



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

[3460]

WEDNESDAY, THE SIXTH DAY OF MAY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 24577/2024

Between:

1.D MANJULA DEVI, W/O. S NAGA CHANDRA, AGED 48
YEARS, OCC- STAFF NURSE, KURNOOL
GOVERNMENT GENERAL HOSPITAL, KURNOOL,
KURNOOL DISTRICT, ANDHRA PRADESH

...PETITIONER

AND

1.THE STATE OF ANDHRA PRADESH, REP BY ITS
PRINCIPAL SECRETARY, DEPARTMENT OF CO-
OPERATION, ANDHRA PRADESH A P SECRETARIAT,
VELAGAPUDI, AMARAVATI, GUNTUR DISTRICT,
ANDHRA PRADESH.

2.THE COMMISSIONER FOR COOPERATION AND
REGISTRAR OF COOPERATIVE SOCIETIES,
GOVERNMENT OF ANDHRA PRADESH, GUNTUR,
GUNTUR DISTRICT.

3.THE ELECTION OFFICER/ DISTRICT COOPERATIVE
OFFICER, A.P. GOVERNMENT NURSES ASSOCIATION
(REGD. NO 21/1973), NTR DISTRICT.

4.S RADHAMMA W/O P JYOTHI NARAYANA, AGED 59 YEARS, OCC HEAD NURSE, SRI VENKATESWARAGOVERNMENT GENERAL HOSPITAL , TIRUPATI. R4 IS IMPEADED AS PER THE COURT ORDER DT.05.11.2024 VIDE ORDERS PASSED IN I.A.NO.03 OF 2024.

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an order, direction or writ more particularly one in the nature of Writ of Mandamus declaring the action of the 3rd Respondent in not allowing the petitioner/her nomination to the post of President to the State Executive of Andhra Pradesh Government Nurses Association, Andhra Pradesh scheduled to be held on 26.10.2024 and 27.10.2024 as illegal and contrary to the rule 4Article XIX of the Bye Law of Andhra Pradesh Government Nurses Association, Andhra Pradesh and consequently declare the election sought to be conducted to the Andhra Pradesh Government Nurses Association, Andhra Pradesh is nullity in the eye of law and set aside entire process commencing from appointing the Election officer/3rd Respondent vide 2nd Respondent proceedings dated 22.9.2024 to the extent of Election to State Executive Council of Andhra Pradesh Government Nurses Association, Andhra Pradesh being contrary to law and unconstitutional and pass

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased may be pleased to direct the 3rd respondent to receive the nomination submitted by the Petitioner and allow petitioner to participate in the election process to the State Executive of Andhra Pradesh Government

Nurses Association, Andhra Pradesh in the interests of justice, and pass

IA NO: 2 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased prayed to direct the respondents to restrain the elected body to the Andhra Pradesh Government Nurses Association, Andhra Pradesh from assuming charge being contrary to Bye Law pending disposal of the writ petition and pass

IA NO: 3 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased may be pleased to implead the petitioner to permit to add/implead as proposed party respondent no. 4 in the W.P. No. 24577 of 2024 as well as in all I.As and pass

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased May be pleased to direct the 4th respondent to receive the petitioners annual subscription fee and other applicable fee to continue her association and membership with the Andhra Pradesh Government Nurses Association, Andhra Pradesh with registered number 21/1973 and pass

Counsel for the Petitioner:

1.PRAKASH BUDDARAPU

Counsel for the Respondent(S):

1.S SRINIVASA RAO

2.GP FOR COOPERATION

WRIT PETITION NO: 692/2026

Between:

1.D MANJULA DEVI, W/O. S NAGA CHANDRA, AGED 48YRS, OCC STAFF NURSE, KURNOOL GOVERNMENT GENERAL HOSPITAL, KURNOOL, KURNOOL DISTRICT, ANDHRA PRADESH 518002

...PETITIONER

AND

1.THE STATE OF ANDHRA PRADESH, REP BY ITS PRINCIPAL SECRETARY, DEPARTMENT OF CO-OPERATION, A P SECRETARIAT,VELAGAPUDI, AMARAVATI,GUNTUR DISTRICT, ANDHRA PRADESH. 522238

2.THE COMMISSIONER FOR COOPERATION AND REGISTRAR OF COOPERATIVE SOCIETIES, GOVERNMENT OF ANDHRA PRADESH, GUNTUR, GUNTUR DISTRICT.522002

3.ELECTION OFFICER/ DISTRICT COOPARATLVE OFFICER, A.P. GOVERNMENT NURSES ASSOCIATION (RED NO 21/1973) NTR DISTRICT.520001

4.SMT S RADHAMMA, W/O P.JYOTHI NARAYANA AGED 59 YRS, OCC HEAD-NURSE SRI VENKATESWARA GOVERNMENT GENERAL HOSPITAL AND PRESIDENT ELECT A.P. GOVERNMENT NURSES ASSOCIATION (REGD NO 21/1973) SRI VENKATESWARA GOVERNMENT GENERAL HOSPITAL TIRUPATI, CHITTOR DISTRICT.517507

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of a Writ of Mandamus, (A) Declaring the action of the 2nd and 3rd Respondents in appointing an Election Officer and conducting elections to the District Executive Committees and State Executive Council of the Andhra Pradesh Government Nurses Association, Regd. No.21/1973, pursuant to proceedings of the 2nd respondent in File No. AGC06- 31030/148/2023-ADMIN SEC-CCRCS dated 22.09.2024, and proceedings of the 3rd respondent in Rc. No. Ele/GNA/2024/3. dated 05.10.2024, Rc. No. Ele/GN A/2024/10 dated 24.1.0.2024, including the Election Notifications dated 05.10.2024 and the declaration of results in Form-XII dated 23.10.2024 and Form-XXIV dated 27.10.2024, as illegal, arbitrary, without jurisdiction, void ab initio, and contrary to the Societies Registration Act, 1860 / A.P. Societies Registration Act, 2001, the Bye-laws of the Andhra Pradesh Government Nurses Association (Articles II, III, V and XIX), and Articles 14 and 19(1)(c) of the Constitution of India (B) Declare the action of the 3rd respondent in refusing to receive and consider the petitioner's nomination for the State Executive Council election on 26.10.2024, despite the petitioner possessing more than five years of continuous membership, as illegal, arbitrary and violative of the Bye-laws and constitutional rights of the petitioner (C) Declare that the conduct of elections by authorities under the Andhra Pradesh Cooperative Societies Act, 1964, in respect of a society registered under the Societies Registration Act, is without authority of law and jurisdictionally incompetent (D) Consequently set aside the entire election process and the declaration of elected office bearers to the District Executive Committees and State Executive Council of the Andhra Pradesh Government Nurses Association for the term 27.10.2024 to 26.10.2027 (E) Direct the conduct of fresh elections strictly in accordance with the Bye-laws of the Association and the A.P.

Societies Registration Act, 2001, by a competent and lawful authority and pass

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay the operation of the election results declared by 3rd respondent on 27.10.2024 to the State Executive Council and District Executive Committees of the Andhra Pradesh Government Nurses Association, A.P. (RegdNo.21/1973) pending disposal of the writ petition and pass

Counsel for the Petitioner:

1.PRAKASH BUDDARAPU

Counsel for the Respondent(S):

1.S SRINIVASA RAO

2.GP FOR COOPERATION

The Court made the following:

HON'BLE SRI JUSTICE NYAPATHY VIJAY**W.P.Nos.24577 of 2024 & 692 of 2026****COMMON ORDER:**

W.P.No.24577 of 2024 was filed declaring the action of Respondent No.3 in not allowing the Petitioner to file her nomination for the post of President of the State Executive of Andhra Pradesh Government Nurses Association scheduled on 26.10.2024 and 27.10.2024 as illegal and arbitrary and consequently to declare the elections sought to be conducted as nullity in the eye of law.

2. W.P.No.692 of 2026 is filed to declare the action of Respondent Nos.2 and 3 in appointing an Election Officer and conducting elections to the District Executive Committees and State Executive Council of the Andhra Pradesh Government Nurses Association including the election notifications as illegal and arbitrary and for consequential reliefs.

3. As the parties are same in these two writ petitions, with the consent of learned counsel, a common order is being passed.

4. The nurses working in Government hostels across the

State had formed an association in the year 1973 and was named as A.P. Government Nurses Association, Andhra Pradesh. The said society was registered under the provisions of the A.P. Societies Registration Act, 1860 with Registration No.21/1973. The aim and object of the Association was to redress the grievances of the members and to extend fraternity among the members on various issues. It is stated that there are about 4,000 members and that the State Government had accorded recognition to the said association vide G.O.Ms.No.358 dated 05.06.2008.

5. While so, Respondent No.2 had appointed Respondent No.3 as Election Officer on 22.09.2024 to conduct elections to the society. In turn, Respondent No.3 issued election schedule vide R.C.No.Ele/GNA/2024/5, dated 05.10.2024 for both District Units and State Executive of the association. It is stated that the election schedule runs contrary to the byelaws of the association.

6. Pursuant to the election notification, the Respondent No.3 had conducted elections to the District Executive and State Executive council from 23.10.2024 and 27.10.2024 and the Petitioner without realizing that Respondent Nos.2 and 3 are

conducting elections without any authority of law, contested for the post of Secretary to the District Unit, Kurnool and lost the elections at the District level.

7. The Petitioner though had lost the election at the District level, being a senior member and having membership continuously for more than five (5) years was claimed to be entitled to contest for the posts of State Executive as per Article V of the byelaws. It was in that belief, the Petitioner had decided to contest to the post of President and approached Respondent Nos.3 to 5 for filing nominations on 26.10.2024, but was not allowed. It was stated that the nomination of the Petitioner could not have been restrained by Respondent No.3 and only upon scrutiny, nomination can be rejected as per the election schedule.

8. It is also stated that the appointment of Special Cadre Deputy Registrar/District Cooperative Officer, NTR District, Vijayawada as Election Officer to conduct elections to the District and State Executive bodies is invalid and the same is not done under the A.P. Societies Registration Act, 2001. It is in that context, the entire election process was sought to be annulled and for consequential direction to conduct fresh elections.

9. In the counter affidavit filed, it is stated that the Petitioner had accepted the appointment of Respondent No.3 as Election Officer and attended the consensus meeting held on 01.10.2024 at Regional Office, KDCCB, Vijayawada and the Petitioner was a signatory to the consensus arrived on the anomalies in the byelaws. It is stated that the Petitioner's signature appears at Sl.No.30 among 61 members who had attended the meeting. It is stated that the Petitioner having accepted the appointment of Respondent No.3 as Election Officer and the election notification, contested for the post of Secretary in the District elections held on 23.10.2024. The Petitioner lost in the elections at the District level.

10. As regards non-acceptance of the nomination of the Petitioner, it is stated that as per byelaw IV of Article XIX, it is clear that the State Executive Committee will be elected by indirect method in Annual General Body meeting by the elected delegates in the annual conference. It is submitted that as per this byelaw, elected delegates from the District units will constitute the general body.

11. The Petitioner, having lost election at the District level, is

not a member of the general body constituted with elected delegates and therefore, not entitled to participate in the annual general body meeting held for the purpose of electing the State Executive on 26.10.2024 and 27.10.2024. It is stated that there are 111 elected members from the District units, who are eligible to participate in the State General Body and with whom the voters list in the election of the State Executive has been prepared in terms of the byelaws.

12. In the Additional counter affidavit filed by Respondent No.3, an objection taken was that the Association, as a private association, was registered under the A.P. Societies Act and is not a state comes within the definition of State to entertain writ petition. As regards the oral directions given by the Court on 26.10.2024 to accept the nomination of the Petitioner, it is stated that Respondent No.3 was answerable to the general body for continuing elections and no written communication was given to him. In those circumstances, the nomination was not accepted and further Respondent No.3 tendered unconditional apology for the non-adherence to the said directions.

13. Counter affidavit was filed by Respondent No.4 supporting

the contentions raised by Respondent No.3.

14. Heard learned counsel for the Petitioners Sri A.Satya Prasad, learned senior counsel assisted by Sri Prakash Buddarapu, Sri G.Naveen, learned Assistant Government Pleader for Cooperation and Sri S.Srinivasa Rao, learned counsel for Respondents.

15. The Society is registered under Societies Registration Act, 1860 with Registration No. 21/1973. The aims and objectives of the society were to advance the economic, social and cultural well-being of the members and to work for the benefit of the members and to regulate their relation with the employers. A reading of the aims and objectives of the society indicates that the society is purely private and caters only to the welfare and well being of the members of the society.

16. After the appointment of Respondent No.3 as Election Officer, a meeting was conducted on 01.10.2024 at KDCCB, Vijayawada and a consensus was arrived at regarding the procedure to conduct elections. The Petitioner attended the meeting and was a signatory to the consensus at SI.No.30. Thereafter, an election notification was issued by Respondent

No.3 and the Petitioner contested the elections to the District unit and lost.

17. Thereafter, the Petitioner sought to contest for the post of President of the State Executive and the denial of nominations led to the filing of the writ petitions.

18. Firstly, It is not the case of the Petitioner that the Society is a “State” within Article 12 of the Constitution or that it performs any public functions. The only reason given for maintaining the writ petition was that the State Government had appointed Respondent No.3 to conduct elections and hence, writ petitions are maintainable. The mere appointment of Respondent No.3 to conduct elections would not alter the nature of the society nor can it be said that Respondent No.3 was discharging public duties or public functions. With multidimensional functions of various authorities, the thin line between “public functions” and “private functions” discharged by a person is often blurred and it is necessary to maintain a writ petition after determining the nature of the duty to be enforced by the body or authority rather than identifying the authority against whom it is sought. In this case, Respondent No.3 is not discharging any statutory duties,

but was acting merely as an Election Officer.

19. In ***St. Mary's Education Society v. Rajendra Prasad Bhargava***¹, the Hon'ble Supreme Court considered whether a writ petition can be maintained for violation of byelaws of the CBSE regarding disciplinary matters against a private un-aided school. Entire case law on this point was considered and relevant paragraphs are extracted below;

*“66. Merely because a writ petition can be maintained against the private individuals discharging the public duties and/or public functions, the same should not be entertained if the enforcement is sought to be secured under the realm of a private law. It would not be safe to say that the moment the private institution is amenable to writ jurisdiction then every dispute concerning the said private institution is amenable to writ jurisdiction. It largely depends upon the nature of the dispute and the enforcement of the right by an individual against such institution. The right which purely originates from a private law cannot be enforced taking aid of the writ jurisdiction irrespective of the fact that such institution is discharging the public duties and/or public functions. **The scope of the mandamus is basically limited to an enforcement of the public duty and, therefore, it is an ardent duty of the court to find out whether the nature of the duty comes within the peripheral of the public duty. There must be a public law element in any action.***

¹ (2023) 4 SCC 498

67. Our present judgment would remain incomplete if we fail to refer to the decision of this Court in *Ramakrishna Mission v. Kago Kunya*³⁹. In the said case this Court considered all its earlier judgments on the issue. The writ petition was not found maintainable against the Mission merely for the reason that it was found running a hospital, thus discharging public functions/public duty. This Court considered the issue in reference to the element of public function which should be akin to the work performed by the State in its sovereign capacity. **This Court took the view that every public function/public duty would not make a writ petition to be maintainable against an “authority” or a “person” referred under Article 226 of the Constitution of India unless the functions are such which are akin to the functions of the State or are sovereign in nature.**

20. At paragraph 75, the Hon'ble Court summed up their conclusions as under :

“75. We may sum up our final conclusions as under:

75.1. *An application under Article 226 of the Constitution is maintainable against a person or a body discharging public duties or public functions. The public duty cast may be either statutory or otherwise and where it is otherwise, the body or the person must be shown to owe that duty or obligation to the public involving the public law element. Similarly, for ascertaining the discharge of public function, it must be established that the body or the person was seeking to achieve the same for the collective benefit of the public or a section of it and the authority to do so must be accepted by the public.*

75.2. *Even if it be assumed that an educational*

institution is imparting public duty, the act complained of must have a direct nexus with the discharge of public duty. It is indisputably a public law action which confers a right upon the aggrieved to invoke the extraordinary writ jurisdiction under Article 226 for a prerogative writ. Individual wrongs or breach of mutual contracts without having any public element as its integral part cannot be rectified through a writ petition under Article 226. Wherever Courts have intervened in their exercise of jurisdiction under Article 226, either the service conditions were regulated by the statutory provisions or the employer had the status of "State" within the expansive definition under Article 12 or it was found that the action complained of has public law element.

75.3. *It must be consequently held that while a body may be discharging a public function or performing a public duty and thus its actions becoming amenable to judicial review by a constitutional court, its employees would not have the right to invoke the powers of the High Court conferred by Article 226 in respect of matter relating to service where they are not governed or controlled by the statutory provisions. An educational institution may perform myriad functions touching various facets of public life and in the societal sphere. While such of those functions as would fall within the domain of a "public function" or "public duty" be undisputedly open to challenge and scrutiny under Article 226 of the Constitution, the actions or decisions taken solely within the confines of an ordinary contract of service, having no statutory force or backing, cannot be recognised as being amenable to challenge under Article 226 of the Constitution. In the absence of the service conditions being controlled or governed by statutory provisions, the matter would remain in the realm of an ordinary contract of service.*

75.4. *Even if it be perceived that imparting education by private unaided school is a public duty within the expanded expression of the term, an employee of a non-teaching staff engaged by the school for the purpose of its administration or internal management is only an agency created by it. It is immaterial whether “A” or “B” is employed by school to discharge that duty. In any case, the terms of employment of contract between a school and non-teaching staff cannot and should not be construed to be an inseparable part of the obligation to impart education. This is particularly in respect to the disciplinary proceedings that may be initiated against a particular employee. It is only where the removal of an employee of non-teaching staff is regulated by some statutory provisions, its violation by the employer in contravention of law may be interfered with by the Court. But such interference will be on the ground of breach of law and not on the basis of interference in discharge of public duty.*

75.5. *From the pleadings in the original writ petition, it is apparent that no element of any public law is agitated or otherwise made out. In other words, the action challenged has no public element and writ of mandamus cannot be issued as the action was essentially of a private character.”*

21. As narrated above, the dispute is regarding elections to a private society. There is no statutory duty and the functions are not in the realm of public duty or functions.

22. In the light of the above, writ petitions cannot be maintained and accordingly dismissed. No order as to costs

As a sequel, the miscellaneous petitions, if any, pending in this Petition shall stand closed.

Date: 06.05.2026
KLP

NYAPATHY VIJAY, J