

**THE HON'BLE SRI JUSTICE T.VINOD KUMAR**

**I.A.No.1 of 2024**

**In**

**WRIT PETITION No.21205 of 2024**

Between:

Jakka Venkat Reddy.

.....Petitioner

And

1. The State of Telangana, rep. by its  
Principal Secretary MAUD and others.

.....Respondents

Date of Judgment pronounced on : 08.08.2024

**HONOURABLE SRI JUSTICE T.VINOD KUMAR**

1. Whether Reporters of Local newspapers : Yes/No  
May be allowed to see the judgments?
2. Whether the copies of judgment may be marked  
to Law Reporters/Journals : **Yes**
3. Whether His Lordships wishes to see the : Yes/No  
fair copy of the Judgment?

**T. VINOD KUMAR, J**

**THE HON'BLE SRI JUSTICE T.VINOD KUMAR**

**I.A.No.1 of 2024**

**In**

**WRIT PETITION No.21205 of 2024**

% 08.08.2024

# Jakka Venkat Reddy

..... Petitioner

Versus

\$ The State of Telangana, rep. by its  
Principal Secretary MAUD and others.

..... Respondents

< **GIST:**

> **HEAD NOTE:**

! Counsel for the Petitioner : Sri A.Venkatesh, Sr. Counsel  
for Sri S.Nagesh Reddy.

^ Counsel for the respondent  
Nos.1 to 3 : Sri T.Rajanikanth Reddy,  
Addl. Advocate General  
Respondent No.5 : Sri B.Jagan Madhav Rao,  
Standing counsel.

Respondent No.22 : Sri C. Raghu, Sr. Counsel  
for Sri L.Ravinder

**? Cases referred**

1. 2007(4) ALD 544
2. (1998) 1 ALD 431.
3. 1548 (76) ER 637
4. (1955) 2 SCR 603 : AIR 1955 SC 661
5. (1975) 3 SCC 322
6. (1999) 4 SCC 253
7. (2015) 10 SCC 161
8. Order dated 02-02-2024 W.P. No. 2878 of 2024

**THE HON'BLE SRI JUSTICE T. VINOD KUMAR****I.A.No.1 of 2024****In****WRIT PETITION No.21205 of 2024****ORDER:**

By this Interlocutory Application the petitioner has sought for stay of all further proceedings including the meeting scheduled on 09.08.2024 in pursuance to Form – I notice dated 18.07.2024 moved by the Respondent No's. 5 to 24 and Form – II notice dated 24.07.2024 issued by the Respondent No. 2 herein.

Heard Sri A. Venkatesh, learned Senior Counsel for Sri S. Nagesh Reddy, learned counsel for the petitioner, Sri T. Rajanikanth Reddy, learned Additional Advocate General appearing on behalf of respondent Nos.1 to 3, Sri B. Jagan Madhav Rao, learned Standing counsel appearing on behalf of respondent No.5 and Sri C. Raghu, learned Senior Counsel for Sri L. Ravinder, learned counsel for respondent No.22, and perused the record.

2. Petitioner contends that he has been elected as Corporator of Ward No.1 and thereafter as the Chairperson of 5<sup>th</sup> respondent Corporation since the year 2020; and that the 5<sup>th</sup> respondent Corporation had 26 Corporators in all.

3. It is the further contention of petitioner that 14 Corporators out of 26 Corporators of the 5<sup>th</sup> respondent Municipal Corporation, had submitted Form-I dated 06-05-2024 to the 2<sup>nd</sup> respondent proposing to move motion of No-confidence against the petitioner; that out of the 14 Corporators, who have signed Form-I, 5 Corporators claiming that their signatures for moving the motion of No-confidence against the petitioner were allegedly obtained by the petitioner himself through misrepresentation, had approached the 2<sup>nd</sup> respondent and submitted a representation on the following day viz., 07-05-2024 and sought for withdrawal of their subscription to the motion of No-confidence against the petitioner; and that the 2<sup>nd</sup> respondent authority by causing verification of the signatures of the Corporators affixed on Form-I, had issued Form-II dated 18-05-2024 scheduling the

meeting for consideration of the motion of No-confidence against the petitioner on 05-06-2024 at 11 a.m.

4. Petitioner further contends that the 2<sup>nd</sup> respondent, while issuing the notice in Form-II, had categorically stated that he had verified the signatures of the Corporators affixed in Form-I with the records maintained by the 5<sup>th</sup> respondent Corporation and found them to be correct and accordingly scheduled the meeting on 05-06-2024 at 11 a.m.

5. Petitioner further contends that the Corporators/Ward Members who have submitted representation dated 07-05-2024 claim that their signatures have been obtained by the petitioner by misrepresentation, have approached the Police authorities and lodged a complaint on **20-05-2024** and 01-06-2024 against the petitioner.

6. Petitioner further contends that three Corporators out of five corporators who had approached the 2<sup>nd</sup> respondent and submitted representation on 07-05-2024 and sought for withdrawal of they subscribing their signatures on the Form –I

submitted on 06-05-2024, finding that the motion if put to vote would be lost as the 2<sup>nd</sup> respondent had issued Form-II scheduling the meeting to consider the motion of No-confidence against the petitioner on 05-06-2024 have approached this court by filing Writ Petition vide W.P.No.13546 of 2024 claiming that despite the petitioners therein submitting representation to the 2<sup>nd</sup> respondent on 07-05-2024, the 2<sup>nd</sup> respondent without considering or deciding their representation, had issued Form-II dated 18-05-2024 and thus, claimed the action of the 2<sup>nd</sup> respondent in scheduling the meeting on 05-06-2024 as being illegal and arbitrary.

7. Petitioner contends that this Court however taking note of the submissions made, had disposed of the aforesaid Writ Petition on 30-05-2024 directing the 2<sup>nd</sup> respondent District Collector to consider and dispose of petitioners' representation dated 07-05-2024 before the meeting and pass appropriate orders in accordance with law and communicate to the petitioners therein.

8. It is the further contention of petitioner that while this Court had directed the 2<sup>nd</sup> respondent District Collector to dispose of the representation submitted by the petitioners in the aforesaid Writ Petition before the date of meeting, the 2<sup>nd</sup> respondent for the reasons best known, did not take any action and on the other hand, passed the order on 05-06-2024 i.e. on the same day of the meeting i.e., 05-06-2024.

9. It is the further case of the petitioner that the 2<sup>nd</sup> respondent, while passing the order by considering the representation submitted by the petitioners therein viz., three corporators, pursuant to the order of this Court in the aforesaid Writ Petition, by taking note of the criminal proceedings initiated vide F.I.R.No.612/2024 dated 01-06-2024, had postponed the subject meeting scheduled on 05-06-2024 till the conclusion of the criminal proceeding.

10. It is the further contention of the petitioner that the 2<sup>nd</sup> respondent did not have the power to postpone the meeting *sine die*.

11. Petitioner further contends that as per Rule 10 of the Municipalities (Motion of No-confidence in Chairpersons / Vice-Chairperson) Rules, 2008 (for short 'the Rules) issued vide G.O.Ms.No.835, Municipal Administration and Urban Development (Elec.II) dated 03-12-2008, a meeting convened for the purpose of considering a motion, as per the rules shall not be adjourned for any reason and meeting is required to be proceeded with, and that the 2<sup>nd</sup> respondent in utter disregard to the provisions of Section 37 of the Telangana Municipalities Act, 2019 (for short 'the Act') r/w the Rules, had not only not proceeded with the meeting on the date scheduled, in fact had postponed it *sine die* which power the said Authority lacked.

12. Petitioner further contends that as per second proviso to Section 37 r/w Rule 10(3) of the Rules, if motion is not carried out by two thirds majority or if the meeting could not be held for want of quorum, no subsequent motion expressing want of confidence can be made until expiration of one year from the day of such first meeting, and since, in the facts of



the case, the meeting scheduled on 05-06-2024 was adjourned, the 2<sup>nd</sup> respondent lacked the power and jurisdiction to accept second Form-I submitted by the Corporators on 18-07-2024, and issuing Form-II on 24-07-2024 fixing/ scheduling the meeting on 09-08-2024 for consideration of motion of No-confidence against the petitioner.

13. Petitioner further contends that since the meeting scheduled on 05-06-2024 was postponed, the second proviso to Section 37 of the Act would trigger in, having regard to Rule 10(1) of the Rule which clearly states that a meeting convened for the purpose of considering a motion under these Rules shall not be adjourned for any reason.

14. Petitioner further contends that if the meeting could not be held on the day and time fixed, the same can at most be adjourned to some other time on the same day, but cannot be adjourned to other date, and thus, the meeting scheduled on 05-06-2024 is to be considered as a meeting which could not be held thereby attracting the condition/restriction of moving

a motion of No-confidence for a period of one year from the date of such first meeting, and thus, the **2<sup>nd</sup> Form-I could not have been submitted Form-I again** on 18-07-2024, and the 2<sup>nd</sup> respondent could and ought not have accepted and acted upon the same by considering the same and issuing Form-II dated 24-07-2024 scheduling the date of meeting on 09-08-2024, which action it is contended as illegal and contrary to the provisions of the Act and Rules.

15. Learned Senior Counsel would further contend that as per Section 37 of the Act, for a Form-I submitted to be considered as validly submitted, the same is to be signed by one half of total number of members of Municipality having right to vote, while the quorum for meeting to be held is two thirds of the total number of members of the Municipality and is also required to be passed with the same percentage of total number of members on being put to vote. Thus, it is contended that as the meeting scheduled on 05-06-2024 having been postponed by the 2<sup>nd</sup> respondent without any power and authority, it is to be held that the meeting could not

be held for want of quorum, thus, attracting the bar imposed under the 2<sup>nd</sup> proviso to section 37 of the Act. Urging as above, it is contended that the meeting scheduled on 09-08-2024 cannot be treated as validly convened or proceeded with.

16. *Per contra*, learned Additional Advocate General appearing on behalf of respondent Nos.1 to 3 and learned Senior Counsel appearing on behalf of respondent No.22 would contend that the order dated 05-06-2024 as passed by the 2<sup>nd</sup> respondent is not in contravention of the order passed by this Court, inasmuch as this Court while disposing of the Writ Petition No.13546 of 2024 on 30-05-2024 had only directed the 2<sup>nd</sup> respondent to pass order before the meeting of No-confidence motion scheduled to be held on 05-06-2024 at 11 a.m. and not before 05-06-2024. Thus, it is contended that the order of the 2<sup>nd</sup> respondent though is of the same date inasmuch as the petitioner has not placed any material to show that the order is passed after the scheduled meeting, the contention of the petitioner cannot be accepted as valid.

17. Learned Senior Counsel appearing on behalf of respondent No.22 further contended that the second proviso to Section 37 of the Act would not stand attracted as the meeting scheduled on 05-06-2024 at 11 a.m. was not even convened whereby the presiding officer could have either verified as to the required number of members being present to constitute a valid quorum for the meeting to commence whereat motion is to be put to vote or is required to be adjourned to some other time of the same day.

18. Learned Senior Counsel further contends that in order to constitute a valid quorum for the meeting to commence, two thirds of the total number of members are required to be present as specified under Rule 10(2) of the Rules at the time when the meeting is convened viz., at 11 a.m. on 05-06-2024 in the present case and in the event if the required quorum is not there within half an hour of the time appointed for the meeting, the Presiding Officer is required to adjourn the meeting to some other time on the same day and notify the same in the Board of the Council, and only upon such

adjournment, and re-convening of the meeting on the same day, if the required quorum is not available, only then the meeting shall stand dissolved and the notice given under Rule 3 would lapse.

19. Learned Senior Counsel further contends that in the facts of the case inasmuch as the meeting itself was not convened in the first instance at 11 a.m., without the Presiding Officer waiting for half an hour for required quorum and adjourning the meeting to some other time on the said day, the petitioner cannot seek to place reliance either to second proviso to Section 37 of the Act or Rule 10(3) of the Rules.

20. Learned Senior Counsel would further contend that while reasoning given by the 2<sup>nd</sup> respondent for not convening the meeting on the schedule date may not be correct, and even assuming that the 2<sup>nd</sup> respondent authority did not have power to postpone the meeting, the petitioner having not challenged the action of the 2<sup>nd</sup> respondent in postponing the meeting immediately thereafter if aggrieved, and in fact, took advantage of the said order for a period 2 months being

beneficiary of such action, had filed the present Writ Petition only upon the 2<sup>nd</sup> respondent issuing Form-II on 24-07-2024 convening the meeting for considering the motion of No-confidence against him on 09-08-2024 seeking to obstruct the meeting scheduled on 09-08-2024 by camouflaging the relief in the form of challenge to the order of the 2<sup>nd</sup> respondent dated 05-06-2024 nearly after two months.

21. On behalf of respondents, it is further contended that the petitioner having not found any discrepancy in Form-II dated 18-07-2024, is laying challenge to the order of the 2<sup>nd</sup> respondent dated 05-06-2024 by seeking a consequential relief against Form-II, by which the 2<sup>nd</sup> respondent had scheduled the meeting on 09-08-2024, which he is not entitled to.

22. In support of the aforesaid contention, learned Senior Counsel appearing for respondent No.22 had placed reliance on the decision of ***Pudi Krishnaveni Vs. Padala Padmavathi and others***<sup>1</sup> to contend that an analogous provision under the

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<sup>1</sup> 2007(4) ALD 544

Panchayat Raj Act was considered by this Court. Learned Additional Advocate General, placed reliance on the decision in *Tiparthy Chandra Mouli Vs. Government of Andhra Pradesh and others*<sup>2</sup>.

23. I have taken note of respective contentions urged.

24. The short question for consideration in this Interlocutory Application is as to –

*Whether prima facie the 2<sup>nd</sup> respondent by accepting Form-I dated 18.07.2024 could have issued Form-II (for the 2<sup>nd</sup> time) scheduling the meeting on 09.08.2024 at 11.00 a.m..*

25. Before advertng to respective contentions, the provisions and Rules relevant for consideration of the issue are –

Section 37 of the Act, reading as :

*“37. A motion expressing want of confidence in the Chairperson and/or the Vice-Chairperson may be made*

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<sup>2</sup> (1998) 1 ALD 431.

*by giving a written notice of intention to move the motion, in such form as specified under the Rules, signed by not less than one-half of the total number of members of the Municipality having right to vote, together with a copy of the proposed motion, to the District Collector concerned, in accordance with the procedure prescribed under the Rules:*

*Provided that no notice of motion under this section shall be made within three (3) years of the date of assumption of office by the person against whom the motion is sought to be moved:*

*Provided further that if the motion is not carried by two thirds majority **or if the meeting could not be held for want of a quorum**, no notice of any subsequent motion expressing want of confidence in the same person shall be made until after the expiration of one year from the date of such first meeting.*

***(Emphasis supplied)***

**Rule 3 :**

*“3. A motion expressing want of confidence in the Chairperson or Vice-Chairperson may be made by giving a written notice of intention to mover the motion in Form-I duly signed by not less than one-half of the total number of members of the Municipal Council having right to vote together with a copy of the proposed motion to the District Collector concerned.”*



**Rule 10 :**

*10. (1). A meeting convened for the purpose of considering a motion under these rules shall not be adjourned for any reason.*

*(2). The quorum for such meeting shall be two thirds of the total number of members.*

*(3). If within half an hour after the time appointed for the meeting, there is no quorum, the Presiding Officer shall adjourn the meeting to some other time on the same day and notify the same in the notice board of the Council. If there is no quorum at the adjourned time also, the meeting shall stand dissolved and notice given under Rule 3 shall lapse.*

*(4). As soon as a meeting convened under the said rule commences the Presiding Officer shall read to the members present in the meeting, the motion for the consideration of which the meeting has been convened and shall put it to vote without any debate.*

**Rule 11 :**

*11. When the Motion of No Confidence is put to vote, the Presiding Officer shall first ask the members to raise hands who vote for the motion and record their names with party affiliation in the minutes book. Similarly, the Presiding Officer shall ask the remaining members to raise their hands who vote against the motion and record their names with party affiliation in the minutes book. The names of members who abstain from voting with*

*their party affiliation shall also be recorded in the minutes book. The result of the voting shall be recorded in the minutes book.*

26. Though, petitioner had contended that since the meeting scheduled on 05-06-2024 was postponed by the 2<sup>nd</sup> respondent, the said authority could not have accepted Form-I submitted by the members against on 18-07-2024 and also could not have issued second Form-II on 24-07-2024 as the meeting could not be held on 05-06-2024, the second proviso of Section 37 of the Act would trigger in thereby placing a bar for moving subsequent motion expressing want of confidence in the same person until after expiration of one year, it is to be noted that the bar of one year from the date of **first meeting** for moving subsequent motion of no confidence would be applicable only when the meeting is convened on the date and time whereat the Presiding Officer, on taking head count, finds that the required number of members to constitute quorum not being present even after waiting for half an hour and even then noticing the required quorum as not being present, adjourns the meeting to some other time of

the same day whereat also the required quorum is not available, dissolves the meeting, only then such meeting convened can be treated as first meeting for the bar under second proviso to Section 37 of the Act to apply.

27. In the first instance on 05-06-2024, though a meeting was scheduled, the same did not commence whereat the Presiding Officer could have taken note of the fact as to whether the required quorum at the first instance was available or not and if available, put the motion to vote as prescribed under Rule 11, if not waited for half an hour to see whether any member would to attend the meeting so as to fulfill the requirement of quorum i.e. two thirds of the total number of members, if not postpone the same to other time of the same day by notifying the same in the notice board of the Council.

28. It is to be noted that the emphasis in section 37 of the Act as well as in Rule 10 is on the word 'meeting'. The term 'meeting' has been defined in Black's Law Dictionary as "assembly of persons". It is to be noted that the 'assembly of

persons', in the facts of the present case would be all the Corporators/Ward Members of the Municipality numbering to 26. Out of the total number of members, in order to constitute a valid quorum for the meeting to be convened, two-thirds of the total numbers of members viz., 18 members are required to be present, by congregating at the place whereat the meeting is to be held before the presiding officer. It is only when such congregation takes place and the Presiding Officer on taking head-count finds that required number of members are there to constitute a quorum at the first instance or adjourns the same to some other time of the same day, only in such a circumstance would have to be construed as first meeting. Without such congregation of the members before the Presiding Officer, it cannot be said that a meeting was convened. The assembly of the Corporators is thus required to be in the hall designated before the presiding officer whereat the business scheduled is required to be transacted and not in the corridors with their paraphernalia.

29. Further, it is also to be noted that upon congregation of members at the designated place, the Presiding Officer declaring the meeting as validly convened having a required quorum, the motion is required to be put to vote. Till such time, the meeting is convened at the designated place before the presiding officer at the first instance, if adjourned to some other time of the same date for want of quorum, and even then quorum not being available, only in such a situation, it can be said that the meeting as not having been held for want for quorum thereby bringing the bar of one year into operation.

30. In the facts of the present case, that situation has not arisen as no meeting was convened in the first place. On the other hand even before the meeting, the 2<sup>nd</sup> respondent having postponed the meeting, the contention of the petitioner of the second proviso to Section 37 of the Act getting attracted does not appeal to this Court for being accepted.

31. Further, it is also to be noted that the life of Form-I is only for a period of one month as per Rule 5 of the Rules, within which it has to be given its logical end viz., by

convening a meeting and either having valid quorum and putting the motion to vote with a result swaying one way or the other or not having a valid quorum after having adjourned the same to some other time in the same day. Simply said, the bar of one year would only operate when there is an actual gathering of people before the Presiding Officer, and the meeting is either put to vote and is concluded by winning or losing the motion, *or* a natural closure is reached when voting never commences due to lack of quorum at any point of time on the designated day.

32. Further, it is to be noted that if the interpretation as sought to be placed on behalf of the petitioner is accepted, the same would lead to anomalous situations as any Chairperson by submitting Form-I and getting a meeting convened by getting the members to abstain from attending the meeting, would be enabled to claim that a meeting was held without even entering into the room and also benefit from under the bar under Section 37 of the Act, on a pretext that the meeting could not be held for want of quorum.

33. Whether a quorum is met or not is to be decided by the presiding officer and it is not for the member who is only a participant at the meeting convened. It is to address / arrest such kind of situations/ mischief, that the legislature in its wisdom had thought it appropriate to restrict the bar of one year only in two situations as contemplated in the second proviso to Section 37 of the Act and not otherwise.

34. At this stage, it is useful to refer to the ‘Mischief Rule’ of interpretation propounded in *Heydon’s case*<sup>3</sup> wherein it was held as under the Court while interpreting a statute is to not only consider the purpose of the enactment but also the mischief such statute seeks to suppress. The relevant observations are as under:

*“that for the sure and true interpretation of all statutes in general (be they penal or beneficial, restrictive or enlarging of the common law) four things are to be discerned and considered : (1<sup>st</sup>). What was the common law before the making of the Act. (2<sup>nd</sup>). What was the mischief and defect for which the common law did not provide. (3<sup>rd</sup>). **What remedy the Parliament hath resolved and appointed to cure the disease of the commonwealth.** And, (4<sup>th</sup>). The true reason of the remedy; **and then the office of all the Judges is always to make such construction as shall suppress the mischief, and advance the remedy, and to suppress subtle inventions and***

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<sup>3</sup> 1548 (76) ER 637

*evasions for continuance of the mischief, and pro privata 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.”*

*(emphasis supplied)*

35. The aforesaid test has been applied by the Hon'ble Supreme Court in a catena of decisions (*See: Bengal Immunity Co. Ltd. v. State of Bihar*<sup>4</sup>, *Swantraj and Ors. vs. State of Maharashtra*<sup>5</sup>, *NEPC Micon Ltd. vs. Magma Leasing Ltd*<sup>6</sup>, *Indian Performing Rights Society Ltd. vs. Sanjay Dalia and Ors*<sup>7</sup>).

36. If the aforesaid principle is kept in mind while considering second proviso to Section 37 of the Act, a meeting reaches its natural corollary/ the conclusion only when the meeting is actually convened at the designated place and not otherwise.

37. Further, till such a meeting is convened validly where the business is transacted or the meeting is dissolved and the

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<sup>4</sup> (1955) 2 SCR 603 : AIR 1955 SC 661

<sup>5</sup> (1975) 3 SCC 322

<sup>6</sup> (1999) 4 SCC 253

<sup>7</sup> (2015) 10 SCC 161



notice of meeting lapses, this court is of the *prima facie* view that there is no restriction for giving multiple Form-I or the 2<sup>nd</sup> respondent considering the same and convening the meeting by issuing Form-II.

38. At this juncture, it is also useful to refer to the decision in *Tipparthi Chandra Mouli* (*supra*) wherein this Court speaking through Justice J.Chelameswar (*as his Lordship then was*), dealt with the provisions of Andhra Pradesh Panchayat Raj Act, 1994 relating to motion of no-confidence in Upa-Sarpanch, President or Chairman, had held as under:

*“15. The notice of intention contemplated under Section 245 may reach its logical end or may not, depending on the facts whether the notice does comply with various stipulations made in the said Section or not. **Such being the case, a defective notice of intention to move No Confidence Motion moved once would enable the incumbent of the Office to continue for the full term-irrespective of the fact whether he enjoys the confidence of the Body which he is expected to enjoy under the provisions of the Act, which according to me is certainly not the intention of the Legislature.** One may imagine the situation, in a given case, where the incumbent of the office at a given point of time enjoying the confidence of the*

*Body, may himself engineer a defective notice of intention to move No Confidence Motion. Once such notice fails in view of the defect, the incumbent would continue to hold the office for the entire period notwithstanding the fact that he might lose the confidence of the Body subsequently. This would be an absurdity.*

*16. To my mind the intention of the Legislature, in inserting the proviso is to provide stability of the office and avoidance of frequent No Confidence Motions, which render these institutions too unstable. To see that public good is not disregarded in the conflict of rival parties.*

*17. However it must be remembered that it is only a check on the misuse of the right to move a No Confidence Motion but not a substitute for the confidence itself.*

*18. In all the representative democratic Institution under the Constitution, which include Panchayat Raj Institutions, the continuance of the persons in the Executive Offices depends on their continuing enjoyment of the support of the Body which elected them to the particular office. To hold, otherwise would be a mockery of the representative form of democracy.*

*19. Logically it follows that the notice contemplated under Section 245 Second proviso, is a valid notice of No Confidence Motion which reached its culmination at a properly convened meeting, where the motion is either carried or rejected and not a mere notice of intention to move a No Confidence Motion.*

*(emphasis supplied)*

39. In the facts of the present case, as the petitioner admits to the fact that on the day when the meeting was scheduled i.e. on 05-06-2024, the 2<sup>nd</sup> respondent having postponed the same by passing the impugned order, *prima facie* it cannot be said that that the bar under second proviso to Section 37 would be attracted or that the 2<sup>nd</sup> respondent is denuded of his power to receive a subsequent Form-I and convene a meeting by issuing Form-II.

40. Further, the petitioner admittedly, being fully aware of the order passed by the 2<sup>nd</sup> respondent and having found the said order is to his advantage on the said date on account of postponing as he would continue to hold the post of Mayor/Chairperson of 5<sup>th</sup> respondent Municipal Corporation, is now seeking to lay challenge to the said order having reaped the benefits of the aforesaid order, under the guise of challenging the said order, is seeking to lay challenge to the meeting convened on 09-08-2024 by the 2<sup>nd</sup> respondent by issuing Form-II dt. 24-07-2024 in circuitry manner, which this court of the *prima facie* view cannot be permitted to be

undertaken, thereby allowing the petitioner to achieve indirectly what he could not do directly.

41. *So far as*, the submission of the counsel for the petitioner that for a meeting to be convened and a resolution to be passed therein the required quorum was two thirds of the total number of members is concerned, it is of consequence to note that this Court in ***Chella Naga Bhushanam and another Vs. The State of Telangana, rep. by its Principal Secretary Municipal Administration and Urban Development Department Secretariat building Hyderabad***<sup>8</sup> while examining the said issue held that while 2/3<sup>rd</sup> majority of the total members is required to constitute sufficient quorum, it is only two thirds of such members *present* in such validly constituted meeting is required to pass the motion. The aforesaid finding of this Court had attained finality as no appeal was preferred against the order in ***Chella Naga Bhushanam (supra)***. Further, the same would be amply clear having regard to the language used in the second proviso of

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<sup>8</sup> Order dated 02-02-2024 W.P. No. 2878 of 2024

Section 37 of the Act read with the Rules, wherein the word 'total' was prefixed at places whenever the same was required, as compared to the omission of the word 'total' in other places.

42. Thus, this Court is of the considered view that the petitioner has not made out a *prima facie* case for grant of any interim relief.

43. Accordingly, this Interlocutory Application is dismissed.

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**T. VINOD KUMAR, J**

Date: 08.08 .2024

**Note :-** Issue C.C. today.

B/o.

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**THE HON'BLE SRI JUSTICE T.VINOD KUMAR**

**I.A.No.1 of 2024**  
**In**  
**WRIT PETITION No.21205 of 2024**

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