

APHC010180622025



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

[3460]

TUESDAY ,THE EIGHTH DAY OF APRIL
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 9197/2025

Between:

K Suresh Babu

...PETITIONER

AND

The State Of Andhra Pradesh and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.V R REDDY KOVVURI

Counsel for the Respondent(S):

1.GP FOR MUNICIPAL ADMN URBAN DEV

2.GP FOR GENERAL ADMINISTRATION

The Court made the following:

THE HON'BLE SRI JUSTICE NYAPATHY VIJAY**W.P.No.9197 of 2025****O R D E R:**

The present writ petition is filed questioning the Show Cause Notice issued vide Memo No.2748808/G/2025 dated 24.03.2025 by Respondent No.1 as illegal and arbitrary.

2. The facts leading to the writ petition are as follows:

The Petitioner was elected as a Counsellor for Kadapa Municipal Corporation in the elections conducted in the year 2021. Subsequently, the Petitioner was elected as Mayor of Kadapa Municipal Corporation on 18.03.2024. While so, the Respondent No.3 had issued notice vide Roc.No.99/KMC/E1/2024 dated 17.02.2025 stating that an enquiry is to be conducted regarding the works executed to M/s. Vardhini Constructions, whose Managing Partners are close relatives of the Petitioner. The Petitioner was called upon to submit an explanation by referring to Section 22(1) (h) of the A.P.Municipal Corporation Act, 1955 (for short 'the Act'). As the said notice was beyond the scope of enquiry of Respondent No.3, the Petitioner filed W.P.No.6407 of 2025 before this Court.

3. While so, the Respondent No.1 issued another Show Cause Notice in Memo No.48808/G/2025 dated 24.03.2025. In the said Show Cause Notice, reference was made to the complaint against the Petitioner by Respondent No.5 and an enquiry by Vigilance and Enforcement Department on the said complaint. Apart from that, the allegation in the Show Cause Notice was that M/s.Vardhini Constructions was registered as Class-V, Contractor on 15.05.2023 and that the said firm had executed ten (10) works for the Municipal Corporation, out of which seven (7) works were completed and three (3) works were yet to start. The impugned Show Cause Notice issued by Respondent No.1 also refers to Sections 22 (1) (h) and Section 23(1) of the Act and as the conduct of the Petitioner was said to be in violation of the same, the Petitioner was called upon to submit explanation in terms of Section 679-B (2) of the Act as to why the Petitioner should not be disqualified and removed as Mayor of Kadapa Municipal Corporation for the irregularities mentioned in the Show Cause Notice. Questioning the show cause notice, the present W.P. is filed.

4. Sri O.Manohar Reddy, learned senior counsel appearing for the Petitioner contends that the Section 22 of the Act refers to

disqualification of a person for being elected as a Member and the same is not applicable to a person, who was elected as a Member. Learned counsel points out that the disqualifications for an elected Member are prescribed under Section 23 (1) (a) of the Act and submits that the procedure that has to be followed is prescribed in Section 23-D of the Act i.e reference to the District Court and the impugned Show Cause Notice cannot be sustained. Reliance was also placed on a Judgment of a Division Bench of this Court in ***Chava Rosaiah v. Chintala Venkateswarlu and another***¹. Learned Senior Counsel further argued that when a special procedure is prescribed under the Act, the Government could not have issued the impugned notice under Section 679-B of the Act.

5. The learned senior counsel argued that the enquiry and Show Cause Notices by the Commissioner and the present impugned notice suffer from malice in law as they are only at the instance of Respondent No.5 and politically motivated. Learned senior counsel also argued on the merits of the allegations stating that Office of the Petitioner is nowhere involved in the process of granting works.

¹ 2004 (1) ALD 54 (DB)

6. Learned Government Pleader would submit that the impugned notice is only a Show Cause Notice and the Petitioner is given sufficient time to respond. Learned Government Pleader further contended that merely because the Government has exercised its residuary power under Section 679-B of the Act, the same cannot be said to be without jurisdiction. He further submits that Section 23-D is with reference to disqualification and the power to the State Government under Section 679-B is to remove a member.

7. In reply, the learned Senior counsel reiterated the grounds and submitted that reasonable time and documents relied upon in the show cause notice be granted for the Petitioner in the alternative.

8. Having heard the respective counsel, this Court is of the opinion that the impugned notice is only a Show Cause Notice and it cannot be said that merely the procedure prescribed under Section 23-D of the Act is not followed, it cannot be said that there is no power for the State Government to issue notice under Section 679-B of the Act. The power under Section 679-B is available to the Government to remove a Member for the grounds mentioned therein, while Section 23-D of the Act applies when the

Commissioner has given intimation to the Member of the disqualification and when the Member disputes the same, both these provisions apply in independent spheres. Therefore, the contention of lack of jurisdiction may not arise in this case.

9. As regards the contention that the Show Cause Notice suffers from malice as they have initiated at the instance of Respondent No.5, this Court is not inclined to examine that particular aspect at this stage and cast aspersion in the decision making process. The further argument regarding merits of the case and allegations in the Show Cause Notice, it would be appropriate for the Petitioner urge those aspects before Respondent No.1.

9. Therefore, this Court is not inclined to interfere with the order impugned at this stage and leaving the factual issues and contention regarding the Show Cause Notice having been issued solely at the instance of Respondent No.5 and suffers from malice in law to be considered by Respondent No.1. However, taking into consideration the submission of the learned senior counsel, the Respondent No.1 is directed to provide all the documents relied upon in the impugned Show Cause Notice to the Petitioner and the

time for the Petitioner to respond to reply to the Show Cause Notice is extended by a further period of three (3) weeks from the date of receipt of the web copy of this order.

10. The writ petition is accordingly disposed of. No order as to costs. As a sequel, the miscellaneous petitions if any shall stand dismissed.

NYAPATHY VIJAY, J

Date: 08.04.2025

KLP