

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO. 435 OF 2023**

BETWEEN:

L. GHULAM RASOOL

...PETITIONER

VERSUS

STATE OF KARNATAKA & ANR.

...RESPONDENTS

COUNTER AFFIDAVIT ON BEHALF OF
THE RESPONDENT NO. 1

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[PAGE 1-503]

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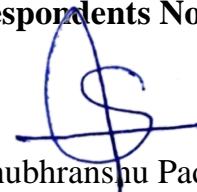
MASTER INDEX

| SL. NO. | PARTICULARS | PG. NO. |
|---------|---|---------|
| 1. | Counter Affidavit filed by the Respondent No. 1. | 1-32 |
| 2. | ANNEXURE R1 A copy of the Writ Petition No 7586/2023 titled Mohammed Arif Jameel v. State of Karnataka | 33-73 |
| 3. | ANNEXURE R2 A copy of the Writ Petition No. 26045/2022 titled Shri Raghavendra D.G. vs. State of Karnataka & Anr before the High Court of Karnataka | 74-91 |
| 4. | ANNEXURE R3 Copy of the order dated 12.01.2023 in Writ Petition NO. 26045/2022 | 92 |
| 5. | ANNEXURE R4 Copy of the order dated 23.03.2023 in Writ Petition NO. 26045/2022 | 93-95 |
| 6. | ANNEXURE R5 A copy of Vol. I of the report of Shri. L.G. Havanur Karnataka Backward Classes | 96-503 |

| | | |
|-----|--|------------------|
| | Commission | |
| 7. | ANNEXURE R6 A copy of the Government Order no. S.W. L. 12 T.B.S. 77 dated 22.02.1977 | 504-518 |
| 8. | ANNEXURE R7 A copy of the report of Shri T. Venkataswamy Backward Classes Commission | 519-949 |
| 9. | ANNEXURE R8 A copy of the said Vol I of the Justice O. P. Chinnappa Reddy Backward Classes Commission report | 950-1130 |
| 10. | ANNEXURE R9 A copy of the Government Order dated 30.03.2002 | 1131-1146 |
| 11. | ANNEXURE R10 An official translated copy of the order dated 27.03.2023 of the Government of Karnataka bearing Government Order No. BCW 135 BCA 2023 Bangalore | 1147-1153 |
| 12. | ANNEXURE R11 An official translated copy of the order dated 27.03.2023 of the Government of Karnataka bearing Government Order No. BCW 133 BCA 2023 | 1154-1158 |
| 13. | ANNEXURE R12 A copy of the Relevant portion of the Mandal Commission report | 1159-1313 |
| 14. | ANNEXURE R13 A true copy of the Andhra Pradesh Reservation of seats in the Educational Institutions and of appointments/posts in the Public Services under the State to Muslim Community Ordinance, 2005 | 1314-1318 |
| 15. | ANNEXURE R14 | 1319-1479 |

| | | |
|-----|--|------------------|
| | A true copy of the judgment dated 07.11.2005 in B. Archana Reddy and others Versus State of A.P. and others | |
| 16. | ANNEXURE R15 A true copy of the order dated 04.01.2006 in Civil Appeal No. 7513 of 2005 | 1480-1485 |
| 17. | ANNEXURE R16 A true copy of the Andhra Pradesh Reservation in favour of Socially and Educationally Backward Classes of Muslims Act, 2007 | 1486-1492 |
| 18. | ANNEXURE R17 A true copy of the Judgment dated 08.02.2010 in <i>T. Muralidhar and Others v. State of Andhra Pradesh</i> | 1493-1672 |
| 19. | ANNEXURE R18 A true copy of the order dated 25.03.2010 in State of A.P. v. T. Muralidhar Rao | 1673-1674 |

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MOST RESPECTFULLY SHOWETH: -

1. The present Petition has been filed by the Petitioner under section 32 of the Constitution of India. The Petitioner has sought indulgence of this Hon'ble Court, thereby praying to *inter alia* quash the order dated 27.03.2023 of the Government of Karnataka bearing Government Order No. BCW 135 BCA 2023 Bangalore and the order dated 27.03.2023 of the Government of Karnataka bearing Government Order No. BCW 133 BCA 2023.

2. At the outset, it is submitted that the present proceedings are misconceived, devoid of any merits and therefore, the present Petition merits to be dismissed on these grounds alone.

3. The present Affidavit is being filed for opposing the grant of interim relief. At the further outset, the Respondents deny each and every averment contained in the Petition, save and except for those averments that are expressly admitted hereinafter. The Respondent reserves its right to file additional documents and more detailed counter affidavit with para wise reply, if necessary.

4. At the further outset, it is humbly submitted that the reservation *solely* on the basis of religion is unconstitutional and contrary to the mandate of Articles 14, 15 and 16 of the Constitution of India. The same is elucidated in greater details hereinafter.

MAINTAINABILITY OF THE PETITION

5. It is submitted that the Petitioners have directly approached this Hon'ble Court under Article 32 of the Constitution, without

approaching the Hon'ble High Court. The present petition merits to be dismissed on this ground alone.

6. It is pertinent to state that there is a petition pending consideration before the Hon'ble High Court being Writ Petition No 7586/2023 titled Mohammed Arif Jameel v. State of Karnataka challenging the GO Government Order No. BCW 133 BCA 2023 dated 27.3.2023 (which also has been challenged in the present proceedings). A copy of the Writ Petition No 7586/2023 titled Mohammed Arif Jameel v. State of Karnataka is annexed herewith and marked as **ANNEXURE R-1. (Pg-33-73)**

7. Further the present Govt. order was passed pursuant to the orders passed by the Hon'ble High Court in the following proceedings-

- (a) WP NO. 26045/2022 was filed by the Petitioner before Hon'ble High Court seeking a direction *inter alia* not to change the reservation list as was prevalent by virtue of 2002 Order;
- (b) The Hon'ble High Court of Karnataka by an order dated 12.1.2023 had granted an order of status quo;

(c) However, by an interim order dated 23.3.2023, the interim order of status quo was vacated permitting the State Government to take steps with regard to reservation. The same would be subject to the final outcome in the proceedings.

A copy of the WP NO. 26045/2022 is annexed herewith and marked as **ANNEXURE R-2. (Pg-74-91)**. Copies of the orders dated 12.01.2023 and 23.03.2023 in WP NO. 26045/2022 is herewith annexed and marked as **ANNEXURE R-3(Pg-92)** and **ANNEXURE R-4. (Pg-93-95)** respectively.

The aforesaid Writ Petitions are pending consideration before the Hon'ble High Court.

8. In view of the same, the present petition merits to be summarily dismissed.

RESERVATION IN THE STATE OF KARNATAKA

9. It is humbly submitted that historically, the State of Karnataka has adopted conscious governance initiatives through affirmative

action to address social and economic backwardness and to make public service more inclusive and representative of the population.

10. As far as the reservation solely on the basis of religion is concerned, it is humbly submitted that the same is not justified. It is stated that three Backward Classes Commission Report may be material in this respect-

A. Report of Shri. L.G. Havanur Karnataka Backward Classes Commission of 1975

11. It is pertinent to note that in the main report at page 185-186, the commission has discussed the following:-

“Muslims in toto cannot be considered to be Socially backward in the conventional sense known to Hindu society. Their evidence before the Commission is also to the same effect. They blamed their representatives on the Constituent Assembly for the ineffective role they played.

...

If the claim of the Muslims that their entire community should be treated “backward” and adequate reservation in

educational institutions and Government services proportionate to their population be made is to be accepted, on similar arguments, the entire Hindu community of 86 per cent may justifiably claim backwardness with j reservation to the extent of 86 per cent. Therefore, the Commission recommends that as could be done in the case of Hindu backward classes under Art. 15(4) and 16(4), benefits could be extended to Muslims to the extent of 6 per cent by classifying them as a religious minority under Art. 14. After realising that Muslims do not come within the meaning of the term Backward Classes except the know and readily distinguishable group~ among them, ~ the Commission has treated as Backward Tribes, Muslim leaders requested the Commission to recommend to the State Government to strive for constitutional amendment. Our Commission does not consider that amendment to the Constitution is necessary in view of the latest Judgment of the Supreme Court referred to above.”

A copy of Vol. I of the report of Shri. L.G. Havanur Karnataka Backward Classes Commission is annexed herewith and marked as **ANNEXURE R-5. (Pg-96-503)**

12. Despite the aforesaid commission report, the Muslim community were included among backward classes vide Government Order no. S.W. L. 12 T.B.S. 77 dated 22.02.1977. A copy of the Government Order no. S.W. L. 12 T.B.S. 77 dated 22.02.1977 is hereby annexed as **ANNEXURE R-6. (Pg-504-518)**

B. Shri T. Venkataswamy Backward Classes Commission Report

13. The inclusion of castes and religions without the commission recommendations came to be observed by the Second Backward Classes commission report by Shri T. Venkataswamy who observed the following:

“6.5 In addition to the caste recommended by Mr. Havanur, Government included some communities Viz., Muslims, Arasu, Ganiga, Devadiga, Rajput, Barija, and Satani under the BCM category and scheduled Caste converts to Christian community upto to second generation under BCT category for purposes of Art. 16 (4) & Muslims and SC converts to Christianity to BCM-BCT list respectively for purposes of Art. 15 (4). Totally 16 castes

were classified as BCM, 129 castes as BCT and 62 castes as BT. An income limit of Rs. 8,000/- was fixed for Backward classes in general”

A copy of the report of Shri T. Venkataswamy Backward Classes Commission is annexed herewith and marked as **ANNEXURE R-7.**
(Pg-519-949)

III. Justice O. P. Chinnappa Reddy Backward Classes Commission

14. The Justice O.P. Chinappa Reddy Commission report in one passage discusses the Muslim community and finds them to be Socially and Educationally Backward. The same appears to be predicated upon the economic backwardness of the Muslim community. A copy of the said Vol I of the Justice O. P. Chinnappa Reddy Backward Classes Commission report is **ANNEXURE R-8.**
(Pg-950-1130)

15. Therefore, the initial inclusion of Muslim community into the category of other backward classes in 1979 was contrary to the

recommendations of the first backward class commission headed by Shri L.G. Havanur. The said inclusion has thereafter been continued subsequently primarily on the ground of economic backwardness. It is pertinent to state that the constitutional scheme at that stage did not contemplate reservations to economically weaker sections.

16. The said position has continued up till the Government Order dated 30.03.2002. The said government order provided for the following categories:

| | |
|-------------------|-----|
| “CATEGORY – I | 4% |
| CATEGORY – II(A) | 15% |
| CATEGORY – II(B) | 4% |
| CATEGORY – III(A) | 4% |
| CATEGORY – III(B) | 5% |
| SCHEDULED CASTES | 15% |
| SCHEDULED TRIBES | 3%” |

17. It is pertinent to state that the said category I including backward Muslim communities at Serial No. 94 vide the following:

| | | |
|-----|-----|----------------|
| 94. | (a) | <i>Pinjara</i> |
| | (b) | <i>Pinjari</i> |
| | (c) | <i>Nadaf</i> |

| | | |
|--|-----|-----------------|
| | (d) | <i>Ladaf</i> |
| | (e) | <i>Dudekula</i> |
| | (f) | <i>Mansoori</i> |
| | (g) | <i>Mansuri</i> |

Apart from the same, there was also a category being category II(B):

CATEGORY – II (B)

| <i>Name of the Caste</i> | |
|--------------------------|---------------|
| <i>1.</i> | <i>Muslim</i> |

In contradistinction to the backward castes/classes who were Muslims who were provided reservation in category I, the entire religion has been added in category II B.

A copy of the Government Order dated 30.03.2002 is annexed herewith and marked as **ANNEXURE R-9. (Pg-1131-1146)**

18. The State Government took a conscious decision to not continue with the reservation on the *sole* basis of religion as the same is unconstitutional and contrary to the mandate of Article 14 to 16 of the Constitution of India. Therefore, vide two orders dated 27.3.2023,

four percent reservation in favour of Muslim community was deleted and the members of the Muslim Community were now allowed to claim benefit of reservation under EWS scheme which is at 10%. (In EWS Scheme there are other communities namely, Brahmins, Aryavyashyas etc.)

A official translated copy of the order dated 27.03.2023 of the Government of Karnataka bearing Government Order No. SWD 135 BCA 2023 Bangalore and the order dated 27.03.2023 of the Government of Karnataka bearing Government Order No. EWS 133 BCA 2023 is annexed herewith and marked as **ANNEXURE R-10. (Pg-1147-1153)** and **ANNEXURE R-11. (Pg-1154-1158)**

19. It is pertinent to note that the groups within the Muslim Community who were found to be backward and found mention in Group I of the 2002 reservation order continue to enjoy the benefits of reservation.

20. Apart from the same, the State Government created Category II-C and II-D of reservations. The category II-C consisted of communities including Vokkaliga Community which was earlier in the form of group III-A. Similarly there was a newly created II-D

group consisting of all those communities from III-B including Lingayat community. The reservation of the Category II-C and II-D was provided at 6% and 7% respectively. The same was part of a long standing demands by members of the said communities who have been agitating for the rights of member of their communities. They were also part of the earlier reservation granted in 2002.

21. As such, the Petitioner herein has no locus to question the inclusion or grant of benefits to any other community more so those who were not conferred the benefits on the basis of religion. To that extent, the present Writ Petition merits to be dismissed.

22. It is humbly submitted that the power to classify a group of citizens as Socially and Educationally Backward Class (SEBC) has to be constitutionally exercised in accordance with the provisions of Articles 14, 15 and 16 of the Constitution of India. Assuming for the moment that any of the commissions had recommended for the inclusion of Muslims as Backward castes, the same does not denude the power of the State Government to take a decision in accordance with law. The power thereunder is a constitutionally conferred power conferred upon the State Govt to provide for protection to the

Backward Classes. The States powers under Article 16 has been discussed in *Indira Sawhney, supra-*

“526. The language of Article 16(4) is very clear. It enables the State to make a “provision” for the reservation of appointments to the posts. The provision may be made either by an Act of legislature or by rule or regulation made under such Act or in the absence of both, by executive order. Executive order is no less a law under Article 13(3) which defines law to include, among other things, order, bye-laws and notifications. The provisions of reservation under Article 16(4) being relatable to the recruitment and conditions of service under the State, they are also covered by Article 309 of the Constitution. ...”

Therefore, the exercise of power to provide for reservations emanate from Articles 15 and 16 and the same can be done by executive instructions which amounts to Law within the meaning of Article 13 of the Constitution of India.

23. The Petitioners herein have sought to give a colour to the exercise in question which is completely baseless. The timing of the

decision, etc are immaterial without the Petitioners clearly demonstrating that the reservation on the basis of religion is constitutional and permissible. Merely because reservations have been provided in the past on the basis of religion, the same is no ground for continuing the same for perpetuity, more so when the same is on the basis of an unconstitutional principle.

RESERVATION ON THE BASIS OF RELIGION IS UNCONSTITUTIONAL

24. It is humbly submitted the first test to be determined is whether there the State can provide for reservation in public employment and educational institutions *solely* based on religion. The aim of reservation, as envisaged in the Constitution, is to promote social justice by providing affirmative action to those who have historically been marginalized and discriminated against in society. The same has been enshrined in Articles 14 to 16 of the Constitution of India. Article 14 provides for equality before law and prohibits the State from denying to any person, equality before law or equal protection of laws. Article 15 provides for prohibition of discrimination against any citizen on grounds only of religion,

race, caste, sex or place of birth or any of them, but permits special provisions being made for women and children or for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and Scheduled Tribes. Article 16 guarantees equality of opportunity in matters of public employment to the citizens of India. Articles 14, 15 and 16 have been held to various facets of the right to equality in various judgements of this Hon'ble Court.

25. As to what constitutes backward classes has been discussed by Dr. B. R. Ambedkar in the debate during the passage of the First Amendment. This Hon'ble Court in *Indra Sawhney v. Union of India*, 1992 Supp (3) SCC 217 (at page 665) has quoted the following portions of Dr. Ambedkar's speech made then:

“699. It is worthy of notice that the Parliament, which enacted the First Amendment to the Constitution, was in fact the very same Constituent Assembly which had framed the Constitution. The speech of Dr Ambedkar on the occasion is again instructive. He said:

“Then with regard to Article 16, clause (4), my submission is this that it is really impossible to make any reservation which

would not result in excluding somebody who has a caste. I think it has to be borne in mind and it is one of the fundamental principles which I believe is stated in Mulla's edition on the very first page that there is no Hindu who has not a caste. Every Hindu has a caste — he is either a Brahmin or a Mahratta or a Kundby or a Kumbhar or a carpenter. There is no Hindu — that is the fundamental proposition — who has not a caste. Consequently, if you make a reservation in favour of what are called backward classes which are nothing else but a collection of certain castes, those who are excluded are persons who belong to certain castes. Therefore, in the circumstances of this country, it is impossible to avoid reservation without excluding some people who have got a caste.”(Emphasis supplied)

26. Therefore, the backward classes have been referred to as a “*Collection of certain castes*” by none less than Dr. B. R. Ambedkar. The whole point thereunder being there were Socially and Educationally backward classes in society who have historically deprived and discriminated against. The same cannot be equated with an entire religion.

27. In fact, the said issue was discussed in the report of the Mandal Commission which was the basis for the GO being issued in 13.8.1990. The Mandal Commission clearly found that the religion could not be the sole basis for reservation. A copy of the Relevant portion of the Mandal Commission report is annexed herewith and marked as **ANNEXURE R-12. (Pg-1159-1313)**

28. The rationale behind the aforesaid report is that the entire religion/religious communities cannot be treated as a monolithic entity for the purposes of reservation. As such, it is verily believed that there is no reservation given to Muslim community on the basis of religion as a whole in the Central List. Even throughout the country, it is believed verily, except State of Kerala, there is no state that provides for reservation for the Muslim community as a whole. There are various communities from the Muslim religion who are included in the SEBC which also continues to be the case in Karnataka. As such, the same in itself shows that the reservation solely on the basis of religion is not the practice followed anywhere in the country except Kerala and in the State of Karnataka, till recently.

29. It is humbly submitted that reservation solely on the basis of religion is also contrary to the principles of Social Justice. As stated above, the concept of social justice aims to protect those who are deprived and discriminated against within the society. Including within the said ambit an entire religion would be an antithesis to the concept of social justice and the ethos of the Constitution. It is humbly submitted that therefore reservation cannot be extended to any community on the sole basis of religion.

30. It is humbly submitted that the provision of reservation on the basis of religion would also be contrary to the concept of secularism. The Preamble itself states that India is secular, which has been understood as “a positive concept of equal treatment of all religions” in the case of *S.R. Bommai v. Union of India, (1994) 3 SCC 1*. Viewed thus, reservation on the basis of a person belonging to a particular religion militates against secularism and is, therefore, unconstitutional.

31. It is submitted that reservation, solely on the basis of religion, also amounts to over classification under Article 14. The classification of the entire religion as backward is bereft of any rational basis and would be arbitrary and unreasonable and thus violative of the principles of Article 14 of the Constitution of India. Even otherwise, it

would lead to further deprivations of the backward classes/groups within the Muslim community as the forward class/groups within the Muslim religion would be in a position to garner the benefits thereunder.

32. Further, provision of reservation on the basis of Religion would be violative of the constitutional mandate of Article 15(1) by way of which State is duty bound not to discriminate only on the basis of religion. The reservation granted amounts to discrimination against other religions.

33. As opposed to the same, as stated above, the State has provided for reservation to those groups/communities who are backward within the Muslim community. (For instance the communities of the Muslim Religion who continue to form part of the Most Backward Class).

34. It is submitted that Articles 25 to 30 of the Constitution of India have been provided for protection of minorities by the framers of the Constitution. Articles 25 to 30 of the Constitution of India, confers several rights and safeguards for religious minorities including right for educational institutions. However, there is no provision therein that the State is mandated to provide reservations to people belonging

to the said religious minorities only by virtue of belonging to the said religions.

35. It is submitted that the issue of reservations has anyway undergone a radical shift with the introduction of reservation on the basis of economic criteria (EWS) by virtue of the 103rd Amendment. It is pertinent to state that the said amendment has been upheld by this Hon'ble Court in *Janhit Abhiyan v. Union of India, 2022 SCC Online SC 1540*. Therefore, the Muslim community suffers no prejudice as they can avail the benefit of EWS reservation which is 10%.

36. It is most respectfully submitted that the grant of reservations in a state and redistribution thereof is purely an executive function dependent on the ground realities. The issue with regards to which group should be treated as backward class and what benefits should be available to them is the Constitutional duty of every State.

37. It is humbly submitted that the present proceedings merit to be summarily dismissed.

**PROCEEDINGS BEFORE THE HON'BLE CONSTITUTION
BENCH**

38. It is submitted that the issues raised in the present proceedings are pending consideration in several matters arising out of Andhra Pradesh being *State of A.P. v. B. Archana Reddy, Civil Appeal No. 7513 of 2005* and connected matters. Some facts therein maybe noted for convenience of this Hon'ble Court-

A. There were several rounds of litigation which came up before this Hon'ble Court arising out of the said issue in the State of Andhra Pradesh, i.e provision of reservation for the Muslim community.

B. On 21.06.2005, the State of Andhra Pradesh passed the "*The Andhra Pradesh Reservation of Seats in the Educational Institutions and of Appointments or Posts in the Public Services under the State to Muslim Community Ordinance, 2005.*" The said Ordinance declared the entire Muslim community as "*backward*" through Section 3, quoted as under

:

“3. Declaration of Muslims as Backward Classes –

Having regard to the social, educational and economic backwardness, the members of the Muslim Community residing in the State are hereby declared as Backward Classes and be included in the lists of Backward Classes prepared by the Government from time to time.”

A true copy of the Andhra Pradesh Reservation of seats in the Educational Institutions and of appointments/posts in the Public Services under the State to Muslim Community Ordinance, 2005 is herein annexed as **ANNEXURE R-13. (Pg-1314-1318)**

C. The same came to be challenged in “*B. Archana Reddy and others Versus State of A.P. and others, 2005 SCC OnLine AP 892*” before the Hon’ble High Court of Andhra Pradesh. A 5-judge bench of the Hon’ble High Court, vide its judgment dated 07.11.2005 held that the same is liable to be struck down. The judgment stated that the identification of the entire Muslim community in the State as a Backward Class was based on unscientific and defective criteria. The court further held that the identification of the entire Muslim community as

backward class on the sole basis of religion was unconstitutional.

A true copy of the judgment dated 07.11.2005 in B. Archana Reddy and others Versus State of A.P. and others is hereby annexed as **ANNEXURE R-14. (Pg-1319-1479)**

D. The aforementioned judgment of the Hon'ble High Court of Andhra Pradesh was challenged before this Hon'ble Court in Civil Appeal No. 7513 of 2005, wherein this Hon'ble Court vide order dated 04.01.2006 directed as under:

“At this stage, the question is of granting stay of the impugned judgement. The High Court, while pronouncing the judgement, granted an order of status quo. Having heard the learned counsel, we are of the view that status quo should continue to operate to the extent that such of the persons who have been granted admissions in the educational institutions would continue with their courses and would not be disturbed. Likewise, if any appointment to public employment has been made under the impugned Legislation, the same shall also not be disturbed.”

xxx

Having heard the learned counsel and having perused the constitutional provisions and the Report as also the impugned judgement, we are not inclined to stay the operation of the impugned judgement and make operational a law which has been invalidated by the High Court, as an interim measure. In view of the above, there will be a limited stay, above indicated.”

This allowed those persons who had already received admissions in educational institutions or were appointed to public appointments under the Act to continue receiving reservation benefits. The same cannot, in any manner, be said to be a stay of the judgment, as the interim order merely protects past transactions.

A true copy of the order dated 04.01.2006 in Civil Appeal No. 7513 of 2005 is hereby annexed as **ANNEXURE R-15. (Pg-1480 - 1485)**

E. There were several other rounds of legislation and litigation which culminated in the State of Andhra Pradesh bringing in another legislation in 2007, namely “The Andhra Pradesh Reservation in favour of Socially and Educationally Backward Classes of Muslims Act, 2007”.

F. Critically, the said enactment was different from the 2005 Act/ordinance as it identified only some groups/castes/communities within Muslims as “Backward”

and granted them reservations. The relevant portion of Section 3 is quoted as under :

“3. Declaration of Muslim Community and Groups as Backward Classes - The Communities and Groups of Muslims specified in the Schedule to the Act are hereby declared as socially and educationally backward classes of citizens and they shall be included in the lists of backward classes prepared by the Government from time to time, as Group E.”

The Schedule identified 14 castes/groups/communities however had another 15th entry which was open ended in nature. It may be noted as under :

“15. Other Muslim groups excluding: Syed, Saiyed, Sayyad, Mushaik; Mughal, Moghal; Pathans; Irani; Arab; Bohara, Bohra; Shia Imami Ismaili, Khoja; Cutchi-Memon; Jamayat; Navayat; and all the synonyms and sub-groups of the excluded groups; and except those who have been already included in the State list of Backward Classes.”

Therefore, the said Act granted reservation to a total of 15 communities in the state. It is most pertinent to note that while the first 14 communities included various subsets of Muslims among others, the 15th Category included “Other Muslim Groups...”.

A true copy of the Andhra Pradesh Reservation in favour of Socially and Educationally Backward Classes of Muslims

Act, 2007 is hereby annexed as **ANNEXURE R-16.**
(Pg-1486-1492)

G. The aforementioned Act of 2007 was challenged before the Hon'ble High Court of Andhra Pradesh in *T. Muralidhar and Others v. State of Andhra Pradesh, 2010 SCC Online AP 69.* The Hon'ble High Court vide its judgment dated 08.02.2010 struck off the said Act holding *inter alia* that the act was unconstitutional. It further held that identification of the entire Muslim community as a Backward Class on the sole basis of religion was unconstitutional.

A true copy of the Judgment dated 08.02.2010 in *T. Muralidhar and Others v. State of Andhra Pradesh* is hereby annexed as **ANNEXURE R-17. (Pg-1493-1672)**

H. The aforementioned judgment of the Hon'ble High Court of Andhra Pradesh was challenged before this Hon'ble Court in Civil Appeal No. 2628 of 2010. This Hon'ble Court vide its order dated 25.03.2010 observed that the same issue must be referred to the constitution bench and further directed that as

an interim measure, the benefits of the Impugned act should be extended only to the first 14 communities. In **State of A.P. v. T. Muralidhar Rao, (2010) 3 SCC 462**, in order dated 25.03.2010, this Hon'ble Court noted as under :

“3. The Act passed by the Andhra Pradesh Legislature giving 4% reservation to Group E of the Backward Classes was challenged before the High Court and the same was struck down by the High Court on various counts.

4. As several constitutional issues are involved in these appeals, as an interim measure, we direct that for the time being, reservation of 4% be extended **first to the 14 categories mentioned in the Schedule appended to the Andhra Pradesh Reservation in Favour of Socially and Educationally Backward Classes of Muslims Act, 2007 (26 of 2007), excluding the creamy layer. This is a temporary measure till the matter is finally decided.**”

It is submitted that this Hon'ble Court permitted the reservation for only limited identifiable communities amongst Muslims and not the entire religion [because it is limited to the 14 communities]. This is a critical point of difference between Andhra Pradesh and Karnataka and the Petitioners are misleading that this Hon'ble Court has continued a purely religion-based reservation. In that view of the matter, the interim order of this Hon'ble Court in the subsequent round of

the Andhra Pradesh Muslim reservation cases, cannot have any bearing on the present issue.

A true copy of the order dated 25.03.2010 in in Civil Appeal No. 2628 of 2010- State of A.P. v. T. Muralidhar Rao is hereby annexed as **ANNEXURE R-18. (Pg-1673-1674)**

39. It is therefore stated that the issue is also pending consideration before the Hon'ble Constitution Bench.

INTERIM RELIEF

40. The Petitioner herein has failed to plead and proof the basic requirements for passing of an interim order of stay. Except for vague averments in a few paragraphs that he is "*directly affected*" by the decision of the State of Karnataka, no actual prejudice has been shown. It is pertinent to state that for grant of interim relief, the criteria to be examined namely balance of convenience, prejudice caused, irreparable harm, etc is not made out in the present case.

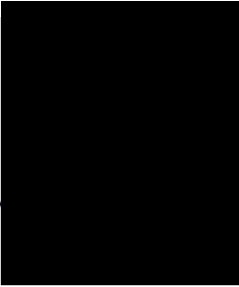
41. More so in the present case, the Impugned Orders which are in question are essentially orders passed in furtherance of provisions of Article 15 and 16 of Constitution of India. It is humbly submitted that

the orders in question also confer additional benefits onto two other backward classes namely Lingayats and Vokkalingas. Therefore, the Interim order of stay in the present case is neither equitable nor justified.

42. As stated earlier, the interim order relied upon by the Petitioners in the case of the State of Andhra Pradesh actually shows that the Petitioners are disentitled to any interim relief. The same is clear from the legislation/ ordinance in question which were under consideration before this Hon'ble court. This Hon'ble Court vide order dated 25.03.2010 had granted a positive interim order to continue the benefit of 4% reservation in Andhra Pradesh Reservation in favour of Socially and Educationally Backward Classes of Muslims Act, 2007 upon 14 specified backward communities. The only category which did not merit to be granted the benefit was category 15 – "*Other Muslim groups...*".

43. The same clearly shows that this Hon'ble Court extended the benefits of interim relief qua the specified backward Muslim groups/communities. In the present case as well, the reservation which has been deleted had been conferred upon the Muslim community as a whole. On the other hand, the specified backward communities within the Muslim community continue to get the benefit of the reservation.

44. In the facts and circumstances mentioned above, the present Writ Petition merits to be summarily rejected with costs.

(SHU  HI)
Advocate for the respondents No. 1