HC-KAR

NC: 2026:KHC:59888
WP No. 16514 of 2026

CNR: KAHC010361392026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE B M SHYAM PRASAD

WRIT PETITION NO. 16514 OF 2026 (LB-RES)

BETWEEN:

SMT SHIVAMMA
W/O. M SIDDARAJU,
AGED ABOUT 50 YEARS,
R/O. DODDA KAVALANDE VILLAGE AND POST,
DODDA KAVALANDE HOBLI,
NANJANGUD TALUK,
MYSORE DISTRICT - 571312.

...PETITIONER

(BY SRI. P MAHESHA., ADVOCATE)

Digitally signed by VANAMALA N
Location: HIGH COURT OF KARNATAKA

AND:

1. THE STATE OF KARNATAKA
BY THE SECRETARY,
DEPARTMENT OF RURAL DEVELOPMENT
AND PANCHAYATH RAJ,
MS BUILDING,
BANGALORE560 001.

2. THE PRESIDING OFFICER
(GRAM PANCHAY DEPARTMENT OF RURAL
DEVELOPMENT AND PANCHAYATH RAJ,
MS BUILDING, BANGALORE 560 001.

3. THE REGIONAL COMMISSIONER
OFFICE OF THE REGIONAL COMMISSIONER,
MYSORE DIVISION,
OPPOSITE KALAMANDIR,
VINOBHA ROAD,
MYSORE 570020.

4. THE CHIEF EXECUTIVE OFFICER,
ZILLA PANCHAYATH,
MYSURU DISTRICT,
PANCHAYATH RAJ BUILDING
MYSURU - 570 004.

5. THE PANCHAYATH DEVELOPMENT OFFICER,
DODDA KAVALANDE VILLAGE,
NANJANGUD TALUK,
MYSURU DISTRICT - 571 312.

...RESPONDENTS

(BY SMT.PRATHIMA HONNAPUR., AAG FOR
SMT. CHANDINI S., HCGP FOR R1 TO R3;
SRI. M.N. PAWAN KUMAR., ADVOCATE FOR R4 & R5)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO I. QUASHING THE IMPUGNED ORDER BEARING NO. RDPR 539 GPA 2025 BENGALURU DATED 25.02.2026 PASSED BY THE RESPONDENT NO. 2 THE PRESIDING OFFICER, DEPARTMENT OF RURAL DEVELOPMENT AND PANCHAYATH RAJ VIDE ANNEXURE E.

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

CNR: KAHC010361392026

CORAM: HON'BLE MR. JUSTICE B M SHYAM PRASAD

ORAL ORDER

The petitioner was the President of Dodda Kavalande Grama Panchayath [*the Grama Panchayat*] between 01.04.2018 and 03.07.2020 and thereafter another person is elected as the President, *the Grama Panchayat*. The petitioner and this other person are issued with Show Cause Notice dated 07.02.2025. This Notice, which is addressed both to the petitioner and the other person, just reads that they have diverted funds allotted to the Grama Panchayat and therefore action is proposed under Section 43A of the Karnataka Gram Swaraj and Panchayat Raj Act, 1993 [for short, '*the Act*'].

2. This Notice does not contain any other details. The proceedings for the petitioner's removal from the membership, which is commenced with the Show Cause Notice dated 07.02.2025, has resulted in the second respondent's impugned order dated

25.02.2026. The petitioner and other removed, and they are disqualified from contesting the next election. Mr. P. Mahesha, the learned counsel for the petitioner, submits the following.

[A] This Court must intervene with the second respondent's impugned order because the petitioner was not put on notice of the specific charge at the first instance.

[B] The enquiry conducted by the third respondent does not extend an adequate opportunity to the petitioner.

[C] The second respondent's conclusion does not subscribe any particular misdemeanor by the petitioner.

3. Ms. Prathima Honnapur, a learned Additional Advocate General for the first to third respondents, with the assistance of the original records which is also made over for this Court's

perusal, submits that this Court must consider whether there is any interference with the second respondent's impugned order in the light of the procedure that is followed and the fact that the petitioner does not deny transfer and diversion of funds but only alleges that if at all any person is responsible, it is the office of the Grama Panchayat.

4. On the procedure followed and the opportunity that is extended to the petitioner, Ms.Prathima Honnapur submits that:

[i] after the issuance of first Show Cause Notice dated 07.02.2025 the petitioner has, on her request, been furnished with all the documents which is acknowledged by her and the petitioner, relying upon the documents furnished, has filed her reply on 06.06.2025;

[ii] the State Government has appointed the third respondent as *the authorized officer* to hold enquiry as contemplated under Section 43A of the Act;

[iii] the third respondent has issued notice of enquiry, and this enquiry is held on 20.06.2025 in which the other person who succeeded the petitioner, the Chief Executive Officer, Mysuru Zilla Panchayath and the Executive Officer of the Taluka Panchayath have participated;

[iv] the second respondent has filed a report opining that the petitioner is a party to diversion of about Rs.12,38,790/- out of Rs.26,45,000/-;

5. Ms. Prathima Honnapur canvasses that, after the receipt report, the petitioner is issued with the second Show Cause Notice on 28.07.2025

[*Annexure-A*] with the petitioner filing her reply on 19.08.2025, and the second respondent, considering all the documents, including the petitioner's response and the third respondent's recommendation, has arrived at a definite opinion that the petitioner and the other are guilty of diversion of funds and therefore there must be disqualification as contemplated under Section 43A(2) of the Act. The learned Additional Advocate General emphasizes that with this procedure, the petitioner, who only denies knowledge but does not deny the diversion of funds, cannot make any grievance with the procedure followed and that three important ingredients *viz.* notice of allegations, an opportunity of being heard and passing a reasoned order are satisfied.

6. In response, Sri. P. Mahesha relies upon a Division Bench's judgment of this Court in ***Bhavani and Another v State of Karnataka, Represented by Secretary Department of Rural Development and***

Panchayat Raj and Others[1] to assert that an enquiry as contemplated under Section 43A of the Act cannot be superfluous and must truly extend an opportunity of being heard given the consequences of disqualification. The learned counsel relies upon paragraph 21 of the Division Bench's judgment which reads as under:

> *"Be that as it may. When the law provides a thing to be done in a particular manner, the authorities shall perform the act in that manner only The use of the word 'enquiry' is not superfluous. It has been used conjunctively with the phrase 'opportunity of being heard'. If the word and the phrase are juxtaposed with sub Section (2) which mandates a penal consequence of curtailment of statutory rights vested in the citizen, what is envisaged by the provision cannot be treated as a summary enquiry by the competent authority and an enquiry and opportunity of hearing are mandatory in the light of the fact that a*

[1] *2020 SCC OnLine Kar 2011*

positive finding rendered under Section 43-A (1) of the Karnataka Panchayathraj Act entails severe civil consequences in the form of the citizen being deprived of his statutorily guaranteed rights to participate in the democratic process as sanctioned under the Panchayathraj Act, 1993 and such whimsical approach cannot be appreciated."

7. It cannot be gainsaid that an enquiry for an order resulting in removal or disqualification respectively under Sections 43A(1) or 43A(2) of the Act must necessarily be an adequate enquiry. This stands out with the Division Bench expositing that, because a decision under Section 43A of the Act entails serious civil consequence [*a disqualification*], the denial of an opportunity to participate in a democratic process cannot be whimsical. In the present case, the enquiry is only by the third respondent and on the enquiry that is conducted, the second respondent has only recorded thus:

"ಸದರಿ ಪ್ರಕರಣವನ್ನು ಮೇಲಿನ ಉಲ್ಲೇಖ(1)ರ ಸರ್ಕಾರದ ಆದೇಶದಂತೆ ದಿನಾಂಕ:13-06-2025 ಮತ್ತು ದಿನಾಂಕ: 20-06-2025 ರಂದು ವಿಚಾರಣೆ ನಿಗದಿಪಡಿಸಿ ಆರೋಪಿತರಿಗೆ ಹಾಗೂ ಸಂಬಂಧ ಪಟ್ಟ ಅಧಿಕಾರಿಗಳಿಗೆ ವಿಚಾರಣಾ ನೋಟಿಸ್‌ನ್ನು ಕಳುಹಿಸಲಾಯಿತು. ಅದರಂತೆ ದಿನಾಂಕ:20-06-2025ರ ವಿಚಾರಣೆ ದಿನಾಂಕದಂದು ಆರೋಪಿತರಾದ 1) ಶ್ರೀಮತಿ ಶಿವಮ್ಮ, ಹಿಂದಿನ ಅಧ್ಯಕ್ಷರು ಹಾಗೂ 2) ಶ್ರೀ ಶಂಕರನಾಯ್ಕ ಹಿಂದಿನ ಅಧ್ಯಕ್ಷರು ಇವರು ಹಾಜರಾಗಿರುತ್ತಾರೆ ಹಾಗೂ ಮುಖ್ಯ ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಧಿಕಾರಿಗಳು, ಜಿಲ್ಲಾ ಪಂಚಾಯತ್ ಮೈಸೂರು ಜಿಲ್ಲೆ, ರವರು ಹಾಗೂ ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಧಿಕಾರಿಗಳು ತಾಲ್ಲೂಕು ಪಂಚಾಯಿತಿ, ನಂಜನಗೂಡು ರವರು ಹಾಜರಾಗಿರುತ್ತಾರೆ ಅಲ್ಲದೆ ಪಂಚಾಯಿತಿ ಅಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿ ಹಾಜರಿದ್ದು ತಮ್ಮ ವಿಚಾರಗಳನ್ನು ಮಂಡಿಸಿರುತ್ತಾರೆ."

8. This only indicates that the third respondent has conducted proceedings on 20.06.2025 with some opportunity to the petitioner and the other and the Report is based on two findings *viz.*, that during the petitioner's tenure, a sum of Rs.1,76,598/- is diverted and during the tenure of the other person, a sum of Rs.10,59,774/- is diverted and out of a sum of Rs.26,45,000/- that is credited to the Panchayath's account, a sum of Rs.12,38,790/- has not been utilized for the designated purposes.

9. The details of the enquiry, which would persuade this Court to opine that the petitioner has

had a reasonable opportunity to show cause against the allegations, are not brought out. This assumes significance because neither the first Show Cause Notice nor the second Show Cause Notice specifically mention the amount allegedly diverted during the petitioner's tenure. Though there is a reference in the third respondent's Report to the amounts being diverted towards construction of drainage, providing of streetlights and paying honorarium to the panchayat members amongst others, these two circumstances persuade this Court to opine that the third respondent should have extended a reasonable opportunity of being heard, and mentioned the details of the opportunity which is central to the proceedings under Section 43A of the Act as underscored by the Division Bench. The other ground that persuades this Court is the split up of the diversion during the petitioner's tenure and the

diversion during the other person's tenure in the second respondent's impugned order.

10. This Court is therefore of the opinion that there must be interference with the second respondent's impugned order to ensure that the petitioner must have a reasonable opportunity. The Panchayat's tenure has expired, and elections are on the anvil. The petitioner's apprehension is that if the issue is not finally adjudicated with a reasonable opportunity, she will suffer the adverse consequence of a disqualification as contemplated under Section 43A(2) of the Act. As such, this Court must intervene to restore the proceedings extending a reasonable opportunity to the petitioner while calling upon the third respondent to conclude the proceedings after extending an opportunity to the petitioner to file a detailed response based on the records that are now made available to the petitioner to show cause

against any diversion of funds during her tenure. In the light the afore, the following:

ORDER

[A] The petition is allowed in-part and the second respondent's impugned order dated 25.02.2026 [*Annexure-E*] is quashed as is the third respondent's enquiry report dated 04.07.2026 [*Annexure-C*].

[B] The petitioner without further notice shall appear before the third respondent on ***11.11.2026*** and shall be entitled to file a detailed response based on the records now made available and also to seek a copy of the Audit Report and the report by the CEO which forms the basis for the initiation of the proceedings.

[C] The third respondent shall offer cogent reasons, place its recommendation for due

decision by the second respondent after extending opportunities to the petitioner as aforesaid and in any event within 30 days from the date of first appearance.

SD/-
(B M SHYAM PRASAD)
JUDGE

SA
Ct:sr