

(1993) 05 KAR CK 0005
In the Karnataka High Court
Case No : Writ Petition No. 11403 of 1993

P. Venkatesh

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 31-05-1993

Acts Referred:

Constitution of India, 1950 — Article 173

Citation : (1993) ILR (Kar) 2226 : (1994) 3 KarLJ 376

Hon'ble Judges : Shivaraj Patil, J

Bench : Single Bench

Advocate : Party in person, for the Appellant;

Final Decision : Dismissed

Judgement

Shivaraj Patil, J.—The petitioner, in this Writ Petition has sought for a declaration that the appointment of the third respondent as the Deputy Chief Minister of Karnataka is ultravires of the Constitution and he has further sought for a direction to respondent Nos. 2 and 4 to remove the third respondent from the office of the Deputy Chief Minister of Karnataka.

2. The petitioner (party in person) contended that under the Constitution of India, nowhere there is a provision made for appointment of Deputy Chief Minister of a State; such an appointment results in heavy burden to the public exchequer and respondent Nos. 2 and 4 have acted without authority of law in appointing the third respondent as the Deputy Chief Minister.

3. It is true that nowhere in the Constitution of India there is any reference to the post of a Deputy Chief Minister. But, the third respondent is also a member in the Council of Ministers though he has been described as Deputy Chief Minister. However, this description itself does not confer on him the powers of the Chief Minister. The oath prescribed for a Minister contains two parts: one is descriptive and the other contains the substantial part.

4. The Supreme Court in the case of K. M. Sharma Vs. Shri Devi Lal and others, ,

had occasion to consider similar question and has stated thus in para-5 and 6 of the Decision:

"This Court in the reported decision said:

"In this case, as we have already noted, the essential, requirement of Article 173 read with Form VII-A was that the person taking the oath or making the affirmation would bear true faith and allegiance to the Constitution and uphold the sovereignty and integrity of India. The words which precede this portion are merely descriptive of the person and of his nomination as a candidate".

In view of the clear statement made by the learned Attorney-General that respondent No. 1 is just a Minister like other members of the Council of Ministers though he has been described as Deputy Prime Minister but the description of him as Deputy Prime Minister does not confer on him any powers of the Prime Minister, along with his other submissions, we think the first contention raised by the petitioner has no force. So far as the second contention is concerned, the petitioner himself does not press it".

5. In view of what is stated above, I do not find any merit in this Writ Petition to entertain it. Hence, the Writ Petition is rejected at the stage of Preliminary Hearing itself.