IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF DECEMBER, 2020

BEFORE

THE HON' BLE MR. JUSTICE S.G. PANDIT

WRIT PETITION No.3091/2018 (S-RES)

BETWEEN:

SRI MALLIKARJUN GOUDA
SON OF SRI B SHIVAKUMAR GOUDA
AGED ABOUT 38 YEARS
NO.140/128, 2ND MAIN ROAD
5TH CROSS, CHAMRAJPET
BANGALORE -560018.

...PETITIONER

(BY SRI.GURU PRASANNA S, ADV.)

AND:

1. STATE OF KARNATAKA
   REP. BY ITS CHIEF SECRETARY
   VIDHANA SOUDHA
   BENGALURU- 560001.

2. THE JOINT-SECRETARY TO GOVERNMENT
   DEPARTMENT OF PERSONNEL
   ADMINISTRATIVE REFORMS
   (HYDERABAD KARNATAKA SPL CELL)
   VIDHANA SOUDHA
   BENGALURU-560001.

3. CHIEF ADMINISTRATOR AND SECRETARY
   BWSSB
   KAVERI BHAVAN
   K G ROAD
   BANGALORE -560009.

4. ASSISTANT EXECUTIVE ENGINEER
SOUTH WEST-3, SUB-DIVISION
BANGALORE WATER SUPPLY AND
SEWERAGE BOARD
M N KRISHNA RAO PARK
BASAVANGUDI
BANGALORE -560004.

…RESPONDENTS

(BY SRI.SRIDHAR N HEGDE, HCGP FOR R1 & R2
SRI B.L. SANJEEV, ADV. FOR R3
R4 IS SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DIRECT THE R3 TO COMPLY THE REQUIREMENTS OF PARAGRAPH 5 AND 6 OF THE KARNATAKA PUBLIC EMPLOYMENT [RESERVATION IN APPOINTMENT FOR HYDERABAD-KARNATAKA REGION] ORDER, 2013 VIDE ANNEXURE-C AND TO ORGANISE LOCAL CADRE IN RESPECT OF THE POST OF METER READER WHO WERE SELECTED UNDER SELECTION LIST DATED 05.07.2011 VIDE ANNEXURE-A AND WATER INSPECTOR IN THE OFFICE OF BWSSB, KAVERI BHAVAN K.G.ROAD, BANGALORE FOR THE PURPOSE OF SENIORITY/PROMOTION TRANSFER ETC WITHIN A PERIOD OF 3 MONTHS AND ETC.

THIS PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP **THROUGH VIDEO CONFERENCE** THIS DAY, THE COURT MADE THE FOLLOWING:-

O R D E R

The petitioner is before this Court under Article 226 of the Constitution of India praying for the following reliefs :-

> *"A. Writ of mandamus, order, direction, or any other appropriate writ, to directing the respondent No.3 to comply the requirements of paragraph 5 and 6 of the Karnataka Public Employment (Reservation in Appointment for Hyderabad – Karnataka Region) Order, 2013 Annexure-C and to 'Organize Local Cadre' in respect of the post of Meter Reader who were selected under Selection List dated 5.7.2011 vide Annexure-A and Water Inspector in the office of BWSSB, Kaveri Bhavan, K.G. Road, Bangalore for the purpose of seniority/promotion/transfer etc within a period of 3 months;*
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> *B. Writ of mandamus order, direction, or any other appropriate writ, to the Respondent No.3 to fill the vacancy by promotion (Water Inspector) and reserve atleast one post in favour of 'Local Person' in respect of that*

cadre to the extent specified in paragraph 3(1) of the Karnataka Public Employment (Reservation in Appointment for Hyderabad – Karnataka Region)Order, 2013 Annexure-C within a stipulate period of 3 months;

C. Writ of mandamus, order, direction, or any other appropriate writ, to the Respondent No.3 to consider the representation of the Petitioner dated 04.10.2016 (Annexure-H) dispose the same within a stipulated period of 3 months."

2. Heard Sri S. Guru Prasanna, learned counsel for the petitioner, Sri Sridhar N. Hegde, learned HCGP for respondents 1 and 2 and Sri.B.L. Sanjeev, learned counsel for 3rd respondent.

3. The petitioner states that he was appointed on 05.07.2011 as Meter Reader in the 3rd respondent, Bangalore Water Supply and Sewerage Board (for short 'the BWSSB'). The respondent-State issued notification viz the Karnataka Public Employment (Reservation in

Appointment for Hyderabad– Karnataka Region) Order 2013 (for short 'the Order') and Rules there under pursuant to Article-371J of the Constitution of India. As per the said Order the respondent-BWSSB has to create local cadre and seniority list for the purpose of promotion in the local cadre of Hyderabad-Karnataka Region. As the petitioner's case is not considered for promotion under Hyderabad-Karnataka local cadre, the petitioner is before this Court praying for the above reliefs.

4. The representation made by the petitioner at Annexure-H dated 04.10.2016 is pending consideration as the respondent–BWSSB has not passed any order.

5. Per contra, Sri B.L. Sanjeev, learned counsel for respondent No.3-BWSSB referring to statement of objection submits that petitioner is not entitled for the relief sought in the petition. Further referring to Notification dated 13.5.2014 (Annexure-R1), Circulars

at Annexures-R2 and R3 submits that the petitioner has not exercised his option, opting for Hyderabad-Karnataka local cadre. As such he would not be entitled for the benefit of local cadre. He further submits that the representation of the petitioner is pending and the respondent-BWSSB would take appropriate decision on the representation of the petitioner in accordance with law.

6. The petitioner is working as meter reader in the respondent–BWSSB. Pursuant to insertion of Article 371-J to the Constitution of India, the Governor of Karnataka issued notification publishing the Karnataka Public Employment (Reservation in Appointment for Hyderabad-Karnataka Region) Order, 2013 and Rules there under. The said order and Rules requires the State Government to create local cadre and publish separate seniority list for promotion in the local cadre. The petitioner had made representation as per

Annexure-H to consider his case for promotion on the reservation in appointment for Hyderabad-Karnataka Region. Respondent No.3 being statutory authority is duty bound to consider the representation of the petitioner. The said representation is pending consideration for the last four years. No steps are taken on the said representation. Therefore, the petitioner would be entitled to a writ of mandamus directing the respondent–BWSSB to consider his representation and pass appropriate orders in accordance with law. Hence the following order : -

Respondent No.3 – BWSSB is directed to consider the representation at Annexure-H dated 04.10.2016 and pass orders in accordance with law within a period of four weeks from the date of receipt of a copy of this Order. All contentions of both the parties are left open.

With the above observation, this writ petition is ***disposed*** of.

7. In view of disposal of the main petition, I.A. No.1/2018 filed for direction would not survive for consideration, consequently the application is dismissed.

Sd/-
JUDGE

NG* CT:bms