

Reserved on : 12.01.2024
Pronounced on : 23.01.2024



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF JANUARY, 2024

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.18330 OF 2023 (GM – R/C)

C/W

WRIT PETITION No.19823 OF 2023 (GM - RES)

IN WRIT PETITION No.18330 OF 2023:

BETWEEN:

- 1 . SHREE RAMACHANDRAPURA MATH
HANIYA POST, HOSANAGAR TALUK
SHIMOGA DISTRICT
HAVING ITS ADMINISTRATIVE OFFICE AT
NO. 2A, J.P.ROAD, I PHASE, GIRINAGAR
BENGALURU - 560 085
REP. BY ITS CHIEF OPERATIVE OFFICER
SRI. SANTHOSH HEGDE
AGED ABOUT 42 YEARS.

- 2 . SHREEMAD JAGADGURU SHANKARACHARYA
SHREE SHREE RAGHAVESHWARA BHARATI SWAMIJI
AGED ABOUT 44 YEARS
PEETADHIPATHI OF SHREE SAMASTHANA-
GOKARNA SHREE RAMACHANDRAPURA MATH

RAMACHANDRAPURA VILLAGE
HANIYA POST, HOSANAGARA TALUK
SHIMOGA DISTRICT - 577 418
REP. BY HIS GPA HOLDER
SRI. SANTHOSH HEGDE.

... PETITIONERS

(BY SRI. MANMOHAN P.N., ADVOCATE)

AND:

- 1 . THE STATE OF KARNATAKA
BY ITS SECRETARY
VIDHANA SOUDHA
BENGALURU - 560 001.
- 2 . THE SECRETARY
DEPARTMENT OF REVENUE
M.S. BUILDING
BENGALURU - 560 001.
- 3 . THE COMMISSIONER
FOR HINDU RELIGIOUS INSTITUTIONS AND
CHARITABLE ENDOWMENTS
OFFICE AT ALBERT VICTOR ROAD
CHAMARAJPET, BENGALURU – 560 018.
- 4 . DEPUTY COMMISSIONER
UTTARA KANNADA DISTRICT
KARWAR – 581 301.
- 5 . SRI. VIDHANWAN GANAPATHI G.HIREBHAT
S/O SHIVARAM HIREBHAT
AGED ABOUT 58 YEARS
TEERTHA ROAD, GOKARNA
KUMTA TALUK,
UTTARA KANNADA DISTRICT – 581 326.

- 6 . SRI. VIDHAWAN SUBRAMANAYA CHANDRASHEKAR R.,
S/O CHANDRASHEKAR
AGED ABOUT 52 YEARS
R/AT NO. 288, NAGABEEDHI
GOKARNA, KUMTA TALUK
UTTARA KANNADA DISTRICT – 581 326.
- 7 . SRI. PARAMESHWAR SUBRAMANYA PRASAD RAMANI
S/O SUBRAMANYA BHAT PRASAD
AGED ABOUT 57 YEARS
RATHABEEDI, GOKARNA
UTTARA KANNADA DISTRICT – 581 326.
- 8 . SRI. MAHESH GANESH HIREGANGE
S/O GANESH HIREGANGE
AGED ABOUT 54 YEARS
NEAR SHRI MAHABALESHWAR TEMPLE
GOKARNA, KUMTA TALUK
UTTARA KANNADA DISTRICT – 581 326.
- 9 . VE. MOO.DATTATREYA BHAT HIREGANGE
S/O NARAYANA BHAT
AGED ABOUT 60 YEARS
R/AT NO. 503/B W,
JADIKAMBI, BIJJUR
GOKARNA, KUMTA TALUK
UTTARA KANNADA DISTRICT – 581 326.
- 10 . SRI. MAHABALA UPADHYA
S/O GANAPAYYA UPADYAYA
AGED ABOUT 61 YEARS
GOKARNA, KUMTA TALUK
UTTARA KANNADA DISTRICT – 581 326.
- 11 . SRI. MURALIDHAR PRABHU
S/O VITTAL PRABHU
AGED ABOUT 69 YEARS
R/O HOSA HERAVATTA, KUMTA TALUK

UTTARA KANNADA DISTRICT – 581 326.

- 12 . VIDHWAN PARAMESHWAR SUBRAMNYA MARKHANDE
S/O SUBRAMANYA MARKHANDE
AGED ABOUT 53 YEARS
R/AT NO. 1A, NEAR NEW BUS STAND ROAD
GOKARNA, KUMTA TALUK
UTTARA KANNADA DISTRICT – 581 326.

... RESPONDENTS

(BY SRI. K.SHASHIKIRAN SHETTY, AG A/W.,
SRI. H.V.BHANUPRAKASH, AAG AND
SMT. NAVYA SHEKHAR, AGA FOR R1 TO R4;
SRI. ARJUM RAO, ADVOCATE FOR C/R5 TO R8;
R9, R10 AND R11 ARE SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND
227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE
ORDER DTD 12.07.2023 BEARING NO. KAM E 108 MUDAPRA 2019
(PRODUCED AS ANNEX-D) PASSED BY THE R-1

IN WRIT PETITION No.19823 OF 2023:

BETWEEN:

- 1 . VEDA MOORTHY DATTATREYA
NARAYANA BHAT HIREGANGE
S/O NARAYANA BHAT
AGED ABOUT 60 YEARS
R/AT NO. 503/B W, JADIKAMBI, BIJJUR
GOKARNA, KUMTA TALUK
UTTARA KANNADA DISTRICT – 581 326.
- 2 . SRI. MAHABALA UPADHYA
S/O GANAPAYYA UPADYAYA
AGED ABOUT 61 YEARS
RESIDING AT GOKARNA, KUMTA TALUK
UTTARA KANNADA DISTRICT – 581 326.

- 3 . SRI. MURALIDHAR PRABHU
S/O VITTAL PRABHU
AGED ABOUT 69 YEARS
RESIDING AT HOSA HERAVATTA, KUMTA TALUK
UTTARA KANNADA DISTRICT – 581 326.
- 4 . VIDHWAN PARAMESHWAR
SUBRAMANYA BHAT MARKHANDE
S/O SUBRAMANYA MARKHANDE
AGED ABOUT 53 YEARS
R/AT NO. 1A, NEAR NEW BUS STAND ROAD
GOKARNA, KUMTA TALUK
UTTARA KANNADA DISTRICT – 581 326.

... PETITIONERS

(BY SRI. K.SATISH, ADVOCATE FOR
SMT. KAVITA G.BHAGWAT, ADVOCATE)

AND:

- 1 . THE STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY
VIDHANA SOUDHA, BENGALURU - 560 001.
- 2 . THE SECRETARY
DEPARTMENT OF REVENUE
REPRESENTED BY ITS SECRETARY
M.S.BUILDING, BENGALURU - 560 001.
- 3 . THE COMMISSIONER
HINDU RELIGIOUS INSTITUTIONS AND
CHARITABLE ENDOWMENTS
OFFICE AT ALBERT VICTOR ROAD
CHAMARAJPET, BENGALURU - 560 018.
- 4 . THE DEPUTY COMMISSIONER
UTTARA KANNADA DISTRICT
KARWAR - 581 301.

- 5 . SRI. VIDHANWAN GANAPATHI
SHIVARAM HIREBHAT
S/O SHIVARAM HIREBHAT
AGED ABOUT 58 YEARS
R/AT TEERTHA ROAD, GOKARNA
KUMTA TALUK,
UTTARA KANNADA DISTRICT - 581 326.
- 6 . SRI. VIDHAWAN SUBRAMANAYA
CHANDRASHEKAR ADI
S/O CHANDRASHEKAR ADI
AGED ABOUT 52 YEARS
R/AT NO. 288, NAGABEEDHI
GOKARNA, KUMTA TALUK
UTTARA KANNADA DISTRICT - 581 326.
- 7 . SRI. PARAMESHWAR SUBRAMANYA PRASAD RAMANI
S/O SUBRAMANYA PRASAD
AGED ABOUT 57 YEARS
RESIDING AT RATHABEEDI, GOKARNA
UTTARA KANNADA DISTRICT - 581 326.
- 8 . SRI. MAHESH GANESH HIREGANGE
S/O GANESH HIREGANGE
AGED ABOUT 54 YEARS
R/AT NEAR SHRI MAHABALESHWAR TEMPLE
GOKARNA, KUMTA TALUK
UTTARA KANNADA DISTRICT - 581 326.

... RESPONDENTS

(BY SRI. K.SHASHIKIRAN SHETTY, AG A/W.,
SRI. H.V.BHANUPRAKASH, AAG AND
SMT. NAVYA SHEKHAR, AGA FOR R1 TO R4;
SRI. ARJUN RAO, ADVOCATE FOR C/R5 TO R8)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND
227 OF THE CONSTITUTION OF INDIA PRAYING TO i) QUASH THE
IMPUGNED TIPPANI DATED 22/05/2023 BEARING NO.

MUKA.5907846.2023 ISSUED BY THE R1 (PRODUCED AS ANNEXURE-C) AND ii) QUASH THE ORDER DATED 12/07/2023 BEARING NO. KAM.E 108 MUDAPRA 2019 (PRODUCED AS ANNEXURE-E) PASSED BY THE R1.

THESE WRIT PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 12.01.2024, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

The petitioners in both these petitions call in question an order dated 12-07-2023 by which the nominations of the petitioners in Writ Petition No.19823 of 2023 as Members of Shree Ramachandrapura Math are de-notified.

2. Shorn of unnecessary details, facts in brief germane, are as follows:-

The 1st petitioner in Writ Petition No.18330 of 2023 is Shree Ramachandrapura Math (hereinafter referred to as 'the Math' for short) and the 2nd petitioner is its Peetadhipathi and hence reference to petitioner would be reference to both the petitioners in this order. The State issued a notification invoking Section 23 of the

Karnataka Hindu Religious Institutions and Charitable Endowments Act, 1997 ('the Act' for short) bringing in certain temples mentioned in the Act under its purview. Aggrieved by the said notification, the petitioner/Math submits a representation seeking deletion of Gokarna Mahabaleshwara Temple ('the Temple' for short) from the list of notified temples published on 30-04-2003. The Math is attached to the Temple.

3. Challenging the order dated 12-08-2008 wherein certain temples were de-notified, multiple writ petitions come to be filed before this Court and this Court by its judgment dated 10-08-2018 quashed the order of such de-notification in Writ Petition No.30609 of 2008 c/w Writ Appeal No.1477 of 2008 and connected cases. However, this Court constituted a committee termed as Overseeing Committee ('the Committee' for short). The Math requested the order to be stayed for a period of one month which was granted by the Division Bench. Special Leave Petitions against the judgment dated 10-08-2018 were preferred before the Apex Court. The Apex Court granted leave and converted those matters into Civil Appeal Nos.1631-1636 of 2021. The interim order so granted by the

Division Bench of this Court was continued. On 19-04-2021 the Apex Court with minor modification in the Overseeing Committee constituted by the Division Bench of this Court in terms of its judgment dated 10-08-2018 permitted the Committee to function.

4. In furtherance of the order passed by the Apex Court on 19-04-2021, Government of Karnataka constituted a committee on 04-05-2021 to be in operation till further orders from the hands of the Apex Court. After the Karnataka Legislative Assembly elections in the year 2023 which happened to the State of Karnataka, the Government that is later formed issued an order on 22-05-2023 to remove all the nominations. The result of the said direction is the impugned order dated 12-07-2023. The order removes the petitioners in W.P.No.19823 of 2023 from the Committee and reconstitutes the Committee including the present respondents 5 to 8 as Members of the Committee. It is this action that drives the petitioners to this Court in the subject petition.

5. Heard Sri P.N. Manmohan, learned counsel appearing for the petitioners in W.P.No.18330 of 2023; Sri K. Satish, learned

counsel appearing for the petitioners in W.P.No.19823 of 2023; Sri K.Shashikiran Shetty, learned Advocate General appearing for respondents 1 to 4 and Sri Arjun Rao, learned counsel appearing for respondents 5 to 8 in both the writ petitions.

6. The learned counsel Sri P.N. Manmohan would vehemently contend that pleasure term is sought to be invoked for removal of Members of the Committee. If it were to be in normal circumstance, perhaps the action of the State in removing the Members would be meekly sustained. But, in the case at hand, the petitioners were nominated to be Members of the Committee pursuant to directions of the Apex Court. The order passed nominating the petitioners was clear that it was pursuant to directions of the Apex Court and to be in operation subject to further orders of the Apex Court. The change in Government could not have led to change in constitution of the Committee without the matter being placed before the Apex Court by the State. He would seek quashment of the order impugned.

7. On the other hand, the learned Advocate General would vehemently refute the submissions to contend that power of the State to modify the Committee is not taken away by the directions of the Apex Court. The State has exercised its power of nominating its members which has resulted in removal of the petitioners from the Committee. It is his submission that except the Chairman who was appointed by name, other persons are not appointed by respective names. Therefore, the State is empowered to change the composition. He would contend that, if at all the petitioners are aggrieved by their removal or change in the composition, they ought to have approached the Apex Court in the petition filed by them which is pending consideration at the hands of the Apex Court and not the State as is contended by the learned counsel for the petitioner, since the entire matter is pending before the Apex Court in a petition filed by the Math itself.

8. The learned counsel Sri Arjun Rao representing the new nominees to the Committee would toe the lines of the learned Advocate General in amplifying the submission that it is the petitioners who have to go to the Apex Court and not the State

Government or the private respondents. Like earlier nominees, these respondents are also eminent scholars. The petitioners cannot claim that they have to continue till the decision is taken by the Apex Court in the civil appeals (*supra*). He would seek dismissal of these petitions.

9. This Court entertaining the petitions had by a detailed order on 21-08-2023 granted an interim order of stay of the impugned order dated 12-07-2023, the result of which is the present petitioners continuing to be in the Committee. This Court had issued Rule and directed the matter to be heard. The matters are taken up together for their hearing with the consent of parties.

10. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

11. The afore-narrated facts are not in dispute as they are a matter of record. The Math/petitioner in W.P.No.18330 of 2023 is attached to the Temple for the past several centuries is the

averment in the petition. The issue commences from a Notification issued by Government of Karnataka bringing in the Temple under the purview of the Act on 30-04-2003 in the notification issued on 30-04-2003. Long thereafter the Math makes a representation that the Temple be deleted from the notification. This comes to be accepted and the Temple is de-notified/deleted from the list of notified Temples as published on 30-04-2003. The deletion happens on 12-08-2008. The moment the deletion happens, plethora of petitions are filed challenging the order dated 12-08-2008 which deletes few of the Temples or de-notifies the Temples. The de-notification is set aside by a Division Bench of this Court in a judgment rendered in ***SRI SAMSTHANA MAHABALESHWARA DEVARU, GOKARNA AND ANOTHER v. SECRETARY, REVENUE DEPARTMENT (ENDOWMENT) AND OTHERS***¹. The Division Bench quashed the Government order dated 12-08-2008 and directed constitution of a Committee to oversee the affairs of the Temple. The constitution of the Committee is in terms of paragraph 186 which reads as follows:

¹ ILR 2018 KAR 4505

.....
186. *We hereby constitute a Committee to be known as "Overseeing Committee" under the Chairmanship of the Deputy Commissioner, Uttara Kannada District, and having the following persons as its members namely,*

- (i) Deputy Commissioner, Uttara Kannada District - Chairman;*
- (ii) Superintendent of Police, Uttara Kannada District - Member;*
- (iii) Assistant Commissioner, Kumta Sub-Division, Kumta - Member;*
- (iv) Two eminent persons/scholars, capable of discharging their functions as members of the Committee, to be nominated by the State Government - Members;*
- (v) Two Upadivantas of Gokarna Temple to be nominated by the Deputy Commissioner in consultation with the State Government - Members.*

The Overseeing Committee shall ensure that the traditions of the Temple are maintained, amenities and facilities are provided to the devotees and the Upadivantas/Archaks are accredited.

Hon'ble Shri. Justice B.N. Srikrishna, Former Judge, Supreme Court of India is requested to be the advisor of the said Committee.

We request him to accept the assignment."

The order was stayed for a period of 2 weeks. The Math then challenges the said order before the Apex Court in the aforesaid civil appeals. The Apex Court by its detailed order on 19-04-2021

modified the constitution of Committee so directed to be constituted by the Division Bench *supra*. The order of the Apex Court in **RAMACHANDRAPURA MATH v. SRI SAMSTHANA MAHABALESHWARA DEVARU AND OTHERS**² reads as follows:

"....

11. *The High Court though had taken note of the said documents was ultimately of the view that the factual determination relating to the status of the Temple belonging to the Mutt or not was to be decided in a civil suit. It is also contended that in another proceedings in Writ Appeal No. 5131 of 2008, through the order dated 15-12-2008 [Shankralinga v. State of Karnataka, 2008 SCC OnLine Kar 843] it was held therein also that the jurisdiction of the civil court is to be invoked to decide the disputed question of fact. The learned Senior Counsel for the appellants would, however, contend that Section 68 of the 1997 Act bars the jurisdiction of the civil court and in that circumstance the conclusion reached by the Commissioner based on the report submitted by the Tahsildar, Assistant Commissioner and the Deputy Commissioner should be held as conclusive on that aspect. Though such contention is put forth, no documents to establish the fact of the Temple belonging to the Mutt was brought to our notice from the records nor was any such document shown to have been relied upon by the Tahsildar or the Commissioner in support of their recommendation. As noted, on all these aspects the above appeals will require a detailed consideration. One other aspect which is also brought to our notice is a subsequent amendment introduced in the year 2012 to the 1997 Act through Section 20-A wherein the disputed questions of the present nature have been left to be decided by the "Rajya Dharmika Parishad". Therefore, in the instant facts the nature of consideration to be made will arise at a later stage.*

² (2021) 15 SCC 46

12. *However, prima facie for the present, a perusal of the consideration made from the initiation of the proceedings by the Tahsildar on 20-2-2008 would indicate that the determination of the status is not based on the evidence or material relied upon in that regard. The Tahsildar, on the other hand, has based the conclusion to recommend the entrustment of the administration of the Temple to the Mutt in view of the overall improvement and also the opinion expressed by the President of Gram Panchayat, Gokarna which would not be sufficient to satisfy the requirement of Section 1(4) of the 1997 Act. The further consideration made by the Assistant Commissioner, up to the Commissioner and the proceedings of the Government resulting in the Order dated 12-8-2008 to delete the Temple, prima facie indicates to be an unilateral proceedings to which the contesting respondents were not parties. In a matter where rival contentions are being urged by the appellants and the contesting respondents relating to the status of the Temple, appropriate determination/adjudication is required to be made in accordance with law after providing opportunity to both.*

13. *All the above aspects would require detail consideration. The position remains that from the period of the Notification in the year 2003 the authorities under the Act were in charge of the affairs of the Temple till the impugned Order dated 12-8-2008 was passed. Subsequently since the High Court has set aside the said Order dated 12-8-2008, in the usual course the inclusion of the Temple in the notification issued under Section 23 of the 1997 Act would revive and the administration will have to be made as provided under the Act. However, since a final decision is to be taken in these appeals, it would not be appropriate to allow that course. Instead, the appropriate course in the interest of the Temple as well as the devotees as also the Mutt would be to allow the administration of the Temple by an independent committee so that the Temple is administered in an appropriate manner for the benefit of all devotees until a final determination is made.*

14. *To that extent, as already noticed the High Court while quashing the Government Order dated 12-8-2008 and holding that the Temple shall continue to*

be included in the list of notified institutions as per Section 23 of the 1997 Act; pending constitution of the Committee of Management for the Temple under the provisions of the Act had constituted an "Overseeing Committee". Presently since we are of the view that a detailed consideration will be necessary herein and the validity of the 1997 Act is also pending in a collateral proceeding, as an interim arrangement the said Overseeing Committee shall administer the Temple pending consideration of this appeal. There shall be a minor modification in the composition of the committee formed by the High Court.

15. In that view, in modification of all earlier interim orders we direct that the Overseeing Committee shall function under the chairmanship of the Hon'ble Justice Shri B.N. Srikrishna, former Judge, Supreme Court of India and manage the affairs of the Temple in all respects. The Overseeing Committee shall consist of the following as members:

- (i) Deputy Commissioner, Uttara Kannada District;***
- (ii) Superintendent of Police, Uttara Kannada District;***
- (iii) Assistant Commissioner, Kumta Sub-Division, Kumta;***
- (iv) Two eminent persons/scholars, capable of discharging their functions as members of the Committee, to be nominated by the State Government;***
- (v) Two Upadivantas of Gokarna Temple to be nominated by the Deputy Commissioner in consultation with the State Government.***

The Committee shall oversee the functioning of the Temple by adhering to all traditions.

16. The two eminent persons and the two Upadivantas indicated above to be members shall be nominated within 15 days from the date of this order and the Committee shall take over the management of the Temple immediately thereafter, which shall be subject to final orders to be made in these appeals.

The appellant Mutt shall hand over charge of the affairs of the Temple to the Assistant Commissioner who shall also act as Secretary to the Overseeing Committee.

17. Issue notice to the respondents in SLP arising out of D. No. 6578 of 2021. Pleadings be completed. Ordered accordingly."

(Emphasis supplied)

The Apex Court modifies earlier interim orders and directed the Overseeing Committee to function under the Chairmanship of Justice B.N. Srikrishna, a former Judge of the Apex Court and manage the affairs of the Temple in all respects. The Overseeing Committee was directed to be constituted in the manner that is depicted at paragraph 16 and the Committee was to oversee functioning of the Temple by adhering to all traditions. Time limit to constitute the Committee was fixed as 15 days from the order and the Apex Court further directed that constitution of the Committee and the Committee taking over the management of the Temple shall remain subject to final order to be made in those appeals and the Math was directed to hand over charge to the Overseeing Committee.

12. In tune with and after the direction of the Apex Court comes the Government order dated 04-05-2021. It reads as follows:

“ಸರ್ಕಾರದ ಆದೇಶ ಸಂಖ್ಯೆ: ಕಂಇ 108 ಮುದಾಪ್ತ 2019, ಬೆಂಗಳೂರು, ದಿನಾಂಕ:04.05.2021

ಪ್ರಸ್ತಾವನೆಯಲ್ಲಿ ವಿವರಿಸಿರುವ ಅಂಶಗಳ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಮಾನ್ಯ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯವು ಸಿವಿಲ್ ಅಪೀಲು ಸಂಖ್ಯೆ:1631-1636/2021 (ಎಸ್‌ಎಲ್‌ಪಿ ಸಂಖ್ಯೆ:24015-24020/2018)ರಲ್ಲಿ ನೀಡಿರುವ ದಿನಾಂಕ:19.04.2021 ರ ಮಧ್ಯಂತರ ಆದೇಶದನ್ವಯ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯದ ಸದರಿ ಪ್ರಕರಣವು ಇತ್ಯರ್ಥವಾಗುವವರೆಗೂ ಗೋಕರ್ಣ ಶ್ರೀ ಮಹಾಬಲೇಶ್ವರ ದೇವಸ್ಥಾನದ ಎಲ್ಲಾ ವ್ಯವಹಾರಗಳನ್ನು ನಿರ್ವಹಿಸಲು ಭಾರತ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯದ ನಿವೃತ್ತ ನ್ಯಾಯಮೂರ್ತಿಗಳಾದ ಶ್ರೀ ಬಿ.ಎನ್ ಶ್ರೀಕೃಷ್ಣರವರ ನೇತೃತ್ವದಲ್ಲಿ ಈ ಕೆಳಕಂಡ ಸದಸ್ಯರುಗಳನ್ನೊಳಗೊಂಡ ಮೇಲ್ವಿಚಾರಣಾ ಸಮಿತಿಯನ್ನು **(Overseeing Committee)** ರಚಿಸಿದೆ.

ಕ್ರ. ಸಂ.	ಅಧ್ಯಕ್ಷರು/ಸದಸ್ಯರುಗಳ ಹೆಸರು ಮತ್ತು ವಿಳಾಸ	ಪದನಾಮ
1	ಮಾನ್ಯ ಶ್ರೀ. ಬಿ.ಎನ್.ಕೃಷ್ಣರವರು ಭಾರತ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯದ ನಿವೃತ್ತ ನ್ಯಾಯಮೂರ್ತಿರವರು	ಅಧ್ಯಕ್ಷರು
2	ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು, ಉತ್ತರ ಕನ್ನಡ ಜಿಲ್ಲೆ, ಕಾರವಾರ	ಸದಸ್ಯರು
3	ಜಿಲ್ಲಾ ಪೊಲೀಸ್ ವರಿಷ್ಠಾಧಿಕಾರಿ, ಉತ್ತರ ಕನ್ನಡ ಜಿಲ್ಲೆ	ಸದಸ್ಯರು
ಕೆಳಕಂಡ ಎರಡು ಜನ ಉಪಾಧಿವಂತರು		
4	ವೇ.ಮೂ. ದತ್ತಾತ್ರೇಯ ನಾರಾಯಣ ಭಟ್ಟ ಹಿರೇಗಂಗಿ ಕೋಟೀರ್ಥ ಕಟ್ಟೆ, ಗೋಕರ್ಣ, ಕುಮಟಾ ತಾಲ್ಲೂಕು, ಉತ್ತರ ಕನ್ನಡ ಜಿಲ್ಲೆ	ಸದಸ್ಯರು
5	ಶ್ರೀ.ಮಹಾಬಲ ಉಪಾಧ್ಯ, ಗೋಕರ್ಣ, ಕುಮಟಾ ತಾಲ್ಲೂಕು, ಉತ್ತರ ಕನ್ನಡ ಜಿಲ್ಲೆ	ಸದಸ್ಯರು
ಕೆಳಕಂಡ ಎರಡು ಜನ ಪರಿಣಿತ ವ್ಯಕ್ತಿಗಳು/ವಿದ್ವಾಂಸರು		
6	ಶ್ರೀ ಮುರಳೀಧರ ಪ್ರಭು, ಹೊಸ ಹೆರವಟ್ಟಿ, ಕುಮಟಾ ತಾಲ್ಲೂಕು, ಉತ್ತರ ಕನ್ನಡ ಜಿಲ್ಲೆ	ಸದಸ್ಯರು
7	ಶ್ರೀ ವಿದ್ವಾನ್ ಪರಮೇಶ್ವರ ಸುಬ್ರಹ್ಮಣ್ಯ, ಭಟ್ಟಿ ಮಾರ್ಕಾಂಡೆ, ಬಸ್‌ಸ್ಟಾಂಡ್ ರಸ್ತೆ ಗೋಕರ್ಣ, ಕುಮಟಾ ತಾಲ್ಲೂಕು, ಉತ್ತರ ಕನ್ನಡ ಜಿಲ್ಲೆ	ಸದಸ್ಯರು
8	ಉಪ ವಿಭಾಗಾಧಿಕಾರಿ, ಕುಮಟಾ ಉಪ ವಿಭಾಗ, ಕುಮಟಾ, ಹಾಗೂ ಸದರಿ ಸಮಿತಿಯ ಕಾರ್ಯದರ್ಶಿ	ಕಾರ್ಯದರ್ಶಿ

ಮೇಲ್ವಿಚಾರಣಾ ಸಮಿತಿಯು, ಉತ್ತರ ಕನ್ನಡ ಜಿಲ್ಲೆ ಕುಮಟಾ ತಾಲ್ಲೂಕು, ಗೋಕರ್ಣ ಶ್ರೀ ಮಹಾಬಲೇಶ್ವರ ದೇವಾಲಯದ ಮತ್ತು ಅದರ ಪರಿವಾರ ದೇವರುಗಳ ದೇವಾಲಯಗಳ ಸಮಸ್ತ ಚರ-ಸ್ಥಿರ ಆಸ್ತಿಗಳೊಂದಿಗೆ ಸಂಪೂರ್ಣ ಆಡಳಿತವನ್ನು ಶಿವಮೊಗ್ಗ ಜಿಲ್ಲೆ, ಹೊಸನಗರ ತಾಲ್ಲೂಕು, ಶ್ರೀ

ರಾಮಚಂದ್ರಾಪುರ ಮಠದಿಂದ ಕೂಡಲೇ ವಶಕ್ಕೆ ಪಡೆದು, ಆಡಳಿತವನ್ನು ಮಾನ್ಯ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯದ ಮಧ್ಯಂತರ ಆದೇಶದ ರೀತ್ಯಾ ನಿರ್ವಹಿಸಲು ಆದೇಶಿಸಿದೆ.

ಹಾಗೂ ಶ್ರೀ ರಾಮಚಂದ್ರಾಪುರ ಮಠ ಇವರು ದೇವಸ್ಥಾನದ ಸಂಪೂರ್ಣ ಆಡಳಿತವನ್ನು ಕೂಡಲೇ ಸಮಿತಿಯ ಕಾರ್ಯದರ್ಶಿ/ಉಪವಿಭಾಗಾಧಿಕಾರಿ, ಕುಮುಟ ಉಪವಿಭಾಗ, ಇವರಿಗೆ ಹಸ್ತಾಂತರಿಸಲು ಸೂಚಿಸಿದೆ.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ
ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ
ಸಹಿ/-
04.05.2021
(ಎಂ.ಎಲ್.ವರಲಕ್ಷ್ಮಿ)
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ
ಕಂದಾಯ ಇಲಾಖೆ (ಮುಜರಾಯಿ)”

(Emphasis added)

The Committee was constituted by the State Government. At Sl.Nos. 4, 5, 6 and 7 are the petitioners in W.P.No.19823 of 2023. The narration in the constitution was clear that it was subject to further orders by the Apex Court. The Committee so constituted continued to function by managing the affairs of the Temple as was permitted by the order of the Apex Court (*supra*).

13. Elections to the Karnataka Legislative Assembly come about on 10-05-2023. This results in change of guard of Government. Immediately thereafter, a Tippani emerges from the hands of the Hon'ble Chief Minister on 22-05-2023 that all nominations made by the previous Government should be cancelled

and an order to that effect should be issued. The tippani reads as follows:

"ಸಂಖ್ಯೆ: ಮುಕಾ:5907846:2023

ದಿನಾಂಕ: 22.05.2023

ಟಿಪ್ಪಣಿ

ಮಾನ್ಯ ಮುಖ್ಯಮಂತ್ರಿಯವರ ಟಿಪ್ಪಣಿ ಸಂ:ಮುಮಂ:07:2023: ದಿನಾಂಕ: 22.05.2023ನ್ನು ಇದರೊಂದಿಗೆ ಲಗತ್ತಿಸಿದೆ. ಸದರಿ ಟಿಪ್ಪಣಿಯಲ್ಲಿ ಮಾನ್ಯ ಮುಖ್ಯಮಂತ್ರಿಯವರು ಈ ಹಿಂದಿನ ಸರ್ಕಾರದ ಅವಧಿಯಲ್ಲಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಸರ್ಕಾರದ ವಿವಿಧ ನಿಗಮ, ಮಂಡಳಿ, ಸ್ವಾಯತ್ತ ಸಂಸ್ಥೆಗಳು ಮತ್ತು ಇತರೆ ಸರ್ಕಾರಿ, ಅರೆ ಸರ್ಕಾರಿ ಹಾಗೂ ಇತರೆ ಎಲ್ಲಾ ಅಧ್ಯಕ್ಷರು/ನಿರ್ದೇಶಕರುಗಳು/ಸದಸ್ಯರುಗಳ ನಾಮ ನಿರ್ದೇಶನಗಳನ್ನು ದಿನಾಂಕ: 22.05.2023 ರಿಂದ ಜಾರಿಗೆ ಬರುವಂತೆ ರದ್ದುಪಡಿಸಿ, ಆದೇಶ ಹೊರಡಿಸಲು ಸೂಚಿಸಿರುತ್ತಾರೆ.

ಮಾನ್ಯ ಮುಖ್ಯಮಂತ್ರಿಯವರ ಆದೇಶದಂತೆ, ತಕ್ಷಣದಿಂದ ಜಾರಿಗೆ ಬರುವಂತೆ ಹಾಗೂ ಮುಂದಿನ ಆದೇಶದವರೆಗೆ ಸರ್ಕಾರದ ಅಗತ್ಯ ಅಧಿಸೂಚನೆ/ಆದೇಶವನ್ನು ಕೂಡಲೇ ಹೊರಡಿಸಬೇಕಾಗಿ ಸೂಚಿಸಿದೆ.

ಸಹಿ/-

(ವಂದಿತಾ ಶರ್ಮಾ)

ಸರ್ಕಾರದ ಮುಖ್ಯ ಕಾರ್ಯದರ್ಶಿ."

(Emphasis added)

The communication/Tippani from the Hon'ble Chief Minister blows every nomination into the air. The effect is to the nominations made pursuant to the directions of the Apex Court as well. A corrigendum order emerges on 12-07-2023 i.e., the impugned order changing 4 Members nominated by the earlier order dated 04-05-2021. The reason is found in the order itself. Therefore, it becomes germane to notice the order. The order reads as follows:

“ಸಂಖ್ಯೆ: ಕಂಇ 108 ಮುದಾಪು 2019

ಕರ್ನಾಟಕ ಸರ್ಕಾರ ಸಚಿವಾಲಯ
ಬಹುಮಹಡಿ ಕಟ್ಟಡ
ಬೆಂಗಳೂರು, ದಿನಾಂಕ:12.07.2023.

ತಿದ್ದುಪಡಿ ಆದೇಶ

ವಿಷಯ: ಮಾನ್ಯ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯವು ಸಿವಿಲ್ ಅಪೀಲು ಸಂಖ್ಯೆ:1631-1636/2021 ದಿನಾಂಕ:19-04-2021ರಂದು ನೀಡಿರುವ ಮಧ್ಯಂತರ ಆದೇಶದ ರೀತ್ಯಾ ಗೋಕರ್ಣ ಶ್ರೀ ಮಹಾಬಲೇಶ್ವರ ದೇವಸ್ಥಾನದ ಆಡಳಿತ ನಿರ್ವಹಣೆಗಾಗಿ ರಚಿಸಲಾಗಿರುವ ಮೇಲ್ವಿಚಾರಣಾ ಸಮಿತಿಯ ನಾಮ ನಿರ್ದೇಶಿತ ಸದಸ್ಯರನ್ನು ಬದಲಿಸುವ ಕುರಿತು.

ಉಲ್ಲೇಖ: ಮಾನ್ಯ ಮುಖ್ಯ ಕಾರ್ಯದರ್ಶಿಯವರ ಟಿಪ್ಪಣಿ ಸಂಖ್ಯೆ: ಮುಕಾ 5907846/2023 ದಿನಾಂಕ:25-03-3023.

ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಮಾನ್ಯ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯವು ಸಿವಿಲ್ ಅಪೀಲು ಸಂಖ್ಯೆ : 1631-1636/2021 (SLP No.24015-24020 /2018)ರಲ್ಲಿ ನೀಡಿರುವ ದಿನಾಂಕ:19-04-2021ರಲ್ಲಿ ನೀಡಿರುವ ಮಧ್ಯಂತರ ಆದೇಶದನ್ವಯ ಮಾನ್ಯ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯದ ಸದರಿ ಪ್ರಕರಣವು ಇತ್ಯರ್ಥವಾಗುವವರೆಗೂ ಗೋಕರ್ಣ ಶ್ರೀ ಮಹಾಬಲೇಶ್ವರ ದೇವಸ್ಥಾನದ ಎಲ್ಲಾ ವ್ಯವಹಾರವನ್ನು ನಿರ್ವಹಿಸಲು ಭಾರತ ಮಾನ್ಯ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯದ ನಿವೃತ್ತ ನ್ಯಾಯಮೂರ್ತಿಗಳಾದ ಶ್ರೀ ಬಿ ಎನ್ ಶ್ರೀಕೃಷ್ಣ ರವರ ನೇತೃತ್ವದಲ್ಲಿ ಅಧ್ಯಕ್ಷರನ್ನು ಒಳಗೊಂಡಂತೆ ಒಟ್ಟು 08 ಸದಸ್ಯರನ್ನು ಒಳಗೊಂಡ ಮೇಲ್ವಿಚಾರಣಾ ಸಮಿತಿಯನ್ನು ರಚಿಸಲಾಗಿರುತ್ತದೆ. ಇದರಲ್ಲಿ ಕ್ರಮ ಸಂಖ್ಯೆ 4 ರಿಂದ 7 ರವರೆಗಿನ ಸದಸ್ಯರು ನಾಮ ನಿರ್ದೇಶಿತ ಸದಸ್ಯರಾಗಿರುತ್ತಾರೆ.

ಆದರೆ, ಉಲ್ಲೇಖಿತ ಮಾನ್ಯ ಮುಖ್ಯಕಾರ್ಯದರ್ಶಿಯವರ ಟಿಪ್ಪಣಿಯಲ್ಲಿ ರಾಜ್ಯ ಸರ್ಕಾರದ ಎಲ್ಲಾ ನಿಗಮ, ಮಂಡಳಿ, ಸ್ವಾಯತ್ತ ಸಂಸ್ಥೆಗಳು, ಸರ್ಕಾರಿ/ ಅರೆ ಸರ್ಕಾರಿ ಇತರೆ ಎಲ್ಲಾ ಅಧ್ಯಕ್ಷರು/ ನಿರ್ದೇಶಕರು/ ಸದಸ್ಯರನ್ನು ಒಳಗೊಂಡ ನಾಮ ನಿರ್ದೇಶನಗಳನ್ನು ರದ್ದು ಪಡಿಸಲು ಸೂಚಿಸಲಾಗಿರುತ್ತದೆ.

ಆದ್ದರಿಂದ, ಉಲ್ಲೇಖಿತ ಮಾನ್ಯ ಮುಖ್ಯಕಾರ್ಯದರ್ಶಿಯವರ ಟಿಪ್ಪಣಿಯನ್ವಯ ಸರ್ಕಾರದ ಆದೇಶ ಸಂಖ್ಯೆ: ಕಂಇ 108 ಮುದಾಪು 2019 ದಿನಾಂಕ:04-05-2021ರ ಆದೇಶದಲ್ಲಿ ಗೋಕರ್ಣ ಶ್ರೀ ಮಹಾಬಲೇಶ್ವರ ದೇವಸ್ಥಾನದ ಎಲ್ಲಾ ವ್ಯವಹಾರಗಳನ್ನು ನಿರ್ವಹಿಸಲು ಭಾರತ ಮಾನ್ಯ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯದ ನಿವೃತ್ತ ನ್ಯಾಯಮೂರ್ತಿಗಳಾದ ಶ್ರೀ ಬಿ.ಎನ್.ಶ್ರೀಕೃಷ್ಣ ರವರ ನೇತೃತ್ವದಲ್ಲಿ ಅಧ್ಯಕ್ಷರನ್ನು ಒಳಗೊಂಡಂತೆ ಒಟ್ಟು 08 ಸದಸ್ಯರನ್ನು ಒಳಗೊಂಡ ಮೇಲ್ವಿಚಾರಣಾ ಸಮಿತಿಯನ್ನು ರಚಿಸಲಾಗಿರುತ್ತದೆ. ಸದರಿ ಆದೇಶ ಭಾಗದಲ್ಲಿ ಕ್ರಮ ಸಂಖ್ಯೆ 04 ರಿಂದ 07 ರವರೆಗಿನ ಸದಸ್ಯರು ನಾಮ

ನಿರ್ದೇಶಿತ ಸದಸ್ಯರ ಸದಸ್ಯತ್ವವನ್ನು ಮಾತ್ರ ರದ್ದುಪಡಿಸಿ, ಈ ಕೆಳಕಂಡ ಪಟ್ಟಿಯಲ್ಲಿರುವಂತೆ ಹೊಸದಾಗಿ ನಾಮನಿರ್ದೇಶನಗೊಳಿಸಿ ತಿದ್ದುಪಡಿ ಮಾಡಿ ಆದೇಶಿಸಿದೆ.

ಮುಂದುವರೆದು, ಮೂಲ ಆದೇಶದಲ್ಲಿ ಶ್ರೀ ಬಿ.ಎನ್.ಕೃಷ್ಣ ಎಂದಿರುವುದಲ್ಲಿ, ಶ್ರೀ ಬಿ.ಎನ್.ಶ್ರೀಕೃಷ್ಣ. ಎಂದು ಓದಿಕೊಳ್ಳತಕ್ಕದ್ದು. ಇನ್ನುಳಿದಂತೆ ಮೂಲ ಆದೇಶದಲ್ಲಿ ಯಾವುದೇ ಬದಲಾವಣೆಗಳಿರುವುದಿಲ್ಲ."

ಕ್ರ. ಸಂ.	ಸದಸ್ಯರ ಹೆಸರು ಮತ್ತು ವಿಳಾಸ	ಪದನಾಮ
ಎರಡು ಜನ ಉಪಾಧಿವಂತರು		
4	ವಿದ್ವಾನ್ ಶ್ರೀ ಗಣಪತಿ ಶಿವರಾಮ ಹಿರೇಭಟ್ಟ, ಕೋಟೀರ್ಥ ರಸ್ತೆ, ಗೋಕರ್ಣ, ಕುಮಟಾ ತಾ , ಉತ್ತರ ಕನ್ನಡ ಜಿಲ್ಲೆ. (ಮೊ.ನಂ.9483045658)	ಸದಸ್ಯರು
5	ವಿದ್ವಾನ್ ಶ್ರೀ ಸುಬ್ರಮಣ್ಯ ಚಂದ್ರಶೇಖರ್ ಅಡಿ, ನಾಗಬೀದಿ, ಗೋಕರ್ಣ, ಕುಮಟಾ ತಾ , ಉತ್ತರ ಕನ್ನಡ ಜಿಲ್ಲೆ. (ಮೊ.ನಂ.9480390332)	ಸದಸ್ಯರು
ಎರಡು ಜನ ಪರಿಣಿತ ವ್ಯಕ್ತಿಗಳು/ವಿದ್ವಾಂಸರು		
6	ವಿದ್ವಾನ್ ಶ್ರೀ ಪರಮೇಶ್ವರ ಸುಬ್ರಮಣ್ಯ ಪ್ರಸಾದ ರಮಣಿ, ರಥಬೀದಿ, ಗೋಕರ್ಣ, ಕುಮಟಾ ತಾ ಉತ್ತರ ಕನ್ನಡ ಜಿಲ್ಲೆ. (ಮೊ.ನಂ.9620333642)	ಸದಸ್ಯರು
7	ಶ್ರೀ ಮಹೇಶ್ ಗಣೇಶ ಹಿರೇಗಂಗಿ, ಶ್ರೀ ಮಹಾಬಲೇಶ್ವರ ದೇವಾಲಯದ ಪಕ್ಕ, ಗೋಕರ್ಣ, ಕುಮಟಾ ತಾ , ಉತ್ತರ ಕನ್ನಡ ಜಿಲ್ಲೆ. (ಮೊ.ನಂ.9448502765)	ಸದಸ್ಯರು

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ
ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಸಹಿ/-

(ಕೆ.ಪಿ ಹೇಮಂತರಾಜು)

ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,
ಕಂದಾಯ ಇಲಾಖೆ (ಧಾರ್ಮಿಕ ದತ್ತಿ)"

(Emphasis added)

The only reference made to issue the corrigendum order is Tippani of the Hon'ble Chief Minister dated 22-05-2023 (wrongly typed as 25.03.2023). Here come the private respondents as nominees into the Committee. The petitioners immediately knock at the doors of this Court. This Court in terms of its interim order dated 21-08-2023 stayed the impugned corrigendum order dated 12-07-2023. The interim order reads as follows:

"Issue Rule and stay of the impugned order for the following reasons:

(i) Petitioners herein happen to be the appellants in C.A.Nos.1631-1636/2021 wherein a Three Judge Bench of Hon'ble Apex Court having granted leave in their SLP Nos.6443-6448/2021, has made an order on 19.04.2021 for the constitution of the Overseeing Committee which shall administer the temple in question under the Chairmanship of Hon'ble Justice Sri.B.N.Srikrishna. This Committee comprises of Deputy Commissioner, Superintendent of Police (both of Uttara Kannada District), Assistant Commissioner of Kumta Sub-Division, two eminent scholars to be nominated by the State Government and two Upadivantas of Gokarna temple, to be nominated by the Deputy Commissioner in consultation with State Government. Accordingly, the Government Order dated 4.5.2021 came to be issued and the Committee has been functioning.

(ii) The Civil Appeals are still pending and it is nobody's case that any of the members of the existing Committee are disqualified or have otherwise become dysfunctional. That being the position, the impugned order dated 12.7.2023 by way of Corrigendum whereby the four nominated members in the order dated 4.5.2021 having been dropped, in their stead, four new members are nominated. Prima facie, this

could not have been done since such a power is not given to the Government. Contention of Sri.Naganand, learned Sr. Advocate appearing for the private respondents that this power avails u/s 21 of the General Clauses Act, 1897, is misconceived inasmuch as the subject Committee was constituted pursuant to direction of the Apex Court and not under the provisions of any statute, more particularly the provisions of the Karnataka Hindu Religious Institutions and Charitable Endowments Act, 1997. When Apex Court of the country has formed the Committee, the State Government having nominated the members thereto, could not have meddled with the same sans leave of the Court.

(iii) The Apex Court order dated 19.4.2021 empowers the State Government and the Deputy Commissioner to nominate two persons each in the specified categories; the said power having already been exercised by virtue of Government Order dated 4.5.2021, no power still availed for issuing Corrigendum of the kind, as rightly submitted by learned counsel for the petitioners. There is absolutely no reason or rhyme for issuing the impugned order. What all objections learned Sr. Advocate Mr.Naganand raised are not reflected in the impugned order. It hardly needs to be stated that the validity of an order of the kind has to be adjudged normally on the basis of the reasons contained in its womb vide MOHINDER SINGH GILL vs. CHIEF ELECTION COMMISSIONER, AIR 1978 SC 851. Even otherwise, existence of power is one thing and its exercise is another; no reason is assigned by the State Government for issuing the impugned Corrigendum, as if it was going to undo some grave mistake that had inadvertently crept in the earlier Order of Nomination.

(iv) The contention of Mr.Naganand that the petitioners do not have locus standi to call in question the impugned order, is bit difficult to countenance; as already mentioned above, they happen to be the petitioners in the subject Civil Appeals in which the order for the formation of Overseeing Committee admittedly has been made. It can be reasonably assumed that had they no locus standi, their SLPs would not have been admitted by the Apex Court by granting

leave. His related contention that the matter partakes the character of a Public Interest Litigation, is also untenable since the petitioners are not espousing the public cause, but their own. There is a plethora of decisions of Apex Court and several High Courts which recognize such a right as inhering in Mutts and their Pontiffs; THE COMMISSIONER, HINDU RELIGIOUS ENDOWMENTS, MADRAS V. SRI LAKSHMINDRA THIRTHA SWAMIAR OF SHIRUR MUTT, AIR 1954 SC 282 is one such Ruling. The contention of Mr.Naganand that the members who have been now dropped pursuant to impugned Corrigendum have not chosen to lay a challenge to the same, pales into insignificance since the Mutt and its Pontiff being the aggrieved parties are knocking at the doors of this Court.

(v) The submission of Mr.Naganand that under the impugned order, already some meetings having been held, proceedings have been drawn, also does not come to the rescue of his clients since those proceedings for the time being will be saved, and this interim order of stay shall be with prospective effect from today. It is not that some decisions of great implication having been taken by the new Committee, its continuation is eminently inevitable.

(vi) His request that this interim order be kept under hibernation for a short while so that his clients can lay a challenge thereto in a contemplated Writ Appeal, does not impress the court, a prima facie case having been made out by the petitioners and Rule therefore having been issued. Added, this court has in more or less similar matters already granted interim protection of the kind i.e., interim order dated 30.5.2023 in W.P.No.10994/2023 and in few other cases. Therefore, petitioners cannot be discriminated against. A Division Bench of this Court in W.A.Nos.932-933/1974 between A.V.VINODA & ANOTHER Vs. STATE OF KARNATAKA BY ITS COMMISSIONER & SECRETARY disposed off on 11.12.1974, has observed that, Courts should treat like-cases alike, and if an interim relief is granted to a litigant, similar relief cannot be denied to

other similarly circumstanced litigants, there being no derogatory circumstances.”

(Emphasis added)

In the light of the aforesaid order, the petitioners are continuing to manage the affairs of the Committee being the Members of Overseeing Committee.

14. What would emerge from what is aforesaid is, that the constitution of the Committee is in terms of the order passed by the Apex Court; if the State wanted to change the constitution of the Committee as is sought to be done by the corrigendum, it ought to have approached the Apex Court prior to the impugned corrigendum. Though the Apex Court has not indicated the names of the Committee, but the Committee was constituted pursuant to the directions on 19-04-2021. If the constitution of the Committee had to be meddled with, on the ground that there is a change in the Government, the State Government ought to have sought permission as observed hereinabove. The power of removal of nominees unilaterally invoking the doctrine of pleasure would not be applicable to the fact situation, as the nominations come pursuant to the direction of the Apex Court, in which the Apex

Court directed that it would be subject to further orders in those civil appeals pending before the Apex Court. Therefore, when the matter was completely seized by the Apex Court and the Committee was constituted pursuant to the directions of the Apex Court, it was not open to the State to change the nominations without it being brought to the notice of the Apex Court. The power of the State may be available to change the nominations which would however be subject to judicial review. But, that would not clothe the State with the power, in the case at hand, as the case has emerged out of peculiar circumstance of the Committee being constituted pursuant to the directions of the Apex Court.

15. The order appointing the Members of the Committee on 04-05-2021 also made it clear that it was constituted pursuant to the directions of the Apex Court and would be subject to further orders by the Apex Court. Therefore, in all fairness, the State which wanted to change the constitution of the Committee had to approach the Apex Court. The submission of the learned Advocate General that the aggrieved persons are the petitioners and, therefore, the petitioners had to approach the Apex Court is noted

only to be rejected. The situation pursuant to the impugned order is not brought about by the petitioners. It is by a stroke of pen from the hands of the State. Therefore, the State ought to have sought approval from the hands of the Apex Court for re-constitution of the Committee. The question is not with regard to the names of the Members of the Committee, but with regard to fairness of the State that it had to seek approval for re-constitution of a Committee constituted pursuant to the direction of the Apex Court, wherein it was clearly observed that it would be the Overseeing Committee subject to final orders to be made in those appeals pending before Apex Court. Therefore, this Court is of the considered view, that the State has sought to overreach the order passed by the Apex Court without bringing it to the notice of the Apex Court and seeking an express approval of such tinkering.

16. Governments may come and Governments may go, the Writ of Constitutional Courts would run and run for all times to come. The direction of the Apex Court is sought to be completely flouted on the score that there is a change of guard. Change in Government would not clothe, the Government with power to

completely obliterate all the nominations made by the earlier Government, by a stroke of pen. This is *sans* countenance, as it is opposed to principle of continuing governmental action / decision, a facet of constitutionalism, unless it is found that the acts done by the earlier regime to be contrary to statutory provisions. Therefore, this Court completely finds fault with what the State has done in terms of the corrigendum order dated 12-07-2023. Finding that the action of the State being an attempt to overreach the order passed by the Apex Court, I deem it appropriate to obliterate the same, reserving liberty to the State to approach the Apex Court in terms of the preceding observations.

16. For the aforesaid reasons, I pass the following:

ORDER

- (i) Writ Petitions are allowed.
- (ii) The Corrigendum Order dated 12-07-2023 stands obliterated.

- (iii) The obliteration would not, however, come in the way of the State approaching the Apex Court and seeking necessary orders at the hands of the Apex Court.

As a consequence, pending applications also stand disposed.

**Sd/-
JUDGE**

bkp
CT:SS