

A ELECTION COMMISSION OF INDIA
v.
B TELANGANA RASTRA SAMITHI & ANR.
(Civil Appeal No. 10244 of 2010)

DECEMBER 8, 2010

[ALTAMAS KABIR AND A.K. PATNAIK, JJ.]

Election Laws— State Legislative Assembly – Resignation of members – Election Commission withholding bye-election in two constituencies due to pendency of election petition – Decision of Election Commission challenged – Supreme Court holding that Election Commission rightly withheld the election to those constituencies— On the day of the judgment, the Court was apprised that election in the two constituencies already held – Clarified that the appeal was confined to interpretation of s. 151A of Representation of the People Act r/w Article 190(3)(b) of the Constitution – The decision therein would not affect the bye-elections already held— Representation of the People Act, 1951 – s.151A – Constitution of India, 1950 – Article 190(3)(b).

The decision of Election Commission withholding the bye-election in two constituencies of State Legislative Assembly, due to pendency of election petition, was upheld by Supreme Court. On the day of the judgment, it was brought to the notice of the Court that the bye-elections in those constituencies had already been held.

Clarifying the decision, the Court

HELD: It is clarified that although, the Court allowed and set aside the order of the High Court on account of the interpretation of Section 151-A of the Representation of the People Act, 1951 r/w Article 190(3)(b) of the Constitution of India, the same will not affect the bye-

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elections already held in respect of the two Assembly
Constituencies held on 27th July, 2010. [Para 3] [498-B-
C] A

*Election Commission of India vs. Telangana Rashtra
Samithi and Anr.* Judgment dated 3.10.2010 – clarified. B

CIVIL APPELLATE JURISDICTION : Civil Appeal No.
10244 of 2010.

From the Judgment & Order dated 30.6.2010 of the High
Court of Judicature, Andhra Pradesh at Hyderabad in Writ C
Petition No. 14443 of 2010.

Meenakshi Arora, Poli Katakai for the Appellant

Indira Jaising, ASG, D. Ramakrishna Reddy, Sonam
Anand, J. Ramachander Rao, P. Venkat Reddy, B. D
Ramamurthy, Anil Kumar Tandale for the Respondents.

The Judgment of the Court was delivered by

ALTAMAS KABIR, J. 1. On 3rd December, 2010, when
judgment had been delivered in the Civil Appeal arising out of E
SLP(C)No.20590 of 2010, it had been brought to our notice by
Ms. Meenakshi Arora, learned counsel for the Election
Commission of India, that elections to the 28-Vemulawada and
29-Sircilla Assembly Constituencies in the State of Andhra F
Pradash had already been held on 27th July, 2010. In fact, at
the time when notice was issued on the Special Leave Petition
on 22nd July, 2010, it had been brought to our notice that the
elections to the said two Constituencies had already been
notified and were scheduled to be held on 27th July, 2010. G

2. Accordingly, while issuing notice, we had confined the
same only to the question relating to the interpretation of
Section 151-A of the Representation of the People Act, 1951,
with regard to the holding of elections in a vacancy within six
months from the date of such vacancy where an election petition H

- A is pending. We had already made it clear that the pendency of the Special Leave Petition would not affect the elections, which had already been notified and were scheduled to be held on 27th July, 2010. The Civil Appeal was, therefore, heard only on the question of interpretation of Section 151-A of the aforesaid
- B Act.

3. It is, therefore, clarified that although, we had allowed and set aside the order of the High Court on account of the interpretation of Section 151-A of the 1951 Act, read with Article 190(3)(b) of the Constitution, the same will not affect the bye-
- C elections already held in respect of the two above-mentioned Assembly Constituencies held on 27th July, 2010.

K.K.T.

Matter disposed of.