

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR.JUSTICE R. DEVDAS

WRIT PETITON NO.38370 OF 2025(KLR-RES)

BETWEEN

SRI. K. R. RAJESH
AGED ABOUT 43 YEARS
PRESIDENT OF THE SCHOOL DEVELOPMENT
AND MONITORING COMMITTEE OF
GOVERNMENT HIGHER PRIMARY SCHOOL,
HEGGALA
R/A: RAMANAGARA, BETOLI VILLAGE,
KODAGU-571 218.

...PETITIONER

(BY SRI. AJAY J NANDALIKE., ADVOCATE)

AND

- 1 . STATE OF KARNATAKA
THE CHIEF SECRETARY
GOVERNMENT OF KARNATAKA,
VIDHANA SOUDHA,
BENGALURU- 560 001.
- 2 . THE DEPUTY COMMISSIONER
KODAGU DISTRICT,
ROOM NO.24, 3RD FLOOR,
NEW DEPUTY COMMISSIONER
BUILDING, MADIKERI,
KODAGU-571201.

- 3 . THE ASSISTANT COMMISSIONER,
KODAGU DISTRICT,
AC OFFICE, DC OFFICE COMPLEX,
2ND FLOOR, MADIKERI,
KODAGU- 571201.
- 4 . THE TAHSILDAR,
VIRAJPET TALUK,
TALUK OFFICE, VIRAJPET TALUK,
VIRAJPET, KODAGU,
KARNATAKA – 571218.
- 5 . THE PANCHAYAT DEVELOPMENT OFFICER,
BETOLI GRAM PANCHAYAT,
VIRAJPET, KODAGU-571218.

...RESPONDENTS

(BY SRI. V.SESHU, HCGP FOR R1 TO R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH / SET ASIDE THE ORDER DATED 05.03.2025 IN SO FAR AS IT RELATES TO OR PERMITS THE TRANSFER AND USE OF LAND WITHIN OR APPURTENANT TO THE GOVERNMENT HIGHER PRIMARY SCHOOL, HEGGALA, KODAGU, FOR CONSTRUCTION OF A SAMUDAYA BHAVANA VIDE ANNEXURE-B AND ETC.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED ON 04.02.2026 AND COMING ON FOR PRONOUNCEMENT OF ORDERS, THIS DAY, THIS COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE R DEVDAS

CAV ORDER

(PER: HON'BLE MR JUSTICE R DEVDAS)

This writ petition is filed by the President of the School Development and Monitoring Committee (for short, hereinafter referred to as 'SDMC') of the Government Higher Primary School, Heggala, Betoli Village, Kodagu District, questioning the impugned order at Annexure-B dated 05.03.2025, issued by the respondent-Deputy Commissioner, Kodagu District.

2. In the impugned order, the Deputy Commissioner has reserved 30 Cents of land out of 19.04 Acres in Sy.No.320/1P3, situated at Betoli village, for putting up a Samudaya Bhavana (Community Hall), at the hands of the Grama Panchayat, Betoli.

3. It is the contention of the petitioner that the land in question belong to the Government Higher Primary School and therefore, the Deputy Commissioner could not

have granted 30 Cents of land, without following due process of law.

4. When the matter had come up for preliminary hearing, the learned High Court Government Pleader, appearing for the respondent-State and its authorities raised a preliminary objection that the petitioner has no *locus standi* to question the impugned order passed by the Deputy Commissioner. It was contended that if at all any authority could question the impugned order, it is the Principal of the school. Moreover, the petitioner has instituted a suit in O.S.No.83/2025 on the file of learned Civil Judge and JMFC at Virajpet, seeking permanent injunction to restrain the defendants' authority from interfering with the peaceful possession of the lands belonging to the school. Subsequently, along with a memo dated 04.02.2026, the learned High Court Government Pleader submitted a communication dated 27.01.2026 made by the Tahsidlar, Virajpet Taluk, along

with a survey sketch. Having regard to the survey sketch and the mahazar, learned High Court Government Pleader submitted that in terms of the RTC, the school has 3 Acres in Sy.No.320/8P1, 3 Acres in Sy.No.320/8P2 and 1 Acre 30 Cents in Sy.No.320/7, in all 7 Acres 30 Cents. The 30 Cents now earmarked for the Community Hall does not belong to the school. It is stated in the report that out of 7.30 Acres, belonging to the school, 20 Cents have been utilized for construction of a temple and another 40 Cents are used for formation of a concrete road. The place selected for construction of the Community Hall is at a distance of 20 meters away from the school building. No part of the play ground belonging to the school is used for the construction of Community Hall.

5. As regards the preliminary objection raised by the learned High Court Government Pleader regarding the *locus standi* of the petitioner, learned Counsel for the

petitioner seeks to place reliance on The Right of Children to Free and Compulsory Education Act, 2009, where under Section 21 it is provided that the school shall constitute a School Management Committee consisting of the elected representatives of the local authority, parents or guardians of children admitted in such schools and teachers. Clause (d) of sub-section (2) of Section 21 provides that the SDMC shall perform such other functions as may be prescribed. Further, the Karnataka Right of Children to Free and Compulsory Rules 2012, in a separate chapter, Part-V, provides under Rule 13 (5)(k) that the SDMC, shall in addition to the functions specified in clause (a) to (d) of Section 21 (2), perform the following functions:

(a)

(b)

(k) *The School Development and Monitoring Committee shall prepare School Development Plan for the financial year*

after identifying the needs of the school. It shall be the duty of School Development and Monitoring Committee to oversee infrastructure facilities like playground, compound walls, classrooms, toilet, furniture, provision for drinking water etc., for the school. It shall also arrange construction and maintenance of any works as per Annual Work Plan/School Development Plan. It may acquire, purchase or hire immovable or movable property as may be required for proper functioning of the school. It shall protect school premises against encroachment and nuisance. It shall ensure that the school has the Child Helpline Number displayed prominently. It shall also oversee hygiene, upkeep and maintenance of the school, in addition, monitor the school health programmes and facilitate regular health camps for the children in the school.”

6. Learned Counsel would therefore submit that the petitioner is empowered to question the impugned order

having regard to the provisions of the Rules, since the said provision enables the SDMC to protect the school premises against encroachment and nuisance. Further, reliance was also placed on a decision of a co-ordinate bench of this Court in the case of ***the SDMC, Kundur Vs. Deputy Commissioner, Haveri and others, in W.P.104897/2022, dated 13.09.2023***, where the writ petition was filed by the SDMC questioning the orders passed by the Deputy Commissioner, reserving lands for burial ground adjacent to the school premises. The writ petition was allowed and the order passed by the Deputy Commissioner was quashed and set aside.

7. Learned Counsel for the petitioner would further submit that although it is true that the total extent of land belonging to the school is 7.30 Acres, nevertheless, what was utilized for construction of temple and the concrete road is not 60 Cents as stated by the Tahsildar in his report. What is utilized is 30 Cents only and an

extent of 30 Cents which are not sought to be earmarked for construction of Community Hall is within the lands belonging to the school.

8. Heard the learned Counsel for the petitioner, learned High Court Government Pleader for the respondent-State and its authorities and perused the petition papers.

9. Having regard to the preliminary objections raised at the hands of the learned High Court Government Pleader, *prima facie*, there cannot be two views to the accepted position that it is the Principal of the school in whose name the school can sue or be sued. To what extent the provisions contained in the Karnataka Right of Children to Free and Compulsory Rules, 2012, can be made applicable vis-à-vis the statutory rights conferred on the Principal of the school becomes a debatable issue. It is also a settled position of law that provisions of the Rules, cannot override a statutory

provision. The provisions made in the Act, 2009, under Section 38, empowering the appropriate Government to make Rules, for carrying out the provisions of the Act, is to give effect to the objectives of the Act, viz., to provide for free and compulsory education for all children of the age of 6 to 14 years. In that context, no doubt, the appropriate Government is required to make Rules to carry out the provisions of the Act including *inter alia* identification of the area or limits for establishment of a neighborhood school under Section 6; and to provide for the other function to be performed by the SDMCs under clause (d) of sub-section (2) of Section 21. Accordingly, in clause (k) of sub-rule (5) of Rule 13, the SDMC is required to protect school premises against encroachment and nuisance. But, such a provision will surely not enable the SDMC to directly sue on behalf of the school. The SDMC could have requested the Principal of the school to take up the issue and sue the encroachers, if any.

10. The petitioner has failed to place on record any decision or resolution passed by the SDMC either to request the Principal of the school to question the decision of the Deputy Commissioner, and neither has the petitioner placed before this Court a copy of the resolution passed by the SDMC, enabling the petitioner, President of the SDMC to file this writ petition. In that view of the matter, this Court is of the considered opinion that the petitioner, claiming to be the President of the SDMC has no mandate to file this writ petition. This Court also finds that there are disputed facts arising in this writ petition.

11. Nevertheless, since admittedly, the petitioner has already instituted a suit in O.S.No.83/2025 on the file of learned Civil Judge and JFMC, Virajpet, the petitioner is free to pursue his remedy before the Civil Court. Liberty is also reserved to the respondent-authorities to question the *locus standi* of the petitioner to institute the suit. All

contentions are kept open. No relief can be given to the petitioner, at present in this writ petition.

12. The writ petition is accordingly ***disposed of***.

13. Pending I.As., if any, stand disposed of.

**Sd/-
(R. DEVDAS)
JUDGE**

DL/JT/-
CT: JL