



CNR: KAHC010237062022

NC: 2026:KHC:36146
WP No. 10769 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE ASHOK S.KINAGI

WRIT PETITION NO. 10769 OF 2022 (S-RES)

BETWEEN:

SRI M KEMPEGOWDA
S/O MUNISWAMAPPA,
AGED ABOUT 60 YEARS,
RETIRED AS SERVICE MANAGER,
KARNATAKA STATE FINANCIAL CORPORATION,
RESIDING AT NO 229, 3RD C CROSS,
3RD MAIN, HRBR LAYOUT, KALYAN NAGAR,
BANGALORE 560003

...PETITIONER

(BY SRI. SATISH K, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
URBAN DEVELOPMENT DEPARTMENT
REPRESENTED BY ITS ADDITIONAL CHIEF
SECRETARY
VIKASA SOUDHA,
BANGALORE 560001
2. KARNATAKA STATE FINANCIAL CORPORATION
REPRESENTED BY ITS MANAGING DIRECTOR
KSFC BHAVAN NO 1/1,
THIMMAIAH ROAD,
NEAR CANTONMENT RAILWAY STATION,
BANGALORE 560052

Digitally
signed by
SHILPABAI S
Location:
HIGH
COURT OF
KARNATAKA





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3. THE REGISTRAR
KARNATAKA LOKAYUKTA
M S BUILDING,
BANGALORE 560001
4. THE ADDITIONAL REGISTRAR OF ENQUIRIES -11
KARNATAKA LOKAYUKTA
M S BUILDING,
BANGALORE 560001

...RESPONDENTS

(BY SRI. G RAMESH NAIK, AGA FOR R1
SRI. P S MALIPATIL, ADVOCATE FOR R2
SRI. VENKATESH S ARABATTI, ADVOCATE FOR R3 & R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR RECORDS PERTAINING TO THE IMPUGNED ORDER DTD 23.06.2017 PASSED BY THE R1 ANNEXURE-F. QUASH THE (i) IMPUGNED ORDER DTD 23.06.2017 BEARING No.NaAaE 283 MNU 2017 PASSED BY THE R1 ANNEXURE-F (ii) THE IMPUGNED ARTICLES OF CHARGE DTD 01.09.2017 BEARING No.UPLOK-1/D.E-880/2017/A.R.E-11 ISSUED BY THE R4 ANNEXURE-G AND ALL FURTHER PROCEEDINGS PURSUANT THERETO, INCLUDING THE IMPUGNED SECOND SHOW CAUSE NOTICE DTD 17.07.2020 ISSUED BY THE R1 ANNEXURE-L AND QUASH THE IMPUGNED ENDORSEMENT DTD 15.12.2021 BEARING No.Ka.Raa.Ha.Sam./Pra.Ka./ ISSUED BY THE R2 CORPORATION (ANNEXURE-Q) AND CONSEQUENTLY GRANT ALL RETIRAL BENEFITS DUE TO THE PETITIONER ALONG WITH ADMISSIBLE INTEREST.

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

CORAM: HON'BLE MR. JUSTICE ASHOK S.KINAGI



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ORAL ORDER

The petitioner filed this writ petition seeking the following reliefs:

- "(a) CALL for records pertaining to the impugned Order dated impugned Order dated 23/06/2017 bearing No. NaAaE 283 MNU 2017 passed by the 1st Respondent (Annexure - F);*
- (b) ISSUE A WRIT OR ORDER QUASHING the- (i) impugned Order dated 23/06/2017 bearing No. NaAaE 283 MNU 2017 passed by the 1st Respondent (Annexure - F); (ii) the impugned Articles of Charge dated 01/09/2017 bearing No. UPLOK-1/D.E 880/2017/A.R.E 11 issued by the 4th Respondent (Annexure G) and all further proceedings pursuant thereto, including the impugned second show cause notice dated 17/07/2020 bearing No. NaAaE 283 MNU 2017 issued by the 1st Respondent (Annexure - L) and;*
- (c) ISSUE A WRIT OR ORDER QUASHING the impugned bearing endorsement dated 15/12/2021 No. Ka.Raa.Ha.Sam./Pra.Ka./ issued by the 2nd Respondent Corporation (Annexure - Q) and CONSEQUENTLY GRANT all retiral benefits due to the Petitioner along with admissible interest.*



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(c) *PASS any other Order as this Hon'ble Court deems fit in the facts and circumstances of the case, including the cost of this Writ Petition, in the interest of justice and equity."*

2. Brief facts leading rise to the filing of this petition are as follows:

2.1. The petitioner was initially appointed in respondent No.2-Corporation. The petitioner was deputed to the Bruhath Bengaluru Mahanagara Palike ('**BBMP**' for short) on 06.03.2010 and worked as such in various capacities. On 21.10.2015, while the petitioner was working on deputation in BBMP, one Sri. P.Siddesh, a social worker and RTI Activist, gave a complaint to respondent No.3 alleging that several works pertaining to filling up of pot-holes, patch work of damaged stretches and resurfacing of a roads have been undertaken between 2012 to 2013 without properly analysing whether the earlier road asphaltting works done were under maintenance by the contractor. The name of the petitioner does not find place in the said complaint. The Additional



Registrar of Enquiries – 5 addressed a letter dated 24.12.2016 to the Executive Engineer, Road Infrastructure – East Division, BBMP seeking for certain information. In response thereto, the Executive Engineer wrote a letter dated 28.01.2017 to the Additional Registrar of Enquiries – 5 providing the requisite information. The Additional Registrar of Enquiries – 5 issued an endorsement dated 07.03.2017 to the petitioner and several others seeking for a reply on the said complaint. The petitioner submitted a detailed reply to the said endorsement. Without considering the reply of the petitioner, respondent No.3 made a report dated 20.04.2017 under Section 12(3) of the Karnataka Lokayukta Act, 1984 (**'Act of 1984'** for short) against the petitioner and others. Respondent No.1 passed the impugned order dated 23.06.2017 under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 (**'CCA Rules'** for short), whereunder the matter of holding enquiry against the petitioner and



others was entrusted to respondent No.3. Pursuant to the said impugned order, respondent No.4 issued the impugned articles of charges to the petitioner and others. The petitioner has submitted a reply to the articles of charges in the form of defence. Respondent No.4, after holding an enquiry against the petitioner and others, submitted a report stating that the charges levelled against the petitioner and others are proved, and also made a recommendation on 02.06.2020 for reducing the pay in the timescale of pay by four lower stages with cumulative effect. Respondent No.1 issued a second show-cause notice on 17.07.2020 to the petitioner and others along with the enquiry report seeking for explanation. The petitioner submitted a reply to the said second show-cause notice. Meanwhile, the petitioner retired from service on attaining the age of superannuation on 31.07.2021. The petitioner submitted a representation dated 31.12.2021 to respondent No.2 seeking for release of all his retiral benefits. Since there was no response, the petitioner made



another representation dated 12.01.2022 to respondent No.2 seeking for release of all his retiral benefits. Respondent No.2 issued an endorsement denying the request of the petitioner for disbursal of retiral benefits in view of the penalty sought to be imposed against him. Hence, this writ petition.

3. Respondent No.2 filed a statement of objections contending that, the enquiry was on the basis of the complaint submitted by the complainant. A notice was issued to the petitioner and called upon the petitioner to submit his reply to the complaint. The petitioner submitted a reply to the notice issued by respondent No.2. Respondent No.3 has conducted a preliminary enquiry and submitted a report under Section 12(3) of the Act of 1984. On the basis of the report submitted by respondent No.3, respondent No.1 has passed the impugned order under Rule 14-A of the CCA Rules. The articles of charges were issued to the petitioner and others. The Enquiry Officer conducted an enquiry and submitted a report and opined



that the charges levelled against the petitioner and others are proved. Based on the report of the Enquiry Officer, the second show-cause notice was issued along with the enquiry report. The petitioner has submitted a reply to the second show-cause notice. Respondent No.2, being dissatisfied with the reply given to the second show-cause notice, passed the impugned order. The impugned order passed by respondent No.2 is in accordance with law. Hence, prays to dismiss the writ petition.

4. Respondent No.1 filed a statement of objections reiterating the statement of objections filed by respondent No.2.

5. Respondent Nos.3 and 4 filed a statement of objections contending that, the writ petition filed by the petitioner is not maintainable. It is contended that, the misconduct on the part of the petitioner affects the State administration and also rights of the members of the public. It is contended that, one Sri. P.Siddesh filed a complaint against the petitioner and others alleging



irregularities and illegalities. On the basis of the complaint, a preliminary enquiry was held and *prima facie* it was found that, the allegations made by the complainant were proved, thereafter, decided to hold an enquiry and the matter was entrusted to the Upalokayukta under Section 12(3) of the Act of 1984 after giving a sufficient opportunity to the petitioner to participate in the proceedings under Rule 14-A of the CCA Rules. The petitioner participated in the enquiry and the Enquiry Officer has submitted a report, wherein he has opined that the charges levied against the petitioner are proved. On the basis of the enquiry report, action has been taken against the petitioner. Hence, pray to dismiss the writ petition.

6. Heard the arguments of learned counsel for the petitioner, learned AGA for respondent No.1, learned counsel for respondent No.2 and learned counsel for respondent Nos.3 and 4.



7. Learned counsel for the petitioner submits that, the petitioner was initially appointed in respondent No.2-Corporation and he was deputed to the BBMP. He submits that, BBMP has no authority to initiate enquiry against the petitioner. It is only respondent No.2 which is the competent authority to initiate an enquiry against the petitioner. The initiation of enquiry proceedings is without authority. Hence, on these grounds, he prays to allow the writ petition.

8. *Per contra*, learned counsel for respondent No.2 and learned counsel for respondent Nos.3 and 4 submit that, the petitioner was initially appointed in the respondent No.2-Corporation and he was deputed to BBMP vide order dated 06.03.2010. Placing reliance on Rule 15 of the CCA Rules, they submit that, as per Rule 15, where a service of an employee are lent to the Central Government, any State Government or to a local or other authority (referred to as 'the Borrowing Authority'), the Borrowing Authority shall have the powers of the



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Appointing Authority for the purpose of placing him under suspension and of the Disciplinary Authority for the purpose of taking a disciplinary proceeding against him; provided, the Borrowing Authority shall not take any disciplinary proceedings against such an employee or place him under suspension without the prior approval of the Lending Authority. He submits that, respondent No.1 is the Borrowing Authority. Respondent No.1 has passed an order entrusting the enquiry to the Lokayuktha under Rule 14-A of the CCA Rules. The action of respondent No.1 in entrusting the matter to the Lokayukta is just and proper and is in accordance with the CCA Rules. He further submits that, the petitioner having participated in the enquiry, now, is estopped to challenge the formation of the Enquiry Committee. Hence, on these grounds, they pray to dismiss the writ petition.

9. Perused the records and considered the submissions of the learned counsel for the parties.



10. It is undisputed fact that the petitioner was appointed in respondent No.2-Corporation initially and thereafter, he was deputed to the BBMP vide order dated 06.03.2010. While the petitioner was on deputation in the BBMP, one P.Siddesh, a social worker and RTI activist, gave a complaint to respondent No.3 alleging several works pertaining to filling up of pot-holes, patchwork of damaged stretches and resurfacing of roads have been undertaken between the year 2012 and 2013 without properly analysing whether the earlier road asphaltting works done were under the maintenance by the contractor. On the basis of the complaint submitted by the complainant, the Additional Registrar of Enquiries – 5 has addressed a letter dated 24.12.2016 to the Executive Engineer, Road Infrastructure, East Division, BBMP, seeking certain information. Pursuant to the said communication dated 24.12.2016, the Executive Engineer provided the requisite information to the Additional Registrar of Enquiries – 5 vide communication dated



28.01.2017. The Additional Registrar of Enquiries – 5 issued an endorsement dated 07.03.2017 to the petitioner and others seeking replies on the complaint filed by one Siddesh. The petitioner submitted a reply to the said endorsement. Respondent No.3 made a report under Section 12(3) of the Act of 1984 against the petitioner and others. Respondent No.1 has passed the impugned order under Rule 14-A of the CCA Rules, whereunder the matter of holding enquiry against the petitioner was entrusted to respondent No.3. Respondent No.4, after entrustment, issued a notice and articles of charges to the petitioner. The petitioner submitted a reply to the notice and articles of charges. Respondent No.4 recorded the evidence of witnesses and thereafter, submitted a report holding that the charges levelled against the petitioner and others are proved vide report dated 30.05.2020 and also made a recommendation to impose a penalty of reducing the pay in the time scale of pay by four lower stages with cumulative effect. Based on the report, respondent No.1



has issued a second show-cause notice dated 17.07.2020 directing the petitioner to reply to the said show-cause notice dated 17.07.2020. Respondent No.1 issued a reminder letter dated 01.12.2020 requesting the BBMP to serve a copy of second show-cause notice to the petitioner and to intimate the same to respondent No.1. Meanwhile, the petitioner retired from service on attaining the age of superannuation on 31.07.2021.

11. The petitioner initially did not challenge the formation of the Enquiry Committee. The petitioner has participated in the enquiry and the respondent No.4 submitted the enquiry report to respondent No.1. When respondent No.1 was about to consider the report of respondent No.4, at that stage, the petitioner has filed this writ petition.

12. Learned counsel for the petitioner submitted that the petitioner is the employee of respondent No.2-Corporation and respondent No.1 has no authority to initiate any enquiry against the petitioner. In order to



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consider the contention of the petitioner, it is necessary to examine Rule 15 of the CCA Rules, which reads as follows:

"15. Provisions regarding lent officers, -

(1) Where the services of a Government servant are lent to the Central Government, any State Government or to a local or other authority (hereinafter in this rule referred to as "the borrowing authority"), the borrowing authority shall have the powers of the Appointing Authority for the purpose of placing him under suspension and of the Disciplinary Authority for the purpose of taking a disciplinary proceeding against him;

Provided that the borrowing authority shall not take any disciplinary proceedings against such Government servant or place him under suspension without the prior approval of the lending authority."

Admittedly, in the instant case, respondent No.1 is a Borrowing Authority as per Rule 15 of the CCA Rules. The borrowing authority shall have the powers of the Appointing Authority for the purpose of placing him under suspension and of the Disciplinary Authority for the purpose of taking a disciplinary proceeding against him. However, the Borrowing Authority cannot take any



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disciplinary proceedings against such an employee without prior approval of the Lending Authority. Admittedly, in the instant case, a report was submitted by respondent No.4 and the Borrowing Authority is yet to take a decision. The Borrowing Authority has not taken any decision. In view of the same, the contention of the petitioner that respondent No.1 has no authority to initiate enquiry proceedings against the petitioner does not hold water and the said submission is in contrary to Rule 15 of the CCA Rules.

13. Learned Counsel for respondent Nos.3 and 4 placed a reliance on the order passed by the Co-ordinate Bench of this Court in the case of ***Khaja Sadduruddin Vs. The State of Karnataka and Others¹***, wherein the Co-ordinate Bench had an occasion to consider the similar issue, wherein the Co-ordinate Bench has framed the points for determination as follows:

"1. *Whether the Borrowing Authority can entrust an enquiry to the Lokayukta without obtaining prior permission/approval of the Lending Authority?"*

¹ WP No.200440/2021, disposed of on 26.07.2023



The said point is answered in paragraph No.9.19 which reads as follows:

"9.19. In the above background, I am of the considered opinion that there is no infirmity in the action taken by the Borrowing Authority. The Borrowing Authority can entrust enquiry to the Lokayukta in terms of sub-rule (1) of Rule 15 of CCA Rules without obtaining any prior permission/approval of the Lending Authority. The imposing of penalties in terms of clauses (i) to (iv-a) of Rule 8 of CCA Rules would have to be done in consultation with the Lending Authority and imposition of penalties under clauses (v) to (viii) of Rule 8 of CCA Rules can be done only by the Lending Authority by Borrowing Authority replacing the services with the Lending Authority, the second show cause issued by the Lending Authority, it is for the Lending Authority to impose punishment under clauses (v) to (viii) of Rule 8 of CCA Rules, which includes the punishment of compulsory retirement."

As observed above, the Borrowing Authority can entrust the enquiry to the Lokayukta under sub-rule (1) of Rule 15 of the CCA Rules. Respondent No.1 has rightly entrusted the enquiry to the Lokayukta in terms of sub-rule (1) of Rule 15 of the CCA Rules. Hence, I do not find any error in



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entrusting the enquiry to the Lokayukta by respondent No.1. The petitioner is estopped to challenge the formation of an Enquiry Committee after having participated in the enquiry proceedings.

14. In view of the above discussion, I proceed to pass the following:

ORDER

- i. The writ petition is ***dismissed***;
- ii. Respondent No.2 (Lending Authority) shall consider the reply of the petitioner to the show cause notice and thereafter, shall take appropriate action against the petitioner;
- iii. Pending IA(s), if any, shall stand disposed of.

**Sd/-
(ASHOK S.KINAGI)
JUDGE**

PA
List No.: 1 Sl No.: 31