

Umapathi S Vs. The State Of Karnataka

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Court : Karnataka

Decided On : Sep-07-2023

Judge : Chief Justice and Krishna S Dixit

Appeal No. : WP 15257/2023

Appellant : Umapathi S

Respondent : The State Of Karnataka

Judgement :

- 1 - NC:

2023. KHC:32209-DB WP No.15257 of 2023 IN THE HIGH COURT OF KARNATAKA AT BENGALURU DATED THIS THE7H DAY OF SEPTEMBER, 2023 PRESENT THE HON'BLE MR PRASANNA B. VARALE, CHIEF JUSTICE AND THE HON'BLE MR JUSTICE KRISHNA S DIXIT WRIT PETITION No.15257 OF2023(GM-RES) BETWEEN: UMAPATHI S, S/O LATE M.SUBRAMANYAM, AGED ABOUT53YEARS, ADVOCATE LEX GROUP, NO.40, SNS PLAZA SHVANANDA CIRCLE, BANGALORE-560 001. PAN- AAQPU4590H, AADHAAR No.726238762844 PHONE - 9480017995 EMAIL- UMAPATHI@LEXGROUP.IN PETITIONER (BY SRI.UMAPATHI S.,PETITIONER-IN-PERSON) AND:

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

2. THE STATE OF KARNATAKA REPRESENTED BY THE ADDL. CHIEF SECRETARY DPAR, STATE PROTOCOL, VIDHANA SOUDHA, BANGALORE-560 001.-. 2 - NC:

2023. KHC:32209-DB WP No.15257 of 2023 3. DR. K. GOVINDRAJ POLITICAL SECRETARY TO CHIEF MINISTER, ROOM No.329-329A, VIDHANA SOUDHA BANGALORE-560 001.

4. MR. NAZEER AHMED, POLITICAL SECRETARY TO CHIEF MINISTER, ROOM No.338-338A, VIDHANA SOUDHA, BANGALORE-560 001.

5. MR. SUNIL KUNAGOL CHIEF ADVISOR TO CHIEF MINISTER, ROOM No.307-307A, VIDHANA SOUDHA, BANGALORE-560 001.

6. MR. K.V.PRABHAKAR MEDIA ADVISOR TO CHIEF MINISTER, ROOM No.204, 204-A, VIDHANA SOUDHA, BANGALORE-560 001. RESPONDENTS (BY SMT.NILOUFER AKBAR.,ADDL.GOVERNMENT ADVOCATE FOR R1 & R2) THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO A)ISSUE AN APPROPRIATE WRIT IN THE NATURE OF QUO WARRANTO OR ANY OTHER APPROPRIATE WRIT PROHIBITING THIRD RESPONDENT FROM EXERCISING THE DUTIES AS THE POLITICAL SECRETARY TO THE CHIEF MINISTER OF THE STATE VIDE GOVERNMENT

ORDER

BEARING NO.SI.AA.SU.E44SHI.SA.NE 2023 DATED 01/06/2023 VIDE ANNEXURE-A AND B)ISSUE AN APPROPRIATE WRIT IN THE NATURE OF QUO WARRANTO OR ANY OTHER APPROPRIATE WRIT PROHIBITING FOURTH RESPONDENT FROM EXERCISING THE DUTIES AS THE POLITICAL SECRETARY TO THE CHIEF MINISTER OF THE STATE VIDE GOVERNMENT

ORDER

BEARING NO.SI.AA.SU.E42SHI.SA.NE 2023 DATED 01/06/2023 VIDE ANNEXURE-B AND ETC., THIS PETITION COMING ON FOR PRELIMINARY HEARING THIS DAY, CHIEF JUSTICE MADE THE FOLLOWING: - 3 - NC:

ORDER

Petitioner claiming to be a public spirited citizen, is knocking at the doors of this court seeking a Writ of Quo Warranto against the private respondents herein who have been appointed by the respondent-State Government as Political Secretaries, Chief Advisor and Media Advisor to the Hon'ble Chief Minister. The orders of the appointment of these respondents dated 1.6.2023 and 22.5.2023 are produced and marked as Annexures-A to D.

2. Learned counsel appearing for the petitioner argues that the appointment of the private respondents with the status of Cabinet Rank is without jurisdiction and unconstitutional. In support of his contention, he heavily banks upon Article 164(1A) of the Constitution of India which prescribes that the total number of Ministers including the Chief Minister in a State shall not exceed 15% of the total number of Members of the Legislative Assembly. The counsel submits that this ceiling limit is breached by the appointments in question. Learned Additional Government Advocate appearing for the - 4 - NC:

2023. KHC:32209-DB WP No.15257 of 2023 respondent Nos.1 & 2 opposes the same contending that the provisions of Article 164 are not invocable inasmuch as none of the private respondents has been appointed as the Minister and therefore, petition is unworthy of consideration.

3. We have heard the learned counsel appearing for the petitioner and the learned Additional Government Advocate appearing for the official respondents. We decline indulgence in the matter broadly agreeing with the submission made by the learned AGA. Article 164 provides for the appointment of Chief Minister by the Governor and of other Ministers on the advice of the Chief Minister. Clause (1A) of this Article which has been introduced by 91st Amendment Act, 2003 w.e.f. 1.1.2004 prescribes the ceiling limit as to the number of Ministers in a State. The text of the said clause is as under:

"The total number of Ministers, including the Chief Minister, in the Council of Ministers in a State shall not exceed fifteen per cent of the total number of

members of the Legislative Assembly of that State."

- 5 - NC:

2023. KHC:32209-DB WP No.15257 of 2023 4. The above text is as clear as gangetic waters. It is nobody's case that the private respondents have been appointed as Ministers. If the private respondents were appointed as Ministers, there could have been scope for the invocation of subject provision of the Article. Merely because a Cabinet Status is conferred on a particular appointee, that per se does not make him a Minister within the meaning of Article 164. These respondents are appointed to assist the Chief Minister/Ministers and they are not functioning as the Ministers in the literal sense. Therefore the provision pressed into service by the learned counsel for the petitioners is not attracted.

5. The status of Cabinet Rank is conferred on persons appointed to posts/offices other than that of Ministers as well, needs no research. Since the enactment of the Constitution, in several States, e.g., Assam, Meghalay, etc. persons are appointed with such status even when they are not Members of the Council of Ministers. Such status is conferred for various reasons that fall within the exclusive domain of the Executive and - 6 - NC:

2023. KHC:32209-DB WP No.15257 of 2023 therefore, court cannot undertake their deeper examination in Judicial Review. The text of the impugned orders shows that the conferment of this status is for the purpose of extending to the appointees the facilities that avail to the Ministers of the Cabinet Rank. Despite vociferous submissions, learned counsel for the petitioner is not in a position to show which Rule of law has been violated by virtue of impugned appointments. In the absence of breach of law, no relief can be granted to the petitioner. In the above circumstances, the petition being devoid of merits, deserves dismissal and accordingly, it is dismissed, costs having been made easy. Sd/- CHIEF JUSTICE
Sd/- JUDGE Snb/

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