

**SUPREME COURT OF INDIA**

Thota Venkateswara Rao

Vs.

State Election Commission & Ors.

C.A.No.4796 of 2016

(Kurian Joseph and R.F.Nariman,JJ.,)

03.05.2016

**JUDGMENT**

**Kurian Joseph,J.,**

SLP(Civil)No.1359 of 2015

1. Leave granted.

2. The appellants are aggrieved by the Judgment dated 11.12.2014 in Writ Appeal Nos.1149 and 1150 of 2014 and judgment dated 12.12.2014 in W.P. No. 29984 of 2014. Essentially the dispute pertains to the disqualification of the appellants in terms of Rule 6(8)(i) of the Andhra Pradesh Municipal Rules, 2005. In the course of hearing of the appeals, the Division Bench framed the following questions:

“1. Whether the writ petitioners - appellants belong to any recognized political party or not;

2. If not, whether the aforesaid mischief of law will be applicable;

3. Whether the ratio decided by this Court in the aforesaid judgments is applicable to these cases or not.”

3 According to the High Court, the Presiding Officer has failed to exercise his jurisdiction and hence, the matter has been remitted to the Officer to address the three questions.

4. Question No.3 appears to be a question of law and once that question is answered, according to the appellants, there is hardly anything remains to be considered. According to the learned counsel, the question of law is covered in their favour by a decision of the Division Bench of the Andhra Pradesh in Writ Appeal No.1321/2005 reported in 2005(6) ALT 1(D.B.).

5. Having considered the rival contentions, we are of the view that the High Court should have addressed the question of law raised before it rather than referring it to the decision of the Presiding Officer in the election proceedings.

6. The learned counsel appearing on both sides also submit that leaving open all the contentions, the matters may be remitted to the High Court. We set aside the impugned Judgment dated 11.12.2014 and direct the High Court to decide the matters on the questions framed in the writ appeals. The impugned judgment dated 12.12.2014 in W.P. No.29984 of 2014 is also set aside and the matter is remitted to the High Court for consideration on merits on the three questions formulated in writ appeals. In terms of the order passed by this Court, the stay on suspension of membership will continue in the meanwhile.

7. We make it clear that we have not considered the matters on merits and it will be open to both sides to raise all available contentions before the High Court. The High Court is requested to dispose of the appeals expeditiously and preferably within a period of three months.

8. In view of the above observations and directions, appeals are disposed of. No costs.