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Shantreddy Vs. The State Of Karnataka

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Court : Karnataka Kalaburagi

Decided On : Dec-21-2023

Judge : Pradeep Singh Yerur

Appeal No. : WP 202928/2023

Appellant : Shantreddy

Respondent : The State Of Karnataka

Judgement :

- 1 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 IN THE HIGH COURT OF KARNATAKA, R KALABURAGI BENCH DATED THIS THE21T DAY OF DECEMBER, 2023 BEFORE THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR WRIT PETITION NO.202928 OF2023(GM-RES) C/W WRIT PETITION NO.203032 OF2023(GM-RES) IN WP No.202928/2023: BETWEEN: SHANTREDDY S/O.SHARANAPPA MALIPATIL AGED ABOUT57YEARS OCC:ADVOCATE & GOVERNMENT PLEADER R/AT HOSAHALLI VILLAGE TALUK & DISTRICT YADGIR585202 PETITIONER (BY SRI SHIVANAND PATIL, ADVOCATE) AND:

1. THE STATE OF KARNATAKA BY THE CHIEF SECRETARY GOVERNMENT OF KARNATAKA VIDHANA SOUDHA BENGALURU-560 001 2. THE DEPARTMENT OF LAW AND PARLIAMENTARY AFFAIRS VIDHANA SOUDHA

BENGALURU-560 001 BY ITS PRINCIPAL SECRETARY/ UNDER SECRETARY - 2 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 3. THE DEPUTY COMMISSIONER YADAGIR-585 201 4. SIDDANOOR NINGAPPA AGED ABOUT45YEARS OCC: ADVOCATE R/AT BANDALLI VILLAGE TALUK & DISTRICT YADGIR - 585 202 RESPONDENTS (BY SRI G.B.YADAV, HCGP FOR R-1 TO R-3; SRI GANESH S.NAIK., ADVOCATE FOR R-4) THIS WRIT PETITION FILED UNDER ARTICLES226AND227OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE

ORDER
AT PART I AND PART2VIDE NO.LAW-LAD/231/2023 DATED0710.2023 OF RESPONDENT No.2 VIDE ANNEXURE C. IN WP No.203032 OF2023 BETWEEN: SMT.SAVITHRI D/O.SHANKAR ITI (WALIKAR) AGED ABOUT49YEARS OCC:ADVOCATE & ASST.GOVERNMENT PLEADER, INDI R/AT KHB COLONY, PLOT No.16 VIJAYAPURA ROAD, INDI DIST: VIJAYAPURA PETITIONER (BY SRI G.G.CHAGASHETTI AND SRI L.T.PUJARI, ADVOCATES) AND:

1. THE STATE OF KARNATAKA BY THE CHIEF SECRETARY GOVERNMENT OF KARNATAKA BENGALURU-560 001 - 3 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 2. THE DEPARTMENT OF LAW AND PARLIAMENTARY AFFAIRS VIDHANA SOUDHA BENGALURU- 560 001 BY ITS PRINCIPAL SECRETARY/ UNDER SECRETARY3 THE DEPUTY COMMISSIONER VIJAYAPURA DIST: VIJAYAPURA -586 101 4. SHIVANAND S/O.RAMANGONDAPPA BIRADAR AGED ABOUT50YEARS OCC: ADVOCATE, INDI COURT CAMPUS INDI TALUK INDI DIST VIJAYAPURA - 586 101 RESPONDENTS (BY SRI G.B.YADAV, HCGP FOR R-1 TO R-3; SRI B.K.PATIL, ADVOCATE FOR R-4) THIS WRIT PETITION FILED UNDER ARTICLES226AND227OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE

ORDER

DATED0411.2023 IN NOTIFICATION NO.LAW/LAD/436/2023 PASSED BY RESPONDENT NO.2 VIDE ANNEXURE - C AND ETC. THESE WRIT PETITIONS ARE COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING: - 4 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023

ORDER

WP.No.202928/2023 is filed by the petitioner seeking to quash the impugned order at Part-1 and Part-2 vide No.LAW- LAD/231/2023 dated 07.10.2023 passed by respondent No.2 vide Annexure-C.

2. WP.No.203032/2023 is filed by the petitioner seeking to quash the impugned order dated 04.11.2023 bearing notification No.LAW/LAD/436/2023 passed by respondent No.2 vide Annexure-C.

3. It is the case of the petitioners that they are practising Advocates since 1995 and 2001, and were appointed as Additional Government Pleaders for the Courts of District of Yadgir and District of Vijayapura for a period of three years commencing from the date they assume charge vide Government Order dated 06.02.2023 and 30.07.2022. Pursuant thereto, the petitioners assumed charge on 01.03.2023 and 03.08.2022 respectively. The period of tenure of office is for three years. Accordingly, the petitioners are entitled to hold the post till 01.03.2026 and 30.07.2025. It is further contention that the petitioners after assuming office of the - 5 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 Additional Government Pleader have been performing their duties diligently, honestly and to the satisfaction of the Government. 3.1 This being the state of affairs, respondent No.2 terminated the service of the petitioner in WP.No.202928/2023 along with other Law Officers by impugned order at part-1 dated 07.10.2023 in violation to the prescribed Rules and Regulations, without following the due process of law and violating the principles of natural justice. Respondent No.2, thereafter by impugned order at part-2 of even date, appointed respondent No.4 in his place as an Additional Government Pleader, Yadgir and

terminated the service of the petitioner in WP.No.203032/2023 along with other Law officers by impugned order dated 04.11.2023 and appointed respondent No.4 in her place as an Additional Government Pleader, Indi.

4. As common questions of fact and law are involved these matters are taken up together for consideration with consent.

5. It is the vehement contention of learned counsels for petitioners that the impugned order at Annexure-C is illegal, - 6 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 perverse, arbitrary and opposed to the principles of natural justice, it also suffers from colorable exercise of power and exceeding its authority in contravention to Rule 5 of the Karnataka Law Officers (Appointment and Conditions of Service) Rules, 1977 (for short, 'the Rules, 1977'). Learned counsel further contends that the petitioners in these petitions were appointed on 06.02.2023 and 30.07.2022 respectively but vide Annexure-C, they were terminated on 07.10.2023 and 04.11.2023 respectively i.e. much before the period of three years of their stipulated tenure. It is also contended that the petitioners were appointed by issuance of an appointment letter at Annexure-A, whereas while terminating their services vide Annexure-C, an omnibus termination order is passed en masse, without there being any specific notice of termination to the petitioners herein. 5.1 Apart from questioning the termination order of the petitioners, which is alleged to be illegal and perverse, the petitioners are also questioning the appointment of respondent No.4 to the very same post held by the petitioners. It is the vehement contention of learned counsel that the petitioners being Advocates from the legal fraternity, is a noble profession - 7 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 with dignity in the society. After having been appointed for tenure of three years by following due process of law, the termination of the petitioners in these petitions within seven months and one year three months respectively from the date of assuming charge is very arbitrary, illegal and the same deserves to be quashed. It is also contended that this arbitrary termination of the appointment so made is embarrassing and also 'stigmatic' to the professional career of the petitioners.

Hence, the petitioners are before this Court left with no other alternative and efficacious remedy. 5.2 Learned counsels for petitioners relies on the following decisions in support of their case: i) Kumari Shrilekha Vidyarthi and Ors. Vs. State of U.P. and Ors. reported in (1991)1 SCC212 ii) L.N.Narasimhamurthy and Ors. Vs. State of Karnataka and Ors. in WP.Nos.47687, 47846, 52550 and 52832 of 2018 (S-RES) (decided on 18.02.2021); 6. Per contra, Smt.Archana P. Tiwari, learned Additional Advocate General along with learned High Court Government Pleader vehemently contends that the appointment of the Law - 8 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 Officers in the State of Karnataka is governed by the Rules, 1977, wherein the appointment of the petitioners-Additional Government Pleader is made under Rule 26 of the Rules, 1977 in the State of Karnataka, which comes under Chapter-VII of the Rules, 1977. According to the learned Additional Advocate General, the petitioners were appointed by the Government to conduct the cases of the Government as the Law Officers and the said appointment is made by the Government at the pleasure of the Government for the specified period mentioned therein. She further contends that as per Rule 5(2) of the Rules, 1977, it is specifically stated and agreed by the Law Officers including the petitioners that all law officers so appointed by the Government shall hold the Office during the pleasure of the Government. The term is fixed for a period of three years as per Rule 5(3) of the Rules, 1977. She also contends that as per Rule 5(5) of the Rules, 1977, the removal of the Law Officers is contemplated and Rule 5(6) of the Rules, 1977 contemplates the termination of appointment without assigning any reason by giving one month's notice in writing or by giving one month's retainer fee in lieu of such notice.-. 9 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 6.1 It is the vehement contention of learned Additional Advocate General that the petitioners, who were appointed by the Government to conduct the cases of the Government would not have an inherent right to seek extension of their tenure or to coerce or force the Government to retain them as a Law Officers of the Government. It is always at the pleasure of the Government that the appointment is made and continuation of duties and functions of the Law Officers though fixing

the tenure is subject to the Rule of termination provided in Rule 5 of the Rules, 1977 and in the following sub-Rules stipulated therein. Therefore, she contends that the present petition filed by the petitioners is unsustainable on the facts and provisions of the Rules, 1977, as the petitioners cannot claim an inherent right to quash the termination of their appointment. She also contends that the petitioners cannot insist the Government to retain them in the post of Law Officers against the interest, willingness and pleasure of the Government.

7. It is the contention of learned counsel for respondent No.4, who is subsequently appointed in place of the petitioners that the appointment of respondent No.4 is in accordance with the Rules, 1977, by following the due process of law and the - 10 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 procedure laid down therein. There is nothing illegal and arbitrary in such appointment and the same cannot be quashed at the mere asking of the petitioners. He further contends that the petitioners would not have any locus to question the appointment of respondent No.4. Accordingly, he seeks dismissal of the petition.

8. On a careful perusal of the petition averments, the submissions made by learned counsel for petitioners, learned Additional Advocate General and learned counsel for respondent No.4, it is necessary to understand the process of appointment and law governing the appointment of the Law Officers.

9. The Government of Karnataka by Order No.LAW5LAG77dated 19.08.1977 issued a notification by making a procedure for governing the Rules for appointment, conditions of service and remuneration payable to the Law Officers of the State of Karnataka, which came to be called as the Karnataka Law Officers (Appointment and Conditions of Service) Rules, 1977. This is enforced in the entire State of Karnataka for the Law Officers.-. 11 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 9.1 As per Rule 3 of the Rules, 1977, 'Law Officer' means- "In this Chapter, Chapter III and Chapter VIII "law officer" means an Advocate on Record, "Associate

Advocate" a Government Advocate, the State Prosecutor, a High Court Government Pleader, a District Government Pleader a Public Prosecutor, a Special Counsel, an Additional District Government Pleader, an Assistant Government Pleader or any other advocate appointed by the Government for the purpose of conducting any civil or criminal case for and on behalf of the State in the High Court or any civil or criminal court in the State". 9.2 Chapter II deals with the general provisions governing the Law Officers, wherein Rule 5 deals with the appointment of Law Officers, which reads as under;-

"5. Appointment of Law Officers.-(I) No person shall be eligible for appointment,- (i) as a Government Advocate or as the State Prosecutor or a Special Counsel unless he has been in practice as an advocate for not less than fifteen years; - 12 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 (ia)as a High Court Government Pleader unless he has been in practice as an Advocate for not less than twelve years. (ii) as a District Government Pleader or as an Additional District Government Pleader unless he has been in practice as an advocate for not less than ten years. (iii) as an Assistant Government Pleader unless he has been in practice as an advocate for not less than seven years. (2) All law officers shall be appointed by the Government and shall hold office during the pleasure of the Government. (3) Subject to the other provisions contained is these rules, unless otherwise in the order of appointment, a person appointed as a law officer shall hold office at a time, for a term not exceeding three years, but shall be eligible for re-appointment after the expiry of such term: Provided that notwithstanding the expiry of the term a law officer shall, unless otherwise ordered, continue in office until fresh appointment is made or for a period of twelve months, whichever is earlier. (4) No person shall ordinarily be eligible for appointment or to continue as a law officer in anyone capacity continuously for a period exceeding six years.-. 13 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 (5) A law officer shall be liable to be removed from office at any time if he is guilty of any act or conduct which, in the opinion of the Government is contrary to these rules or is

incompatible with his duties as such law officer. Decision of the Government in such cases, shall be final. (6) Save as otherwise provided in sub-rule(5) and subject to the provisions of sub-rule(2), the State Government may terminate the appointment of a law officer without assigning any reason by giving one month's notice in writing or by giving one month's retainer in lieu of such notice. (7) A law officer may resign his office by giving one month's notice in writing to the Government. "The Law Officer intending to resign the office shall be fully responsible for the conduct of the Government Litigation during the period of notice and up to the date of his handing over charge of the office. The law officer shall make good the loss if any, caused to Government due to failure on his part and shall also be liable for legal action for such failure.

10. Chapter VII of the Rules, 1977 deals with the District Government Pleaders, Additional District Government Pleaders and Assistant Government Pleaders, wherein Rules 26(1) to - 14 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 26(3) deal with their appointments. Rule 27 deals with the duties of the District Government Pleaders. These are the general Rules governing the appointment, conditions of service and remuneration payable to the Law officers appointed within the State of Karnataka.

11. Sub-Rule(2) of Rule 5 of the Rules, 1977 very clearly states that all the Law officers shall be appointed by the Government and shall hold Office during the pleasure of the Government. In the present case on hand, the grievance of the petitioners is that they have been removed unceremoniously causing severe embarrassment to them, being in the legal profession and members of the Bar, without assigning any proper reason against the terms and conditions of the Rule of 1977, so also the principles of natural justice have been violated.

12. It is also vehemently argued by learned counsels in both the petitions relying on the decisions of the Hon'ble Apex Court in the case of Kumari Shrilekha Vidyarthi and Ors. Vs. State of U.P. and Ors. reported in (1991)1 SCC212that the law is settled with regard to the manner and process of - 15 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 removal and termination of the Law Officers by the Hon'ble Apex Court in the said judgment. It is also contended that the petitioners, who were given an appointment by way of an independent appointment letter, have been terminated by a single order along with others. Therefore, the termination is bad in law. It is also contended that an omnibus termination without assigning any reason is again bad in law and the said termination requires to be quashed and set-aside. Along with questioning the termination being bad in law, the petitioners have also questioned the appointment of the incumbent respondent No.4, who was subsequently appointed in place of the petitioners for their post, which is not in accordance with law and has violated the requirement and ingredients of the appointment of Law Officers as contemplated under the Rules, 1977.

13. It is relevant to mention here that this Court, in an earlier round of litigation, dealt with the similar matter concerning the termination of service of Law Officer, wherein a Coordinate Bench of this Court had allowed the petition of the Law Officer, who was terminated by not following the due process as contemplated under the Rules, 1977. However, a - 16 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 direction was given to the State to initiate suitable action to terminate the service of the petitioner in accordance with law in WP.No.15359/2006. The said matter was taken up in an appeal by subsequent appointee, who was appointed in the place of the petitioner therein i.e. terminated Law Officer in WA.No.2061/2006 i.e. in the case of S.R.Patil vs. State of Kar., By its Secy., Dept. of Law and Parliamentary Affairs & Anr. reported in ILR 2007 KAR4653 wherein the Hon'ble Division Bench, after hearing the matter in detail and taking into consideration the Rule governing the Law Officer within the State of Karnataka i.e. the Rules, 1977 set-aside the order of the learned Single Judge and the termination of the petitioner therein came to be upheld. However, in the said decision, the subsequent appointee who was appointed in place of the petitioner therein also came to be quashed. However, a liberty was given to the Government to consider the matter of appointment in accordance with law in the light of the observations made in the said decision. This decision would be aptly applicable to the present facts and

circumstances of the case as already the Division Bench of this Court has dealt with the gamut of the materials in detail to deal with the - 17 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 appointment of Law Officers, the termination and their duties and functions.

14. Though vehement argument is put-forth by learned counsels for petitioners that once the Law Officer is appointed by the State by virtue of an independent appointment letter, he would have to be terminated in accordance with law governing the said Law Officers and much reliance is placed on the case of Kumari Shrilekha Vidyarthi with regard to termination of Law Officers therein, the fundamentals of the decision rendered by the Hon'ble Apex Court in the case of Kumari Shrilekha Vidyarthi on the set of facts and circumstances of the said case was that the omnibus termination was bad in law and the action of the State was arbitrary and accordingly, the order was passed in favour of the employee, who was terminated, by holding that the termination was bad in law. The fact remains that the judgment in the case of Kumari Shrilekha Vidyarthi came to be distinguished by the decision of the Hon'ble Apex Court in the case of State of U.P. vs. U.P.State Law Officers Assn. reported in 1994 AIR1654 The Coordinate Bench of this Court in the case of Hanumantha Rao Kulkarni vs. The State of Karnataka and another in WP.No.11230/2006 - 18 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 (S-RES) [decided on 31.10.2006]. while dealing with similar matter, also considered the case of Kumari Shrilekha Vidyarthi and held that the Rules and laws governing for the service of Law Officers in the State of Karnataka is different from the one i.e. governing the Law Officers in the State of U.P. It was also held that the termination without assigning reasons would not be arbitrary and accordingly, the Hon'ble Apex Court distinguished the decision in the case of Kumari Shrilekha Vidyarthi from the above said decision in the case of State of U.P. The Coordinate Bench of this Court further held in para- 13 of the aforesaid decision in WP.No.11230/2006 that - "in this light of the matter, it cannot be said that the petitioner is similarly placed as a Law Officer in deciding the matter in the case of Kumari Shrilekha Vidyarthi and accordingly, the petition filed by the Law Officer, who was

terminated, came to be dismissed.

15. Going back to the Rules, 1977, it is not in dispute by either of the parties that Rule 5(2) of the Rules, 1977 very specifically states that all the Law Officers shall be appointed by the Government and shall hold office during the pleasure of the Government. Admittedly, the petitioners herein have not - 19 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 questioned or challenged the Rules, 1977. However, what is challenged herein is the termination of their appointment and induction/appointment of the incumbent Law Officer respondent No.4. It is necessary to read once again the Sub-Rule(6) of Rule 5 of the Rules, 1977, wherein it is clearly stated that - "save as otherwise provided in sub-rule (5) and subject to the provisions of sub- rule (2), the State Government may terminate the appointment of law officer without assigning any reason by giving one month's notice in writing or by giving one months retainer in lieu of such notice. There is an amendment made herein by inserting "any reason by giving one month's notice in writing or by giving one month's retainer in lieu of such notice vide notification No.LAW75LAG88dated 20.09.1985.

16. In my opinion, this insertion by way of amendment to sub-Rule(6) of Rule 5 of the Rules, 1977, has been made by the Legislature with its wisdom to give more strength and teeth to the Government to reiterate and support sub-Rule(2) of Rule 5 which has stated that the appointment so made of the Law - 20 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 Officers shall be at the pleasure of the Government and the Law officer shall hold office during the pleasure of the Government, thereby this makes it more affirmative to show the assertion of the Government to engage the services of the Law Officer at its pleasure strictly and the termination of such Law Officer could be made by the Government either by giving one months notice in writing or by giving one months retainer in lieu of such notice.

17. The petitioners have not produced the L.R. manual or the UP Law Officers' conditions of service of appointment and the termination before this Court to make a difference or find out the difference between two States in appointment,

conditions of service and termination of the Law Officers. However, the fact remains that while deciding the case of Kumari Shrilekha Vidyarthi, the Hon'ble Apex Court has dealt the L.R. manual of the U.P.State Government which was governing the services of the Law Officer. The duties and functions of the Law Officers are pre-dominantly dependent upon the Government in allotment of the cases and their functions are also to appear on behalf of the Government and to conduct cases on behalf of the Government in the interest of - 21 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 the Government. Fundamentally, it appears by the Rules, 1977 that the Law Officers are appointed to function and perform the duties at the instructions of the Government in the manner i.e. told for the welfare of the Government and at the pleasure of the Government. The posts are provided as permanent Additional Government Pleaders and temporary Government Pleaders and Additional Government Pleaders. This also is prescribed and stipulated by the Government for the relevant areas/Districts.

18. It is to be seen on a careful understanding of the Rules, 1977 that the relationship of the Law Officer with that of the Government is in the nature of fiduciary capacity with regard to his/her appointment and continuance of services as Law Officer till the subsistence of the Government. Therefore, it can be termed as that it is the relationship during the pleasure of the Government as prescribed and defined under sub-Rule(2) of Rule 5 of the Rules, 1977.

19. The appointment, terms and conditions, removal and termination are all strictly governed by the Rules, 1977. Therefore, it is apparently clear and unambiguous when Sub- - 22 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 Rule(2) of Rule 5 of the Rules, 1977 very specifically states that the Law Officer shall be appointed by the Government and shall hold the Office during the pleasure of the Government. At the cost of repetition, it is further necessary to reiterate that as per Sub-Rule(5) of Rule 5 of the Rules, 1977, the Law Officer could be removed from office at any time if he is guilty of any act or conduct which, in the opinion of the Government is contrary to these Rules or is incompatible with his duties as such

Law Officer. Further it has gone one step forward by including Sub- Rule (6) of Rule 5 of the Rules, 1977 by clearly stating that save as otherwise provided under Sub-Rule (5) and subject to the provisions of Sub-Rule(2), the State Government has the discretion to terminate the Law Officer without assigning any reason by giving one month's notice in writing or by giving one month's retainer in lieu of such notice.

20. Admittedly, in the present case on hand, one month's retainer in lieu of such notice has been given, which is not in dispute. Therefore, there is absolute compliance of Sub-Rule(6) of Rule 5 of the Rules, 1977 with regard to termination of the services of the petitioners herein and once again at the cost of repetition, it is necessary to make a mention here that the - 23 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 petitioners have not questioned Sub-Rule (2) of Rule 5 of the Rules, 1977. Therefore, in my humble opinion, the termination of the petitioners in accordance to the Rules, 1977, more specifically, Sub-Rule(6) of Rule 5 of the Rules, 1977 is in accordance to the said Rules and it cannot be said that the same is in violation or contrary to the Rules and violating principles of natural justice.

21. The decision in the case of Kumari Shrilekha Vidyarthi relied on by the petitioners having been considered by the Coordinate Bench of this Court and already having found that it would not apply to the Law Officers of the State of Karnataka may not be of much help to the petitioners in support of their case. It is also to be seen that by subsequent judgment rendered by the Hon'ble Apex Court in the case of State of U.P., the decision in the case of Kumari Shrilekha Vidyarthi has been distinguished. In the decision rendered by the Full Bench in the case of State of U.P. and Ors. vs. Johri Mal reported in the AIR 2004 SC3800 the Hon'ble Apex Court has considered the decision in the case of Kumari Shrilekha Vidyarthi and has held at para-61 that "we have our own reservations about the aforementioned principles of - 24 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 law, but for the purpose of this case, it is not necessary to advert thereto".

22. Further, in the very said decision in the case of Johri Mal at para-70, the Hon'ble Apex Court has held as under:

"70. In relation to appointment of the standing counsels for the High Court, this Court, however, in State of U.P. and Ors. etc. v. U.P. State Law Officers Association and Ors. etc. (1994)1 SCR348while distinguishing Shrilekha Vidyarthi (supra), observed that legal profession is essentially a service oriented profession. Noticing the changing scenario as also growth of litigation, this Court emphasized the obligation on the part of the Government or the public body to engage the most competent lawyer for conducting their affairs stating that relationship between the lawyer and his client is one of the trust and confidence. The client engages a lawyer for personal reasons and would be a liberty to leave him also for the same reasons. It was observed:

"18. The mode of appointment of lawyers for the public bodies, therefore, has to be in conformity with the obligation cast on them to select the most meritorious. An open invitation to the lawyers to compete for the posts is by far the best mode of such selection. But - 25 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 sometimes the best may not compete or a competent candidate may not be available from among the competitors. In such circumstances, the public bodies may resort to other methods such as inviting and appointing the best available, although he may not have applied for the post. Whatever the method adopted, it must be shown that the search for the meritorious was undertaken and the appointments were made only on the basis of the merit and not for any other consideration."

23. Under the circumstances, it could be understood that the duties and functions of the Law Officers is that of the trust and faith reposed by the Government, which appoints them, for the purpose of rendering services in furtherance of intent and requirement of the Government in the interest of the Government at the pleasure of the Government. When such appointments made is by the Government it reposes full confidence, trust and faith from said Law Officer, the Law Officer

cannot claim the benefit of forcing the Government to continue his services, if the Government does not wish to do so.-. 26 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 24. The second point for consideration is the appointment of respondent No.4 made in place of the petitioners whether requires to be quashed at the instance of the petitioners. It is no doubt true that the procedure contemplated to make appointments of the District Government Pleader and Additional District Government Pleader and so also the other Law officers are governed under the Rules, 1977 as discussed hereinabove. The point that boils for consideration is whether the petitioners would have locus or litigious capacity to question the appointment of respondent No.4 in these petitions when their appointments are terminated. The Government is the authority to appoint the Law Officer and the same would have to be done in accordance with Rules, 1977 as discussed earlier. Even if there is any breach or violation of the terms and conditions of the appointment, the petitioners, whose appointments have been terminated, cannot have a locus or litigious capacity to question the appointment of respondent No.4 in these petitions. The action of judicial review under Article 226 of the Constitution of India would depend upon the parameters within which the Courts will have to function while entertaining the question of judicial review.-. 27 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 25. It is a fundamental rule that while exercising judicial review under Article 226 of the Constitution of India, this Court cannot sit in the arm chair of an Appellate Authority, as if deciding an appeal on the decisions of the administrative or executive bodies. The orders passed by the Government on certain aspects are prerogative of the Government in the administrative authority and capacity and it is purely their discretion which cannot be in normal circumstances interfered by this Court in the judicial review, unless extraordinary and exceptional case is made out to show that there is arbitrary exercise of powers, which is perverse and illegal. A mere wrong decision or an error committed by such authorities also cannot be a ground to accept the judicial review over such orders. The Government is within its discretion to make its own policy decisions for the welfare of the people and to run the Government itself and it should be left to its wisdom to exercise such

Governmental decisions be it legislative or executive, which again in general circumstances should not be interfered by the Courts exercising judicial review unless extraordinary reasons are shown regarding arbitrariness and perversity. The Hon'ble Apex Court in the case of Johri Mal has dealt with this - 28 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 aspect of judicial review at para-28 that it would differ from one case to the other, para-28 reads as under:

"28. The Scope and extent of power of the judicial review of the High Court contained in Article 226 of the Constitution of India would vary from case to case, the nature of the order the relevant statute as also the other relevant factors including the nature of power exercised by the public authorities, namely, whether the power is statutory, quasi judicial or administrative. The power of judicial review is not intended to assume a supervisory role or done the robes of omnipresent. The power is not intended either to review governance under the rule of law nor do the courts step into the areas exclusively reserved by the supreme lex to the other organs of the State. Decisions and actions which do no have adjudicative disposition may not strictly fall for consideration before a judicial review court. The limited scope of judicial review succinctly put are: (i) Courts, while exercising the power of judicial review, do not sit in appeal over the decisions of administrative bodies: (ii) A petition for a judicial review would lie only on certain well-defined grounds. (iii) An order passed by an administrative authority exercising discretion vested in it, - 29 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 cannot be interfered in judicial review unless it is shown that exercise of discretion itself is perverse or illegal. (iv) A mere wrong decision without anything more is not enough to attract the power of judicial review; the supervisory jurisdiction conferred on a Court is limited to seeing that Tribunal functions within the limits of its authority and that its decisions do not occasion miscarriage of justice. (v) The Courts cannot be called upon to undertake the Government duties and functions. The Court shall not ordinarily interfere with a policy decision of the State. Social and economic belief of a Judge should not be invoked as a substitute for the

judgment of the legislative bodies.

26. In view of the above discussions and the observations made, I am afraid this Court is not inclined to accept the arguments put-forth by learned counsels for petitioners, rather the arguments put-forth by learned Additional Advocate General on behalf of the State and learned counsel for respondent No.4 have sufficient force to be reckoned based on materials placed on record and several judgments rendered by various Courts including the Hon'ble Apex Court. The Division - 30 - NC:

2023. KHC-K:9395 WP No.202928 of 2023 C/W WP No.203032 of 2023 Bench judgment of this Court setting aside the order of the Coordinate Bench of this Court, which allowed the petition filed by similarly placed petitioner came to be set aside, would be applicable to the present facts of the case as well.

27. In view of the above, I proceed to pass the following:

ORDER
The writ petitions are dismissed. Sd/- JUDGE LB List No.:

1. Sl No.: 8

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