



CNR: KAHC010485322026

NC: 2026:KHC:39615
WP No. 22344 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF JULY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 22344 OF 2026 (GM-CPC)

BETWEEN:

MR.BASAVARAJU H.V.
S/O VEERAPPA
AGED ABOUT 66 YEARS
R/AT SHARANA KUTIRA,
AHRAAMA ROAD
HINKAL, MYSORE - 570 017

...PETITIONER

(BY SRI. VARUN J. PATIL, ADVOCATE FOR
SRI. MAHAMMED TAHIR A., ADVOCATE)

AND:

1. SRI VARUNA MAHESH
S/O DODDABASAVARAJU
AGED ABOUT 52 YEARS
R/AT VARUNA VILLAGE,
VARUNA POST,
MYSURU DISTRICT - 570 010.
2. ALL INDIA VEERASHAIVA MAHASABA
REG NO. 17/4,
VEERASHAIVA LINGAYATHA BAHAVAN,
RAMANA MAHARSHI ROAD,
SADASHIVNAGARA,
BANGALORE - 560 080
REP. BY ITS SECRETARY

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by SUVARNA T
Location: HIGH
COURT OF
KARNATAKA



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3. ALL INDIA VEERASHAIVA MAHASABA
MYSORE DISTRICT UNIT,
DR. SRI. SHIVARATHRIRAJENDRA VRUTTHA,
JSS MAHAVIDYAPEETA,
MYSORE - 570 004,
REP. BY ITS DISTRICT UNIT PRESIDENT
4. THE RETURNING OFFICER FOR
ALL INDIA VEERASHAIVA MAHASABA,
REG NO. 17/4, VEERASHAIVA LINGAYATHA
BHAVAN, RAMANA MAHARSHI ROAD,
SADASHIVNAGARA,
BANGALORE - 560 080.
5. DEPUTY RETURNING OFFICER
FOR ALL INDIA VEERASHAIVA MAHASABA
MYSURU DISTRICT UNIT,
DR. SRI. SHIVARATHRIRAJENDRA VRUTTHA,
JSS MAHAVIDYAPEETA,
MYSORE - 570 004
6. SRI. SHIVAMURTHY.S,
S/O LATE KEELANAHATTI SHIVAPPA,
AGED ABOUT 62 YEARS,
R/AT CHIKKAKANYA VILLAGE,
BYATHAHALLI POST, JAYAPURA HOBLI,
JAYAPURA TALUK,
MYSORE DISTRICT - 570 008
7. DR. VASANTH KUMAR.K,
S/O KUMARASWAMY,
AGED ABOUT 45 YEARS,
R/AT SILVON GREEN,
OM KARERSHWARA NILAYA,
JLB ROAD,



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MYSORE - 570 001

...RESPONDENTS

(BY SRI. S. RUPESH KUMAR, ADVOCATE FOR C/R1)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO (A). SET ASIDE THE ORDER DATED 02/05/2026 VIDE ANNEXURE-E PASSED BY THE COURT OF THE XII ADDITIONAL CIVIL JUDGE AND JMFC AT MYSORE ON IA NO.12 IN OS NO.1388/2024. (B). CALL FOR RECORDS IN O.S NO.1388/2024 PENDING ON THE FILES OF COURT OF THE XII ADDITIONAL CIVIL JUDGE AND JMFC AT MYSORE ETC.

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

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

Aggrieved by the order on IA No.XII passed in OS No.1388/2024 dated 02.05.2026 by the XII Additional Civil Judge and JMFC at Mysuru, the plaintiff, who is respondent No.1 is before this court.

2. The respondent herein has filed a suit seeking a declaration that the election held on 21.07.2024 for the post of President of the 2nd defendant unit is illegal, invalid, and inoperative in law. The respondent has also sought directions for recounting the ballots in open Court,



to be conducted by a Court Commissioner to be appointed by the Court, and a decree of mandatory injunction directing the 1st defendant to conduct a fresh election to the post of President in accordance with law.

3. In the said suit, the respondent herein has filed IA No.XII under Section 94(e) read with Section 151 of the Code of Civil Procedure (for short 'CPC'), seeking directions against defendant No.3 to recount the votes cast on 21.07.2024 in respect of the election conducted by defendant Nos.1 and 2. The said application was allowed by the impugned order, and the Trial Court directed defendant Nos.3 and 4, being the Returning Officer and the Deputy Returning Officer, to recount the votes cast in the election held on 21.07.2024 within two months from the date of this order, in accordance with due process of law and in strict compliance with the applicable procedure prescribed under the Bye-laws of the All India Veerashaiva Mahasabha or any other governing law applicable to the election process. The Trial Court further directed that the



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recounting shall be conducted after issuing due notice to all the contesting candidates and in their presence, and that the entire process shall be carried out in a transparent manner.

4. Learned counsel for the petitioner submits that such a course is not available to the Trial Court at the interlocutory stage to call for the recounting of votes. It is further submitted that the Court is virtually going to decide the main relief sought by way of this order.

5. Learned counsel for the petitioner relied on the judgment of the High Court of Bombay, Nagpur Bench, in the case of ***Deepa Sunil Sahare vs. The Returning/Election Officer of the Municipal Council and Others***, arising out of ***WP No.2251/2026***. He specifically invited the attention of this Court to paragraph 17 of the judgment, which reads as follows:

"17. Further, on consideration of the position of law in other judgments referred above, the common thread



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which runs through, is requirement of leading evidence before entertaining any application for recounting of votes. In the instant case, undisputedly evidence is not yet led by any of the parties and the application for recounting of votes is decided only on the basis of mere allegations as contained in the application filed by the election petitioner. It has also to be noted that the election petitioner has made a prayer for recounting of votes in the main petition, which could be decided after evidence is led by the parties. It has also to be noted that there are no compelling circumstances, warranting immediate recounting of votes, even before recording any evidence. The only reason stated by the trial Court in the impugned order about the earlier refusal by the Election Officer for recounting of votes, could also be considered after the evidence is led in that regard, since at this stage it is a disputed question of fact as it is denied by the elected candidate."



Relying on this order; it is submitted that the Trial Court ought not to have allowed the application.

6. Learned counsel appearing for the respondents submits that the Trial Court has rightly allowed the application. It is submitted that when elections are not conducted in a transparent manner, it is incumbent upon the Court to recall the votes. Based on the application filed by the petitioner, the Court has allowed the application, and there is no infirmity with the order passed by the Trial Court. It is submitted that defendant Nos. 2 and 3 have not questioned the same. But only the petitioner has come up before the Court, which clearly shows the manner in which the elections are conducted. It is submitted that the writ petition may be dismissed.

7. Having heard the learned counsel on either side, perused the material on record. It is noticed that IA No. XII, filed by the petitioner, seeking the same relief as prayed for in the suit itself, i.e., prayer No. 3. By the



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impugned order, the Trial Court has granted the said relief.

8. The petitioner has relied on the judgment of the High Court of Bombay, Nagpur Bench, in the case of ***Deepa Sunil Sahare*** referred supra, which observed that the parties had not yet led evidence and that the application seeking recounting of votes had been allowed merely on the basis of the election petitioner's allegations. The Bombay High Court further observed that there cannot be compelling circumstances warranting an immediate recounting of votes even before the recording of evidence.

9. Admittedly, in the present case, no evidence has yet been led by either of the party. In those circumstances, the Trial Court ought not to have allowed the application.

10. In that view of the matter, this Court passing the following:



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ORDER

- i. The order passed in IA No.XII in OS No.1388/2024, dated 02.05.2026, by the XII Additional Civil Judge and JMFC at Mysuru, is hereby ***set aside***.
- ii. However, this will not preclude the respondent herein from making an application at an appropriate time.
- iii. The Trial Court shall dispose of the suit as expeditiously as possible, in accordance with law.
- iv. Accordingly, the writ petition is ***allowed***.
- v. Pending IAs, if any, shall stand closed.

**Sd/-
(LALITHA KANNEGANTI)
JUDGE**

SMC
List No.: 1 Sl No.: 5