

T Narasimhamurthy Vs. The State Of Karnataka

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Court : Karnataka

Decided On : Jul-27-2023

Judge : Chief Justice and M.G.S. Kamal

Appeal No. : WP 12030/2020

Appellant : T Narasimhamurthy

Respondent : The State Of Karnataka

Advocate for Def. : Sri. Prabhuling K. Navadgi

Judgement :

1 R IN THE HIGH COURT OF KARNATAKA AT BENGALURU DATED THIS THE27H DAY OF JULY, 2023 PRESENT THE HON'BLE MR PRASANNA B. VARALE, CHIEF JUSTICE AND THE HON'BLE MR JUSTICE M.G.S. KAMAL WRIT PETITION No.10843 OF2021(GM-RES) C/W WRIT PETITION No.12030 OF2020(GM-RES) IN WP. NO.10843 OF 2021 BETWEEN : SHRI. SHASHI PRASAD GANDHI @ S.P. GANDHI S/O LATE NARAYANAPPA AGED ABOUT55YEARS OCC:ADVOCATE R/O THYAGRAJ NAGAR WARD NO.5 TALUK OFFICE ROAD DEVANAHALLI TOWN BANGALORE - 562 110. ...PETITIONER (BY SRI. R.A. DEVNAND, ADVOCATE FOR SRI. HANUMANTHAPPA HARAVI B. GOWDA, ADVOCATES) AND:

1. . THE STATE OF KARNATAKA REP. BY ITS CHIEFF SECRETARY2VIDHANA SOUDHA BANGALORE - 560 001. 2 . THE STATE OF KARNATAKA REP. BY

ITS ADDL. CHIEF SECRETARY DPAR, SERVICES VIDHANA SOUDHA BANGALORE - 560 001. 3 . SHRI. SHIVASHANKARAPPA S. SAHUKAR CHAIRMAN, KPSC BENGALURU - 560 001.

4. KARNATAKA PUBLIC SERVICE COMMISSION PARK HOUSE BANGALORE - 560 001 REP. BY ITS SECRETARY. RESPONDENTS (BY SRI. PRABHULING K.NAVADGI, ADVOCATE GENERAL A/W SMT. PRATHIMA HONNAPURA, AGA FOR R1 & R2; SRI. VIVRAM HUILGOL, SR. ADVOCATE FOR SRI. SATISH V., ADVOCATE FOR R3 SRI. BASAVARAJ GODACHI, ADVOCATE FOR R4) THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO i) TO ISSUE A WRIT OF QUO-WARRANTO QUASHING THE IMPUGNED NOTIFICATION MADE IN No.DPAR60SLA 2021 DATED 03.04.2021 ISSUED BY THE RESPONDENT NO.1 VIDE ANNEXURE-F AND ALLOW THIS WRIT PETITION. ii) PASS ANY OTHER SUITABLE

ORDER

S BY THIS HON BLE COURT AS DEEMS FIT AND PROPER IN THE NATURE AND CIRCUMSTANCES OF THE CASE. 3 IN WP No.12030 OF 2020 BETWEEN : T NARASIMHAMURTHY AGED ABOUT 54 YEARS S/O LATE THYGARAJ NO.18, E4H STREET OLD MADRAS ROAD ULSOOR BANGALORE-560 008. ...PETITIONER (BY SRI. UMAPATHI S., ADVOCATE) AND:

1. . THE STATE OF KARNATAKA REPRESENTED BY ITS CHIEF SECRETARY VIDHANA SOUDHA BANGALORE-560 001.

2. THE STATE OF KARNATAKA REPRESENTED BY ITS ADDL. CHIEF SECRETARY DPAR, SERVICES VIDHANA SOUDHA BANGALORE-560 001. 3 . KARNATAKA PUBLIC SERVICE COMMISSION PARK HOUSE BANGALORE-560 001. REPRESENTED BY ITS SECRETARY. 4

4. DR CHANDRAKANT D. SHIVAKERI MEMBER KARNATAKA PUBLIC SERVICE COMMISSION PARK HOUSE BANGALORE-560 001.

5. SRI. S.H. DUGGAPPA MEMBER KARNATAKA PUBLIC SERVICE COMMISSION PARK HOUSE BANGALORE-560 001.

6. DR. H. RAVIKUMAR MEMBER KARNATAKA PUBLIC SERVICE COMMISSION PARK HOUSE BANGALORE-560 001.

7. DR. R. LAKSHMINARAYANA MEMBER KARNATAKA PUBLIC SERVICE COMMISSION PARK HOUSE BANGALORE-560 001. 8 . SRI. SHRIKANTHRAO

MEMBER KARNATAKA PUBLIC SERVICE COMMISSION PARK HOUSE BANGALORE-560 001. 9 . DR. RONALD ANIL FERNANDES MEMBER

KARNATAKA PUBLIC SERVICE COMMISSION PARK HOUSE BANGALORE-560 001. 5 10 . SRI. SHIVASHANKARAPPA S. SAHUKAR MEMBER

KARNATAKA PUBLIC SERVICE COMMISSION PARK HOUSE BANGALORE-560 001. 11 . SRI. VIJAYA KUMAR D. KUCHANURE MEMBER KARNATAKA

PUBLIC SERVICE COMMISSION PARK HOUSE BANGALORE-560 001. 12 . SRI. R. GIRISH MEMBER KARNATAKA PUBLIC SERVICE COMMISSION PARK

HOUSE BANGALORE-560 001. 13 . PROF. RANGARAJ MEMBER KARNATAKA PUBLIC SERVICE COMMISSION PARK HOUSE BANGALORE-560 001. DR.

M.B. HEGGANNAVAR14. MEMBER KARNATAKA PUBLIC SERVICE COMMISSION PARK HOUSE BANGALORE-560 001. RESPONDENTS (BY SRI.

PRABHULING K.NAVADGI, ADVOCATE GENERAL A/W SMT. PRATHIMA HONNAPURA, AGA FOR R1 & R2; SRI. SUNIL P. PRASAD, ADVOCATE FOR

R3; SRI. SIDHARTH BABU RAO, ADVOCATE FOR R4 TO R14) 6 THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF

INDIA PRAYING TO CALL FOR THE ENTIRE RECORDS ON THE FILE OF R-2 DATED 08.03.2017, 28.10.2017, 11.07.2018, 31.08.2019 AND 22.11.2019 ALL

ISSUED BY R-2 PRODUCED AS AN ENXURE-A, B, C, D AND E RESPECTIVELY PERTAINING TO APPOINTMENTS OF R-4 TO 14 AND ON

PERUSAL OF THE SAME. PROHIBIT R-4 TO 14 FROM EXERCISING THE DUTIES AS THE MEMBERS OF THE KARNATAKA PUBLIC SERVICE

COMMISSION. THESE PETITIONS BEING HEARD AND RESERVED, COMING ON FOR PRONOUNCEMENT OF

ORDER

, THIS DAY, CHIEF JUSTICE., MADE THE FOLLOWING:

ORDER

Writ petition in W.P.No.10843/2021 is filed seeking issue of a writ of quo-warranto quashing the Notification No.DPAR60SLA2021dated 03.04.2021 as per Annexure-F by which the respondent No.3 has been appointed as Chairman of the Karnataka Public Service Commission (hereinafter referred to as KPSC) under Article 316 (1) of the Constitution of India, while Writ Petition in W.P.No.12030/2020 is filed seeking issue of a writ of quo- warranto prohibiting respondent Nos.4 to 14 from 7 exercising their duties as members of the Karnataka Public Service Commission who are appointed in terms of Notifications produced at Annexures-A, B, C and D.

2. Since both these writ petitions, though filed as public interest litigations, involve identical facts situation and issues concerning appointment of members and Chairman to the KPSC, they are heard together and being disposed of by this common order.

3. The grievance of the petitioners in both the writ petitions is that the State Government has not considered the directions purportedly issued by the Honble Apex Court while appointing the members and Chairman of the KPSC and that such appointments have been made without there being any rules and regulations.

4. Sri. Umapathi S, learned counsel appearing for the petitioners in W.P.No.12030/2020 reiterating the grounds urged in the memorandum of petition submitted that; 8 (a) Article 316 of the Constitution of India does not specify any qualification for the members of KPSC except providing ten years of experience in the Government service in respect of official members and only a goodwill of the Government in respect of non-official members; (b) That Chief Minister of the State has been given power to appoint Chairman and members of the KPSC and such power is exercised without due process of law. That a perusal of the documents obtained under Right to Information Act would show that the Government has appointed respondent Nos.4 to 14 as members of KPSC without any deliberation. That there is no transparency in the process of their appointment. (c) That the Government of Karnataka has not framed any rules for the

appointment of Chairman and members of the KPSC till date. That the appointment of Chairman and members of the KPSC is being done by the State Government at its own will as and when the vacancy arose without any norms. That in view of the nature and 9 importance of functions and responsibilities of the KPSC, it was incumbent upon the State Government to ensure the Chairman and members of the KPSC should be academicians, professionals and experts. That the manner of appointment of respondent Nos.4 to 14 as members of the KPSC would show the same has been made without any transparency, enquiry or scrutiny regarding their eligibility. (d) That though Article 316 of the Constitution of India does not specify the qualification for appointment of persons as Chairman and members of KPSC, the State Government is not absolved of its responsibility in qualitative assessment of the candidature and competency of the persons to be appointed. That the appointment of respondent Nos.4 to 14 as members of KPSC is contrary to the directions issued by the Honble Apex Court. (e) In the absence of any rules having been framed as directed by the Honble Apex Court, the exercise of the power by the State Government in appointing respondent Nos.4 to 14 is arbitrary. 10

5. Sri.R.A.Devnand, learned counsel appearing for the petitioner in W.P.No.10840/2021 contended; (a) that the State Government has not framed any rules for appointment of the Chairman and members of the KPSC. (b) that the Government of India had constituted a Committee headed by one Sri.P.C.Hota as its Chairman to bring in reforms in the matter of Civil services who had submitted his report dated 30.07.2004 making several recommendations. That in the said report, at Point No.7, a recommendation has been made to the process of selecting the members to the KPSC by forming a High Powered Committee. (c) That the Office of the Chairman of the KPSC fell vacant on 03.04.2021 and the respondent No.3 was appointed as its Chairman on the very same day without following due process of law. That such a decision to appoint respondent No.3 as its Chairman was taken by the Honble Chief Minister alone which was arbitrary and 11 contrary to the Karnataka Government (Transaction of Business) Rules, 1977 as respondent No.3 did not possess basic qualification, knowledge to occupy the post of Chairman of KPSC. That he did not even possess qualification to be a member of the KPSC. That such an appointment was against the provisions of

Article 316 of the Constitution of India. (d) That the respondent No.3 was entrusted with project work of National Co-operative Union of India on a contractual basis. Since performance of the respondent No.3 was not satisfactory and he was not regular and punctual in discharging his duties, the Chief Executive Officer of National Co-operative Union of India by office order dated 18.03.2010 had communicated to respondent No.3 that his service was not required anymore and was discontinued accordingly. (e) That in terms of Article 316(1) of the Constitution of India an appointment for the post of Chairman as well as members of the KPSC requires a minimum qualification of having held the Government office for at least ten years 12 before being appointed. That the respondent No.3 in view of having been engaged by National Co-operative Union of India in one of its project on contractual basis and not as a permanent employee thereof, would not fulfill the minimum qualification as prescribed under Article 316(1) of the Constitution of India and as such appointment of respondent No.3 by the Chief Minister to the post of Chairman of KPSC is contrary to the provisions of Article 316 of the Constitution. (f) That the credibility of the institution of KPSC is founded upon the faith of a common man. Such faith would be eroded and the confidence would be destroyed if Chairman and members of KPSC were not appointed objectively, fairly without there being any pressure, influence, bias in the process of their appointment including adequate enquiry and scrutiny of their antecedents. Thus, it is contended by learned counsel for the petitioners that the appointment of respondent Nos. 4 to 13 14 as members and respondent No.3 as Chairman of KPSC respectively requires to be set aside.

6. Learned counsel for the petitioners heavily relied upon the judgment of the Honble Apex Court in the case of STATE OF PUNJAB vs. SALIL SABHLOK AND OTHERS reported in (2013)5 SCC1 and also judgment of this Court in the case of KALEEL AHMED K.R. vs. STATE OF KARNATAKA reported in ILR2016 Kar 5185. Hence, sought for allowing of the petitions.

7. Learned Advocate General Sri. Prabhuling K. Navadgi appearing for the respondents-State; (a) drawing attention of this Court to paragraph 5 of the written submission submitted that respondent Nos.4, 5, 7 and 8 have already retired. As such, he submitted that the petition against them was not maintainable. He also

brought to the notice of this Court the qualification and experience of each of the members of the KPSC. 14 (b) He submitted that Chapter II of Constitution of India consisting of Articles 316, 317, 318, 319 and 320 is a complete Code and that there cannot be any dilution or there cannot be any directions to pass any statute or regulation governing the process of appointment of members and Chairman contrary to the said provisions. In comparison with the provisions of Article 324(2) of Constitution of India, learned Advocate General emphasized that unlike Clause (2) of the Article 324 providing for framing of law in the matter of appointment of election commission, no such provision is found under Articles 315 to 320. Thus, he submitted under the scheme of Constitution, State authorities are enjoined with the responsibility and authority of appointing members and Chairman of the KPSC. (c) As regards the contentions of the petitioners with reference to recommendations of P.C.Hota Committee, learned Advocate General submitted that the recommendations of P.C.Hota Committee has been 15 accepted by the State Government to the extent providing for appointments in the State Government services. d) He further submitted that the burden is on the petitioners to show and establish the ineligibility of the respondents being appointed as members and Chairman of the KPSC. That it was incumbent upon the petitioners to have pleaded and proved criminal antecedents if any of the said members and with regard to they being unfit for any other reasons to occupy the post. He further submitted that only on discharging the said burden, would the Government needs to answer the petitioners. e) Referring to paragraphs 45 to 52 and 153 of the judgment of the Apex Court in the case of SALIL SABHLOK (supra), learned Advocate General submitted that there is no foundational pleadings in the writ petitions requiring to be adverted by the State Government. Hence, sought for dismissal of the writ petitions.

8. Sri. Vikram Huilgol, learned Senior counsel appearing for the respondent No.3 in W.P.No.10843/2021 16 drawing attention of this Court to the observation made by the Apex Court in the case of SALIL SABHLOK (supra) with reference to trigger happy litigants, submitted that the petitioners in the first place have not established their bonafides in their purported attempt of espousing the public cause. He further submitted that despite a specific order of this Court dated 22.07.2021 requiring the petitioner to file affidavit with regard to his bonafides, the same has not been

complied with. He submitted that the petitioner should in the first instance prove and establish unfitness of respondent No.3 to be appointed as Chairman of the KPSC. That the petitioner not having discharged the initial burden cannot be heard on any other grounds. He further submitted that in terms of proviso to Article 316 of the Constitution, one-half of the members are required to have held office for at least ten years either under the Government of India or under the Government of State and there is no such qualification for other one-half of the members of the Commission. The same shall be subjective exercise of power of the State Government. Thus, he 17 submitted the petition lack merits requiring no interference.

9. Sri.Sidharth Babu Rao, learned counsel appearing for respondents Nos.9, 11, 13 and 14 in W.P.No.12030/2020 submitted that writ of quo-warranto cannot be granted under the fact situation of the present case. That there is no allegation either in the petition or in the rejoinder regarding ineligibility of the respondents to be appointed as members of the KPSC. He submitted that all that the petitioners are urging is about the process being non-transparent. He submitted that the respondents indeed possess sufficient qualification and experience, as such, there is no ground made out by the petitioners warranting indulgence by this Court.

10. In reply, Sri.Umapathi. S and Sri.R.A.Devnand, learned counsel appearing for the petitioners submit that if the appointment of members is contrary to statutory provisions, issue of writ of quo-warranto can be sought. That the petitioners are aggrieved by the decision making 18 process. That the qualification of members is not in the public domain. Hence, there is no transparency in the entire process. Sri. R.A.Devnand, learned counsel insisted that there is no application of mind by the State Government to the requirement and compliance of the provisions of Article 316 of the Constitution of India in the process of appointment of respondent No.3 as the Chairman of the KPSC.

11. Heard learned counsel for the parties and perused the records.

12. On consideration of the submissions and on perusal of records the following point arise for consideration; Whether in the facts and circumstances of the case, the petitioners have made out grounds for issue of writ of quo-warranto as sought

for in the matter of appointment/nomination of the- Respondents as members and Chairman of the KPSC?. 19 13. As already noted above, in the Writ Petition No.12030/2020 the relief sought is in the nature of issue of a writ of quo-warranto prohibiting respondent Nos. 4 to 14 from exercising their duties as members of KPSC and in the Writ Petition No.10843/2021 is for issue of a writ of quo-warranto quashing the Notification dated 03.04.2021 issued by respondent No.1, appointing respondent No.3 therein as chairman of KPSC.

14. Perusal of averments made in the writ petition No.12030/2020 wherein at paragraphs 1 to 4, the petitioner has averred that the respondent No.1 -State Government has appointed respondent Nos. 4 to 14 as members of KPSC without prescribing/framing any rules or taking into consideration the directions of the Honble Apex Court and of this Court on the subject of appointment of the members of the Commission. That neither was there a Committee nor was any transparent process adopted by the State Government in appointing respondent Nos.4 to 14 as members of the KPSC. 20 Paragraphs 5 and 6 of the petition refers to functions and duties to be discharged by the KPSC. Paragraph 7 refers to a omnibus statement that the appointment of respondent Nos. 4 to 14 was without any enquiry or scrutiny and was thus oppose to directions of the Honble Apex Court. As such, it is alleged that the appointment is unconstitutional and liable to be set aside. Paragraph 8 of the petition refers to Article 316 of Constitution of India and extract of paragraphs 32 and 83 of the judgment of the Apex Court in the case of SALIL SABHLOK (supra). Paragraph 9 refers to alleged controversies pertaining to irregularities in conducting the examination and personality test by the Commission and also refers to paragraphs 65 and 66 of the P.C.Hota Committee report. Thus, perusal of the above averments in the writ petition makes it clear that the petitioner has not made any specific averments with regard to eligibility or otherwise of the candidature of respondent Nos.4 to 14. 21

15. Respondent Nos.1 and 2 in their statement of objections have questioned the very maintainability of the petition for want of specific pleading by the petitioner with respect to specific orders passed by the respondent-State authorities while appointing respondent Nos.4 to 14. Similar objections have been raised by the respondent Nos. 4 to 14 in their statement of objection. Common rejoinder has

been filed by the petitioners, wherein though an attempt is made in the rejoinder to explain that a writ of quo-warranto could be issued when the appointment is contrary to statutory rules and reference in this regard has been made to the decisions of the Apex Court in the cases of CENTRAL ELECTRICITY SUPPLY UTILITY OF ODISHA vs. DHOBEI SAHOO AND OTHERS reported in AIR 2014 SC246 INDERPREETH SINGH KAHLON AND OTHERS vs. STATE OF PUNJAB AND OTHERS reported in (2006) 11 SCC356 STATE OF BIHAR vs. UPENDRA NARAYAN SINGH AND OTHERS reported in (2009) 5 SCC65 ASHOK KUMAR YADAV AND OTHERS vs. STATE OF HARYANA AND OTHERS reported in (1985) 4 SCC417 and the judgment 22 of this Court in the case of KHALEEL AHMED K.R. AND OTHERS vs. THE STATE OF KARNATAKA AND OTHERS in W.P.No.27674/2012 and connected matters, no other specific averments are made touching upon the candidature and eligibility of respondent Nos. 4 to 14.

16. Similar is the situation in W.P.No.10843/2021 which is filed seeking quash of the Notification appointing respondent No.3 as Chairman of KPSC. In paragraph 2 of the said writ petition it is averred that the Government of Karnataka has not framed any rules regarding appointment of Chairman and members of the KPSC till date. Reference is also made to the recommendations of P.C.Hota Committee. It is alleged that the post of the Chairman of KPSC was vacant on 03.04.2021 and that respondent No.3 was appointed on the very same day without following the due process of law and in violation of the order passed in the case of KHALEEL AHMED K.R (supra). It is alleged that the decision to appoint respondent No.3 was taken by the Honble Chief Minister 23 alone which apart from being arbitrary and colorable exercise of power is also not in conformity with Karnataka Government (Transaction of Business) Rules, 1977. It is further alleged that the respondent No.3 did not possess basic qualification and knowledge to occupy not only the post of Chairman of KPSC but even to occupy as member of KPSC. At paragraphs 3 and 4 of the said petition it is further alleged that National Co-operative Union of India an Apex Organization of Indian Co-operative Movement in the Country had entrusted its project work to respondent No.3 on contractual basis and had subsequently decided not to extend the contractual period because of his unsatisfactory performance in the project and that he not being regular and punctual in discharging his duties. Orders/Communication in this regard are

passed and same are produced at Annexures-A to D. At paragraphs 5, 6 and 7 of the petition, it is averred that the respondent No.3 was not at all a permanent employee either under the Government of India or under the Government of State as required under Article 316(1) of the Constitution of India. As such, the notifications appointing respondent No.3 as member and subsequently as Chairman of KPSC as per Annexures-E and F are not in accordance with the provisions of Article 316(1) of the Constitution of India and as such, it is contended that selection of respondent No.3 to the post of Chairman of KPSC is required to be cancelled and a suitable eminent person who fulfills the qualification to be appointed by following rules and regulations. Paragraph 8 of the said petition refers to the position of KPSC as defined under Article 315 of Constitution of India. Paragraph 9 of the said petition refers to the judgment of this Court in the case of Khaleel Ahmed K.R and others (supra) and a recommendation made at paragraphs 287 of the said judgment. Paragraph 10 of the petition refers to the nature of institution and its responsibility in discharging its functions. Paragraphs 12 and 13 of the petition refers to the observation of the Apex Court vis--vis appointments to Public Service Commissions made in the case of DR. RAM ASHRAY YADAV, CHAIRMAN, BIHAR PUBLIC SERVICE COMMISSION²⁵ reported in (2000)4 SCC309 and STATE OF BIHAR VS. UPENDRA NARAYAN SINGH AND OTHERS reported in (2009) 5 SCC65 17. Statement of objections have been filed by the respondent-State authorities questioning the maintainability of the writ petitions and also contending that the recommendation of P.C.Hota Committee made in at paragraph 65 had not been accepted by the Cabinet in its meeting held on 23.08.2013 and 19.08.2020. It is also contended that the recommendation made by P.C.Hota Committee at paragraphs 65 and 66 of its report was beyond the scope of very constitution of the said Committee. It is also contended that respondent No.3 was initially appointed as member of KPSC on 30.01.2018 and subsequently as its Chairman by Notification dated 03.04.2021 which was issued subsequent to the approval by the Cabinet in its meeting held on 17.03.2021 and that respondent No.3 assumed charge as Chairman on 05.04.2021 and has been discharging his duties diligently 26 in accordance with law. It is also contended that the appointments of members and Chairman of KPSC has been made as required under Article 316 of

Constitution of India.

18. Objections and additional statements have been filed by the respondent No.3 wherein apart from questioning the maintainability of the petition, the respondent No.3 has traversed the averments allegations specifically made against him in the writ petition.

19. Respondent No.4 in the statement of objections has justified the appointment of respondent No.3 as its Chairman and has called upon the petitioner to prove allegation of respondent No.3 not possessing requisite qualification.

20. Before advertng to pleadings and submissions as noted above, it is necessary to refer to Article 316 of the Constitution of India which provides for appointment and terms of Office of Public Service Commission for Union and State as extracted hereunder; 27 316. Appointment and term of office of members.- (1) The Chairman and other members of a Public Service Commission shall be appointed, in the case of the Union Commission or a Joint Commission, by the President, and in the case of a State Commission, by the Governor of the State: Provided that as nearly as may be one-half of the members of every Public Service Commission shall be persons who at the dates of their respective appointments have held office for at least ten years either under the Government of India or under the Government of a State, and in computing the said period of ten years any period before the commencement of this Constitution during which a person has held office under the Crown in India or under the Government of an Indian State shall be included. [(1A) If the office of the Chairman of the Commission becomes vacant or if any such Chairman is by reason of absence or for any other reason unable to perform the duties of his office, those duties shall, until some persons appointed under clause (1) to the vacant office has entered on the duties thereof or, as the case may be, until the Chairman has resumed his duties, be performed by such one of the other members of the Commission as the President, in the case of the Union Commission or a Joint Commission, and the Governor of the State in the case of a State Commission, may appoint for the purpose. (2) A member of a Public Service Commission shall hold office for a term of six years from the date on which he enters upon his office or until he attains, in the case of the Union

Commission, the age of sixty-five years, and in the case of a State Commission or a Joint Commission, the age of sixty-two years, whichever is earlier: Provided that- 28 (a) a member of a Public Service Commission may, by writing under his hand addressed, in the case of the Union Commission or a Joint Commission, to the President, and in the case of a State Commission, to the Governor of the State, resign his office; (b) a member of a Public Service Commission may be removed from his office in the manner provided in clause (1) or clause (3) of article 317.

3. A person who holds office as a member of a Public Service Commission shall, on the expiration of his term of office, be ineligible for reappointment to that office.

21. The Apex Court in the case of STATE OF PUNJAB VS. SALIL SABHLOK AND OTHERS reported in (2013) 5 SCC1 dealing with an issue concerning appointment of Chairman of Punjab Public Service Commission and also dealing with a question as to whether the High Court in exercise of its writ jurisdiction under Article 226 of the Constitution can lay down the procedure for selection and appointment of the Chairman of State Public Service Commission and quash its appointment in appropriate cases, has made following observation; 29 33. I may now consider the submission of Mr. Rao that this Court in the case of Mehar Singh Saini, in re (supra) had already declared the law that it is for Parliament to frame the guidelines or parameters regarding the qualifications, experience or statute for appointment as Chairman/Members of the Public Service Commission and hence it was not necessary for the Division Bench to make a reference to a Full Bench on the very same question of law.

34. In Mehar Singh Saini, In re, this Court noticed that the provisions of Article 316 of the Constitution do not lay down any qualification, educational or otherwise, for appointment to the Commission as Chairman and Members and made the following observations in Para 85 of the judgment as reported in the SCC: 85. Desirability, if any, of providing specific qualification or experience for appointment as Chairman/members of the Commission is a function of Parliament. The guidelines or parameters, if any, including that of statute, if required to be specified, are for the appropriate Government to frame. This requires expertise in the field, data study and adoption of the best methodology by the Government

concerned to make appointments to the Commission on merit, ability and integrity. Neither is such expertise available with the Court nor will it be in consonance with the constitutional scheme that this Court should venture into reading such qualifications into Article 316 or provide any specific guidelines controlling the academic qualification, experience and stature of an individual who is proposed to be appointed to this coveted office. Of course, while declining to enter into such arena, we still feel constrained to observe that this is a matter which needs the attention of the Parliamentarians and quarters concerned in the Governments. One of the factors, which has persuaded us to make this observation, is the number of cases which have been referred to this Court by the President of India in terms of Article 317(1) of the Constitution in recent years. A large number of inquiries are pending before this Court which itself reflects that all is not well with the functioning of the Commissions. The observations of this Court in the aforesaid case of Mehar Singh Saini, In re relate to qualification and experience for appointment as 30 Chairman/Members of the Commission and have nothing to do with the questions relating to the procedure for identifying persons of integrity and competence to be appointed as Chairman of the Public Service Commission, which were referred by the Division Bench of the High Court to the Full Bench by the order dated 13.07.2011. Mr. Rao is, therefore, not right in his submission that in view of the law declared by this Court in Mehar Singh Saini In re, there was no necessity for the Division Bench to make a reference to the Full Bench by the order dated 13.07.2011.

38. I may next consider the contention of Mr. Rao that as the Constitution has left it to the discretion of the State Government to select and appoint the Chairman and Members of a State Public Commission, the High Court cannot direct the Government to exercise its discretion by following a procedure prescribed by the High Court. Mr. Rao has relied on Article 316 of the Constitution and the decision of this Court in Mohinder Singh Gill & Anr. v. The Chief Election Commissioner.

40. Having held that the Full Bench of the High Court has in its judgment dated 17.08.2011 acted beyond its jurisdiction and has usurped the constitutional power of the Governor in laying down the procedure for appointment of the Chairman and Members of the Public Service Commission, I have to set aside the judgment

dated 17.08.2011 of the Full Bench of the High Court. Thereafter, either of the two courses are open to me: remand the matter to the High Court for disposal of the writ petition in accordance with law or decide the writ petition on merits. To cut short the litigation, I proceed to decide the writ petition on merits instead of remanding the matter to the High Court.

41. This Court has had the occasion to consider the qualities which a person should have for being appointed as Chairman and Member of Public Service Commission and has made observations after considering the nature of the functions entrusted to the Public Service Commissions under Article 320 of the Constitution. In *Ashok Kumar Yadav & Ors. v. State of Haryana & Ors.* (supra), a Constitution Bench of this Court speaking through P.N. Bhagwati, J, observed:

31. 30..We would therefore like to strongly impress upon every State Government to take care to see that its Public Service Commission is manned by competent, honest and independent persons of outstanding ability and high reputation who command the confidence of the people and who would not allow themselves to be deflected by any extraneous considerations from discharging their duty of making selections strictly on merit.

42. In *Dr. Ram Ashray Yadav, In re, Dr. A.S. Anand*, C.J.

speaking for a three Judge Bench, cautioned: 34. The credibility of the institution of a Public Service Commission is founded upon the faith of the common man in its proper functioning. The faith would be eroded and confidence destroyed if it appears that the Chairman or the members of the Commission act subjectively and not objectively or that their actions are suspect. Society expects honesty, integrity and complete objectivity from the Chairman and members of the Commission. The Commission must act fairly, without any pressure or influence from any quarter, unbiased and impartially, so that society does not lose confidence in the Commission. The high constitutional trustees, like the Chairman and members of the Public Service Commission must forever remain vigilant and conscious of these necessary adjuncts.

43. Despite these observations of this Court, the State Government of Punjab appointed Mr. Ravi Pal Singh Sidhu as the Chairman of the Punjab Public Service Commission between 1996 to 2002 and as has been noted in the judgment of S.B. Sinha, J.

of this Court in *Inderpreet Singh Kahlon and Others v. State of Punjab and Others*, allegations were made against him that he got a large number of persons appointed on extraneous considerations including monetary consideration during the period 1998 to 2001 and raids were conducted in his house on more than one occasion and a large sum of money was recovered from his custody and his relatives and FIRs were lodged and criminal cases initiated by the Vigilance Bureau of the State of Punjab. Writing a separate judgment in the aforesaid case, Dalveer Bhandari, J, had to comment:

32. 102. This unfortunate episode teaches us an important lesson that before appointing the constitutional authorities, there should be a thorough and meticulous inquiry and scrutiny regarding their antecedents. Integrity and merit have to be properly considered and evaluated in the appointments to such high positions. It is an urgent need of the hour that in such appointments absolute transparency is required to be maintained and demonstrated. The impact of the deeds and misdeeds of the constitutional authorities (who are highly placed), affect a very large number of people for a very long time, therefore, it is absolutely imperative that only people of high integrity, merit rectitude and honesty are appointed to these constitutional positions.

44. Considering this experience of the damage to recruitment to public services caused by appointing a person lacking in character as the Chairman of the Public Service Commission in the State of Punjab, when the respondent No.1 brought to the notice of the High Court through the writ petition that the State Government of Punjab proposed to appoint Mr. Harish Dhanda as the Chairman of the Public Service Commission, only because of his political affiliation, the Division Bench of the High Court rightly entertained the writ petition as a public interest litigation. The Division Bench of the High Court, however, found that no procedure for appointment of Chairman and Members of the Public Service Commission has

been laid down in Article 316 of the Constitution and therefore posed the question in Paragraphs 6 and 7 of its order dated 13.07.2011 as to what should be the procedure for identifying and selecting persons of integrity and competence for appointment of Chairman of the Public Service Commission and referred the question to a larger Bench of three Judges.

45. I have already held that it is for the Governor who is the appointing authority under Article 316 of the Constitution to lay down the procedure for appointment of the Chairman and Members of the Public Service Commission, but this is not to say that in the absence of any procedure laid down by the Governor for appointment of Chairman and Members of the Public Service Commission under Article 316 of the Constitution, the State Government would have absolute discretion in selecting and appointing any person as the Chairman of the State Public Service Commission. Even where a procedure has not been laid down by the Governor for appointment of Chairman and Members of the Public Service Commission, the State Government has to select only persons with integrity and competence for appointment as Chairman of the Public Service Commission, because the discretion vested in the State Government under Article 316 of the Constitution is impliedly limited by the purposes for which the discretion is vested and the purposes are discernible from the functions of the Public Service Commissions enumerated in Article 320 of the Constitution. Under clause (1) of Article 320 of the Constitution, the State Public Service Commission has the duty to conduct examinations for appointments to the services of the State. Under clause (3) of Article 320, the State Public Service Commission has to be consulted by the State Government on matters relating to recruitment and appointment to the civil services and civil posts in the State, on disciplinary matters affecting a person serving under the Government of a State in a civil capacity, on claims by and in respect of a person who is serving under the State Government towards costs of defending a legal proceeding, on claims for award of pension in respect of injuries sustained by a person while serving under the State Government and other matters. In such matters, the State Public Service Commission is expected to act with independence from the State Government and with fairness, besides competence and maturity acquired through knowledge and experience of public administration.

46. I, therefore, hold that even though Article 316 does not specify the aforesaid qualities of the Chairman of a Public Service Commission, these qualities are amongst the implied relevant factors which have to be taken into consideration by the Government while determining the competency of the person to be selected and appointed as Chairman of the Public Service Commission under Article 316 of the Constitution. Accordingly, if these relevant factors are not taken into consideration by the State Government while selecting and appointing the Chairman of the Public Service Commission, the Court can hold the selection and appointment as not in accordance with the Constitution. To quote De Smiths Judicial Review, Sixth Edition: If the exercise of a discretionary power has been influenced by considerations that cannot lawfully be taken into account, or by the disregard of relevant considerations required to be taken into account (expressly or impliedly), a court will normally hold that the power has not been validly exercised. (Page 280). If the relevant factors are not specified (e.g. if the power is merely to grant or refuse a licence, or to attach such conditions as the competent authority thinks fit), it is for the courts to determine whether the permissible considerations are impliedly restricted, and, if so, to what extent (Page 282). In *M/s Hochtief Gammon v. State of Orissa and Others* (AIR 1975 SC2226, A. Alagiriswamy writing the judgment for a three Judge Bench of this Court explained this limitation on the power of the Executive in the following words: (SCC page 659 para 13). 13. The Executive have to reach their decisions by taking into account relevant considerations. They should not refuse to consider relevant matter nor should take into account wholly irrelevant or extraneous consideration. They should not misdirect themselves on a point of law. Only such a decision will be lawful. The Courts have power to see that the Executive acts lawfully.

50. I have already held that besides express restrictions in a statute or the Constitution, there can be implied restrictions in a statute and the Constitution and the statutory or the constitutional authority cannot in breach of such implied restrictions exercise its discretionary power. Moreover, Article 226 of the Constitution vests in the High Court the power to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus,

prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose. The power of the High Court under Article 226 of the Constitution is, thus, not confined to only writ of quo warranto but to other directions, orders or writs. 35

52. Therefore, I hold that the High Court should not normally, in exercise of its power under Article 226 of the Constitution, interfere with the discretion of the State Government in selecting and appointing the Chairman of the State Public Service Commission, but in an exceptional case if it is shown that relevant factors implied from the very nature of the duties entrusted to Public Service Commissions under Article 320 of the Constitution have not been considered by the State Government in selecting and appointing the Chairman of the State Public Service Commission, the High Court can invoke its wide and extra-ordinary powers under Article 226 of the Constitution and quash the selection and appointment to ensure that the discretion of the State Government is exercised within the bounds of the Constitution.

64. Two features clearly stand out from a bare reading of Article 316 of the Constitution, and these are: (1) No qualification has been laid down for the appointment of the Chairperson of a State Public Service Commission. Theoretically therefore, the Chief Minister of a State can recommend to the Governor of a State to appoint any person walking on the street as the Chairperson of the State Public Service Commission. (2) The Chairperson of the State Public Service Commission is provided security of tenure since the term of office is fixed at six years or until the age of 62 years, whichever is earlier.

67. A reading of Article 316 and Article 317 of the Constitution makes it clear that to prevent the person walking on the street from being appointed as the Chairperson of a State Public Service Commission, the Constitution has provided that the appointment is required to be made by the Governor of the State, on advice. Additionally, the Chairperson has security of tenure to the extent that that person cannot be effortlessly removed from office even by the President as long as he or she is not guilty of proven misbehaviour, or is insolvent, or does not take up any employment or is not bodily or mentally infirm. There is, therefore, an in-

built constitutional check on the arbitrary appointment of a Chairperson of a State Public Service Commission. The flip side is that if an arbitrary appointment is made, removal of the appointee is a difficult process. 36

135. But, is this Court really helpless, broadly, in the matter of laying down appropriate guidelines or parameters for the appointment of a Chairperson or members of the Public Service Commission?. If Mehar Singh Saini is understood in its correct perspective, the answer to this question would be in the negative.

135.1. First of all, this Court cannot overlook the administrative imperative. There was and still is a need for the Public Service Commission to deliver the goods, as it were. In this context, the Second Administrative Reform Commission in its 15th Report looked at the past, present and future of the Public Service Commission and observed: 2.5.3. In the early years of Independence, State Public Service Commissions throughout the country functioned well primarily on account of the fact that: (a) There was objectivity in selection of competent and experienced people as Chairman and Members of the Commission. The government treated the Public Service Commission as a sacrosanct institution and the Chairman and Members were either very senior government servants (drawn usually from the ICS) or academicians of high standing in their field. (b) The Commission enjoyed excellent reputation for objectivity, transparency and fairplay. 2.5.4 But in recent years, this Constitutional body has suffered extensive loss of reputation in many States, mainly on account of (a) charges of corruption, favouritism and nepotism in matters of recruitment and (b) use of archaic processes and procedures in its functioning which leads to inordinate delays. For example, the civil services examinations conducted by a State Public Service Commission take a minimum time period of one and half year to complete. In some cases, it may take even longer. 2.5.6.6 The Commission is of the view that the intention behind creation of an autonomous Public Service Commission as a Constitutional authority was to create a body of achievers and ex- administrators who could select meritorious candidates for recruitment and promotion to 37 various civil service positions under the State Government with utmost probity and transparency. There is need to take steps to ensure that only persons of high standing, intellectual ability and reputation are selected as Chairman and Members of the Public Service Commission. In this context, the views of the Law Commission of India as

contained in its 14th Report, which are at variance with the views of the Second Administrative Reform Commission contained in its 15th Report are worth highlighting, one of the reasons being that the luminaries who assisted the Law Commission reads like a veritable Whos Who from the legal firmament. This is what was said: Having regard to the important part played by the Public Service Commission in the selection of the subordinate judiciary, we took care to examine as far as possible the Chairman and some of the members of the Public Service Commissions in the various States. We are constrained to state that the personnel of these Public Service Commissions in some of the States was not such as could inspire confidence, from the points of view of either efficiency or of impartiality. There appears to be little doubt that in some of the States appointments to these Commissions are made not on considerations of merit but on grounds of party and political affiliations. The evidence given by members of the Public Service Commissions in some of the States does create the feeling that they do not deserve to be in the responsible posts they occupy.

135.2. Secondly, the constitutional and more important imperative is that of good governance for the benefit of the aspirational Indian. For this, an appropriate person should be selected to fill up the position of a constitutional trustee.

136. In the light of the various decisions of this Court adverted to above, the administrative and constitutional imperative can be met only if the Government frames guidelines or parameters for the appointment of the Chairperson and members of the Punjab Public Service Commission. That it has failed to do so does not preclude this Court or any superior 38 Court from giving a direction to the State Government to conduct the necessary exercise within a specified period. Only because it is left to the State Legislature to consider the desirability or otherwise of specifying the qualifications or experience for the appointment of a person to the position of Chairperson or member of the Punjab Public Service Commission, does not imply that this Court cannot direct the Executive to frame guidelines and set the parameters. This Court can certainly issue appropriate directions in this regard, and in the light of the experience gained over the last several decades coupled with the views expressed by the Law Commission, the Second Administrative Reform Commission and the views expressed by this Court

from time to time, it is imperative for good governance and better administration to issue directions to the Executive to frame appropriate guidelines and parameters based on the indicators mentioned by this Court. These guidelines can and should be binding on the State of Punjab till the State Legislature exercises its power.

150. The appointment of the Chairperson of the Punjab Public Service Commission is an appointment to a constitutional position and is not a service matter. A PIL challenging such an appointment is, therefore, maintainable both for the issuance of a writ of quo warranto and for a writ of declaration, as the case may be.

151. In a case for the issuance of a writ of declaration, exercise of the power of judicial review is presently limited to examining the deliberative process for the appointment not meeting the 39 constitutional, functional and institutional requirements of the institution whose integrity and commitment needs to be maintained or the appointment for these reasons not being in public interest.

152. The circumstances of this case leave no room for doubt that the notification dated 7th July 2011 appointing Mr. Harish Rai Dhanda was deservedly quashed by the High Court since there was no deliberative process worth the name in making the appointment and also since the constitutional, functional and institutional requirements of the Punjab Public Service Commission were not met.

153. In the view that I have taken, there is a need for a word of caution to the High Courts. There is a likelihood of comparable challenges being made by trigger-happy litigants to appointments made to constitutional positions where no eligibility criterion or procedure has been laid down. The High Courts will do well to be extremely circumspect in even entertaining such petitions. It is necessary to keep in mind that sufficient elbow room must be given to the Executive to make constitutional appointments as long as the constitutional, functional and institutional requirements are met and the appointments are in conformity with the indicators given by this Court from time to time. (Emphasis supplied by us) 154. Given the experience in the making of such appointments, there is no doubt that until the State Legislature enacts an appropriate law, the State of Punjab must step in and take urgent steps to frame a 40 memorandum of procedure and

administrative guidelines for the selection and appointment of the Chairperson and members of the Punjab Public Service Commission, so that the possibility of arbitrary appointments is eliminated.

22. The present case is required to be seen in the light of aforesaid constitutional provisions and the observation of the Honble Apex Court.

23. Though in W.P.No.12030/2020 appointment of respondent Nos. 4 to 14 is questioned, no specific averments are made with regard to their eligibility or otherwise. The respondent-State along with a memo dated 12.04.2023 produced certain documents in the nature of notifications appointing respondent Nos.4 to 14 as the members of the KPSC and also details of their qualifications. It also produced qualification and personal resume of respondent No.3 in W.P.No.10843/2021. A brief reference to the same is necessary for effective disposal of the present petition, which read as under;

Sl.	Name	Working Official/ Qualifi	Working experience	Vigilance / No./ Retired Non- cation
1	Dr. Retired Official M.A, Former Registrar D.E. Report Chandrakanth L.L.B (Administration) of Rani Dated: D.Shivakeri (Spl), Channamma University 21-01- M.Phil, Belgavi & Professor and 2017. Ph.D Chairman, Dept. of Political Science RCU Belagavi, presently working as Dean, Higher Education Academy, Dharwad, Government of Karnataka.			

1) Dean, Higher Education Academy, Dharwad, Govt. of karnataka

2) Permanent Lecturer, Govt. First Grade College, Jewargi, Dist: Gulbarga, from 24-06-1996 to 23-06-2000.

3) Sr. Scale Lecturer, Govt. First Grade College, Jewargi Dist: Gulbarga, from 24-06-2000 to 23-06-2005 .

4) Selection Grade Lecturer, Govt. First College, Jewargi, Dist. Gulbarga, from 24-06-2005 to 23-06-2008.

- 5) Associate Professor, Govt. First Grade College Manavi, Dist: Raichur from 09.09.2008 to 04.02.2009
 - 6) Associate Professor, Govt. First Grade College, Dharwad, Dist: Dharwad, from 24-06-2008 to 12-07-2012.
 - 7) Professor and Founder Chairman, Dept of Political Science, Rani Channamma University from 13-07-2012 to 14-07-2014.
 - 8) Special Officer, Register office, RCU Belgavi from 29-01-2015 to 30-08-2015.
 - 9) Principal Govt. First Grade College Gudgeri from 42 03-10-2015 to 03-02-2016.
 - 10) Served as a Registrar (Administration) of Rani Channamma University Belgavi.
 - 11) Academic council member of Rani Channamma University Belgavi .
 - 12) Worked as Chairman of various committee like LID, BOS and Gymkhana President, BOA member etc. of Rani Channamma University Belgavi and BOS member of Karnataka University Dharwad, Gulbarga University. Gulbarga, Mysore University. Sri S.H. Retired Official B.A,
- 1) 1983 to 1990-Assistant D.E. Report 2 Duggappa, L.LB. Employment officer. Dated:
20. 01.2017
 - 2) 1990 to 1997- Police Sub-Inspector.
 - 3) 1997 to 2009- Police Circle -Inspector.
 - 4) 2009-Deputy Superintendent of Police. Dr. H. Presently Official M.B.B.S. I) Joined government D.E. Report 3 Ravikumar, working MS. service as Medical Officer in Dated: the year 1986. 28-07-
 - 2) Served as Medical Officer 2017. Govt. Secretariat Dispensary at Vidhana Souda from 1987-89.

3) After post graduation joined KC General Hospital in the year 1992 as Specialist.

4) Medical Superintendant (Administrative post from November-2013). 43 Dr. R. Retired Official B.Sc, Professional Experience: D.E. Report 4 Lakshminaray M.Sc, 1. Worked in Pollution Dated: ana, Ph.D. Control Board as an 24-07- Environmental Officer and 2017. have put in more than 27 years of meritorious services in various cadres. Providing Effective leadership. Guidance, enforcement and acumen discharging the duties with great dedication and distinction. Has been rated as an outstanding officer in the annual appraisal report. Written by Sri. Upendra Tripathi an I AS Officer, then the Chairman of KSPCB.

2) The regular duties includes providing scientific & Technical inputs in policy, strategy formation & enforcement of pollution control laws including monitoring for compliance to the staff. Granting Consent for Establishment, Consent for Operation & Authorizations for Industries, Construction & other Projects, under Water (P&CP) Act, 1974. Air (P&C) Act, 1981. Hazardous Waste (Management and Handling Transboundry) Rules, 2016, Plastic Waste (Management & Handling) Rules 2011, Bio Medical Waste(Management & Handling) Rules, 2016, Solid Waste Management Rules, 2016 and E- Waste (Management & Handling) Rules, 2016 etc. The work also involves Evaluating the project reports. Design details pertinent to Water and Air pollution Control Systems. Besides evaluation of environment impact assessment reports to conduct public Hearing for clearance of Mega projects and granting consents. Monitoring of Water, Air & Soil domains & implementing the legal actions and on industries. 44

3) The work also involves the planning of comprehensive programme for prevention, control & abatement of pollution. And collection, dissemination the information relating to Water & Air pollution, River/Lake water quality assessment & its protection. Hazardous/Bio medical/Solid Waste/E- Waste management and overseeing other related activities thereto.

4) In addition to this, collaborating with the Industrial Associations, Courts, Lok-adalath and Education Institutions relating to Prevention, Control or abatement of pollution. 5 The work also involves preparation of Technical guidelines, participation in seminars/conferences/work shops/training programme etc. as a

resource person and presenting the scientific reports and technical papers. Interaction with Media. Interview with Newspaper, Television, F.M. Radio and delivering speeches at various Environmental related Programmes to create awareness.

6) The regular co ordination with other department such as KIADB (Karnataka Industrial Area Development Board). Department of Industries and commerce, planning department, revenue department, Urban Development Department, Ecology Environment & Forest Department, Lake Development, Department of Municipal Administration, Ground water authority, Mines & Geology BWSSB, BBMP, BMRDA, Universities, Academia & NGOS. 45 Sri. Retired Non- B.Com Senior Advocate since 1985, Vigilance 5 Shrikanthrao Official L.L.B served as Ex-Government. Report (Spl) Pleader, Raichur, Ex- Dated: Karnataka 28.07.2017 Lokayukta Prosecutor, Ex- President, Dist, Bar Association Raichur. Heading the Mangalore Vigilance 6. Dr. Ronald Presently Non- Ph.D. Bureau of Deccan Herald, Report Anil Working Official MCJ, B.Sc. which covers 5 districts - Dated: Dakshina Kannada, Udupi, 27.02.2018 Fernandes Kasargod, Kodagu and Chikmagalur. (Deccan Herald, Mangalore, January 2004)

2) Heading a team of 8 sub- editors in the moffusil desk (One of the 3 Shifts). (Deccan Herald, Bangalore, May 2000- January 2004)

3) Sub-Editor in the National/ State Desk. Deccan Herald, Bangalore, May 1999- May 2000)

4) Reporter, Deccan Herald, Bangalore, November 1997 - May -1999)

5) Reporter. (Udaya TV, Chennai, May 1997 - October 1997).

6) Lecturer, Department of Journalism. (St Aloysius College, Mangalore, June 1996- April 1997).

7) Trainee Reporter (Internship). (The Times of India, Bangalore, May 1995- July 1995)

8) Trainee Public Relations Executive (Internship). (Karnataka Power Corporation Limited (KPCL), Bangalore, April 1996) 46 7 Sri. Presently Non- Agricultur
1) Worked as a Engineering Vigilance Shi working Official e Engg. Supervisor in Agriculture Dated:

23. vashankarappa as Engineering College, 08-2019 a Chairma Raichur under (AICRP D.E. Report S. Sahukar n Project) UAE Scheme from Dated:--- 09.01.1989 to 25.08.1990.

2) Worked as a Engineering Supervisor in of Agriculture Engineering College, Raichur under (AICRP Project) RMDA scheme (research of Mechanization of dry land Agriculture) from 28.08.1990 to 28.08.1991. 3) Worked as a Farm Guidance Instructor under NCUI Project Gulbarga (Government of India Ministry of Agriculture) since 12.07.1996 to 31.12.2012. 8 Sri. Vijaya Presently Non- M.B.A.-. Director, M/s suyash Vigilance kumar working Official B.Com Engineers, Belagavi Dated:

23. D. Kuchanure Specialist in manufacturing 08-2019 of fabricated hand wheels - General Manager, Girish Rancha, Building material manufactures and distributors.-. Trusty and Treasurer, B.M. Educational and Charitable Trust, Hubli.-. Director, Vidya Chetan Education Society, Ugar, Athani, Belagavi.-. Trusty, Swami Vivekanand Seva Pratisthan Belagavi. 47

9. R. Girish Presently Non- B.E.

1) Jnana Jyothi Vigilance working Official M.E. Vidanikethan School, Dated:

23. Bangalore, Consultant 08-2019 (Academics, Finance & Administration from Nov- 2017.

2) Smhitha builders Pvt. Ltd., Sumadhura INfracon Pvt., Ltd., Durga Projects & Infrastructure PVT. LTD., Project Consultant representing Cliend (Various Projects) from Sep. 2010 to Nov. to 2017.

3) Vijaya Bank HO, Bangalore, Senior Manager (General Admin Dept.,) from Aug 2007 to Aug.2010.

- 4) Kiran Constructions, Project Manager and Team Leader from Dec. 2002 to Aug 2007.
- 5) Bangalore Mahanagara Palike, City Municipal Corporation & Bangalore Development Authority, Consultant & Contractor, BMP, CMC & BDA (self employed) from Dec. 1994 to Aug 2007.
- 6) K. Damodar, Bangalore- Engineering Contractor (Class I), Project Engineer-Highway & Bridges from Nov. 1992 to Nov. 1994. 48 10 Pro. Rangaraj Official M.A.
- 1) Register (Evaluation) Vigilance Member, Diploma 2013, R.C. University, Dated: KPSC Ph.D Belagavi. 25.10.2016 D.E. report
- 2) Register (Evaluation) dated: 2010. to 2013, V.S.K. 21.01.2017 University, Bellary.
- 3) Register (I/c) 2013 to 2013, V.S.K. University, Bellary.
- 4) Professor 2009 to 2010, Kumataka University Dharwad.
- 5) Reader 2001 to 2009, Kuvempu University, Shivamoga.
- 6) Lecturer 1998 to 2001, Kuvempu University, Shivamoga.
- 7) Lecturer 1997 to 1998 P.G. Center Belagavi.
- 8) Lecturer 1996 to 1997, Government. Degree College Gulabarga.
- 9) Lecturer 1993 to 1996, Government. College Hanumanala.
- 10) Lecturer (Part time) 1990 to 1992 Government. College , Shahapur 11. Dr. M.B. Presently Non- M.A. L.L.B Teaching Experience 26 D.E. Report Heggannavar working Official (Spl) years Dated: Ph.D. 28.10.2019 24. Respondents have also furnished personal details of Respondent No.3 in W.P.No.10843/2021 which is as under:

49. BIODATA/RESUME SHIVASHANKARAPPA.S.SAHUKAR Cell No:

94486. 9771/9741688756 Objective: Seeking my career where my knowledge and experience can be enriched and willing to work and looking for an opportunity in Karnataka Public Service Commission. Personal Details :- Shivashankarappa.S.Sahukar Name Sugunna Sahukar Father's Name 1st March 1965 Date of Birth 54 Years Age Male. Sex Lingayath Caste Indian Nationality Shivashankarappa.S.Sahukar, Permanent Address R/o Hemanal, Via - Gabbur, Deodurqa Taluk, Raichur District. Shivashankarappa. S.Sahukar, Sri Sugureshwara Nilaya, Beside Saraswathi Temple, S.B. College Road, Anand Nagar, Gulbarga - 585103 Education Qualification: - Course College/University Percentage Year of passing Agriculture Agriculture Engg College, 67.25% 1988 Engg. University of Agriculture (CGPA269 Science, Dharwad out of 4.00) PUC Government. College, 44% 1984 Raichur SSLC Government. High School 59.50% 1982 Gabbur, KSSEB, Bangalore Hobbies :- When I have free encourage to other like farmers, neighbours, friends, to develop waste land and also adopt new technologies in agriculture activities. Plan with farmers, neighbours and friends, to create self-employment to change social economic status in village level. 50 EXPERIENCE/FIELD WORK : Working as a Engineering DETAILS: supervisor in Agriculture Engineering College, Raichur under (AICRP Project) UAE Scheme from 09.01.1989 to 25.08.1990. : Working as a Engineering supervisor in of Agriculture Engineering college Raichur under (AICRP Project) RMDA Scheme (Research of Mechanization of dry land Agriculture) from 28.08.1990 to 28.08.1991. : Working as a Farm Guidance Instructor under NCUI Project Gulbarga (Government of India Ministry of Agriculture) since 12.07.1996 to 31.12.2012. In this period my field work as follows. *To Provide extension, awareness service in farm production technology. Co-operative Credit structure and system and also KCC- Kisan Credit Card what is KCC where and how to get it. what are the objectives and KCC what are the farmers friendly futures of KCC and how to use the KCC;. To farmers members through PACS (Primary Agriculture Co-operative Societies). farmers clubs SHGs V.D.C. (Village Development Committee) of adopted 4 Taluka's Villages in Gulbarga District. * Motivate the Farmers to adopt improved practices of Agriculture to conduct awareness. Guidance and training programmes like FTP (Farmers Training

Programmes) season wise. Primary tillage and land preparation operation, proper and balanced fertilizer use as per requirement recommendation in timely, uses of insecticide pesticide and also spraying methods while using machine operated and ultra low volume (ULV) sprayers to proper utilization, use of farm resources having alternative use to obtain maximum and continuous profit to practice vegetable production. Horticulture production. fodder development Dairying. Goat rearing. Sericulture cultivation practices and its proper management. utilization with financing / Bank support. * Provided, promoted marketing information system incorporative society farmer members and progressive farmers.-. Conducted awareness and Guidance programme on grading, processing, storage and marketing of Agriculture products with latest post harvest technology.-. Conducted awareness and Guidance programme on MSP (Minimum support price), State, Central and private warehouses, its functions and benefits. * Organized and conducted demonstration plats and arranged soil and water tests.-. Awareness and Guidance programme on Soil and Water test and its benefits and also conducted test camps in Village and PACS Level of 4 Taluka's - Land, Soil health care with ecological techniques.-. Rain water harvest and management within available sources. 51 * Promoted training and credit linkage of SHGs to cover all poor families.-. Created awareness on saving, unity and participation in rural poor family member and farmers and also organized SHGs.-. Guidance and training to SHGs about concept book keeping Banking and income generation activities.-. Credit linked to proper functioning and healthy SHGs to improve there economics status and also to take income generation activities after conducting grading of the SHGs through Banks.-.To formulated Bankable, Technically feasible. financially visible and eco friendly projects and implemented. monitoring and evaluated them keeping in view of Food and Non-Food requirement of rural poor and farmers families. Organized two women milk co-operative societies. I multipurpose Co- operative societies and I Credit Co-operative societies and financially supported through Banks and Government Department. *Conducted awareness and Guidance programmes on Yeshuswini Co- operative (Farmers) members health insurance scheme and also IFFCO TOKIO Insurance Scheme and also implemented the scheme through PACS. DCCB. PLDB, MPCS. Credit Co-operative and Milk Co-operative Societies.-.Conducted Seminar, Workshops,

training cum exposure programmes. Conducted No. Farmers training programmes. workshops in adopted village of 4 Taluka's in collaboration with live departments. KVK ARS. Leading fertilize and pesticide companies personals like IPM. Balanced fertilizer. Conservation of soil and water with and without drip irrigation, seed treatment, new variety hybrid seeds demonstration, filled day and also horticulture. sericulture cultivation practices with new technologies.-.Conducted exposure visit to KVK/ARS. Agriculture College of Bijapur. Raichur. B.Gudi and also Agriculture University Dharwad. Progressive Farmer fields and Horticulture. Sericulture, Plantation Crop field. Dairying units. Krishi - Mela. Kisan Mela and also Pravarnagar (Maharastara), Dindigul (Tamil Nadu) and Goa areas. Formation and sustainance of Farmers clubs Organized, Educated rural progressive farmers (Club Volunteers) in each adopted village to over all development through credit under 5 principals.

1. Credit must be used in accordance with most suitable methods of science and technology 2. The terms and conditions of credit must be fully met.

3. Work must be done with skill so as to increase productivity and income 4. Apart of additional income created must saved.

5. Loan installment must be repaid in time and regularly so as to recycle the credit -Apart from these principals to conducted regular meeting club recycle the credit take decision of club activities like agriculture concern 52 awareness programs village problems like basic infrastructure and to health camps, encourage school children's, teachers and youths to participate community based works and to conduct season wise deposit mobilization credit linkage loan recovery camps with Bankers support. * Worked as a in charge of SHG monitoring and development cell..-. To Guide and support new and smaller NGO's information and linkage of SHG..-.To develop uniform systems and procedures in the management and PWK keeping by SHG..-. To promote this activity in the entire district by networking with NGO's Zilla Panchayath and Banks to train SHGs. Bank/ PACS Staff and SHG concept and management for forming Quality..-.Periodical monitoring of the progress, promotion, training and credit linkage of SHG Developed suitable management information system to monitor the program, simplifying and

improving the progress of SHG Credit linkage and provision of the credit.-
.Planning and implementation of activities related to SHG promotion. Credit linkage and Government scheme.-.I belongs to North Karnataka Hyderabad Karnataka and also one of the backward District Raichur / Deodurga Taluka. Studies since 1st standard in the same region and know the heart of this region.-
.Since Independence our region being neglected in all respect compare to other districts. I have a personal desire serve our people for this upliftment. If you give me an opportunity I will be a great help to fulfillment of Dr. Nanjudappa report and this region.-.After the formation of Karnataka State the North Karnataka did not have much development from previous Governments.-.We are happy that your Government is doing tremendous efforts to bring our region to level other region in this regard my appointment may boost your plans and programs. Date:

3. 0 -201 Place: Gulbarga (SHIVASHANKARAPPA. S. SAHUKAR) 53 25. The petitioner in W.P.No.12030/2020 has not disputed the qualifications of respondent Nos. 4 to 14. It is brought to the notice of this Court that respondent Nos. 4, 5, 7 and 8 have retired and same is also not disputed by the petitioners. [26. As regards the qualification of respondent No.3 in W.P.No.10843/2021 is concerned, it is alleged that he did not possess a basic qualification even to occupy the post of member of KPSC. However, contrary to said allegation there is no denial or rebuttal to the information provided by the respondents with regard to qualification of respondent No.3.

27. As already noted, Article 316 of the Constitution of India does not prescribe any specific qualification for a person to occupy the post of Chairman of the Commission. Needless to reiterate that the Honble Apex Court considering the constitutional functions and responsibilities to be discharged by the members and the Chairman of the Commission have indicated the criteria to 54 be considered while appointing members and Chairman of the Commission as noted above. Except making allegations of the process of appointment not being transparent and except producing Annexures- A to D in the petitions pertaining to certain communications ensued between National Co-operative Union of India and respondent No.4 with regard to allotment of contract of its project, nothing has been placed on record. Perusal of Annexure-A which is an office order dated

18.03.2010 reveal that NCUI had decided not to extend the contractual period of respondent No.3 as it apparently found his work performance not satisfactory and he was not punctual. Communication at Annexure-B dated 19.02.2016 issued by NCUI refers to a settlement of dues. Annexure-C dated 01.06.2016 a communication issued by NCUI refers to the direction issued to the respondent No.3 to hand over the charge of the post of FGI to one Sri.S.G.Ramachandra, Project Officer. Annexure-D is a another communication refers to full and final payment of gratuity and leave encashment of respondent No.3. 55 Perusal of the aforesaid documents would not in any event make out a case of respondent No.3 having been prohibited or black listed from taking up any project. They do not speak of his ineligibility or question his candidature in any manner. Merely because of Annexure-A dated 18.03.2010 refers to non-extension of contractual period from 01.04.2011 same would not amount to disqualification of respondent No.3. The further communication in any event suggest continuation of services of respondent No.3 with NCUI. Except these documents no other material has been produced by the petitioner to discredit the eligibility or otherwise of the candidature of the respondent No.3.

28. As regards non-adherence to the recommendations made by P.C.Hota Committee in its report at paragraphs 65 and 66, it is to be seen that the Cabinet in its meeting held as far as back on 23.08.2013 in Sl.No.18 of its Agenda had resolved as under; 56 Subject matter considered in Cabinet Meeting Content Sheet Department file No.DPAR130SeNeNi 2013 Date of sending the Cabinet note Included in Meeting Cabinet Meeting Number:6 Case No.C:537/2013 Subject: Accepting report of the Committee constituted by the Government to revise the systems and procedures of Karnataka Public Service Commission - Regarding. Cabinet Serial number Meeting Date on the Agenda 23.08.2013 18

87) Resolution of the Cabinet After detailed discussion, the Cabinet approved the proposal contained in para 4 of the Cabinet Note with the following modifications. (1) The ratio of candidates called for the main examination should be 1:20 with respect to notified vacant posts. (2) Dropping the recommendation of constituting broad based search committee in the matter of appointing Chairman and members of KPSC. (3) Dropping the recommendation of conferring status of Chief

Information Commissioner/Information Commissioner to the Chairman and members of KPSC. (4) Utilizing the services of subject specialists from reputed institutions 57 within the state for interview; Dropping the recommendation of inviting subject specialists from outside the State Sd/- (Siddaramaiah) Chief Minister 23.08.2020 The Excerpt

88) Take immediate action according (89) Sri.Sanjeev Kumar to the above decision. The Principal Secretary of Please send the compliance report the Government, to the Cabinet section Department of Personnel without delay. Administration Reform. (Sharanappa) The Deputy Secretary of the Government (Cabinet) (63) As directed by Honble Chief Minister 29. Thereafter, a communication dated 13.09.2013 was issued by the Chief Secretary, Government of Karnataka to Secretaries, Public Service Commission which reads as under; GOVERNMENT OF KARNATAKA No..DPAR130SeNeNi 2013 Karnataka Government Secretariat Vidhanasoudha Bangalore, dated:13.09.2013 From: Chief secretary to Government Department of Personnel and Administrative Reforms Vidhana soudha Bangalore -1. 58 TO, Secretaries Karnataka Public Service Commission Karnataka Public Service commissioner Udhya Soudha Bangalore. Sir, Sub: Regarding implementation of reforms system in the competitive examinations conducted by the Karnataka Public Service Commission. A Committee has been formed on 26.07.2013 under the Chairmanship of Sri. P.C. Hota I.A.S. (Retd.) and Retired Chairman, Central Public Service Commission to bring reform system in the complete examinations conducted by the Karnataka Public Service commission vide notification of even date. Report dated:20.08.2013 submitted to the Government by Sri. P.C. Hota, I.A.S. (Retd.) was approved before the Cabinet on 23.08.2013. The Cabinet has approved the recommendations made by Sri. P.C. Hota Committee with the following modification. a) The ratio of candidates appearing for the main examination against the notified vacancies shall be 1:20. b) To give up the recommendation to constitute a broad-based search committee for the appointment of Chairman and Members of the Public Service Commission. c) To give up the recommendation to give the position of Chief Information Commissioner of the State / Information Commissioner to the Chairman and Members of the Public Service Commission. d) To avail the services of the experts from prestigious Institutions of the State for interview and to

give up the recommendation to call from other state. I have been directed to request you that with the above modification, to take action on the remaining approved aspects, to give report to the Government regarding action taken and to consider amending the following rules and thereafter to send appropriate proposal to the Government.

1. Karnataka Civil Service (Direct Recruitment & Selection through Competitive Examination) (General) Rules, 2006.

2. Karnataka Gazette Probationary (Recruitment through Competitive Examination) Rules 1997 3. Karnataka Public Service Commission (Procedure) Rules, 1973.

4. Karnataka Public Service Commission (Service Condition) Exchange, 1957. It is also requested to send proposal regarding Controller of Examinations and Supporting Staff. Copy of report submitted to the Government by Sri. P.C. Hota Committee is enclosed herewith in English and Kannada Language for information and for further action. 59

30. Since, the aforesaid decision of the Cabinet to drop the recommendation made by P.C.Hota Committee for constituting Broad Based Search Committee in the matter of appointing Chairman and members of KPSC was taken on 23.08.2013 and the appointment of respondent No.3 in W.P.No.10843/2021 as member was made on 31.08.2019 and as Chairman of Commission was made on 03.04.2021 following the cabinet meeting held on 17.03.2021, the contention of the petitioner that the respondent-Government did not adhere to the recommendation made by the P.C.Hota Committee cannot be countenanced, for no such recommendations were prevalent on the date of appointment of respondent No.3 as a member and subsequently as a Chairman of the Commission. Similar is the situation in the case of appointment of respondent Nos.4 to 14 in W.P.No.12030/2020.

31. Since no other relief is sought in the writ petitions except calling in question the appointment of 60 respondent Nos.4 to 14 in W.P.No.12030/2020 as members and respondent No.3 in W.P.No.10843/2021 as Chairman of Commission, the other submission with regard to requirement of framing rules and regulations for

the purposes of appointment of members/Chairman of the Commission need not be gone into. In any case, the Apex Court has dealt with similar issue in its judgments referred to above and such an exercise in this regard would be a superfluous and even as observed and held by the Apex Court it is best left to the wisdom of the legislature to deal with the exigency.

32. Before parting with, we wish to reiterate that the observation made by the Apex Court in the judgments referred to hereinabove with regard to the caution and procedure to be adopted by the respondent-State while appointing the members and Chairman as the case may be to this high and sensitive constitutional post be kept in mind and such appointments be made in absolute transparent manner without giving raise to any such 61 aspersions or allegations of arbitrary or colorable exercise of power. Therefore, it is all the more necessary and imperative that the respondent-State authorities shall make all endeavours to ensure compliance to the observations made by the Apex Court in the judgment referred to hereinabove.

33. With these observations, these petitions are disposed of. Sd/- CHIEF JUSTICE
Sd/- JUDGE RU/SBN

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