

HIGH COURT OF ANDHRA PRADESH: AMARAVATI

**CHIEF JUSTICE J.K. MAHESHWARI
AND
JUSTICE B. KRISHNA MOHAN**

WRIT PETITION (PIL) No.131 of 2020

A.V.Badra Naga Seshayya

... Petitioner

Versus

State of Andhra Pradesh, rep. by its
Rep. by its Principal Secretary, Dept. of
Panchayat Raj & Rural Development,
A.P. Secretariat, Velagapudi, Amaravathi
and two others

... Respondents

Counsel for petitioners : Sri MSR Sashi Bhushan
Counsel for respondent No.1 : G.P., Panchayat Raj & Rural
Development
Counsel for respondent No.2 : G.P., Municipal Admn., & UD
Counsel for respondent No.3 : Sri V.V. Prabhakara Rao, S.C. for
APSEC

ORAL ORDER

(Through Video Conferencing)

Dt:20.07.2020

Per J.K. Maheshwari, CJ

This writ petition in the shape of a public interest litigation has been filed referring the amendment introduced on 10.07.2018 to the Andhra Pradesh Panchayat Raj (Conduct of Elections) Rules, 2006. It is contended that after Rule 35, Rule 35-A was added, which is as under:

- (1) "Notwithstanding anything contained in these Rules, in the Postal Ballot Papers and in the Ballot papers used for conduct of poll at polling stations with Ballot Boxes or Electronic Voting Machines (EVMs), provision shall be made for 'None of the Above' (NOTA) option for the benefit of those electors who may wish to exercise their option of not voting to any of the candidates in the fray. The last panel of the ballot paper below the last candidate shall be earmarked for 'None of the Above' (NOTA) option.
- (2) The State Election Commission may give such directions, as may be necessary, for effective implementation of 'None of the Above' (NOTA) option."

As per the said Rules, in case of Postal Ballot Papers used for conduct of poll at polling stations with Ballot Boxes or Electronic Voting Machines (EVMs), provision is required to be made for 'None of the Above' (NOTA). In cases where candidates have been declared uncontested, NOTA do not apply, looking to the legislative intent, because option may be permitted to be exercised on contest of election. During deliberations, while discussing on the nomenclature of NOTA, it clearly reflects that this contingency applies in case where there is contest of election and as per the language set up in Rule 35-A of the Rules also, it reflects that, when there is an election through Ballot Boxes or EVMs., only then, the said option can be exercised. Looking to the said legislative intent and amendment of the word NOTA, the relief as prayed for cannot be granted; however, the petitioner is at liberty to approach the State Government or the Central Government to do the needful for the cause espoused in this public interest litigation.

In view of the aforesaid, we are not inclined to interfere in this writ petition and the same is accordingly dismissed. No order as to costs.

As a sequel, all the pending miscellaneous applications shall stand closed.

J.K. MAHESHWARI, CJ

B. KRISHNA MOHAN, J

MRR