HC-KAR
CNR: KAHC010670542026

NC: 2026:KHC:61002
WP No. 30616 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT PETITION NO. 30616 OF 2026 (GM-POLICE)

BETWEEN:

1. SRI. SHANKAR S
S/O SELVAM,
AGED ABOUT 34 YEARS,
R/AT NO.4, 2ND CROSS,
AMARAJYOTHI LAYOUT,
CHOLLANAYAKANAHALLI,
NEAR SUKRUPA SCHOOL,
RT NAGAR POST,
BENGALURU-560032.

…PETITIONER

(BY SRI. VENKATACHALAPATHI M.,ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY SECRETARY,
DEPARTMENT OF HOME,
VIDHANA SOUDHA,
BANGALORE, -560001

2. THE SPECIAL EXECUTIVE MAGISTRATE AND
DEPUTY COMMISSIONER OF POLICE,
EAST DIVISION,
BENGALURU-560065

3. POLICE INSPECTOR,
CCB EAST WING, BENGALURU AND
PI EXECUTING ROWDY SHEET MAINTENANCE,

D.J.HALLI P S. BENGALURU.

…RESPONDENTS

(BY SRI. HARISHA A S, AGA)

THIS WP IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI TO QUASH THE EXTERNMENT ORDER DATED 17-07-2026, BEARING NO. CASE NO.44/ MAG/GADIPARU/DCP(E)2026 PASSED BY THE SECOND RESPONDENT THE SPECIAL EXECUTIVE MAGISTRATE AND DEPUTY COMMISSIONER OF POLICE EAST DIVISION IN VIDE ANNEXURE-A IN THE INTEREST OF JUSTICE AND EQUITY.

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

CORAM: HON'BLE MR. JUSTICE C.M. POONACHA

ORAL ORDER

1. The present writ petition is filed seeking for the following reliefs:

> *"i) Issue a Writ in the nature of certiorari to quash the externment order dated 17-07-2026, bearing No. Case No: 44/MAG/GADIPARU/DCP(E)2026 passed by the second respondent the Special Executive Magistrate and Deputy Commissioner of Police East Division in vide "Annexure-A" in the interest of justice and equity.*
>
> *ii) To Call for records if necessary for the records in respect of the scheduled property from the file of the Respondents.*
>
> *iii) To Issue such other orders as this Hon'ble court*

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deems fit to grant in the facts and circumstances of the case including an order as to the costs of the present writ petition. "

2. The petitioner assails the impugned order dated 17.07.2026 (Annexure -A to the writ petition) primarily on the ground that respondent No.2 - Special Executive Magistrate and Deputy Commissioner of Police did not have the jurisdiction to issue the said order dated 17.07.2026. Reliance is placed on a Co-ordinate Bench judgment of this Court in the case of ***Chandrakant Shankar Vaddar V/s State of Karnataka***[1]. Relevant portion of the said order reads as under:

"6. A conjoint reading of Sections 55 and 56 of the Act, 1963, leaves no manner of doubt that the power contemplated under the said provisions can be exercised only by the authorities expressly identified therein. Section 55 further contemplates that, in areas other than those falling within the jurisdiction of a Commissioner appointed under Section 7, the power may be extended by the Government only by issuing a notification in the Official Gazette to the District Magistrate or the Sub-Divisional Magistrate having jurisdiction and specially empowered in that behalf. Thus, the statutory scheme itself identifies the permissible authorities and the manner in which the power can be extended.

7. Learned Additional Government Advocate, Shri Sharad V. Magadum, has sought to sustain the conferment of powers upon the Superintendent of Police under Sections

[1] Writ petition No.104096/2026 - Order dated 24.8.2026.

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55 and 56 of the Act, 1963, relying upon the notification dated 18.11.2025, which has been produced before this Court. The said notification consists of two parts. The first part purports to exercise powers under Section 15 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, "BNSS, 2023"), while the second part purports to appoint Additional District Magistrates and Special Executive Magistrates and, consequentially, to confer upon the Superintendent of Police powers under various provisions of the Act, 1963, including Sections 55 and 56.

8. The first and foremost impediment to sustaining the said notification is that it does not satisfy the express statutory requirement contained in Section 55 of the Act, 1963. The provision mandates that, in areas other than those where a Commissioner has been appointed, the extension of the power is to be made by notification in the Official Gazette. On a specific query from the Court, learned Additional Government Advocate fairly submitted that the notification dated 18.11.2025 has not been published in the Official Gazette.

9. It is a settled principle that a statutory notification which is required by the parent enactment to be published in the Official Gazette acquires legal efficacy only upon such publication. The notification cannot be treated as operative in a fragmented or incomplete manner. Publication in the Official Gazette is not an empty formality where the statute expressly prescribes it as a condition for the exercise of delegated statutory power.

10. Consequently, in the absence of publication of the notification dated 18.11.2025 in the Official Gazette, the statutory requirement under Section 55 of the Act, 1963, remains unfulfilled. The notification, therefore, cannot confer any jurisdiction upon the Superintendent of Police to exercise powers under Sections 55 and 56 of the Act, 1963. On this ground alone, the exercise of such power by the Superintendent of Police would be without jurisdiction."

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3. Learned AGA upon instructions submits that subsequent to passing of the impugned order dated 17.07.2026, the State has issued a notification dated 17.10.2026 whereunder officers have been specified under Sections 55 and 56 of the Karnataka Police Act, 1963.

4. It is clear from the legal position as enunciated by this Court in the case of ***Chandrakant Shankar Vaddar***[1] that respondent No.2 is not empowered to issue the impugned order. Hence, the relief sought for in the present petition merits consideration.

5. Accordingly, the following:

ORDER

i. The Writ petition is partly allowed;

ii. The impugned order bearing No.44/MAG/GADIPARU/DCP(E)2026 dated 17.07.2026 is hereby quashed.

6. This order will not preclude the respondent/authorities from initiating appropriate action in accordance with law.

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7. All rights and contentions of the parties in that regard are kept open.

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(C.M. POONACHA)
JUDGE

BS
List No.: 3 Sl No.: 10