IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 14TH DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE R.NATARAJ

WRIT PETITION NO.200415 OF 2025 (LB-ELE)

BETWEEN:

SHANTAMMA W/O SHIVAPPA,
AGED ABOUT 60 YEARS,
OCC: HOUSEWIFE, R/O VILLAGE SIRWAL,
TQ: SHAHAPUR, DIST: YADAGIRI-585 223.

...PETITIONER

(BY SRI SALOMON ALFRED, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
REPRESENTED BY
UNDER SECRETARY TO GOVERNMENT,
RURAL DEVELOPMENT AND PANCHAYAT RAJ
DEPARTMENT, M.S. BUILDING,
BANGALORE-560 001.

2. THE ASSISTANT COMMISSIONER,
YADGIRI DISTRICT,
MINI VIDHANA SOUDHA,
CHITTAPUR ROAD, YADGIRI,
DISTRICT: YADGIRI-585 201.

3. THE P.D.O.
SIRWAL GRAM PANCHAYAT,
SIRWAL, TQ: SHAHAPUR,
DISTRICT: YADGIRI-585 223.

Digitally signed by RENUKA
Location: High Court Of Karnataka

4. SMT. SHAKUNTAL W/O MRUTYUNJAYA SWAMY,
MEMBER OF SIRWAL GRAMA PANCHAYAT,
R/O SIRWAL VILLAGE, TQ: SHAHAPUR,
DISTRICT: YADGIRI-585 223.

5. SMT. TAYAMMA W/O SHARANAPPA,
MEMBER OF SIRWAL GRAMA PANCHAYAT,
R/O SIRWAL VILLAGE, TQ: SHAHAPUR,
DISTRICT: YADGIRI-585 223.

6. SHRI. BAPUGOUDA S/O MAHANTAGOUDA,
MEMBER OF SIRWAL GRAMA PANCHAYAT,
R/O SIRWAL VILLAGE, TQ: SHAHAPUR,
DISTRICT: YADGIRI-585 223.

7. SMT. SRIDEVI W/O MAALAPPA,
MEMBER OF SIRWAL GRAMA PANCHAYAT,
R/O SIRWAL VILLAGE, TQ: SHAHAPUR,
DISTRICT: YADGIRI-585 223.

8. SHRI. MONAPPA S/O HONNAPPA,
MEMBER OF SIRWAL GRAMA PANCHAYAT,
R/O SIRWAL VILLAGE, TQ: SHAHAPUR,
DISTRICT: YADGIRI-585 223.

9. SHRI. MAHIBOOBSAB S/O MASHAQ SAB,
MEMBER OF SIRWAL GRAMA PANCHAYAT,
R/O SIRWAL VILLAGE, TQ: SHAHAPUR,
DISTRICT: YADGIRI-585 223.

10. SMT. SHIVAMOGGAMMA W/O SADASHIVAPPA,
MEMBER OF SIRWAL GRAMA PANCHAYAT,
R/O SIRWAL VILLAGE, TQ: SHAHAPUR,
DISTRICT: YADGIRI-585 223.

11. SHRI. SHARANABASAPPA S/O SAYABANNA,
MEMBER OF SIRWAL GRAMA PANCHAYAT,
R/O SIRWAL VILLAGE, TQ: SHAHAPUR,
DISTRICT: YADGIRI-585 223.

12. SMT. NAGAMMA W/O MAHADEVAPPA,
MEMBER OF SIRWAL GRAMA PANCHAYAT,

R/O SIRWAL VILLAGE, TQ: SHAHAPUR,
DISTRICT: YADGIRI-585 223.

13. SMT. SUVARNA W/O GURURAJ,
MEMBER OF SIRWAL GRAMA PANCHAYAT,
R/O SIRWAL VILLAGE, TQ: SHAHAPUR,
DISTRICT: YADGIRI-585 223.

14. SHRI. SHABBIR S/O MULAQSAB,
MEMBER OF SIRWAL GRAMA PANCHAYAT,
R/O SIRWAL VILLAGE, TQ: SHAHAPUR.
DISTRICT: YADGIRI-585 223.

15. SHRI. RAJASHEKHAR S/O BASAVANTAPPA,
MEMBER OF SIRWAL GRAMA PANCHAYAT,
R/O SIRWAL VILLAGE, TQ: SHAHAPUR,
DISTRICT: YADGIRI-585 223.

16. SMT. DEVAMMA W/O HANAMANTH,
MEMBER OF SIRWAL GRAMA PANCHAYAT,
R/O SIRWAL VILLAGE, TQ: SHAHAPUR,
DISTRICT YADGIRI-585 223.

17. SMT. ISLAMBEE W/O DAWALSAB,
MEMBER OF SIRWAL GRAMA PANCHAYAT,
R/O SIRWAL VILLAGE, TQ: SHAHAPUR,
DISTRICT: YADGIRI-585 223.

…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 QUASH THE NO CONFIDENCE NOTICE VIDE NO.REV/ELE/80/2024-25 DATED 29-01-2025 ISSUED BY THE RESPONDENT NO.2 I.E., ANNEXURE-D.

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

CORAM: HON'BLE MR. JUSTICE R.NATARAJ

ORAL ORDER

(PER: HON'BLE MR. JUSTICE R.NATARAJ)

The petitioner, a President of Sirwal Gram Panchayat is before this Court challenging a notice dated 29.01.2025 issued by respondent No.2 convening a meeting of the Members of the Panchayat on 17.02.2025 for considering a motion of 'no confidence'.

2. The petitioner contends that she was elected as a President for the second term on 04.08.2023 for a period of 30 months. She contends that though she was working to the satisfaction of all the members of the Panchayat, yet respondent Nos.4 to 17 moved a motion of 'no confidence' by submitting a representation with respondent No.2 on 20.01.2025. The respondent No.2 then issued a notice dated 29.01.2025 convening a

meeting of the members on 17.02.2025. The petitioner being aggrieved by the said notice, has filed this writ petition.

3. Learned counsel for the petitioner submits that the petitioner was elected as a petitioner of the Panchayat for a period of 30 months. He contends that the petitioner has a secured tenure for 30 months and therefore the members could not move a motion of 'no confidence' unless they had any grievance against the petitioner. Therefore, he contends that the motion of 'no confidence' moved against the petitioner is invalid and deserves to be interfered with.

4. Learned Additional Government Advocate contends that the members, who have elected the president have also a right to remove him or her in view of Section 49 of the Karnataka Panchayat Raj Act, 1993 (for short, 'the Act of 1993'). He contends that Rules are framed by the State Government to enable moving a motion of 'no confidence' against the Adhyaksha and

Upadhyaksha even if the members do not have any grievance against the Adhyaksha and Upadhyaksha. Therefore, he contends that the right to move a motion of 'no confidence' is a statutory right vested in the members of the Panchayat, who have elected the president.

5. I have considered the submissions made by the learned counsel for the petitioner and the learned counsel for respondent No.1 to 3.

6. Though the contention of the learned counsel for the petitioner appears convincing at first blush but a perusal of Section 49 of the Act of 1993, makes it more than evident that the members, who have elected the Adhyaksha and Upadhyaksha are entitled to move a 'no confidence' motion either based on allegations or not based on any allegations. If the 'no confidence' motion is based on their sheer lack of confidence in the Adhyaksha and Upadhyaksha, such 'no confidence' motions are considered as one moved under Section 49(1) of the Act of 1993. In case if the members moved a 'no confidence'

motion on alleged irregularities or on the ground that the President or the Vice-President is not functioning according to the provisions of the Act, then such 'no confidence' motions are treated as one moved under Section 49(2) of the Act of 1993. In so far as the 'no confidence' motions under Section 49(1), the State Government has framed the Karnataka Panchayat Raj (Motion of No-Confidence against Adhyaksha and Upadhyaksha of Gram Panchayat) Rules, 1994. However, in so far as 'no confidence' motion based on allegation, the Division Bench of this Court has held in the case of ***Smt. Lakshmamma Vs. State of Karnataka and others***[1] that the State Government has not framed any rules. The Division Bench also held that any motion of 'no confidence' based on allegation shall be treated as one moved under Section 49(1) of the Act of 1993. Therefore, the petitioner cannot contend that she had a secured tenure of 30 months and the members are

[1] 2019 (1) KCCR 161 (DB)

not entitled to move a motion of 'no confidence' before the expiry of 30 months.

7. In that view of the matter, the only ground urged by the learned counsel for the petitioner does not merit consideration. Consequently, this writ petition is ***dismissed.***

Sd/-
(R.NATARAJ)
JUDGE

RSP
List No.: 1 Sl No.: 24