NC: 2025:KHC-D:15036
WP No. 100274 of 2025

HC-KAR

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 4TH DAY OF NOVEMBER, 2025

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BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 100274 OF 2025 (S-RES)

BETWEEN:

1. DR BASAVARAJ R BAGADE
S/O. LATE RAMACHANDRAPPA BAGADE,
AGED ABOUT 47 YEARS, WORKING AS ASSISTANT
PROFESSOR, DEPARTMENT OF STUDIES AND RESEARCH
IN GEOGRAPHY, RANI CHANNAMMA UNIVERSITY,
BELAGAVI – 591 156.

...PETITIONER

(BY SRI. SATISH K. A/W SRI. SURESH S. BHAT, ADVOCATES)

AND:

1. THE STATE OF KARNATAKA,
DEPARTMENT OF HIGHER EDUCATION (UNIVERSITY),
REPRESENTED BY ITS PRINCIPAL SECRETARY,
M. S. BUILDING, BANGALORE - 560 001.

2. THE RANI CHANNAMMA UNIVERSITY,
REPESENTED BY ITS REGISTRAR,
VIDYASANGAMA, BHOOTARAMANAHATTI,
BELAGAVI 591 156.

...RESPONDENTS

(BY SMT. GIRIJA S. HIREMATH, AGA FOR R1;
SMT. VAISHALI K. KALADAGI, ADVOCATE FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR RECORDS FROM THE RESPONDENT NO.1 PERTAINING TO THE IMPUGNED ORDER/LETTER DATED 13/01/2025 (ANNEXURE-K). ISSUE WRIT OR ORDER QUASHING THE IMPUGNED ORDER/LETTER DATED 13/01/2025 BEARING NO.ED 255 URC 2023 ISSUED BY THE RESPONDENT NO.1 TO THE RESPONDENT NO.2 AND ALL FURTHER PROCEEDINGS PURSUANT THERETO (ANNEXURE-K,) IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.,

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

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE M.NAGAPRASANNA)

1. The petitioner is before this Court seeking the following prayer:

> "a) Call for records from the Respondent no.1 pertaining to the impugned order/letter dated 13/01/2025 (Annexure-K).
>
> b) Issue Writ or Order quashing the impugned Order/letter dated 13/01/2025 bearing no.ED 255 URC 2023 issued by the respondent no.1 to the respondent no.2 and all further proceedings pursuant thereto (Annexure-K) in the interest of justice and equity.
>
> c) Pass any other Order including the cost of this Writ Petition, in the interest of justice and equity."

2. Heard Sri Satish K. along with Sri Suresh S. Bhat, learned counsel for the petitioner, Smt. Girija S. Hiremath, learned counsel for respondent No.1 and Smt. Vaishali K. Karadagi, learned counsel for respondent No.2.

3. Facts in brief, germane, are as follows:

On 03.10.2011, the second respondent – University issues a notification calling applications from eligible candidates to fill up several posts in the University. One such post is the Assistant

Professor in the department of Geography. The petitioner finding himself eligible applies and after due selection process, is appointed as an Assistant Professor on 29.03.2012, in the second respondent - University. In the year 2021, certain complaint with regard to the petitioner obtaining Ph.D. by dubious means cropped up. The second respondent – University communicated the Registrar of Magadh University seeking clarification in this regard. The Registrar of Magadh University communicates to the second respondent - University that the petitioner did enrolled himself for Ph.D. program in the University. It is the averment in the petition that notwithstanding the clarification from the Registrar of Magadh University, the second respondent again communicates the first respondent seeking clarification on the genuineness of the Ph.D. certificate secured by the petitioner, on the score that there are complaints that the certificate is fake. The University constitutes a One Man Committee to verify the genuineness of the Ph.D. certificate obtained by the petitioner. The report of the One Man Committee holds that the certificate of Ph.D. produced by the petitioner is fake. The issue is considered by the Public Accounts Committee and holds that the certificate appears to be genuine

and recommended to drop the proceedings in terms of its communication dated 30.03.2024. Notwithstanding the communications, the first respondent – State by the impugned communication directs the second respondent - University to terminate the services of the petitioner, apart from setting the criminal law into motion against him. It is this communication that has driven the petitioner to this Court in the subject petition.

4. Learned counsel for the petitioner would submit that apart from the merit of the matter, there is no notice issued by the University to the petitioner prior to the impugned action. Therefore, it is in violation of the principles of natural justice.

5. Learned counsel for the second respondent - University is not in a position to dispute the factum of non-issuance of a notice prior to the impugned action or the petitioner being heard in the matter.

6. Therefore, the issue lies in a narrow compass at this juncture, as the issue is, whether the petitioner must be afforded an opportunity of hearing prior to the impugned action.

7. Communications between the University and State Government galore. The petitioner is not in the loop. In identical circumstances, coordinate benches of this Court have held that the employee who is to be affected by an order, should be heard prior to the passage of such order, which would be in consonance with the principles of natural justice.

8. A learned Single Judge of this Court in the case of **MARTANDAPPA B. HOSALLI V. STATE OF KARNATAKA** reported in **2002 SCC OnLine Kar 659,** has held as follows:

> "…. …. ….
>
> **7.** In the case of *Nagaraj* v. *State of Karnataka*, [W.P. Nos. 35736 to 35754.] this Court by this order dated 27th November 2002 made in after referring to the decision of **this Court in the case of *Mahiboobsab* (supra) and of the Supreme Court in the case of the Scheduled Caste and Weaker Section Welfare Association has while considering the provisions of Section 306 of the Municipalities Act has taken the view that the persons affected are required to be heard by the Government.** It is useful to refer to paragraph 14 of the judgment which reads as hereunder:
>
> > **"14. Section 306 of the Act may be silent with regard to the hearing of persons who will be affected by the orders made by the State Government except the Municipal Council, but when certain rights are created in a person by the resolution passed by the City Municipal Council, that person requires to be heard before passing any order that would directly or indirectly affects his interest. In the present case, the Municipal**

> **Council by passing the resolutions has created a right in favour of these petitioners and that right cannot be nullified without affording an opportunity of hearing to these petitioners. <u>Even if there is no provision in the statute about giving of notice and right of hearing, if the order in Question affects the rights of an individual, notice and hearing must be given.</u> Since that has not been done in the present case, in my view, the orders passed by the respondent-Authorities is arbitrary, illegal and in violation of the principles of audi alteram partem rule. Therefore, those order cannot be sustained by this Court."**
>
> (emphasis supplied)

8. However, it is no doubt true that this Court in the case of *Gangadhar* (Supra) while considering the affect of proviso given to sub-section 8 of Section 8 of the Act has taken the view that the persons likely to be affected are not required to be heard. In my view, the said observation in the said case mainly proceeded on the basis of the statement made by the University in the statement of objections conceding that the appointment of the petitioner in the said case as Administrative Officer in the services of the University was not in conformity with the provisions of the Act and the University statutes. This is clear from the observation made at paragraph 23 of the judgment. It is useful to refer to the relevant portion of the observation made at paragraph 23 which reads as hereunder:

> "23. There is yet another reason to hold that the impugned order is not in violation of principles of natural justice. In the instant case, the University concedes in its objections statement that the appointment of the petitioner as Administrative Officer in the service of the University is not in conformity with the provisions of Act and University Statutes."

No doubt, in paragraph 22 of the Judgment, this Court has also observed that since the University was heard, the person affected need not be heard. However, the said observation seems to me was made by this Court, as observed by me earlier, in the backdrop of the admission made by the University conceding the appointment of the petitioner, in the said case, as

Administrative Officer in the services of the University was not made in conformity with the provisions of the Act and the University Statutes. This is clear from the view taken by His Lordship who has rendered the decision in the case of *Nagaraja* (Supra) while considering Section 306 of the Municipalities Act wherein his Lordship has observed that "Section 306 of the act may be silent with regard to the hearing of persons who will be affected by the orders made by the State Government except the Municipal Council, but when certain rights are created in a person passing any order that would directly or indirectly affects his interest." Such person should be heard. However, if the observation made by this court in the case of *Gangadhar* (Supra) is to be understood as contended by the learned Additional Government Advocate as this Court is laying down the law that a person affected need not be heard, in my view, the said enunciation of law would not be correct in the light of the judgment of the Hon'ble Supreme Court in the case of *State of Haryana* (supra) and in the case of *Government of Mysore* (Supra) referred to by me earlier and also in the light of the decision of the Hon'ble Supreme Court in the case of *Baldev Singh* v. *State of H.P.* [(1987) 2 SCC 510.] . **In the case of *Baldev Singh* (supra) the Hon'ble Supreme Court has laid down that where exercise of a power results in civil consequences to citizens, unless the statute specifically rules out the application of natural justice, such rules would apply. It is useful to refer to the observation made in the said case, which reads as hereunder:**

> **"... It is a fact that the Orissa Act provides in clear terms a right of hearing whereas Section 256 of the Himachal Act makes no such provision, but the settled position in law is that where exercise of a power results in civil consequences to citizens, unless the statute specifically rules out the application of natural justice, the rules of natural justice would apply..."**

In the case of *Government of Mysore* (supra), the Hon'ble Supreme Court has observed that it is one of the fundamental rules of our Constitution set-up that every citizen is protected against exercise of arbitrary authority by the State or its officers; and if there is power to decide and determine to the prejudice of a person, duty to act

judicially is implicit in the exercise of such power and the rule of natural justice operates in areas not covered by any law validly made. Therefore, the impugned order is liable to be quashed on the short ground that the same came to be passed in disregard of the principles of natural justice.

Regarding second question:

In view of my conclusion that the impugned order is liable to be quashed on the ground the same came to be passed in violation of the principles of natural justice, it is not necessary to consider the second question referred to above. All contentions urged on merits are left open to be considered by the State Government.

9. Therefore, in the light of the discussion made above, I make the following order:

(i) The Order - Annexure-A dated 30th March 2000 is hereby quashed. The matter is remitted to the 1st respondent-State Government for reconsideration.

(ii) The State Government shall do so after hearing the petitioners and giving an opportunity to the petitioners."

(Emphasis supplied)

Later, in the case of **SOMANNA AND OTHERS V. STATE OF KARNATAKA** reported in **2003 SCC OnLine Kar 109,** has held as follows:

"…. …. ….

7. As noticed by me earlier, it is not disputed by the learned Additional Government Advocate that under identical circumstances in respect of four other employees this Court in Writ Petition No. 2248-2252/2000 dated 7th

April 2000 has directed regularisation of their services in the University in view of the fact that they had put ten years of service**. The decision of this Court made in the said Writ Petitions was also affirmed by the Division Bench of this Court. It is useful to refer to observation made by the Division Bench of this Court speaking through by His Lordship Ashok Bhan, J. as he then was at Paragraph - 5 and 6 of the judgment has observed as follows:**

> **"5. State has come up in appeal. The University Employer of the respondents has not preferred an appeal. University has accepted the order and by Office Order No. GUG/ADM/EST 1/NT/2000-2001/522 dtd 24th May-2000 had decided to regularise the service of the daily-wage employees of the Gulbarga University subject to the approval of the Government.**
>
> **6. We, agree with the view-taken by the single Judge. An employee, who has put in 10 or more-years of service is entitled to be considered for regularization of service. The need is not temporary. Some of the respondents-writ petitioners may-have been over-aged by now. It seems need is permanent. The respondents cannot be kept on temporary/adhoc-basis for an indefinite period."**

As rightly pointed out by the learned Counsel appearing for the petitioners that when the services of few other employees who were similarly situated like the petitioners came to be regularised by the University in the light of the judgment of this Court referred to above, there is absolutely no justification to treat the petitioners who are similarly situated differently. **Therefore, while I find considerable force in the first submission of the learned Counsel appearing for the petitioners, since I am inclined to quash the impugned order Annexure-F on the short ground that the petitioners were not heard by the 1st respondent-State Government before passing the impugned order, I find it unnecessary to consider the said submission**

of the learned Counsel appearing for the petitioners on merits. In order Annexure-F, the 1st respondent-State Government has come to a conclusion that the appointment of the petitioners is illegal. Nodoubt having come to that conclusion the 1st respondent directed the University to issue show cause notices to the petitioners, in my view, in the light of the specific finding recorded by the 1st respondent that the regularisation of services of the petitioners is illegal, the show cause notices directed to be issued to the petitioners by the University is only an empty formality. It cannot be disputed that the Order passed by the University regularising the services of the petitioners has conferred valuable rights on the petitioners so far as right to continue in services in the 2nd respondent-University is concerned. Any order made nullifying the said right, it cannot be disputed would result in civil consequences. Under these circumstances, though there is no provision contemplated under Sub-Section (8) of Section-8 of the Act or in any other provision of the Act to hear the persons who are likely to be affected on account of the decision of the Government, in my view, the persons who are likely to be affected are required to be heard. In the case of *Martandappa B. Hosalli* v. *State of Karnataka*, [W.P. No. 16618-691/2000 dd 11th December 2002.] I have taken the view that persons who are likely to be affected on account of the decision to be taken by the Government in exercise of its power conferred on it under Section 8(8) of the Act is required to be heard. In the said Writ Petitions at Paragraph-8 of the said judgment. I have observed as follows:

> 8. However, it is no doubt true that this Court in the case of *Gangadhar* (supra) while considering the affect of proviso given to sub-section 8 of Section 8 of the Act has taken the view that the persons likely to be affected are not required to be heard. In my view, the said observation in the said case mainly proceeded on the basis of the statement made by the University in the statement of objections conceeding that the appointment of the petitioner in the said case as Administrative Officer in the services of the University was not in conformity with the provisions of the Act and the University statutes. This is clear from the observation made at paragraph 23 of the judgment. It is useful to

refer to the relevant portion of the observation made at paragraph 23 which reads as hereunder:

> "*23. There is yet another reason to hold that the impugned order is not in violation of principles of natural justice. In the instant case, the University concedes in its objection statement that the appointment of the petitioner as Administrative Officer in the services of the University is not in conformity with the provisions of Act and University Statutes*."

No doubt, in paragraph 22 of the judgment, this Court has also observed that since the University was heard, the person affected need not be heard. However, the said observation seems to me was made by this Court, as observed by me earlier, in the backdrop of the admission made by the University conceeding the appointment of the petitioner, in the said case, as Administrative Officer in the services of the University was not made in conformity with the provisions of the Act and the University Statutes. This is clear from the view taken by His Lordship who has rendered the decision in the case of *Nagaraja* (supra) while considering Section 306 of the Municipalities Act wherein his Lordship has observed that "*Section 306 of the Act may be silent with regard to the hearing of persons who will be affected by the orders made by the State Government except the Municipal Council, but when certain rights are created in a person passing any order that would directly or indirectly affects his interest*." Such person should be heard. However, if the observation made by this Court in the case of *Gangadhar* (supra) is to be understood as contended by the learned Additional Government Advocate as this Court is laying down the law that a person affected need not be heard, in my view, the said enunciation of law would not be correct in the light of the judgment of the Hon'ble Supreme Court in the case of *State of Haryana* (supra) and in the case of *Government of Mysore* (supra) referred to by me earlier and also in the light of the decision of the Hon'ble Supreme Court in the case of *Baldev Singh* v. *State of H.P.* Reported in (1987) 2 SCC 510. In the case of *Baldev Singh* (supra) the Hon'ble Supreme Court has laid down that where exercise of a power results in civil consequences to citizens, unless the statute specifically rules out the application of natural justice, such rules would apply. It is useful to refer to the observation made in the said case, which reads as hereunder:

> "*It is a fact that the Orissa Act provides in clear terms a right of hearing whereas Section 256 of the Himanchal Act makes no such provision, but the settled position in law is that where exercise of a power results in civil consequences to citizens, unless the statute specifically rules out the application of natural justice, the rules of natural justice would apply*…"

In the case of *Government of Mysore* (supra), the Hon'ble Supreme Court has observed that it is one of the fundamental rules of our Constitution set-up that every citizen is protected against exercise of arbitrary authority by the State or its officers; and if there is power to decide and determine to the prejudice of a person, duty to act judicially is implicit in the exercise of such power and the rule of natural justice operates in areas not covered by any law validly made. **Therefore, the impugned order is liable to be quashed on the short ground that the same came to be passed in disregard of the principles of natural justice.**

Regarding second question:

In view of my conclusion that the impugned order is liable to be quashed on the ground the same came to be passed in violation of the principles of natural justice, it is not necessary to consider the second question referred to above. All contentions urged on merits are left open to be considered by the State Government."

Therefore for the reasons given in the Writ Petitions and Writ Appeal referred to above and for the very reason given by me in the case of *Martandappa B. Hosalli* (Supra), I am of the view, the impugned order Annexure-F is liable to be quashed. Consequently, the notices impugned in these petitions are also liable to be quashed.

(Emphasis supplied)

Following the afore-quoted judgments, another learned Single Judge of this Court in the case of **C. KRISHNA V.**

UNIVERSITY OF MYSORE reported in **2004 SCC OnLine Kar 524,**

has held as follows:

"…. …. ….

> **9.** The present section also provides for an opportunity to the University before making an order annulling any order of the University. There is no specific provision providing for hearing of the affected person other than the University before the Government passes order under Section 10. Providing for hearing of the University would satisfy the requirement of the principles of natural justice when an order is passed by the Government under Section 10 which affects only the University and none else. **However, if the order passed by the Government Under Section 10 affects the third person then providing an opportunity of hearing to the University would not meet the requirement of principles of natural justice. The Statute does not expressly state that it is not necessary to hear any third person who would be affected by an order under Section 10. In the absence of such express provision, the application of principles of natural justice ought to be followed by the Government before passing any order under Section 10. The law on the point is well settled. In the absence of an express prohibition contained in the Statute exempting the authorities from following the principles of natural justice, the principles of natural justice is engrafted into the provisions of law by implication, when the Statute is silent on this aspect, the aforesaid rule can be read into it by implication. Although there are no positive words in the Statute requiring that the party shall be heard, yet the justice of the common law will supply the omission of the Legislature. Therefore such a provision is held to be incorporated in Section 10 by necessary implication, then only the procedure prescribed under the Act would be right, fair and just and it would not suffer on the vice of arbitrariness and unreasonableness, it would been**

conformity with the requirements of Articles 14 and 21 and does not fall foul of those Articles.

10. In view of these circumstances, I am of the view notwithstanding the absence of any specific provision in Section 10 of the Act, petitioner has a right to be heard as the impugned order passed by the Government affects his rights. The direction on the impugned order to the University to issue show cause notice and to hear the petitioner before passing an order of termination is on empty formality, as when once the Government issues a direction, the University is bound to carry out the said direction as ??? is clear from the order. No discretion is left to the University to week explanation from the petitioner and pass appropriate orders on accordance with law. The Government without hearing the petitioner has already taken a decision that his appointment is illegal and the same has to be annulled. The notification issued by the University to the petitioner is a follow up action as they have directed the University to issue a show cause notice, receive reply and a positive direction has been given terminating the services of the petitioner, notwithstanding the contents of the reply and without leaving any discretion, to the University. In that view of the matter the impugned order at Annexure-B and the show cause notice Annexure-A issued by the University cannot be sustained. Accordingly they are quashed. Hence I pass the following order;

i) Rule made absolute.

ii) Annexures A and B are hereby quashed.

iii) Liberty is reserved to the Government to initiate proper proceedings under section 10 of the Act and after hearing the petitioner pass appropriate orders in accordance with law.

No costs."

(Emphasis supplied)

In the light of the law laid down in the afore-quoted judgments, which are of crystalline clarity, the employee against whom action being taken as a result of correspondences between the University and the State shall only be done after affording an opportunity of hearing such employee, failing which, it would become an action in violation of principles of natural justice, rendering itself unsustainable, which the impugned order is. Therefore, the petition deserves to succeed.

9. For the aforesaid reasons, the following:

ORDER

a. The writ petition stands allowed.

b. The matter is remitted back to the second respondent - University to issue notice to the petitioner; if necessary, afford a personal hearing of the petitioner and then pass necessary orders, in accordance with law bearing in mind the observations made in the course of the order, considering the objections if filed and documents so produced by the petitioner in his reply.

c. The impugned communication dated 13.01.2025, of the first respondent made to the second respondent, stands quashed.

d. All other contentions urged by the parties in the subject petition, shall be kept open.

Ordered accordingly.

Sd/-
(M.NAGAPRASANNA)
JUDGE

VNP / CT: ASC
List No.: 1 Sl No.: 82