

Karnataka Home Guards Can Be Suspended Without Prior Notice: High Court

2022 LiveLaw (Kar) 480

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

S.G. PANDIT; J.

WRIT PETITION NO.17691/2022; 8 NOVEMBER, 2022

KEMPAMANI D.E. versus STATE OF KARNATAKA

Petitioner by Pawan Kumar, Adv. for Devendrappa, Adv.

Respondents by M.V. Ramesh Jois, AGA

ORDER

The petitioner, a Home Guard is before this Court under Article 226 of the Constitution of India, challenging the O.M. dated 16.06.2022 bearing No. ~~5343/ಸಿ.ಬಿ.ಎಸ್.~~ 5343/ಸಿ.ಬಿ.ಎಸ್./2022-23 (Annexure-D) whereby the petitioner is kept under suspension.

2. Heard learned counsel Sri.Pawan Kumar for Sri.Devdndrappa, learned counsel for the petitioner and Sri.M.V.Ramesh Jois, learned AGA for respondents. Perused the writ petition papers.

3. Learned counsel for the petitioner would submit that the petitioner was enrolled as Home Guard on 29.07.2019 and the petitioner is discharging his duty as Home Guard till the date of suspension order. It is submitted that respondent-Police filed FIR against the petitioner and others for the offences punishable under Sections 498A, 323, 504, 506 and 343 read with Section 34 of IPC. Learned counsel would submit that the petitioner was granted bail in Crime No.317/2021. It is submitted, in the meanwhile, under impugned O.M. dated 16.06.2022, the petitioner is kept under suspension only on the ground that a criminal case is registered against the petitioner under Sections 498A, 323, 504, 506 and 343 read with 34 of IPC. Learned counsel would contend that no notice is issued to the petitioner before keeping the petitioner under suspension. Only on registration of crime, the respondents could not have kept the petitioner under suspension. Learned counsel would submit that the order of suspension is the result of non-application of mind by the respondent-authorities. Thus, he prays for allowing the writ petition.

4. Having heard the learned counsel for the petitioner and on perusal of the writ petition papers, I am of the view that the petitioner would not be entitled for the relief sought in the writ petition.

5. The Home Guards' appointment is governed by the Karnataka Home Guards Act, 1962. Section 4 of 1962 provides for appointment of members to the Home Guard Force. Section 5 enumerates functions and duties of members of Home Guards. The Commandant General may at any time call out any members of the Home Guards for training or to discharge any of the functions and duties assigned to the Home Guards in any part of the State. Home Guards belong to a Disciplined Force.

6. The petitioner is kept under suspension under impugned O.M. dated 16.06.2022. Suspension is not a punishment. Rule 14-B of the Karnataka Home Guards Rules, 1963 empowers the Commandant General or Commandant to keep a Home Guard under suspension. No notice would be necessary for keeping a Home Guard under suspension, since suspension would be pending or contemplated enquiry. I do not find any error or illegality in the impugned order of suspension.

7. Petitioner is said to have submitted a representation at Annexure-F dated 18.07.2022. Respondent No.3 to consider the said representation and pass suitable orders taking note of the subsequent developments.

With the above, the writ petition stands ***disposed of***.