NC: 2025:KHC-K:887
WP No. 200358 of 2025

IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 6TH DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MR JUSTICE R.NATARAJ

WRIT PETITION NO.200358 OF 2025 (LB-ELE)

BETWEEN:

SMT. SUMITRA
W/O PRAKASH CHAWAN,
AGED ABOUT 29 YEARS, OCC: PRESIDENT,
GRAM PANCHYATH, TENGLI VILLAGE,
R/O TENGLI, TQ: KALAGI,
DIST: KALABURGI-585317.

...PETITIONER

(BY SRI R.S. KADGANCHI, ADVOCATE)

AND:

Digitally signed by RENUKA
Location: High Court Of Karnataka

1. THE STATE OF KARNATAKA,
   BY ITS SECRETARY,
   DEPARTMENT OF PANCHAYAT RAJ
   AND RURAL DEVELOPMENT,
   M.S. BUILDING, BENGALOORU-560001.

2. THE DEPUTY COMMISSIONER,
   KALABURGI-585101.

3. THE ASSISTANT COMMISSIONER,
   KALABURGI-585102.

4. THE EXECUTIVE OFFICER,
   TALUKA PANCHAYAT,
   KALABURGI-585102.

5. GRAM PANCHAYAT, TENGLI,
REPRESENTED BY ITS
PANCHAYAT DEVELOPMENT OFFICER,
TQ: KALAGI AND DIST. KALABURGI -585 317.

6. SRI VIJAYKUMAR S/O REVANSIDDAPPA,
AGED ABOUT 56 YEARS,OCC: MEMBER,
GRAM PANCHYATH AND UPADYAKSHA,TENGLI

7. SRI DESU S/O CHANDU,
AGED ABOUT 50 YEARS,
OCC: MEMBER GRAM PANCHYATH,
TENGLI VILLAGE

8. SMT.KASHIBAI W/O SHIVAJI,
AGED ABOUT 43 YEARS, CC: MEMBER,
GRAM PANCHYATH,TENGLI VILLAGE.

9. SMT. GUNDABAI W/O SANTOSH,
AGED ABOUT 28 YEARS,OCC: MEMBER,
GRAM PANCHYATH, TENGLI VILLAGE.

10. SMT.JYOTHI W/O SHARNAPPA
AGED ABOUT 31 YEARS, OCC: MEMBER,
GRAM PANCHYATH, TENGLI VILLAGE.

11. SRI BHIMASHANKAR S/O SHARASCHANDRA,
AGED ABOUT 52 YEARS, OCC: MEMBER,
GRAM PANCHYATH, TENGLI VILLAGE.

12. SMT. VIJAYALAXMI W/O HANAMANTHARAYA,
AGED ABOUT 33 YEARS, OCC: MEMBER,
GRAM PANCHYATH, TENGLI VILLAGE.

13. SMT. JAGADEVI W/O AMRUTH,
AGED ABOUT 34 YEARS, OCC: MEMBER,
GRAM PANCHYATH, TENGLI VILLAGE.

14. MD. MUSTAFAT S/O MD. GOUS,
AGED ABOUT 35 YEARS, OCC: MEMBER,
GRAM PANCHYATH, TENGLI VILLAGE.

15. SMT. GORIBI W/O DADAMIYYA,
AGED ABOUT 54 YEARS, OCC: MEMBER,
GRAM PANCHYATH, TENGLI VILLAGE.

16. SRI LAXMAN S/O MANASINGH,
AGED ABOUT 42 YEARS, OCC: MEMBER,
GRAM PANCHYATH, TENGLI VILLAGE.

17. MAIBOOB PATEL S/O MAQBOOL PATEL,
AGED ABOUT 37 YEARS, OCC: MEMBER,
GRAM PANCHYATH, TQ: TENGLI,
DIST: KALABURGI.

18. SRI NAGARAJ S/O REVANSIDDAPPA,
AGED ABOUT 29 YEARS, OCC: MEMBER,
GRAM PANCHYATH, TQ: TENGLI,
DIST: KALABURGI.

19. SMT. SAVITA W/O RAJASHEKHAR,
AGED ABOUT 36 YEARS, OCC: MEMBER,
GRAM PANCHYATH, TQ: TENGLI,
DIST: KALABURGI.

20. SMT. SRIDEVI W/O RAVINDRA,
AGED ABOUT 36 YEARS, OCC: MEMBER,
GRAM PANCHYATH, TQ: TENGLI,
DIST: KALABURGI.

21. SRI HANAMANTHRAYA S/O NINSASHETTY,
AGED ABOUT 36 YEARS, OCC: MEMBER,
GRAM PANCHYATH, TQ: TENGLI,
DIST: KALABURGI.

RESPONDENT NOS.6 TO 21
ALL R/O TENGLI VILLAGE
TQ: KALAGI, DIST: KALABURGI-585316.

…RESPONDENTS

(BY SRI MALLIKARJUN SAHUKAR, AGA FOR R1 TO R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF CERTIORARI OR ANY OTHER WRIT OR DIRECTION TO QUASH THE IMPUGNED NOTICE IN NO.SAM/ KAM/CHUNAVANE/93/2024-25 DATED 24.01.2025 ISSUED BY THE 3RD RESPONDENT, THE COPY OF WHICH HAS BEEN PRODUCED AT ANNEXURE-A.

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

CORAM: HON'BLE MR JUSTICE R.NATARAJ

ORAL ORDER

The petitioner being the President of Gram Panchayat, Tengli is before this Court challenging a notice dated 24.01.2025, issued by respondent No.3, by which, he convened a meeting of the members of the Panchayat on 13.02.2025 to consider a motion of 'no confidence' against her.

2. The petitioner was elected as the Adhyaksha of Tengli Gram Panchayat 03.08.2023. She contends that certain members of the Panchayat, who were nursing a

grouse against her, submitted a representation to respondent No.3 on 23.01.2025 expressing lack of confidence in the petitioner to continue as the President and requested respondent No.3 to conduct the meeting to consider a motion of 'no confidence'. The petitioner contends that the copy of this representation was not furnished to her. However, she obtained it from respondent No.3. She contends that though the members had made reckless allegations against the petitioner, but no complaint of whatsoever nature was filed against her. She contends that respondent No.3 issued a notice dated 24.01.2025 proposing to hold a meeting of the members on 13.02.2025 to consider the motion of 'no confidence'. Being aggrieved by the said notice, the petitioner is before this Court.

3. The petitioner contends that the proviso to Section 49(1) of the Karnataka Panchayat Raj Act, 1993 (for short, 'the Act of 1993'), specifically provides that no resolution shall be moved unless notice of the resolution is

signed by not less than 1/3rd of the total members of the Panchayat and at least ten days notice has been given of the intention to move the resolution. She contends that the Full Bench of this Court in the case of ***Shankargouda and others Vs. The State of Karnataka and others***[1]***,*** while answering a reference held that it is only after the expiry of 10 days, that the Assistant Commissioner is entitled to issue a notice to all the members. She therefore contends that the impugned notice issued on 24.01.2025 is in violation of the judgment of the Full Bench of this Court.

4. The learned counsel for the petitioner did not press into service various grounds urged in the writ petition but restricted the writ petition to the above contention and submitted that the notice issued convening a meeting of the members on 13.02.2025 violates first proviso to Section 49(1) of the Act of 1993.

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[1] ***ILR 2022 Kar 3691***

5. The learned Additional Government Advocate submitted that the reference before the Full Bench was *'whether ten days notice prescribed in the later part of the first proviso to sub-section (1) of Section 49 of the Act of 1993 should be given to the Adhyaksha of the Gram Panchayat or to the Assistant Commissioner and whether such notice is mandatory or directory'*. He contends that the Full Bench answered this reference and held that the members of the Panchayat are bound to give ten days notice in Form No.1 as stipulated in Rule 3(2) of the Karnataka Panchayat Raj (Motion Of No-Confidence Against Adhyaksha And Upadhyaksha Of Grama Panchayat) Rules, 1994 (hereinafter referred to as the 'Rules 1994') to the concerned Assistant Commissioner, who thereafter shall issue notice to all the members convening a meeting to consider a motion of 'no confidence'. He contends that the word 'thereafter' found in the judgment cannot be interpreted to mean that the Assistant Commissioner has to wait for ten days and thereafter issue a notice. He submits that if this contention

is accepted, then the notice of the meeting cannot be held within 30 days as prescribed under Rule 3(2) of the Rules 1994.

6. I have considered the submissions made by the learned counsel for the petitioner and the learned Additional Government Advocate for respondent Nos.1 to 3.

7. The Full Bench of this Court while considering the question whether the members of the Panchayat have to serve a ten days notice to the Adhyakshya or to the Panchayat or to the Assistant Commissioner and whether such notice is mandatory or not, held that ten days notice is to be given to the Assistant Commissioner and not to the Adhyaksha of the Panchayat. After the ten days notice is given, it is for the Assistant Commissioner to decide the date of the meeting and therefore, the word 'thereafter' cannot be interpreted to mean that the Assistant Commissioner has to wait for the expiry of ten days and thereafter fix the meeting. The ten days notice given to

the Assistant Commissioner is to enable him to decide within that ten days as to how and when the meeting has to be held. That does not implied that he has to commence the process after expiry of ten days. If the above interpretation of the learned counsel of the petitioner is accepted, the meeting cannot be conducted within 30 days fixed under Rule 3(2) of the Rules, 1994.

8. In that view of the matter, the contention urged by the learned counsel for the petitioner does not merit consideration. Hence, the writ petition is ***dismissed***.

Sd/-
(R.NATARAJ)
JUDGE

RSP
LIST NO.: 2 SL NO.: 4
Ct:si