THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

AND

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

WRIT APPEAL (SR).No.45118 of 2026.

ORDER: *(Per Hon'ble Smt. Justice Kiranmayee Mandava)*

Heard Sri V.Surya Kiran Kumar, learned counsel for the appellant, Sri N.Ashwani Kumar, learned Standing Counsel for SEC appearing for respondent Nos.2, 5 to 6, and Sri Siva Darshan, learned Standing Counsel appearing for 7th respondent.

2. The present Writ Appeal is filed challenging the order of the learned Single Judge in W.P.No.30914 of 2016 dated 17.10.2026, adjourning the matter for filing counter affidavit. The Writ Petition is filed for inclusion of the petitioner's name in the electoral rolls for Ward No.101 of Visakhapatnam Municipal Corporation as Form 8 was accepted on 09.09.2026. The petitioner also sought a consequential direction to accept the petitioner's nomination filed on 16.10.2026, and also sought a direction to take appropriate steps to include his name in the ward-wise photo electoral roll of Ward No.101, Visakhapatnam Municipal Corporation.

3. The learned Single Judge observed that the petitioner had not filed any document in support of his case, except the Voter ID and Aadhaar Card, and a few orders passed in Writ Petitions in similar circumstances. Observing thus,

posted the matter to 23.10.2026 for filing of the counter affidavits. Being aggrieved by the same, the instant intra-court appeal is filed.

4. It is contended that the petitioner filed Form-8 application, which was accepted by the competent electoral authority on 09.09.2026 and electoral registrations also reflected in 25-Gajuwaka Assembly Constituency, Part No.156 at Serial No.892. However, the electoral roll published did not show the name of the petitioner. As the petitioner was intending to contest the scheduled elections, he approached this Court by way of subject Writ Petition.

5. Learned counsel appearing for the appellant would contend that the order of the learned Single Judge rendered the Writ Petition infructuous, in as much as his nomination papers have already been filed before the authority and the same are pending for scrutiny, and today is the last date for scrutiny of the nomination papers. The said nomination forms have been filed basing on the EPIC Card and the same has also been mentioned in the affidavit that it was updated on 09.09.2026.

6. Learned Standing Counsel, Sri N.Ashwani Kumar, appearing for SEC, would submit that, in the light of the Election Notification, which is in operation, Constitutional bar for issuance of any directions in the instant Writ Appeal would come into play and any directions in the said regard would amount to interference with the Election process which has already been set in. It is

further contended that the 7th respondent-Chief Electoral Officer of Election Commission of India, is the appropriate authority to address this issue.

7. Learned Standing Counsel, Sri Satya Siva Darshan, appearing for the 7th respondent would submit that basing on the EPIC Card, the electoral rolls would be updated/ published since the said documents being the final document for publication of the electoral rolls.

8. Considered the submissions

9. In the light of the law laid down by the Hon'ble Apex Court in ***Election Commission of India vs. Ashok Kumar***[1], wherein it was observed that "*there may be a few controversies which may not attract the wrath of Article 329(b), namely: (i) power vested in a functionary like the Election Commission is a trust and in view of the same having been vested in high functionary can be expected to be discharged reasonably, with objectivity and independence and in accordance with law. The possibility however cannot be ruled out where the repository of power may act in breach of law or arbitrarily or malafide. (ii) A dispute raised may not amount to calling in question an election if it subserves the progress of the election and facilitates the completion of the election. The Election Commission may pass an order which far from accomplishing and completing the process of election may thwart the course of the election and such a step may be wholly unwarranted by the Constitution and wholly*

[1] (2000) 8 SCC 216

unsustainable under the law. In Mohinder Singh Gills case, this Court gives an example (vide para 34). Say after the President notifies the nation on the holding of elections under Section 15 and the Commissioner publishes the calendar for the poll under Section 30 if the latter orders returning officers to accept only one nomination or only those which come from one party as distinguished from other parties or independents, which order would have the effect of preventing an election and not promoting it, the Courts intervention in such a case will facilitate the flow and not stop the election stream".

10. Judicial intervention is justified if it facilitates the completion of the election process rather than interdiction. Any directions issued in furtherance of conducting of elections would not amount to interference with the election process, In other words contention of the petitioner is that the EPIC which has already been issued in the name of the petitioner, before issuance of the Election notification, and having regard to the submission made on behalf of the 7th respondent that the date of issuance/generation of the EPIC Card would be the relevant date and in the instant case it is before the election notification.

11. Having regard to the contentions advanced as noted from the material papers, the EPIC card was issued and the same was downloaded on 19-09-2026, having regard to the same taking into consideration the submission made on behalf of the 7th respondent, ECI, this Court deems it appropriate to direct the respondents 2 to 6 consider the EPIC card as a relevant document

while scrutinizing the appellant's nomination papers on the basis of the said card, the 2nd respondent shall process the nomination papers, without rejecting it on the ground that it has not been updated in the electoral rolls. Needless to observe that the above direction in our considered view is in furtherance of the election process.

12. Learned Standing Counsel appearing for the 2nd respondent shall forthwith inform the concerned officer about the order passed in the instant Writ Appeal.

13. With the above observations, the Writ Appeal is disposed of. There shall be no order as to costs.

As a sequel, interlocutory applications pending, if any, shall stand closed.

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JUSTICE KIRANMAYEE MANDAVA

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JUSTICE ALAPATI GIRIDHAR

Date:19.10.2026

Note: Issue CC today
B/o
BMS/ASK