



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

WRIT PETITION NO. 8402 OF 2023 (S-RES)

BETWEEN:

SRI M VASANTHAKUMAR
S/O MALLACHAR
AGED ABOUT 60 YEARS
WORKING AS ASSISTANT PROFESSOR
O/O SIDDAGANGA ARTS
SCIENCE AND COMMERCE COLLEGE
B H ROAD, TUMKUR - 572102
R/AT MATHRUSHRI NILAYA
GURU LAYOUT KUVEMPUNAGARA
TUMKUR - 572103.

...PETITIONER

(BY SRI V.LAKSHMINARAYANA, SENIOR ADVOCATE FOR
SMT. ANUSHA L., ADVOCATE)

AND:

Digitally signed by
MALATHI
CHALUVA IYENGAR
Location: HIGH
COURT OF
KARNATAKA

1. STATE OF KARNATAKA
REP. BY ITS SECRETARY
EDUCATION DEPARTMENT
VIDHANA SOUDHA
BANGALORE - 560001.
2. THE COMMISSIONER
DEPARTMENT OF COLLEGIATE EDUCATION
GOVERNMENT OF KARNATAKA,
PALACE ROAD, BENGALURU - 560001.
3. THE DEPUTY DIRECTOR
DEPARTMENT OF COLLEGIATE EDUCATION
GOVERNMENT OF KARNATAKA,
PALACE ROAD, BENGALURU-560001.



4. THE JOINT DIRECTOR
DEPARTMENT OF COLLEGIATE EDUCATION
REGIONAL OFFICE, BENGALURU-560010.

5. THE PRINCIPAL
SRI SIDDAGANGA ARTS
SCIENCE AND COMMERCE COLLEGE
B H ROAD TUMKUR - 572101.

...RESPONDENTS

(BY SMT. ANITHA N, AGA FOR R1 TO R4:
SMT. POONAM PATIL., ADVOCATE FOR R5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ENDORSEMENT DATED: 25.07.2022(ANNEXURE-A) BEARING NO. ಇಡಿ 86 ಯುಇಸಿ 2022 (ಇ) ISSUED BY THE RESPONDENTS AS ARBITRARY AND VIOLATIVE OF ARTICLES 14 AND 16 OF THE CONSTITUTION OF INDIA AND CONTRARY TO THE DIRECTIONS ISSUED BY THIS HONBLE COURT DATED: 30.03.2021 IN WP NO. 46986/2015 (ANNEXURE-B) AS THE SAME IS IN VIOLATION OF THE PRINCIPLES OF NATURAL JUSTICE AS THE PETITIONER HAS NOT BEEN AFFORDED AN OPPORTUNITY OF HEARING BEFORE PASSING THE IMPUGNED ENDORSEMENT DATED: 25.07.2022 (ANNEXURE-A) AND ETC.

THIS PETITION, COMING ON FOR PELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

ORAL ORDER

This writ petition is filed under Articles 226 and 227 of the Constitution of India, seeking the following reliefs:

"a. Issue a Certiorari to quash the Endorsement, dated :25.07.2022 (Annexure-A) bearing No.ಇಡಿ 86 ಯುಇಸಿ 2022(ಇ) issued by the Respondents as arbitrary



and violative of Articles 14 & 16 of the Constitution of India and contrary to the directions issued by this Hon'ble Court dated 30.03.2021 in Writ Petition No.46986/2015 (Annexure-B), as the same is in violation of the principles of natural justice, as the Petitioner has not been afforded an opportunity of hearing before Impugned Endorsement dated passing the 25.07.2022 (Annexure-A).

b) Issue a Writ of Certiorari and quash the Notification dated:27.03.2023 And 28.03.2023 (Annexure-C) (No bearing number) ಕಾಶಿಇ/21/ಖಾಹುಭ/2020-21/ಬೆಂಗ್ರಾ/ನೇವಿ-2 and ಸಂ; ಕಾಶಿಇ/ಪ್ರಾಕಬೆಂ/ಆಂ-1/06/ಖಾಹುಭ/2019-20 issued by the Management published in the Vijayavani Newspaper only so far as the subject of Botany Posts, as it would create a third-party right and the same cannot be sustainable;

c) Issue a Writ of Mandamus directing the Respondents to approve the appointment of the Petitioner based on the Management Resolution dated 10.12.2005 (Annexure-F) and undertaking given by the Management and Recommendation addressed by the Management dated 12.02.2007 (Annexure-G) that the post of the Petitioner shall be absorbed as against the post of Sri S Chandraiah and also rectify the mistake that was committed by the



State Government as pointed out in the letter addressed by the Petitioner dated 18.12.2004 (Annexure-J) and extend the benefit of regularization and consider the case of the Petitioner in terms of the Notification dated 10.12.2004 bearing No. ED 292 UPC 2004 (Annexure-H); and

d) Pass such other appropriate writ or directions or orders, as this Hon'ble Court deems fit to grant in the facts and circumstances of the case, in the interest of justice and equity."

2. The petitioner was appointed as a part-time Lecturer in Botany on 17.07.1991 in the fifth respondent-College. The State Government framed the Rules known as the Karnataka Educational Institutions (Absorption of Persons Working as Part-time Lecturers in Private Aided Educational Institutions) (Special) Rules, 2003 (for short, "2003 Rules") for the absorption of lecturers working on a part-time basis in private aided colleges.

3. The case of the petitioner was considered for absorption in accordance with the 2003 Rules, and by notification dated 08.01.2008, the petitioner was absorbed



as a Lecturer in Botany against a vacancy in the lecturer post in the Department of Chemistry of the Pre-University College with effect from 08.01.2008, despite the fact that the petitioner's service was supposed to be absorbed from 29.02.2004. Being aggrieved by the same, the petitioner approached this Court by filing Writ Petition No. 46986/2015.

4. This Court, on the basis of the submission made by the learned Government Advocate on instructions, recorded a categorical finding that there was a vacancy for the post of Lecturer in Botany due to the retirement of Professor S. Chandraiah as on 29.02.2004. Accordingly, this Court directed respondent Nos. 2 and 4 to consider the case of the petitioner for absorption as a Lecturer in Botany against the vacancy that arose on account of the retirement of Professor S. Chandraiah with effect from 29.02.2004. The relevant portion of the order is extracted below:



"5. The petitioner was working on part time basis in respondent No.5-College as Lecturer in Botany. Pursuant to 2003 Rules, the petitioner was absorbed as Lecturer in Botany under Notification dated 08.01.2008 against a vacancy of Lecturer post in Chemistry Department of Pre-University College of respondent No.5. When the petitioner requested respondent Nos.1 to 4 for retrospective absorption from 2004, respondent No.4 had forwarded the proposal to respondent No.2-Commissioner. Respondent No.2 under letter dated 04.05.2015 (Annexure-M) had intimated respondent No.4 that there was no vacancy of Lecturer post in the subject matter of Botany, as such, the petitioner's case was not considered for retrospective absorption. The petitioner had fulfilled the criteria for absorption as required under 2003 Rules in the year 2004 itself since he was working on part time basis from 1991. When the learned AGA Smt.M.C.Nagashree makes a categorical statement on instructions that there was vacancy of Lecturer post in Botany due to the retirement of Professor S.Chandraiah as on 29.02.2004, respondent Nos.1 to 4 were required to consider the case of the petitioner for absorption as on that date, if he fulfills the criteria prescribed under 2003 Rules. Hence, respondent Nos.2 and 4 are directed to reconsider the case of the petitioner for



absorption as Lecturer in Botany to the vacancy occurred on account of retirement of Professor S.Chandraiah as on 29.02.2004 and if the petitioner is eligible for absorption as on that date, forward proposal to respondent No.1 to modify the order of regularization dated 08.01.2008 bearing No.ED/232/UPC/2007 (Annexure-J) within a period of three months from the date receipt of certified copy of this order. The State Government on receipt of the said proposal/report from respondent Nos.2 and 4 shall pass appropriate orders in accordance with law within two months thereafter."

5. Thereafter, the respondent issued the impugned endorsement dated 25.07.2022, vide Annexure-A, stating that upon the retirement of Professor S. Chandraiah on 29.02.2004, **his post was converted to Botony, pursuant to which, one shivakumar, who was working as Lecturer in Zoology, was regularized to that post.*

6. The learned Senior Counsel appearing for the petitioner submitted that this Court had categorically recorded a finding, based on the submission made by the learned Government Advocate on instructions from the

**Corrected vide Chamber order dated: 19.02.2026*



concerned officer, that there was a vacancy of a Lecturer post in Botany due to the retirement of Professor S. Chandraiah as on 29.02.2004. It was further submitted that even the Joint Director had addressed a letter to the Commissioner on 07.04.2022, vide Annexure-W, recommending consideration of the petitioner's case in terms of the order passed by this Court.

7. Without considering these aspects, and in clear contravention of the directions issued by this Court, the impugned endorsement has been issued. This Court, on the basis of the submission made by the learned Government Advocate on instructions, had categorically held that there was a vacancy of a Lecturer post in Botany due to the retirement of Professor S. Chandraiah as on 29.02.2004, directed respondent Nos. 2 and 4 to consider the case of the petitioner for absorption as a Lecturer in Botany against the vacancy that arose on account of the retirement of Professor S. Chandraiah as on 29.02.2004 and, if the petitioner was found eligible for absorption as



on that date, to forward the proposal to respondent No. 1 for modification of the order of regularization dated 08.01.2008 within a period of three months from the date of receipt of a certified copy of the said order.

8. Despite the clear directions issued by this Court and the recommendation submitted by the Joint Director vide Annexure-W dated 07.04.2022, the impugned endorsement has been passed. It is evident from the impugned endorsement at Annexure-A that the first respondent passed the order without considering the recommendations made by the Joint Director vide Annexure-W dated 07.04.2022 and the order passed by this Court in W.P.No.46986/2015. In view of the above, the impugned endorsement is liable to be set aside.

9. Accordingly, the following order:

- (i) This writ petition is allowed.
- (ii) The impugned endorsement dated 25.07.2022 vide Annexure-A is quashed.



- (iii) The respondent Nos. 1 to 4 are directed to reconsider the case of the petitioner keeping in view the directions issued by this Court in W.P.No.46986/2015 and also the communication of the Joint Director to the Commissioner vide Annexure-W dated 07.04.2022, as expeditiously as possible, not later than three months from the date of receipt of a copy of this order.
- (iv) In view of disposal of the petition, all pending applications stand disposed of.

**Sd/-
(H.T. NARENDRA PRASAD)
JUDGE**

CM
List No.: 1 Sl No.: 43