



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO. 11944 OF 2024 (S-RES)

BETWEEN:

SMT. SADHANA G BHAT
W/O U G BHAT
AGED ABOUT 51 YEARS,
OCC CLERK
S M S P SAMSKRITHA COLLEGE
HIGH SCHOOL
UDUPI – 576 101.

...PETITIONER

(BY SRI. S V PRAKASH.,ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY,
DEPARTMENT OF PRIMARY AND
SECONDARY EDUCATION
M S BUILDING
BENGALURU-560 001.
2. THE APPELLATE AUTHORITY
AND DEPTY SECRETARY
TO GOVERNMENT (SERVICES)
DEPARTMENT OF EDUCATION
(PRIMARY AND HIGHER) M S BUILDING
BENGALURU – 560 001.
3. THE COMMISSIONER OF PUBLIC INSTRUCTIONS
NRUPATHUNGA ROAD
BENGALURU – 560 001.
4. THE DEPUTY DIRECTOR OF PUBLIC INSTRUCTIONS
UDUPI DISTRICT
UDUPI-576101.





5. S.M.S.P SABHA TRUST
NEAR KRISHNA MUTT
UDUPI-576101
REPRESENTED BY
ITS SECRETARY
SRI GOPALAKRISHNA JOIS
REGISTER UNDER TRUST ACT.

...RESPONDENTS

(BY SRI. G. RAMESH NAIK, AGA FOR R-1 TO R-4
R-5 IS SERVED)

THIS W.P IS FILED UNDER ARTICLE 226 AND 227 OF THE
CONSTITUTION OF INDIA PRAYING TO QUASH THE ENDORSEMENT
DATED 02/12/2023 ISSUED BY R3 IN NO. VIDE ANNEXURE-W REFUSING
TO APPROVE HER APPOINTMENT AS SECOND DIVISION CLERK IN THE
R5 HIGH SCHOOL WITH SALARY GRANT FROM THE DATE OF HER
APPOINTMENT.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER
WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

In this petition, petitioner seeks for the following reliefs:-

- “ (i) Issue a writ in the nature of certiorari quashing
the endorsement dated: 02.12.2023 issued by 3rd respondent
in No. ಸಿ8[1]ಶಾ.ಶಿ.ಆ ಸರ್ಕಾರ ಮೇಲ್ಮನವಿ 115/2023-24 ಇ 1154540 vide
ANNEXURE-W refusing to approve her appointment as
second division clerk in the 5th respondent High School with
salary grant from the date of her appointment; and
(ii) Issue any other appropriate writ or order or
direction, directing the respondents to approve the



appointment of the petitioner as second division clerk in SMSP Sanskrit College High School Udupi, established , and managed by the 5th respondent and release the salary grant; and

(iii) Issue any other appropriate writ or order or direction as this Hon'ble Court deems it proper in the facts and circumstances of the case in the interest of justice and

(iv) Award the cost of proceeding;"

2. Heard learned counsel for the petitioner and learned AGA for respondents 1 to 4 and perused the material on record.

3. A perusal of the material on record will indicate that on 01.07.2004, the petitioner was appointed as Second Division Clerk (SDC) in SMSP Sanskrit college High School, Udupi, established and managed by the 5th respondent – Trust. Subsequently, the petitioner submitted repeated representations requesting the respondents 1 to 4 to approve her post which was not considered by the respondents and the 3rd respondent issued a communication dated 03.09.2007 intimating the petitioner that her request for approval would be considered after lifting of economic measures by the State Government. Aggrieved by the said Endorsement dated 03.09.2007, petitioner filed a Revision Petition No.109/2015 under



Section 131 of the Karnataka Education Act , 1983, which was dismissed by the 2nd respondent vide order dated 18.02.2016 which was assailed by the petitioner in W.P.No.44899/2016, which was disposed of by this Court vide final order dated 10.04.2023, whereby this Court set aside the impugned orders passed by respondents 2 and 3 and remitted the matter back to the 3rd respondent for reconsideration afresh and in accordance with law. In pursuance of the said order passed by this Court, the 3rd respondent proceeded to pass the impugned order once again rejecting the claim of the petitioner, who is before this Court by way of the present petition.

4. The respondents have filed their statement of objections and have contested the present petition and submits that the same is liable to be dismissed.

5. Before adverting to the rival contentions, it would be necessary to refer to the earlier order passed by this Court in W.P.No.44899/2016 wherein it was held as under:-

“ In this writ petition, petitioner has challenged order dated 18th February, 2016 (Annexure-S) in Revision Petition



No.109 of 2015 and order dated 03rd September, 2007 (Annexure-M) passed by the respondent No.3.

2. It is the case of the petitioner that she was appointed as Second Division Assistant as against the sanctioned post in the respondent No.5-aided institution. It is further stated in the writ petition that one Sri. Gopalakrishna Bhat was working in the respondent No.5-Institution and on his retirement on 30th June, 2004, respondent No.5-Institution has noticed that the petitioner has got qualification for being promoted as Second Division Assistant. Accordingly, respondent No.5-Institution promoted the petitioner for the said post on 01st July, 2004 (Annexures 'G' and 'H'). It is also stated in the writ petition that the petitioner has approached the respondent No.5-Institution as well as the respondent-Authorities for confirmation of her appointment in the said post and same was declined by the respondent-Authorities as per order dated 03rd September, 2007 (Annexure-M) on the ground of economic criteria of the Government/Institution. The said order dated 03rd September, 2007 was challenged by the petitioner before the respondent No.2. The respondent No.2, by order impugned order dated 18th February, 2016 in Revision Petition No.109 of 2015, rejected the claim of the petitioner. Feeling aggrieved by the same, the petitioner presented this writ petition.

3. Heard Sri. Pruthvi Wodeyar, learned counsel appearing for the petitioner and Sri. M.S. Nagaraja, learned Additional Government Advocate appearing for respondents 1 to 4.



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4. Sri. Pruthvi Wodeyar, learned counsel appearing for the petitioner invited the attention of the Court to the reason assigned by the respondent-Authorities while passing order dated 13th September, 2007 (Annexure-M) and has placed reliance on the judgment of Hon'ble Apex Court in the case of **CHANDIGARH ADMINISTRATION AND OTHERS vs. RAJNI VALI (MRS) AND OTHERS** reported in (2000)2 SCC 42 and judgment of this Court in the case of **A.G. SHIVASHANKAR vs. THE STATE OF KARNATAKA AN OTHERS** made in Writ Petition No.8790 of 2014 decided on 14th September, 2015 and argued that it is the duty of the respondent-Government to provide education to masses and the Government cannot deny the benefit of Grant ostensibly on the ground that economic measures are in force. Accordingly, he sought for interference of this Court.

5. Per contra, Sri. M.S. Nagaraja, learned Additional Government Advocate appearing for respondents 1 to 4 invited the attention of the Court to reasons assigned by the respondent No.2 in impugned order dated 18th February, 2016 passed in Revision Petition No.109 of 2015 (Annexure-S) and sought to justify the same on the ground that absorption of the petitioner at this stage cannot be entertained.

6. In the light of submission made by learned counsel appearing for the parties, it is not in dispute that the petitioner is working with the respondent No.5-Institution and claim made by the petitioner for regularization/confirmation of her service was rejected as per the order dated 03rd September, 2017 (Annexure-M). The reason stated by the



respondent-Authorities in order dated 03rd September, 2017 reads as under:

“ಆದರೆ ಉಲ್ಲೇಖ-1ರ ಸರ್ಕಾರದ ಆದೇಶದಂತೆ ಬೋಧಕೇತರ ಹುದ್ದೆಗಳನ್ನು ಭರ್ತಿ ಮಾಡಿಕೊಳ್ಳಲು ಆರ್ಥಿಕ ಮಿತವ್ಯಯ ಜಾರಿಯಲ್ಲಿ ಇರುವುದರಿಂದ ಸದ್ಯಕ್ಕೆ ಅವಕಾಶವಿರುವುದಿಲ್ಲ. ಸರ್ಕಾರದಿಂದ ಆರ್ಥಿಕ ಮಿತವ್ಯಯ ಸಡಿಲಿಸಿದ ನಂತರ ಪರಿಶೀಲಿಸಲಾಗುವುದು.”

*7. The reason assigned by the respondent-Authorities while considering the application made by the petitioner is that the case of the petitioner would be considered at the later stage after relaxation of economic measures, which may be taken by the Government. In this regard, I have carefully examined the reasons assigned by the appellate authority at Paragraphs 7 and 8 of the impugned order dated 18th February, 2016 passed in the Revision Petition No.109 of 2015 (Annexure-S). Taking into account the law declared by this Court in the case of **A.G. SHIVASHANKAR** (supra) and relying upon the judgment of Hon'ble Apex Court in the case of **RAJNI VALI (MRS) AND OTHERS** (supra), I am of the view that the respondent-Authorities are not justified in rejecting the application made by the petitioner as per Annexure-S. The respondent-Authorities while passing the order dated 03rd September, 2007 (Annexure-M) have clearly stated that the case of the petitioner would be considered after the relaxation of economic measures taken by the Government. In that view of the matter, taking into consideration the law declared by this Court in the case of **A.G. SHIVASHANKAR** (supra), keeping abeyance of the case of the petitioner since 2007 by the respondent-Authorities is not correct. Accordingly, order dated 18th February, 2016 passed in Revision Petition No.109 of 2015*



*(ED 262 SHO 2015) by the respondent No.2 is set-aside and respondent No.3 is directed to reconsider the issue afresh taking into account the observation made by this Court in the case of **A.G. SHIVASHANKAR** (supra). Respondent No.3 is also directed to complete the entire exercise within a period of four months from the date of receipt of this order. In the result, writ petition is allowed.*

6. Despite the aforesaid order, passed by this Court directing reconsideration of the claim of the petitioner for the restricted / limited purpose of approving her post and release of salary grant in her favour, the 3rd respondent has rejected the claim of the petitioner on the erroneous premise that her initial appointment itself was not approved by the State Government. In this context, it is pertinent to note that the material on record clearly establishes that the petitioner was initially appointed as an Attender in the 5th respondent – Institution against the sanctioned post and possessed the requisite qualification, as a result of which, once a sanctioned vacancy arose to the post of SDC who retired, the petitioner being qualified was appointed as SDC w.e.f. 01.07.2004, in pursuance of which, the 5th respondent submitted proposal seeking approval of the appointment of the petitioner as an SDC and release of grant. In response to the said proposal, the



respondents 1 to 4 never contended that the appointment of the petitioner was illegal and instead, issued an Endorsement dated 03.09.2007 specifically stating that it was only on account of economic measures imposed by the State Government that the request of the petitioner for approval could not be considered and did not take up any other contention in this regard.

7. However, in the impugned order, the 3rd respondent clearly fell in error in stating that the initial appointment itself of the petitioner was not approved, which contention was not available to the 3rd respondent, who was not only estopped but the said reason assigned in the impugned order was barred / prohibited by the principles of constructive *res judicata*; in other words, in the light of the earlier Endorsement dated 03.09.2007, which was restricted to stating that the request of the petitioner for approval of her post as an SDC would be considered after lifting of economic measures imposed by the State Government and the findings recorded in favour of the petitioner in earlier round of litigation in W.P.No.44889/2016 dated 21.07.2023 having attained finality and become conclusive and binding upon respondents 1 to 4, I am of the considered opinion that the impugned order is clearly illegal,



arbitrary and contrary to the material on record warranting interference by this Court in the present petition.

8. In the result, I pass the following:-

ORDER

(i) Petition is hereby allowed.

(ii) The impugned Endorsement at Annexure-W dated 02.12.2023 issued by the 3rd respondent is hereby quashed.

(iii) The concerned respondents 1 to 4 are hereby directed to approve the appointment of the petitioner as Second Division Clerk (SDC) in SMSP Sanskrit College High School, Udupi, established and managed by the 5th respondent and release / disburse the salary grant in favour of the petitioner within a period of three months from the date of receipt of a copy of this order.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

BH/SRL
List No.: 1 Sl No.: 53