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**(2001) 03 KAR CK 0032**  
**In the Karnataka High Court**  
**Case No : Writ Petition No. 35494 of 2000**

Sri Ibrahim Sab Nadaf

APPELLANT

Vs

The State of Karnataka and Another

RESPONDENT

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**Date of Decision :** 30-03-2001

**Acts Referred:**

**Citation :** (2001) 4 KCCR 2292

**Hon'ble Judges :** Hari Nath Tilhari, J

**Bench :** Single Bench

**Advocate :** Vighneshwar S. Shastri, for the Appellant; Bharama Gowda, High Court Government Pleader, for the Respondent

**Final Decision :** Allowed

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## Judgement

Hari Nath Tilhari, J.—By this writ petition, the Petitioner has sought for issuance of a writ of certiorari, order or direction quashing the order made by the Government of Karnataka (Respondent No. 1 herein) on 15.12.1998, in No. DPAR 581 PFS 98 vide Annexure-"E" to the writ petition, whereby Government of Karnataka appears to have cancelled the freedom fighters pension granted to the Petitioner on 22.10.1980.

2. The facts of the case in nutshell are:

That the Petitioner Sri Ibrahim Sab Budan Sab Nadaf, R/o. Settigeri village, aged 82 years was recognised as freedom fighter and was granted Freedom Fighter pension u/s 7 of the Karnataka Freedom Fighters Grant of Pension Scheme, 1969. The said freedom fighters" pension could not have been granted without the material being produced before the authorities in the form of either affidavit of the Jail Officer or the Certificate of co-prison as a freedom fighter. Every action of the Government for granting freedom fighters pension after having recognised the Petitioner to be a freedom fighter can well be presumed to have been done in accordance with the requirements of law and after having satisfied about the genuineness of the Petitioner to be a freedom fighter.

3. The case put forward by the learned High Court Government Pleader appearing on behalf of the Government as stated in the Counter affidavit that long after the moving of the application the freedom fighters pension was granted to the Petitioner. It appears for some reason or the other the Respondents have cancelled the order of grant of freedom fighters pension to the Petitioner i.e., by order dated 15.12.1998. The copy of which is produced as Annexure-"E" to the writ petition. The order passed by the Deputy Commissioner, Belgaum District, Belgaum, in the name of the Government granting freedom fighters pension to the Petitioner has been cancelled on the ground that the Petitioner has failed to produce the documents showing that he was a freedom fighter and participated in the freedom struggle movement. On the record it appears that as per the Certificate issued by the Grama Panchayat as well that the house of the Petitioner was collapsed and reconstructed. The Deputy Commissioner proceeded on the assumption that the Petitioner has not produced the document. So freedom fighters pension granted to the Petitioner should be cancelled. Once the pension had been granted in favour of the Petitioner recognising him as a freedom fighter, unless and until it is established beyond reasonable doubt by the Respondents or the authorities that the Petitioner had really played fraud in getting freedom fighters pension, the order granting freedom fighters pension could not be cancelled. Every man has got a right of dignity and life of dignity. The freedom fighters are entitled to the dignity, because they have sacrificed their lives and properties for the cause of the freedom struggle. As long back as in the year 1980 the Government had considered the matter and found that the Petitioner to be a freedom fighter and awarded freedom fighters pension to the Petitioner. That order could not be reviewed or recalled and until it has been established beyond reasonable doubt by evidence on record produced by party or person alleging that a freedom fighter or a person has secured the pension by playing fraud, that pensioner has detained freedom fighters pension by fraud or misrepresentation. In the Government Order, a copy of which has been supplied to the Petitioner, it has neither been reported nor found any act or thing has been done by the Petitioner. Merely because after 18 years the Petitioner could not produce the documents as those documents must have been with the Government as the Petitioner would have filed those documents earlier and there was no question of the Petitioner filing the documents second time. Merely because the Petitioner did not produce or file the documents at this stage and the blame cannot be placed on the Petitioner, nor can it be assumed that he has played fraud in getting freedom fighters pension. The Petitioner cannot be denied with the freedom fighters pension granted earlier unless and until fraud is positively established by evidence to be produced or evidence produced by the authorities reporting the matter to the Government whether it be Corps of Detectives (COD) or any individual. No evidence of fraud by Petitioner, nor any documents has been produced to establish the allegations, if any made of fraud against the Petitioner. The order granting the freedom fighters pension which had been granted to the Petitioner in the year 1980 i.e. w.e.f. 22.10.1980 could not as such be cancelled

and the order of cancellation passed by the first Respondent vide Annexure- "E" to the writ petition as such is illegal and without jurisdiction and is liable to be set aside.

4. The writ petition, as such, is hereby allowed and the Government orders dated 15.12.1998 and 30.5.2000 issued by the first Respondent is hereby quashed.

5. A writ of mandamus is issued to the Respondent to pay the Petitioner freedom fighters pension from the date when it has been stopped and the entire arrears upto date is to be paid within a period of two months from the date of the communication of this order.