



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 13<sup>TH</sup> DAY OF JANUARY, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ**

**WRIT PETITION NO. 19069 OF 2025 (LB-RES)**

**BETWEEN:**

1. SHRI. JAYANT JADHAV  
S/O BALKRISHNA JADHAV,  
AGE 39 YEARS,  
R/O H. NO. 52, HOSUR BASAVANAGALLI,  
BELAGAVI - 590 006
2. SHRI. MANGESH PAWAR,  
S/O NARAYAN PAWAR,  
AGE 51 YEARS,  
R/O NO. 447, NAZAR CAMP, 3<sup>RD</sup> CROSS,  
VADAGAON, BELAGAVI - 590005

...PETITIONERS

(BY SRI. SHIVAPRASAD SHANTANAGOUDAR., ADVOCATE)

**AND:**

1. PRINCIPAL SECRETARY  
DEPT. OF URBAN DEVELOPMENT AND  
APPELLATE AUTHORITY  
VIKAS SOUDHA,  
BENGALURU - 560 001.  
(APPELLATE AUTHORITY U/S 26(3) OF K.M.C. ACT, 1976)
2. REGIONAL COMMISSIONER,  
BELAGAVI DIVISION,  
COURT COMPOUND BELAGAVI-590 002.
3. DEPUTY COMMISSIONER,  
BELAGAVI DISTRICT  
COURT COMPOUND BELAGAVI-590 002
4. SHRI. SUJITH M. MULAGUND  
AGED MAJOR  
R/AT CTS NO. 4861/1, JHADAV NAGAR  
BELAGAVI-590 019





5. EXECUTIVE ENGINEER  
PUBLIC WORKS DEPARTMENT  
BELAGAVI DIVISION  
BELAGAVI-590 001
6. COMMISSIONER  
BELAGAVI CITY CORPORATION  
SUBHASH NAGAR  
BELAGAVI-590 016

...RESPONDENTS

(BY SRI. ANAND MANDAGI., SR ADVOCATE FOR  
SRI. NITIN R. BALABANDI., ADVOCATE FOR C/R4;  
SRI. BHANUPRAKASH.V., AAG A/W  
SRI. BOPPANNA BELIYAPPA., AGA FOR R1 TO R3 & R5;  
SMT. SUMAN BALIGAR., ADVOCATE FOR R6)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI QUASHING THE ORDER DATED 26.06.2025 BEARING NO. NAAE 36 MLR 2025 AT ANNEXURE-A, ISSUED BY RESPONDENT NO. 1 IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.

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

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

### **ORAL ORDER**

1. The petitioners are before this Court seeking for the following reliefs;
  - a. *Issue a writ of certiorari quashing the order dated 26.06.2025 bearing No. NaAE 36 MLR 2025 at Annexure-A, issued by R1 in the interest of justice and equity.*
  - b. *Issue a writ of certiorari quashing the order dated 10.02.2025 bearing No. Pra. Aa Be/K.M.C/ViVa 05/2024-25 at Annexure-B issued by R2 in the interest of justice and equity.*



*c. Issue any other orders or directions as deemed fit in the circumstances.*

2. Respondent No.4 filed a complaint before the Regional Commissioner, Belagavi, alleging that the petitioners had violated Section 26(1)(k) of the Karnataka Municipal Corporations Act, 1976 (hereinafter referred to as "the KMC Act, 1976"), on the ground that their wives had succeeded in an auction of leasehold rights in respect of properties constructed by the Public Works Department. Pursuant thereto, proceedings were initiated against the petitioners. Respondent No.2-Regional Commissioner, by order dated 10.02.2025, upheld the complaint and held that the petitioners stood disqualified under Section 26(1)(k) of the KMC Act, 1976.
3. Aggrieved by the said order, the petitioners preferred an appeal before the Principal Secretary, Urban Development Department. The Principal Secretary, by order dated 26.06.2025, dismissed the appeal,



confirmed the order passed by the Regional Commissioner, and held that the petitioners were disqualified under Section 26(1)(k) of the KMC Act, 1976. Challenging the same, the petitioners are before this Court seeking the aforesaid reliefs.

4. Sri.Shiva Prasad Shantanagoudar, learned counsel appearing for the petitioners, submits that the participation in the auction by the wives of the petitioners was prior to the petitioners being elected as Councillors of the Belagavi Municipal Corporation. It is contended that the auction was conducted in the year 2020, whereas the municipal elections were held in the year 2021, and therefore Section 26(1)(k) of the KMC Act, 1976 would not be attracted to the facts of the present case. On this premise, he submits that the writ petition deserves to be allowed and the impugned orders are liable to be set aside.
5. Per contra, Sri Anand Mandagi, learned Senior Counsel appearing for respondent No.4-complainant, submits as follows:



- 5.1. The complaint has been submitted by a person not well-versed in law, however, during the course of enquiry conducted by the Appellate Authority, viz., respondent No.1-Principal Secretary, all relevant documents were called for and verified. Upon such verification, it was found that the leasehold rights secured by the wives of the petitioners through the auction had not been disclosed in the returns filed under Section 19(2) of the KMC Act, 1976.
- 5.2. It is submitted that despite being put to notice during the enquiry, the petitioners did not dispute the fact that such leasehold rights were not disclosed either in their declaration of assets or in the declaration of assets of their respective spouses.
- 5.3. It is contended that there is automatic cessation of membership under Section 19(2) of the KMC Act, 1976. The Principal Secretary, apart from taking into consideration the



allegations under Section 26(1)(k) of the Act, has also considered the default committed by the petitioners and/or their spouses in failing to make disclosures as mandated under Section 19(1) of the KMC Act, 1976.

5.4. In support of his submissions, reliance is placed on the judgment of a Coordinate Bench of this Court in ***Anil Kumar Shetty K vs. State of Karnataka in WP No.16099 of 2019, dated 22.06.2024,*** to contend that a statutory duty is cast upon a Councillor to file a declaration disclosing all assets owned by the Councillor and/or family members, as defined and enumerated in the Explanation to Section 19 of the KMC Act, 1976.

5.5. The admitted non-disclosure of leasehold rights constitutes a violation of Section 19(1) of the KMC Act, 1976, resulting in automatic cessation of membership, which has been duly taken note of by the Principal Secretary. Since the



petitioners have not disputed the non-disclosure, it is urged that this Court ought not to interfere.

6. Sri Bhanu Prakash V., learned Additional Advocate General appearing for respondents Nos.1 to 3 and 5, submits that insofar as proceedings under Section 19 of the KMC Act, 1976 are concerned, a reference under Section 19(3) has already been made and prosecuted, and appropriate orders would be passed therein. He further submits that the petitioners had challenged the show-cause notices issued under Section 19(3) of the Act by filing in ***Shri Jayant Jadhav S/o Balkrishna Jadhav Vs. Regional Commisiner in WP No.106744 of 2025*** before the Dharwad Bench of this Court, and the said writ petition has been rejected.
7. Heard Sri Shiva Prasad Shantanagoudar, learned counsel for the petitioners; Sri Anand Mandagi, learned Senior Counsel for respondent No.4; Sri Bhanu Prakash V., learned Additional Advocate



General for respondents Nos.1 to 3 and 5; and Smt. Sumana Baliga, learned counsel for respondent No.6. Perused the material on record.

8. The short question that arises for consideration in the present writ petition is:

***"Whether, on a complaint filed under Section 26(1)(k) of the Karnataka Municipal Corporations Act, 1976, proceedings could be undertaken and/or orders could be passed under Section 19 of the said Act?"***

9. Admittedly, in the present case, the complaint filed by respondent No.4 alleges violation of Section 26(1)(k) of the KMC Act, 1976. The said provision reads as under:

***"26. General disqualification for becoming a councillor.—***

*(1) A person shall be disqualified for being chosen as, and for being, a councillor—*

*(a) to (j) xxxx*

*(k) if, save as hereinafter provided, he has, directly or indirectly, by himself or his partner, any share or interest in any work done by order of the Corporation, or in any contract or employment with or under, or by or on behalf of, the Corporation."*



10. A plain reading of Section 26(1)(k) of the KMC Act, 1976 indicates that the provision deals with disqualification for being chosen as, as well as for continuing as, a Councillor. The disqualification is attracted if the Councillor, directly or indirectly, by himself or through his partner, has any share or interest in any work done by order of the Corporation or in any contract or employment with or under, or by or on behalf of, the Corporation. Such disqualification may arise either prior to the election or even after the election and can be examined upon a complaint filed in that regard.
  
11. In the present case, the allegation is that the spouses of the petitioners derived a benefit in the form of leasehold rights in respect of constructions put up by the Public Works Department. However, it is undisputed that the auction of the leasehold rights was conducted in the year 2020, at a point of time when the petitioners were not Councillors or elected



representatives, they having been elected only in the year 2021.

12. In these circumstances, the alleged acquisition of leasehold rights cannot, in my considered opinion, fall within the ambit of Section 26(1)(k) of the KMC Act, 1976, as the benefit was not derived after the petitioners were elected as Councillors. The auction having been conducted prior to their election, the question of misuse or abuse of official position does not arise.
13. As regards the contention of Sri.Anand Mandagi, learned Senior Counsel, relating to violation of Section 19 of the KMC Act, 1976, it is true that any infraction of Section 19 may entail consequences, including cessation of membership. However, proceedings under Section 19 are required to be initiated by way of a specific reference under Section 19(3) of the Act, which constitutes a distinct and independent statutory mechanism.



14. Proceedings initiated under Section 26(1)(k) of the KMC Act, 1976 cannot be converted or transposed into proceedings under Section 19 of the Act during the course of enquiry, unless the notice at the very inception clearly indicates invocation of both provisions. A proceeding commenced under one provision cannot, midstream, metamorphose into a proceeding under another provision, as such course would offend principles of fairness and due process.
15. Be that as it may, it is not in dispute that separate proceedings under Section 19 of the KMC Act, 1976 have already been initiated against the petitioners and are pending consideration. Those proceedings shall necessarily be adjudicated independently, on their own merits and in accordance with law.
16. In that view of the matter, I pass the following;

**ORDER**

- i. The writ petition is ***allowed.***
- ii. A certiorari is issued, order dated 10.02.2025 bearing No.Pra Aa Be/K.M.C/ViVa 05/2024-25



at Annexure-B issued passed by respondent No.2 is quashed.

- iii. Consequently, the order dated 26.06.2025 bearing No.NaAE 36 MLR 2025 at Annexure-A passed by respondent No.1 is quashed.

**SD/-**  
**(SURAJ GOVINDARAJ)**  
**JUDGE**

SR  
List No.: 2 SI No.: 20