

ITEM NO.15

COURT NO.4

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

Civil Appeal No(s).6556-6557/2021

ANJANA MURTHY. N & ORS.

Appellant(s)

VERSUS

KALPANA MANJUNATHA & ORS.

Respondent(s)

([ONLY IA NO. 222421/2024 IS LISTED UNDER THIS ITEM]
IA No. 222421/2024 - APPROPRIATE ORDERS/DIRECTIONS)

Date : 16-12-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HRISHIKESH ROY
HON'BLE MR. JUSTICE S.V.N. BHATTI

For Appellant(s) Mr. S N Bhat, Sr. Adv.
Mr. Abhay Choudhary M, Adv.
Mrs. Parvati Bhat, Adv.
Mr. Vivek Ram R, Adv.
Ms. Anuradha Mutatkar, AOR

For Respondent(s)
Mr. Nikhil Majithia, AOR
Mr. Neeleshwar Pavani, Adv.

Mr. D. L. Chidananda, AOR

Mr. Mahesh Thakur, AOR
Mr. Mahesh Thakur, Adv.
Mr. Ranvijay Singh Chandel, Adv.
Mrs. Vipasha Singh, Adv.
Ms. Gargi Singh, Adv.

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

IA No. 222421/2024

Heard Mr. S. N. Bhatt, learned Senior Counsel appearing for the appellant. Also heard Mr. Nikhil Majithia, learned counsel, appearing for the respondent No. 1, 2 and 3, who have filed IA

No.22241/2024. The State of Karnataka is represented by Mr. D. L. Chidananda.

The prayer in the IA reads as under:-

"a) pass an order or direction to Respondent No.5 to 11 herein to hold fresh elections for the Neelmangla City Municipal Council;

b) pass an order or direction directing for appointment of an Administrator in terms of Section 315 of the Karnataka Municipalities Act, 1964 till the conclusion of fresh elections to the Neelmangla City Municipal Council;"

2. When this case was last listed on 25.11.2024, the parties were to advance argument on when does the 5 year tenure of the City Municipal Council, Nelamangala would commence since the terms of the Office of those elected shall be 5 years, under the provisions of *the Karnatka Municipalities Act, 1964*.

3. Mr. S. N. Bhatt, learned Senior Counsel in the above context would advert to Article 243 U (1) of the Constitution of India to specify the duration of the Municipalities. The counsel then submits that 5 years tenure should be counted only from the date appointed for the first meeting. The attention of the Court is also drawn to the provisions of Section 18(1-A) of the *Karnataka Municipalities Act, 1964* (Municipalities Act).

4. The relevant Article 243 U(1) reads as under:-

"243U. Duration of Municipalities, etc.-

(1) Every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer:

Provided that a Municipality shall be given a reasonable opportunity of being heard before its dissolution.

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Municipality at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).

(3) An election to constitute a Municipality shall be completed,—

(a) before the expiry of its duration specified in clause (1);

(b) before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Municipality for such period.

(4) A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under clause (1) had it not been so dissolved."

5. Section 18(1-A) reads as under:-

18. Term of office of Councillors.— 3[(1) The term of office of a councillor,

(a) elected at a general election shall be 4[five years];

5[xxxxx]

6[(b) nominated under clause (b) of sub-section (1) of Section 11 shall, subject to the pleasure of the Government be five years.]

7[(1-A) The term of office of the councillor elected at a general election or nominated in clause (b) of sub-section (1) of Section 11 shall commence on the date appointed for the first meeting of the municipal council].

7 Sub-section (1-A) substituted by Act No. 36 of 1994 and shall be deemed to have come into force w.e.f. 1-6-1994."*

6. Explaining the above provisions, the counsel would then refer to the Notification dated 31.05.2022 to point out that the first meeting, for the post of President and Vice President of Neelamangla City Municipal Corporation, was scheduled only on 07.06.2022. Therefore the 5 year tenure of the City Municipality is deemed to commence only from 07.06.2022. Therefore, applying the

above provision, the term of the Municipality will end only by June 2027.

7. Responding to the above contention, Mr. Nikhil Majithia, the learned counsel, drew the Court's attention to the order dated 28.10.2021 in SLP(Civil) Nos.7492-7493 of 2021, to argue that since the election to the Municipality was conducted on 03.06.2019, the term of office being limited to be 5 years, the term of the present body would end in 2024.

8. On the other hand, the learned Government counsel would refer to the stand in the counter affidavit to say that since the first meeting was conducted only on 07.06.2022, the 5 year term of the Municipality will not expire in 2024 but will continue till June 2027.

8A. We have considered the above submission of the learned counsel for the parties. The constitutional scheme and the relevant Sections for conducting election as mentioned in Article 243U(1) read with Section 18(1-A) of the *Karnataka Municipalities Act, 1964* are taken into account.

8B. The effect of absorption of part of the Panchayat area into a smaller urban area as specified in Section 360 of the Municipalities Act is considered. The sub-clause (d) of Section 360 provides that if the additional Panchayat area is included into smaller urban area, the Government should nominate one person who is ordinarily a resident of the additional area, to be an additional councilor of the Municipal Council. Such nomination is already made for the representation of the people residing in the erstwhile panchayat area.

9. Having regard to statutory scheme and the constitutional provisions, it is clear that the 5 year tenure of the City Municipal Council, Neelamangla, would commence only on 07.06.2024 i.e. from the date of the first meeting. Therefore, we see no reason to grant the prayer made in the IA No. 222421/2024. The IA is dismissed.

(DEEPAK JOSHI)
ASTT. REGISTRAR-cum-PS

(ANU BHALLA)
COURT MASTER (NSH)

* For paragraph numbers only

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