
(2016) 03 KAR CK 0082

In the Karnataka High Court

Case No : Writ Petition Nos. 200730 of 2016 and 200736 of 2016 (LB-ELE)

Yogappa and Others

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 04-03-2016

Acts Referred:

Citation : (2016) 03 KAR CK 0082

Hon'ble Judges : Ashok B. Hinchigeri, J.

Bench : Single Bench

Advocate : Ameet Kumar Deshpande, Advocate, for the Appellant; R.V. Nadagouda, Additional Advocate General, for the Respondent

Final Decision : Disposed off

Judgement

Ashok B. Hinchigeri, J.—1. W.P. Nos. 200730/2016 and 200736/2016 are clubbed, heard together and are being disposed of by this common order, as the questions of facts and law are almost similar.

2. In W.P. No. 200730/2016, the petitioner's grievance is over the reservation of the office of the President of Town Municipal Council, Lingasugur for BCA vide notification, dated 24.02.2016 (Annexure-K).

3. Sri Ameet Kumar Deshpande, learned counsel for the petitioner submits that the office of the President of the Lingasugur Municipality was never reserved for the Scheduled Caste. In the eight earlier periods, the office was given to General Women, General, SCW, General, BCA, ST, General and BCA. He relies on the proviso to Section 42(2A)(c) of the Karnataka Municipalities Act, 1964 ("the said Act" for short) to advance the submission that the offices reserved shall be allotted by rotation.

4. He further submits that as per Clause 3 of the Government Order, dated 05.02.2016, the fresh cycle of rotation cannot begin unless the cycle of rotation commencing from the first period (from 01.06.1994) is completed. He complains of the legal malice in reserving the offices for the persons belonging to particular

categories. He submits that if the party in power does not have the majority in a particular urban local body ("U.L.B." for short), it may still ensure the victory of its party candidates by reserving it for a particular category.

5. W.P. No. 200736/2016 is filed challenging the very same notification which was challenged in W.P. No. 200730/2016, but in so far as it pertains to reserving the offices of the President of the Town Municipal Council, Muddebihal for General Women category.

6. Sri R.S. Sidhapurker, learned counsel for the petitioner submits that from 1994 the office was never reserved for Scheduled Caste category. In all other respects, he makes the submissions akin to the ones made by Sri Ameet Kumar Deshpande.

7. Sri R.V. Nadagouda, learned Additional Advocate General brings to my notice the provisions contained in Section 42(2A) of the said Act and contends that for the purpose of reserving the offices of the President and Vice President of the U.L.B.s, the entire State has to be taken as one unit. He submits that Section 42(2A) is amended by the Karnataka Act No. 32/2012. The third proviso, which is inserted by virtue of the said Amendment Act, now reads as follows:

"Provided also that the number of offices of President and Vice-President reserved for the backward classes under this clause shall be so determined that the total number of offices of President and Vice-President reserved for the scheduled castes and the scheduled tribes and the backward classes under this clause shall not exceed fifty percent of the total number of offices of President and Vice-President of the Municipal Councils in the State."

8. He submits that the petitioners have neither produced any materials to show that the reservation for the different categories has exceeded 50%, nor they are in a position to show that any particular provision of law is violated.

9. The learned Additional Advocate General also brings to my notice Guideline No. vii in the Government Order, dated 05.02.2016, which reads as follows:

"vii) As far as possible, the rotation in respect of other categories shall ensure that there is no repetition of reservation of a seat with reference to reservation in the previous Seven terms except general and general women category."

10. The submissions of the learned counsel have received my thoughtful consideration. The number of offices of President and Vice-President reserved for the Scheduled Castes, Scheduled Tribes and Backward Classes has to be in proportion to their population in the U.L.B.s as per Section 42(2A) of the said Act, but the same shall not exceed fifty percent as per the third proviso to Section 42(2A) introduced by Karnataka Act No. 32 of 2012 which itself is pursuant to the Hon'ble Supreme Court's order in SLP(Civil) 3909-3910/2003, dated 01.02.2013.

11. As per Rule 13 of the Karnataka Municipalities (President and Vice President)

Election Rules, 1965, in respect of Scheduled Caste, Scheduled Tribe categories, the U.L. Bs. are to be arranged in the decreasing order of percentage of population of respective category. It has to start with the highest percentage of population belonging to Scheduled Caste and Scheduled Tribe.

12. The exercise of reserving the offices of the President and Vice President of the U.L.B.s all over the State is an extremely complicated and vexed exercise. Any change in reservation in one U.L.B. may have cascading effect in the other U.L.B.s in the State. It is always possible to contend that the impugned reservations are not perfect. But on the ground that they are not perfect, this Court's interference may not be warranted. Unless there is a limpid violation of any provision of law, this Court's intervention may not be warranted.

13. To allay the apprehensions of the candidates/prospective candidates aspiring to become the Presidents and Vice Presidents of the U.L. Bs that the reservation exercise is being misused for political reasons, I reiterate the directions given in the earlier batch of cases in H.S. PRASANNAKRISHNAMURTHY AND OTHERS v. THE STATE OF KARNATAKA AND OTHERS reported in , ILR 2008 KAR 2620, as follows:

"(i) The Government shall publish a perspective roster for a block period of ten (10) years, within 6 months from today. This, in my considered view, would lend legitimacy and predictability to the system of roster and put an end to uncertainties.

(ii) The Government may be preparing the roster with the best of intentions in full adherence to the requirements of law. But to inspire the confidence of the people and to create an atmosphere of objectivity, I am of the considered view that the responsibilities of fixing the reservation points are to be entrusted to the State Election Commission. It is however for the State Government to consider making the amendment to the existing provisions for the purpose of entrusting the said responsibilities to the State Election Commission."

14. These petitions are accordingly disposed of. No order as to costs.