**IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH**

DATED THIS THE 24TH DAY OF JANUARY, 2024

BEFORE

THE HON'BLE MR JUSTICE N.S.SANJAY GOWDA

WRIT PETITION NO. 105047 OF 2023 (S-RES)

BETWEEN:

1. NAGARAJ TALWAR
S/O PUTTAPPA TALWAR,
AGE. 42 YEARS,
OCC. PRIMARY TEACHER (ENGLISH),
LIG 2, HOUSE NO.23,
CHAITANYA NAGAR, DHARWAD,
DIST. DHARWAD-580007.

2. IMRAN RANEBENNUR
S/O ABDUL REHAMAN RANEBENNUR,
AGE. 39 YEARS,
OCC. PRIMARY TEACHER (ENGLISH),
GOVERNMENT URDU HIGHER
PRIMARY SCHOOL NO.4,
GULAGANJIKOPPA, DHARWAD CITY,
PLOT NO.5, OM NAGAR,
BEHIND OZONE HOTEL,
DHARWAD, DIST. DHARWAD-580004.

3. RIYAZ AHMED CHIKKERUR
S/O MOHAMMAD ALI CHIKKERUR,
AGE. 46 YEARS,
OCC. PRIMARY TEACHER (GENERAL),
GOVERNMENT URDU HIGHER
PRIMARY SCHOOL NO.2,
MALAPUR DHARWAD,

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Location: High Court of Karnataka, Dharwad Bench
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R/O. KOPPADKERI, M.B. NAGAR,
DHARWAD, DIST. DHARWAD-580008.

... PETITIONERS

(BY SMT. K. VIDYAVATI, ADVOCATE)

AND:

1. THE DEPUTY COMMISSIONER,
   OFFICE OF THE DEPUTY COMMISSIONER,
   DHARWAD, DIST. DHARWAD-580001.

2. THE ASSISTANT COMMISSIONER,
   DHARWAD, DIST. DHARWAD-580001.

3. THE TAHASILDAR, DHARWAD,
   DIST. DHARWAD-580001.

4. THE BLOCK EDUCATION OFFICER,
   DHARWAD, DIST. DHARWAD-580001.

... RESPONDENTS

(BY SRI. BHOJEGOUDA T. KOLLER, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO A WRIT IN THE NATURE OF CERTIORARI QUASHING THE ORDER NO.Chunavane/Vahi/01/2022-23, DATED. 02.12.2022 VIDE ANNEXURE-G FOR PETITIONER NO.1, ORDER NO.Chunavane/Vahi/01/2022-23, DATED 30.11.2022 VIDE ANNEXURE-H FOR PETITIONER NO.2 AND ORDER NO. Chunavane/Vahi/01/2022-23, DATED. 16.12.2022 VIDE ANNEXURE-J FOR PETITIONER NO.3 PASSED BY THE TAHASILDAR, DHARWAD BY APPOINTING PETITIONERS AS A BOOTH LEVEL OFFICERS AND ETC.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. The petitioners are challenging the Office Orders by which they have been appointed as booth level officers.

2. It is the contention of the petitioners that the Apex Court in the case of Election Commission of India Vs. St. Marry's School and others in Civil Appeal No.5659/2007 arising out of SLP (Civil) No.21963/2004, dated 06.12.2009 has held as follows:

> *"32. We would, however, notice that the Election Commission before us also categorically stated that as far as possible teachers would be put on electoral roll revision works on holidays, non-teaching days and non-teaching hours; whereas non-teaching staff be put on duty any time. We therefore, direct all teaching staff shall be put on the duties of roll revisions and election works on holidays and non-teaching days. Teachers should not ordinarily be put on duty on teaching days and within teaching hours. Non-teaching staff, however, may be put on such duties on any day or at any time, if permissible in law."*

3. Despite this order, the petitioners who are being deputed to work as booth level Officers even during class hours.

4. Learned counsel also seeks to place reliance on the communication addressed by the secretary of the Government Education Department to the Election Authorities, bringing the notice that would be impermissible for the Election Commission to requisition the services of Teachers, which is produced as Annexure-S and the relevant portion of the same, reads as under:

> *"ಈ ಕಾರಣದಿಂದ ಮತದಾರರ ಪಟ್ಟಿಗಳ ಪರಿಷ್ಕರಣೆ ಕಾರ್ಯಗಳಿಗೆ ನಿಯೋಜಿಸುವ ಬಗ್ಗೆ ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯ ಹಾಗೂ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯ ನೀಡಿರುವ ತೀರ್ಪುಗಳಲ್ಲಿ ಶಿಕ್ಷಕರುಗಳನ್ನು ಶಿಕ್ಷಣೇತರ ಕಾರ್ಯಗಳಿಗೆ ನಿಯೋಜಿಸುವುದರಿಂದ ನ್ಯಾಯಾಲಯ ಹಾಗೂ ಸರ್ಕಾರದ ಆದೇಶಗಳ ಉಲ್ಲಂಘನೆ ಆಗುತ್ತದೆ. ಆದ್ದರಿಂದ ಶಾಲಾ ಶಿಕ್ಷಣ ಇಲಾಖೆಯ ಪ್ರಾಥಮಿಕ/ಪ್ರೌಢ ಶಾಲಾ ಶಿಕ್ಷಕರನ್ನು ಚುನಾವಣಾ ರೋಲ್ ಪರಿಷ್ಕರಿಸುವ ಸಲುವಾಗಿ ಬೂತ್ ಮಟ್ಟದ ಅಧಿಕಾರಿಗಳನ್ನಾಗಿ ನಿಯೋಜನೆ ಮಾಡಬಾರದೆಂದು ಕೋರಿದೆ."*

5. The State on the other hand has filed its objections, stating that the Supreme Court had only stated that, as far as possible, non teaching staff should not be

put on electoral role revision works and therefore there was no absolute bar. It is also stated that in the Dharwad Assembly Constituency, there were total of 230 polling booths, out of which, in respect of 227 polling booths, Anganwadi Workers, Asha Workers, Gram Sahayak had been appointed as polling booth level Officers and only for the remaining three polling booths, Assistant Teachers, had been appointed and therefore the contention that the petitioners ought not to have been appointed cannot be accepted.

6. Since it is not in dispute that the Supreme Court has categorically stated that Teachers should not be assigned the work of electoral rolls revision, especially during teaching hours and the Secretary of the Education Department has also addressed a communication in this regard calling upon the Election Commission not to seek for requisition of Teachers, the respondents could not deputed the petitioners as Booth Level Officers.

7. In my view, therefore, the impugned endorsement cannot be sustained and the same are accordingly quashed. The petition is therefore allowed.

Sd/-
JUDGE

VNP*/CT:BCK
List No.: 1 Sl No.: 7