

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20<sup>TH</sup> DAY OF SEPTEMBER, 2021

**R**

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.1506/2021 (LB- RES)

**BETWEEN**

1. SRI RAVI  
S/O GURUVA,  
AGED ABOUT 47 YEARS,  
R/AT DOOR NO.2/246B,  
PATTORI ARASARA MOOLE,  
ASAIGOLI POST,  
KONAJE VILLAGE,  
MANGALURU TALUK,  
MANGALURU - 574 199.
2. SRI RAMAKRISHNA K. PATTORI  
S/O SHEKARA POOJARY,  
AGED ABOUT 48 YEARS,  
R/AT NO.4-146,  
PATTORI HOUSE,  
ASSAIGOLI POST,  
NEAR NAGABRAHMA TEMPLE,  
KONAJE - 574 199  
DAKSHINA KANNADA DISTRICT.

... PETITIONERS

(BY SRI ANANDARAMA K., ADVOCATE (PHYSICAL HEARING))

**AND**

1. STATE OF KARNATAKA  
DEPARTMENT OF RURAL DEVELOPMENT  
AND PANCHAYATH RAJ,  
VIDHANA SOUDHA,  
BENGALURU – 560 001  
REPRESENTED BY ITS SECRETARY.
2. THE DEPUTY COMMISSIONER  
OFFICE OF THE DEPUTY COMMISSIONER,  
DAKSHINA KANNADA DISTRICT,  
MANGALURU – 570 082.
3. KARNATAKA STATE ELECTION COMMISSION  
NO.8, 1<sup>ST</sup> FLCOR,  
K.S.C.M.F. BUILDING ANNEXE,  
CUNNINGHAM ROAD,  
BENGALURU - 560 052  
REPRESENTED BY  
ITS COMMISSIONER.
4. KONAJE GRAMA PANCHAYATH  
KONAJE, MANGALURU TALUK – 574 199  
DAKSHINA KANNADA DISTRICT,  
REPRESENTED BY ITS  
PANCHAYATH DEVELOPMENT OFFICER.
5. BALA GRAMA PANCHAYATH  
BALA, MANGALURU TALUK – 575 030  
DAKSHINA KANNADA DISTRICT,  
REPRESENTED BY ITS  
PANCHAYATH DEVELOPMENT OFFICER.
6. YEDAPADAVU GRAMA PANCHAYATH  
YEDAPADAVU, MANGALURU TALUK – 571 144  
DAKSHINA KANNADA DISTRICT,  
REPRESENTED BY ITS  
PANCHAYATH DEVELOPMENT OFFICER.

7. BADAGA YEDAPADAVU GRAMA PANCHAYATH  
BADAGA YEDAPADAVU,  
MANGALURU TALUK – 574 267  
DAKSHINA KANNADA DISTRICT,  
REPRESENTED BY ITS  
PANCHAYATH DEVELOPMENT OFFICER
8. KUPPEPADAVU GRAMA PANCHAYATH  
KUPPEPADAVU, MANGALURU TALUK-574144  
DAKSHINA KANNADA DISTRICT,  
REPRESENTED BY ITS  
PANCHAYATH DEVELOPMENT OFFICER.
9. EKKARU GRAMA PANCHAYATH  
EKKARU, MANGALURU TALUK – 574 509  
DAKSHINA KANNADA DISTRICT,  
REPRESENTED BY ITS  
PANCHAYATH DEVELOPMENT OFFICER.
10. ATHIKARIBETTU GRAMA PANCHAYATH  
ATHIKARIBETTU , MANGALURU TALUK-574154  
DAKSHINA KANNADA DISTRICT,  
REPRESENTED BY ITS  
PANCHAYATH DEVELOPMENT OFFICER.
11. THALAPADY GRAMA PANCHAYATH  
THALAPADY, MANGALURU TALUK – 575 022  
DAKSHINA KANNADA DISTRICT,  
REPRESENTED BY ITS  
PANCHAYATH DEVELOPMENT OFFICER.
12. MALLURU GRAMA PANCHAYATH  
MALLURU, MANGALURU TALUK – 575 029  
DAKSHINA KANNADA DISTRICT,  
REPRESENTED BY ITS  
PANCHAYATH DEVELOPMENT OFFICER.
13. KINYA GRAMA PANCHAYATH  
KINYA, MANGALURU TALUK – 575 023  
DAKSHINA KANNADA DISTRICT,

REPRESENTED BY ITS  
PANCHAYATH DEVELOPMENT OFFICER.

14. MANJANADI GRAMA PANCHAYATH  
MANJANADI, MANGALURU TALUK – 574 237  
DAKSHINA KANNADA DISTRICT,  
REPRESENTED BY ITS  
PANCHAYATH DEVELOPMENT OFFICER.
15. JOKATTE GRAMA PANCHAYATH  
JOKATTE, MANGALURU TALUK – 575 011  
DAKSHINA KANNADA DISTRICT,  
REPRESENTED BY ITS  
PANCHAYATH DEVELOPMENT OFFICER.
16. PADUPERARU GRAMA PANCHAYATH  
PADUPERARU, MANGALURU TALUK – 570 082  
DAKSHINA KANNADA DISTRICT,  
REPRESENTED BY ITS  
PANCHAYATH DEVELOPMENT OFFICER.

... RESPONDENTS

(BY SMT.PRATHIMA HONNAPURA, AGA FOR R1 AND R2  
(PHYSICAL HEARING);  
SRI K.N.PHANINDRA, SR.COUNSEL FOR  
SMT.VAISHALI HEGDE, ADVOCATE FOR R3;  
SRI K.CHANDRANATH ARIGA, ADVOCATE FOR R9, R12  
AND R15;  
SRI A.K.VASANTH, ADVOCATE FOR R16;  
R4, R5, R6, R7, R8, R10, R11, R13, R14 ARE SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND  
227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR  
RECORDS; QUASH ENDORSEMENT DTD 19.01.2021 VIDE ANNX-K  
ISSUED TO PETITIONER NO.1 BY THE DEPUTY COMMISSIONER,  
MANGALURU, DAKSHINA KANNADA DISTRICT, R-2 HEREIN AND  
ETC.,

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 13.09.2021, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING :-

**ORDER**

The Petitioners who are the elected members of Konaje Grama Panchayat/respondent No.4 have presented the subject writ petition seeking the following prayers:

- “(a) Call for records;*
- (b) Issue a writ of certiorari or any other writ or order quashing Endorsement No.ELN(2) DKDC 21011(12)/5/G2 dated 19-01-2021 (Annexure-K) issued to petitioner No.1 by the Deputy Commissioner, Mangaluru, Dakshina Kannada District, Respondent No.2 herein in the interest of justice;*
- (c) Issue a writ of certiorari or any other writ or order quashing Endorsement No.ELN (2) DKDC 21011(12)/5/G2 dated 18-01-2021 (Annexure-L) issued to petitioner No.2. by the Deputy Commissioner, Mangaluru, Dakshina*

*Kannada District, Respondent No.2 herein, in the interest of justice;*

- (d) *Issue a writ of certiorari or any other writ or order quashing Letter No.SEC 01 EGP 2021 dated 08-01-2021 (Annexure-E) issued by respondent No.3;*
- (e) *Issue a writ of certiorari or any other writ or order quashing the "2020 Term President & Vice-President Reservation Sheet, Taluk; Mangaluru" dated 18-01-2021 (Annexure-G) insofar as it pertains to the reservation of office of President (Adhyaksha) in respondent No.4 to respondent No.16 Grama Panchayats, in the interest of justice;*
- (f) *Issue a writ or mandamus or any other writ, order or direction, directing the respondents 1 to 3 to reserve the office of the Adhyaksha in respondent No.4 Grama Panchayat in favour of Scheduled Caste (General), in the interest of justice;*
- (g) *Grant costs of the proceedings;*

*(h) Grant such other and further relief(s) as this Hon'ble Court deems fit in the facts and circumstances of the case."*

2. Brief facts leading to the filing of the present petition, as borne out from the pleadings, are as follows:-

The petitioners are elected members of Konaje Grama Panchayat/respondent No.4. The 1<sup>st</sup> petitioner claims to be belonging to Scheduled Caste category and is elected as member to Konaje Grama Panchayat from Ward No.10. Petitioner No.2 is also so elected to Konaje Grama Panchayat from Ward No.11 in the elections held to the Gram Panchayat in the year 2020. Results in the said elections were declared on 30.12.2020, after which, the 3<sup>rd</sup> respondent/Karnataka State Election Commission ('the Commission' for short) passed an order on 01.01.2021 prescribing certain guidelines in the matter of reservation of office of Adhyaksha and Upadhyaksha of the Gram Panchayat in favour of Scheduled Castes, Scheduled Tribes, Backward Class 'A', Backward Class 'B' and for women. These guidelines were issued in exercise of power conferred on the Commission under

Section 44(2) of the Karnataka Gram Swaraj and Panchayat Raj Act, 1993 ('the Act' for short).

3. In furtherance of the order dated 01.01.2021 the Commission issued a letter directing the Deputy Commissioner to use software by name 'GPPVP Application' for the purpose of identifying Gram Panchayats to determine panchayats for reservation in respect of the office of Adhyaksha and Upadhyaksha. The 2<sup>nd</sup> respondent/ Deputy Commissioner issued a notice dated 15.01.2021, informing that the process of identifying and reserving office of Adhyaksha and Upadhyaksha of the Gram Panchayats in Mangalore Taluk for Scheduled Castes, Scheduled Tribes, Backward Classes and women will be conducted on 18.01.2021.

4. In terms of the notice, proceedings were held on 18.01.2021, reserving the offices of Adhyaksha and Upadhyaksha of the Gram Panchayats in Mangalore Taluk. In the said proceedings, the office of Adhyaksha of Konaje Grama Panchayat is reserved for Scheduled Caste (Woman). It is this

reservation in favour of Scheduled Caste (Woman) for the office of Adhyaksha in Konaje Grama Panchayat that has led the petitioners to this Court in this writ petition.

5. Heard Anandarama.K., learned counsel appearing for petitioners, Smt.Prathima Honnapura, learned Additional Government Advocate appearing for respondent Nos.1 and 2, Smt.Vaishali Hegde, learned counsel appearing for respondent No.3, Sri.K.Chandranath Ariga, learned counsel appearing for respondent Nos.9, 12 and 15 and Sri.A.K.Vasanth, learned counsel appearing for respondent No.16.

6. The learned counsel appearing for the petitioners Sri Anandarama.K would submit that the office of Adhyaksha of Konaje Grama Panchayat ought to have gone to Scheduled Caste Man and not to Woman, in the light of the fact that there was already a Scheduled Caste member out of 12 elected members in the Gram Panchayat. Since there was already a member, again reserving the office of Adhyaksha for Scheduled Caste (Woman) is contrary to Clause 3(vi) of the Government order dated

01.01.2021. The learned counsel would submit that the data has been wrongly entered into the software deliberately which has resulted in an erroneous output.

7. On the other hand, the learned Additional Government Advocate Smt. Prathima Honnapura, while taking to the statement of objections would submit that guidelines are formulated by the Commission in exercise of powers conferred under the Constitution and Section 44 of the Act and this having been followed for the purpose of election to the Konaje Grama Panchayat, there is no violation of the guidelines dated 01.01.2021 and the chart to the said guidelines.

8. The learned Senior Counsel Sri K.N.Phanindra appearing for the 3<sup>rd</sup> respondent/Commission would submit that the software is formulated and adopted to ward off any kind of arbitrariness in reservation of Adhyaksha and Upadhyaksha in the Gram Panchayat as the use of software is prescribed by the Commission in terms of its communication dated 18.01.2021,

which is formulated for the purpose of allotment of Adhyaksha and Upadhyaksha. In terms of guidelines, 50% of seats of Adhyaksha and Upadhyaksha are reserved for women. Konaje Grama Panchayat has two Scheduled Caste members. Therefore 50% of the seats are reserved for women. Incidentally, Women have emerged victorious in all the reserved seats of the Gram Panchayats in Mangaluru Taluk. That cannot be a ground for the petitioners to contend that offices of Adhyaksha and Upadhyaksha of Konaje Grama Panchayat cannot be reserved in favour of women as it is women who have been elected and would submit that the writ petition be dismissed.

9. I have given my anxious consideration to the submissions made and perused the materials on record.

10. Facts afore-narrated not being dispute are not reiterated. The elections to Gram Panchayats in Mangalore Taluk have resulted in the election of women as members of all Gram Panchayats in those reserved seats for Scheduled Caste /

Scheduled Tribe. This petition is concerned with Konaje Grama Panchayat as this Court while entertaining the writ petition passed an order that elections to Adhyaksha of Konaje Grama Panchayat will be subject to the result of the writ petition. Challenge to any other Gram Panchayat was not entertained by this Court when this Court directed elections to Konaje Grama Panchayat to be subject to result of the writ petition. Therefore, the learned counsel for the petitioners though pleads about Kinya Gram Panchayat, he restricts his submissions with regard to the election to the office of Adhyaksha of Konaje Grama Panchayat.

11. Elections were notified to be held on 30.12.2020, to the Gram Panchayats in Mangalore Taluk. This resulted in a Scheduled Caste woman being elected as Adhyaksha to Konaje Grama Panchayat. Elected members of the Gram Panchayat, the petitioners herein/men have called in question the election to the office of Adhyaksha in the said Gram Panchayat on the ground that it has to be reserved for Scheduled Caste man and

not a woman, as there is already a woman member in the said Gram Panchayat.

12. After the elections were held for the Gram Panchayat, guidelines were issued by the Commission on 01.01.2021, and to the method of reservation applicable for filling up offices of Adhyaksha and Upadhyaksha. These guidelines are formulated by the Commission in exercise of its powers under Article 243K of the Constitution read with Section 44(2) of the Act. Article 243K of the Constitution reads as follows:-

*“243K. **Elections to the Panchayats.**- The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.*

*(2) Subject to the provisions of any law made by the Legislature of a State the conditions of service and tenure of office of the State Election*

*Commissioner shall be such as the Governor may by rule determine:*

*Provided that the State Election Commissioner shall not be removed from his office except in like manner and on the like ground as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.*

*(3) The Governor of a State shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by clause (1).*

*(4) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Panchayats.”*

Section 44 of the Act reads as follows:-

**“44. Election of Adhyaksha and Upadhyaksha.-** (1) Every Grama Panchayat

*shall, within one month from the date of publication of names of elected members under sub-section (8) of section 5 or immediately before the expiry of term of office of Adhyaksha and Upadhyaksha choose two members of the Grama Panchayat to be respectively Adhyaksha and Upadhyaksha. In the event of occurrence of any vacancy by reason of death, resignation, removal or otherwise in the office of Adhyaksha or Upadhyaksha, the Grama Panchayat shall choose another member to be the Adhyaksha or the Upadhyaksha, as the case may be.*

*(2) Subject to the general or special order of the State Election Commission, the Deputy Commissioner shall reserve,-*

*(a) such number of offices of Adhyakshas and Upadhyakshas of Grama Panchayats in the State for the Scheduled Castes and Scheduled Tribes and the number of such offices bearing as nearly as may be the same proportion to the total number of the offices in the State as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State:*

*Provided that, if no person belonging to the scheduled caste is available, the seats reserved for that category, shall also be filled by the persons belonging to the scheduled tribes and vice-versa.*

*(b) such number of offices of Adhyakshas and Upadhyakshas of the Grama Panchayats, which shall as nearly as may be, one-third of the total number of offices of Adhyaksha and Upadhyaksha in the State for the persons belonging to the Backward Classes: But the number of offices of Adhyakshas and Upadhyakshas reserved for the Backward Classes under this clause shall be so determined, that the total number of offices of Adhyaksha and Upadhyaksha reserved for the Scheduled Castes and the Scheduled Tribes under clause (a) and the Backward Classes under this clause shall not exceed fifty per cent of the total number of offices of Adhyaksha and Upadhyaksha of the Grama Panchayaths in the State.*

*Provided that out of the offices reserved under this clause eighty per cent of the total*

*number of such offices shall be reserved for the persons falling under category 'A' and the remaining twenty per cent of the offices shall be reserved for the persons falling under category 'B':*

*Provided further that if no person falling under category 'A' is available, the offices reserved for that category shall also be filled by the persons falling under category 'B' and Vice versa.*

*(c) not less than fifty percent of the total number of offices of Adhyaksha and Upadhyaksha of Grama Panchayats in the State from each of the categories which are reserved for persons belonging to the Scheduled Castes, Scheduled Tribe and Backward Classes and of those which are non-reserved, for women subject to an overall limit of one half of the total number rounding of to the next number*

*Provided that the offices reserved under this sub-section shall be allotted by rotation to different Grama Panchayats.*

**Explanation.-** For the removal of doubts it is hereby declared that the principle of rotation for purpose of reservation of offices under this section shall commence from the first election to be held after the commencement of the Karnataka Panchayat Raj Act, 1993.”

It is in furtherance of the mandate of Article 243K and the statute, the guidelines are formulated. The relevant clauses of guidelines which are germane for consideration of the *lis* are extracted herein for the purpose of quick reference:

“3. ಆಯಾ ಜಿಲ್ಲೆಯ ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು ತಾಲ್ಲೂಕುವಾರು ವಿವಿಧ ವರ್ಗಗಳಿಗೆ ಮತ್ತು ಮಹಿಳೆಯರಿಗೆ ಹಾಗೂ ಸಾಮಾನ್ಯ ವರ್ಗಕ್ಕೆ ನಿಗದಿಪಡಿಸಲಾಗಿರುವ ಅಧ್ಯಕ್ಷ ಮತ್ತು ಉಪಾಧ್ಯಕ್ಷ ಹುದ್ದೆಗಳನ್ನು ಈ ಕೆಳಗೆ ವಿವರಿಸಿರುವ ಪ್ರಕಾರ ತಾಲ್ಲೂಕಿನ ಗ್ರಾಮ ಪಂಚಾಯಿತಿಗಳಿಗೆ ಮೀಸಲಿರಿಸಿ ನಿಗದಿಪಡಿಸತಕ್ಕದ್ದು.

i. ಅಧ್ಯಕ್ಷ ಮತ್ತು ಉಪಾಧ್ಯಕ್ಷ ಹುದ್ದೆಗಳನ್ನು ಗ್ರಾಮ ಪಂಚಾಯಿತಿಗಳಿಗೆ ಅನುಸೂಚಿತ ಜಾತಿ, ಅನುಸೂಚಿತ ಪಂಗಡ, ಹಿಂದುಳಿದ ವರ್ಗ (ಅ), ಹಿಂದುಳಿದ ವರ್ಗ (ಬ), ಸಾಮಾನ್ಯ (ಮಹಿಳೆ) ಮತ್ತು ಸಾಮಾನ್ಯ ಇ ಕ್ರಮದಲ್ಲಿಯೇ ನಿಗದಿಪಡಿಸತಕ್ಕದ್ದು. ಅಂದರೆ ಮೊದಲು ಅನುಸೂಚಿತ ಜಾತಿ ಅಧ್ಯಕ್ಷ ಹುದ್ದೆಯನ್ನು ಪಡೆಯುವ ಗ್ರಾಮ ಪಂಚಾಯಿತಿಗಳನ್ನು ನಿಗದಿಪಡಿಸಿದ ನಂತರ ಅನುಸೂಚಿತ ಪಂಗಡ ಅಧ್ಯಕ್ಷ ಹುದ್ದೆ, ಹಿಂದುಳಿದ ವರ್ಗ (ಅ) ಅಧ್ಯಕ್ಷ ಹುದ್ದೆ, ಹಿಂದುಳಿದ ವರ್ಗ (ಬ) ಅಧ್ಯಕ್ಷ ಹುದ್ದೆ, ಹೀಗೆ ಒಂದಾದ ನಂತರ ಒಂದನ್ನು ತಾಲ್ಲೂಕಿನಲ್ಲಿರುವ ಗ್ರಾಮ ಪಂಚಾಯಿತಿಗಳಿಗೆ ನಿಗದಿಪಡಿಸತಕ್ಕದ್ದು, ಉಪಾಧ್ಯಕ್ಷರ ಹುದ್ದೆಗಳನ್ನು ನಿಗದಿಪಡಿಸುವಾಗಲೂ ಸಹ ಮೇಲೆ ವಿವರಿಸಿದ ಕ್ರಮವನ್ನೇ ಅನುಸರಿಸತಕ್ಕದ್ದು.

ii ಅನುಸೂಚಿತ ಜಾತಿ ಅಧ್ಯಕ್ಷ ಹುದ್ದೆಯನ್ನು ನಿಗದಿಪಡಿಸುವಾಗ, ಆ ಪ್ರವರ್ಗದ ಸದಸ್ಯರುಗಳ ಸಂಖ್ಯೆ ಅತ್ಯಂತ ಹೆಚ್ಚು ಇರುವ ಗ್ರಾಮ ಪಂಚಾಯತಿಯನ್ನು ಗುರುತಿಸಿ ಆ ಗ್ರಾಮ ಪಂಚಾಯತಿಗಳಿಗೆ ಅನುಸೂಚಿತ ಜಾತಿ ಅಧ್ಯಕ್ಷರ ಹುದ್ದೆಯನ್ನು ನಿಗದಿಪಡಿಸತಕ್ಕದ್ದು. ಹೀಗೆ ಮಾಡುವಾಗ ತಾಲ್ಲೂಕಿನ ಗ್ರಾಮ ಪಂಚಾಯತಿಗಳಲ್ಲಿ ಅನುಸೂಚಿತ ಜಾತಿ ಸದಸ್ಯ ಸ್ಥಾನಗಳ ಆಧಾರದ ಮೇಲೆ ಅವರೋಹಣ ಕ್ರಮದಲ್ಲಿ (Decending Order) ಗ್ರಾಮ ಪಂಚಾಯತಿಯನ್ನು / ಗಳನ್ನು ಬರೆದುಕೊಂಡು ನಂತರ ನಿರ್ಧರಿಸತಕ್ಕದ್ದು. ಈ ರೀತಿ ಮಾಡುವಾಗ, ಸರದಿಯಂತೆ (ರೋಟೇಷನ್) ಅಂದರೆ ಕರ್ನಾಟಕ ಗ್ರಾಮ್ ಸ್ವರಾಜ್ ಮತ್ತು ಪಂಚಾಯತ್ ರಾಜ್ ಅಧಿನಿಯಮ, 1993ರ ಪ್ರಕರಣ 44ರ ವಿವರಣೆಯಂತೆ “ಈ ಪ್ರಕರಣದ ಅಡಿಯಲ್ಲಿ ಹುದ್ದೆಯ ಮೀಸಲಾತಿಯ ಉದ್ದೇಶಗಳಿಗಾಗಿ ಸರದಿಯ ಸೂತ್ರವು 1993ರ ಕರ್ನಾಟಕ ಪಂಚಾಯತ್ ರಾಜ್ ಅಧಿನಿಯಮವು ಪ್ರಾರಂಭವಾದ ನಂತರ ನಡೆಸುವ ಪ್ರಥಮ ಚುನಾವಣೆಯಿಂದ ಪ್ರಾರಂಭವಾಗತಕ್ಕದ್ದೆಂದು ಈ ಮೂಲಕ ಘೋಷಿಸಲಾಗಿದೆ” ಅದರಂತೆ, ಪ್ರಸ್ತಾವನೆಯ ಕಂಡಿಕೆ (2)ರಲ್ಲಿ ವಿವರಿಸಿರುವಂತೆ ಕ್ರಮವಹಿಸಿ ಅನುಸೂಚಿತ ಜಾತಿ ಅಧ್ಯಕ್ಷ ಹುದ್ದೆಯನ್ನು ಮೀಸಲಿರಿಸಲಾಗಿದ್ದ ಗ್ರಾಮ ಪಂಚಾಯತಿಗಳನ್ನು ಹೊರತುಪಡಿಸತಕ್ಕದ್ದು. ಅನುಸೂಚಿತ ಜಾತಿಗೆ ಮೀಸಲಿರಿಸಲಾದ ಉಪಾಧ್ಯಕ್ಷರುಗಳ ಹುದ್ದೆಯನ್ನು ನಿಗದಿಪಡಿಸುವಾಗಲೂ ಇದೇ ಕ್ರಮವನ್ನು ಅನುಸರಿಸತಕ್ಕದ್ದು. ಅನುಸೂಚಿತ ಪಂಗಡದ ಅಧ್ಯಕ್ಷ / ಉಪಾಧ್ಯಕ್ಷ ಹುದ್ದೆಗಳನ್ನು ಇದೇ ಕ್ರಮವನ್ನು ಅನುಸರಿಸಿ ಮೀಸಲಿರಿಸತಕ್ಕದ್ದು.

iii ಹಿಂದುಳಿದ ವರ್ಗ ಬಿ ಮತ್ತು ಹಿಂದುಳಿದ ವರ್ಗ (ಬಿ) ಪ್ರವರ್ಗಗಳಿಗೆ ಮೀಸಲಿರಿಸಲಾದ ಅಧ್ಯಕ್ಷ ಮತ್ತು ಉಪಾಧ್ಯಕ್ಷ ಹುದ್ದೆಗಳನ್ನು ಆ ಪ್ರವರ್ಗದ ಅತಿ ಹೆಚ್ಚು ಸದಸ್ಯ ಸಂಖ್ಯೆಯಿರುವ ಗ್ರಾಮ ಪಂಚಾಯತಿಗಳಿಗೆ ಪ್ರಾರ (ii) ರಲ್ಲಿ ಸೂಚಿಸಿರುವ ಕ್ರಮವನ್ನು ಅನುಸರಿಸಿ ನಿಗದಿಪಡಿಸತಕ್ಕದ್ದು.

iv ಮೀಸಲಿರಿಸಿದ ಪ್ರವರ್ಗಗಳ ಮಹಿಳಾ ಅಧ್ಯಕ್ಷ ಮತ್ತು ಉಪಾಧ್ಯಕ್ಷ ಹುದ್ದೆಯನ್ನು ನಿಗದಿಪಡಿಸುವಾಗ ಮೊದಲು ಆ ಪ್ರವರ್ಗಗಳ ಅಧ್ಯಕ್ಷ ಮತ್ತು ಉಪಾಧ್ಯಕ್ಷ ಹುದ್ದೆಯನ್ನು ಪಡೆಯುವ ಗ್ರಾಮ ಪಂಚಾಯತಿಗಳನ್ನು ಗುರುತಿಸಿ, ಅವುಗಳನ್ನು ಮೀಸಲಿರಿಸಿದ ಆ ಪ್ರವರ್ಗಕ್ಕೆ ಸೇರಿದ ಮಹಿಳಾ ಸದಸ್ಯ ಸಂಖ್ಯೆಗೆ ಅನುಗುಣವಾಗಿ ಅವರೋಹಣ ಕ್ರಮದಲ್ಲಿ (Decending Order) ಬರೆದುಕೊಂಡು ನಂತರ ಅಂತಹ ಗ್ರಾಮ ಪಂಚಾಯತಿಗಳಲ್ಲಿ ಆ ಮಹಿಳಾ ಸದಸ್ಯ ಸಂಖ್ಯೆಯನ್ನು ಗಣನೆಗೆ ತೆಗೆದುಕೊಂಡು ನಂತರ ಅಂತಹ ಗ್ರಾಮ ಪಂಚಾಯತಿಗಳಲ್ಲಿ ಆ ಮಹಿಳಾ ಸದಸ್ಯ ಸಂಖ್ಯೆಯನ್ನು ಗಣನೆಗೆ ತೆಗೆದುಕೊಂಡು ಅತಿ ಹೆಚ್ಚು ಮಹಿಳಾ ಸದಸ್ಯರಿರುವ ಗ್ರಾಮ ಪಂಚಾಯತಿಗಳಿಗೆ ಮಹಿಳಾ ಅಧ್ಯಕ್ಷ ಮತ್ತು ಉಪಾಧ್ಯಕ್ಷ ಹುದ್ದೆಗಳನ್ನು ನಿಗದಿಪಡಿಸತಕ್ಕದ್ದು, ಹೀಗೆ ಮಾಡುವಾಗ ಸಾಧ್ಯವಾದಷ್ಟು ಮಟ್ಟಿಗೆ

ಹಿಂದಿನ ಅವಧಿಯಲ್ಲಿ ಮಹಿಳಾ ಅಧ್ಯಕ್ಷ ಮತ್ತು ಉಪಾಧ್ಯಕ್ಷ ಹುದ್ದೆಗಳನ್ನು ಪಡೆದಿದ್ದ ಗ್ರಾಮ ಪಂಚಾಯಿತಿಗಳನ್ನು ಹೊರತುಪಡಿಸತಕ್ಕದ್ದು.

v ಸಾಮಾನ್ಯ (ಮಹಿಳೆ) ವರ್ಗಕ್ಕೆ ಮೀಸಲಿರಿಸಲಾದ ಅಧ್ಯಕ್ಷ ಮತ್ತು ಉಪಾಧ್ಯಕ್ಷ ಹುದ್ದೆಗಳನ್ನು ಆ ವರ್ಗದ ಅತಿ ಹೆಚ್ಚು ಸದಸ್ಯ ಸಂಖ್ಯೆಯಿರುವ ಗ್ರಾಮ ಪಂಚಾಯಿತಿಗಳನ್ನು ಗುರುತಿಸಿ ನಿಗದಿಪಡಿಸತಕ್ಕದ್ದು. ಹೀಗೆ ನಿಗದಿಪಡಿಸುವಾಗ ಸಾಧ್ಯವಾದಷ್ಟು ಮಟ್ಟಿಗೆ ಹಿಂದಿನ ಅವಧಿ / ಅವಧಿಗಳಲ್ಲಿ ಈ ವರ್ಗಕ್ಕೆ ಮೀಸಲಿರಿಸಲಾದ ಗ್ರಾಮ ಪಂಚಾಯಿತಿಗಳನ್ನು ಹೊರತು ಪಡಿಸತಕ್ಕದ್ದು.

vi ಯಾವುದೇ ಮೀಸಲಿರಿಸಿದ ವರ್ಗದ ಅಧ್ಯಕ್ಷ ಮತ್ತು ಉಪಾಧ್ಯಕ್ಷ ಹುದ್ದೆಗಳನ್ನು ನಿಗದಿಪಡಿಸುವಾಗ ಒಂದು ವೇಳೆ ಸದಸ್ಯರ ಸಂಖ್ಯೆಗಳು ಸವವಾಗಿರುವ ಗ್ರಾಮ ಪಂಚಾಯಿತಿಗಳು ಹಲವು ಇದ್ದು, ಮೀಸಲಿರಿಸಬೇಕಾದ ಹುದ್ದೆಗಳು ಇಂತಹ ಗ್ರಾಮ ಪಂಚಾಯಿತಿಗಳ ಸಂಖ್ಯೆಗಿಂತ ಕಡಿಮೆ ಇದ್ದಲ್ಲಿ, ಅಂತಹ ಗ್ರಾಮ ಪಂಚಾಯಿತಿಗಳ ಅಧ್ಯಕ್ಷ ಮತ್ತು ಉಪಾಧ್ಯಕ್ಷ ಹುದ್ದೆಗಳ ಮೀಸಲಾತಿಯನ್ನು ಸಂಬಂಧಪಟ್ಟ ಗ್ರಾಮ ಪಂಚಾಯಿತಿಗಳ ಚುನಾಯಿತ ಸದಸ್ಯರುಗಳ ಸಮ್ಮುಖದಲ್ಲಿ ಜಿಲ್ಲಾಧಿಕಾರಿ ಹಾಗೂ ಜಿಲ್ಲಾ ಚುನಾವಣಾಧಿಕಾರಿ ರವರು ಲಾಟರಿ ಎತ್ತುವ ಮೂಲಕ ನಿಗದಿಪಡಿಸತಕ್ಕದ್ದು.”

13. The Deputy Commissioner on 18.01.2021, issued an endorsement rejecting the claim of the petitioners that the office of Adhyaksha in Konaje Grama Panchayat should belong to Scheduled Caste men as Konaje Grama Panchayat has two Scheduled Caste women as members of the Gram Panchayat. The explanation in terms of the said endorsement is that out of 13 Gram Panchayats having Scheduled Caste members, it is only Konaje Grama Panchayat which has two Scheduled Caste members. In terms of the endorsement dated 15.01.2021,

Konaje Grama Panchayat was automatically allotted the first Scheduled Caste reservation to the office of Adhyaksha since the remaining 12 Gram Panchayats had only one Scheduled Caste member in terms of the software or the lottery as it is called. The other Gram Panchayat i.e., Kinya was allotted second Scheduled Caste reservation for the office of Adhyaksha.

14. The plausible justification given by the State and the Election Commission is acceptable as the allotment of Scheduled Caste (woman) reservation to Konaje Grama Panchayat comes about in the light of the fact that on earlier occasion when elections took place in the year 2015, Adhyaksha of Konaje Grama Panchayat had been allotted to general category and insofar as Kinya Gram Panchayat is concerned, it was reserved for general (woman). Therefore, following the guidelines that there should be a rotation which should not result in repetition of reservation to women, the office of Adhyaksha in the year 2021, is allotted to Scheduled Caste (woman) in Konaje Grama Panchayat. The allotment of reservation to the office of

Adhyaksha and Upadhyaksha is undertaken by taking Taluk as a unit. The reservations are allotted by the Deputy Commissioner on Taluk basis within the District in terms of parameters set out in Section 44 of the Act (*supra*) and based upon the guidelines of the Commission dated 01.01.2021.

15. The guidelines stipulated for reservation on rotation basis would clearly indicate that the repetition of reservation should be avoided as far as possible. The usage of software for picking up seats to be reserved for particular category cannot be held to be arbitrary as contended by the petitioners unless it is demonstrable that it has resulted in illegality or arbitrariness, demonstration of which, I do not find in the case at hand. It is a uniform process that is evolved by the Commission and is directed to be implemented. Though keying in the data is done by the computer operator, the same would not enure to the benefit of the petitioners to contend that the process is erroneous, unless it is demonstrated that reservation of the office of Adhyaksha in favour of Scheduled Caste woman is

arbitrary and contrary to law, that would entail interference at the hands of this Court.

16. The contention of the learned counsel for the petitioners is, one Scheduled Caste woman being already a member; the post of Adhyaksha should not go to a Scheduled Caste woman but to the first petitioner who is a Scheduled Caste man. Therefore, the issue now emerges is a preference to be between a man or a woman to the post of Adhyaksha of the Konaje Gram Panchayat. The post of Adhyaksha being reserved to a scheduled caste women is in terms of the guidelines and the policy of reservation. I do not find any error in the reservation made in favour of Scheduled Caste woman for Konaje Grama Panchayat, as the statistics would clearly indicate that there are two Scheduled Caste members in Konaje Grama Panchayat out of which, one was reserved for Scheduled Caste woman which cannot mean to be a repetition of reservation, as on an earlier occasion when elections were held in 2015, for Konaje Grama Panchayat, the office of Adhyaksha was allotted to a general

candidate. Therefore, none of the grounds urged by the petitioners would sound acceptance.

17. Insofar as the reliance placed on the judgment of this Court in the case of **BAYAMMA v. STATE ELECTION COMMISSIONER AND OTHERS** reported in **ILR 2011 KAR 1733** is concerned, the same is distinguishable on the facts obtaining in that case without much ado. The case before this Court in the said decision was that Government had initially notified reservation in favour of Scheduled Tribe women but within two days thereafter, Government issued another notification modifying the same by reserving the office to Scheduled Caste. This, the Court found to be erroneous and unjustifiable. The facts obtaining in the case at hand are not identical to the issue decided in the aforesaid judgment. In the case at hand there were clear guidelines issued by the Commission on 01.01.2021, and the Deputy Commissioner has followed those guidelines by issuing certain circulars. The clear principles and the policy adopted for reservation has resulted in

the women becoming members in all the seats reserved for Scheduled Castes. Mere fact that women have emerged victorious in the reserved seats for Scheduled Castes or Scheduled Tribes as the case would be can by no stretch of imagination be construed to be arbitrary as is contended by the petitioner. I do not see any infirmity in what has emerged in the case at hand.

18. The situation projected by the petitioner in the first blush would seem that seats reserved for members of all the Gram Panchayat being given to women. But such fact has become inevitable as women have in fact emerged victorious in all the seats reserved for Scheduled Castes and Scheduled Tribes and to the post of Adhyaksha of Konaje Gram Panchayat is given to a woman as there are two members elected who belong to Scheduled Caste in Konaje Gram Panchayat - one a man and the other a woman. Therefore, members in all the reserved seats being women and Adhyaksha of Konaje Gram Panchayat being a woman, cannot be held to be arbitrary.

19. It is in fact a vindication of empowerment of woman in gross root politics. In my considered view, the case at hand is a clear step towards the fruition of the dreams of the father of the nation with regard to village level governance and participation of women in such governance. 73<sup>rd</sup> Amendment to the Constitution was a step towards self-governance at gross root level but equal right insofar as participation of women at gross root level had not come about. This is a classic case where empowerment of the hitherto under-powered has emerged in all vigor at grass root level. The challenge is made one of the petitioner who is a Scheduled Caste man. If it were to be contrary to law, it would have been a different circumstance altogether, while it is not. It is high time that men make way or give such opportunity to women, the woman - Adhyaksha in Konaje Gram Panchayat.

20. For the aforesaid reasons, I do not find any merit in the writ petition. The writ petition fails and is accordingly dismissed.

In view of the dismissal of the writ petition, I.A.No.1/2021 filed for impleadment does not survive for consideration and same stands disposed.

**Sd/-  
JUDGE**

bkp  
CT:MJ