IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF DECEMBER, 2020

BEFORE

THE HON'BLE MR.JUSTICE R DEVDAS

WRIT PETITION NO. 10560 OF 2020 (S-RES)

BETWEEN

1. T.V.NEELAKANTAN
S/O LATE N.VENKATESHWARAN,
AGED ABOUT 59 YEARS,
17, SHREE KOUSTHUBHAM,
2ND FLOOR, 17TH CROSS, S
SAMPIGE ROAD,
SIDDASHRAMA ROAD,
MALLESHWARAM,
BENGALURU-560003

2. K.SUBHASH
S/O LATE KORAGA,
AGED ABOUT 59 YEARS,
DEPUTY SECRETARY,
378, 5TH MAIN,
COFFEE BOARD LAYOUT,
HEBBAL,
BENGALURU-560024

3. P.RANGASWAMY
S/O LATE PAPANN,
AGED ABOUT 58 YEARS,
ASST. SECRETARY,
19, 5TH MAIN ROAD,
MARUTHI EXTN,
SRIRAMPURAM,
BENGALURU-560021

4. G.RAVIKUMAR
S/O LATE GOPAL ACHARI,
AGED ABOUT 54 YEARS,

T-4, B.S.R. SOLITAIRE,
VENKATA GOWDA LAYOUT,
KEMPAPURA,
BENGALURU-560024

5. P.S.PREMAKUMARI
D/O LATE L.N.PRASAD
AGED ABOUT 50 YEARS,
ASST. SECRETARY,
#1564, 1ST FLOOR,
18TH MAIN, 39TH CROSS,
4TH T BLOCK, JAYANAGAR,
BENGALURU-560041

….PETITIONERS

(BY SRI NAGENDRA NAIK.R, ADVOCATE)

AND

1. MINISTRY OF PERSONNEL,
PUBLIC GRIEVANCES AND PENSION,
DEPARTMENT OF PERSONNEL AND
TRAINING, ESTABLISHMENT A-III DESK,
GOVERNMENT OF INDIA,
NORTH BLOCK, CENTRAL SECRETARIAT,
NEW DELHI, DELHI-110001

2. COFFEE BOARD,
A STATUTORY BOARD CREATED UNDER
THE COFFEE ACT 1942
NO.1, DR. AMBEDKAR VEEDHI,
BENGALURU-560001,
KARNATAKA, INDIA
REPRESENTED BY ITS SECRETARY

…RESPONDENTS

(BY SRI.MADHUKAR DESHPANDE, CGC FOR R-1,
SMT. ANUPARNA BORDOLOI, ADVOCATE FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE MEMO DATED 08.09.2020 AS PER ANNEXURE-A PASSED BY R-2 AND THE OFFICIAL MEMORANDUM DATED 05.08.2019 AS PER ANNEXURE-D PASSED BY R-1 AND ETC.

THIS WRIT PETITION COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

R. DEVDAS J., (ORAL):

The petitioners are working in the second respondent-Coffee Board in various capacities. The petitioners are also the members of the Coffee Board Employees Co-operative Housing Society Limited. Since there is a stipulation in Rule 15(1)(c) of Central Civil Service (Conduct) Rules, 1964, that if a government servant is interested in holding an elective office, or canvass for a candidate or candidates for an elective office, in any body, whether incorporated or not, he or she shall seek previous sanction of the Government, the petitioners who were interested in contesting for the election of the Board of Management of the said Co-operative Society, sought for a sanction in terms of the Rules. The second respondent, by issuing a memo dated 14.02.2020 gave the permission to the petitioners to contest for the election. Consequently, the petitioners

have contested in the election and were elected as Directors to the Board of Management.

2. The second respondent issued the impugned memo dated 08.09.2020 bringing to the notice of the petitioners the stipulations provided under various official memorandums issued right from the year 1994. It is stated in the impugned memo that in the OM dated 05.08.2019 there was a stipulation that an upper limit of the number of years for which a Government servant can hold elective office in any body in their entire career is two terms or for a period of four years, whichever is earlier. Subsequently, another OM dated 27.02.2020 was issued revising the guidelines which stipulated that a Government servant may be allowed to hold elective office in any body, whether incorporated or not, for a period of two terms or for a period of five years, whichever is earlier.

3. Having noticed the mistakes committed by second respondent in granting the permission to the petitioners in violation of the OM dated 05.08.2019, the impugned memo dated 08.09.2020 was issued revoking with immediate effect, the permission granted to the petitioners for contesting in the elections. The petitioners were also directed to resign from the elective office held by them in the Co-operative Housing Society with immediate effect. It was also directed that they will cease to discharge any function of the said society from the date of issuance of the directions. The petitioners are aggrieved with the impugned memo dated 08.09.2020 and have consequently filed this writ petition challenging the impugned memo dated 08.09.2020 and the office memorandum dated 05.08.2019.

4. Sri. Nagendra Naik, learned counsel appearing for the petitioners would submit that Rule

15(1)(c) does not stipulate any period or limit the term of office of a elected member. The learned counsel therefore submits that the official memorandum dated 05.08.2019 travels beyond rule making power of the first respondent-Government. Learned counsel submits that the petitioners had brought to the notice of the second respondent that they had earlier held the post of elected representatives of the society and therefore the second respondent cannot blame the petitioners of having not bringing the said aspect to the notice of second respondent. Learned counsel submits that such a restriction could not have been placed by first respondent, curtailing the rights of an employee to participate in the elections held to a Co-operative Society.

5. The learned CGC Sri. Madhukar Deshpande appearing for the first respondent-Ministry of Personnel, Public Grievances and Pension, Department of

Personnel and Training Establishment, Government of India, submits that the issuance of the official memoranda right from the year, 1994 is in compliance of the rule making power vested in the Government. The learned CGC submits that Rule 15 empowers the government to grant permission for a Government servant to contest in the elections or canvass for a candidate in an election to the office of the body, whether incorporated or not. The government having noticed that the government servants who contested the elections of Co-operative societies are found to be a remiss in their official duties. Therefore, right from the year 1994 it has placed certain restrictions on the permission to be granted under Rule 15 to the Government servants to participate in the elections of any body. The restriction imposed under the official memoranda issued by the Central Government is in compliance of Rule 15 and it does not exceed the rule making power.

6. Learned counsel for the second respondent – Coffee Board admits that when the petitioners submitted their application seeking sanction in terms of Rule 15, second respondent should have verified the application to find out whether the petitioners had earlier held the elective office in any body. Having admitted such a mistake, the learned counsel for second respondent submits that the petitioners should not be permitted to take advantage of the mistake committed by the second respondent in giving permission in violation of the terms of the OM dated 05.08.2019.

7. Having heard the learned counsels and on perusing the petition papers, this Court finds that the petitioners were aware of the requirement under the OM dated 05.08.2019 which was holding the field as on day when they made an application. Though it is contended by the petitioners that they have brought the fact of

their serving as elected members of the society previously, that by itself will not come to the rescue of the petitioners in seeking continuation of their term in the elected body contrary to the terms of the OM dated 05.08.2019.

8. On consideration of the submission made by the learned CGC and learned counsel for the petitioners on the validity of the OMs, this Court is of the considered opinion that the issuance of the OMs does not militate against the rule or exceed the rule making power vested in the central government. The restriction placed is a reasonable restriction. The restriction imposed in the OM would ensure that the primary duty of the Government servant are hampered. It is also to be noticed that the petitioners were aware when they made an application seeking permission that in OM dated 05.08.2019 a restriction was placed on a Government Servant for contesting in the elections of a body. The

petitioners did not challenge the OM before seeking the permission. On the other hand, being fully aware that there is restriction placed under OM dated 05.08.2019, they have still gone ahead in making application seeking permission. The second respondent has already admitted its mistake in granting the permission contrary to the terms of the OM dated 05.08.2019.

On consideration of totality of the case, this Court is of the considered opinion that the impugned memo dated 08.09.2020 does not call for interference.

Accordingly, the writ petition stands dismissed.

Sd/-
JUDGE

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