

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH

AND

THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN

WRIT PETITION No.32746 of 2025

ORDER:

Heard Mr. Vijay Gopal, learned counsel for the petitioners, Ms. Shazia Parveen, learned Government Pleader for Panchayat Raj appearing for respondent No.1 and Mr. G.Vidya Sagar, learned Senior Counsel representing Mr. P.Sudheer Rao, learned Standing Counsel for Telangana State Election Commission appearing for respondent No.2.

2. The *vires* of Section 21(3) of the Telangana Panchayat Raj Act, 2018 (hereinafter referred to as 'the Act of 2018'), which restricts the eligibility of a person to contest elections to the panchayat on grounds of having more than two children, has once again been challenged in the present writ petition though this issue had drawn the attention of this Court in W.P.Nos.22842 and 22991 of 2024 *vide* order dated 05.09.2024 and further in W.P(PIL)(SR).No.6578 of 2025 *vide* order dated 03.03.2025 following the ratio rendered by the Apex Court in

Javed v. State of Haryana¹ on a similar legislation by the State of Haryana being Haryana Panchayat Raj Act, 1994.

3. On this instance, learned counsel for the petitioners has made an ingenious submission to distinguish the ratio rendered in the case of **Javed** (supra) and the decision rendered by the Co-ordinate Bench of this Court in the aforesaid two writ petitions by trying to bring the ambit of the impugned provision of the Act of 2018 under the cover of Article 31C of the Constitution of India. According to the petitioners, the Haryana Panchayat Raj Act, 1994 had received the assent of the President whereas the Telangana Panchayat Raj Act, 2018 was not sent for such assent and in fact notified on the basis of assent of the Hon'ble Governor of the State itself, which is in teeth of the proviso to Article 31C of the Constitution of India.

4. Article 31C of the Constitution of India reads as under:

“31C. Saving of laws giving effect to certain directive principles.- Notwithstanding anything contained in article 13, no law giving effect to the policy of the State towards securing all or any of the principles laid down in Part IV shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14 or article 19

¹ (2003) 8 SCC 369

and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy:

Provided that where such law is made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent.”

5. We have conferred anxious consideration to this issue, but we fail to decipher as to how the impugned provision under the Act of 2018 would amount to infraction of the right conferred by Articles 14 or 19 of the Constitution of India. We are strengthened by the observations made by the Apex Court in the case of **Javed** (supra) at page No.59, wherein it has been categorically held that there is no fundamental right to any person to stand as a candidate for election to the Municipality. The impugned disqualification does not violate that fundamental right to practice any profession or carry any occupation, trade or business. The Apex Court further observed that disqualification on the right to contest an election by having more than two living children does not contravene any fundamental right nor it crosses the limits of reasonability. Rather,+ it is a disqualification conceptually devised in national interest. With the disqualification made by the Apex Court, the

novel plea raised on behalf of the petitioners to once again question the *vires* of Section 21(3) of the Act of 2018 has to fail also in view of the pronouncements of the Co-ordinate Bench of this Court on a similar challenge.

6. Accordingly, the Writ Petition, being devoid of merit, is dismissed. However, there shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

APARESH KUMAR SINGH, CJ

G.M.MOHIUDDIN, J

Date: 30.10.2025
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