

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).7090/2021

(Arising out of impugned final judgment and order dated 21-04-2021 in WA No.551/2020 passed by the High Court Of Karnataka At Bengaluru)

H. V. CHANDREGOWDA & ORS.

Petitioner(s)

VERSUS

STATE OF KARNATAKA & ORS.

Respondent(s)

(IA No.58817/2021 - GRANT OF INTERIM RELIEF)

WITH

SLP(C) No. 6537/2021 (IV-A)

(IA No.57890/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 57892/2021 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 6653/2021 (IV-A)

(IA No.58856/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No.58857/2021 - EXEMPTION FROM FILING O.T., IA No.58998/2021 - GRANT OF INTERIM RELIEF, IA No.60274/2021 - INTERVENTION/IMPLEADMENT)

SLP(C) No. 6652/2021 (IV-A)

(IA No.58858/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No.58853/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No.58854/2021 - EXEMPTION FROM FILING O.T., IA No.60547/2021 - INTERVENTION/IMPLEADMENT)

SLP(C) No. 6661/2021 (IV-A)

(IA No.90086/2021 - APPLICATION FOR PERMISSION, IA No.58944/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No.58945/2021 - EXEMPTION FROM FILING O.T., IA No.59005/2021 - GRANT OF INTERIM RELIEF, IA No.60541/2021 - INTERVENTION/IMPLEADMENT)

SLP(C) No. 6635/2021 (IV-A)

(IA No.91924/2021 - ADDITION / DELETION / MODIFICATION PARTIES, IA No. 76063/2021 - ADDITION / DELETION / MODIFICATION PARTIES, IA No.58672/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 91925/2021 - WITHDRAWAL OF CASE / APPLICATION)

SLP(C) No. 7083/2021 (IV-A)

(IA No.62522/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No.62523/2021 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 7674/2021 (IV-A)
(IA No.68110/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT, IA No.68111/2021 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 13390-13399/2021 (IV-A)
(IA No.107825/2021 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 13333/2021 (IV-A)
(IA No. 107518/2021 - EXEMPTION FROM FILING O.T.)

Date : 10-05-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE J.B. PARDIWALA

For Parties *Mr. Jayakumar S. Patil, Sr. Adv.
 Mr. Sahil Bhalaik, AOR

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Mr. Puneet Jain, Adv.
Mr. Ashwin V. Kotemath, Adv.
Mr. Yogit Kamat, Adv.
Mr. Mann Arora, Adv.
Ms. Harisha S. R., AOR

For Respondent(s) Mr. Nikhil Goel, AAG
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 Mr. Ashish Yadav, Adv.
 Mr. Rakshit Jain, Adv.
 Mr. Vishal Banshal, Adv.

 Mr. Aman Varma, AOR
 Mr. Kush Chaturvedi, Adv.
 Ms. Priyashree Sharma PH, Adv.
 Mr. Syed Faraz Alam, Adv.

*Ms. Kiran Suri, Sr. Adv.

Mr. Nishanth Patil, AOR

Mr. Ramjee Pandey, AOR

Mr. H. Chandra Sekhar, AOR

*Mr. Sharanagouda S. Patil, Adv.
Ms. Supreeta Sharanagouda, AOR

Mr. Balaji Srinivasan, AOR

Ms. E. R. Sumathy, AOR

Mr. T. L. V. Rama Chari, Adv.
Mr. Hitesh Kumar Sharma, Adv.
Mr. S. K. Rajora, Adv.
Mr. Akhileshwar Jha, Adv.
Ms. Madhavi S. Dalvi, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Learned counsel for the State has invited our attention to Annexure R-1, appended to the affidavit of Mr. Ajay Nagabhushan M.N., Secretary to Government, Urban Development Department dated 09.05.2022, regarding the procedure to be followed for reservation of the office of President and Vice-President in Urban Local Bodies as per Section 42 of the Karnataka Municipalities Act, 1964 and Rule 13 of Karnataka Municipalities (President and Vice-President) Election Rules 1965.

The said document set-forth the steps to be taken on the basis of which software can be developed by the National Informatics Centre (NIC) so that in future elections there would be no issue about any inconsistency or error committed in the preparation of the reservation chart. The steps to

be followed for preparing such programme is as under:-

Step-1 : The quantum of reservation contemplated in Rule-13(1) will be manually provided to NIC by the Government. According to Sub-section 2A of Section 42 of Karnataka Municipalities Act, 1964 which provides for reservation of the offices of the Presidents and Vice-Presidents of City Municipal Councils (CMCs), Town Municipal Councils (TMCs) and Town Panchayats (TPs) to SCs, STs, BCs and Women is as mentioned below:

(a) The offices of the President and Vice President in the State for the persons belonging to 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 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.

(b) OBCs - one-third of the total number of offices of President and Vice-President in the State shall be fixed for the persons belonging to the backward classes.

(c) Not more than 50% of the total number of offices for Reservation from each of the Categories reserved for Scheduled Castes and Scheduled Tribes and Backward Classes and those which are non-reserved shall be fixed for women.

(d) The offices of the President and Vice-President for the Backward Classes under this clause shall be so determined that the total number of offices of President and Vice-President reserved for the Scheduled Castes and Scheduled Tribes and the Backward Classes under this clause shall not exceed 50% of the total number of Offices of President and Vice-President of the Municipal Councils in the State.

(e) This information will be provided to NIC at the earliest before commencement of elections to the Local Bodies and not later

than one day before the date of Results.

Step-2 :

1.The sequence for offices of President and Vice-President in Urban Local Bodies will be reserved on the basis of table specified in Rule 13(1) of Karnataka Municipalities (President/Vice-President) Election Rules 1965 and subsequent Karnataka Municipalities (President/Vice-President) Election (Amendment) Rules issued by the Urban Development Department from time to time.

2.The reservation of the offices of President and Vice-President of the CMCs, TMCs and TPs for different categories as specified by Government as per Amendment to sub-section (2A) of Section 42 read with Section 352 of Karnataka Municipalities Act, 1964.

3.The cycle of rotation shall commence from the first term, after first ordinary election held after 01/06/1994 and would complete when all the categories are represented. Thereafter a fresh cycle of rotation shall be operated. This cycle has been notionally calculated for the first to ninth term. This is also applicable in respect of upgraded Urban Local Bodies. In respect of up-gradation of TMC to CMC, TP to TMC, the reservation of the previous terms, as TMC and TP shall be considered and the roaster for the CMC/TMC/TP shall be applied w.e.f. the current position in the cycle.

4.The office of the President and Vice-President of CMCs, TMCs and TPs reserved for Scheduled Caste, Scheduled Caste-Woman, Scheduled Tribe, Scheduled Tribe-Woman, Backward Class Category-A, Backward Class Category-A-Woman, Backward Class Category-B, Backward Class Category-B-Woman, in the previous terms shall, as far as possible, not to be allotted to the same category in the succeeding term, until the cycle of rotation is completed in respect of such category.

5.The office of the President and Vice President of the CMCs, TMCs and TPs as the case may be, shall not be allotted in favor of the same reserved category i.e. of Scheduled Caste, Scheduled Tribe, Backward Class and

woman in the same term.

6. The reservation of the Offices of Presidents and Vice-Presidents of CMCs, TMCs and TPs in favor of SC/ST candidates in the State shall be determined by the Government based on the highest percentage of SC/ST population with reference to the total population of the City concerned on the basis of 1991 Census (upto 3rd Term), 2001 Census (4th to 6th Term) and 2011 Census (7th to 10th Term). The ULBs are arranged on the basis of decreasing percentage of population of SC/ST as the case may be while making such allotment. It is reiterated that for term 1 to 9, these are being calculated notionally.

7. In case the offices of the President or Vice-President is already reserved for SC/ST category in the previous terms, the reservation of the post in question shall apply for the town with the next highest percentage of SC/ST population in the descending order as determined on the basis of the 1991, 2001 & 2011 census irrespective of the fact that the town has a higher percentage of population of SC or ST in comparison to other towns in compliance with Rule-13A(4) of the Karnataka Municipalities (President/Vice-President) Election Rules 1965.

8. Every ULB within CMCs/TMCs/TPs shall be arranged in a decreasing order of percentage of SC population. Thereafter Reservation for the Scheduled Caste category shall be done on the principle of rotation based upon decreasing order of the percentage of population of Scheduled Castes.

9. A similar exercise shall be followed for ST category i.e. every ULB within CMCs/TMCs/TPs shall be arranged in a decreasing order of percentage of ST population and then the reservation for ST category shall be done on the basis of rotation.

10. Allotment of seats shall be SC>SCW>ST>STW>BCA>BCAW>BCB>BCBW>G>GW in accordance with the table specified in Rule 13(1) of the Karnataka Municipalities (President/Vice-President) Election Rules 1965.

Step - 3 : The above procedure as in Step-2 shall be adopted for allocation of seats to the Posts of Vice President also.

Step - 4 : Despite following the above mentioned steps, if the software either encounters a repetition or exceeds the quantum of reservation or finds the final outcome to be in breach of Section-42(A), such residual offices shall be interchanged with General category or any other category without affecting the principle of rotation with minimum repetition. The proceedings (footnotes) shall be drawn indicating reasons for such interchanges.

Step - 5 : After following the procedure detailed above, NIC will provide the software application with the Final Reservation Chart along with the worksheet to the Urban Development Department.

Learned counsel for the private parties have no suggestion with regard to the steps indicated above.

It is broadly agreed that the steps are in conformity with the procedure to be followed under the relevant provisions of the Act and the Rules.

Mr. Jaya Kumar S. Patil, learned senior counsel appearing for the petitioner(s), had some suggestions in respect of clause '(e)' of the Step-1.

After considering his submission, we find that there is no need to have the second look at the said Step.

No other learned counsel has given any suggestion for modulating or adding on to the aforesaid steps.

Accordingly, we permit the State of Karnataka to

proceed further in the matter and ensure that the software is made ready within five weeks as assured by NIC.

List these matters on 22nd July, 2022.

(NEETU KHAJURIA)
COURT MASTER

(VIDYA NEGI)
COURT MASTER

*Appearance not received.