

IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH

DATED THIS THE 29TH DAY OF AUGUST 2018

PRESENT

THE HON'BLE MR. JUSTICE L.NARAYANA SWAMY

AND

THE HON'BLE MR. JUSTICE K.N.PHANEENDRA

WRIT APPEAL No.200641/2018

BETWEEN

SMT. CHANDRAMMA W/O SABAYYA
AGED ABOUT 56 YEARS
OCC: HOUSEHOLD & PRESIDENT
GRAM PANCHAYAT KOLAKUNDA
TQ: SEDAM, DIST: KALABURAGI

... APPELLANT

(BY SRI GANESH NAIK, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
BY ITS SECRETARY
DEPARTMENT OF PANCHAYAT RAJ &
RURAL DEVELOPMENT
M.S. BUILDING, BENGALURU – 560 001
2. THE DEPUTY COMMISSIONER
KALABURAGI – 585 201
3. THE ASSISTANT COMMISSIONER
SEDAM – 585 222

4. THE EXECUTIVE OFFICER
TALUKA PANCHAYAT
SEDAM – 585 222
5. GRAM PANCHAYAT, KOLAKUNDA
REPRESENTED BY ITS
PANCHAYAT DEVELOPMENT OFFICER
TQ: SEDAM, DIST: KALABURAGI – 585 318
6. BASSAPPA S/O HASHAPPA
OCC: VICE PRESIDENT
GRAM PANCHAYATH, KOLAKUNDA
R/O MALKAPALLI, TQ: SEDAM
DIST: KALABURAGI – 585 318
7. RAJASHEKHARREDDY S/O MALIANGOUA
AGED ABOUT: 50 YEARS, OCC: MEMBER
GRAM PANCHAYATH, KOLAKUNDA
R/O KOLAKUNDA, TQ: SEDAM
DIST: KALABURAGI – 585 318
8. UMAREDDY S/O NAGAREDDY
OCC: MEMBER
GRAM PANCHAYATH, KOLAKUNDA
R/O KOLAKUNDA, TQ: SEDAM
DIST: KALABURAGI – 585 318
9. BASAREDDY S/O VENKATREDDY
OCC: MEMBER
GRAM PANCHAYATH, KOLAKUNDA
R/O MALAKAPALLI, TQ: SEDAM
DIST: KALABURAGI – 585 318
10. SHIVAREDDY S/O NARASREDDY
OCC: MEMBER
GRAM PANCHAYATH, KOLAKUNDA
R/O MALAKAPALLI, TQ: SEDAM
DIST: KALABURAGI – 585 318

11. ARUNA W/O SHIVARAJ
OCC: MEMBER
GRAM PANCHAYATH, KOLAKUNDA
R/O KOLAKUNDA, TQ: SEDAM
DIST: KALABURAGI – 585 318
12. SRIDEVI W/O SHIVARAJ
OCC: MEMBER
GRAM PANCHAYATH, KOLAKUNDA
R/O KOLAKUNDA, TQ: SEDAM
DIST: KALABURAGI – 585 318
13. HUSENAPPA S/O BHIMASHAPPA
OCC: MEMBER
GRAM PANCHAYATH, KOLAKUNDA
R/O KOLAKUNDA, TQ: SEDAM
DIST: KALABURAGI – 585 318
14. MASHAPPA S/O SAYAPPA
OCC: MEMBER
GRAM PANCHAYATH, KOLAKUNDA
R/O KOLAKUNDA, TQ: SEDAM
DIST: KALABURAGI – 585 318
15. KHANYANAIAK S/O HANAMYANAIAK
OCC: MEMBER
GRAM PANCHAYATH, KOLAKUNDA
R/O KOLAKUNDA DODDA THANDA
TQ: SEDAM, DIST: KALABURAGI – 585 318
16. BADDIBAI W/O KASHYANAIAK
OCC: MEMBER,
GRAM PANCHAYATH, KOLAKUNDA
R/O KOLAKUNDA DODDA THANDA
TQ: SEDAM, DIST: KALABURAGI –585 318
17. SEETABAI W/O RAMSINGH
OCC: MEMBER
GRAM PANCHAYATH, KOLAKUNDA

R/O KOLAKUNDA NADAVIN THANDA
TQ: SEDAM, DIST: KALABURAGI- 585 318

18. MAHADEVAMMA W/O NAGAPPA
OCC: MEMBER
GRAM PANCHAYATH, KOLAKUNDA
R/O KOLAKUNDA, TQ: SEDAM
DIST: KALABURAGI -585 318
19. VENKATAMMA W/O HUSENAPPA
OCC: MEMBER
GRAM PANCHAYATH, KOLAKUNDA
R/O MALKAPALLI, TQ: SEDAM
DIST: KALABURAGI - 585 318
20. NINGAMMA W/O BHEEMASHAPPA
OCC: MEMBER
GRAM PANCHAYATH KOLAKUNDA
R/O BHEEMASAGAR, TQ: SEDAM
DIST: KALABURAGI - 585 318
21. KASHAMMA W/O BUGGAPPA
OCC: MEMBER
GRAM PANCHAYATH, KOLAKUNDA
R/O KOLAKUNDA, TQ: SEDAM
DIST: KALABURAGI - 585 318
22. BHEEMSINGH S/O UMAKANT
OCC: MEMBER
GRAM PANCHAYATH, KOLAKUNDA
R/O KOLAKUNDA DODDA THANDA
TQ: SEDAM, DIST: KALABURAGI - 585 318
23. CHIMANAMMA W/O HUSENAPPA
OCC: MEMBER
GRAM PANCHAYATH, KOLAKUNDA
R/O KOLAKUNDA, TQ: SEDAM
DIST: KALABURAGI - 585 318

... RESPONDENTS

(SRI K.M. GHATE, AGA FOR R1 TO R3)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, PRAYING TO, ALLOW THE ABOVE WRIT APPEAL AND TO QUASH THE IMPUGNED NOTICE IN NO.SAM/KAM/CHUNAVE/14/18-19 DATED 13.08.2018 ISSUED BY THE 3RD RESPONDENT, PRODUCED AT ANNEXURE-A, IN W.P.NO.202854/2018 BY ALLOWING THE WRIT PETITION AS PRAYED FOR.

THIS APPEAL COMING ON FOR ORDERS, THIS DAY, **NARAYANA SWAMY J.**, DELIVERED THE FOLLOWING:

JUDGMENT

Learned Additional Government Advocate takes notice for respondent Nos.1 to 3.

2. Issuance of no confidence notice was challenged in W.P. No.202854/2018 before the learned Single Judge, and the learned Single Judge has issued notice to the respondents.

3. This appeal is filed against non-consideration of the interim prayer by the learned single Judge.

4. Heard the learned counsel for the appellant and the learned Additional Government Advocate for respondentNs.1 to 3.

5. Learned counsel for the appellant submits that, in similar circumstances, the Principal Bench of this Court in W.A. No.844/2018 vide order dated 05.03.2018 has stayed the resolution. However, no confidence motion was directed to be proceeded further. For convenience, the interim order granted by the Principal Bench, is extracted hereinbelow:

“13. After hearing the learned counsels today at length, it is found appropriate that the Resolution of No Confidence passed in the Gram Panchayat involved in the present writ petitions, shall not be given effect to as of now and the status-quo as it existed prior to passing of the said Resolution shall be maintained by the concerned Gram Panchayat and this status will remain subject to the final decision of the present writ petitions.”

6. Learned counsel for the appellant also submits that, in the instant case also, since respondent No.3 has issued notice for no confidence motion, the same is in contradiction of Section 49(2) of the Karnataka Gram

Swaraj and Panchayat Raj Act, 1993 read with Rule 3(2) of the Karnataka Panchayat Raj (Motion of No-Confidence against Adhyaksha and Upadhyaksha of Grama panchayat) Rules, 1994.

7. In view of the above, this appeal stands disposed of. However, it is made clear that, the resolution of no confidence is subject to the result of the writ petition pending. Consequently, IA.III/2018 also stands disposed of.

Copy of this order to be provided to the learned Additional Government Advocate.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

LG