

IN THE HIGH COURT OF KARNATAKA, AT BANGALORE

DATED THIS THE 30TH DAY OF SEPTEMBER, 2009

PRESENT

THE HON'BLE MR. JUSTICE JAWAD RAHIM

AND

THE HON'BLE MR. JUSTICE B SREENIVASE GOWDA

WRIT PETITION NO.28759/2009 (LB-RES-PIL)

BETWEEN

1. SRI BASAPPA,
S/O CHANDRAPPA TUGAON,
AGED ABOUT 65 YEARS,
OCC: AGRL, R/O H NO.447
VILLAGE MANNALLI ,
TQ & DIST: BIDAR - 585 401.
2. SRI MANIKRAO PATIL,
S/O BASAVANTHRAO PATIL,
AGED ABOUT 60 YEARS,
OCC: AGRL., R/O BAZAR ROAD,
VILLAGE MANNALLI,
TQ & DIST: BIDAR-585 401.
3. SRI VISHWANATH,
S/O BASVANAPPA CHIMA IDLAI,
AGED ABOUT 61 YEARS,
OCC: AGRL., R/O NEAR RACHANNA TEMPLE,
VILLAGE MANNALLI,
TQ & DIST: BIDAR - 585 401
4. SRI SIDRAMAPPA
S/O BASAPPA CHOLLA
AGED ABOUT 80 YEARS

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OCC: RETIRED TEACHER,
R/O NEAR BASAVANNA TEMPLE
VILLAGE MANNALLI,
TQ & DIST: BIDAR-585 401

5. SRI BASAPPA
S/O GUNDAPPA MADAKI
AGED ABOUT 78 YEARS
OCC: AGRL., R/O BAZAR ROAD,
VILLAGE MANNALLI,
TQ & DIST: BIDAR - 585 401

... PETITIONERS

(BY SMT. ANUPAMA HEGDE, ADV.,)

AND

1. DEPUTY COMMISSIONER
BIDAR - 585 401.
2. THE DIRECTOR (PLANNING)
SARVA SHIKSHANA ABHIYANA
MULTISTOREYED BUILDING,
BANGALORE -560 001.
3. THE DEPUTY DIRECTOR,
SARVA SHIKSHANA ABHIYANA,
BIDAR, DIST BIDAR-585 401.
4. THE DEPUTY DIRECTOR OF
PUBLIC INSTRUCTIONS,
BIDAR, DIST BIDAR-585 401
5. THE BLOCK EDUCATION OFFICER
BIDAR, DIST BIDAR-585 401
6. CHIEF EXECUTIVE OFFICER,
ZILLA PANCHAYAT,
BIDAR, DIST BIDAR - 585 401



7. THE SECRETARY,
GRAMA PANCHAYAT,
VILLAGE MANNALLI,
TQ & DIST BIDAR - 585 401
8. THE PRESIDENT,
GRAMA PANCHAYAT,
VILLAGE MANNALLI,
TQ & DIST BIDAR-585 401
9. THE CHAIRMAN
S.D.M.C URDU LR.P.S (DARGA)
MANNALLI,
TQ & DIST BIDAR - 585 401

.... RESPONDENTS

(BY GA SERVED)

THIS W.P. FILED UNDER ARTICLE 226 & 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DIRECT THE R1 TO 6 TO PRODUCE ALL THE RECORDS PERTAINING TO THE APPROVAL OF URDU DARGA SCHOOL TO THE RESPONDENT NO. 9 AND ALSO DIRECT THESE RESPONDENTS TO IMPLEMENT THE SCHEME IN ACCORDANCE WITH LAW.

DIRECT THE R7 TO 9 TO STOP DEMOLISHING THE BUILDING BEARING PANCHAYAT NO. 556 SITUATED AT VILLAGE MANNALLI, TQ & DIST: BIDAR.

THIS PETITION COMING ON FOR ORDERS THIS DAY JAWAD RAHIM J, MADE THE FOLLOWING

ORDER

Petitioners in this writ action under Articles 226 and 227 of the Constitution of India claiming they are championing public cause and have sought for issuance of the following directions:

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- a) Direct the respondents 1 to 6 to produce all the records pertaining to the approval of Urdu Darga School to the respondent No.9 and also direct these respondents to implement the scheme in accordance with law.
- b) direct the respondents 7 to 9 to stop demolishing the building bearing Panchayat No.556 situated at village Mannalli, Taluk and District Bidar.
- c) Direct the respondents to construct the building for Urdu Darga School approved under Sarva Shiksha Abhiyana in any other place other than the place bearing Panchayat No.556 situated at village Mannalli, Taluk and District: Bidar, and
- d) Such other writ, order or direction that this Hon'ble court deems fit in the facts and circumstances of the case, in the ends of justice.

2. In support of the relief so sought, they averred that premises No.556 in Mannalli village of Bidar District was

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donated by an individual for philanthropic acts and in pursuance of it, a Kannada school was established in the year 1952. Sometime in 1974, the Government of Karnataka provided a new building to the Kannada school at a different location and shifted the said school from premises No.556 which is in question. It is further averred the premises in question fell vacant after the Kannada school was shifted and thereafter it was by the local Panchayat for housing *Anganwadi* workers and also for use as public library. Subsequently by virtue of the order vide Annexure-C, the Deputy Director of Public Instructions sanctioned establishment of a primary school to impart studies in Urdu to be run in the name and style of Urdu Darga School.

3. The grievance of the petitioners is, if the Urdu school is run in the said premises, it will lead to communal tension and disrupt peace and tranquility. It is alleged, running of Urdu School is not acceptable to local residents and therefore a direction in the nature of writ be issued to re-locate the running of Urdu Darga to a different building.




4. Learned counsel for the petitioners in support of the grounds urged would submit, the local residents had already approached the Panchayat requesting it not to permit running of Urdu school in question and that their representation has not been considered. He submits, petitioners have relentlessly pursued action to prevent the Urdu School being run in the premises in question consequent to which Panchayat passed a resolution vide Annexure-D to retain the nomenclature of the building as Kannada Medium Primary School until further orders. The Panchayat also resolved that any further action would be put on hold till the next decision is taken in this regard, as evidenced by Annexure-E.

5. Learned counsel would submit, despite Panchayat passing such resolution, the president and secretary of Gram Panchayat, Mannalli, are now proceeding to demolish the building and to construct a new building for Urdu School which is against the interest of local residents and hence must be stopped. He would further submit, there is no

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dispute that for 2-3 decades, the premises in question was used only to run Kannada Primary School for the benefit of local residents to impart education in Kannada in fulfilment of the objective of the Government. After shifting of the Kannada school, the building has fallen vacant and it should not be allowed to be used for running Urdu School. He submits, the building could be put to use for housing *Anganwadi* workers or for similar purpose, but not for running Urdu Primary School.

7. Though learned counsel was assertive and submitted it is a public interest litigation requiring this court to invoke writ jurisdiction and to prevent establishment of Urdu School in the said premises, learned counsel could not answer the court's question as to what is the basis for such action by the petitioners. He failed to convince the court how starting of the Urdu School would lead to communal tension when it is not in dispute that the local residents are not merely Hindus but a majority of them are professing Muslim faith.



8. Learned counsel also could not dispute the fact that Kannada medium school was run in the premises in question up to 1974 and thereafter it was shifted to a different and better premises as per the desire of the local residents, and thereafter the premises in question has fallen vacant. As it was vacant, an interim arrangement was made to use it for *Anganwadi* workers.

9. It is not in dispute the building has been donated by a philanthropist for running a primary school. Therefore, there is no specific directive in the donation made that it must be used only for running Kannada medium school. The contention of the petitioners that starting of Urdu medium school would lead to tension is not only without basis, but it is quite obvious that petitioners have indulged in ill-motivated action consequent to which there is a likelihood of communal tension being created. In fact, the order passed allowing the premises to run Urdu school is under the scheme framed by the State of Karnataka, conferring power on the Directorate of Collegiate Education who is also designated as Ex-officio District Project Officer




to implement *Sarva Shikshana Abhiyana* in Bidar. The very designation of the signatory to the order at Annexure-C would show he has acted in pursuance to the power conferred on him and noticing the need for housing Urdu school which is already in existence in the premises in question, the order has been passed.

10. The power of the Deputy Director of Public Instructions designated as Ex-officio District Project Officer to grant such allotment for running Urdu school has not been brought in question by the petitioners and they could not do it. The scheme formulated by the State Government for removing illiteracy by starting schools at primary level to provide education to the downtrodden and minority is, undoubtedly, in fulfillment of the directive principles of the Constitution of India. Any discrimination based on language will render such project nugatory. Besides, it is seen the Government of Karnataka has formulated a scheme called *Sarva Shikshana Abhiyana* to enhance literacy level and to start schools at various places, particularly in remote villages.

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11. The designation of State Government officials under the scheme conferring upon them duties to implement the scheme and the orders passed in this behalf have not been questioned till now. The very fact that Kannada medium school which was earlier run in the premises till 1974 has since been provided with better accommodation would show that the need of the residents who are interested in Kannada medium school is fulfilled and to fulfill the need of other minority community by starting Urdu school in the name and style Urdu Darga School can certainly not be objected. The relief sought for by the petitioners would show it is not an innocent action on their part but an attempt to subdue a particular community and cause impediments in providing education in the scheme formulated by the State Government. If any relief sought for is granted in this writ, it will be supporting undesirable inequality between citizens in the matter of education and other opportunities.



12. We do not find any good ground to entertain this writ petition and we are constrained to dismiss it. Of course, imposing cost on the petitioners for frivolous action is desirable, but however, with a caution to the petitioners to desist from such frivolous litigation, we do not propose to impose costs. At this juncture, however, we express our sheer displeasure for this writ action.

13. The petition, therefore, fails and is dismissed at the stage of preliminary hearing.

Sd/-
JUDGE

Sd/-
JUDGE

Mpk/vgh*