

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 22nd DAY OF JULY, 2002

BEFORE:

THE HON'BLE MR. JUSTICE A.V. SRINIVASA REDDY.

WRIT PETITION No.14815/2002 (LB)

Between :

Smt.Deviramma,
W/o.Marulappa,
Adhyakshini of Kanakatte
Grama Panchayath,
Resident of Magenahalli,
Kanakatte Hobli,
Arsikere Taluk,
Hassan District

Petitioner.

(By Sri.A.V.Gangadharappa)

And :

1. The Assistant Commissioner,
Hassan Sub-Division, Hassan.
2. The Grama Panchayath, Kanakatte
(Hobli) Arsikere Taluk,
Hassan District.
3. The Tahsildar,
Arsikere Taluk,
Hassan District.
4. K.M.Sanaullah,
S/o.Moulana Sab,
Resident of Kanakatte
(Hobli) Arsikere Taluk,
Hassan District.
5. Onkarappa,
S/o.Nagappa.

Resident of Dibburu, Kanakatte
(Hobli) Arsikere Taluk,
Hassan District.

6. Nagarathnamma,
W/o. Rangappa. Resident of Dibburu
Kanakatte
Hobli) Arsikere Taluk,
Hassan District.

7. Nanjamma,
W/o.Thimma Bovi, Resident of Dibburu
Kanakatte
(Hobli) Arsikere Taluk,
Hassan District.

8. Satish,
S/o.Kariyappa,
Resident of Kanakatte
(Hobli) Arsikere Taluk,
Hassan District.

9. Premakumar Swamy,
S/o.Marulappa.
Resident of Chikkondihalli,
Kanakatte
Hobli) Arsikere Taluk,
Hassan District.

10.Gangamma,
W/o.Kotturappa,
Resident of Sathanagere,
Kanakatte
(Hobli) Arsikere Taluk,
Hassan District.

11.Parameshwarappa,
S/o.Shivananjappa,
Resident of Kasavanahalli,
Kanakatte
Hobli) Arsikere Taluk,
Hassan District.

12.Smt.Vijayalakshmi,
W/o.D.M.Jagadish, Resident of Dibburu
Kanakatte
(Hobli) Arsikere Taluk,
Hassan District.

13.Channabasavaiah,
S/o.Marulappa, Kanakatte
(Hobli) Arsikere Taluk,
Hassan District.

14.Smt.Rathnamma,
W/o.Shivanna. Kanakatte
(Hobli) Arsikere Taluk,
Hassan District.

15.Sameeullah,
W/o.Mohiddin Sab,
Resident of Sathanagere,
Kanakatte
(Hobli) Arsikere Taluk,
Hassan District.

16.Manjamma,
W/o.Govinda Swamy,
Resident of Magenahalli,
Kanakatte
Hobli) Arsikere Taluk,
Hassan District.

Respondents.

(By Sri.Suman Hegde for R1
to R3)

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This Writ Petition is filed under Articles 226
and 227 of the Constitution of India praying to quash

the impugned notice dated 18-2-2002 and meeting notice dated 23-3-2002 issued by the first Respondent.

This Writ Petition having been heard and reserved for orders, the Court pronounced the following :

ORDER.

This petitioner is the erstwhile Adhyakshini of Kanakatte Grama Panchayath, Magenahalli, Kanakatte Hobli, Ariskere Taluk, Hassan District and she has filed the present petition for quashing the notice bearing No.CHU (2) 30/2001-02 dated 23-3-2002, produced as Annexure-C, issued by the first respondent calling for a meeting of the Grama Panchayat to elect the Adhyakshini on the ground that the earlier notice issued to consider the no confidence motion against the petitioner as per Annexure-A and the subsequent declaration that the petitioner has been voted out of office by reason of motion of no confidence passed on 16-3-2002 are illegal and without the authority of law.

2. It is the contention of Learned counsel Mr.A.V.Gangadharappa that the petitioner still

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continues to be the Adhyakshini as the declaration voting her out of office by reason of no confidence motion itself is bad in law and, therefore, no election could be held to in terms of the notice at Annexure-C.

3. When the matter came up for admission on 1-4-2002, this court merely ordered notices to be issued to the respondents. No interim order staying the election to be held on 4-4-2002 was passed on that day. In the light of the fact that the election is over and a new Adhyakshini is elected in place of the petitioner, the only remedy that is now open to the petitioner is to challenge the election of the Adhyakshini in an election petition filed under Sec.45(2) of the Karnataka Panchayat Raj Act ('the Act' for short). This Court in S.N.MANJUNATH v. STATE OF KARNATAKA (D.D. 9-7-2002) has held that Article 243-O of the Constitution bars interference ^twith an election to a panchayat by courts except by an election petition presented to such authority and in such manner as is provided under any law made by the Legislature of a State. This court has further observed in the said decision that any dispute



relating to a meeting leading to the election of the Adhyaksha or Upa Adhyaksha could be challenged only in an election petition filed under Sec.45(2) of the Act. Though the petitioner herein had approached this court even before the election was held for quashing the meeting to be held for electing the Adhyakshini, this court having not stayed the meeting, the meeting was held and a new Adhyakshini was elected in the meeting held on 4-4-2002 in place of the petitioner. In the light of the decision in the case of S..N.Manjunath v. State of Karnataka, supra, notwithstanding the fact that the petitioner had approached this court even before the election took place the only remedy now open to the petitioner, in the light of the fact that a new Adhyakshini is already elected, is to challenge the election itself in a petition filed under Sec.45(2) of the Act on whatever ground available to her including the ground that the notices issued by the first respondent as per Annexures A, B and C are illegal and without the authority of law. Now that the election is over this court cannot go into the question of the vires of the notices issued as per Annexures A, B and C.



4. In the result, for the reasons stated above, this writ petition is rejected. However, the petitioner is reserved liberty to challenge the vires of the notices impugned in this petition in a petition under Sec.45(2) of the Act, if she is so advised.

Ssy/*

Sd/-
Judge