



CNR: KAHC010036302017

NC: 2026:KHC:41788
WP No. 11703 of 2017
C/W WP No. 12637 of 2017

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.G.S. KAMAL

WRIT PETITION NO. 11703 OF 2017 (GM-RES)

C/W

WRIT PETITION NO. 12637 OF 2017 (GM-RES)

IN WP No. 11703/2017:

BETWEEN:

1. ESWAR PRASAD K
S/O. KRISHNAN. K,
AGED 38 YEARS,
ASSISTANT PLANNING OFFICER,
ZILLA PANCHAYATH TUMKUR,
TUMKUR DISTRICT-572101

...PETITIONER

(BY SRI. NITHISH KUMAR G., ADVOCATE FOR
SRI. CHANDRA MOHAN K., ADVOCATE)

AND:

1. CHIEF EXECUTIVE OFFICER
ZILLA PANCHAYATH,
TUMKUR DISTRICT-572101
2. EXECUTIVE OFFICER
TALUK PANCHAYATH,
KUNIGAL,
TUMKUR DISTRICT-572130
3. OMBUDSMEN
ZILLA PANCHAYATH,
TUMUR DISTRICT

Digitally
signed by
VINUTHA B S
Location:
High Court of
Karnataka



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4. KARNATAKA STATE OMBUDSMEN APPELLATE TRIBUNAL
OFFICE OF THE RURAL DEVELOPMENT,
2ND FLOOR,
3RD STAGE,
M.S. BUILDING,
BANGALORE-560001
5. SECRETARY
RURAL DEVELOPMENT PANCHAYATH RAJ DEPT,
VIDHANA SOUDHA,
BANGALORE 560001
6. SHANKARLINGE GOWDA
S/O. LATE. BORALINGAIAH,
K. HOSAHALLI,
KOTHAGERE POST AND HOBLI,
KUNIGAL TALUK,
TUMKUR DISTRICT-572101
7. CHANDREGOWDA
EX PRESIDENT,
KOTHAGERE GRAMA PANCHAYATH,
KUNIGAL TALUK,
TUMKUR DISTRICT-572101

...RESPONDENTS

(BY SRI.MANOJ M. NAIK, ADVOCATE FOR
SRI. A. NAGARAJAPPA, ADVOCATE FOR R1 AND R2;
SRI. M. SRINIVAS KUMAR, HCGP FOR R4 AND R5;
R3, R6 & R7 ARE SERVED AND UNREPRESENTED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227
OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE
IMPUGNED ORDERS DATED 21.10.2014 PASSED BY R-3 IN CASE
NO.32/2014-15 AT ANNEX-A ORDER DATED 2.6.2015 PASSED BY R-
4 IN APPEAL NO.OM. MAY.MA.PRA.70/2014-15 AT ANNEX-B AND THE
NOTIFICATION DATED 3.2.2017 ISSUED BY R-1 AT ANNEX-C.

IN WP NO. 12637/2017

BETWEEN:

1. SRI CHANDREGOWDA
S/O SRI. RAJANNA



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AGED ABOUT 37 YEARS,
R/O CHIKKEGOWDANAPALYA,
KOTHAGERE HOBLI,
KUNIGAL TALUK
TUMKUR DISTRICT-572130

...PETITIONER

(BY SRI.C.R. GOPALASWAMY, Sr. ADVOCATE A/W
SRI. K.M. SOMASHEKARA, ADVOCATE)

AND:

1. OMBUDSMEN
APPELLATE AUTHORITY
CONSTITUTED UNDER
MAHATMA GANDHI NATIONAL
RURAL EMPLOYMENT GUARANTEE ACT, 2005 (M.G.NREGA)
ZILLA PANCHAYAT,
TUMKUR-572101

REP BY THE JOINT DIRECTOR (ADMN)
RURAL DEVELOPMENT COMMISSIONERATE
RURAL DEVELOPMENT AND PANCHAYATRAJ DEPT.
2ND FLOOR, 3RD STAGE,
M.S.BUILDING,
BENGALURU-560001

2. OMBUDSMEN
CONSTITUTED UNDER
MAHATMA GANDHI NATIONAL
RURAL EMPLOYMENT GUARANTEE ACT, 2005 (M.G.NREGA)
ZILLA PANCHAYAT,
TUMKUR-572101
REP BY ITS CHIEF EXECUTIVE OFFICER

3. SRI. SHANKARLINGE GOWDA
S/O LATE SRI. BORALINGAIAH,
MAJOR,
K.HOSAHALLI
KOTHAGERE POST AND HOBLI,
KUNIGAL TALUK
TUMKUR DISTRICT-572130



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4. PANCHAYAT DEVELOPMENT OFFICER
KOTHAGERE GRAM PANCHAYAT,
KUNIGAL TALUK
TUMKUR DISTRICT-572130
5. KOTHAGERE GRAM PANCHAYAT
KOTHAGERE,
KUNIGAL TALUK-572130
REP BY ITS PANCHAYAT DEVELOPMENT OFFICER
...RESPONDENTS

(BY SRI.M. SRINIVAS KUMAR, HCGP FOR R1 AND R2;
SRI. NAIK RAMACHANDRA RAMA, ADVOCATE FOR R3;
SRI. MANOJ M. NAIK, ADVOCATE FOR
SRI. A. NAGARAJAPPA, ADVOCATE FOR R4 AND R5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER DTD 2.6.2015 PASSED BY THE R-1 HEREIN VIDE ANNEXURE-B AND THE ORDER DTD 21.10.2014 PASSED BY THE R-2 HEREIN VIDE COMPLAINT NO.32/2014-15 VIDE ANNEXURE-A SO FAR AS THE PETITIONER CONCERNED.

THESE PETITIONS, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE M.G.S. KAMAL

ORAL ORDER

Petitioner in W.P. No.11703/2017 was working as Panchayath Development Officer at Kothagere Grama, Kunigal Taluk, Tumkur District during the year 2014. The petitioner in W.P. No.12637/2017 was the President of the said Grama Panchayath between 06.12.2012 and 15.05.2015. A complaint dated 18.02.2014 came to be



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filed by one Shankarlinge Gowda [Respondent No.6 in W.P. No.11703/2017 and respondent No.3 in W.P. No.12637/2017] alleging petitioners herein have not carried out the work of construction of road properly from "Gunnagere Road to Jiyasab House and K. Hosahalli Road to Muslim Street", that despite not constructing the road, they had released the bill to NMR beneficiaries/labourers. It is further alleged that the petitioners had allotted the work to minors by creating false job cards in the name of persons who are not the residents of K. Hosahalli Village.

2. Based on the aforesaid allegations, Ombudsmen registered a case in Complaint No.32/2014-15 and after the enquiry, passed the order dated 21.10.2014 directing recovery of a sum of Rs.4,29,874/- and Rs.12,668/- each from the petitioners and another sum of Rs.6,332/- from the Computer Operator.

3. Being aggrieved by the said order, petitioners preferred an appeal before the Ombudsmen Appellate



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Tribunal in Appeal No.OM.May.Ma.Pra.70/2014-15. By order dated 02.06.2015, the said appeal was partly allowed and set aside the order of Ombudsmen to the extent directing recovery of a sum of Rs.4,29,874/- from the petitioners. However, the order to an extent of directing recovery of a sum of Rs.12,668/- each from the petitioners and Rs.6,332/- from the Computer Operator, was upheld. In furtherance to the said order, respondent No.1-Chief Executive Officer, Zilla Panchayath had issued a communication dated 03.02.2017 directing respondent No.2-Executive Officer, Taluk Panchayath to initiate criminal proceedings against the petitioners. Thus, aggrieved by the aforesaid order passed by the Appellate Tribunal and steps taken to initiate criminal proceedings against petitioners, petitioners are before this Court.

4. Learned Senior Counsel appearing for the petitioners, taking this Court through the records, submits that the Ombudsmen, in the impugned order at Annexure-



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A, has enlisted the details of alleged bogus cards as furnished by the Complainant-Shankarlinge Gowda/respondent No.6 has however not adverted to the facts whether the said cards were bogus cards or not. Without adverting to the said issue and arriving at any reasonable conclusion thereon, he insists the Ombudsmen could not have come to the conclusion of petitioners being guilty of creating bogus job cards and paying the money meant for the NAREGA beneficiaries.

4.1 He further submits that the Appellate Tribunal which has though set aside the order of the Ombudsmen to the extent directing recovery of a sum of Rs.4,29,874/-, has however blindly confirmed the order to the extent of recovery of Rs.31,668/- from the petitioners and the Computer Operator in the ratio of 2:2:1. The said order is traceable to the allegation of creation of the bogus job cards. Even the Appellate Authority has not applied its mind as to the existence of any justification in such an



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allegation being made. Thus, he submits that the Ombudsmen and the Appellate Authority have grossly erred in coming to the conclusion of fastening the liability on the petitioners without there being any enquiry, evidence, justifying such conclusion and imposition of penalty.

4.2 He further submitted that the communication at Annexure-C issued by respondent No.1 to respondent No.2 directing to initiate criminal proceedings cannot be sustained based on the materials as above. Therefore, seeks to allow the petition.

5. Learned counsel appearing for the CEO of the Pattan Panchayath justifying the order submits that the complainant had furnished the records with regard to petitioners creating false job cards and making the payments in furtherance thereof and it is based on the said material, the Ombudsmen and the Appellate Authority have come to the consistent and concurrent finding of



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facts, and the same cannot be interfered with, in the writ petition. Hence, seeks for the dismissal of the writ petition.

6. Heard learned counsel appearing for the parties and perused the records.

7. These petitions are filed under Articles 226 and 227 of the Constitution of India. Judicial review of the order passed by the Tribunals and the quasi-judicial bodies is limited to the extent of violation of principles of natural justice; violation of constitutional and statutory rights or if there is any perversity and arbitrariness in arriving at the conclusion by the Tribunals and the quasi-judicial bodies. Facts of the case and the orders impugned, viewed in the light of the materials on record, indicate that the Ombudsmen in his order dated 21.10.2014 produced at Annexure-A had directed recovery of a sum of Rs.4,29,874/- jointly and severally from the petitioners herein in respect of the work order Nos.RC/992248711660 and RC/991148711662, for recovery of a sum of



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Rs.31,668/- in the ratio of 2:2:1 from the petitioners and one Smt. Nagarathna/the Computer Operator. The Appellate Authority has set aside the order to the extent of direction for recovery of Rs.4,29,874/- pertaining to the work orders noted above and has only confirmed the order to the extent of recovery of Rs.31,668/-. There is no challenge by the respondent-panchayat or the State with regard to the order passed by the Appellate Authority setting aside the direction for recovery of Rs.4,29,874/-. Therefore, the issue in these petitions is only to the extent of orders passed by the Ombudsmen and the Appellate Authority for recovery to an extent of Rs.31,668/-.

8. The aforesaid sum of Rs.31,668/- is the purported payment allegedly made by the petitioners in the names of labourers on the basis of certain job cards allegedly fabricated by them. The Ombudsmen in his order dated 21.10.2014, extracting the complaint averments, has given the details of the 8 job cards at page 4 of the



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impugned order. Thereafter, the said details have been reiterated in Table 2 at page-7 of the impugned order.

9. On careful perusal of the impugned order indicates that except extracting the allegations made in the complaint by Shankarlinge Gowda/respondent No.6 and putting them in tabulation form, there is no discussion with regard to the said material. No evidence seemed to have been adduced. No scrutiny of the said allegations has been made and there is also no appreciation of the allegations.

10. Similar is the situation in the order passed by the Appellate Authority at Annexure-B, which though has partly allowed the appeal filed by the petitioners, has merely, in a cryptic sentence, confirmed the order of the Ombudsmen directing recovery of Rs.31,668/-, observing that, on perusal of records, the said order was justified.



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11. A further probe into the contents of order at Annexure-A would indicate that no material evidence justifying the allegations made by the complainant have either been brought on record or adverted to by the Ombudsmen. Perversity also means finding without proof of the material brought in support of the allegations. Appreciation in other words means careful judicial evolution and weighing of veracity and authenticity of the evidence.

12. Ombudsmen and the First Appellate Authority, vested with the judicial power, are expected to discharge their duty in the manner known to law. Mere reproduction of the contents of the complaint and coming to the conclusion with one stroke of line stating that they are satisfied, would not amount to appreciation of evidence particularly, when the consequences are severe including penal action. It is based on these orders at Annexures-A and B, communication at Annexure-C is been issued by



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respondent No.1 directing initiation of the criminal proceedings.

13. In that view of the matter, this Court is of the considered view that the petitioners have made out a case for showing indulgence. Accordingly, the following:

ORDER

- (i) Petitions are ***allowed***.
- (ii) Order dated 21.10.2014 passed by the Ombudsmen and order dated 02.06.2015 passed by the Appellate Authority at Annexures-A and B respectively, are quashed.
- (iii) Consequently, communication at Annexure-C also stands quashed.

**Sd/-
(M.G.S. KAMAL)
JUDGE**