



**IN THE HIGH COURT OF KARNATAKA**

**KALABURAGI BENCH**

**DATED THIS THE 29<sup>TH</sup> DAY OF FEBRUARY, 2024**

**BEFORE**

**THE HON'BLE MR. JUSTICE V SRISHANANDA**

**WRIT PETITION NO. 200670 OF 2024 (GM-RES)**

**BETWEEN:**

1. SRI. CHAKRAVARTHY SULIBELE @  
MITHUN CHAKRAVARTHY DEVIDAS SHET,  
AGED ABOUT 43 YEARS,  
S/O DEVIDAS SHET,  
R/O SULIBELE, BENGLAURU RURAL-562129.
2. SRI. NEELKANT YESHWANT PATIL,  
S/O YESHWANTH PATIL,  
AGED ABOUT 55 YEARS,  
PRESIDENT BJP CHITAPUR,  
R/AT 3-320, NEAR CHETHAN SCHOOL  
GAZIPUR, VTC GULBARGA-585102.
3. NAMO BRIGADE, CHITAPURA,  
OFFICE AT HOLLI KATTA,  
BASAVESHWARA CHOUK,  
CHITTAPURA-585211 .  
REP. BY ITS DISTRICT SECRETARY,  
ANIL KUMAR S TAMBAKE,  
S/O SURYAKANTH,  
AGED ABOUT 44 YEARS,

...PETITIONERS

(BY SRI. ARUN SHYAM SR. COUNSEL FOR  
SRI. BASAVAKIRAN G. R., AND  
SRI. SUYOG HERALE. E, ADVOCATES)

**AND:**

1. THE STATE OF KARNATAKA  
THROUGH HOME DEPARTMENT,

Digitally signed by  
SHILPA R  
TENHALLI  
Location: High  
Court Of  
Karnataka



REPRESENTED. BY ITS PRINCIPAL SECRETARY,  
VIDHAN SOUDHA, AMBEDKAR VEEDHI,  
BENGLAURU-560001.

2. THE DEPUTY COMMISSIONER,  
GULBARGA DISTRICT: GULBARGA-585102.
3. THE ASSISTANT COMMISSIONER/  
SUB DIVISIONAL MAGISTRATE,  
KALABURAGI SUB-DIVISION,  
KALABURAGI-585102.
4. THE THASILDHAR/TALUKA MAGISTRATE,  
CHITAPUR TALUK,  
CHITHAPUR-585211.
5. THE SUPERINTENDENT OF POLICE,  
GULBARGA, DISTRICT: GULBARGA-585102.
6. THE CIRCLE INSPECTOR,  
CHITHAPURA TAULK  
CHITHAPURA-585211.
7. THE POLICE INSPECTOR,  
CHITHAPURA POLICE STATION,  
CHITHAPURA-585211.

...RESPONDENTS

(BY SRI. VIKRAM HUYLIGOL AAG A/W  
SMT. MAYA T. R, HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING ISSUE A WRIT IN THE NATURE OF CERTIORARI AND QUASH THE IMPUGNED ORDER DATED 28.02.2024 IN NO. KUM/UUVK/2023-24 PASSED BY RESPONDENT NO. 3 AND ENDORSEMENT/NOTE LETTER DATED 28.02.2024 IN NO. KUM/DANDA/246/2023-24 ISSUED BY RESPONDENT NO. 4 (PRODUCED AT ANNEXURE-A AND A1 AND ISSUE A WRIT IN THE NATURE OF MANDAMUS AND DIRECT THE RESPONDENTS NOT TO INTERFERE WITH PROGRAMME ORGANISED BY THE PETITIONER NO. 2 AND 3 AS PER THE INVITE CARD (PRODUCED AT ANNEXURE-B) AND ETC.



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

**ORDER**

Heard Sri Arun Shyam, learned senior counsel for the petitioners and the learned Additional Advocate General Sri Vikram Huyligol for the respondents.

2. Having regard to the urgency pleaded and also taking note of the fact that the event being organized on 29.02.2024 at 6.00 p.m. (i.e., today) in Chittapur taluka, Kalaburagi district, the matter is taken up for final disposal.

3. The writ petition is filed with the following prayer:

*i. Issue a writ in the nature of certiorari and quash the impugned orders dated: 28.02.2024 in No. kum/uuvk/2023-24 passed by Respondent No/3 and endorsement/note letter dated: 28.02.2024 in No.kum/danda/246/2023-24 issued by Respondent No.4 (produced at Annexure-A and A1).*



*ii. Issue a writ in the nature of mandamus and direct the Respondents not to interfere with programme organized by the petitioner no.2 and 3 as per the invite card (produced at Annexure-B).*

*iii. Issue any other writ or order and grant such other and further reliefs as this Hon'ble Court may deem fit in the facts and circumstance of the case.*

4. Petitioner No.1 claims to be a nationalist and law abiding citizen and a well known orator. He has been invited by petitioner Nos.2 and 3 to participate as a Guest Speaker in the event that is organized at Bapurao Kalyana Mantap, Chittapur taluka, Kalaburagi district today i.e., on 29.02.2024 at 6.00 p.m. Petitioner No.1 is required to address the gathering. The petition averments depicts that the organizers are expecting huge gathering.

5. In fact, for organizing such a program, a request was made by the organizers to the Tahsildar requesting for granting permission as per Annexure-C. The Tahsildar considered the said request and by letter



dated 23.02.2024 marked at Annexure-C1 bring it to the notice to the Circle Inspector, Chittputar directing him to take necessary steps. Thereafter, by police notice dated 27.02.2024, petitioner No.2 was informed that the permission has been accorded subject to some conditions.

6. When the matter stood thus, according to the petitioners, hurriedly an order came to be passed by the Assistant Commissioner, Kalaburagi on 28.02.2024 at about 11.00 p.m., whereby petitioner No.1 was prohibited from entering the talukas of Kalaburagi Sub-Division by exercising the power under Sections 133, 143, 144 and 144-A of Cr.P.C. The same is marked at Annexure-A.

7. The learned senior counsel Sri Arun Shyam for the petitioners contended that the orders at Annexures-A and A1 are mechanical orders and at the behest of the elected Government in the Karnataka State without there being any semblance of subjective satisfaction on the part of the Assistant Commissioner and the Tahsildar. Therefore, it lacks the required tests enunciated by the



Hon'ble Apex Court time and again and sought for quashing the said orders at Annexures-A and A1. He further contended that the order at Annexures-A and A1 are violative of Articles 19 and 21 of the Constitution of India and therefore, sought for allowing the writ petition.

8. Per contra, Sri Vikram Huyligol, learned Additional Advocate General representing the respondents contended that the fast experience of the speeches of petitioner No.1 has been taken note of by the Assistant Commissioner while passing Annexure-A and Tahsildar in order to maintain peace and tranquility in Chittapur taluka where the intended function is organized, the order at Annexure-A1 is passed. He further contended that whenever such requests are made, the authorities in order to prevent chaotic situation arising out of the gist of the speech, resulting in damage to the public at large, are entitled to take prohibitive actions and therefore, the power vested in the Assistant Commissioner under Section 144 of Cr.P.C. has been rightly exercised and also the



Tahsildar in issuing the order at Annexure-A1 and sought for dismissal of the writ petition.

9. Having heard the parties in detail, this Court bestowed its attention meticulously to the contents of Annexures-A and A1.

10. On such perusal of the contents of Annexures-A and A1, it is crystal clear that petitioner No.1 has been prohibited from entering into Kalaburagi division. It is also pertinent to note that two days earlier, petitioner No.2 has been given the permission by the Police Department to hold the function with some conditions, which is marked at Annexure-D to the writ petition. What transpired between 27.02.2024 to 28.02.2024 is not forthcoming in the orders either at Annexure-A or Annexure-A1. Though petitioners have made several allegations stating that the authorities are acting as puppets in the hands of the elected Government, suffice to say that there is totally in-application of mind on the part of the Assistant



Commissioner and the Tahsildar in passing the orders at Annexures-A and A1.

11. The facts and circumstances of the case especially the orders at Annexures-A and A1 passed by the Assistant Commissioner and the Tahsildar would go to show that authorities have not even taken into consideration the principles of law enunciated by the Hon'ble Apex Court in the case of **Modern Dental College and Research Centre and Ors. Vs. State of Madhya Pradesh and Ors.**<sup>1</sup> **Parveen Bhai Thogandia vs. State of Karnataka**<sup>2</sup>, **K.S.Puttaswamy vs. Union of India**<sup>3</sup> and **Anuradha Bahsin vs. Union of India**<sup>4</sup> and in a mechanical manner passed the impugned orders, which are in quasi judicial authority especially invoking the power under Section 144 of Cr.P.C. and have not even recorded the subjective satisfaction in the orders at Annexures-A and A1. Though, when there is a need for passing the emergent orders, no evidence needs to be

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<sup>1</sup> 2016(7) SCC 353

<sup>2</sup> 2003 Cri.L.J.4502

<sup>3</sup> AIR 2017 SC 4161

<sup>4</sup> 2020(3) SCC 637





collected by the Assistant Commissioner while exercising the powers under Section 144 of Cr.P.C., yet the Assistant Commissioner must record in writing the subjective satisfaction of the eminent need of passing an order under Section 144 of Cr.P.C. What is the imminent need to pass orders under challenge is not even forthcoming in the orders except quoting the letter written by the Superintendent of Police, wherein the past conduct of petitioner No.1 has been referred.

12. Under such circumstances, the orders passed by the learned Assistant Commissioner and the Tahsildar, who acted as executive Magistrates powers vested in them under the provisions of the Code of Criminal Procedure or without application of mind and without there being any rational whatsoever to the object that is sought to be achieved by passing orders at Annexure-A and A1. Consequently, a case is made out by the petitioners to quash the orders at Annexures- A and A1.

13. Accordingly, the following order is passed:



ORDER

- a) The writ petition is allowed.
- b) The orders passed by respondent Nos.3 and 4 at Annexures-A and A1 are quashed.
- c) However, it is made clear that intended program is to be conducted by petitioner No.2 strictly adhering to the conditions imposed by the Police Department in Annexure-D.
- d) Smt. Maya T.R., learned High Court Government Pleader is directed to communicate this order to the Deputy Commissioner, Kalaburagi District, Superintendent of Police, Kalaburagi District, Assistant Commissioner, Kalaburagi District, Tahsildar Chittapur, Assistant Commissioner, Chittapur and Circle Inspector, Chittapur.

**Sd/-**  
**JUDGE**

SRT  
CT:SI  
List No.: 2 SI No.: 1