IN THE HIGH COURT OF KARNATAKA AT BENGALURU

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DATED THIS THE 17TH DAY OF DECEMBER, 2020

BEFORE

THE HON' BLE MR.JUSTICE R DEVDAS

WRIT PETITION NO.15005 OF 2020 (LB-ELE)

BETWEEN

SMT. GEETHA
W/O CHANDRASHEKAR
AGED ABOUT 39 YEARS
R/A HIRESARA ARGA
THRITHAHALLI TALUK
SHIVAMOGGA DISTRICT-577414

...PETITIONER

(BY SRI PRADEEP H S, ADVOCATE)

AND

1 . THE RETURNING OFFICER/ELECTION
OFFICER, GUDDEKOPPA GRAM PANCHAYATHI
THIRTHAHALLI TALUK
SHIVAMOGGA DISTRICT-577414

2 . THE CHIEF EXECUTIVE OFFICER
SHIVAMOGGA ZILLA PANCHAYATH
SHIVAMOGGA DISTRICT-577201

3 . THE OMBUDSMAN
MAHATMA GANDHI NATIONAL RURAL
EMPLOYMENT GUARANTEE SCHEME
SHIVAMOGGA ZILLA PANCHAYATH
SHIVAMOGGA DISTRICT-577201

…RESPONDENTS

(BY SRI NITHYANANDA K R HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER DTD 13.12.2020 BY THE R-1 WHICH IS PRODUCED AT ANNEXURE-A AND ETC.

THIS WRIT PETITION IS COMING ON FOR PRELIMINARY HEARING THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

R. DEVDAS J., (ORAL):

The grievance of the petitioner is that her nomination for the election to the Guddekoppa Gram Panchayat, Thirthahalli Taluk, has been rejected by the Returning Officer by order dated 13.12.2020 at Annexure-A. This writ petition is filed seeking a direction or to issue a writ of certiorari to quash the impugned order dated 13.12.2020 at Annexures-A.

2. When this Court called upon the learned counsel for the petitioner to make his submission regarding the maintainability of the writ petition in view of the statutory bar imposed under Section 15 of the Karnataka Grama Swaraj and Panchayat Raj Act, 1993 which provides that no election to fill a seat in the gram panchayat shall be called in question except by an election petition filed before the designated court within whose territorial jurisdiction the panchayat area concerned or the

major portion of the panchayat area concerned is constituted by any candidate at said election, learned counsel submits that statutory bar under section 15 does not come in the way of this Court in exercising its extraordinary jurisdiction under Article 226 of the Constitution of India. Learned counsel placed reliance on a decision of the Division Bench in the case of **Ramakrishnappa /vs./Presiding Officer** reported in ***ILR 1991 KAR 4421***.

3. This Court has gone into the decision cited by the learned counsel for the petitioner. The decision rendered by the Division Bench on 06.11.1991 was in the backdrop of there being on express constitutional provision pertaining to the election of Panchayats, Municipalities, Municipal Corporations etc. The judgment was rendered having regard to Article 329 of the Constitution which dealt with the elections to the Parliament and State Legislature. There being no constitutional provisions, the Division Bench proceeded to hold that Article 329 could not be invoked with respect to the election to a Co-operative society.

4. The Constitution of India has undergone substantial change in the year 1993. Provisions covering the elections of Panchayat, Municipalities, Municipal Corporations and Co-

operative Societies have been incorporated under separate chapters. Chapter IX which pertains to the panchayats was added into constitution w.e.f., 24.04.1993. Article 243-O clearly bars interference of Court in electoral matters pertaining to the panchayats. Article 243-O (b) provides that no election to any panchayat shall be called in question except by an Election Petition presented to such authority and in any such manner as is provided for by or under any law made by the Legislature of the State.

5. Consequently, the writ petition is not maintainable. If the petitioner is aggrieved by rejection of the nomination, she can proceed to file a Election Petition duly constituted before the designated court as provided under Section 15 of the Act.

Accordingly, the writ petition stands ***dismissed.***

SD/-
JUDGE

KLY/