

Sharanappa Vs. The State Of Karnataka And Ors

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Court : Karnataka Kalaburagi

Decided On : Dec-11-2023

Judge : R.Devdas and C M Joshi

Appeal No. : WA 200142/2023

Appellant : Sharanappa

Respondent : The State Of Karnataka And Ors

Judgement :

- 1 - NC:

2023. KHC-K:9147-DB WA No.200142 of 2023 R IN THE HIGH COURT OF KARNATAKA, KALABURAGI BENCH DATED THIS THE11H DAY OF DECEMBER, 2023 PRESENT THE HON'BLE MR. JUSTICE R.DEVDAS AND THE HON'BLE MR. JUSTICE C M JOSHI WRIT APPEAL NO.200142 OF2023(LB-ELE) BETWEEN: SHARANAPPA S/O LACHAMAPPA, AGE:

39. YEARS, OCC: MEMBER GRAM PANCHAYAT, ULLESUGUR, TQ: WADAGERA, DIST : YADAGIRI. APPELLANT (BY SRI. BASAWARAJ KAREDDY, ADVOCATE) AND:

1. THE STATE OF KARNATAKA THROUGH THE CHIEF EXECUTIVE OFFICER, GRAMBHIVRUDHI AND PANCHAYAT RAJ DEPARTMENT, M.S. BUILDING, BENGALURU - 560 001.

2. THE STATE ELECTION COMMISSIONER KARNATAKA COOPERATIVE MARKETING FEDERATION BUILDING (BACK SIDE), 1ST FLOOR, No.8 CUNNINGHAM ROAD, BENGALURU - 560 001.

3. THE DEPUTY COMMISSIONER YADAGIRI, DIST: YADAGIRI - 585 223.-. 2 - NC:

2023. KHC-K:9147-DB WA No.200142 of 2023 4. THE CHIEF EXECUTIVE OFFICER ZILLA PANCHAYAT, YADAGIRI, DIST: YADAGIRI - 585 223.

5. THE CHIEF EXECUTIVE OFFICER TALUKA PANCHAYAT, WADAGERA, DIST: YADAGIRI - 585 223.

6. THE GRAM PANCHAYAT ULLESUGUR, TQ: WADAGERA, DIST: YADAGIRI, BY ITS PANCHAYAT DEVELOPMENT OFFICER, ULLESUGUR, TQ: WADAGERA, DIST: YADAGIRI - 585 223.

7. THE ASSISTANT COMMISSIONER YADAGIRI, DIST: YADAGIRI - 585 223.

8. PRESCRIBED OFFICER DEPUTY DIRECTOR DEPT. OF FOOD & CIVIL SUPPLY YADAGIRI, THE GRAM PANCHAYAT ULLESUGUR, TQ: WADAGERA, DIST: YADAGIRI - 585 223.

9. SUGURESH S/O SHARANAPPA PADASHETTY, AGE:

39. YEARS, OCC : MEMBER OF GRAM PANCHAYAT, ULLESUGUR - 585 223.

10. SHARANAPPA S/O SHIVALINGAPPA, AGE:

36. YEARS, OCC: MEMBER OF GRAM PANCHAYAT, ULLESUGUR, BOTH R/O. ULLESUGUR, TQ: WADAGERA, DIST: YADAGIRI - 585 223. RESPONDENTS (BY SMT. PRATHIMA HONNAPUR, AAG A/W. SRI. MALLIKARJUN C. BASAREDDY, GOVT. ADVOCATE FOR RESPONDENT NOS.1, 3, 7 AND 8 - 3 - NC:

2023. KHC-K:9147-DB WA No.200142 of 2023 SRI. AMRESH S. ROJA, ADVOCATE FOR R2; SRI. ARUNKUMAR AMARGUNDAPPA, ADV., FOR R4 TO

R6; SRI. AMEET KUMAR DESHPANDE, SENIOR COUNSEL APPEARING FOR, SRI. GANESH NAIK, ADV., FOR C/R-9; SRI. KRUPA SAGAR PATIL, ADVOCATE FOR R10) THIS WRIT APPEAL IS FILED UNDER SECTION 40 OF KARNATAKA HIGH COURT ACT - 1961, PRAYING TO ALLOW THE APPEAL AND DISMISS THE W.P. NO.202196/2023 AND SET-ASIDE THE

ORDER

DATED 06.10.2023 PASSED BY THE LEARNED SINGLE JUDGE AND DISMISS THE WRIT PETITION NO.202196/2023 BY ALLOWING THIS APPEAL, IN THE INTEREST OF JUSTICE AND EQUITY. THIS APPEAL, COMING ON FOR FINAL DISPOSAL, THIS DAY, R.DEVDAS J., DELIVERED THE FOLLOWING:

JUDGMENT

R. DEVDAS J., (ORAL): The appellant though not a party to the proceedings before the learned Single Judge, with the leave of this Court has filed this writ appeal calling in question the order dated 06.10.2023 passed in W.P.No.202196/2023.

2. Learned Counsel for the appellant submitted that respondents No.9 and 10 filed the writ petition before the learned Single Judge calling in question an order dated 20.07.2023 passed by respondent No.3-Deputy Commissioner, appointing an Election Officer to conduct - 4 - NC:

2023. KHC-K:9147-DB WA No.200142 of 2023 the elections to the posts of Adhyaksha and Upadhyaksha for various Grama Panchayats of Wadagera Taluk, Yadagir District. The writ petitioners had also given an representation dated 20.06.2023, seeking modification of the reservation provided to the posts of the Adhyaksha and Upadhyaksha of Ullesugur Grama Panchayat. Earlier, the petitioners had filed W.P.No.201922/2023 challenging the notification of reservation, but the writ petition was disposed of directing the Authorities to consider the representation for changing the reservation. Learned Counsel submits that the very fact that the writ petitioners were challenging the appointment of the Election Officer to conduct the elections and it was also brought to the notice of the learned Single Judge that calendar of events were announced on 25.07.2023 declaring the date of elections as 04.08.2023, shows

that the writ petition could not have been entertained. But the learned Single Judge passed an interim order of stay on 03.08.2023 and thereafter proceeded to pass the impugned order dated 06.10.2023 directing the respondent-authorities to reconsider the - 5 - NC:

2023. KHC-K:9147-DB WA No.200142 of 2023 reservation of the posts of Adhyaksha to Ullesugur Grama Panchayat, while setting aside the notification dated 21.06.2023. Learned Counsel would submit that the impugned order would be clearly contrary to the established principles of law that once the calendar of events are announced, no Court shall pass any order that would cause interference in the course of the elections. Reference is made to the celebrated case of N.P.Ponnuswami Vs. The Returning Officer, Nammakkal Constituency and others, AIR 1952 SC64 3. Learned Additional Advocate General (AAG) appearing on behalf of the respondent-authorities and the State has taken this Court through the check-list prepared by the Election Officer and the guidelines issued by the State Election Commission on 25.05.2023. The learned AAG would submit that in terms of the notification issued by the State Election Commission, the number of posts fixed for every Grama Panchayat in the Taluk and the District clearly shows that insofar as the Wadegera Taluk is concerned, there are 17 Grama Panchayaths. In terms - 6 - NC:

2023. KHC-K:9147-DB WA No.200142 of 2023 of the rules of reservation and the constitutional mandates, 9 out of 17 seats are reserved for Women. Based on the population of the Scheduled Castes, Scheduled Tribes, Backward Class A and Backward Class B, the number of posts reserved in Wadagera taluk are as follows; Scheduled Castes-4, out of which 2 posts are reserved for Woman; Scheduled Tribes-1, which is reserved for Woman; Backward Class A - 2 and both are reserved for Woman; and Backward Class B -1 without further reservation and 9 seats for the General Merit category out of which 4 posts are reserved for Women.

4. The learned AAG has thereafter drawn the attention of this Court to the check-list maintained by the Election Officer. It is submitted that in terms of the reservation already fixed, since only 1 Scheduled Tribe category seat is to be

reserved in the entire Taluk, the Election Officer has fed the required information into the computer system. At this point of time, the learned AAG would submit that commencing from the year 2020, the Election Commission has put in place a computerized - 7 - NC:

2023. KHC-K:9147-DB WA No.200142 of 2023 application for the purpose of rotation of reservation which is known as GPPVP application. It is submitted that since the entire process is now computerized, scope of human intervention is very little and almost zero. It is further submitted that the entire process is now video recorded and it is available for scrutiny.

5. In that view of the matter, it is submitted that the Election Officer has followed the rules which are in the form of guidelines issued by the State Election Commission. It is submitted that in terms of the guidelines, the Election Officer is required to commence from the category of Scheduled Caste, find out which are the Grama Panchayats which were earlier given the reservation of Scheduled Caste and thereafter, a list of the next eligible Grama Panchayats for allotment of Scheduled Caste category will be prepared. Having regard to the number of seats to be reserved for Scheduled Caste, namely., 4 seats in the present context, the next 4 Grama Panchayats in accordance with the descending order of population are identified by the Election Officer and - 8 - NC:

2023. KHC-K:9147-DB WA No.200142 of 2023 accordingly, the reservation is made. In the same manner, the category of Scheduled Tribe is taken up and reservation is provided. Similar is the case in respect of Backward Class A and Backward Class B. It is submitted that from amongst the remaining Grama Panchayats, the General Merits seats are allotted with preference being given to the Women candidates.

6. In that view of the matter, learned AAG would submit that the post of Adhayaksha is reserved for Scheduled Caste category in Ullesugur Grama Panchayat and the post of Upadhyaksha is reserved for General Woman. The learned AAG would submit that since 4 seats of Scheduled Caste are available in the Taluk and out of total 17 seats, if the policy of rotation is followed, then invariably on the 4th term the Scheduled Caste category may be repeated, since it

would complete the cycle. However, insofar as Scheduled Tribe category is concerned, learned AAG would submit that since only 1 seat of Scheduled Tribe is available to be rotated amongst 17 seats in the Taluk, the chances of the Grama Panchyats - 9 - NC:

2023. KHC-K:9147-DB WA No.200142 of 2023 which are the lower in the descending order of population of Scheduled Tribe will be that much more minimal. However, the learned AAG would submit that while following the rotation system in terms of the rules and guidelines, every Grama Panchayat will get an opportunity depending on the population of the particular category and where it is listed in the descending order of the category of reservation. In that view of the matter, the learned AAG would submit that no fault can be found in the exercise undertaken by the respondent-Election Officer, since the rules of rotation have been followed and the reservation is done in accordance with law.

7. Per contra, learned Senior Counsel Sri.Ameet Kumar Deshpande, appearing on behalf of the contesting respondents No.9 and 10 would submit that even in terms of the arguments of the learned AAG, there are certain gray areas such as the inclusion of a new Grama Panchyat into the Taluk, as in the present case, Ikooru Grama Panchyat is said to have been included in the Taluk in the year 2015. Learned Senior Counsel would submit that - 10 - NC:

2023. KHC-K:9147-DB WA No.200142 of 2023 these interventions may cause a disruption in the rotation of reservation already put in place and commenced in the year 1993. Although the learned Senior Counsel sought to point out that the learned Single Judge had made reference to the decision of this Court in the case M. Abdul Azeez Vs State of Karnataka and Others, reported in ILR2014 Kar. 1839, nevertheless, when this Court pointed that there cannot be any quarrel regarding the position of law enunciated in the said judgment that it is mandatory to follow the rule of rotation, the learned Senior Counsel would restrict his submission while saying that even though a computer system is put in place, however, the disruption of the process by adding a new Grama Panchayat or removing a Grama Panchyat would result in deprivation of the reservation and therefore, this Court should issue certain directions in this regard.

8. Having heard the learned Counsel for the appellant, the learned AAG and learned Senior Counsel for the contesting respondents and on perusing the appeal memo, this Court finds that there is substance in the - 11 - NC:

2023. KHC-K:9147-DB WA No.200142 of 2023 contention of the appellant and learned AAG. However, this Court should notice that in the statement of objections filed at the hands of the respondent-State and the Election Officer, the relevant information and grounds have not been raised. Irrelevant information has been provided in the statement of objections as if the consideration for rotation of the reservation for the posts of Adhyaksha and Upadhyaksha of the Grama Panchayat would depend on facts and figures of the entire State. It is by now well settled that insofar as the posts of Adhyaksha and Upadhyaksha of the Grama Panchayats are concerned, for the purpose of reservation, the Taluk is taken as the unit. Rotation of the posts are made within the Taluk. However, once the number of posts are fixed by a notification issued by the Election Commission, the Election Officer is only required to rotate the same amongst the various Grama Panchayats in the Taluk.

9. Having regard to the material available on record, it is clear that insofar as Wadagera Taluk is concerned, there are 17 Grama Panchayats. Out of which 4 posts are - 12 - NC:

2023. KHC-K:9147-DB WA No.200142 of 2023 reserved for Scheduled Caste and only 1 post is reserved for Scheduled Tribe category. That being the position, the cycle of rotation for Scheduled Tribe category to complete the cycle will take 17 terms. Therefore, the grievance of respondents No.9 and 10 that the reservation of Scheduled Tribe category was never given to Ullesugur Grama Panchayat, is clearly answered by the learned AAG that having regard to the fact that the Grama Panchayath has got only 1 post of Scheduled Tribe category and there are other Grama Panchayats which have more than 2 posts for Scheduled Tribes category and in one case, i.e., Wadagera Grama Panchayat there are 5 posts of Scheduled Tribe. Therefore, if the grievance of the contesting respondents is that the Ullesugu Grama Panchayat was never given Scheduled Tribe category reservation for the post of Adhyaksha, then it has been rightly answered by the

learned AAG while pointing out to the facts and figures.

10. Moreover, while exercising the extraordinary discretionary powers of this Court under Article 226 of the - 13 - NC:

2023. KHC-K:9147-DB WA No.200142 of 2023 Constitution of India, in such cases of reservation and rotation in the reservation, this Court is only required to find out as to whether the respondent authorities have followed the rules or not. If the rules are followed, that should satisfy the requirement of law. The rules have been formulated having regard to the provisions of law contained in the statute as well as the constitutional mandate that every category of reservation should be given an opportunity in every sphere of the governance including the Grama Panchayats. Since the rules have been formulated keeping in view the said constitutional mandate and requirement and there is no challenge raised to the rules and fixation of the number of posts in the Taluk by the Election Commission, this Court need not look any further.

11. Having been satisfied that the respondent- authorities have followed the relevant rules of rotation in reservation while fixing the reservation for the post of Adhyaksha and Upadhyaksha, the appeal has to succeed.-. 14 - NC:

2023. KHC-K:9147-DB WA No.200142 of 2023 12. Accordingly, the writ appeal is allowed. The impugned order dated 06.10.2023 in W.P.No.202196/2023 passed by the learned Single Judge is hereby set aside. The respondent-Election Officer may proceed to conduct the elections in terms of the reservation notification and in accordance with law.

13. In view of disposal of the main appeal, pending Interlocutory Application does not survive for consideration and is accordingly disposed of. Sd/- JUDGE Sd/- JUDGE DL List No.:

1. SI No.:

42. Ct:VK