

Vithabai and Anr vs the State of Karnataka and Ors

Vithabai and Anr vs the State of Karnataka and Ors

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Court : Karnataka Kalaburagi

Decided On : Dec-27-2024

Judge : R.Nataraj,Hanchate Sanjeevkumar

Appeal No. : WA/200317/2024

Appellant : Vithabai and Anr

Respondent : The State of Karnataka and Ors

Judgement :

-1- IN THE HIGH COURT OF KARNATAKA, KALABURAGI BENCH DATED THIS THE 27TH DAY OF DECEMBER, 2024 PRESENT THE HON'BLE MR JUSTICE R.NATARAJ AND THE HON'BLE MR JUSTICE HANCHATE SANJEEVKUMAR WRIT APPEAL NO. 200317 OF 2024 (LB-ELE) BETWEEN:

1. MRS. VITHABAI WIFE OF MR. RAMESH PANDIT, AGED ABOUT 51 YEARS, OCC PRESIDENT OF GRAM PANCHAYAT BOMMANAHALLI VIJAYAPURA,

2. MRS. SHRIDEVI

WIFE OF MR. GURUPAD BIRADAR AGED ABOUT 38 YEARS, Digitally signed
OCC VICE PRESIDENT OF GRAM by RAMESH MATHAPATI PANCHAYAT

BOMMANAHALLI Location: HIGH COURT OF RESIDING AT: BOMMANAHALLI, KARNATAKA TQ SINDAGI, APPELLANTS (BY SRI SHYAM SUNDAR, SR. COUNSEL FOR SRI LINGARAJ MALLANNA, ADV.) AND:

1. THE STATE OF KARNATAKA DEPARTMENT OF PANCHAYAT RAJ, VIDHAN SOUDHA, -2- BENGALURU -560 001. BY ITS SECRETARY.
2. THE DEPUTY COMMISSIONER, VIJAYAPURA,
3. THE ASSISTANT COMMISSIONER, INDI, VIJAYAPURA - 586206.
4. THE GRAM PANCHAYAT, REPRESENTED BY PDO.
5. THE ELECTION OFFICER / DESIGNATED OFFICER, GRAM PANCHAYAT,
6. MR. CHANDRAKANT SON OF SHARANAPPA SAGAR, AGED ABOUT 45 YEARS, OCC: GRAM PANCHAYAT MEMBER
7. MR. SURESH SON OF GURUPADAPPA BIRADAR, AGED ABOUT 38 YEARS, OCC: GRAM PANCHAYAT MEMBER -3-
8. MR. RAVICHANDRA, SON OF SHANKREPPA BIRADA, AGED ABOUT 35 YEARS,
9. MR. VITHOBHA SON OF BASAPPA SONNAD, AGED ABOUT 35 YEARS,
10. MR. LAVA SON OF YALLAPPA SONNA, AGED ABOUT 28 YEARS,
11. MRS. LAXMI WIFE OF CHIDANAND AMBIGER, AGED ABOUT 28 YEARS,
12. MRS. SUNDRABAI WIFE OF SHARANAPPA BIRADAR, AGED ABOUT 58 YEARS,
13. MRS. NEELAMMA WIFE OF ADIVEPPA KARAJAGI, AGED ABOUT 58 YEARS, -4-
14. MRS. SAVITA WIFE OF RAMESH DHOOLABA, AGED ABOUT 35 YEARS,
15. MRS. SHOBHA

WIFE OF VITHOBHA BADIGER, AGED ABOUT 38 YEARS, DIST VIJAYAPURA 586206. RESPONDENTS (BY SRI MALLIKARJUN SAHUKAR, AGA FOR R1 TO R3; SRI SANTOSH HANMANTHRAO, ADV. FOR R7 TO R15) THIS WRIT APPEAL IS FILED U/S.4 OF THE KARNATAKA HIGH COURT ACT, PRAYING TO SET ASIDE THE IMPUGNED

ORDER DATED 20.12.2024 IN WP NO. 203906/2024 AND

CONSEQUENTLY GRANT RELIEFS AS PRAYED FOR IN WP NO. THIS APPEAL, COMING ON FOR ORDERS, THIS DAY,

JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE R.NATARAJ AND HON'BLE MR JUSTICE HANCHATE SANJEEVKUMAR -5-

ORAL JUDGMENT

(PER: HON'BLE MR JUSTICE R.NATARAJ)

1. This writ appeal is filed challenging the order

dated 20.12.2024 by which the learned Single Judge refused to grant an interim order of stay of the proposed No Confidence Motion, but held that, the proceedings of No Confidence Motion shall be subject to the out come of the writ petition.

2. The petitioner No.1 who was the President and

the petitioner No.2 who was the Vice-President of Bommanahalli Gram Panchayat, filed a writ petition challenging the notice of No Confidence Motion on the ground that it was not preceded by a 15 days notice as mandated under Rule 3 of the Karnataka Panchayat Raj Motion of No Confidence against Adhyaksha and Upadhyaksha of Gram Panchayat Rules, 1994. The learned Single Judge refused to stay the No Confidence Motion, but

held that the same would be subject to the result of the writ

petition. Being aggrieved by the same, this appeal is filed. -6-

3. Learned Senior Counsel for the appellant

submitted that, the notice of No Confidence motion is in violation of Rule 3 in as much as, a 15 days prior notice is not issued. This is not disputed by the learned counsel for the respondent Nos.7 to 15, as well as the learned Additional Government Advocate for respondent Nos.1 to 3.

4. It is now well settled that, if a thing has to be

done in a particular manner, it has to be done in that manner alone, or not at all. The question whether 15 days prior notice is mandatory or not is conclusively determined by the Division Benches of this Court, where it is held that, compliance of Section 3(1) of the Rules is mandatory.

5. In that view of the matter, it was appropriate for the learned Single Judge to have stayed the notice of No Confidence Motion. Hence, the following:

ORDER

(i) The writ appeal is allowed; -7-

(ii) The impugned order passed by the learned

Single Judge dated 20.12.2024 is modified and the notice of No Confidence Motion issued by the respondent No.3, proposing to vote the motion on 31.12.2024 is stayed, until disposal of the writ petition. Sd/- (R.NATARAJ) JUDGE
Sd/- (HANCHATE SANJEEVKUMAR) JUDGE SVH List No.: 1 SI No.: 1 CT: PS

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