



**IN THE HIGH COURT OF KARNATAKA,**

**KALABURAGI BENCH**

**DATED THIS THE 12<sup>TH</sup> DAY OF AUGUST, 2024**

**BEFORE**

**THE HON'BLE MR. JUSTICE N.S.SANJAY GOWDA**

**WRIT PETITION NO.201796 OF 2023 (S-RES)**

**BETWEEN:**

HUSANAPPA  
S/O SHRIMANT KOLIGERI,  
AGE : 47 YEARS, OCC :FGRI,  
TMC AFZALPUR  
(NOW COMPULSOY RETIRED)  
PERMANENT ADDRESS  
JAI BHEEM NAGAR,  
NEAR RAJU KIRANA SHOP,  
AFZALPUR, TALUKA AFZALPUR,  
DISTRICT KALABURAGI -585301.

...PETITIONER

(BY SRI D. P. AMBEKAR, ADVOCATE)

**AND:**

1. THE STATE OF KARNATKA  
DEPARTMENT OF URBAN DEVELOPMENT,  
VIKAS SOUDHA, BENGALURU -560001  
REPRESENTED BY ITS SECRETARY.
2. THE DIRECTOR OF MUNICIPAL  
ADMINISTRATION,  
VISWESHARAYYA TOWER,  
9<sup>TH</sup> FLOOR, AMBEDKAR VEEDI,  
BENGALURU -560001.





3. THE ENQUIRY OFFICER CUM  
DEPUTY LAW OFFICER,  
OFFICE OF THE DIRECTOR OF MUNICIPAL  
ADMINISTRATION,  
VISWESHARAYYA TOWER,  
9<sup>TH</sup> FLOOR, AMBEDKAR VEEDI,  
BENGALURU -560001.
4. THE CHIEF OFFICER,  
TMC, ALAND,  
TALUKA ALAND,  
DISTRICT KALABURAGI - 585302.
5. THE CHIEF OFFICER,  
TMC, AFZALPUR,  
TALUKA AFZALPUR,  
DISTRICT KALABURAGI-585301.

...RESPONDENTS

(BY SMT. ARATI PATIL, HCGP, FOR R1 TO R3;  
SRI S.S. HALALLI, ADV. FOR R4;  
SRI B.V. JALDE, ADV. FOR R5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT ORDER OR DIRECTION IN NATURE OF CERTIORARI, QUASHING ANNEXURE-L, VIZ REPORT DATED 02.07.2022 SUBMITTED BY THE RESPONDENT NO.3 / ENQUIRY OFFICER TO THE RESPONDENT NO.2/ DMA, IN SO FAR AS THE PETITIONER IS CONCERNED AND ISSUE A WRIT ORDER OR DIRECTION IN NATURE OF CERTIORARI, QUASHING ANNEXURE-N, VIZ, ORDER DATED 07.03.2023 BEARING NO.29573 DMA 29 EQG 2019-20 PASSED BY THE RESPONDENT NO.2 IMPOSING THE PUNISHMENT OF COMPULSORY RETIREMENT FROM SERVICE ON THE PETITIONER AND ISSUE A WRIT ORDER OR DIRECTION IN NATURE OF CERTIORARI, QUASHING ANNEXURE-P, VIZ, COMMUNICATION DATED 11.04.2023 BEARING NO.PUSA/AFZA/SIBBANDI/2023-24/03 ISSUED BY RESPONDENT NO.5 THE PETITIONER.



THIS PETITION, COMING ON FOR CONSIDERATION OF INTERIM PRAYER, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE N.S.SANJAY GOWDA

**ORAL ORDER**

(PER: HON'BLE MR. JUSTICE N.S.SANJAY GOWDA)

On 05.11.2020, the petitioner who was working as a Revenue Inspector, was issued with a charge-sheet containing the following charge :

“ಶ್ರೀ ಹುಸನಪ್ಪ, ಕಂದಾಯ ನಿರೀಕ್ಷಕರು, ಪುರಸಭೆ ಆಳಂದ ಆದ ನೀವು ತನಿಖಾ ಸಮಯದಲ್ಲಿ ಆಳಂದ ಪುರಸಭೆ ವ್ಯಾಪ್ತಿಯಲ್ಲಿ ಮನೆ ಅಥವಾ ನಿವೇಶನದ ಹೆಸರು ವರ್ಗಾವಣೆ ಆಜ್ಞಾಪತ್ರ ಸಂಖ್ಯೆ: 525/2015-16 ದಿನಾಂಕ 20.02.2016, ವರ್ಗಾವಣೆ ಆಜ್ಞಾಪತ್ರ ಸಂಖ್ಯೆ: 526/2015-16 ದಿನಾಂಕ 20.02.2016 ರ ಪ್ರಕಾರ ಮತ್ತು ವರ್ಗಾವಣೆ ಆಜ್ಞಾಪತ್ರ ಸಂಖ್ಯೆ: 527/2015-16 ದಿನಾಂಕ 20.02.2016 ರ ಪ್ರಕಾರ ಒಟ್ಟು 37 ನಿವೇಶನಗಳನ್ನು ವರ್ಗಾವಣೆ ಮಾಡಲಾಗಿದ್ದು, ಸದರಿ ನಿವೇಶನಗಳ ಹಕ್ಕುದಾರರಿಂದ ಪುರಸಭೆಗೆ ಬರಬೇಕಾದ ಟ್ಯಾಕ್ಸ್ ಶುಲ್ಕ ಸುಮಾರು ರೂ.6.00 ಲಕ್ಷ ಹಣವನ್ನು ಸರ್ಕಾರ/ಪುರಸಭೆ ಭೋಕ್ತೃಸಕ್ಕೆ ಭರಿಸಿಕೊಳ್ಳುವಲ್ಲಿ ಕೆ.ಎಮ್.ಎಫ್.-24 ಹಾಗೂ ಆಸ್ತಿ ತೆರಿಗೆ 16-ಎ ನಮೂನೆ ನಿರ್ವಹಣೆ ಕುರಿತು ಮೇಲುಸ್ತುವಾರಿ ಮಾಡಿ ಮುಖ್ಯಾಧಿಕಾರಿಗಳ ಗಮನಕ್ಕೆ ತರದೇ ಕರ್ತವ್ಯಲೋಪವೆಸಗಿರುತ್ತೀರಿ ಹಾಗೂ ಸರ್ಕಾರಕ್ಕೆ/ಪುರಸಭೆಗೆ ಆರ್ಥಿಕ ನಷ್ಟ ಉಂಟು ಮಾಡಿರುತ್ತೀರಿ. ಆದ್ದರಿಂದ ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ (ನಡತೆ) ನಿಯಮಾವಳಿ 1966 ರ ನಿಯಮ 3(i)(ii) ಹಾಗೂ (iii) ಮತ್ತು



ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ (ವರ್ಗೀಕರಣ ನಿಯಂತ್ರಣ ಮತ್ತು  
ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು 1957 ರ ಪ್ರಕಾರ ಶಿಸ್ತಿನ ಕ್ರಮಕ್ಕೆ  
ಗುರಿಯಾಗಿರುತ್ತೀರಿ. ಆದ್ದರಿಂದ ನಿಮ್ಮ ವಿರುದ್ಧ ಈ ಆರೋಪ.”

2. As could be seen from the above, the allegation against the petitioner was that he had not ensured the collection of tax while transferring the khata and had not brought it to the notice of the Chief Officer also.

3. The reply of the petitioner was to the effect that on the request being made by three applicants for registration of khata to the Chief Officer, the Chief Officer opened a file and made the following order on 01.01.2016:

“5) RI ಶಾಖೆ :-

ತಮ್ಮಗಳ ದಯಾಪರ ಹಿಂಬರಹದ ಮೇರೆಗೆ ದಿನಾಂಕ 14.01.2016  
ರಂದು ವಿವರಿಸಲಾದ ವರದಿ ಈ ಕಡತಕ್ಕೆ ಲಗತ್ತಿಸಲಾಗಿ ಮುಂದಿನ ಸೂಕ್ತ  
ಕ್ರಮಕ್ಕಾಗಿ ವಿವರವಾದ ವರದಿ ಮಂಡಿಸಲಾಗಿದೆ.”

4. The petitioner therefore stated that the charges levelled against him were false and he had only discharged his duty by obeying the instructions of the Chief Officer and had conducted a spot inspection and had also given a



report to him stating that after the requisite fee was collected further appropriate action could be taken and his role was only limited to this extent. He contended that he had neither recommended for registration of the khata without collecting the fees nor had he done any act which facilitated the issuance of khata and therefore this allegation was incorrect.

5. An enquiry was conducted and the Enquiry Officer gave a report that it was the duty of the petitioner to have collected the necessary fee and thereafter prepare an order of transfer, but the petitioner had prepared the order of transfer even before he had collected the fees. It was also held that though there was no power for cancellation of the khata, the khata had been cancelled and therefore the charges against him were proved.

6. Pursuant to the said inquiry report, a showcase notice was issued, to which the petitioner gave a reply, once again reiterating his defence. The Disciplinary Authority has refused to accept the reply and has



proceeded to impose the order of compulsory retirement against him. As a consequence, the petitioner is before this Court

7. Learned counsel appearing for the petitioner submitted that the entire allegation against the petitioner was wholly unsustainable since there was no misconduct of any kind on his part. It was contended that the petitioner had categorically reported to the Chief Officer that the requisite fee had to be collected and thereafter appropriate action could be taken and therefore it was improper for this charge that he facilitated the transfer without collecting the fees was wholly illegal.

8. Learned counsel appearing for the State as well as for the Municipality contended that the petitioner had the right of appeal and there was no justification for entertaining the writ petition. They also contended that the petitioner has been found guilty of ensuring that the khata was transferred without collecting the necessary fee



and for such a serious conduct an appropriate remedy had been imposed.

9. At the outset, it is to be stated that it is settled law that available of an alternative remedy is not an absolute bar and a writ petition can be entertained, if it can be *ex facie* shown that the order is wholly illegal and is not supported by relevant material. This argument is therefore rejected.

10. Coming on to the merits of the case, the allegation against the petitioner was that he had facilitated the transfer of khata without collecting the necessary fees. It is not in dispute that the application for registration of khata was made in respect of a land which had been converted and in which a layout had been formed. The application was therefore essentially for registering the name of the applicants in respect of the sites that they had purchased.

11. The note sheet which was prepared by the Chief Officer would be relevant for consideration of the



allegations made against the petitioner. Three note sheets were prepared which were identical. The entire note sheet is reproduced in order to have a complete understanding of the controversy.

“ನಿವೇದನೆ :-

ನಿವೇದನೆ ಮೂಲಕ ತಮ್ಮ ಗಮನಕ್ಕೆ ತರಬಹುದಾದುದೇನೆಂದರೆ, ಶ್ರೀ ರಾಮಚಂದ್ರ ತಂ.ಕಲ್ಯಾಣರಾವ ಪಾಟೀಲ, ಆಸ್ತಿ ಸಂಖ್ಯೆ:/ಸರ್ವೆ ನಂ.11-4-56/120, 121, 122, 123, 125, 128, 129, 130, 138, 132, 133, 128, 127, 135 ರ ಈ ಪುರಸಭೆ ಕರ ಆಕರಣ ಪುಸ್ತಕದಲ್ಲಿ ನೋಂದಣಿ ಮಾಡಿಕೊಳ್ಳಲು ಖರೀದಿ ಆಪೀಡೆಟ/ಧಾನ ಪತ್ರದೊಂದಿಗೆ ಅರ್ಜಿ ಸಲ್ಲಿಸಿರುತ್ತಾರೆ.

ಕಾರಣ ಕಂದಾಯ ನೀರಿಕ್ಷಕರವರ ಹಾಗೂ ಕರ ವಸೂಲಿಗಾರರ ವರದಿ ಪಡೆಯಲು ತಮ್ಮ ಮುಂದಿನ ಆದೇಶಕ್ಕಾಗಿ ಕೋರುತ್ತಾ, ಆಕ್ಷೇಪಣೆ ನೋಟಿಸ ಜಾರಿ ಮಾಡಲು ಹಾಗೂ ಒಪ್ಪಿಗೆ ಸಹಿಗಾಗಿ ಮಂಡಿಸಲಾಗಿದೆ.

2) ಮುಖ್ಯಾಧಿಕಾರಿ.

3) W -S ವರದಿ.

ಈ ವರದಿಯ ಮೂಲಕ ತಮ್ಮಗಳ ಗಮನಕ್ಕೆ ತರಬಹುದಾದುದೇನೆಂದರೆ ಆಸ್ತಿ ಸಂಖ್ಯೆ: 11-4-56/120, 124 ಈ ರನ್ವಯ ಸ್ಥಳ ಪರಿಶೀಲಿಸಿದ ನಂತರ ಸ್ಥಳದ ಜೋಡಣೆ ಇರುವುದಿಲ್ಲ ಕಾರಣ ಮುಂದಿನ ಕ್ರಮಕ್ಕಾಗಿ ಸಲ್ಲಿಸಲಾಗಿದೆ.

4) ಮು ಅ.





“5) RI ಶಾಖೆ :-

ತಮ್ಮಗಳ ದಯಾಪರ ಹಿಂಬರಹದ ಮೇರೆಗೆ ದಿನಾಂಕ  
14.01.2016 ರಂದು ವಿವರಿಸಲಾದ ವರದಿ ಈ ಕಡತಕ್ಕೆ  
ಲಗತ್ತಿಸಲಾಗಿ ಮುಂದಿನ ಸೂಕ್ತ ಕ್ರಮಕ್ಕಾಗಿ ವಿವರವಾದ ವರದಿ  
ಮಂಡಿಸಲಾಗಿದೆ.”

6) ಮು ಅ.

7) ನೀವೆದನೆ :

ಮೂಲಕ ತಮ್ಮಗಳ ಗಮನಕ್ಕೆ ತರಬಯಸುವದನೆಂದರೆ ಸದರಿ  
ಅರ್ಜಿದರರು ವರ್ಗಾವಣೆ ಶುಲ್ಕ ಪಾವತಿಸಿದ ಕಾರಣ ದಿನಾಂಕ  
20.02.2016 ರಂದು ವರ್ಗಾವಣೆ ಆದೇಶ ರದ್ದು ಪಡಿಸಲಾಗಿದೆ.

8) ಮುಖ್ಯಾಧಿಕಾರಿಗಳು.”

12. As could be seen from the above, the file was opened on 01.01.2016 and a note was put-up to the Chief Officer seeking for his approval to secure a report from the Revenue Inspector i.e., the petitioner and the Tax Collector, and also for issuance of an objection notice. The Chief Officer accepted this note on 11.01.2016 and the file was sent to the Water Supply Department. The Water Supply Department returned the file on 14.01.2016 submitted a report. Thereafter on the same day, the



petitioner also made a noting in the file stating that he had prepared the report and sought for appropriate action in the matter as per the report. The three reports of the petitioner are already produced. The three reports, which are identical are produced as Annexure-C, C1 and C2. It would be useful to extract the entire note sheet to appreciate the discharge of functions by the petitioner -

“ದಿನಾಂಕ 14.01.2016

ಪ್ರ.ದ.ಕಂ.ನಿ.ವರದಿ

ಆಳಂದ ವಾಸಿ ಶ್ರೀ/ಶೀಮತಿ ಭಾರತಿಬಾಯಿ ತಂದೆ/ಗಂಡ ಭೋಜರಾಜ ಪಾಟೀಲ ರವರು ದಿನಾಂಕ 01.01.2016 ರಂದು ನಿಗದಿ ನಮೂನೆ — ನ್ನು ವಿಧಾನ ಪೂರ್ವಕ ಭರ್ತಿ ಮಾಡಿ ಅದರೊಂದಿಗೆ ಆಳಂದ ಉಪನೋಂದಣಾಧಿಕಾರಿಗಳರವರ ಕಛೇರಿಯಲ್ಲಿ ದಿನಾಂಕ 9.10.2015 ರಂದು ನೋಂದಾಯಿತ ದಾಸ್ತಾವೇಜು ಸಂಖ್ಯೆ : 3307/15-16 ರ ಝರಾಕ್ಸ್ ಪ್ರತಿಯನ್ನು ಲಗತ್ತಿಸಿ ಸದರಿ ದಾಸ್ತಾವೇಜಿನ ಅನುಸಾರ ಸರ್ವೆ ನಂ.11-4-56/5, 11-4-56/6, 11-4-56/7, 11-4-56/8, 11-4-56/19, 11-4-56/20, 11-4-56/21 ನಿವೇಶನ ಸಂಖ್ಯೆ : \_\_\_\_\_ ರ ಮಾಲಿಕತ್ವ ಪಡೆದುದರಿಂದ ಕಾನೂನು ರೀತ್ಯ ಪುರಸಭೆಯ ಕಛೇರಿ ಪುಸ್ತಕದಲ್ಲಿ ತನ್ನ ಹೆಸರು ಮೊಂದಣಿ ಮಾಡಬೇಕೆಂದು ಕೋರಿದ್ದಾರೆ.

ಬಳಿಕ ಸ್ಥಳಕ್ಕೆ ಭೇಟಿ ನೀಡಿ ಸ್ಥಳ ಪರಶೀಲಿಸಲಾಗಿದೆ ಅಳತೆಗಳು ಸರಿ ಇದ್ದು ಕಂಡು ಬಂದಿರುತ್ತದೆ. ಅಕ್ಕ ಪಕ್ಕದವರಲ್ಲಿ ವಿಚಾರಿಸಲಾಗಿ ಈ



ನೋಂದಣಿಗೆ ಯಾರಿಂದಲೂ ಯಾವುದೇ ರೀತಿಯ ಆಕ್ಷೇಪಣೆಗಳು ಕಂಡು ಬಂದಿರುವುದಿಲ್ಲ. ಈ ನಿವೇಶನದ ರೂಪ ರೇಖೆಯು ನಗರ ಯೋಜನಾ ಇಲಾಖೆಯಿಂದ ಅನುಮೋದನೆಗೊಂಡ ಬಗ್ಗೆ ವಿನ್ಯಾಸ ಶಾಖೆಯಿಂದ ಖಚಿತ ಪಡೆಸಿಕೊಂಡು ಈ ಕೆಳಗೆ ವಿವರಿಸಲಾದ ಶುಲ್ಕವನ್ನು ಜಮಾ ಮಾಡಿಕೊಂಡು ಸದರಿ ಸರ್ವೆ ನಂ.11-4-56/5, 11-4-56/6, 11-4-56/7, 11-4-56/8, 11-4-56/19, 11-4-56/20, 11-4-56/21 ನಿವೇಶನ ಸಂಖ್ಯೆ : \_\_\_\_\_ ಅರ್ಜಿದಾರರಾದ ಶ್ರೀ/ಶ್ರೀಮತಿ ಭಾರತಿಬಾಯಿ ತಂದೆ/ಗಂಡ ಭೋಜರಾಜ ಪಾಟೀಲ ರವರ ಹೆಸರಿಗೆ ಪುರಸಭೆ ಕರಾಕರಣೆ ಪುಸ್ತಕದಲ್ಲಿ ನೋಂದಣಿ ಮಾಡಲು ಸೂಕ್ತ ಕ್ರಮ ಕೈಗೊಳ್ಳಬಹುದಾಗಿದೆ.

1. ವರ್ಗಾವಣೆ ಶುಲ್ಕ 1550000X2% - ರೂ.31,000=00
  2. ಅಭಿವೃದ್ಧಿ ಶುಲ್ಕ sq.mt.891X20 - ರೂ.17,820=00
  3. ನೋಂದಣಿ ಶುಲ್ಕ plot 7X20% - ರೂ.31,000=00
  4. ವಿಳಂಬ ಶುಲ್ಕ - ರೂ. —
- ಒಟ್ಟು ರೂ.50,220/-**  
ಸಹಿ/-”

13. As could be seen from the underlined second paragraph, the petitioner’s report categorically stated that he had visited the spot and found that the measurements of the sites were proper and he had also enquired with the neighbors and had been informed that they had no objections for the registration of their name. The petitioner also observed regarding the layout plan that a



confirmation would be required to be secured from the Town Planning Department regarding the approval granted to the layout plan and more importantly, he categorically stated that the fees that had been indicated by him was to be collected and thereafter the name of the applicant was required to be entered.

14. It is thus clear that as per the report of the petitioner dated 14.01.2016, he had categorically stated that the names of the applicants could be registered after the necessary fees was to be collected and this report was placed for approval before the Chief Officer. The Chief Officer has affixed his signature to this report thereby signifying his acceptance.

15. It appears thereafter on 20.06.2016, he has proceeded to cancel the approval that he had accorded on 14.01.2016. It is thus clear that the petitioner had not committed any irregularity and had not recommended for registration of the applicants name without collecting any fee. In fact, the petitioner had actually stated that after



the fees was collected and confirmation was secured from the Town Planning Department, necessary action be taken.

16. In the light of this report, it is categorically clear that the entire charge that was made against the petitioner was wholly without any basis. If the petitioner had discharged his duty by stating that the necessary fee had to be secured and also a confirmation had to be secured from the Town Planning Department regarding the approval granted to the layout, the petitioner could not be attributed of any wrongdoing. As a consequence it will have to be held that the Enquiry Officer has committed a serious illegality in holding that the petitioner had ensured transfer of the khata in favor of the applicant without ensuring collection of necessary fee and the disciplinary authority has compounded the illegality by accepting the enquiry report and imposing an order of compulsory retirement.

17. It is to be stated here that in order to impose the severe punishment of compulsory retirement there



must be clear evidence of a blatant wrongdoing on the part of the employee which renders him unfit for continuation in service. In a case such as this where the petitioner had done his duty and had informed his superior that action could be taken for registration of the khata after the fees were collected and a confirmation regarding the approval of the layout plan was secured, the petitioner could not have been held guilty of any misconduct and the punishment of compulsory retirement be imposed on him would be wholly improper.

18. The impugned orders are therefore quashed and the petitioner is directed to be reinstated. The petitioner would also be entitled to all consequential benefits as a result of the order of compulsory retirement being quashed.

19. It is to be clarified here that this order is confined only regarding the allegations that were alleged against the petitioner and no portion of this order shall be construed as rendering an opinion on the merits in respect



of the charges that have been levelled against the other employees, who had been charged along with the petitioner.

Accordingly, the writ petition is ***allowed***.

**Sd/-  
(N.S.SANJAY GOWDA)  
JUDGE**

SN  
List No.: 1 Sl No.: 21