

: 1 :

IN THE HIGH COURT OF KARNATAKA  
DHARWAD BENCH

ON THE 31<sup>ST</sup> DAY OF OCTOBER 2013

BEFORE

THE HON'BLE MR.JUSTICE RAVI MALIMATH

WRIT PETITION NOS.81406/2013  
& 82400-401/2013 & 82402-637/2013 (L-RES)

BETWEEN:

1. BELLARY MAHANAGARA PALIKE,  
NEERU SARABARAJU NOUKARARA  
SANGH ® (REGN.NO.04BD/08)  
HAVING THEIR OFFICE AT  
PLOT NO.55, WARD NO.19,  
2<sup>ND</sup> CROSS, SHANKAR COLONY,  
BELLARY-580103, REP.BY ITS  
PRESIDENT C.RAGHUNATH.
2. KARNATAKA URBAN WATER SUPPLY  
& DRAINAGE BOARD,  
CONTRACT EMPLOYEES  
ASSOCIATION (R) (REGN.NO.BDO497)  
HAVING THEIR OFFICE AT  
PLOT NO.55, WARD NO.19,  
2<sup>ND</sup> CROSS, SHANKAR COLONY,  
BELLARY-580103,  
REP.BY ITS PRESIDENT C.RAGHUNATH.
3. SRI SUMITRAPPA S/O KARIYAPPA  
AGE: 38 YEARS, OCC: SERVICE OF  
BELLARY CITY CORPORATION,  
R/O.H.NO.159, 3<sup>RD</sup> CROSS,  
DEVINAGAR, BELLARY-581301.

... PETITIONERS

(BY SRI V.R.DATAR, ADVOCATE)

AND

1. STATE OF KARNATAKA  
DEPARTMENT OF HOUSING & URBAN  
DEVELOPMENT, VIDHANA SOUDHA,  
DR.AMBEDKAR VEEDHI,  
BANGALORE-586001,  
BY ITS SECRETARY.
2. STATE OF KARNATAKA,  
DEPARTMENT OF LABOUR WELFARE,  
VIDHANA SOUDHA,  
DR.AMBEDKAR VEEDHI,  
BANGALORE-586001,  
BY ITS SECRETARY.
3. LABOUR OFFICER,  
OFFICE OF THE LABOUR OFFICER  
SUB-DN-2, TALUR ROAD,  
BELLARY-581301.
4. THE COMMISSIONER  
BELLARY CITY CORPORATION,  
BELLARY-581301.
5. THE MANAGING DIRECTOR/CHAIRMAN,  
KARNATAKA URBAN WATER SUPPLY  
& DRAINAGE BOARD, CAUVERY  
BHAVAN, K.G.ROAD,  
BANGALORE-560009

... RESPONDENTS

(BY SRI VINAYAK S. KULKARNI, HCGP, FOR R.1 TO R.3,  
SRI C.V.ANGADI, ADVOCATE, FOR R.4,  
SRI N.M.HANSI, ADVOCATE, FOR R.5.)

THESE WRIT PETITIONS ARE FILED UNDER  
ARTICLES 226 & 227 OF CONSTITUTION OF INDIA  
PRAYING TO CALL FOR RECORDS FROM THE 4<sup>TH</sup>  
RESPONDENT IN RELATION TO THE TENDER  
NOTIFICATION DATED 24/07/2013 PUBLISHED IN  
NEWS PAPER UDAYAVANI, DAVANAGERE DATED  
30/07/2013, VIDE ANNEXURE-G PERTAINING TO THE

OUTSOURCING OF EMPLOYMENT THROUGH CONTRACTORS IN THE EMPLOYMENT OF 4<sup>TH</sup> RESPONDENT AND ON PERUSAL OF THE SAME, BE PLEASED TO QUASH THE SAID TENDER NOTIFICATION DATED 24/07/2013 PUBLISHED IN NEWSPAPER UDAYAVANI, DAVANGERE, DATED 30/07/2013, VIDE ANNEXURE-G BY ISSUING WRIT OF CERTIORARI OR WRIT ORDER OR DIRECTION IN THE NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT ORDER OR DIRECTION UNDER ARTICLE 226 AND/OR 227 OF CONSTITUTION OF INDIA BY QUASHING THE IMPUGNED ORDER AT ANNEXURE-G, ETC.,.

THESE PETITIONS COMING ON FOR FINAL DISPOSAL, THIS DAY, THE COURT MADE THE FOLLOWING:

### **ORDER**

These petitions have been filed seeking for a writ to quash the tender notification dated 24.7.2013 published in the newspaper dated 30.7.2013, vide Annexure-G.

2. Learned counsel for the petitioners contends that Annexure-G has affected the legal rights of the petitioners. That such a tender could not be called for. Contentions are advanced in order to show that Annexure-G is erroneous.

3. It is further pleaded that subsequently thereafter, by the letter dated 2.8.2013 written by the Labour Officer, Bellary District, to the contesting respondent No.4, for the reasons stated therein, the 4<sup>th</sup> respondent was directed to cancel the said notification. Even as on date, the same has not been complied. Further more, during the pendency of the writ petition, the 4<sup>th</sup> respondent has gone a step further and issued Annexure-S a paper publication dated 27.8.2013. That this has been passed subsequent to the direction issued by the respondent as per Annexure-M.

4. On the other hand, learned counsel for the contesting respondent No.4, has filed his objection to the petition. Various contentions have been urged by him sustaining the notification issued at Annexure-G as well as Annexure-S and that the same is in accordance with law.

5. However so far as Annexure-M viz., the letter of the Labour Officer is concerned, counsel for R.4 very fairly submitted at the bar that they are bound by the directions issued. However, learned counsel further reiterates that even though the respondent No.4 is bound by the orders of the Government in terms of Annexure-M, is not acceptable, because it is passed beyond authority of law. However such a contention cannot be accepted. Firstly, in view of the admitted fact that they are bound by the directions issued by the Government in terms of Annexure-M. Secondly that assuming that their contention requires to be accepted and Annexure-M is beyond authority of law, it is not for this Court in this proceeding to go into that question. Respondent No.4 is always at liberty to pursue his remedy in order to ensure that according to him there is compliance of law. Till then, R.4 is bound by the directions of the State.

6. Under these circumstances it would be wholly unnecessary to refer to the contention as advanced by learned counsel for the petitioner as well as the respondent No.4 with regard to the validity or sustainance of Annexures-G and S on merits.

7. The question of considering Annexures-G and S on merits would arise only if the said notifications are valid in the eyes of law and sustainable as on date. On the face of the direction issued by the Labour Officer dated 2.8.2013 vide Annexure-M, it goes without saying that the respondent No.4 is bound by the direction issued by the Government. Any directions issued by the Government requires to be complied with by them.

8. Under these circumstances in view of the specific direction issued by the Labour Officer to cancel the notification, nothing else survives

for consideration in these petitions. The impugned Annexures-G and S issued by the 4<sup>th</sup> respondent stands quashed, in view of the direction issued by the Government in terms of Annexure-M dated 2.8.2013. However as held hereinabove, the respondent No.4 is always at liberty to pursue such remedies as available to them under law. Petitions are disposed off with the aforesaid observations.

9. Learned counsel for the petitioners contends that they have not received any salaries during the pendency of these writ petitions. In view of quashing Annexures-G and S, it is needless to state that the petitioners are entitled for the salaries for the work rendered by them. Writ petitions are disposed off accordingly.

SD/-  
JUDGE

Mrk/-