



**IN THE HIGH COURT OF KARNATAKA,
KALABURAGI BENCH**

DATED THIS THE 24TH DAY OF JANUARY, 2024

PRESENT

**THE HON'BLE MR. JUSTICE B.M.SHYAM PRASAD
AND**

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA
WRIT PETITION NO. 200575 OF 2023 (S-KAT)

BETWEEN:

1. THE HONBLE UPALOKAYUKTA-1,
REPRESENTED BY ITS REGISTRAR,
M.S BUILDING, BANGALORE-560001.
2. ADDITIONAL REGISTRAR OF ENQUIRIES-15,
REPRESENTED BY ITS REGISTRAR,
M.S.BUILDING, BENGALURU-560001.

...PETITIONERS

(BY SRI SUBHASH MALLAPUR, ADVOCATE)

AND:

1. SANGANABASAPPA BIRADAR
S/O NAGAPPA BIRADAR,
AGED: 50 YEARS,
HOSTEL SUPERINTENDENT,
POST METRIC BOYS HOSTEL,
KALAGI, TALUK CHITTIAPUR,
DISTRICT-KALABURAGI,
RESIDING AT PLOT NO.



CMC/1/633/13 SHREE,
VRUSHBHALINGESHWAR NILAYA,
CHANDAPUR, TALUK CHINCHOLI,
DIST: KALABURAGI-585305.

2. STATE OF KARNATAKA,
REP. BY THE COMMISSIONER,
BACKWARD CLASSES WELFARE DEPARTMENT,
NO. 16/D, DEVRAJ URS BHAVAN,
3RD FLOOR, MILLER, TANK BED AREA,
VASANTH NAGAR, BENGALURU-560052.

...RESPONDENTS

(BY SRI. AVINASH A. UPLAONKAR, ADVOCATE FOR R1
SMT. MAYA T.R., HCGP FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND
227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A
WRIT IN NATURE OF CERTIORARI AND QUASH THE ORDER
DATED 13.08.2021 PASSED BY THE KARNATAKA STATE
ADMINISTRATIVE TRIBUNAL, KALABURAGI, IN APPLICATION
NO.20559/2021 VIDE ANNEXURE-B AND ETC.,.

THIS PETITION, COMING ON FOR HEARING, THIS DAY,
B.M.SHYAM PRASAD J., MADE THE FOLLOWING:



ORDER

The Upa-Lokayukta and one of the Additional Registrar of Enquiries with the Lokayukta have filed this writ petition calling in question the order dated 13.08.2021 in Application No.20559/2021 on the file of Karnataka State Administrative Tribunal, Kalaburagi [for short, ‘*the Tribunal*’]. The Tribunal, while considering the first respondent’s grievance against the Articles of Charge issued by the second petitioner herein on 23.06.2021, has quashed the same but with certain liberties. The operative portion of the Tribunal’s impugned order reads as follows:

“Accordingly, the Application is allowed and the impugned Articles of Charge bearing No.UPLOK-1/DE-62/2021/ARE-15 dated 23.06.2021 (Annexure A5) issued by Respondent No.3, is quashed. However, quashing of the impugned Articles of Charge does not come in the way of the first Respondent initiating disciplinary action against the Applicant for alleged violation of the Conduct Rules, if it considers it appropriate.”

2. It is seen from the records that the second petitioner initiated *suo moto* proceedings against the first



respondent resulting in the Report dated 20.06.2020 wherein it is opined *inter alia* that the first respondent has acquired assets listed in the report in violation of Rule 23(3) of the Karnataka Civil Services Conduct Rules, 1966 and therefore is guilty of misconduct. After this report entrustment order is issued under Rule 14-A of the Karnataka Civil Services (Classification, Control & Appeal) Rules, 1957, and consequent thereto, the first respondent is served with Articles of Charge dated 23.06.2021.

3. The first respondent has challenged these Articles of Charge essentially contending that he has stood trial on the same accusation for the offences under the Prevention of Corruption Act, 1988 [for short, '*the P.C.Act*'] in Special Case No.8/2018 on similar charges and he is acquitted of all these charges on 06.03.2021 and notwithstanding the same, the entrustment order is issued based on the report dated 20.06.2020. The Tribunal, relying upon the decision of the Hon'ble Supreme Court in ***State of Karnataka & Ors. vs Kempaiah*** reported in **1998 (6) SCC**



103, has opined that the disciplinary proceedings could not have been initiated based on the *suo moto* proceedings.

4. Sri Subhash Mallapur, the learned counsel for the petitioners, contends that the Tribunal could not have quashed the Articles of Charges given the fact that the first respondent has stood trial for offences punishable under Section 13(1)(c) read with 13(2) of P.C.Act and he is acquitted, but the question that will have to be examined in the departmental proceedings is whether the first respondent has acquired assets without permission in contravention of the relevant Conduct Rules. Sri Subhash Mallapur argues that the circumstances for the commencement of these two proceedings are entirely different and could not have been a reason to favour the first respondent's grievance against the *Articles of Charge*.

5. This Court must observe that whether the Tribunal could have relied upon the decision of the Hon'ble Supreme Court in ***State of Karnataka & Ors. vs Kempaiah*** [*supra*] could be debatable, but as the Tribunal



has not foreclosed the possibility of the departmental enquiry by reserving liberty to the concerned disciplinary authority to re-examine the material and commence proceedings, there is no reason for interference. Hence, this Court does not find reason to interfere with the impugned order, and the writ petition is dismissed.

Sd/-
JUDGE

Sd/-
JUDGE

SDU
LIST NO.: 1 SL NO.: 14; CT: CS