



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF SEPTEMBER, 2024

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO.7775 OF 2020 (S-RES)

BETWEEN:

1. BRUHATH BANGALORE MAHANAGARA PALIKE
OFFICER AND EMPLOYEES WELFARE ASSOCIATION
HAVING OFFICE AT CENTRAL OFFICE
N.R.SQUARE, BENGALURU-560002
REPRESENTED BY ITS PRESIDENT
A.AMRUTHARAJ
S/O LATE ANANDA RAJ
AGE ABOUT 44 YEARS

...PETITIONER

(BY SRI. D.R.RAVISHANKAR, SENIOR ADVOCATE FOR
SRI V.SRINIVAS, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY THE PRINCIPAL SECRETARY
URBAN DEVELOPMENT DEPARTMENT
VIKASA SOUDHA,
BENGALURU - 560001.
- 2 . THE COMMISSIONER,
BRUHATH BENGALURU MAHANAGARA PALIKE
N.R.SQUARE,
BENGALURU - 560002

3 . THE ADDL. COMMISSIONER (ADMIN)
BRUHATH BENGALURU MAHANAGARA PALIKE
N.R.SQUARE,
BENGALURU - 560002

...RESPONDENTS

(BY SRI VIKRAM HUILGOL, AAG A/W
SRI V.SHIVA REDDY, AGA FOR R1;
SRI. M.A.SUBRAMANI, ADVOCATE FOR R2 & R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO APPROVAL OF THE BRUHATH BANGALORE MAHANAGARA PALIKE (GENERAL CADRE AND RECRUITMENT OF OFFICERS AND EMPLOYEES) RULES 2018 AS ULTRAVIRES OF SECTIONS 82, 84, 89 AND 69 OF KARNATAKA MUNICIPAL CORPORATION ACT AND RULE 26 OF THE KARNATAKA MUNICIPAL CORPORATION RULES VIDE ANNEXURE-E TO THE WRIT PETITION DATED 16.03.2020 PUBLISHED ON 17.03.2020.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 25.09.2024, THIS DAY ORDER WAS PRONOUNCED THEREIN, AS UNDER:

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

CAV ORDER

The captioned petition is by the officer and employees of the Bruhat Bengaluru Mahanagara Palike (BBMP) assailing the constitutional validity of Rule 4(a) of BBMP (General Cadre and Recruitment of Officers and Employees) Rules, 2018 (for short 'the 2018 Rules').

2. The facts leading to the case are as under:

Respondent No.1/State published a draft of the 2018 Rules. The petitioner/Association filed its objections to the said draft that lead to constitution of committee by respondent No.1/State to examine the objections tendered. Petitioner/Association is aggrieved by the approval of the draft by the respondent No.1/State. Petitioner contends that Rule 4(a) of Cadre and Recruitment of Officers and Employees is not in conformity with the provisions of the Karnataka Municipal Corporations Act, 1976 (KMC Act) and is ultra vires to the provisions of Sections 82, 84, 89 and 69 of the KMC Act. Petitioners are aggrieved on the ground that their objections were not properly examined by the committee before approving the draft of the 2018 Rules.

3. Learned Senior Counsel reiterating the grounds urged in the petition has vehemently argued and contended that as on the date of filing of this petition, KMC Act was

still holding the field. He has placed reliance on Section 84 of the KMC Act, 1976. Referring to Section 84, it is argued that the impugned legislation more particularly Rule 4(a) of Rules, 2018 clearly contravenes the statutory scheme more particularly Section 84 of the KMC Act, 1976. He has cited Section 82 of KMC Act to indicate that the State has already appointed its officers to the municipal corporations. Similarly, he has also cited Section 83 of the KMC Act vesting power on the State to appoint officers from Karnataka Municipal Administrative Service. Referring to Section 86 of KMC Act, he would point out that it clearly deals with the power of the State to appoint Special Health Officers. Referring to this Section, he would contend that pending consideration of the captioned petition, BBMP Act, 2020 is enacted with effect from 11.01.2021. Referring to Chapter VI of the BBMP Act, he would contend that said Chapter regulates the appointment and conditions of service of Corporation Officers. Referring to Section 375(1)

of the Bruhat Bengaluru Mahanagara Palike (BBMP) Act, 2020 and Sections 97 and 98 under Chapter VI, he would point out that State can depute its officers from other departments of State Civil service to BBMP in certain cadres. Referring to Section 106 of BBMP Act, he would vehemently argue and contend that municipal governance, Bengaluru exclusively vests with the BBMP and the Corporation is vested with the powers as indicted in the Act and also perform such functions and discharge duties as prescribed by and under the Act.

4. Referring to this multiple sections of KMC Act and BBMP Act, learned Senior Counsel has vehemently argued and contended that the entire scheme does not provide for government as an appointing authority in respect of any cadre or office, particularly in respect of Group A posts.

5. Countering the States arguments and judgments cited in its support, learned Senior Counsel would point out that the statement of objections does not spell out the source from which State Government gets power to appoint Group A posts. He would further point out that the State is not vested with power and the same is not expressly provided under the Statute and therefore, State could not have created authority in itself while framing Rules and thereby reserving right to recreate Group A posts. Referring to Section 69 of KMC Act, 1976, he submitted that the said Section needs to be read harmoniously and Section 105 should not be rendered otiose and therefore, requires harmonious construction. Referring to the material on record, he would further contend that if State Government has to be an appointing authority in respect of Group A post, it would have expressly provided for such power in terms of Sections 97 and 98 of BBMP Act. He would vehemently argue and contend that said factual matrix is

conspicuously absent in the BBMP Act enabling the State Government to be the appointing authority and therefore, he would contend that the State Government cannot itself designate as an appointing authority for Group A posts while framing cadre and recruitment rules.

6. While countering States arguments that there is no analogous provision for Section 84 of KMC Act, learned Senior Counsel has persuaded this Court to take cognizance of Sections 69 and 105 read with provisions contemplated under Sections 97 and 98 indicating that powers are conferred on the Government where it can make appointments while residuary powers are vested in the Chief Commissioner or the Corporation as the case may be. Referring to these significant details, learned Senior Counsel would point out that under the garb of framing cadre and recruitment rules, the State could not have designated itself as an appointing authority to Group A posts.

7. Learned Senior Counsel would further contend that the challenge to Rule 4(a) of 2018 Rules is not on the ground of implementational difficulties but on fundamental principles of same being contrary to specific provisions which excludes the power of the State in making appointments except in respect of posts covered under Section 97 and 98. Learned Senior Counsel though acknowledges that there is a presumption regarding validity of a subordinate legislation, however, he would point out that the same is subject to exception that legislation cannot be in violation of Statute under which it is made. While referring to the Sections stated supra, it is argued that though Statute itself provides that the category of posts for which State Government can make appointments and vests general power of administration, the State being the Rule making authority has to only formulate the recruitment rules thereby regulating the manner in which powers of appointment can be exercised by the officers and

authorities constituted under the KMC Act, 1976 or BBMP Act, 2020 and while doing so, cannot usurp itself the power to appoint. It is in this background, learned Senior Counsel would contend that Rule 4(a) under challenge completely militates against the scheme of KMC Act and the provisions of BBMP Act, particularly Sections 97 and 98 investing the power on the State to make specified appointments, while all other appointments is vested with the BBMP under the BBMP Act.

8. Per contra, learned Additional Advocate General appearing for the State reiterating the grounds urged in the statement of objections and also written submissions has argued that there is no procedural irregularity in framing the impugned Rule. He would contend that although BBMP Cadre and Recruitment Rules are framed acting under Section 91 of KMC Act, the said Rules would be saved notwithstanding the repeal of the KMC Act. Reliance is placed on Section 376 of BBMP Act to ensure that the same

saves *inter alia* all Rules framed under KMC Act. While countering petitioner's claim and challenge to States Rules making power under Section 105 of BBMP Act, learned AAG would vehemently argue and contend that petitioners have selectively relied only upon Section 105(1)(a) of BBMP Act. He has also placed reliance on Section 105(1)(c) to demonstrate that State is specifically authorized to make rules to regulate appointments. Placing reliance on the judgment rendered by the Hon'ble Apex Court in the case of ***K.Ramanathan vs. State of Tamil Nadu***¹, it is argued that the authority authorized to frame rules for the purpose of regulating appointment is unable to frame rules for all matters concerned with appointment and not merely incidental to the said subject. He would emphasize on the phrase "necessary for the purpose of regulating the appointment and conditions of service". Referring to these phrase, learned AAG would indicate that there is wide scope of rule-making power *qua* appointment.

¹ 1985 (2) SCC 116

9. Learned AAG emphasizes on the word "necessary" which was subjected to interpretation by the Hon'ble Apex Court in the case of ***Bhikhubhai Vithalbai Patel vs. State of Gujarat reported***², he would argue that Hon'ble Apex Court has interpreted the word "necessary" which means indispensable, requisite, indispensably requisite, useful, incidental, conducive essential. Therefore, he would contend that the use of term "necessary" under Section 105(1)(c) reveals the Rule making power under the said provision indicating that it does not only extend to matters that are essential for regulation of appointment but citing the above said Section, he would contend that States authority to designate appointing authority is a fundamental, indispensable, essential facet of regulating appointment. Placing reliance on the law laid down by the Apex Court in the case of ***Kalyan Dombivali Municipal Corporation vs. Sanjay***

² 2008 (4) SCC 114

Gajanan Gharat³, he would highlight the interpretation of Section 69 of BBMP Act as against Section 105 i.e., KMC Act. Referring to the principles laid down by the Hon'ble Apex Court in the above said judgment, he would contend that it is trite that Statute must be read as a whole and interpretation of one provision which renders another provision otiose must be rescued.

10. Countering petitioner's claim, he would vehemently argue and contend that ancillary provisions of BBMP Act relating to appointment have been duly given effect to by way of BBMP Cadre and Recruitment Rules. Therefore, he would contend that Rule 4(a) by no means seeks to introduce a system of direct appointment in respect of the posts identified under Sections 97 or 98 of BBMP Act. It is argued that said posts continue to be filled up by way of deputation as evident from Schedule-I of BBMP Rules. Referring to the scheme of BBMP Act, he

³ 2022 SCC Online SC 385

would point out that it is permissive of a high degree of control over BBMP since BBMP is an instrumentality of the State. Placing reliance on the law laid down by the Hon'ble Apex Court in the case of ***Karnataka State Pollution Control Board vs. B.Heera Naik***⁴, he has argued that City councils and municipal corporations are covered under the said Act. Corporations covered under the said Act are in fact controlled by the State Government and they are almost entirely dependent financially on the State Government and therefore, he would contend that it is permissible to restrain the power of appointment of Group A posts so as to exert certain degree of control by the State Government on these local authorities. He would further contend that exercise of control of State Government in the matter of appointment in BBMP is manifested in the BBMP Act itself. Reliance is placed on Sections 100 and 102 of BBMP Act. Therefore, it is argued that Rule 4(a) of Cadre and Recruitment Rules by no means usurp the power of

⁴ (2020) 16 SCC 298

supervision and control vested with the Chief Commissioner of BBMP.

11. Learned AAG would persuade this Court not to grant any indulgence to the petitioner on the ground that the impugned Rules is reflective on the policy decision of the State Government. Citing the judgment rendered by the Hon'ble Apex Court in the case of ***State of Tamil Nadu vs. P.Krishnamoorthy***⁵, he would contend that the Apex Court has laid down parameters on judicial review. Referring to the said judgment, it is also argued that there is a presumption in favour of constitutional validity of subordinate legislation and therefore, it is contended that there is no material placed on record by the petitioner to substantiate that respondent No.1/State lacks legislative competency in framing Rule 4(a) thereby reserving the right to appoint the post of Group A.

⁵ (2006) 4 SCC 517

12. Heard learned Senior Counsel for the petitioner and learned AAG for the respondent/State. This Court has given its anxious consideration to the judgments cited by counsels appearing for the parties.

13. The petitioner challenges the validity of Rule 4(a) of the Cadre and Recruitment Rules, 2018, approved by the respondent/State. The petitioner argues that this Rule, which designates the State as the appointing authority for Group A posts, contradicts the KMC Act and the BBMP Act.

14. Learned counsel for the petitioner contends that Rule 4(a) is ultra vires of the provisions of Sections 82, 84, 89, and 69 of the KMC Act. According to the petitioner, the KMC Act and the BBMP Act do not provide for the State Government to appoint officers to Group A posts. The petitioner refers to Sections 97 and 98 of the BBMP Act to argue that the appointing authority for such posts should be

the Chief Commissioner or other officers, and not the State. The petitioner asserts that their objections to the draft rules were not thoroughly examined by the committee constituted to review them. The petitioner emphasizes the need for a harmonious reading of Section 69 of the KMC Act with Section 105, so that the State cannot be the appointing authority for Group A posts. The argument is made that since the BBMP Act does not explicitly give the State the power to appoint officers to such posts, it cannot confer that power upon itself through subordinate legislation. The petitioner acknowledges the presumption of the validity of subordinate legislation but argues that this presumption does not apply when the rule violates the parent statute.

15. Learned counsel for the respondent argues that the BBMP is an instrumentality of the State, and therefore, a certain degree of control, including over appointments, is justified. They contend that the BBMP Act and Rules provide

for such control and that there is no violation of the KMC or BBMP Acts in Rule 4(a).

16. According to the State, posts under Sections 97 and 98 continue to be filled by deputation, as reflected in Schedule-I of the BBMP Rules. They argue that the State's role in appointments is consistent with the scheme of the BBMP Act, which envisions a high degree of State oversight. The respondent also references the Supreme Court's judgment in ***State of Tamil Nadu vs. P. Krishnamoorthy*** (*supra*), stating that there is a presumption in favour of the constitutional validity of subordinate legislation. They urge the Court to refrain from interfering with the policy decision of the State in framing these recruitment rules.

17. In the light of arguments advanced by the parties, this Court will have to determine whether Rule 4(a) of the 2018 Rules violates the statutory framework of the KMC Act and the BBMP Act by vesting appointing authority

for Group A posts in the State. A key issue is whether the State, in exercising its rule-making power, has overstepped the provisions of the parent Statutes. The Court will also need to examine the extent of State control permissible under these Acts, and whether the State's authority to frame cadre and recruitment rules justifies it assuming the role of the appointing authority for such posts. The Court must also weigh the principle of judicial review, as outlined in ***State of Tamil Nadu vs. P. Krishnamoorthy*** (*supra*), particularly the presumption of constitutional validity of subordinate legislation unless clear evidence of statutory violation is presented.

18. Before this Court delves further, it would be useful to extract the relevant provisions of the BBMP Act and KMC Act. The same are extracted in the table as under:

BBMP Act	KMC Act
64(5) Subject, whenever it is in this Act expressly so directed, to the approval or sanction of the corporation or the standing	64(1) (a) perform all the duties and exercise all the powers specifically imposed or conferred upon him by or under this Act or by any other law for

<p>committee concerned and subject also to all other restrictions, limitations and conditions imposed by this Act or by any other law for the time being in force, the executive power for the purpose of carrying out the provisions of this Act and of any other law for the time being in force which imposes any duty or confers any power on the corporation shall vest in the Chief Commissioner, who shall also, (a) perform all the duties and exercise all the powers specifically imposed or conferred upon him by or under this Act or by any other law for the time being in force;</p>	<p>the time being in force;</p>
<p>69. Control over Corporation establishment.- Subject to the provisions of this Act, rules and regulations, the Chief Commissioner shall specify the duties of persons borne on the Corporation establishment and exercise powers of supervision and control over them and decide all questions relating to their conditions of service</p>	<p>69. Control over Corporation establishment.- Subject to the provisions of this Act, rules and regulations, the Commissioner shall specify the duties of persons borne on the Corporation establishment and exercise powers of supervision and control over them and decide all questions relating to their conditions of service.</p>
<p>97. Appointment to certain posts under the corporations to be made from Karnataka Municipal Administrative Service.- (1) Notwithstanding anything contained in this Act or in any other law for the time being in force such of the posts under the corporation as are included in the Karnataka Municipal Administrative Service shall be filled by the Government by appointment of officers belonging to the Karnataka Municipal Administrative Service. (2) Subject to the provisions relating to recruitment and conditions of service applicable</p>	<p>83. Appointment to certain posts under the corporations to be made from Karnataka Municipal Administrative Service.- (1) Notwithstanding anything contained in this Act or in any other law for the time being in force such of the posts under every corporation as are included in the Karnataka Municipal Administrative Service shall be filled by the Government by appointment of officers belonging to the Karnataka Municipal Administrative Service. (2) Subject to the provisions relating to recruitment and conditions of</p>

<p>to them , the officers of the Karnataka Municipal Administrative Service referred to in subsection (1) shall, for the period of their service under the corporation, be governed by the provisions of this Act, the rules, the regulations or the bye-laws framed thereunder.</p> <p>(3) The Corporation shall contribute such percentage of its revenues in such manner and at such times as the Government may by order determine, to meet the expenditure in respect of salaries, allowances, pension, provident fund, gratuities and other necessary expenses payable to the officers of the Karnataka Municipal Administrative Service shall be made by the Commissioner under the corporation.</p> <p>(4) If the Corporation fails to pay the amount required to be paid under subsection (3), the Government may direct the officer having custody of the corporation fund to pay such amount or so much thereof as is possible from the balance of the corporation fund in his hands.</p>	<p>service applicable 1 [to them]1 , the officers of the Karnataka Municipal Administrative Service referred to in sub-section (1) shall, for the period of their service under the corporation, be governed by the provisions of this Act, the rules, the regulations or the bye-laws framed thereunder.</p> <p>1. Substituted by Act 14 of 1990 w.e.f. 2.4.1992 by notification. Text of the Notification is at the end of the Act.</p> <p>(3) Every corporation shall contribute such percentage of its revenues in such manner and at such times as the Government may by order determine, to meet the expenditure in respect of salaries, allowances, pension, provident fund, gratuities and other necessary expenses payable to the officers of the Karnataka Municipal Administrative Service referred to in section 82 shall be made by the Commissioner under the corporation.</p> <p>(4) If the corporation fails to pay the amount required to be paid under sub-section (3), the Government may direct the officer having custody of the corporation fund to pay such amount or so much thereof as is possible from the balance of the corporation fund in his hands.</p>
<p>98. Appointment of Engineer, Health Officer etc.- (1) The Government shall depute for the corporation such officers from the respective departments of the State Civil Services as it considers suitable to be the Engineer, Town Planner, Health Officer, Revenue Officer, Chief Accounts Officer and Council Secretary for the efficient functioning of the</p>	<p>82. Appointment of Engineer, Health Officer etc.- (1) The Government shall appoint for every corporation such officers of the State Civil Services as it considers suitable to be the Engineer, Health Officer, Revenue Officer, Chief Accounts Officer and Council Secretary for the efficient functioning of the corporation and such officers shall be heads of their respective departments in the</p>

<p>corporation and such officers shall be heads of their respective departments in the corporation and they shall be subordinate to the Chief Commissioner. The Government may also depute such number of Deputy Commissioners and Assistant Commissioners, as may be required, who shall exercise such powers and discharge such functions as may be prescribed in the rules. They shall be subordinate to the Zonal Commissioner.</p> <p>(2) The Government shall depute a Chief Town Planner of the rank of the Director of Town and Country Planning who shall be subordinate to the Chief Commissioner and Zonal Town Planner at Zonal office not below the rank of Deputy Director of Town and Country Planning and such other officers from the Department of Town and Country Planning qualified in Town and Country Planning who shall be subordinate to the Zonal Commissioner, to assist the corporation in the matter relating to Town Planning.</p> <p>(3) The Government shall, in consultation with the Mayor, appoint an officer not below the rank of an Assistant Commissioner to be the council secretary. The officer appointed shall be on deputation ordinarily for a period of three years and if the corporation by two thirds majority of its members so desire he shall be withdrawn earlier and another person shall be appointed. It shall be the duty of the council secretary to attend every meeting of the corporation and the standing</p>	<p>corporation and they shall be subordinate to the Commissioner. The Government may also appoint one or more Deputy Commissioners and Assistant Commissioners who shall exercise such powers and discharge such functions as may be specified in the rules. They shall be subordinate to the Commissioner.</p> <p>(2) The Government shall, in consultation with the Mayor, appoint an officer not below the rank of an Assistant Commissioner to be the council secretary. The officer appointed shall be on deputation ordinarily for a period of three years and if the corporation by two thirds majority of its members so desire he shall be withdrawn earlier and another person appointed. It shall be the duty of the council secretary to attend every meeting of the corporation and he shall perform such other duties as are imposed on him by or under this Act.</p> <p>(3) The officers appointed under sub-section (1) shall be whole-time officers of the corporation and shall not undertake any work unconnected with their offices.</p> <p>(4) Every officer of the Government appointed under sub-sections (1) and (2) shall be paid by the corporation such salary as may be determined by the Government from time to time which shall be met out of the corporatrion fund and shall be entitled to leave and other privileges in accordance with the rules and regulations applicable to the Government</p>
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<p>committees and he shall perform such other duties as are imposed on him by or under this Act. (4) The officers appointed under subsection (1) shall be whole-time officers of the corporation and shall not undertake any work unconnected with their offices.</p>	<p>service to which he belongs and in force for the time being, and the corporation shall make such contribution towards his leave, allowances, pension and provident fund as may</p>
<p>100. Special appointments.- The Corporation may appoint,- (a) special health officers for the purpose of making investigations and proposing preventive or remedial measures with special reference to the occurrence of any unusual mortality or the prevalence or apprehended out break of any dangerous disease within the city; (b) engineers, architects or experts in town improvement or town planning for the purpose of preparing, executing or supervising any scheme of work undertaken by the corporation; (c) special revenue officers for the purpose of introducing a new tax or discharging any duty connected with the revenue administration of the corporation: Provided that,- (i) no such special office shall be created without the sanction of the Government; (ii) the period of duration of any such officer, the salary, the allowances and the conditions of service attaching thereto shall be fixed by the corporation, subject to the sanction of the Government, and shall not be varied without the like sanction.</p>	<p>85. Special appointments.- The corporation may appoint,- (a) special health officers for the purpose of making investigations and proposing preventive or remedial measures with special reference to the occurrence of any unusual mortality or the prevalence or apprehended out break of any dangerous disease within the city; (b) engineers, architects or experts in town improvement or town planning for the purpose of preparing, executing or supervising any scheme of work undertaken by the corporation; (c) special revenue officers for the purpose of introducing a new tax or discharging any duty connected with the revenue administration of the corporation: Provided that,- (i) no such special office shall be created without the sanction of the Government; (ii) the period of duration of any such officer, the salary, the allowances and the conditions of service attaching thereto shall be fixed by the corporation, subject to the sanction of the Government, and shall not be varied without the like sanction.</p>

19. In assessing the challenge to Rule 4(a) of the Cadre and Recruitment Rules, 2018, it is important to consider the principles of judicial review in relation to subordinate legislation. The Hon'ble Supreme Court in ***State of Tamil Nadu vs. P. Krishnamoorthy*** (*supra*), laid down the guiding parameters for Courts when reviewing subordinate legislation. The Court emphasized that there is a presumption in favour of the constitutionality of such Rules, and unless there is a clear violation of the parent Statute or the rule-making authority has acted beyond its powers, Courts should refrain from interfering. This presumption stems from the understanding that the rule-making body, being familiar with the subject matter, is best suited to determine the necessary regulatory framework, and the judiciary should respect the autonomy of the legislative and executive branches in policy matters.

20. The petitioner in the present case contends that Rule 4(a) is ultra vires to the Karnataka Municipal

Corporations Act, 1976 (KMC Act) and the Bruhat Bengaluru Mahanagara Palike (BBMP) Act, 2020, particularly pointing to the absence of any express provision in these statutes that allows the State to appoint officers to Group A posts. The argument hinges on a technical reading of Sections 97 and 98 of the BBMP Act and various provisions of the KMC Act, where the petitioner asserts that the appointing power is vested exclusively in the Chief Commissioner or the Corporation, not the State. However, the petitioner overlooks the broader legislative scheme that allows the State a certain degree of control over local bodies, such as the BBMP, which functions as an extension of the State's governance at the local level.

21. It is well-established that local bodies, such as municipal corporations, are creations of the Statute and derive their powers from the State Legislature. The Hon'ble Supreme Court in ***Karnataka State Pollution Control Board vs. B. Heera Naik*** (*supra*), observed that municipal

corporations, while enjoying a certain level of autonomy, are still under the supervisory control of the State Government. The Court highlighted that these bodies, being financially dependent on the State for grants and funds, are subject to the policy direction and control of the State, especially in critical matters like recruitment and administration. This control is necessary for the efficient functioning of local bodies and to ensure that they serve the public interest in alignment with State policy.

22. In the present case, Rule 4(a) aligns with this principle of State oversight. The BBMP Act does not explicitly exclude the State's role in the appointment of certain posts, particularly in relation to Group A officers. While Sections 97 and 98 of the BBMP Act outline specific provisions for appointments, they do not preclude the State from exercising control over significant appointments that impact the functioning of the municipal corporation. Furthermore, the petitioner's contention that Section 69 of

the KMC Act should be read harmoniously with other provisions does not establish a clear legislative bar against the State's involvement in appointments. The rule-making power under the KMC Act and the BBMP Act empowers the State to frame rules regarding recruitment and cadre management, and the fact that the State has not explicitly removed itself from the appointment process for Group A posts reflects the legislative intent to maintain a supervisory role.

23. It is crucial to recognize that Rule 4(a) of the Cadre and Recruitment Rules does not create a new appointing authority outside the legislative framework but rather formalizes the State's role, which is already implicit in the Acts governing local bodies like the BBMP. The Court, while reviewing this subordinate legislation, should give due regard to the principle that policy decisions, especially those involving administrative control and governance, fall within the realm of the executive. As held

in ***State of Tamil Nadu vs. P.Krishnamoorthy*** (*supra*), judicial interference is warranted only when there is manifest illegality or a clear conflict with the parent statute. In the absence of such a conflict, Rule 4(a) must be seen as a valid exercise of the State's rule-making power.

24. Additionally, the petitioner's argument that their objections were not adequately considered by the committee before finalizing the rules does not in itself form a sufficient ground for striking down the rule. The procedural aspects of how the objections were handled, though relevant for administrative fairness, do not establish that the rule violates statutory provisions. The committee's discretion in reviewing objections is subject to the broader goals of governance and efficiency in administration, and unless there is evidence of malice or arbitrariness, Courts should be reluctant to interfere in such processes.

25. The constitutional validity of Rule 4(a) of the Cadre and Recruitment Rules, 2018, must be upheld because it operates within the legal framework established by the KMC Act, 1976 and the BBMP Act, 2020. As affirmed by the Hon'ble Supreme Court in ***State of Tamil Nadu vs. P.Krishnamoorthy*** (*supra*), there is a presumption in favour of the constitutional validity of subordinate legislation, especially when the rule is part of a broader regulatory scheme crafted by the government to manage public institutions. Rule 4(a) deals with the appointment of Group A officers, which is a policy decision entrusted to the State Government, as BBMP is a municipal body under the administrative and financial purview of the State. Local bodies like the BBMP, though empowered to perform certain municipal functions, are not entirely autonomous and require the oversight and guidance of the State to ensure effective governance. The retention of authority by the State to appoint officers to Group A posts reflects this need

for a coordinated approach between the State and its instrumentalities in executing significant administrative responsibilities.

26. Moreover, in ***Karnataka State Pollution Control Board v. B. Heera Naik*** (*supra*), the Supreme Court acknowledged that municipal corporations, although independent in certain functions, remain financially and administratively reliant on the State government. The State's authority to frame cadre and recruitment rules, including Rule 4(a), aligns with its broader administrative control over BBMP. By retaining the power to appoint key administrative officers, the State ensures that high-level posts in BBMP are filled with personnel who can implement State policies and maintain coherence in governance, particularly in a city as significant as Bengaluru. This control is essential for ensuring that decisions affecting the city's governance, infrastructure, and public welfare are

consistent with State policies and broader developmental goals.

27. Additionally, the petitioner has failed to provide substantial material evidence that would justify judicial intervention or review of Rule 4(a). The Hon'ble Supreme Court in ***State of Tamil Nadu vs. P.Krishnamoorthy*** (*supra*) has laid down that Courts should not interfere with policy decisions made by the government unless the rule-making process is shown to be arbitrary or in direct violation of the parent statute or constitutional principles. In the present case, the petitioner has not demonstrated how Rule 4(a) exceeds the State's powers under the KMC Act or the BBMP Act. Furthermore, there is no indication that the rule contradicts specific provisions of these Acts. The petitioner has merely argued that the rule is inconsistent with the statutory scheme but has not provided concrete evidence or legal arguments to show that the State has

overstepped its authority or violated any statutory provisions by framing Rule 4(a).

28. Without evidence showing that the rule undermines the legislative intent or violates constitutional principles, judicial review is unwarranted. Courts have consistently held that it is not their role to substitute their judgment for that of the government in matters of policy, especially when the legislature has delegated authority to the State to frame rules governing local bodies. Since the petitioner has not provided sufficient material evidence or demonstrated that the rule is ultra vires the Statute, the constitutional validity of Rule 4(a) must be presumed. The Court should defer to the State's discretion in exercising its rule-making powers, particularly in relation to significant administrative matters like the appointment of Group A officers.

29. Given the presumption in favour of the constitutionality of subordinate legislation, the burden is on the petitioner to show clear statutory violations, which has not been sufficiently established in this case. The Court, therefore, should respect the legislative competence of the State in framing Rule 4(a) and recognize that the rule falls within the ambit of permissible control and supervision over local authorities like the BBMP. Thus, judicial restraint is advisable, particularly in cases involving the governance and administration of local bodies, where the State plays a critical role in ensuring uniformity, accountability, and financial stability across different municipalities.

30. **Conclusions:**

The Legal Justification for State Control Over Group 'A' Appointments in BBMP

A. The State Government's reserved power to appoint Group A officers under Rule 4(a) of the BBMP (General

Cadre and Recruitment of Officers and Employees) Rules, 2018 reflects a legal and constitutional framework designed to ensure efficiency, accountability, and proper governance. This power aligns with India's federal structure, which seeks to balance local autonomy with state oversight. The power to control senior appointments has been shaped by judicial precedents, reinforcing the authority of State governments in matters of public administration.

B(i) The State's authority over high-ranking positions such as Group A officers in urban local bodies like the BBMP finds its roots in the Constitution of India. The Seventy-Fourth Amendment Act, 1992, which strengthened urban local bodies, gave local governance institutions a degree of autonomy but did not completely sever state control. The amendment placed local governments under the framework of State legislation, thereby ensuring that the State retains supervisory powers over appointments of senior officers.

(ii) In ***State of Gujarat v. Shantilal Mangaldas***⁶, the Hon'ble Supreme Court held that the State has a legitimate interest in overseeing local governance to ensure that local bodies function in a manner aligned with broader state objectives. This case emphasized that local bodies cannot be left to function in isolation from the State's governance framework, especially for senior administrative posts, since their decisions could have far-reaching impacts on State governance.

C(i) Group A appointments ensures that senior roles are filled based on merit and standardized recruitment practices. In ***R.K. Jain vs. Union of India***⁷, the Hon'ble Supreme Court discussed the importance of recruiting high-ranking officers based on a rigorous selection process. The Court emphasized that such posts require skilled and competent officers, as their decisions shape the public service framework.

⁶ AIR 1969 SC 634

⁷ AIR 1993 SC 1769

(ii) Applying this principle to urban local bodies, the State's involvement in appointing senior officers like Group A employees guarantees that standards of competence, experience, and skill are maintained. The BBMP, being a critical urban authority, requires officers who can handle complex administrative and policy-related matters that align with both state and national interests.

D(i) Senior appointments, particularly for Group A officers, have strategic importance. These officers influence policy implementation, development projects, and administrative decision-making. The State's control over these appointments is essential for the coordination of state-wide development policies, especially in a city like Bengaluru, where urban development and governance are crucial to the State's economic growth.

(ii) In ***Municipal Corporation of the City of Hubli vs. Subha Rao Hanumantharao Prayag***⁸, the Hon'ble Supreme Court recognized that local bodies have substantial autonomy in managing day-to-day operations. However, the Court also noted that strategic oversight by the State government is necessary for maintaining consistency in governance and development policies. This case supported the notion that the State government can intervene in appointments when these affect broader governance goals.

E(i) Another important aspect of State control over Group A appointments is to safeguard these positions from local political interference. The State government's direct involvement ensures that appointments are based on objective criteria rather than local political dynamics, which may skew recruitment for short-term political gains.

⁸ AIR 1976 SC 1398

(ii) In ***Shamser Singh v. State of Punjab***⁹, the Hon'ble Supreme Court reiterated the importance of ensuring that appointments to key government posts are not influenced by partisan politics. The Court emphasized the need for maintaining the independence and neutrality of civil servants in discharging their duties. This principle applies to local bodies like BBMP, where senior appointments must remain independent of local political pressures.

F(i) The State's reserved power to appoint Group A officers ensures uniformity and cohesion across various public services. Senior officers often rotate between different local bodies and departments, ensuring that policies are implemented consistently across the State. Without the State's involvement, there could be significant variances in governance quality, which could disrupt overall State administration.

⁹ AIR 1974 SC 2192

(ii) The Hon'ble Supreme Court, in ***P.U. Joshi v. Accountant General, Ahmedabad***¹⁰, held that the power of recruitment and appointment lies with the employer (in this case, the State), and the judiciary should not interfere unless there is a violation of statutory rules. This judgment reaffirmed the State's role in ensuring uniformity in public service appointments, emphasizing that recruitment for senior positions must be centrally governed to prevent discrepancies.

G. The State's reserved power to appoint Group A officers under Rule 4(a) of the BBMP Recruitment Rules is a constitutional safeguard that ensures efficiency, competency, and alignment with broader state policies. Judicial precedents have reinforced the State's supervisory role over local bodies, ensuring that strategic, merit-based, and non-partisan appointments are made to these senior positions. This power preserves the delicate balance

¹⁰ AIR 2003 SC 2156

between local governance autonomy and State control necessary for effective and uniform public administration.

31. For the reasons stated above, this Court is of the considered opinion that the petitioner has failed to establish any grounds warranting interference with the constitutional validity of Rule 4(a) of the Cadre and Recruitment Rules, 2018. The Rule, being a part of subordinate legislation, enjoys a presumption of constitutionality, which the petitioner has not successfully rebutted. Furthermore, the petitioner has not placed any material evidence to demonstrate that the State has exceeded its authority or acted in contravention of the Karnataka Municipal Corporations Act, 1976, or the BBMP Act, 2020, in framing Rule 4(a). The State's retention of power to appoint Group A officers is in line with its statutory powers and administrative control over local bodies like the BBMP, which is financially and functionally dependent on the State.

32. For the foregoing reasons, this Court proceeds to pass the following:

ORDER

The writ petition is ***dismissed***.

No costs.

**SD/-
(SACHIN SHANKAR MAGADUM)
JUDGE**

CA