

APHC010670582025



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

[3332]

WEDNESDAY, THE TWENTY FOURTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO: 34623/2025

Between:

1. D.VENKATESWARA RAMMA,, W/O D.VASU, AGED ABOUT 48 YEARS,
R/OD.NO.1 -97B, ULCHALA, B.C.COLONY ROAD, K.N.PURAM,
KURNOOL.**PETITIONER**

AND

1. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS PRINCIPAL SECRETARY, DEPARTMENT OF PANCHAYAT RAJ, SECRETARIAT BUILDING, VELAGAPUDI, AMARAVATI, GUNTUR DISTRICT.
2. COMMISSIONER OF PANCHAYAT RAJ AND RURAL EMPLOYMENT, ANDHRA PRADESH, TADEPALLI, GUNTUR.
3. THE DISTRICT COLLECTOR, KURNOOL DISTRICT.
4. CHIEF EXECUTIVE OFFICER, KURNOOL ZILLA PARISHAD, KURNOOL.
5. THE DISTRICT PANCHAYAT OFFICER, KURNOOL DISTRICT.
6. THE REVENUE DIVISIONAL OFFICER, KURNOOL.
7. THE MANDAL PARISHAD DEVELOPMENT OFFICER, MANDAL PRAJA PARISHAD, KURNOOL.
8. K MADDILETI, MPTC, B. TANDRAPADU, I, OTHER DETAILS ARE NOT KNOWN TO THE PETITIONER.
9. S LAKSHMI DEVI, MPTC, BASAVAPURAM, OTHER DETAILS ARE NOT KNOWN TO THE PETITIONER.

- 10.D RAMANATH REDDY, MPTC, DINNEDEVARAPADU, II, OTHER DETAILS ARE NOT KNOWN TO THE PETITIONER.
- 11.S MAHABOOB BASHA, MPTC, E. TANDRAPADU - I, OTHER DETAILS ARE NOT KNOWN TO THE PETITIONER.
- 12.E LAKSHMI DEVI, MPTC, E. TANDRAPADU - II, OTHER DETAILS ARE NOT KNOWN TO THE PETITIONER.
- 13.J SAILAJA, MPTC, GARGEYAPURAM, OTHER DETAILS ARE NOT KNOWN TO THE PETITIONER.
- 14.K KRISHNA VENI, MPTC, GONDIPARLA, OTHER DETAILS ARE NOT KNOWN TO THE PETITIONER.
- 15.A JYOTHI, MPTC, NANDANAPALLI, OTHER DETAILS ARE NOT KNOWN TO THE PETITIONER.
- 16.K MANJULA, MPTC, NIDDUR, OTHER DETAILS ARE NOT KNOWN TO THE PETITIONER.
- 17.K PAVAN KUMAR, MPTC, PANDIDEMPADU, OTHER DETAILS ARE NOT KNOWN TO THE PETITIONER.
- 18.T LAKSHMI DEVI, MPTC, PASUPULA, OTHER DETAILS ARE NOT KNOWN TO THE PETITIONER.
- 19.K SUJATA, MPTC, REMATA, OTHER DETAILS ARE NOT KNOWN TO THE PETITIONER.
- 20.RAMULAMMA, MPTC, ULCHALA - II, OTHER DETAILS ARE NOT KNOWN TO THE PETITIONER. RR 8 TO 20 ARE IMPLEADED AS PER THE COURT'S ORDER DT.15.12.2025 IN I.A.NO.03 OF 2025.

...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 a Writ more particularly one in the nature of Writ of Mandamus, I. Declaring the action of the Respondents herein in carrying forward the No Confidence Motion on 02.12.2025, without considering the fact the same is not seconded by 2/3rd majority of the total members of Kurnool Praja Parishad as being illegal, arbitrary, unjust, irrational, violative of Section 245 of the Andhra Pradesh Panchayat Raj Act, 1994, violative of the rules relating to motion of no confidence in Upa Sarpanch of Gram Panchayat

or Vice President / President of Mandal Parishad or Vice Chairman / Chairman of Zilla Parishad and violative of Articles 14, 19, 21 and 40 of the Constitution of India II. Consequently, set aside the No Confidence Motion that was initiated in pursuance of the Form V Notice with respect to Kurnool Praja Parishad, iii. And pass

IA NO: 1 OF 2025

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 direct the Respondents to not declare the results of the meeting dated 02.12.2025 and pass

IA NO: 2 OF 2025

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 suspend the Form V Notice issued to the Petitioner on 10.11.2025 and pass

IA NO: 3 OF 2025

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 permit the Petitioner to implead the above parties as Respondent No 8 -20 in W.P.No.34623 of 2025 and pass

Counsel for the Petitioner:

1. VIVEKANANDA VIRUPAKSHA

Counsel for the Respondent(S):

1. GP FOR PANCHAYAT RAJ RURAL DEV

2. VARUN BYREDDY

3. GP FOR REVENUE

4. Mattegunta.Sudhir, Standing Counsel For Z.P.Ps,M.P.Ps, Gram Panchayats

RESERVED ON 15.12.2025

PRONOUNCED ON 24.12.2025.

UPLOADED ON 30.12.2025.

ORDER

This Writ Petition is filed questioning the action of the respondent authorities in carrying forward the No Confidence Motion, without considering the fact that the same is not seconded by 2/3rd majority of the total members of Kurnool Praja Parishad, being arbitrary and violative of Section 245 of the Andhra Pradesh Panchayat Raj Act, 1994.

2. The case of the petitioner, in brief, is that the petitioner is the President of Kurnool Mandal Praja Parishad, which has 23 members, out of which there are four (04) vacancies. Some of the Members of the Mandal Praja Parishad moved no confidence motion against the petitioner. As per Section 245 of the Andhra Pradesh Panchayat Raj Act (for short, 'the Act') the motion for want of confidence is to be moved by not less than one half of the total member of members and is to be carried with the support of two third of the total number of members. Since the Mandal Praja Parishad has 23 total members, the motion for want of confidence has to be carried with the support of two thirds of the 23 members, however, though the statue clearly speaks, the authorities, interpreting it in a different way as if total number of members is 19 after excluding four (04) vacancies out of 23 proceeded on with the motion for want of confidence. The same is contrary to Article 14 of the Constitution and in clear violation of Section 245 of the Act. Hence, the writ petition.

3. Heard Sri O.Manohar Reddy, learned senior counsel, for Sri Vivekananda Virupaksha, learned counsel for the petitioner, learned Assistant Government Pleaders for Panchayat Raj and Revenue, Sri M.Sudhir, learned Standing Counsel for Gram Panchayat, Sri Posani Venkateswarlu, learned senior counsel, for Sri Posani Akash, learned counsel for respondent nos.8 to 12, 14,15 & 17 to 20, and Sri Varun Byreddy, learned Counsel for respondent nos.13 & 16.

4. Sri O.Manohar Reddy, learned senior counsel for petitioner, while reiterating the contents of the writ affidavit, would contend that unless the motion for want of confidence is carried with the support of two thirds of the total number of Members as per Section 245(2) of the Act, which is 23, the same must fail for want of quorum. The learned senior counsel would further contend that total number of members referred to in the Act would be static but not variable and the authorities cannot be permitted to interpret it as the total number of members for the time being. Therefore, the No Confidence Motion that was initiated in pursuance of the Form V notice not being backed by sufficient quorum is liable to be set aside. Accordingly, prayed to allow the writ petition.

In support of his contentions, he relied on the decision rendered by Division Bench of the High Court of Andhra Pradesh in ***Manujusna Kadam***

***and others vs. Government of Andhra Pradesh and others*¹,** 2.

***Kolapalli Rajeswara Rao vs. Dy. Registrar of Co-op.Societies*²,**

***3.B.Jangi Reddy vs. State of Andhra Pradesh and others*³,** 4.

***Vishwarasaro Dabijarao Ghuge vs. Vallabhdas Sheonarayan Sharam and Others*⁴** and 5. ***Mangala Prasad Jaiswal vs. District Magistrate and others*⁵.**

5. On the other hand, Sri Posani Venkateswarlu, learned senior counsel for respondent nos.8 to 12, 14,15 & 17 to 20, contended that the total number of members referred to in Section 245 of the Act means all the members who are entitled to vote in the election to the office. He would further contend that out of the total number of Members of 23, only 19 Members are entitled to vote in the election to the office, since two members died and two other resigned and hence the two thirds for carrying out motion to no confidence would only be two thirds of 19 but not 23 as sought to be contended by the learned senior counsel for the petitioner. Accordingly, prayed to dismiss the writ petition.

In support of his Contention, the learned senior counsel relied on the Division Bench decision of this Court in ***Gogineni Koteswara Rao and***

¹. AIR 1998 AP 195

². 1993(2)APLJ (HC) 367

³. AIR 1972 AP 307

⁴. AIR 1966 Bom 149

⁵. AIR 1971 ALL 77

another vs. Government of A.P., Panchayat Raj Department and others⁶.

6. Learned Assistant Government Pleaders for Panchayat Raj and Revenue, Sri M.Sudhir, learned Standing Counsel for Gram Panchayat and Sri Varun Byreddy, learned counsel for respondent nos.13 & 16, adopted the submitted made by Sri Posani Venkateswarlu, learned Senior Counsel, and prayed to dismiss the writ petition.

7. Perused the material available on record and considered the submissions made by learned senior counsel.

8. The undisputed facts are the petitioner is the President of Kurnool Mandal Praja Parishad. Some of the members of the Parishad moved a motion expressing want of confidence in the petitioner by giving a written notice of intention to move the motion by not less than one half of the total number of members. It is also not in dispute that Kurnool Praja Parishad has 23 total members and out of them there are four (04) vacancies either due to death or tendering resignation at the time when the motion is carried.

9. The prime question is what would be the "total number of Members" referred to in Section 245 (1) and Section 245(2) of the Act means whether it is "23" (total strength) or "19" (total strength for the time being). According

⁶. (1999) 3 ALD 462.

to the learned senior counsel for the petitioner it is "23", whereas according to the learned senior counsel for respondents it is "19".

10. Section 245 of the Act provides that a motion expressing want of confidence shall be moved by not less than one-half of the total number of members of the Mandal Parishad and that it requires to be voted by two thirds of Members for carrying it. For expediency, the same is reproduced hereunder:

"245. Motion of no confidence in Upa-Sarpanch, President or Chairperson - (1) A motion expressing want of confidence in the Upa-Sarpanch or President or Vice-President or Chairperson or Vice-Chairperson may be made by giving a written notice of intention to move the motion in such form and to such authority as may be prescribed, signed by not less than one-half of the total number of members of the Gram Panchayat, Mandal Praja Parishad, or as the case may be the Zilla Praja Parishad and further action on such notice shall be taken in accordance with the procedure prescribed:

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

Provided further that no such notice shall be made against the same person more than once during his term of office.

Explanation:- For the removal of doubts, it is hereby declared that for the purpose of this section the expression "total number of members" means, allthe members who are entitled to vote in the election to the office concerned inclusive of the Sarpanch, President or Chairperson but irrespective of any vacancy existing in the office of such members at the time of meeting:

Provided that a suspended office-bearer or member shall also be taken into consideration for computing the total number of members and he shallalso be entitled to vote in a meeting held under this section.

(2) if the motion is carried with the support of two thirds of the total number of members in the case of a Upa-Sarpanch, the Commissioner

shall and in the case of the President or Vice-President or the Chairperson or Vice-Chairperson, the Government shall by notification remove him from office and the resulting vacancy shall be filled in the same manner as a casual vacancy.

Explanation:- For the purposes of this section, in the determination of two-thirds of the total number of members, any fraction below 0.5 shall be ignored and any fraction of 0.5 or above shall be taken as one."

11. In the decision relied on by the learned senior counsel for the petitioner, the ***Division Bench of this Court in Manujusna Kadam and others vs. Government of A.P.*** (supra 1) held thus:

"11.There is a marked distinction between 'total number of members' and 'total strength of the Zilla Parishad'. If the total strength is taken into consideration for reckoning half of the same for entitling them to move the Motion of No Confidence and if the elections are not conducted to some territorial constituencies, whatever may be the reason, either for a period of two years or even thereafter, half of the number of members, even though want to move a No Confidence Motion, cannot move the same and ultimately, the provision itself may become redundant. As such, the Legislature has designedly employed the words "the total number of members" of the Zilla parishad which only mean that the total number of members elected and not the total Strength of the Zilla parishad.

12. In the decision relied on by the learned Senior counsel for respondents in ***Gogineni Koteswara Rao and another v. Government of A.P., Panchayat Raj Department and others*** (Supra 6) the Division Bench of this Court held thus:

"26. Two questions arose in that case. Firstly, whether 2/3rds of majority of members required for carrying motion of no-confidence refers to the sanctioned strength of the Gram Panchayat or the effective strength of the Gram panchayat. The Division Bench held that it was the effective strength and not the sanctioned strength which was relevant. It may be mentioned here that in this case before us this question does not fall for interpretation inasmuch as there is a specific

provision in Section 245 of the Act. Explanation to Section 245 of the Act reads as follows:

"For the removal of doubts, it is hereby declared that for the purpose of this section the expression "TOTAL NUMBER OF MEMBERS" means, all the members who are entitled to vote in the election to the office concerned inclusive of the Sarpanch, President or Chairman but irrespective of any vacancy existing in the office of such members at the time of meeting.

Provided that a suspended office-bearer of member shall also be taken into consideration for computing the total number of members and he shall also be entitled to vote in a meeting held under this Section."

27. Thus, in view of this explanation, for the purpose of this case, "TOTAL NUMBER OF MEMBERS" referred to in Section 245(1) and Section 245(2) of the Act means all the members who are entitled to vote in the election to the office concerned irrespective of any vacancy existing in the office of such members at the time of the meeting. Another proviso, however, provides that suspended office-bearer or member shall be counted for calculating such total number of members. Thus, any casual vacancy existing, for example, due to death or resignation or due to the fact that elections to certain constituencies have not been held, would not be included in the total number of members for the purpose of no-confidence motion."

13. The explanation clearly explains the expression "total member of members" as all the members who are entitled to vote in the election to the office concerned, but irrespective of any vacancy existing in the office of such members, at the time of meeting, the observations made in the decision relied on by the learned senior counsel for respondents, appears to be the only reasonable conclusion deducible, which says that any casual vacancy existing, for example, due to death or resignation or due to the fact that elections to certain constituencies have not been held, would not be included in the total number of members for the purpose of no-confidence motion.

14. Out of the two Division Bench judgments relied on by both the learned senior counsel, the decision relied on by the learned senior counsel for the respondents being the latest in point of time and the facts of that case are akin to the facts of the case on hand and the same in clear terms interprets the meaning of "Total Number of Members" by giving example that if due to death or resignation of due to the fact that elections to certain constituencies have not been held, would not be included in the total number of members for the purpose of no confidence motion. Further, if the interpretation as stated by the learned counsel for the petitioner is accepted, Section 245(2) of the Act would become redundant.

15. It is also relevant here to note that the decision relied on by the learned senior counsel for the respondents is subsequent to the decision delivered by the learned counsel for the petitioner. Further, the learned Judge that delivered the earlier decision was also the senior Member of the Division Bench that delivered the decision relied on by the learned senior counsel for the respondents.

16. In view of the clear and categorical observations made in the decision (supra 6), the decisions of other High Courts relied on by the learned counsel for petitioner, which would only be persuasive in nature but not have binding effect on this Court, need not be gone into and hence ignored.

17. By applying the analogy of the decision in ***Gogineni Koteswara Rao*** and another (supra 6), the four (04) vacancies exist as on the date of no confidence motion meeting shall be excluded from out of the total number of members. Upon such exclusion, the total number of members that are entitled to vote shall be taken as "19" and two thirds of "19" can carry with the motion for want of confidence, which would come to "13" as per Section 245 of the Act.

18. In view of the above, the writ petition lacks merit and the same deserves dismissal.

19. Accordingly, the writ petition is dismissed. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE RAVI CHEEMALAPATI

DATED: 24th day of December, 2025.

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Note: LR copy to be marked.

B/o

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