NC: 2025:KHC-K:2630
WP No. 201268 of 2025

IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 8TH DAY OF MAY, 2025

BEFORE

THE HON'BLE MR. JUSTICE ASHOK S. KINAGI

WRIT PETITION NO.201268 OF 2025 (LB-ELE)

BETWEEN:

1. NINGAPPA S/O KHAJAPPA,
   AGE: 45 YEARS,
   OCC: VICE-PRESIDENT/UPADHYAKSHA,
   MASHAL GRAM PANCHAYAT,
   R/O. VILLAGE MASHAL,
   TQ. AFZALPUR,
   DIST. KALABURAGI.

2. DUNDAPPA S/O RAMACHANDRA,
   AGE: 43 YEARS,
   OCC: MEMBER MASHAL GRAM PANCHAYAT,
   R/O. VILLAGE MASHAL,
   TQ. AFZALPUR, DIST. KALABURAGI.

...PETITIONERS

(BY SRI. GOURISH S. KHASHAMPUR, ADVOCATE)

Digitally signed by NIJAMUDDIN JAMKHANDI
Location: HIGH COURT OF KARNATAKA

AND:

1. THE STATE OF KARNATAKA
   BY ITS SECRETARY
   DEPARTMENT OF PANCHAYAT RAJ
   AND RURAL DEVELOPMENT,
   M.S. BUILDING
   BENGALURU-560 001.

2. THE DEPUTY COMMISSIONER,
   KALABURAGI,
   DIST. KALABURAGI-585 103.

3. THE ASSISTANT COMMISSIONER,
KALABURAGI,
DIST. KALABURAGI-585 103.

4. THE GRAM PANCHAYAT DEVELOPMENT OFFICER,
GRAM PANCHAYAT MASHAL,
TQ. AFZALPUR,
DIST. KALABURAGI-585 217.

5. CHOUDAPPA S/O MARUTI SINDE,
AGE: 40 YEARS, OCC: MEMBER OF
GRAM PANCHAYAT MASHAL,
TQ. AFZALPUR,
DIST. KALABURAGI-585 217

6. CHOUDAPPA S/O KALLAPPA SANATANGI,
AGE: 38 YEARS, OCC: MEMBER OF
GRAM PANCHAYAT MASHAL,
TQ. AFZALPUR,
DIST. KALABURAGI- 585 217.

7. SMT. MAHANANDA
W/O NAGAPPA BARAMANI,
AGE: 42 YEARS, OCC: MEMBER OF
GRAM PANCHAYAT MASHAL,
TQ. AFZALPUR,
DIST. KALABURAGI-585 217.

8. SMT. BASAMMA
W/O KHAJAPPA BHAJANTRI,
AGE: 39 YEARS, OCC: MEMBER OF
GRAM PANCHAYAT MASHAL,
TQ. AFZALPUR,
DIST. KALABURAGI-585 217.

9. SMT. SUBHADRABAI
W/O BASAPPA BANTANOOR,
AGE: 42 YEARS, OCC: MEMBER
OF GRAM PANCHAYAT MASHAL,
TQ. AFZALPUR,
DIST. KALABURAGI-585 217.

10. SIDDAPPA S/O. KAREPPA PUJARI
AGE: 40 YEARS, OCC: MEMBER OF
GRAM PANCHAYAT MASHAL,
TQ. AFZALPUR,
DIST. KALABURAGI-585 217.

11. SMT. SHANKREMMA W/O RAJKUMAR PATOLI,
AGE: 35 YEARS, OCC: MEMBER OF
GRAM PANCHAYAT MASHAL,
TQ. AFZALPUR,
DIST. KALABURAGI-585 217.

12. SHARANABASAPPA S/O LAXMAN BUSTI,
AGE: 38 YEARS, OCC: MEMBER OF
GRAM PANCHAYAT MASHAL,
TQ. AFZALPUR,
DIST. KALABURAGI-585 217

13. SHIVAPPA S/O. SIDRAMAPPA PYATI,
AGE: 45 YEARS, OCC: MEMBER OF
GRAM PANCHAYAT MASHAL,
TQ. AFZAIPUR,
DIST. KALABURAGI-585 217

14. SMT. REKHA
W/O SANJAYKUMAR BABBANASOOR,
AGE: 39 YEARS, OCC: MEMBER OF
GRAM PANCHAYAT MASHAL,
TQ. AFZALPUR,
DIST. KALABURAGI-585 217

15. SHIVAPRAKASH
S/O BHEEMARAYA BABBANASOOR,
AGE: 40 YEARS, OCC: MEMBER OF
GRAM PANCHAYAT MASHAL,
TQ. AFZALPOOR,
DIST. KALABURAGI-585 217

16. SMT. SUGALABAI W/O DODDAPPA HATTALLI,
AGE: 43 YEARS, OCC: MEMBER OF
GRAM PANCHAYAT MASHAL,
TQ. AFZALPUR,
DIST. KALABURAGI-585 217

17. SMT. MEENAKSHI W/O MALLNATH SUTAR,
AGE: 35 YEARS, OCC: MEMBER OF
GRAM PANCHAYAT MASHAL,
TQ. AFZALPUR,
DIST. KALABURAGI-585 217.

18. BALAPPA S/O GIREPPA KHURJI,
AGE: 48 YEARS, OCC: MEMBER OF
GRAM PANCHAYAT MASHAL,
TQ. AFZALPUR,
DIST. KALABURAGI – 585 217.

19. SMT. KALPANA
W/O MAREPPA MUGALI,
AGE: 43 YEARS, OCC: MEMBER OF
GRAM PANCHAYAT MASHAL,
TQ. AFZALPUR,
DIST. KALABURAGI-585 217.

20. SMT. YALLAVVA
W/O DATTAPPA VAGGI,
AGE: 42 YEARS, OCC: MEMBER OF
GRAM PANCHAYAT MASHAL,
TQ. AFZALPUR,
DIST. KALABURAGI-585 217.

21. MANOJ
S/O JAPU RATHOD,
AGE: 39 YEARS, OCC: MEMBER OF
GRAM PANCHAYAT
TQ. AFZALPUR,
DIST. KALABURAGI-585 217.

22. SMT. AVITA
W/O SANTOSH RATHOD,
AGE: 41 YEARS, OCC: MEMBER OF
GRAM PANCHAYAT MASHAL,
DIST. KALABURAGI-585 217.

23. BADDU
S/O UMALU RATHOD,
AGE: 40 YEARS,
OCC: MEMBER OF
GRAM PANCHAYAT MASHAL,
TQ. AFZALPUR,
DIST.KALABURAGI – 585 217.

…RESPONDENTS

(BY SMT. MAYA T. R., HCGP FOR R1 TO R3;
SRI. AVINASH A. UPLAONKAR, ADVOCATE FOR C/R-13)

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./CHUNAVANE/03/2025-26 DATED 23-04-2025 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 ASHOK S. KINAGI

ORAL ORDER

(PER: HON'BLE MR. JUSTICE ASHOK S. KINAGI)

This writ petition is filed challenging the impugned notice in file No.Chunavane/03/2025-26 dated 23.04.2025 issued by respondent No.3 vide Annexure-A.

2. Brief facts giving rise to filing of this writ petition are as under:

Petitioner No.1 is the Vice President and petitioner No.2 is the Member of the Mashal Gram Panchayat. The members of the said Gram Panchayat have submitted a representation to initiate no-confidence motion against the President and Vice President of Mashal Gram Panchayat to respondent No.3. Respondent No.3 issued a notice calling for a meeting to discuss no-confidence motion against the petitioner No.1 fixing a meeting scheduled to be held on 13.05.2025 at 11.30 a.m. The petitioners, aggrieved by the impugned notice, filed this writ petition.

3. Heard the arguments of the learned counsel for the petitioners and learned High Court Government Pleader for respondent Nos.1 to 3.

4. Learned counsel for the petitioners submits that respondent No.3 has not complied the mandatory provisions of Karnataka Gram Swaraj and Panchayat Raj (Motion of no-confidence against Adhyaksha and Upadhyaksha of Gram Panchayat) Rules, 1994 (for short, 'Rules of 1994'). He submits that respondent No.3 has initiated proceedings based on a representation submitted by respondent Nos.5 to 23. He also submits that respondent No.3 has to satisfy himself about the identity of the members before issuing the impugned notice. He further submits that in the absence of copy of notice of intention to move no-confidence along with Form No.1, the presentation of Form No.1 notice by the members of the Gram Panchayat to respondent No.3 is totally contrary to the prescribed procedure under the Karnataka Gram

Swaraj and Panchayat Raj Act, 1993 as well as Rules of 1994. Hence, he prays to allow the writ petition.

5. *Per contra,* learned High Court Government Pleader submits that in the absence of copy of notice of intention to move no-confidence along with Form No.1 is only an irregularity and not an illegality. She further submits that issuance of notice of intention to move no-confidence motion is only to notify to the petitioners regarding the representation submitted by the members of the Mashal Gram Panchayat.

6. To buttress her arguments, she places reliance on the judgment passed by the Division Bench of this Court in the case of ***Smt.Laxmavva vs. the State of Karnataka represented by its Secretary and Others*** reported in ***ILR 2007 KAR 1028***. Hence, on these grounds, she prays to dismiss the petition.

7. Learned Counsel for respondent No.13 adopts the arguments of learned High Court Government Pleader and prays to dismiss the petition.

8. Perused the records and considered the submissions of the learned Counsel for the parties to the petition.

9. It is not disputed that the petitioner No.1 is the Vice President of Mashal Gram Panchayat and petitioner No.2 is a member of the said Gram Panchayat. Respondent Nos.5 to 23 submitted a representation to the respondent No.3 to initiate no-confidence motion against petitioner No.1. On receipt of the representation from the members of said Gram Panchayat, respondent No.3 issued impugned notice on 23.04.2025 calling for a meeting to discuss no-confidence motion against the President and Vice President on 13.05.2025 at 11.30 a.m. It is the case of the petitioners that the respondent No.3 has not complied the provisions of Rule 3 of Rules of 1994 i.e., notice of intention to move no-confidence along with Form No.1. Thus, the action of respondent No.3 is contrary to Rule 3 of Rules of 1994.

10. The issue involved in the present writ petition is squarely covered by the judgment of the Division Bench of this Court in the case of ***Smt.Laxmavva*** stated supra wherein in paragraph No.10 it is held as under:

> *"10. On perusal of the records, especially the written notice, we find that there is substantial compliance of Rule 3(1) of the Rules. In such case, mere attracting the copy of the proposed motion would be duplicity of the work and that by itself cannot be a ground to set at not the democratic exercise of the members in functioning of these local Governments. When the notice of the majority members makes it clear their intention, mere non-enclosing the proposal would be only an irregularity and in our view does not cause any prejudice to the other side."*

11. As held by the Hon'ble Division Bench that mere non-enclosing the proposal would be only an irregularity and in our view does not cause any prejudice to the other side.

12. This Court in W.P.No.201171/2025 disposed of on 06.05.2025 at paragraph-17 held as under:

"17.Hon'ble Division Bench in the case of ***Mrs.Gagana vs. State of Karnataka and others in W.A.No.160/2025 disposed of on 16.03.2025*** *has observed as under:*

6.5 The distinction between the 'irregularity' and 'illegality' is well maintained in law. It is trite that procedural lapse which does not have the bearing on the rights of the parties is always condonable. It would not have per se legal consequences. It is only the substantive breach which will have the vitiating effect. All defects of substantive nature would be prone to have the adverse effect on the rights of the parties, whereas when an irregularity has occurred which is not in the nature of illegality, the consequence in law may not arise at all.

6.5.1 In Law Lexicon by R. Ramanatha Aiyar, 1997 Edition, irregularity is defined as "a neglect of order or method; not according to regulations; the doing of an act at an unreasonable time, or in an improper manner; the technical term for every defect in practical proceedings or the mode of conducting an action or defence, as distinguished from defects in pleading. Irregularity is failure to observe that particular course of proceedings which, conformable with the practice of the court, ought to have been observed".

6.5.2 An illegality is something which amounts to substantial failure in compliance of requirement. It denotes such breach of rule or requirement which alters the position of a party in terms of his rights or obligations. Illegality denotes a complete defect in the jurisdiction or proceedings. Illegality is properly predictable in its radical defects. It is a situation contrary to the principle of law. As against this, an irregularity as defined lexicographically, is want of adherence to some prescribed rule or mode of proceedings. It consist in omitting the rule something that is necessary for due and orderly conducting of a suit or doing it in an unreasonable time or improper manner.

6.5.3 A thing irregularly done is not regularly done. It is not in conformity of rule or principle. The concepts "illegal", "irregular" and "procedurally irregular", are often understood in terms of their degree which they bear to be not in conformity with rule of particular course of action. The illegality is a breach of law in substantive way and in its high degree which will taint and vitiate the action.

6.5.4 One who commits "illegality" has to be denied the assertion of his right and he stands disentitled to relief in law. Irregularity, as noticed, is breach of procedure of rule or some orderly conduct but not of such nature which could be said to be in the nature of

a debilitating defect. It is pardonable in law. The concept of procedural irregularity is indicative of lapse of minor nature in procedure which could not affect adversely rights of a party, nor would exceptionally reverse the obligation of the other side.

6.6 In the present case if the aspect that the No-Confidence Motion had the seal of the Panchayat Development Officer, it was never an illegality but at the best could be viewed as a procedural abrasion.

6.7 In view of the discussions and the reasons supplied above, the order of dismissal of the petition and refusal to grant relief to the petitioner by learned Single Judge did not book any error. The impugned order warrants no interference."

13. Further, learned High Court Government Pleader has produced the original records which disclose that all the members of the Gram Panchayat have submitted the representation to respondent No.3 and also produced the photographs which disclose that all the members of the said Gram Panchayat have submitted the representation to respondent No.3 to initiate no-confidence motion against the petitioner No.1. Mere non-

enclosing the proposal would be only an irregularity and not illegality. Thus, it is clear that there is no violation of Rules of 1994.

14. The issue involved in the instant writ petition is squarely covered by the judgment passed by the Division Bench in the case of ***Smt.Laxmavva*** stated supra. Considering the judgment in the case of ***Smt.Laxmavva*** stated supra, I do not find any illegality in conducting the meeting of no-confidence motion by respondent No.3.

15. Accordingly, I proceed to pass the following:

ORDER

i. Writ petition is ***dismissed***.

ii. Respondent No.3 is directed to proceed with conducting meeting of no-confidence motion, in accordance with law.

Sd/-
(ASHOK S. KINAGI)
JUDGE

VNR
List No.: 1 Sl No.: 6
CT:SI