



HC-KAR

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NC: 2025:KHC-D:14122
WP No. 106080 of 2025

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 17TH DAY OF OCTOBER, 2025
BEFORE
THE HON'BLE MR. JUSTICE M.NAGAPRASANNA
WRIT PETITION NO. 106080 OF 2025 (S-DIS)



BETWEEN:

SRI. BASAVARAJ S/O. PUNDALIKAPPA,
NIRUGI, AGED ABOUT 59 YEARS,
WORKING AS REVENUE OFFICER,
CITY MUNICIPAL COUNCIL, BAGALKOTE,
DIST: BAGALKOTE.

...PETITIONER

(BY SRI. SUNIL S. DESAI, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
REPRESENTED BY ITS UNDER SECRETARY,
DEPARTMENT OF URBAN,
M. S. BUILDING, VIKAS SOUDHA
BANGALURU – 560 001.
2. THE DIRECTOR, DIRECTORATE OF MUNICIPAL
ADMINISTRATION, 9TH FLOOR,
DR. B. R. AMBEDKAR VEEDHI,
SIR M VISHWESHWARAIHA TOWER,
BANGALORE – 560 001.
3. THE DEPUTY COMMISSIONER,
BAGALKOTE, DIST: BAGALKOTE – 582 101.
4. THE COMMISSIONER,
CITY MUNICIPAL COUNCIL,
BAGALKOTE, DIST: BAGALKOTE – 582 101.

...RESPONDENTS

(BY SMT. KIRILATA R. PATIL, HCGP FOR R1 TO R3;
SRI. VISHWANATH BADIGER, ADVOCATE FOR R4)





THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI QUASHING THE IMPUGNED ORDER BEARING NO.NA AA E 109 DMK 2025 (E), BENGALURU DATED 22-07-2025 PASSED BY RESPONDENT NO.1ST VIDE ANNEXURE-L, IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.,

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

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE M.NAGAPRASANNA)

The petitioner is before this Court, calling in question an order dated 22-07-2025, by which the petitioner is placed under suspension.

2. Facts adumbrated are as follows:

The petitioner is appointed as an attender in the office of the respondent No.4 in the year 1985 and has, as on today rendered 41 years of service. When the petitioner was working as Revenue Officer in the City Municipal Council in the year 2015, it transpires that a complaint comes to be registered before Lokayukta, alleging that the petitioner, and another had demanded illegal gratification for the purpose of performance of a duty.



3. A trap was laid against another officer, and the effect of it was felt to the petitioner as well. Along with accused No.2, the petitioner-accused No.1, was taken into custody and remained in custody for 96 hours, till he was released on grant of bail. On the ground that the rules would deem an employee under suspension for having been in custody for more than 48 hours, an order is passed on 22-07-2025. The petitioner, notwithstanding the fact that was in custody between 10-03-2025 to 14-03-2025, the deeming fiction is operated 4 months after the petitioner being placed under suspension. It is this that has driven the petitioner to this Court in the subject petition.

4. Heard learned counsel Sri. Sunil S. Desai appearing for the petitioner, learned High Court Government Pleader Smt. Kirtilata R. Patil for the respondents-State and the learned counsel Sri. Vishwanath Hegde appearing for respondent No.4.

SUBMISSIONS:

PETITIONER'S:

5.1. The learned counsel appearing for the petitioner would strenuously urge that the order of suspension is



fundamentally flawed. He would submit that the very complaint is frivolous, for the work which was the alleged subject of demand for illegal gratification had already been performed prior to the registration of the complaint. He would further contend that the suspension has been visited upon the petitioner without application of mind. He would further emphasize that not a rupee of subsistence allowance has been paid to the petitioner, rendering the suspension violative of law. To buttress his submission, he would seek to place reliance upon a circular issued by the State on 13-01-2015 which considers this very aspect, all of which, according to the learned counsel would lead to obliteration of the order of suspension.

5.2. The learned counsel in all would submit that the deeming fiction cannot operate 4 months later, without application of mind on the part of the respondents/State and would seek quashment of the proceedings, contending that what remains to the petitioner is only 5 months of service and that he has rendered an unblemished service for the last 41 years.



STAND OF THE RESPONDENTS:

6. *Per contra*, the learned High Court Government Pleader would refute the submission in contending that the State has no choice but to place the Government servant under suspension, if they would be in custody for 48 hours. Therefore, the deeming fiction is given operation, in the case at hand and the petitioner is placed under suspension. With regard to non-payment of subsistence allowance, the learned High Court Government Pleader would submit, that if a direction is issued and if it is not paid as on date, the same would be complied with, within the time frame that this Court would fix. Insofar as the suspension is concerned, the learned High Court Government Pleader submits that the petition should not be entertained.

7. The learned counsel for the respondent No.4 would toe the lines of the learned High Court Government Pleader.

8. I have given my anxious consideration to the arguments advanced on both sides and perused the materials placed on record.



9. The afore-narrated facts are not in dispute. The issue lies in a narrow compass. The petitioner was in custody for 96 hours and thereafter released on bail. On the ground that the petitioner has been in custody for more than 48 hours, he is placed under suspension. The order of suspension was not passed contemporaneously, but 4 months later and that too on the dictate of the Lokayukta. The order which places the petitioner under suspension reads as follows:

“ಪ್ರಸ್ತಾವನೆ:

1. ಮೇಲೆ ಓದಲಾದ ಪತ್ರದಲ್ಲಿ ಪರ್ಯಾಯದಾರರಾದ ಸಿದ್ಧಲಿಂಗಪ್ಪ ಕರಬಸಪ್ಪ ಹಡಪದ ರವರು ಬಾಗಲಕೋಟೆ ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸ್ ಠಾಣೆಗೆ ಹಾಜರಾಗಿ ನೀಡಿದ ದೂರಿನಲ್ಲಿ ಪರ್ಯಾಯದಾರರು ತಮ್ಮ ಹೆಸರಿನಲ್ಲಿರುವ ಗದ್ದನಕೇರಿ ಗ್ರಾಮ ಹದ್ದಿಯ ಕರ್ನಾಟಕ ಗೃಹ ಮಂಡಳಿಯಿಂದ ಖರೀದಿಸಿದ ನಿವೇಶನ ನಂ.ಎಡಬ್ಲ್ಯೂಎಸ್-72ನೇಡ್ಕರ ಖಾತೆ ಬದಲಾವಣೆ ಮಾಡಲು ರೂ.5,000/- ಗಳ ಲಂಚದ ಹಣಕ್ಕೆ ಆಪಾದಿತ-1 ಬಸವರಾಜ ಪುಂಡಲಿಕಪ್ಪ ನೀರುಗಿ, ಕಂದಾಯಾಧಿಕಾರಿ (ಮೂಲ ಹುದ್ದೆ ಮುಖ್ಯಾಧಿಕಾರಿ ಶ್ರೇಣಿ-1), ನಗರಸಭೆ, ಬಾಗಲಕೋಟೆ ರವರು ಬೇಡಿಕೆ ಇಟ್ಟಿದ್ದು, ಸದರಿ ಸಂಭಾಷಣೆಯು ಮೊಬೈಲ್ ನಲ್ಲಿ ರೆಕಾರ್ಡ್ ಆಗಿರುತ್ತದೆ. ಪರ್ಯಾಯದಾರರಿಗೆ ಲಂಚದ ಹಣ ಕೊಟ್ಟು ಕೆಲಸ ಮಾಡಿಸಿಕೊಳ್ಳಲು ಇಷ್ಟವಿಲ್ಲದ ಕಾರಣ ಸದರಿ ಆರೋಪಿತರುಗಳ ವಿರುದ್ಧ ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮಕೈಗೊಳ್ಳುವಂತೆ ಕೋರಿ ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸ್ ಠಾಣೆಯಲ್ಲಿ ದೂರು ಸಲ್ಲಿಸಿರುತ್ತಾರೆ.

3. ತನಿಖಾಧಿಕಾರಿಯವರ ಪ್ರಾಥಮಿಕ ವರದಿ, ಪ್ರಥಮ ವರ್ತಮಾನ ವರದಿ. ಪ್ರಾಯೋಗಿಕ ಪಂಚನಾಮೆ, ಟ್ರಾಪ್ ಪಂಚನಾಮೆ, ಧ್ವನಿ ಗುರುತಿಸುವ ಪಂಚನಾಮೆ, ದೂರು, ವಹಿಸಿಕೊಡುವ ಮಹಜರು ಮತ್ತು ಪಂಚನಾಮೆಯ ಪ್ರತಿಗಳೊಂದಿಗೆ ಆರೋಪಿತರುಗಳಾದ 1) ಶ್ರೀ ಬಸವರಾಜ ಪುಂಡಲಿಕಪ್ಪ ನೀರುಗಿ, ಕಂದಾಯಾಧಿಕಾರಿ (ಮೂಲ ಹುದ್ದೆ ಮುಖ್ಯಾಧಿಕಾರಿ ಶ್ರೇಣಿ-1) ನಗರಸಭೆ, ಬಾಗಲಕೋಟೆ ರವರು ಪ್ರಕರಣದ ತನಿಖೆಗೆ ಅಡ್ಡಿ ಉಂಟು ಮಾಡುವ ಅಥವಾ ತನಿಖೆಯಲ್ಲಿ ಹಸ್ತಕ್ಷೇಪ ಮಾಡುವ ಹಾಗೂ ಸಾಕ್ಷಿ ಪುರಾವೆಗಳನ್ನು ನಾಶಗೊಳಿಸುವ ಸಾಧ್ಯತೆಗಳಿರುವುದರಿಂದ ಸದರಿಯವರನ್ನು ಅಮಾನತ್ತುಗೊಳಿಸುವಂತೆ ಹಾಗೂ ಸದರಿಯವರ ಲೀನನ್ನು



ಬದಲಾಯಿಸುವಂತೆಯೂ ತನಿಖಾಧಿಕಾರಿ. ಪೊಲೀಸ್ ಅಧೀಕ್ಷಕರು ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ, ಬಾಗಲಕೋಟೆ ರವರ ಮುಖಾಂತರ ಪೊಲೀಸ್ ನಿಂಜಕರು ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಬಾಗಲಕೋಟೆ ರವರು ಕೋರಿರುತ್ತಾರೆ. ಅದರಂತೆ ಸದರಿಯವರನ್ನು ಅಮಾನತ್ತುಗೊಳಿಸಲು ಕೋರಿ ಅವರ ಪೊಲೀಸ್ ಮಹಾ ನಿರ್ದೇಶಕರು, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಬೆಂಗಳೂರು ರವರು ಪ್ರಸ್ತಾವನೆ ಸಲ್ಲಿಸಿರುತ್ತಾರೆ.

5. XXXX ಅಪಾದಿತ-1 ಶ್ರೀ ಬಸವರಾಜ ಪುಂಡಲಿಕಪ್ಪ ನೀರಗ್ಗಿ, ಕಂದಾಯಾಧಿಕಾರಿ (ಮೂಲ ಹುದ್ದೆ ಮುಖ್ಯಾಧಿಕಾರಿ ಶ್ರೇಣಿ-1), ನಗರಸಭೆ, ಬಾಗಲಕೋಟೆ ಇವರನ್ನು ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ (ವರ್ಗೀಕರಣ, ನಿಯಂತ್ರಣ ಮತ್ತು ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು, 1957 ರ ನಿಯಮ 10(1)(ಎ) ರನ್ವಯ ನ್ಯಾಯಾಂಗ ಬಂಧನಕ್ಕೆ ಒಳಗಾದ ದಿನಾಂಕ 10.03.2025 ರಿಂದ ಜಾರಿಗೆ ಬರುವಂತೆ ಸೇವೆಯಿಂದ ಅಮಾನತ್ತುಗೊಳಿಸಿ ಆದೇಶಿಸಿದೆ.”

A perusal at the order of suspension would clearly indicate that it is on the dictate of the Lokayukta without any semblance of independent application of mind, by the Competent Authority. The justification in the order of suspension is, that the petitioner has been in custody for more than 48 hours and therefore, by operation of law he is deemed to have been placed under suspension.

10. It now therefore becomes necessary to notice the statute under which such circumstances are regulated. The statute is the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 (hereinafter referred to as the 'Rules' for short). Rule 10 reads as follows:

"10. Suspension - (1) The Appointing Authority or any authority to which it is sub-ordinate or any other authority



empowered by the Government in this behalf may place a Government servant under suspension.

- [(a) Where there is prima facie evidence to show that he was caught redhanded while accepting gratification other than legal remuneration by the persons authorized to investigate under the provisions of the Prevention of Corruption Act, 1988 or under any other law;
- (aa) Where there is prima facie evidence to show that he was found in possession or had at any time during the discharge of his official duty been in possession of pecuniary resources or property disproportionate to known source of income, by the persons authorized to investigate offences under the Prevention of Corruption Act, 1988 or under any other law.
- (b) Where a charge sheet is filed before competent court against him for any offence involving moral turpitude committed in the course of his duty; or
- (c) Where a charge sheet is filed before the competent court against him on charges of corruption, embezzlement or criminal misappropriation of Government money;
- (d) Where there is prima facie evidence of gross dereliction of duty against him.

Provided that, where the order of suspension is made by an authority empowered by Government in this behalf which is lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order was made.

[(2) A Government servant shall be deemed to have been placed under suspension by an order of appointing authority –

- (a) with effect from the date of his detention, if he is detained in custody, whether on a criminal charge or otherwise for a period exceeding forty-eight hours;**
- (b) with effect from the date of his conviction, if in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or**



removed or compulsorily retired consequent to such conviction.

Explanation, - The period of forty-eight hours referred to in clause (b) of these sub-rule shall be computed from the commencement of the imprisonment after the conviction and for this purpose, intermittent periods of imprisonment if any, shall be taken into account.

(3) The authority competent to place a Government servant under suspension shall examine the relevant material relating to the case and consider whether there is prima facie evidence to support the charges made against the Government servant and if it is satisfied on such examination that prima facie evidence exists, it may place the Government servant concerned under suspension.

(4) xxx

(5) (a) Subject to sub-rule (3), where a competent authority in an organization authorized to investigate cases against Government servants under the provisions of the Prevention of Corruption Act, 1988 (Central Act No.49 of 1988) or the Karnataka Lokayukta Act, 1984 (Karnataka Act 4 of 1985) finds during investigation that there is a prima facie evidence against a Government servant and recommends that he may be placed under suspension, the authority competent to place such a Government servant under suspension may place him under suspension.

(b) If departmental inquiry is not commenced against the delinquent Government Servant or charge sheet is not filed in the court within a period of six months from suspension, the competent authority shall decide whether to revoke or continue suspension of such Government Servant and unless decided and ordered for continuation within this period, the suspension shall be deemed to have been revoked i.e., from the date of completion of a period of six months from the date of suspension. Upon such revocation of the order of his suspension, it shall be the duty of the Government servant to immediately seek order of posting from the Appointing Authority, failing which he shall be deemed to be on unauthorized absence with effect from the date of revocation of the order of his suspension.



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Provided that authority competent to place a Government Servant under Suspension may extend the period of suspension beyond the period specified in this clause, only after consulting, within the said period, with the authority referred in clause (a) only if such authority recommends extension within the said period. otherwise, the order placing the Government Servant under suspension shall stand revoked automatically under this clause.”

(Emphasis supplied)

Sub-Rule (3) of Rule 10 of the Rules mandates the Competent Authority while placing a Government servant under suspension shall examine the relevant material relating to the case and consider whether there is *prima facie* evidence to support the charges made against the Government servant and if it is satisfied on such examination, it shall pass necessary orders. **Therefore, the Rule obligates the Authority to examine the record, assess whether *prima facie* material exists and only thereafter, pass an order of suspension, thus making the order of suspension, not to be a mechanical consequence.**

11. The other provision that is now pressed into service is Rule 10(2)(a) of the Rules. A Government servant is deemed to have been placed under suspension under certain



circumstances. One such circumstance is, that if he is detained in custody, whether on a criminal charge or otherwise, for a period exceeding 48 hours. This is the deeming fiction. Whether the deeming fiction would obviate the obligation of the Competent Authority to comply with Rule 10(3) is what is necessary to be noticed.

12. It is not in dispute that the petitioner was taken into custody along with another for a trap, that was laid on the other Officer. Custody continued for 96 hours. The release of the petitioner with all formalities took 96 hours, but nonetheless, he was granted bail. In such circumstances, whether the Competent Authority should mechanically pass an order of suspension or comply with the rigour of Rule 10(3), is brought out by the State in its circular dated 13-01-2015. The circular reads as follows:

“ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ (ವರ್ಗೀಕರಣ, ನಿಯಂತ್ರಣ ಮತ್ತು ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು, 1957ರ ನಿಯಮ 10(1) ರಲ್ಲಿ ನೇಮಕಾತಿ ಪ್ರಾಧಿಕಾರ ಅಥವಾ ಅವನು ಯಾವ ಪ್ರಾಧಿಕಾರಿಗೆ ಅಧೀನನಾಗಿರುವನೋ ಆ ಯಾವುದೇ ಪ್ರಾಧಿಕಾರಿಯು ಅಥವಾ ಈ ಬಗ್ಗೆ ಸರ್ಕಾರದಿಂದ ಅಧಿಕಾರ ಪಡೆದ ಇತರ ಯಾವುದೇ ಪ್ರಾಧಿಕಾರಿಯು ಸರ್ಕಾರಿ ನೌಕರನನ್ನು ಯಾವ ಯಾವ ಸಂದರ್ಭಗಳಲ್ಲಿ ಅಮಾನತ್ತಿನಲ್ಲಿಡಬಹುದು ಎಂಬ ಬಗ್ಗೆ ಹಾಗೂ ಇದೇ ನಿಯಮಗಳ ನಿಯಮ 10(2)ರನ್ವಯ ಯಾವ ಅವಧಿಯವರೆಗೆ deemed suspensionನಲ್ಲಿಡಬಹುದು ಎಂಬ ಬಗ್ಗೆ ನಮೂದಿಸಲಾಗಿದೆ.



2. ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ (ವರ್ಗೀಕರಣ, ನಿಯಂತ್ರಣ ಮತ್ತು ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು, 1957ರ ನಿಯಮ 10(3)ರನ್ವಯ ಸರ್ಕಾರಿ ನೌಕರನನ್ನು ಅಮಾನತ್ತಿನಲ್ಲಿಡಲು ಸಕ್ಷಮನಾದ ಪ್ರಾಧಿಕಾರಿಯು, ಪ್ರಕರಣಕ್ಕೆ ಸಂಬಂಧಿಸಿದ ಸುಸಂಗತ ವಿಷಯ ಸಾಮಗ್ರಿಯನ್ನು ಪರಿಶೀಲಿಸತಕ್ಕದ್ದು ಮತ್ತು ಸರ್ಕಾರಿ ನೌಕರನ ವಿರುದ್ಧ ಮಾಡಿದ ಆರೋಪಗಳನ್ನು ಸವೃದ್ಧಿಸುವ ಮೇಲ್ಮನವಿ ಸಾಕ್ಷ್ಯ ಇದೆಯೇ ಎಂಬುದನ್ನು ಪರಿಶೀಲಿಸತಕ್ಕದ್ದು ಮತ್ತು ಹಾಗೆ ಪರಿಶೀಲಿಸಿದ ಮೇಲೆ ಮೇಲ್ಮನವಿ ಸಾಕ್ಷ್ಯ ಇದೆಯೆಂದು ತನಗೆ ಮನದಟ್ಟಾದರೆ, ಆ ಪ್ರಾಧಿಕಾರಿಯು ಸಂಬಂಧಪಟ್ಟ ಸರ್ಕಾರಿ ನೌಕರನನ್ನು ಅಮಾನತ್ತಿನಲ್ಲಿಡಬಹುದು.

3. ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ (ವರ್ಗೀಕರಣ, ನಿಯಂತ್ರಣ ಮತ್ತು ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು, 1957ರ ನಿಯಮ 10(3)ರ ಅಗತ್ಯಗಳನ್ನು ಪೂರೈಸಿಕೊಂಡು ಸರ್ಕಾರಿ ನೌಕರನನ್ನು ಅಮಾನತ್ತಿನಲ್ಲಿಡುವ ಬಗ್ಗೆ ಕರ್ನಾಟಕ ಆಡಳಿತ ನ್ಯಾಯ ಮಂಡಳಿಯು ಮಾಡಿದ ಅವಲೋಕನೆಯ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಉಲ್ಲೇಖಿತ ದಿನಾಂಕ:11.05.2009ರ ಸುತ್ತೋಲೆ ಸಂಖ್ಯೆ:ಸಿಆಸುಇ 17 ಸೇಇವಿ 2009ನ್ನು ಹೊರಡಿಸಿ, ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರಗಳು ನಿಯಮ 10ರ ಆಸ್ಪದಗಳನ್ನು ಗಮನದಲ್ಲಿರಿಸಿಕೊಂಡು ಸ್ವಯಂ ಸ್ಪಷ್ಟವಾದ ಅಮಾನತ್ತಿನ ಆದೇಶವನ್ನು (Speaking Order) ಹೊರಡಿಸ ಬೇಕೆಂದು ಸೂಚನೆ ನೀಡಲಾಗಿತ್ತು.

7. ಸರ್ಕಾರಿ ನೌಕರನು ನ್ಯಾಯಾಂಗ ಬಂಧನದಿಂದ ಜಾಮೀನು ಮೇಲೆ ಬಿಡುಗಡೆಯಾದ ಸಚಿದರ್ಭದಲ್ಲಿ, ಸರ್ಕಾರಿ ನೌಕರನ ವಿರುದ್ಧದ ಶಿಸ್ತು ವ್ಯವಹಾರಣೆ : ಕ್ರಿಮಿನಲ್ ವ್ಯವಹಾರಣೆಗೆ ಸಂಬಂಧಿಸಿದ ಸುಸಂಗತ ವಿಷಯ ಸಾಮಗ್ರಿಗಳಲ್ಲಿ ಅವನ ವಿರುದ್ಧ ಮಾಡಿರುವ ಆರೋಪಗಳನ್ನು ಸವೃದ್ಧಿಸುವ ಮೇಲು ನೋಟದ (Prima facie) ಸಾಕ್ಷ್ಯ ಇದೆಯೇ ಎಂಬುದನ್ನು ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ (ವರ್ಗೀಕರಣ, ನಿಯಂತ್ರಣ ಮತ್ತು ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು, 1957ರ ನಿಯಮ 10(3)ರನ್ವಯ ಪರಿಶೀಲಿಸಿ, ನಚಿತರ ಮೇಲ್ಮನವಿ ಸಾಕ್ಷ್ಯವಿರುವ ಪ್ರಕರಣಗಳಲ್ಲಿ ಸರ್ಕಾರಿ ನೌಕರನನ್ನು ಅಮಾನತ್ತಿನಲ್ಲಿ ಮುಂದುವರಿಸುವ ಅಥವಾ ಅನ್ಯಥಾ ಸೇವೆಯಲ್ಲಿ ಪುನರ್ ಸ್ಥಾಪಿಸುವ ಬಗ್ಗೆ, ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರವು ಸ್ವಯಂ ವಿವರಿಸಿದ ಆದೇಶ ಹೊರಡಿಸಬೇಕಾಗುತ್ತದೆ. ಪ್ರಕರಣಗಳನ್ನು ಪರಿಶೀಲಿಸದೇ ಕೇವಲ ಲೋಕಾಯುಕ್ತದ ಶಿಫಾರಸ್ಸುಗಳನ್ನು ಉಲ್ಲೇಖಿಸಿ ಸರ್ಕಾರಿ ನೌಕರನನ್ನು ಸೇವೆಯಿಂದ ನಿಲಂಬನೆಯಲ್ಲಿ ಇಟ್ಟು ಇಚಿತ ಆದೇಶಗಳನ್ನು ನ್ಯಾಯಾಲಯಗಳಲ್ಲಿ ಸವೃದ್ಧಿಸಿಕೊಳ್ಳುವುದು ಕಷ್ಟವಾಗಬಹುದು.

8. ಮೇಲ್ಕಂಡ ಹಿನ್ನೆಲೆಯಲ್ಲಿ, ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ (ವರ್ಗೀಕರಣ, ನಿಯಂತ್ರಣ ಮತ್ತು ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು, 1957ರ ನಿಯಮ 10ರ ಉಪಬಂಧಗಳನ್ನು ಗಮನದಲ್ಲಿರಿಸಿಕೊಂಡು ಸರ್ಕಾರಿ ನೌಕರನನ್ನು ಅಮಾನತ್ತಿನಲ್ಲಿರಿಸಿ ಅಥವಾ ಅಮಾನತ್ತಿನಲ್ಲಿರಿಸಲಾಗಿದೆಯೆಂದು ಭಾವಿಸಿ ಆದೇಶವನ್ನು ಹೊರಡಿಸುವ ಹಾಗೂ ಅಚಿತ ಆದೇಶಗಳನ್ನು ಮುಂದುವರಿಸುವ; ಮಾರ್ಪಾಟುಗೊಳಿಸುವ; ರದ್ದುಗೊಳಿಸುವ ಆದೇಶವನ್ನು ಮೇಲಿನ ಕರ್ನಾಟಕ ಆಡಳಿತ ನ್ಯಾಯ ಮಂಡಳಿಯ ಆದೇಶಗಳ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರಗಳು ಸ್ವತಃ ಪರಿಶೀಲಿಸಿ ಇಚಿತ ಪರಿಶೀಲನೆಯ ಬಗ್ಗೆ, ಆದೇಶದಲ್ಲಿ ವಿವರಿಸಿ ಸ್ವಯಂ ಸ್ಪಷ್ಟವಾದ ಆದೇಶ (Speaking Order) ಹೊರಡಿಸಲು ಸೂಕ್ತ ಕ್ರಮಕೈಗೊಳ್ಳುವಂತೆ ಸೂಚಿಸಲಾಗಿದೆ.



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9. ಸರ್ಕಾರದ ಅಪರ ಮುಖ್ಯ ಕಾರ್ಯದರ್ಶಿಗಳು / ಪ್ರಧಾನ ಕಾರ್ಯದರ್ಶಿಗಳು/ಕಾರ್ಯದರ್ಶಿಗಳು ಮತ್ತು ಇಲಾಖಾ ಮುಖ್ಯಸ್ಥರುಗಳು ಈ ಸುತ್ತೋಲೆಬಿಡುಗಡೆಗಾಗಿರುವ ಸೂಚನೆಗಳನ್ನು ಪಾಲಿಸುವಂತೆ ಮತ್ತು ತಮ್ಮ ಅಧೀನದಲ್ಲಿ ಕಾರ್ಯನಿರ್ವಹಿಸುವ ಎಲ್ಲಾ ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರಿಗಳ ಗಮನಕ್ಕೆ ಈ ಸೂಚನೆಗಳನ್ನು ತರುವಂತೆ ತಿಳಿಸಲಾಗಿದೆ.”

(Emphasis added)

The circular was issued pursuant to the order of the Karnataka State Administrative Tribunal, which clearly held that it would be unreasonable to consign an employee to indefinite suspension merely because he was once in custody for 48 hours and also observes that suspension should not be ordered on the direction of the Lokayuktha. The circular underscores that the Competent Authority must apply its mind and pass a reasoned order in conformity with Rule 10(3).

13. In the case at hand, not only the mandate of Rule 10(3) is flouted, the petitioner has admittedly not been paid even a rupee of subsistence allowance. It is no law that merely because a Government servant is placed under suspension by operation of a deeming fiction against as Government servant for being in custody for 48 hours, he can be denied subsistence allowance. **Suspension may be for varied reasons under the Rules. Whether it is pending departmental enquiry**



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or deeming fiction, suspension is suspension. Therefore, grant of subsistence allowance is mandatory in any circumstance of suspension. He cannot be denied his statutory subsistence allowance. To deprive the petitioner of his livelihood, while branding him with a stigma, without even observing the statutory safeguards, is nothing short of economic and professional excommunication. In the case at hand, the deeming fiction is not operated contemporaneously. It is 4 months later, on the dictate of the Lokayuktha.

14. **Suspension is trite, not a penalty. It is a precautionary measure, yet when wielded without any reason or restraint, it degenerates into punishment, sometimes more severe than extreme penalties. For dismissal at least is final, while suspension keeps the sword hanging endlessly over the head of the employee, robbing his peace, dignity and sustenance. Therefore, in the considered view of the Court, in certain circumstances, it is worse than penalty.** Therefore, in such cases, the Competent Authority should comply with the rigour



of Rule 10(3) and the circular so issued by the State on 13-01-2015.

15. On a conspectus of the above, this Court is left with no doubt that the impugned suspension is illegal, arbitrary and unsustainable in law. The order is vitiated by non-application of mind, violative of Rule 10(3) of the Rules and contrary to the Circular dated 13-01-2015. The ends of justice however would be met, if liberty is reserved to the State to post the petitioner in any other position commensurate with administrative exigencies. What cannot be countenanced is his consignment to indefinite suspension on the tenuous ground of 2 days custody followed by bail.

16. In that light, the petition deserves to succeed. Hence, the following:

ORDER

- i. Writ Petition is allowed.
- ii. The impugned order dated 22-07-2025 passed by the 1st respondent vide Annexure-L stands quashed.



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- iii. The respondents are at liberty to post the petitioner to any other position.

Sd/-
(M.NAGAPRASANNA)
JUDGE

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