

ITEM NO.8+12

COURT NO.3

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 7492-7493/2021

(Arising out of impugned final judgment and order dated 21-04-2021 in WA No. 46/2021 21-04-2021 in WA No. 227/2021 passed by the High Court Of Karnataka At Bengaluru)

ANJANA MURTHY. N & ORS.

Petitioner(s)

VERSUS

KALPANA MANJUNATHA & ORS.

Respondent(s)

WITH

SLP(C) No(s). 17172-17173/2021

(FOR ADMISSION and I.R. and IA No.138976/2021-EXEMPTION FROM FILING O.T.)

Date : 28-10-2021 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE DINESH MAHESHWARI
HON'BLE MR. JUSTICE C.T. RAVIKUMAR

For Petitioner(s)

Mr. S. N. Bhat, AOR

For Respondent(s)

Mr. Nikhil Majithia, AOR

Mr. Shubhranshu Padhi, AOR
Mr. Ashish Yadav, Adv.
Mr. Rakshit Jain, Adv.
Mr. Vishal Banshal, Adv.UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

Heard learned counsel for the parties on the question
of grant of interim relief.

Prima facie, the view taken by High Court needs deeper consideration. We say so because the notification impugned before the High Court was issued by the State Government in exercise of powers under Section 361 of the Karnataka Municipalities Act, 1964 (for short, "1964 Act"), primarily of converting Town Municipal Area into City Municipal Area. In other words, it is a case of upgradation. In that process, the State Government also added new areas to newly created City Municipal Area.

There is no express provision in the 1964 Act which postulates that in the case of upgradation, the existing elected body of Town Municipal Area would stand dissolved and as a consequence, elections need to be held for the newly constituted City Municipal Area. The analogy deduced by the High Court in reference to the scheme under Section 357 of the 1964 Act, is misapplication of the said provision. Sections 357 and 358 of the 1964 Act apply to situation regarding conversion of panchayat area into smaller urban area and the term of office of members of the interim Municipal Council and their powers. That has nothing to do with the situation of upgradation of Town Municipal Area into City Municipal Area.

Learned counsel for the respondent(s)/writ-

petitioner(s) was at pains to rely on Section 11 and Section 315 of the 1964 Act, in addition to the reasons noted by the High Court in issuing mandamus to conduct fresh elections in respect of the body which was upgraded in terms of notification dated 26.12.2019. However, *prima facie*, we do not agree with this submission.

The election of the erstwhile Town Municipal Area was conducted on 03.06.2019 and the term of office would necessarily be for five years from the date of first meeting was held. That in the present case would end in the year 2024.

Resultantly, we are of the opinion that the mandamus issued by the High Court in the fact situation of the present case, is *prima facie* untenable.

As a result, we direct the stay of operation of the impugned judgment and order as a consequence of which the elected body of the then Town Municipal Area would stand revived forthwith and continue to function as a duly constituted body of City Municipal Area with immediate effect, including for the newly added areas. Further, the State Government shall nominate representatives for the newly added areas as provided for under Sections 359(1)(j) and 360(d) of 1964 Act. We direct the State

Government to do so within two weeks from today.

The appeals be notified for hearing in the first week of January, 2022 in first five cases.

(DEEPAK SINGH)
COURT MASTER (SH)

(VIDYA NEGI)
COURT MASTER (NSH)