

(2010) 03 KAR CK 0055

In the Karnataka High Court

Case No : Writ Petition No. 2610 of 2010

Karnataka Valmeeki Nayaka Mahasabha (R) and Karnataka
State Dalita Horata Samithi

APPELLANT

Vs

State of Karnataka and Sri D. Sudhakara

RESPONDENT

Date of Decision : 29-03-2010

Acts Referred:

Constitution of India, 1950 — Article 164, 164 (1), 164 (2)

Citation : (2010) ILR (Kar) 3149

Hon'ble Judges : Mohan Shantanagoudar, J;Manjula Chellur, J

Bench : Division Bench

Advocate : M.S. Rajendra Prasad, for the Appellant; Basavaraj Kareddy, PGA, for the Respondent

Final Decision : Dismissed

Judgement

Mohan Shantanagoudar, J.—This writ petition is filed in the public interest to consider the representation vide Annexure-A dated 15.10.2009 in accordance with law and for a direction to remove the second respondent from the post of Minister, who has allegedly failed in his duty to safeguard the welfare of the persons belonging to schedule caste and schedule tribes in Karnataka State. Certain other allegations are also made against the second respondent in the writ petition.

In the representation at Annexure-A, the petitioners have prayed the Chief Minister for removal of respondent No. 2 from the post of minister based on some allegations.

2. The relief sought for in the writ petition cannot be granted. A Minister is appointed by the Governor on the advice of the Chief Minister under Article 164 of the Constitution of India. The Ministers shall hold the office during the pleasure of the Governor. The wordings in the Article 164 are clear answers to the petitioner's prayer in the writ petition.

3. Article 164(1) of the Constitution of India clearly provides that the Ministers shall hold office during the pleasure of the Governor. Exercise of this pleasure has not been fettered by any condition or constriction or restriction. The Governor has wide and large powers in these matters. Withdrawal of pleasure is entirely in the discretion of the Governor and the Governor alone. Article 164(2) of the Constitution of India provides that the Ministers shall be collectively responsible to the Assembly. The same does not in any way fetter or constrict the power of the Governor to withdraw the pleasure while the Ministers hold office. The repository of power to appoint Ministers or draw the pleasure contemplated under Article 164(1) of the Constitution of India, are exclusive pleasure-cum-discretion of the Governor.

4. The right of the governor to withdraw the pleasure during which the Minister holds office is absolute.

5. We are conscious of the fact that this Court is not powerless in a proper situation. The power however should be used and utilized as the situation should warrant. The power should not be misutilised or abused. One is expected not only to be learned but also to be wise too. The time may be there when the Court may rise to the occasion to examine the issues in much broader view and new precedents may be created. We are very much concerned that the Democracy must be upheld by all means. It is great expectation of not only the Court, but also the Legislature and the common people at large that the Chief Minister should advise properly and the Governor should appoint and continue such Ministers who will have trust and confidence of the people and can shoulder responsibility. However, we restrain ourselves at this stage holding that this is not proper stage where the Court can embark upon its journey to interfere with the matter. We do not find any abdication of essential constitutional function on the part of the respondents so as to catalyse this Court to exercise its extraordinary discretionary jurisdiction under Article 226 of the constitution. Certainly the petitioner can prefer fresh application if the concerned Minister continues to do the illegal things and if there is any constitutional embargo.

6. Certain allegations were made against the respondent No. 2 in Annexure-A. Certain matters are also pending before the Courts of law against respondent No. 2. If this Court observes anything on merits of those allegations in this writ petition, the same may prejudice the enquiry pending against the respondent No. 2 in the Courts of law. Hence we desist from making any observation on the allegations. If the petitioners are particular with the allegations, they may approach the concerned authorities/Courts for redressal in accordance with law. In view of the above discussion, no relief can be granted to the petitioners as sought for in the writ petition.

Accordingly, the writ petition is dismissed with the aforementioned observations.