

IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH

DATED THIS THE 12TH DAY OF SEPTEMBER, 2019

PRESENT

THE HON'BLE MRS. JUSTICE K.S.MUDAGAL

AND

THE HON'BLE MRS. JUSTICE N.K.SUDHINDRARAO

**WRIT APPEAL Nos.200142-146/2019 &
200150-151/2019 (S-RES)**

BETWEEN:

1. Karnataka State Govt. Employees
Association,
Kalaburagi District Branch
through its Secretary
Nagendrappa
S/o Hanamantraya Aurad,
Beside Govt. Veterinary Hospital
Kalaburagi.
2. Ramesh S/o Kasu Naik,
Aged about 51 years
Occ: Asst. Teacher Grade-II
Govt. High School Rajapur
Tq. Kalaburagi.
(Date of joining 02.07.1999)
3. Rajendra S/o Ismalappa,
Aged about 49 years
Occ: Asst. Teacher Grade-II

Govt. High School Bagodi
Tq. Chittapur
Dist. Kalaburagi.
(Date of joining 01.09.1998)

4. Chandrakanth S/o Shankarao,
Aged about 45 years,
Occ: Asst. Teacher Grade-II
Govt. High School
Mugalnagaon, Tq. Chittapur,
Dist. Kalaburagi.
(Date of joining 27.08.1998)
5. Anandkumar S/o Kishanrao,
Aged about 44 years
Occ: Asst. Teacher Grade-II,
Govt. High School
Mugalnagaon, Tq. Chittapur,
Dist. Kalaburagi.
(Date of joining 31.08.1998)
6. Shivanand S/o Gurumurthi,
Aged about 47 years
Occ: Asst. Teacher Grade-II
Govt. High School, Farhatabad, Tq.
Dist. Kalaburagi.
(Date of joining 28.08.2003)
7. Vishwanath
S/o Sharanappa Kattimani,
Aged about 49 years
Occ: Asst. Teacher Grade-II
Govt. High School, Vijaynagar Colony
Kalaburagi.
(Date of joining 01.09.1998)

... Appellants

(By Sri. R.S.Kadaganchi, Advocate)

AND:

1. The State of Karnataka
Represented by its Chief Secretary
Karnataka Govt. Secretariat
Vidhan Soudha, Bengaluru-01.
 2. The Principle Secretary to the Govt.
Department of Public Instructions
Vidhansoudha, Bengaluru-01.
 3. The Joint Secretary
Hyderabad Karnataka Special Cell
Department of Personal & Administrative
Reforms, Vidhansoudha, Bengaluru-01.
 4. The Commissioner
Dept. of Public Instructions
New Public Office, Near RBI
Nrupatunga Road
Ambedkar Veedhi
Sampangiram Nagar,
Bengaluru-01.
 5. The Addl. Commissioner,
Department of Public Instructions
Near Chandrashekhar Patil Stadium
Kalaburagi-585102.
 6. The Director,
Department of Public Instructions
Near Chandrashekhar Patil Stadium,
Kalaburagi.
- ... Respondents

(By Sri Mallikarjun Sahukar, HCGP)

These Writ Appeals are filed under Section 4 of the Karnataka High Court Act, by the advocate for the appellants praying to allow the appeals and set aside the order dated: 16-08-2019 passed by the learned single Judge in Writ Petition Nos.203729-733 and 203749-750/2019 and consequently in so far as to stay all further proceedings to be followed as per the order and separate list of promotions in local cadre and parent cadre to the ratio of 80:20 of respondent No.5 dated: 19-07-2019 ಸಿ2(1)/ಅಡಳಿತ/ಪ್ರಶಾಸನ/ಬಿಡಿ/15/2019-20 vide Annexure – F.

These appeals coming on for Preliminary Hearing this day, **K.S.MUDAGAL, J.**, delivered the following;

JUDGMENT

Appellants are the Government High School teachers working in Kalaburagi region. By virtue of amendment of constitution as per Annexure-D dated 01-01-2013 under Article 371(J) the President was authorized to provide for special responsibility to the Governor of State of Karnataka to make provision for

equitable opportunities in the employment and education in the state.

2. By virtue of such amendment, His Excellency the President under Annexure-C dated: 24-10-2013 issued the notification titled as the State of Karnataka (Special Responsibility of Governor for Hyderabad Karnataka Region), granting responsibility to the Governor of Karnataka for establishment of separate development board for Hyderabad Karnataka region and other matters referred to in clause 1 & 2 of Article 371(J) of the constitution.

3. On the basis of Annexure-C, His Excellency, the Governor issued Annexure-D dated: 06-11-2013 making provision for reservation in appointments in public employment in Hyderabad-Karnataka region. As per clause 3(3) of Chapter 1 of Annexure-D 80% of the posts in the region in Group-C and 85% of the posts in Group-D in each department of the State Civil Service

were organized as local cadres and reserved for local persons. The petitioners belong to Group-C in the service.

4. Annexure-E is the notification dated 20-01-2014 issued for amending the 2013 order to make reservation not only in the appointments, but also in the promotions. By virtue of Annexures-D & E, respondent No.5 took up the promotion process of the teachers of the high schools to the post of Principal of the high school. Respondent No.5 issued provisional seniority list as per Annexures-G & H consisting of parent cadre and local cadre.

5. By virtue of Annexures-D & E, respondent No.5 issued Annexure-F with Annexures-G & H to the Deputy Director, Administration Kalaburagi region and Deputy Director Development and Ex-Officio Principals Kalaburagi region notifying post for promotion.

6. Appellants challenged Annexure-F before the learned single Judge in the Writ Petitions on the ground that, Annexure-E, which provided for reservation for local persons in promotion is unconstitutional. They sought interim stay of all further proceedings in pursuance of Annexure-F of which Annexures-G & H were part and parcel.

7. Annexure-E Notification was issued as long back as on 20.01.2014. That was challenged in the year 2019. Based on Annexure-G on a marathon exercise the provisional list as per Annexures-G and H consisting of 400 teachers was prepared by the fifth respondent. After four years, petitioners came before this Court questioning the validity of particular provision of Annexure-E. It is to be noted that, if the proceedings Annexures-F, G & H were stayed at random, the interest of 400 persons who were not parties to the petitions were going to be affected.

Considering all the aforesaid aspects and weighing the balance of all the stakeholders in the matter, the learned Single Judge has passed the impugned interim order to the effect that, any further proceedings pursuant to Annexure-F shall be subject to the result of the writ petitions. This Court does not find any ground much less the worth ground to entertain the appeals and interfere in the matters. Therefore, the appeals are dismissed.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

MWS/NB*