



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF FEBRUARY, 2023

BEFORE

THE HON'BLE MR JUSTICE B M SHYAM PRASAD

WRIT PETITION NO. 2226 OF 2023 (S-RES)

BETWEEN:

SHWETHA MAHABALESHWAR NAIK
D/O MAHABALESHWAR NAIK
AGED 26 YEARS
TYPIST
OFFICE OF ASST PUBLIC PROSECUTOR OFFICE
ACJ (JR DN) AND JMFC COURT
SIRSI, KARWAR
UTTAR KANNADA DISTRICT

...PETITIONER

(BY SRI. KETHAN KUMAR.,ADVOCATE)

AND:

1. DIRECTOR
PROSECUTION AND GOVERNMENT LITIGATION
6TH FLOOR, KHB COMPLEX
CAUVERY BHAVAN
KEMEPGOWDA ROAD
BENGALURU 560009
2. LAW OFFICER
MAGNALORE ZONE





MANGALORE, D K DIST-575001

3. SAINATH SECURITY FORCE
PUJARI BUILDING
NEAR KSRTC WORK SHOP
JORAPUREPETH, VIJAYAPUR 586101
REP BY PROPRIETOR
SRI B S MANNURU

...RESPONDENTS

(BY SRI. M.S.NAGARAJA, AGA FOR R1 AND R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE R1 TO IMPLEMENT THE DIRECTION DTD 14.09.2022 IN NO.DPN.BAAMUU.01.2022-23 VIDE ANNEXURE-D AND DIRECTION DTD 16.11.2022 IN NO.DPN.BAAMUU.01.2022-23 VIDE ANNEXURE-F ISSUED BY R1.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner is working as a Typist/Clerk with the office of the Assistant Public Prosecutor, ACJ (Jr. Dn.) on a contract basis through the third respondent – M/s Sainath Security Force. It is undisputed that the first respondent extends manpower assistance to the office of the Assistant Public Prosecutor, Sirsi,



Karwar through third party entities. The petitioner is aggrieved by the third respondent's failure to disburse salary notwithstanding the first respondent's directions (Annexure-F).

It seen from Annexure-F dated 16.11.2022 that the first respondent has directed the third respondent to take necessary measures to ensure that salaries are disbursed to the petitioner observing that she has not been paid salary for over nine [9] months. The first respondent has also observed that if there is any failure to disburse salary, notwithstanding the direction, the third respondent will be responsible for orders that could be passed¹.

¹. ಮೇಲ್ಕಂಡ ಅಭ್ಯರ್ಥಿಗೆ ಸಂಸ್ಥೆಯವರು 9 ತಿಂಗಳಿಂದ ಸಂಭಾವನೆ ಪಾವತಿಸಿಲ್ಲವೆಂದು ಉಲ್ಲೇಖ-(1)ರ ಪತ್ರದಲ್ಲಿ ವಕೀಲರು ನೋಟೀಸು ಕಳುಹಿಸಿರುತ್ತಾರೆ, ಆದ್ದರಿಂದ ಈ ಕೂಡಲೇ ಸದರಿ ಅಭ್ಯರ್ಥಿಗೆ ಸಂಭಾವನೆಯನ್ನು ಪಾವತಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಅಗತ್ಯ ಕ್ರಮವಹಿಸಿ, ಈ ಕಛೇರಿಗೆ ಮಾಹಿತಿಯನ್ನು ಸಲ್ಲಿಸುವಂತೆ ಮತ್ತೊಮ್ಮೆ ಈ ಮೂಲಕ ನಿಮಗೆ ಸೂಚಿಸಲಾಗಿದೆ. ತಿಳಿಸಲಾಗಿದೆ. ತಪ್ಪಿದಲ್ಲಿ ಮುಂದಿನ ಯಾವುದೇ ವ್ಯತಿರಿಕ್ತ ಆದೇಶಕ್ಕೆ ನೀವೇ ನೇರ ಹೊಣೆಗಾರರಾಗಿರುತ್ತೀರಿ ಎಂದು ತಿಳಿಸಲಾಗಿದೆ.



Sri. Kethan Kumar, the learned counsel for the petitioner, and Sri. M.S.Nagaraja, the learned Additional Government Advocate for the first and the second respondents, are heard in the light of this grievance. It is obvious from Annexure-F that the first respondent has contemplated orders that may not be in the third respondent's interest if the petitioner's salary is not disbursed despite receipt of Annexure-F. The petitioner's grievance is not just because the third respondent has not disbursed the salary but also because the first respondent has not taken any action.

In the circumstances of the case, this Court is of the considered view that, without prejudice to the petitioner's right to recover salary arrears from the third respondent, there must be a direction to the first respondent to take necessary action as indicated in Annexure-F against the third respondent if salaries are not indeed credited to the petitioner. Therefore, the following:



ORDER

The petition stands disposed of reserving liberty to the petitioner to file a representation with the first respondent – the Director, Prosecution and Government Litigation - for initiation of action as contemplated under Annexure-F against the third respondent for non-disbursement of her salary.

If such representation is filed by the petitioner enclosing a certified copy of this order within fifteen [15] days from the date of receipt thereof, the first respondent is permitted to take appropriate action as contemplated in Annexure-F and communicate to the petitioner the outcome within 4 [four] weeks therefrom.

**SD/-
JUDGE**

RB