

IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 10TH DAY OF JULY 2014

BEFORE

THE HON'BLE MR.JUSTICE A.N.VENUGOPALA GOWDA

WRIT PETITION NO. 106177/2014 (LB-ELE)

BETWEEN

GURUNATH S/O. SIDDAPPA ADEPPANAVAR
AGE: 44 YEARS,
OCC: MEMBER OF NARGUND TALUK, PANCHAYAT
R/O. MUGANOR, TQ: NARGUND
DIST: GADAG.

... PETITIONER

(BY SRI. SANTOSH B MALAGOUDAR, ADV.)

AND

1. THE STATE OF KARNATAKA
R/BY ITS SECRETARY,
DEPARTMENT OF PANCHAYAT RAJ S
M S BUILDING, BANGALORE-560001.
2. THE DIRECTOR (PANCHAYAT RAJ)
AND EX OFFICIO JOINT SECRETARY,
DEPT. OF RURAL DEVELOPMENT &
PANCHAYAT RAJ, M S BUILDING,
BANGALORE-560001.
3. THE ASST. COMMISSIONER,
NARGUND, TQ: NARGUND.
4. THE EXECUTIVE OFFICER,
TALUKA PANCHAYAT NARGUND,
TQ: NARGUND.

... RESPONDENTS

(BY SMT. VIDYAVATHI, AGA.)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED NOTIFICATION DATED 18.06.2014 ISSUED BY THE 2ND RESPONDENT IN SO FAR IT RELATES TO NARGUND TALUK PANCHAYAT FOR THE POST OF UPADHYAKSHA AS PER ANNEXURE-A AS ILLEGAL AND VOID.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner, an elected Member of Nargund Taluk Panchayath has filed this writ petition, questioning a notification, as at Annexure – A, providing reservation to the post of Upadhyaksha.

2. Shri Santosh B. Malagoudar, learned advocate, contended that in the notification dated 25.01.2011, the reservation provided to the posts of President and Vice President was to BC-B category, BC-A category, respectively and in the impugned notification, there being reservation for SC(W) and BCA-W respectively, there is no rotation, in respect of the post of Upadhyaksha. He submitted that in view of proviso under sub Rule (e) of Rule 5 of Karnataka Panchayath Raj (Taluk Panchayath Adhyaksha and

Upadhyaksha Reservation) Rules 2005, the posts of President and Vice President, need not be reserved for woman simultaneously, but in the instant case, both the posts having been reserved for women and there being violation, the petitioner is entitled to the relief.

3. Smt. K.Vidyavathi, learned AGA, on the other hand contended that reservation was provided to the posts of Adhyaksha and Upadhyaksha of Nargund Taluk Panchayath from the year 1995 onwards. She submitted that the Government having amended the Rules, as per notifications dated 21.12.2010 and 05.01.2011 (Annexure – R1), rising the reservation for woman category from 1/3rd to 50%, the chances of repeating reservation for woman cannot be ruled out. She submitted that there being no repetition, but rotation, by taking the State as a unit, the impugned notification was issued and published, by keeping in view the order passed in W.P. No.5873/2011. She submitted that there being no legal infirmity in Annexure-A, no interference is called for.

4. Perused the writ record. In the notification dated 25.01.2011, the reservation to the posts of President and Vice President was provided to BC-B and BC-A(W) categories respectively. For the present term/round, reservation has been provided to the posts of President and Vice President, to SC(W) and BC-A (w) respectively. While fixing the reservation to SC/ST, the Government has to take the State as a unit, in terms of Section 138(2)(c) of Karnataka Panchayath Raj Act, 1993. The Rules have been amended as per Annexure – R1, rising the reservation to 50% for woman category. Consequently, there can be chances of repeating reservation for woman and the same may call for interference, inasmuch as woman constitute almost 50% of the population and there has to be reservation in their favour, to provide appropriate representation in the local bodies. Merely because, both the posts have been reserved to women, I do not find justification to interfere, on account of the amendment made to the Rules vide Annexure – R1.

5. Shri Santosh B. Malagoudar, conceded that the reservation provided on 25.01.2011 has not been repeated in the notification dated 18.06.2014. The chart shown in para 3 of the counter, when perused, it becomes clear that there is no repetition to the posts of Vice President, since, for the 11th term i.e., 2011-13, the post remained unreserved and was available for general category.

6. Since Shri Santosh B. Malagoudar was unable to point out any infirmity in the tabular statement appearing at para 3 of the counter, the Government having followed the notification as at Annexure – R1, by taking the State as a unit, I do not find justification to entertain this writ petition.

In the result, writ petition being devoid of merit is dismissed, with no order as to costs.

SD/-
JUDGE

Rsh
ct: DH/-