



**IN THE HIGH COURT OF KARNATAKA,**

**KALABURAGI BENCH**

**DATED THIS THE 29<sup>TH</sup> DAY OF NOVEMBER, 2024**

**BEFORE**

**THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR**

**WRIT PETITION NO.203392 OF 2024 (LB-ELE)**

**BETWEEN:**

SHWETA W/O VIJAYAKUMAR JAYAGOND,  
AGE: 30 YEARS, OCC: PRESIDENT OF  
GRAM PANCHAYAT SUNGATHAN,  
R/O NANDAGERI BIJAPUR,  
YANKANCHI-586 128.

...PETITIONER

(BY SMT. HEMA L. KULKARNI, ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA,  
DEPARTMENT OF PANCHAYAT RAJ,  
VIDHAN SOUDHA,  
BANGALORE-560 001,  
BY ITS SECRETARY.
2. THE STATE ELECTION COMMISSIONER,  
CUNNINGHAM ROAD,  
BANGALORE-560 052.
3. THE DEPUTY COMMISSIONER,  
VIJAYAPURA,  
DIST: VIJAYAPURA-586 206.
4. THE ASSISTANT COMMISSIONER, INDI,  
DIST: VIJAYAPURA-586 206.

Digitally signed  
by SUMITRA  
SHERIGAR  
Location: HIGH  
COURT OF  
KARNATAKA



5. THE GRAM PANCHAYAT,  
SUNGATHAN, TQ. SINDAGI,  
DIST: VIJAYAPURA-586 128,  
REPRESENTED BY PDO.
6. THE ELECTION OFFICER/  
DESIGNATED OFFICER,  
GRAM PANCHAYAT SUNGATHAN,  
TQ. SINDAGI,  
DIST: VIJAYAPURA-586 128.
7. PANCHAYAT DEVELOPMENT OFFICER,  
GRAM PANCHAYAT SUNGATHAN,  
TQ. SINDAGI,  
DIST: VIJAYAPURA-586 128.
8. SHARANAPPA S/O DHAREPPA HAVALAGI,  
AGE: YEARS, OCC: GRAM PANCHAYAT  
MEMBER SUNGATHAN,  
R/O SUNGATHAN, TQ. SINDAGI,  
DIST: VIJAYAPURA-586 128.
9. MALLAPPA S/O MAHADEVAPPA SALOTAGI,  
AGE: YEARS, OCC: GRAM PANCHAYAT  
MEMBER SUNGATHAN,  
R/O SUNGATHAN, TQ. SINDAGI,  
DIST: VIJAYAPURA-586 128.
10. SALMA S/O SAHIPATEL BOJAR,  
AGE: YEARS, OCC: GRAM PANCHAYAT  
MEMBER SUNGATHAN,  
R/O SUNGATHAN, TQ. SINDAGI,  
DIST: VIJAYAPURA-586 128.
11. SHARANAPPA S/O RUDRAGOUDA BAGALLOOR,  
AGE: YEARS, OCC: GRAM PANCHAYAT  
MEMBER SUNGATHAN,  
R/O SUNGATHAN, TQ. SINDAGI,  
DIST: VIJAYAPURA-586 128.
12. AMARAYYA S/O SHARANAYYA HIEMATH,  
AGE: YEARS, OCC: GRAM PANCHAYAT



MEMBER SUNGATHAN,  
R/O SUNGATHAN, TQ. SINDAGI,  
DIST: VIJAYAPURA-586 128.

13. BHIMAVVA W/O SAGAPPA PUJARI,  
AGE: YEARS, OCC: GRAM PANCHAYAT  
MEMBER SUNGATHAN,  
R/O SUNGATHAN, TQ. SINDAGI,  
DIST: VIJAYAPURA-586 128.
14. SIDDAPPA S/O DUNDAPPA HOSAMANI,  
AGE: YEARS, OCC: GRAM PANCHAYAT  
MEMBER SUNGATHAN,  
R/O SUNGATHAN, TQ. SINDAGI,  
DIST: VIJAYAPURA-586 128.
15. SHIVABALAVVA  
W/O KALYANAPPA KIRANAGI,  
AGE: YEARS, OCC: GRAM PANCHAYAT  
MEMBER SUNGATHAN,  
R/O SUNGATHAN, TQ. SINDAGI,  
DIST: VIJAYAPURA-586 128
16. NAGAMMA W/O RAMAPPA HARIJAN,  
AGE: YEARS, OCC: GRAM PANCHAYAT  
MEMBER SUNGATHAN,  
R/O SUNGATHAN, TQ. SINDAGI,  
DIST: VIJAYAPURA-586 128.

...RESPONDENTS

(BY SRI. G. B. YADAV, HCGP FOR R1, R3 & R4;  
SRI. AMRESH S. ROJA, ADV. FOR R2;  
SMT. RATNA N. SHIVAYOGIMATH, ADV. FOR R5 TO R7;  
SRI. G. G. CHAGASHETTI &  
SRI. I. R. BIRADAR, ADVOCATES FOR R8 TO R16)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226  
AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO,  
(A) ISSUE A WRIT OF CERTIORARI QUASHING THE IMPUGNED



NOTICE ISSUED BY THE RESPONDENT NO.4 VIDE NO.ಗ್ರಾಪಂ:ಚುನಾವಣೆ:ಅಖ:ಸಿಆರ್:06/2024-25 DATED 22.11.2024 AT ANNEXURE-C, IN THE INTEREST OF JUSTICE AND EQUITY; (B) ISSUE WRIT OF CERTIORARI BY QUASHING THE IMPUGNED REQUISITION SUBMITTED BY THE RESPONDENT NO.8 TO 16 DATED 06.11.2024 AT ANNEXURE-B, IN THE INTEREST OF JUSTICE AND EQUITY; (C) ISSUE ANY WRIT, ORDER OR DIRECTIONS AS THIS HON'BLE COURT DEEMS FIT IN CIRCUMSTANCES OF CASE, IN THE ENDS OF JUSTICE.

THIS PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

**ORAL ORDER**

(PER: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR)

Learned High Court Government Pleader accepts notice for respondent Nos.1, 3 and 4. Sri. Amresh S. Roja, learned counsel accepts notice for respondent No.2. Smt. Ratna N. Shivayogimath, learned counsel accepts notice for respondent Nos.5 to and 7. Sri G.G. Chagashetti and Sri I.R. Biradar, Advocates accepts notice for respondent Nos.8 to 16.



2. In this petition, the petitioner seeks the following reliefs:

- "a. *Issue a writ of certiorari quashing the impugned notice issued by the respondent No.4 vide No.ಗ್ರಾಪಂ:ಚುನಾವಣೆ:ಅವಿ:ಸಿಆರ್:06/2024-25 dated 22.11.2024 at Annexure-C, in the interest of justice and equity.*
- b. *Issue writ of certiorari by quashing the impugned requisition submitted by the respondent No.8 to 16 dated 06.11.2024 at Annexure-B, in the interest of justice and equity.*
- c. *Issue any writ, order or directions as this Hon'ble Court deems fit in circumstances of case, in the ends of justice."*

3. Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the material on record.

4. A perusal of the material on record will indicate that the issue involved in the present petition as regards affixing of signature, writing and seal by the respondent No.7-Panchayat Development Officer and his presence, participation and involvement in the representation at Annexure-B dated 12.11.2024 alleged to have been



submitted by the private respondent Nos.8 to 16 to respondent No.4-Assistant Commissioner is directly and squarely covered by the judgment of this Court in the case of **Sri. Sangam Gouda N. Biradar and another Vs. Principal Secretary of Panchayat and others**, in **W.P.No.203171/2024**, wherein, it is held as under:

**"ORAL ORDER**

(PER: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR)

1. *In this petition, the petitioners seek the following reliefs:*

*"(i) Issue Writ of Certiorari or in the like nature of Certiorari quashing the impugned Amendment section 49 of Karnataka Gram Swaraj and Panchayath Raj Act, 2020, and declare it as Unconstitutional, is herewith enclosed and produced as ANNEXURE - C;*

*(ii) Issue Writ of Mandamus or writ of directing the respondents not to initiate any proceeding till the tenure competition till December 2025.*

*(iii) To issue Court order or direction in the nature of certiorari quashing impugned notice of no confidence issued by respondent No.3 dated 14.11.2024 bearing No.GraPum:Chunavane:CV: CR:02/2024-25, vide Annexure-E1 in the interest of justice and equity."*

2. *A perusal of the material on record will indicate that the petitioner No.1 is the President of the Honnalli Gram Panchayat, while the petitioner*



*No.2 is its Vice President. The respondent No.4 is the Panchayat Development Officer (PDO) and respondent Nos.5 to 15 are also members of the Panchayat.*

*3. On 04.11.2024, the respondent Nos.5 to 15 are purported/said to have submitted the impugned representation to the respondent No.3 – Assistant Commissioner in Form No.1 invoking Rule 3(1) of the Karnataka Panchayat Raj Motion of No Confidence against Adhyaksha and Upadhyaksha of Gram Panchayat Rules, 1994, (for short 'the said Rules of 1994') and requested him to issue a notice in Form No.2 under Rule 3(2) of the said Rules of 1994 and called for a meeting for the purpose of considering the 'No confidence motion' moved against the petitioners. In pursuance of the said representation dated 04.11.2024, the respondent No.3-Assistant Commissioner issued the impugned notice dated 14.11.2024 at Annexure-E1 in Form No.2 under Rule 3(2) of the said Rules of 1994 and fixed the date of the meeting at 12.00 p.m. on 02.12.2024 for the purpose of 'No confidence motion' against the petitioners. Aggrieved by the impugned representation and impugned notice, the petitioners are before this Court, by way of the present petition. It is a matter of record and an undisputed fact, that the representation at Annexure-B dated 04.11.2024 said to have been*



*submitted by the respondent Nos.5 to 15 contains the signature, writings and seal of the respondent No.4-PDO at the bottom of both of its pages as can be seen from the said document.*

*4. Heard learned Senior Counsel for the petitioners, learned High Court Government Pleader for respondent Nos.1 to 3, learned counsel for respondent No.4 – the Panchayat Development Officer and learned counsel for the respondent Nos.5 to 15, and perused the material on record.*

*5. In addition to reiterating the various contentions urged in the petition and referring to the material on record, learned Senior Counsel for the petitioners has invited my attention to the impugned representation said to have been given by the respondents in order to point out that the said representation was in fact never given to the 3<sup>rd</sup> respondent – Assistant Commissioner; it was submitted that the said representation was actually given by the respondent Nos.5 to 15 to the PDO as is evident from the writings, signatures and seal of the PDO on the said representation. In this context, it is submitted that it was only the Assistant Commissioner who was entitled to receive the impugned representation and affix his signatures/writings/seal on the same and the PDO was neither entitled to make any writings nor affix his signatures and seal to the representation and*





*was not entitled to remain present at the time of submission of the representation nor certify the same or identified the respondent Nos.5 to 15 which is neither contemplated nor permissible under Rule 3(1) of the said Rules of 1994. It is also submitted that the respondent Nos.5 to 15 were bound to submit a representation only to the Assistant Commissioner without reference to and without the involvement or participation of the 4<sup>th</sup> respondent – PDO and consequently in view of the violation of the Rule 3(1) of the said Rules of 1994, the impugned representation as well as the consequential impugned 'no confidence' meeting notice deserves to be quashed. Lastly it was submitted that, the respondent No.4 – PDO had not only instigated the respondent Nos.5 to 15 to submit the impugned representation, but had also colluded with them in this regard and as such, the impugned representation deserves to be quashed on this ground also.*

*6. Per contra, learned High Court Government Pleader as well as learned counsel for respondent No.4 – PDO and learned counsel for the respondent Nos.5 to 15 would submit jointly and in unison that the said representation was not submitted to the PDO, but was in fact submitted only to the Office of the Assistant Commissioner and that the PDO merely identified/certified the*



*signatures as well as the presence of the complainants by making the impugned endorsement, writings and seal and consequently no fault can be found with the impugned representation and as such, there is no merit in the petition and the same is liable to be dismissed.*

*7. I have given anxious consideration to the rival submissions and perused the material on record.*

*8. The following point that arises for consideration in the present petition:*

*"Whether the impugned complaint at Annexure-B, dated 04.11.2024 submitted by the impleading applicants to the respondent No.3-Assistant Commissioner in Form No.1 under Rule 3(1) of the said Rules of 1994 as well as the impugned notice at Annexure-E1 dated 14.11.2024 issued by the respondent No.3 in Form No.2 under Rule 3(2) of the said Rules of 1994 are legal, valid and proper and in conformity with Rule 3 of the said Rules of 1994?"*

*9. Before adverting to the rival contentions, it would be apposite to extract Rule 3(1) and (2) of the said Rules of 1994, as well as Form No.1, which are as under:*

*3. Motion of No-confidence.-*

*(1) A written notice of intention to move the motion under the proviso to sub-Section (3) of Section 140 of the Act shall be in Form-*



*I Signed by one of half of the members of the total elected number of members together with a copy of the proposed motion shall be delivered in person by any two of the members signing the notice to the Deputy Commissioner of the concerned district.*

*(2) The Deputy Commissioner shall thereafter convene a meeting for the consideration of the said motion at the office of the Taluk Panchayath on the date appointed by him which shall not be later than fifteen days from the date on which the notice under sub-rule (1) was given to him. He shall give to the members a notice of not less than ten clear days of such meeting in Form II:*

*Provided that, where the holding of such meeting is stayed by an order of a Court, the Deputy Commissioner shall adjourn the said meeting and shall hold the adjourned meeting on a date not later than fifteen days from the date on which he receives the intimation about the vacation of stay, after giving to the members a notice of not less than ten clear days of such adjourned meeting.*

*Provided further that, if any general holiday is declared for any unforeseen reason*



*on that particular date, if the meeting is not commenced, the said meeting has to be held on next working day.*

**Form-I**

**(See Sub-rule (1) of rule 3)**

**To,**

***The Deputy Commissioner or***

.....

.....

*Sir,*

***Subject:*** *Motion of No-confidence against the Adhyaksha or Upadhyaksha of ..... Taluk Panchayat.*

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*We, the following members of..... Taluk Panchayat have signed this notice and are hereby submitting this notice for moving the no-confidence motion against Adhyaksha or Upadhyaksha of the said Taluk Panchayat in accordance the provision of sub-section (3), of section 140 of the Act.*

*Yours faithfully,*



No.	Name of the member	Name of the constituency	Signature

10. A plain reading of Rule 3(1) of the said Rules of 1994, clearly indicates that the respondent Nos.5 to 15 were entitled to submit the same only to the Assistant Commissioner and not to the PDO; further, a conjoint reading of Rule 3(1) and Form No.1 will also indicate that, the same do not provide for any writing, signature or seal or of anyone else other than the respondent Nos.5 to 15 who submitted the impugned representation or the Assistant Commissioner who received the same from them; in other words, Rule 3(1) r/w Form No.1 of the said Rules of 1994 do not contemplate in any manner either the presence, involvement or participation of the PDO for the purpose of submission of the representation or at the time of its submission; neither is there any other provision under the Karnataka Gram Swaraj and Panchayat Raj Act, 1993 or the said Rules of 1994, which permit the PDO to affix his writings, signature or seal on the representation in Form No.1 submitted



*by the respondent Nos.5 to 15. It is therefore clear that as per the procedure prescribed in Rule 3(1) r/w Form No.1 of the said Rules of 1994, it is only the respondent Nos.5 to 15 and the Assistant Commissioner who were entitled to affix their signatures, writings and seal on the representation and there was no scope/room for anyone else, much less the PDO to either participate, involve or be present at the time of submission of the representation nor affix his signature, writings or seal on the representation which is contrary to Rule 3(1) r/w Form No.1 of the said Rules of 1994.*

*11. It is a well settled principle/position that when law or statute prescribes or provides any act, deed, thing, procedure, etc., to be done in a particular manner, it shall/has to be done in the same manner only and in no other manner as held by this Court as well as the Apex Court in various Judgments including in the case of **Union of India Vs. Mahendra Singh, - 2022 SCC Online SC 909**, wherein the Apex Court held as under:*

*"14. The argument of Mr. Bhushan that use of different language is not followed by any consequence and, therefore, cannot be said to be mandatory is not tenable. The language chosen is relevant to ensure that the candidate who has filled up the application form alone appears in the written examination to maintain*



*probity. The answer sheets have to be in the language chosen by the candidate in the application form. It is well settled that if a particular procedure in filling up the application form is prescribed, the application form should be filled up following that procedure alone. This was enunciated by Privy Council in the Nazir Ahmad v. King-Emperor<sup>9</sup>, wherein it was held that "that where a power is given to do a certain thing in a certain way the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden."*

*15. A three Judge Bench of this Court in a judgment reported as Chandra Kishore Jha v. Mahavir Prasad<sup>10</sup>, held as under:*

*"17.....It is a well-settled salutary principle that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner. (See with advantage : Nazir Ahmad v. King Emperor [(1935-36) 63 IA 372 : AIR 1936 PC 253 (2)], Rao Shiv Bahadur Singh v. State of V.P. [AIR 1954 SC 322 : 1954 SCR 1098], State of U.P. v. Singhara Singh [AIR 1964 SC 358 : (1964) 1 SCWR 57].) An election petition under the rules could only have been presented in the open court up to 16-5-1995 till 4.15 p.m. (working hours of the Court) in the manner*



*prescribed by Rule 6 (supra) either to the Judge or the Bench as the case may be to save the period of limitation. That, however, was not done....."*

*16. The said principle has been followed by this Court in Cherukuri Mani v. Chief Secretary, Government of Andhra Pradesh<sup>11</sup> wherein this Court held as under:*

*"14. Where the law prescribes a thing to be done in a particular manner following a particular procedure, it shall be done in the same manner following the provisions of law, without deviating from the prescribed procedure....."*

*17. Similarly, this Court in Municipal Corporation of Greater Mumbai (MCGM) v. Abhilash Lal<sup>12</sup> and OPTO Circuit India Limited v. Axis Bank<sup>13</sup> has followed the said principle. Since the advertisement contemplated the manner of filling up of the application form and also the attempting of the answer sheets, it has to be done in the manner so prescribed. Therefore, the reasoning given by the Division Bench of the High Court that on account of lapse of time, the writ petitioner might have attempted the answer sheet in a different language is not justified as the use of different*





*language itself disentitles the writ petitioner from any indulgence in exercise of the power of judicial review.*

*18. Since the writ petitioner has used different language for filling up of the application form and the OMR answer book, therefore, his candidature was rightly rejected by the appellants."*

*12. In the instant case, a perusal of representation at Annexure-B dated 04.11.2024 submitted by the respondent Nos.5 to 15 will clearly indicate that the same containing the signature, writings and seal of the PDO is an apparently/patently defective representation being in contravention/contrary to Rule 3(1) r/w. Form No.1 of the said Rules of 1994. Under these circumstances, in the absence of any provision in either Rule 3(1) or Form No.1 of the said Rules of 1994, which permits the presence, involvement and participation of the PDO or enables him to affix his signature, writings and seal on the representation submitted by the respondent Nos.5 to 15, I am of the considered opinion that the PDO was not entitled to remain present, involve or participate in the submission of the representation by the respondent Nos.5 to 15 nor was the PDO entitled/authorized/empowered/ competent to affix his signature, writings or seal on the impugned*



*representation; as stated supra, a perusal of the impugned representation will clearly indicate that the PDO has not only participated and got involved in the submission of the representation, but has affixed his signature, writings and seal on the impugned representation in addition to remaining present before the Assistant Commissioner along with the respondent Nos.5 to 15 at the time of submission of the representation which is not only impermissible in law, but also in contravention of Rule 3(1) r/w Form No.1 of the said Rules of 1994 and consequently, the impugned representation at Annexure-B dated 04.11.2024 submitted by the respondent Nos.5 to 15 is illegal and contrary to law and the same deserves to be quashed.*

13. *A perusal of the material on record will indicate that it is an undisputed fact that the respondent No.4-PDO is merely a paid employee of the Panchayat and has no role to play in the submission of the impugned representation by the respondent Nos.5 to 15 to the Assistant Commissioner; there is absolutely nothing to establish that the Assistant Commissioner called upon the PDO to identify the respondent Nos.5 to 15 either before or after they submitted the impugned representation to him; on the other hand, the material on record including the impugned representation will clearly indicate that*



*the PDO actively participated and was involved in the submission of the representation by the respondent Nos.5 to 15 to the Assistant Commissioner in the presence of the PDO who had affixed his writings, signature and seal on the representation which is impermissible in law as stated supra. Under these circumstances, I am of the view that the impugned representation is illegal, contrary to law and vitiated warranting interference by this Court in the present petition.*

*14. It is an undisputed fact and the matter of record, that the impugned notice at Annexure-E1 dated 14.11.2024 was issued by the Assistant Commissioner in Form No.2 under Rule 3(2) of the said Rules of 1994, pursuant to the impugned representation at Annexure-B dated 04.11.2024; as stated supra, I have already come to the conclusion that the impugned representation deserves to be quashed and consequently, the impugned notice pursuant thereto would also necessarily have to be quashed.*

*15. It is however, to be stated that liberty is to be reserved in favour of the respondent Nos.5 to 15 to submit a fresh/new representation in Form No.1 under Rule 3(1) of the said Rules of 1994 by following the proper/prescribed procedure and if such a representation is submitted by them, liberty is to be reserved in favour of the Assistant*



*Commissioner to receive the same and proceed further in accordance with law without reference to Section 49 (b-i) including its proviso to the Karnataka Gram Swaraj and Panchayat Raj Act, 1993.*

*16. In the result, I pass the following:*

**ORDER**

*(i) The writ petition is hereby allowed;*

*(ii) The impugned representation at Annexure – B dated 04.11.2024 submitted by the respondent Nos.5 to 15 is hereby quashed;*

*(iii) So also the impugned notice at Annexure – E1 dated 14.11.2024 issued by the respondent No.3 – Assistant Commissioner is hereby quashed;*

*(iv) Liberty is reserved in favour of the respondent Nos.5 to 15 to submit a fresh/new representation to the respondent No.3-Assistant Commissioner in accordance with law and strictly in compliance with Rule 3 (1) r/w Form No.1 of the the Karnataka Panchayat Raj Motion of No Confidence against Adhyaksha and Upadhyaksha of Gram Panchayat Rules, 1994;*

*(v) In the event such a representation is submitted by the respondent Nos.5 to 15 to the respondent No.3-Assistant Commissioner as stated*



*supra, the respondent No.3 – Assistant Commissioner shall receive the same and proceed further in accordance with law without reference to Section 49 (b-i) including its proviso to the Karnataka Gram Swaraj and Panchayat Raj Act, 1993.”*

5. In view of the aforesaid facts and circumstances and the judgment of this Court passed in **W.P.No.203171/2024**, I pass the following:

**ORDER**

- (i) The writ petition is hereby allowed;
- (ii) The impugned representation at Annexure-B dated 12.11.2024 submitted by respondent Nos.8 to 16 is hereby quashed;
- (iii) So also, the impugned notice at Annexure-C dated 22.11.2024 issued by the respondent No.4-Assistant Commissioner is hereby quashed;
- (iv) Liberty is reserved in favour of respondent Nos.8 to 16 to submit a fresh/new



representation to respondent No.4-Assistant Commissioner in accordance with law and strictly in compliance with Rule 3 (1) r/w Form No.1 of the Karnataka Panchayat Raj Motion of No Confidence against Adhyaksha and Upadhyaksha of Gram Panchayat Rules, 1994;

(v) In the event such a representation is submitted by respondent Nos.8 to 16 to respondent No.4 - Assistant Commissioner as stated supra, respondent No.4 - Assistant Commissioner shall receive the same and proceed further in accordance with law without reference to Section 49 (b-i) including its proviso to the Karnataka Gram Swaraj and Panchayat Raj Act, 1993.

**Sd/-  
(S.R.KRISHNA KUMAR)  
JUDGE**