IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 15TH DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR JUSTICE R.NATARAJ

WRIT PETITION NO.202083 OF 2018 (S-RES)

BETWEEN:

SMT.GUNDAMMA
D/O SAIBANNA (W/O DIGAMBAR BELAMAGI),
AGE: 51 YEARS, OCC: EX. TEACHER,
R/O H.NO.188, INDIRANAGAR,
BEHIND DISTRICT COURT,
KALABURAGI-585102.

…PETITIONER

(BY SRI P. VILASKUMAR, SENIOR COUNSEL FOR
SRI NITESH PADIYAL, ADVOCATE)

AND:

Digitally signed by SACHIN
Location: High Court Of Karnataka

1. THE STATE OF KARNATAKA,
   THROUGH ITS PRL. SECRETARY,
   DEPARTMENT OF SOCIAL WELFARE &
   BACKWARD CLASSES,
   M.S. BUILDING, DR. AMBEDKAR VEEDI,
   BENGALURU-1.

2. THE COMMISSIONER
   & APPELLATE AUTHORITY OF
   CASTE & INCOME VERIFICATION COMMITTEE,
   DEPARTMENT OF BACKWARD CLASSES WELFARE,
   NO.16/D, DEVARAJ URS BHAVAN,
   MILLARS TANK BED AREA,
   VASANTH NAGAR, BENGALURU-52.

3. THE CHAIRMAN/DEPUTY COMMISSIONER,
CASTE & INCOME VERIFICATION COMMITTEE,
KALABURAGI-585102.

4. THE DISTRICT OFFICER
& MEMBER SECRETARY,
CASTE & INCOME VERIFICATION COMMITTEE
& DISTRICT BACKWARD CLASS & MINORITY
DEPARTMENT, KALABURAGI-585102.

5. THE DEPUTY DIRECTOR
OF PUBLIC INSTRUCTIONS ,
KALABURAGI-585102.

…RESPONDENTS

(BY SRI SHESHADRI JAISHANKAR, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF CERTIORARI FOR QUASHING THE ORDER PASSED BY RESPONDENT NO.2 DATED 12.07.2017 VIDE ORDER NO.ಹಿವಕಇ/ಮಾಶಾ/ಸಿಆರ್–98/2016-17 WHICH IS AT ANNEXURE-A AND CONSEQUENTLY DIRECT THE RESPONDENT NO.5 TO REINSTATE THE PETITIONER INTO SERVICE ALONG WITH FULL BACK WAGES, CONTINUITY OF SERVICES WITH ALL OTHER CONSEQUENTIAL BENEFITS.

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

CORAM: HON'BLE MR JUSTICE R.NATARAJ

ORAL ORDER

The petitioner has challenged an order bearing ಹಿವಕಇ/ಮಾಶಾ/ಸಿಆರ್-98/2016-17 dated 12.07.2017 passed by respondent No.2 rejecting an appeal filed by her under Section 4-D of the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointments, etc.) Act, 1990 (for short 'the Act of 1990'). She has also sought for a consequential relief to reinstate her into service with full back wages, continuity of service with all other benefits.

2. The facts as stated by the petitioner in the writ petition are that she was appointed as an Assistant Teacher in the year 1994 under the reserved category. She furnished her caste and income certificate issued by the jurisdictional Tahasildar, which was forwarded for verification. The Caste and Income Verification Committee reported that the petitioner did not belong to the caste, which she claimed. Consequently, the petitioner and

similarly situated assistant teachers were terminated on the ground that they did not produce the validity certificate. The petitioner challenged the said order before the Karnataka Administrative Tribunal in Application No.2213/2010. The Tribunal by order dated 17.06.2013 dismissed the application but reserved liberty to the petitioner to challenge the report of the Caste and Income Verification Committee in an appeal. Accordingly, the petitioner approached the appellate authority under Section 4-D of the Act of 1990. The appeal filed by the petitioner was rejected in terms of the order dated 12.07.2017. She also approached respondent No.4 hoping to obtain a validity certificate, as per a letter addressed by the DDPI, Gulbarga. However, the respondent No.4 issued an endorsement that the documents were more than 20 years old and therefore it was not possible to issue a validity certificate. The petitioner is therefore before this Court challenging the order dated 12.07.2017 rejecting the appeal and has sought consequential reliefs.

3. The petitioner contends that in the meanwhile, the Secretary to the Government of Karnataka vide letter dated 16.09.1995 had directed the respondents not to terminate the services of employees whose validity certificates were not received from the Income and Caste Verification Committee. Nonetheless, a few teachers were relieved on the ground that the validity certificates were not received. She contends that under those circumstances four similarly situated Assistant Teachers approached the Karnataka Administrative Tribunal in Application Nos.2219/2010, 2237/2010, 2238/2010 and 2240/2010 which were disposed off by order dated 24.07.2012 holding that it was the duty of the department to obtain the verification/validity. On the basis of the directions issued by the Tribunal, the respondent No.5, by order dated 20.01.2014, had reinstated and extended all consequential benefits to the petitioners therein. The petitioner is therefore before this Court challenging the order passed by respondent No.2 and seeks for a further

direction to the respondent No.5 to reinstate her into service.

4. Learned Senior Counsel representing the petitioner contends that the Karnataka Administrative Tribunal in the case of the petitioner and others had directed the petitioner to approach the appellate authority challenging the report of the Caste and Income Verification Committee, while in similar circumstances the same Tribunal had held that it is the duty of the employer to obtain the caste and income validity certificate. He submits that based on the later order passed by the Tribunal, the assistant teachers, who were similarly situated as the petitioner, were reinstated into service. He therefore contends that the petitioner is also entitled to be treated alike and her service is also to be restored.

5. *Per contra*, learned Additional Government Advocate submits that the petitioner did not challenge the order passed by the Administrative Tribunal in Application No.2213/2010, but allowed it to become final. He submits

that following the order passed by the Tribunal, the petitioner filed an appeal before respondent No.2, which passed the impugned order holding that petitioner had filed a belated appeal and did not produce the report of the Caste and Income Verification Committee and that respondent No.4 had issued an endorsement that there were no documents available with it. He therefore submits that the petitioner cannot now assail the order passed by the Karnataka State Administrative Tribunal or attempt to dilute the order passed by the Tribunal by contending that the Tribunal had in similar circumstances, taken a different view. Thus, he contends that the petitioner is not entitled to any reliefs in this petition.

6. I have considered the submissions of the learned Senior Counsel for the petitioner and the learned Additional Government Advocate for the respondents.

7. It is not in dispute that the services of the petitioner was terminated on the ground that when the caste certificate of the petitioner was sent for verification,

the Caste and Income Verification Committee was of the opinion that the petitioner did not belong to the caste claimed by her. This order of termination of the service of the petitioner was challenged by the petitioner and similarly situated persons in Application No.2213/2010 and other applications. The Karnataka State Administrative Tribunal held that an appeal is provided under Section 4-D of the Act of 1990 against a report of the Caste and Income Verification Committee and therefore granted liberty to the petitioner to file an appeal before the appropriate authority. Following this order, the petitioner challenged the order passed by the District Caste Verification Committee before the Appellate Authority under Section 4-D of the Act of 1990. The Appellate Authority took into consideration a communication dated 28.02.2014 by the respondent No.4 that there were no documents available with it and also having regard to the fact that the petitioner had belatedly challenged the order passed by the Caste and Income Verification Committee and did not produce the said order, rejected the appeal of

the petitioner. The petitioner has now challenged the said order before this Court in this petition. The petitioner is now trying to piggy ride on the orders passed in the cases of similarly situated persons, where the Tribunal had passed an order holding that the duty to obtain a validity certificate was upon the employer and not on the employee and therefore the order terminating the employees on the ground that they had not obtained the validity certificate was set at naught and they were ordered to be reinstated.

8. If the petitioner is unable to establish that she belonged to a particular caste or that her income was well below the limit prescribed and therefore she was entitled to claim the benefit of Group-B, the petitioner cannot now draw a parallel and contend that similarly situated teachers were extended the benefit.

9. It is also relevant to note that under Section 4-A(5) of the Act of 1990, the burden of proving that a person or his parent or guardian belongs to Scheduled

Caste, Scheduled Tribes or other Backward Classes is on the applicant. It was therefore incumbent upon the petitioner to have produced documents before the Appellate Authority to establish that she belonged to Kabbaliga caste and that her income was well below the limit prescribed for a Group-B category. In that view of the matter, the petitioner is not entitled to any relief in this writ petition. Hence, the petition lacks merit and is ***dismissed***.

10. If the petitioner is entitled to file any revision under Section 4F of the Act of 1990, she is at liberty to do so.

Sd/-
(R.NATARAJ)
JUDGE

RSP
List No.: 1 Sl No.: 28
CT:SI