

(2016) 11 KAR CK 0080

In the Karnataka High Court

Case No : Writ Petition Nos. 58845 to 58884 of 2016 (LB-RES)

Smt. Roopa

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 21-11-2016

Acts Referred:

Karnataka Municipal Corporations Act, 1976 — Section 99

Citation : (2017) 1 KantLJ 603

Hon'ble Judges : Dr. Vineet Kothari, J.

Bench : Single Bench

Advocate : Sri G. Balakrishna Shastry, Advocate, for the Petitioner; Sri V. Sreenidhi, Additional Government Advocate, for the Respondent No. 1; Sri Brijesh Patil, Advocate, for the Respondent No. 2

Final Decision : Disposed Off

Judgement

Dr. Vineet Kothari, J.—The elected Corporators of Municipal Corporation of Belagavi District, 40 in number, have filed these writ petitions before this Court with the following prayers:

"(i) Issue a writ of certiorari or any other writ quashing the show-cause notice dated 5-11-2016 in No. Na. AE 59 ACB 2006 issued by the Under Secretary to Government (Municipal Corporation-2 and Samanvaya Sharke), Urban Development Department produced at Annexure-A insofar as dissolving the entire body of the Karnataka Municipal Corporation, Belagavi City consisting of 58 elected Corporators.

(ii) Issue any other writ or direction to meet the ends of justice."

2. Learned Counsel for the petitioners has submitted that under Section 99 of the Karnataka Municipal Corporations Act, 1976, the State Government may dissolve the elected body of Belagavi Municipal Corporation on the anvil of the impugned show cause dated 5-11-2016 issued in recent past to the elected Mayor of the Belagavi Municipal Corporation Smt. Sarita Patil for alleged incident that she

failed to attend a celebration on the occasion of Karnataka Rajyotsava day scheduled to be celebrated on 1-11-2016 as directed by the State Government, and on the other hand joined a protest against such celebration in view of the long pending demand of the people of the said Belagavi District to be merged with the State of Maharashtra right from its inception on 1-11-1956 and against the merger with the State of Karnataka in the State reorganisation process and as threatened in the said notice, the present petitioners being elected Corporators may also lose their elected offices of Corporators, if the State Government undertakes such a drastic step under the powers conferred on the State Government under Section 99 of the said Act.

3. The provisions of Section 99(1) of the Act is quoted below for ready reference:

"99. Power of Government to dissolve Corporation.—(1) If in the opinion of Government the Corporation is not competent to perform or makes default in the performance of any of the duties imposed on it or undertaken by it, by or under this Act or any other law for the time being in force or exceeds or abuses its powers or fails to carry out the directions or orders given by Government to it under this Act or any other law or is acting in a manner prejudicial to the interests of the Corporation, the Government may, by an order published, together with a statement of the reasons therefor, in the Official Gazette declare the Corporation to be incompetent or in default or to have exceeded or abused its powers, or to have failed to carry out the directions given to it, or to have acted in a manner prejudicial to the interests of the Corporation, as the case may be, and may dissolve it:

Provided that before making an order of dissolution as aforesaid reasonable opportunity shall be given to the Corporation to show cause why such order should not be made."

4. The relevant extract of the show-cause notice from the translated copy in English is also quoted below for ready reference:

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For the reasons stated above, you are required to show cause in writing within seven days from the date of receipt of this notice as to why disciplinary action shall not be taken against you and the Corporation shall not be dissolved under Section 99(1) of the Karnataka Municipal Corporations Act, 1976 and the reply in writing shall be submitted to the undersigned without failure, on default further proceedings will be taken without any notice.

Sd/-

Y. Gopal,

Under Secretary to Government,

Municipal Corporation-2 and

Samanvaya Shakhe,

Urban Development Department."

5. Having heard learned Counsel for the petitioners and the learned Additional Government Advocate, this Court is of the view that no interference is required to be made in the impugned show-cause notice issued to the Mayor of the respondent-Belagavi Municipal Corporation and the petitioners have a remedy to address their grievance before the respondent-Under Secretary to the Government, Municipal Corporation-2 and Urban Development Department, who has given the impugned notice to the Mayor Smt. Sarita Patil on 5-11-2016 in terms of the proviso to Section 99(1) of the Act quoted above. Since the said proviso to Section 99(1) provides that the Corporation itself to be heard in the matter, it obviously includes the elected body of the said Corporation including the present 40 petitioners, who represent a body of 58 elected Corporators of the said respondent-Corporation.

6. In view of the intricacies of the facts involved in the present case and to allow the democratic process to be settled at the Government level itself, this Court is not inclined to invoke its writ jurisdiction in the present case and therefore, the writ petitions are disposed of with a liberty and direction to the petitioners to approach the said respondent-authority namely, Under Secretary to Government by way of suitable representation and objection to them of the said authority to provide an opportunity of hearing to them also in so far as the notice stipulates that why the Corporation itself may also be dissolved in exercise of powers under Section 99 of the Act

7. No costs.