary,  
Municipal Administration Department and 3 others. ...Respondents

**DATE OF ORDER PRONOUNCED: 10.12.2025**

**HON'BLE Mr. JUSTICE GANNAMANENI RAMAKRISHNA PRASAD**

1. Whether Reporters of Local Newspapers may be allowed to see the Judgments? : Yes/No
2. Whether the copies of judgment may be marked to Law Reports/Journals? : Yes/No
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? : Yes/No

---

**GANNAMANENI RAMAKRISHNA PRASAD,J**

**\*HON'BLE Mr. JUSTICE GANNAMANENI RAMAKRISHNA PRASAD**

**+ WRIT PETITION No.34107 OF 2025**

**% DATE: 10.12.2025**

**# Between:-**

K.Suresh Babu

... Petitioner

AND

The State of Andhra Pradesh,  
Rep., by its Principal Secretary,  
Municipal Administration Department and 3 others. ...Respondents

! Counsel for the petitioner : Sri P. Veera Reddy, learned Senior Counsel  
assisted by Sri V.R. Reddy Kovvuri, learned  
Counsel for the Writ Petitioner.

^Counsel for respondents : Ms. Jhansi Lakshmi, Ld. A.G.P representing  
O/o Advocate General appearing for  
Respondent Nos.1 & 4.

Sri Vivek Chandrasekhar, Ld. Counsel for the  
State Election Commission appearing for the  
Respondent No.2

< Gist:

➤ Head Note:

?CASES REFERRED:

1. 2024 SCC OnLineBom 2578
2. 2019 SCC OnLineBom 629

|                        |            |
|------------------------|------------|
| Judgment reserved on   | 09.12.2025 |
| Judgment pronounced on | 10.12.2025 |
| Judgment uploaded on   | 10.12.2025 |

APHC010661412025



**IN THE HIGH COURT OF ANDHRA PRADESH**  
**AT AMARAVATI**  
**(Special Original Jurisdiction)**

[3328]

WEDNESDAY, THE TENTH DAY OF DECEMBER  
TWO THOUSAND AND TWENTY FIVE

**PRESENT**

**THE HONOURABLE SRI JUSTICE GANNAMANENI RAMAKRISHNA  
PRASAD**

**WRIT PETITION NO: 34107 OF 2025**

**Between:**

1.K.SURESH BABU, S/O. LATE K.KRISHNAIAH, AGED ABOUT 56 YEARS, OCC MEMBER, KADAPA MUNICIPAL CORPORATION, KADAPA, YSR DISTRICT. R/O. D.NO.37/120, OPP MANASA KALYANAMANDAPAM, KONDAYYAPALLI, KADAPA CITY, YSR DISTRICT

**...PETITIONER**

**AND**

- 1.THE STATE OF ANDHRA PRADESH, REP., BY ITS PRINCIPAL SECRETARY MUNICIPAL ADMINISTRATION DEPARTMENT, SECRETARIAT BUILDINGS, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT.
- 2.THE STATE ELECTION COMMISSION, 1ST FLOOR, NEW HODS BUILDING, M.G.ROAD VIJAYAWADA- 520010, REP., BY ITS COMMISSIONER.
- 3.THE ELECTION AUTHORITY AND COMMISSIONER AND DIRECTOR OF MUNICIPAL ADMINISTRATION, , ANDHRA PRADESH
- 4.THE COLLECTOR, DISTRICT ELECTION AUTHORITY, Y.S.R KADAPA DISTRICT.

**...RESPONDENT(S):**

**Counsel for the Petitioner:**

1.V R REDDY KOVVURI

**Counsel for the Respondent(S):**

1.GP FOR MUNICIPAL ADMN URBAN DEV

2.DODDALA YATHINDRA DEV

3.VIVEK CHANDRA SEKHAR S

**The Court made the following ORDER:**

Heard Sri P. Veera Reddy, learned Senior Counsel assisted by Sri V.R. Reddy Kovvuri, learned Counsel for the Writ Petitioner, Ms. Jhansi Lakshmi, Ld. Asst. Government Pleader representing O/o Advocate General appearing for Respondent Nos.1 & 4 and Sri Vivek Chandrasekhar, Ld. Counsel for the State Election Commission appearing for the Respondent No.2.

2. The present Writ Petition is filed seeking the following relief:

*“It is therefore prayed, that this Hon’ble Court may be pleased to issue an appropriate Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the Notification No.217/SEC-f1/2025, dated 04.12.2025 issued by the respondent No.2 directing the respondent No.3 to authorize the respondent No.4 for conduct of election of Mayor of Kadapa Municipal Corporation to fill up the Casual Vacancy occurred in the office of Mayor of Kadapa Municipal Corporation, eventhough, the ordinary election for all the members shall be conducted on or before February, 2026 as arbitrary, illegal, colorable exercise of power, quite contrary to the well established legal principles apart from being violative of the fundamental rights guaranteed to me under Articles, 14, 19 and 21 of the Constitution of India and consequently set aside the same and pass such other order or orders as are deemed fit and proper in the circumstances of the case.”*

**SUBMISSIONS OF THE LD. COUNSEL FOR THE WRIT PETITIONER:**

3. It is submitted by the Ld. Senior Counsel for the Writ Petitioner that the Writ Petitioner was a former Mayor of Kadapa Municipal Corporation; that the Writ Petitioner was elected as a Mayor of the Kadapa Municipal Corporation on 18.03.2021 for a term of five years; that in the normal course, the term of the Writ Petitioner as Mayor would end by 17.03.2026; whereas, the Writ Petitioner had suffered disqualification and was removed from the Mayorship vide G.O.Rt.No.1016, Municipal Administration & Urban Development (G) Department, dated 23.09.2025 (Ex.P.3); that the said removal was on account of alleged irregularities committed by the Writ Petitioner during execution of the Civil Contract Works within the jurisdiction of Kadapa Municipal Corporation through the firm M/s. Vardhini Constructions (which is owned by his immediate family members); that the Writ Petitioner has challenged the G.O.Rt.No.1016, Municipal Administration & Urban Development (G) Department, dated 23.09.2025 (Ex.P.3) in W.P.No.26724 of 2025 and the same is pending on the file of this Hon'ble Court; that in the meantime, the Andhra Pradesh State Election Commission (Respondent No.2) had issued Notification No.217/SEC-F1/2025, dated 04.12.2025 (Ex.P.1) for filling-up of the casual vacancy i.e., Mayor of Kadapa Municipal Corporation which has occurred on account of disqualification of the Writ Petitioner herein; that the Annexure to the Notification dated 04.12.2025 would indicate that the Notice would be given in Form-II by the District Collector or the Joint Collector of Y.S.R.Kadapa District on or before 07.12.2025 and the Special Meeting for conduct of election of Mayor of Kadapa Municipal Corporation would be held at 11 AM on 11.12.2025, and that the 'Note' therein would stipulate that if for any reason election to the Office of Mayor of Kadapa Municipal Corporation is not held on 11.12.2025, it shall be held on the next date and even on the said date if the Mayor could not be elected, the matter shall be reported to the State Election Commission to fix another date for holding election.

4. The Writ Petitioner has challenged this Notification dated 04.12.2025 on the following grounds:

(i) That the tenure of the Members of the Municipal Corporation would end by 17.03.2026 and therefore, no useful purpose would be served by conducting election for the post of Mayor only for a period of three months.

(ii) That the Notification dated 04.12.2025 (Ex.P.1) is bad in law as it is opposed to the provisions of the Greater Hyderabad Municipal Corporation Act, 1955 ('Act, 1955' for short) (as adopted for Kadapa Municipal Corporation) and is also in violation of Section 7 (1)(2)(3) and (4) of the said Act.

(iii) That the Notification dated 04.12.2025 has been issued in violation of Article 243 (1) (c) and 243U(3)(b) of the Constitution of India.

(iv) While the challenge of disqualification by the Writ Petitioner is pending in W.P.No.26724 of 2025, the Respondent No.2 ought not to have issued Notification dated 04.12.2025 because if the Writ Petitioner succeeds in W.P.No.26724 of 2025, then the Writ Petitioner would assume the office of Mayor once again.

5. Ld. Senior Counsel has drawn the attention of this Court to sub-section (10) of Section 2 and Sections 6 and 7 of the Act, 1955 in addition to the Section 90 of the said Act, 1955. The above said Sections are usefully extracted hereunder;

**(Act, 1955)**

**sub-section (10) of Section 2:**

*“[‘Member’] means a person who is duly elected or deemed to be duly elected as a [member] of the Corporation under this Act;”*

**Sections 6, 7 and 90:**

**“6. The term of office of [members] :--** (1) *The term of office of elected [members] shall, save as otherwise expressly provided in this Act, be five years from the date appointed for the first meeting of the Corporation under clause (b) of section 88 and the last day of their term of office is in this Act referred to as the day for retirement.];*

(3) *An ex-officio [Member] shall hold office so long as he continues to be the member of the Legislative Assembly of the State or the Legislative Council of the State or the House of the People, as the case may be.”*

**“7. Election when to be held:--** (1) *Every general election requisite for the purpose of this Act shall be held in the manner prescribed, within three months before the day for retirement of the members as specified in section 6.*

(2) *Every casual vacancy in the office of an elected member of a Municipal Corporation shall be reported by the Commissioner to the State Election Commission within fifteen days from the date of occurrence of such vacancy and shall be filled within four months from that date*

(3) *A member elected in a casual vacancy shall enter upon office forthwith but shall hold office only so long as the member in whose place he is elected would have been entitled to hold office if the vacancy had not occurred.*

(4) *No casual election shall be held to a Municipal Corporation within six months before the date on which the term of office of its members expires by efflux of time.”*

**“90. Election of Mayor and Deputy Mayor:--** *The elected members referred to in sub-section (1) as well as ex-officio members referred to in sub-section (1-A) of Section 5 of this Act, shall elect one of its elected Members to be its Mayor and another to be its Deputy Mayor at the first meeting of the Corporation after the ordinary elections by show of hands on party basis duly*

*obeying the party whip given by such functionary of the recognized political party, in the manner prescribed. At an election held for that purpose, if Mayor or Deputy Mayor is not elected, fresh election shall be held on the next day, the names of the Mayor and the Deputy Mayor so elected shall be published in the prescribed manner. **Any casual vacancy in the said offices shall be filled, in the same manner at a casual election and a person elected as Mayor or the Deputy Mayor in any such vacancy shall enter upon office forthwith and hold office only so long as the person in whose place he is elected would have been entitled to hold office, if the vacancy had not occurred :***

*Provided that a member voting under this sub-section in disobedience of the party whip shall cease to hold office [in the manner prescribed] and the vacancy caused by such cessation shall be filled as a casual vacancy.*

*(2) The Mayor or the Deputy Mayor as the case may be, shall be deemed to have assumed office on his being declared as such and shall hold office in accordance with the provisions of this Act and as long as he continues to be an elected member, unless resigned or removed from such office by no-confidence motion or for any other reason in accordance with the provisions of this Act.]”*

6. Ld. Senior Counsel for the Writ Petitioner would submit that as per Section 90 (1) of the Act, 1955 a Mayor is elected by the elected Members of the Corporation as referred to in sub-section (1) as well as ex-officio members referred to in sub-section (1-A) of Section 5 of the Act, 1955 by show of hands on party basis duly obeying the party whip. Ld. Senior Counsel lays emphasis on the last sentence of sub-section (1) of Section 90 of the Act, 1955 that: “Any casual vacancy in the said offices shall be filled, in the same manner at a casual election and a person elected as a Mayor or Deputy Mayor in any such vacancy shall enter upon office forthwith.....”. He would submit that the election of the Mayor shall be conducted in the same manner at a casual election as described in Section ‘7’ of the Act, 1955. He would submit that as per the sub-section (4) of Section 7 of the Act, 1955 no casual election shall be held to a Municipal Corporation within six months before the date on which



the term of office and its' members expires by efflux of time. By referring to this provision, Ld. Senior Counsel would contend that the term of the Members of the Municipal Corporation would expire in about three months and therefore, the Notification dated 04.12.2025 (Ex.P1) is squarely covered by the embargo provided in sub-section (4) of Section 7 of the Act, 1955. It is contended that the statute does not distinguish between the 'direct election' in which the contestants for the Membership of Corporation would have to face and the 'indirect election' which is faced by a candidate aspiring to become either a Mayor or Deputy Mayor. Ld. Senior Counsel has also placed reliance on Sub-Clause (b) of Clause 3 of the Article 243 U and also its' proviso.

7. Ld. Senior Counsel has also referred to Para No.13 of the Counter-Affidavit and also Rule-8 of the Andhra Pradesh Municipal Corporations (Conduct of Election of Mayor and Deputy Mayor) Rules, 2005 (Rules, 2005). He would also submit that as per Rule-8 of the Rules, 2005 a casual vacancy shall be filled-up within a period of six months from the date of occurrence of such vacancy and the Rules in Part-II shall apply for filling-up of casual vacancy for the post of the Mayor. Ld. Senior Counsel would contend that the above mentioned Rules, 2005 would also stipulate that the election for the post of Mayor cannot be conducted at a time when the term of the Members itself would come to an end within a period which is just few weeks over three months.

8. Ld. Senior Counsel has placed reliance on Para Nos. 20 and 21 of the Judgment rendered by the Division Bench of the Hon'ble High Court of Bombay in ***Manoj and Another Vs. Maharashtra State Election Commission, through its Election Commissioner and Others***: 2024 SCC OnLineBom 2578 (W.P.No.4323 of 2024, Order dated 26.07.2024). Para Nos. 20 and 21 are usefully extracted hereunder:

*20. Though Shri A.M. Kukday, counsel for the respondent-Commission has relied on the judgment of the Apex Court in Nasiruddin (supra), particularly paragraph 37, so as to claim that there is unambiguity in the statute*

*and there need not be interpretation of the same to mean that if in a bye-election the elected candidate would get the term of less than six months, the elections should not be held or the vacancy shall not be filled in.*

*If we appreciate the said contention, we are required to be sensitive to the object which is sought to be achieved by Section 63 and the proviso thereto of the Act of 1961. It does not appear to be the intention of the legislature while enacting the statute to mean that the bye-elections have to be held so as to fill in the vacancy even if the elected candidate in the bye-election would get the term of less than six months. To be more precise, it cannot be said that Section 63 of the Act of 1961 contemplates holding of the bye-elections even if the elected candidate in the bye-election would get the term of less than six months as the vacancy had occurred when the tenure left was more than six months.*

**21.** *We have taken the aforesaid view thereby interpreting the provisions of Section 63 of the Act of 1961 by applying purposive interpretation. The doctrine of 'Purposive Interpretation' is propounded by the catena of decisions. Recently, the Apex Court in Vivek Narayan Sharma (Demonetisation Case-5 J.) v. Union of India [(2023) 3 SCC 1] has at length discussed the said doctrine in paragraphs 133 to 148 and particularly in paragraphs 138, 139, 146 and 148. Paragraphs 138, 139, 146 and 148 of the said judgment read thus:—*

*“138. Aharon Barak, the former President of the Supreme Court of Israel, whose exposition of “doctrine of proportionality” has found approval by the Constitution Bench of this Court in Modern Dental College and Research Centre, to which we will refer to in the forthcoming paragraphs, in his commentary on “Purposive Interpretation in Law”, has summarized ‘the goal of interpretation in law’ as under:*

*“At some point, we need to find an Archimedean foothold, external to the text, from which to answer that question. My answer is this : The goal of interpretation in law is to achieve the objective - in other words, the purpose - of law. The role of a system of interpretation in law is to choose, from among the semantic options for a given text, the meaning that best achieves the purpose of the text. Each legal text - will, contract, statute, and constitution - was chosen to achieve a social objective. Achieving this objective, achieving this*

*purpose, is the goal of interpretation. The system of interpretation is the device and the means. It is a tool through which law achieves self-realization. In interpreting a given text, which is, after all, what interpretation in law does, a system of interpretation must guarantee that the purpose of the norm trapped in the - in our terminology, the purpose of the text - will be achieved in the best way. Hence the requirement that the system of interpretation be a rational activity. A coin toss will not do. This is also the rationale-which is at the core of my own views - for the belief that purposive interpretation is the most proper system of interpretation. This system is proper because it guarantees the achievement of the purpose of law. There is social, jurisprudential, hermeneutical, and constitutional support for my claim that the proper criterion for interpretation is the search for law's purpose, and that purposive interpretation best fulfils that criterion. A comparative look at the law supports it, as well. I will discuss each element of that support below.*

139. *The learned Judge emphasized that purposive interpretation is the most proper system of interpretation. He observed that this system is proper because it guarantees the achievement of the purpose of law. The proper criterion for interpretation is the search for law's purpose, and that purposive interpretation best fulfils that criterion.*

146. *In State of Gujarat v. R.A. Mehta, this Court held as under : (SCC pp.47-48, para 98)*

*"98. The doctrine of purposive construction may be taken recourse to for the purpose of giving full effect to statutory provisions, and the courts must state what meaning the statute should bear, rather than rendering the statute a nullity, as statutes are meant to be operative and not inept. The courts must refrain from declaring a statute to be unworkable. The rules of interpretation require that construction which carries forward the objectives of the statute, protects interest of the parties and keeps the remedy alive, should be preferred looking into the text*

*and context of the statute. Construction given by the court must promote the object of the statute and serve the purpose for which it has been enacted and not efface its very purpose. 'The courts strongly lean against any construction which tends to reduce a statute to futility. The provision of the statute must be so construed as to make it effective and operative.' The court must take a pragmatic view and must keep in mind the purpose for which the statute was enacted as the purpose of law itself provides good guidance to courts as they interpret the true meaning of the Act and thus legislative futility must be ruled out. A statute must be construed in such a manner so as to ensure that the Act itself does not become a dead letter and the obvious intention of the legislature does not stand defeated unless it leads to a case of absolute intractability in use. The court must adopt a construction which suppresses the mischief and advances the remedy and 'to suppress subtle inventions and evasions for continuance of the mischief, and pro privato commodo, and to add force and life to the cure and remedy, according to the true intent of the makers of the Act, pro bono publico'. The court must give effect to the purpose and object of the Act for the reason that legislature is presumed to have enacted a reasonable statute. (Vide M. Pentiah v. Muddala Veeramallappa, S.P. Jain v. Krishna Mohan Gupta, RBI v. Peerless General Finance and Investment Co. Ltd., Tinsukhia Electric Supply Co. Ltd. v. State of Assam, SCC at p.754, para 118; UCO Bank v. Rajinder Lal Capoor and Grid Corpn. of Orissa Ltd. v. Eastern Metals & Ferro Alloys)."*

148. It is thus clear that it is a settled principle that the modern approach of interpretation is a pragmatic one, and not pedantic. An interpretation which advances the purpose of the Act and which ensures its smooth and harmonious working must be chosen and the other which leads to absurdity, or confusion, or friction, or contradiction and conflict between its various provisions, or undermines, or tends to

*defeat or destroy the basic scheme and purpose of the enactment must be eschewed. The primary and foremost task of the Court in interpreting a statute is to gather the intention of the legislature, actual or imputed. Having ascertained the intention, it is the duty of the Court to strive to so interpret the statute as to promote or advance the object and purpose of the enactment. For this purpose, where necessary, the Court may even depart from the rule that plain words should be interpreted according to their plain meaning. There need be no meek and mute submission to the plainness of the language. To avoid patent injustice, anomaly or absurdity or to avoid invalidation of a law, the court would be justified in departing from the so-called golden rule of construction so as to give effect to the object and purpose of the enactment. Ascertainment of legislative intent is the basic rule of statutory construction.” While applying the aforesaid purposive interpretation to the present case, we are sensitive to the fact that the provisions in relation to the election matters are required to be given strict interpretation and the Courts are not permitted to read down the provision to facilitate the candidature or the views of a political party.”*

9. Ld. Senior Counsel has also placed reliance on Para Nos. 42 and 43 of the Judgment rendered by the Hon'ble Division Bench of the Hon'ble High Court of Bombay in **Sandeep Yashwantrao Sarode Vs. Election Commission of India, New Delhi and others** : 2019 SCC OnLineBom 629 (W.P.No.2251 of 2019, Order dated 12.04.2019). Para Nos. 42 and 43 are usefully extracted hereunder:

**“42.** *In Digvijay Mote v. Union of India, reported in (1993) 4 SCC 175, it has been held that the power of the Election Commission under Article 324 of the Constitution is not unilateral and that it is subject to judicial review as it is a constitutional functionary and a statutory body exercising its functions affecting public law rights. The Hon'ble Apex Court emphasized that the power conferred on the ECI by Article 324 has to be exercised not meaninglessly nor mala fide nor arbitrarily nor with*

partiality but in keeping with the contours of the rule of law. This is reiterated by the Hon'ble Apex Court in the case of *Union of India v. Association for Democratic Reforms* reported in 2002 MhLJ Online (S.C.) 22 : (2002) 5 SCC 294.

**43.** Now, let us proceed to examine the decision of the ECI to hold election to fill casual vacancy in Katol Assembly Constituency. Election here is scheduled for 11-4-2019 and the result thereof is going to be declared on 23-5-2019. The term of this vacant seat is going to be determined on 18-5-2019. We have already seen that to the present case, clause (a) of the proviso is applicable fully and **“the remainder of the term of a member”** must reasonably mean the balance term reckoned from the date of declaration of the result of the election. Seen in this way, we would find that the remainder of the term of the incoming member is hardly going to be of about five months. So, the question would arise as to how far would it be fair and reasonable and also equal to have the casual vacancy filled for such an extremely short period of time. None would dispute that if the casual vacancy is to be filled, the newly elected member should get a reasonable period of time to function as the elected representative of the Constituency and it is the intention of the legislature that reasonableness of the remainder of the term could ordinarily be seen from the fact that it is available for at least one year. The ECI also seems to acknowledge this fact, which is clear from its press note dated 9-10-2018 (Annexure-D, page No. 27-D). It states that in case of vacancies from Andhra Pradesh, the ECI has taken a decision not to hold the bye-election for the reason that the remainder of the term of the Lok Sabha is less than one year, though it is a different matter that the period of one year has been reckoned by the ECI from the date of occurrence of the vacancy. However, we have already found that the remaining period of the term has to be calculated not from the date of occurrence of the vacancy but from the date on which the incoming member is declared to be elected.....”

#### **SUBMISSIONS OF THE LD. COUNSEL FOR THE RESPONDENTS:**

10. Sri Vivek Chandra Sekhar, Ld. Counsel appearing on behalf of the Andhra Pradesh State Election Commission (Respondent No.2) has drawn

the attention of this Court to Para-13 of the Counter-Affidavit which is usefully extracted hereunder:

*“13. It is respectfully submitted that, as per Section 2(10) of the Act, a "Member" means a person who is duly elected or deemed to be duly elected as a Member of the Corporation under the provisions of the Act. Further, Section 7 of the Act lays down the procedure and circumstances under which elections to the Corporation shall be held. In particular, sub-section (4) of Section 7 imposes a clear bar on conducting casual elections for filling any vacancy of member (being Direct election) that occurs in the Corporation within six months prior to the date on which the term of office of its members expires by efflux of time. **However, the statutory bar contained in Section 7(4) with respect to conducting elections for filling a vacancy in the office of a member does not extend to or prohibit the conduct of an election for electing one of the existing Members of the Corporation as Mayor (being an indirect election) under Section 90 of the Act.**”*

*(emphasis supplied)*

11. He would counter the averments made by the Ld. Senior Counsel by contending that the reliance placed by the Writ Petitioner on Section 7 of the Act, 1955 is incorrect and misconceived inasmuch as the kind of election that is contemplated under Section 7 is a ‘direct election’; whereas, the election to the post of Mayor that is prescribed under Section 90 of the Act, 1955 is an ‘indirect election’. He would submit that the present election is an ‘indirect election’ for the post of a Mayor wherein the existing eligible Members will elect a Mayor from amongst them by show of hands which is diametrically opposed to the ‘direct elections’ contemplated under Section 7 meant for election of Members. He would therefore, submit that no analogy can be drawn on similar lines between ‘indirect election’ of a Mayor as opposed to the ‘direct election’ of a Member.

12. He would also submit that the phrase occurring in Section 90 of the Act, 1955 that any casual vacancy in the office of a Mayor shall be filled-up in the same manner at a Casual Election should be understood only in the context of

‘indirect election’ of the Mayor under Section 90 of the Act, 1955 and that the embargo stipulated in Section 7 of the Act, 1955 cannot be applied to election of Mayor. He would submit that both the provisions would operate in different scenarios and therefore the procedure and the stipulations prescribed under Section 7 of the Act, 1955 cannot be imported into Section 90 of the Act, 1955. He would also submit that the Judgments referred by the Ld. Senior Counsel (*Manoj and Another Vs. Maharashtra State Election Commission and Sandeep Yashwantrao Sarode Vs. Election Commission of India*) are not of any relevance inasmuch as the both the cases have dealt with a direct election which involves an elaborate process such as the preparation of the Voters List and publishing them, issuance of Election Notification, inviting Nominations, scrutiny and withdrawal of Nominations and a period reserved for election campaign, fixation of polling booths and conducting of election and counting etc., whereas, in the election of a Member, the existing Members would elect a Mayor by show of hands which will be over within a very short span of time and therefore, the factual situation contained in the Judgments referred to by the Ld. Senior Counsel do not relate to the facts in the present case.

### **ANALYSIS:**

13. On query made by this Court to the Ld. Senior Counsel for the Writ Petitioner, whether the impugned Proceeding disqualifying the Petitioner dated 23.09.2025 vide G.O.Rt. No.1016, Municipal Administration & Urban Development (G) Department, dated 23.09.2025 (Ex.P.3) has been stayed by the Ld. Single Judge or not, the Ld. Senior Counsel has clarified that there is no interim order passed in W.P.No.26724 of 2025 and that the matter is listed for hearing on 18.12.2025.

14. As it can be noticed that Section 7 of the Act, 1955 deals with General Elections for the members. Elections shall be held within three months before the day of retirement of the Members as specified in Section 6 of the Act, 1955. While referring to sub-section (1) of Section 7 of the Act, 1955, Ld.



Senior Counsel would contend that the tenure of the Members would come to an end by 17.03.2026 and as only three months of the tenure is left over, it does not stand to reason in conducting an election for the post of Mayor. Sub-Section 4 of Section 7 of the Act, 1955 would stipulate that no casual election shall be held to a Municipal Corporation within six months before the date on which the term of office of its' Members expires by efflux of time. It is the submission of the Ld. Senior Counsel for the Writ Petitioner that these provisions must be read into Section 90 (1) of the Act, 1955 dealing with election to a post of Mayor because the expression 'casual vacancy' that occurs in Section 90 is akin to Section 7 (1) of the Act, 1955.

15. Having considered the above provisions, this Court is not in agreement with the submissions of the Ld. Senior Counsel to read the procedure and the embargo contemplated in Section 7 of the Act, 1955 into Section 90 of the Act. This Court is rather in agreement with the submissions made by the Ld. Counsel for the Respondent No.2 that the procedure and embargo contemplated in Section 7 cannot be read into Section 90 of the Act, 1955 inasmuch as the general election for filling-up of a casual vacancy of a Member contemplated under Section 7 is a 'direct election' whereas, the nature of the election contemplated under Section 90 of the Act, 1955 is admittedly an 'indirect election'. Similarly, this Court is also not in agreement with the submissions of the Ld. Senior Counsel in respect of the applicability of sub-section (4) of Section 7 to the present election of Mayor inasmuch as the election to a Mayor post is conducted on a scheduled date and time and at a venue where the elected Members would participate and elect the Mayor by show of hands.

16. Similarly, this Court has considered the judgments cited by the Ld. Senior Counsel. The Judgments rendered by the Division Bench of the Hon'ble High Court of Bombay are related to a different scenario inasmuch as the said election considered by the Division Bench is a 'direct election' and therefore, the Division Bench was of the view that such 'direct election' is not

in public interest at the fag end of the tenure of the elected Members. This apart, this Court has also taken into account the fact that this Hon'ble Court has not shown any indulgence in granting interim protection to the Writ Petitioner in the pending Writ Petition No.26724 of 2025, wherein, the Writ Petitioner has challenged his disqualification as Mayor. It is submitted that the said Writ Petition is coming up for hearing on 18.12.2025.

17. A concern was expressed by the Ld. Senior Counsel that in the event of the Petitioner succeeding in W.P.No.26724 of 2025, there would be a crisis inasmuch as two Mayors cannot operate at the same time. It is a matter of fact that the impugned Notification for conducting of election for the post of Mayor had been issued after disqualifying the Petitioner vide G.O.Rt.No.1016, Municipal Administration & Urban Development (G) Department, dated 23.09.2025 (Ex.P.3). If the Writ Petitioner succeeds in the Writ Petition challenging the said Proceeding, it shall be deemed in law that the Petitioner will be automatically continue to officiate as Mayor and therefore, the consequent indirect election initiated vide Notification dated 04.12.2025 would become otiose and nonest in the eye of law. In the above premise, the present Writ Petition is devoid of any merit, and therefore, is liable to be dismissed.

18. Accordingly, this Writ Petition is dismissed. No order as to costs.

19. Interlocutory Applications, if any, stand closed in terms of this order.

---

**GANNAMANENIRAMAKRISHNA PRASAD, J**

Dt: 10.12.2025

Note: LR copy to be marked.

B/o. Mnr

48

**HON'BLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD**

**WRIT PETITION No.34107 OF 2025**

Dt: 10.12.2025

Note: LR copy to be marked.

B/o. Mnr