

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 19TH DAY OF AUGUST 2025

PRESENT



THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT PETITION NO.100890 OF 2022 (S-KAT)

BETWEEN:

DADAPEER BHANUVALLI
S/O. SHABBIR AHMED
AGE: 38 YEARS
OCC: ASSISTANT PUBLIC PROSECUTOR
CUM ASSISTANT GOVERNMENT PLEADER
PRINCIPAL CIVIL JUDGE AND JMFC
SHIKARIPUR
SHIVAMOGGA DISTRICT
R/O. C/O. R.H. BAHANUVALLI
TEACHER'S COLONY
BYADGI TALUK
HAVERI DISTRICT - 581 106

...PETITIONER

(BY SRI. NAGENDRA NAIK FOR
SRI. MAHESH WODEYAR, ADVOCATES)

AND:

1. STATE OF KARNATAKA,
REPRESENTED BY ITS SECRETARY
HOME DEPARTMENT
VIDHAN SOUDHA
BENGALURU-560001



2. THE DIRECTOR
DEPARTMENT OF PROSECUTION AND
GOVERNMENT LITIGATION
6TH FLOOR, CAUVERY BHAVAN
BENGALURU-560009.
3. THE KARNATAKA LOKAYUKTA
REPRESENTED BY ITS REGISTER
M.S. BUILDING
DR. AMBEDKAR VEEDHI
BENGALURU-560001
4. ADDITIONAL REGISTRAR OF ENQUIRIES-12
KARNATAKA LOKAYUKTA
M.S. BUILDING
DR. AMBEDKAR VEEDHI
BENGALURU-560001

...RESPONDENTS

(BY SRI. G.K. HIREGOUDAR, AGA FOR R1 AND R2;
SRI. ANIL KALE, ADVOCATE FOR R3 AND R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OR ORDER OR DIRECTION IN THE NATURE OF CERTIORARI, QUASH THE ORDER DATED 27-09-2021 PASSED BY THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL, BELAGAVI IN APPLICATION NO.1604/2019 VIDE "ANNEXURE-A" AND CONSEQUENTLY ALLOW APPLICATION NO.1604 AS PRAYED FOR AND ETC.

THIS WRIT PETITION, HAVING BEEN HEARD AND RESERVED ON 04.08.2025, COMING ON FOR 'PRONOUNCEMENT OF ORDER', THIS DAY THE COURT PRONOUNCED THE FOLLOWING:

CAV ORDER

(PER HON'BLE MR. JUSTICE C.M. POONACHA)

The present writ petition is filed by the petitioner who was the applicant before the Karnataka State Administrative Tribunal¹ calling in question the order dated 27.09.2021 passed in application No.1604/2019, whereunder the Tribunal dismissed the application filed by the petitioner.

2. The relevant facts in a nutshell leading to present petition are that the respondent No.2-Director of Department of Prosecutions, State of Karnataka issued a Notification on 16.05.2012 to fill up 197 Posts of Assistant Public Prosecutors² cum Government Pleaders³. The petitioner having made an application pursuant to the said Notification was selected and appointed to the post of APP cum Assistant Government Pleader⁴ on 17.06.2014 and he reported for duty on 30.06.2014. By order dated

¹ Hereinafter referred to as 'KSAT'

² Hereinafter referred to as 'APP'

³ Hereinafter referred to as 'GP'

⁴ Hereinafter referred to as 'AGP'

28.10.2016, the probationary period of the petitioner was declared as satisfactory.

3. When things stood thus, pursuant to a private complaint, the Lokayukta Police registered an FIR in Crime No.59/2014 and the (alleged) irregularities committed in the selection process was investigated, consequent to which a charge sheet and additional charge sheet were filed, whereunder, the petitioner was arrayed as the accused No.49. The Lokayukta issued an observation note on 28.06.2018 whereunder it was alleged that the petitioner was involved in certain malpractices in collusion with the Director of Prosecution with an intention to secure an appointment and had involved himself in manipulating answer scripts and that Departmental enquiry should be initiated against him.

4. The petitioner submitted a detailed explanation to the observation note on 17.07.2018, consequent to which the respondent No.3/Lokayukta submitted a report under Section 12(3) of the Karnataka Lokayukta Act,

1984⁵, to the respondent No.1/Secretary, Home Department, State of Karnataka seeking entrustment of enquiry under Rule 11 of the Karnataka Civil Services (Classification Control and Appeal) Rules, 1957⁶. Thereafter, respondent No.1 by order dated 27.11.2018 entrusted the enquiry to the respondent No.3/Lokayukta, consequent to which, the respondent No.4/Additional Registrar of Enquiries, Karnataka Lokayukta issued articles of charge dated 29.12.2018.

5. Being aggrieved by the order of entrustment dated 27.11.2018 and articles of charge dated 29.12.2018, the petitioner filed application No.1604/2019 before the Tribunal. The Tribunal, noticing that by order dated 21.12.2019 passed in application No.10075/2019 filed in respect of the same issue, the order of the Tribunal was affirmed by this Court as also by the Hon'ble Supreme Court and R.P.No.100050/2020 and other connected cases, was dismissed by this Court, the application of the petitioner was also dismissed by the Tribunal by its order

⁵ Hereinafter referred to as 'Act'

⁶ Hereinafter referred to as 'CCA Rules'

dated 27.09.2021. Being aggrieved by the order dated 27.09.2021, the present petition is filed.

6. Learned counsel for the petitioner contends that the charges alleged against the petitioner are in respect of an act done prior to his appointment as an APP cum AGP and hence the same cannot be the subject matter of the investigation by the respondent No.3-Lokayukta. Reliance is placed by the learned counsel for the petitioner on a coordinate bench judgment of this Court in the case of the ***State of Karnataka Vs. M.Iliyas***⁷. Hence, he seeks for allowing the petition and granting of the reliefs sought for.

7. Per contra, learned counsel appearing for the Lokayukta as well as learned AGA appearing for the State contends that a similar question having been considered by this Court in respect of the investigation conducted by the Lokayukta relating to the same recruitment conducted pursuant to the Notification dated 16.05.2012 in the case of ***Smt.Ranjana Suresh Patil Vs State of Karnataka***⁸

⁷ Order dated 16.06.2025 passed in W.A.No.100628/17 (S-RES) C/W WP No.102913/2018(S-KAT)

⁸ ILR 2021 KAR 1980

and this Court having held that the Lokayukta is entitled to investigate the matter, which order not having been interfered with by the Hon'ble Supreme Court in the case of ***Sarojini Veerappa Batakurki Vs. State of Karnataka***⁹, the writ petition filed by the petitioner is liable to be rejected.

8. The submissions made by the learned counsels have been considered and the material on record has been perused.

9. The relevant fact situation is undisputed, in as much as the petitioner was appointed as APP cum AGP pursuant to the recruitment Notification dated 16.05.2012 and that in respect of the appointments made by the said recruitment notification, the Lokayukta has registered an FIR in Crime No.59/2014 and after investigation has filed the charge sheet, whereunder, the petitioner has been arrayed as accused No.49.

⁹ Order dated 19.11.2024, SLP(C) Nos.13918-13919/2021

10. In order to consider the contention put forth by the petitioner, it is necessary to notice the relevant provisions of the Act.

10.1 Section 2 (12) (d) reads as follows:

"2. Definitions. - *In this Act, unless the context otherwise requires,*

(12)"Public servant" means a person who is or was at any time,

(a) xxx

(b) xxx

(c) xxx

(d) a Government Servant;

10.2 Section 7(2), 2(a) reads as follows:

7. Matters which may be investigated by the Lokayukta and an Upalokayukta.

(1) xxx

(2) Subject to the provisions of this Act, an Upalokayukta may investigate any action which is taken by or with the general or specific approval of, any public servant not being the Chief Minister, Minister, Member of the Legislature, secretary or other public servant referred to in sub-section (1), in any case where a complaint involving a grievance or an allegation is made in respect of such action or such action can be or could have been, in the opinion of the Upalokayukta, [recorded in

writing] [Inserted by Act 25 of 2010 w.e.f. 23.07.2010.] the subject of a grievance or an allegation;

(2A) Notwithstanding anything contained in sub-sections (1) and (2), the Lokayukta or an Upalokayukta may investigate any action taken by or with the general or specific approval of a public servant, if it is referred to him by the State Government. [Inserted by Act 31 of 1986 w.e.f. 16.6.1986.]

10.3 Section 8 (1) (a) reads as follows:

8. Matters not subject to investigation. (1) Except as hereinafter provided, the Lokayukta or an Upalokayukta shall not conduct any investigation under this Act in the case of a complaint involving a grievance in respect of any action,

(a) if such action relates to any matter specified in the second Schedule;

10.3.1 Clause (d) of Second Schedule reads as follows:

a. xxx

b. xxx

c. xxx

d. Action taken in respect of appointments, removals, pay, discipline, superannuation or

other matters relating to conditions of service of public servants but not including action relating to claims for pension, gratuity, provident fund or to any claims which arise on retirement, removal or termination of service.

10.4 Section 9 reads as follows:

"9. Provisions relating to complaints and investigations.-(1) *Subject to the provisions of this Act, any person may make a complaint under this Act to the Lokayukta or an Upalokayukta.*

[Provided that in case of a grievance, if the person aggrieved is dead or for any reason, unable to act for himself, the complaint may be made or if it is already made, may be prosecuted by his legal representatives or by any other person who is authorized by him in writing in this behalf.]

(2) *Every complaint shall be made in the form of a statement supported by an affidavit and in such forms and in such manner as may be prescribed.*

(3) *Where the Lokayukta or an Upalokayukta proposes, after making such preliminary inquiry as he deemed fit, to conduct any investigation under this Act, he.-*

(a) shall forward a copy of the complaint and in the case of an investigation initiated suo-motu by him, the opinion recorded by him to initiate the investigation under sub-section (1) or (2), as the case may be, of section 7 to the public servant and the Competent Authority concerned;

(b) shall afford to such public servant an opportunity to offer his comments on such complaint [or opinion recorded under sub-section (1) and (2) of section 7 as the case may be];

(c) may make such order as to the safe custody of documents relevant to the investigation, as he deems fit."

2. Amendment of Section 9.- *In the Karnataka Lokayukta Act, 1984 (hereinafter referred to as the principal Act), in section 9, after sub-section (3), the following shall be inserted, namely:-*

"(3A) The preliminary inquiry contemplated by the Lokayukta or the Upalokayukta before ordering an investigation under sub-section (3), shall ordinarily be completed within a period of ninety days and for the reasons to be recorded in writing within a further period of

ninety days from the date of receipt of complaint.

(3B) In case the Lokayukta or the Upalokayukta, after making such preliminary inquiry, decides to conduct investigation as referred to in sub-section (3), he shall get the investigation conducted as expeditiously as possible and preferably within a period of six months from the date of the order made by him initiating investigation under sub-section (3).

Provided that, the Lokayukta of the Upalokayukta may extend the said period by a further period not exceeding six months at a time for the reasons to be recorded in writing:

Provided further that, any delay in completion of preliminary enquiry or investigation as stated above shall not vitiate the proceedings or cause prejudice, cannot be taken as a defence."

11. Rule 20 of the Karnataka Civil Services (General Recruitment) Rules, 1977¹⁰, reads as follows:

"20. Misconduct.- *A candidate found guilty of impersonation or of submitting fabricated*

¹⁰ Hereinafter referred to as 'the General Recruitment Rules'

documents or documents which have been tampered with or of making statements which are incorrect or false or of suppressing material information or of using or attempting to use unfair means in an examination conducted for purposes of recruitment or otherwise resorting to any other irregular or improper means in connection with his recruitment may in addition to rendering himself liable to a criminal prosecution and to disciplinary action, be debarred either permanently or for a specific period.

(a) by the Commission or other recruiting or examining authority from admission to any examination or appearing for any interview for selection of candidates; and

(b) by the Government from employment under it.”

12. It is forthcoming from a combined reading of Section 7(2) and Section 9 of the Act that an investigation could be undertaken even suo-moto. It is further pertinent to note that Rule 20 of the General Recruitment Rules specifically refers to misconduct by a “candidate”.

13. At this juncture, it is pertinent to notice that, being aggrieved by the action initiated, i.e., passing of an

order of entrustment and issuance of articles of charge pursuant to the investigation undertaken under the provisions of the Act in respect of the recruitment made consequent to the notification dated 16.05.2012, the same was challenged before the Tribunal which were rejected. Being aggrieved by the rejection of the applications, the said applicants had approached this Court. A division bench of this Court considering the said writ petitions in the case of ***Smt.Ranjana Suresh Patil⁸***, framed the following questions for consideration:

"12. Adverting to the arguments advanced by the Learned Counsel for the parties, the questions that arise for consideration of this Court are:

- i) In the facts and circumstances of the case, whether the Karnataka Upalokayukta had the jurisdiction to initiate proceedings against the petitioners under the provisions of the Act, 1984?*
- ii) In the facts and circumstances of the case, whether Rule 20 of the Rules, 1977 could be invoked against the petitioners?*

iii) Whether Clause (d) to Second Schedule read with Section 8(1)(a) of the Act, 1984 is attracted in the present set of facts?

iv) Whether the principles of natural justice are violated by the Upalokayukta and the State Government in initiating proceedings/action against the petitioners?

v) Whether the Article of Charges issued by the Additional Registrar of Enquiries-12 suffers from infirmities?"

14. While considering the said questions, after noticing Sections 2, 7, 8 and 9 of the Act, as also Rule 20 of the General Recruitment Rules as well as various judgments of the Hon'ble Supreme Court and this Court has held as follows:

"38. Having regard to the words "who is or was at any time" as enumerated in Section 2(12) of the Act, we have no hesitation in holding that the petitioners would certainly come within the ambit of public servant as defined in Clause(12) of Section 2 of the Act since indisputably, on the date of initiating proceedings against the petitioners under the provisions of the Act, they were the public servants. Hence, applying Rule 20 of the Rules, 1977 which employs the phrase

"candidates" and public servant as defined under Section 2(12) of the Act, it can be held that the petitioners not holding the public office as on the date of the alleged misconduct, would not disentitle the Upalokayukta to initiate investigation proceedings against them.

39. Section 9 of the Act, 1984 empowers the Lokayukta/Upalokayukta to conduct any investigation under the Act, after making such preliminary enquiry as it deemed fit to initiate investigation suo-moto under sub-Sections (1) or (2), as the case may be, of Section 7. Such exercise of suo-moto power by Upalokayukta after forwarding the opinion recorded by him to initiate such investigation, duly following the principles of natural justice as required, cannot be held to be unjustifiable.

Conclusion:

In the light of the judgments referred to above and for the reasons aforesaid, the view of the KSAT cannot be held to be unjustifiable. We do not find any jurisdictional error in the order impugned. No illegality or irregularity is found in the action of the State Government in receiving the report under Section 12(3) of the Act by the Karnataka Lokayukta and thereafter referring the matter to the Upa Lokayukta for conducting

disciplinary enquiry. Hence, the writ petitions fail and accordingly stand dismissed.”

(emphasis supplied)

15. The judgment in the case of **Smt.Ranjana Suresh Patil⁸**, was challenged before the Hon’ble Supreme Court in the case of **Sarojini Veerappa Batakurki⁹** and the same was dismissed vide order dated 19.11.2024. Thereafter, review petition No.100050/2020 was filed and a co-ordinate Bench of this Court in the case of **Mr. Vijaychandra Prabhu B. Vs. State of Karnataka and others¹¹**, dismissed the said review petitions.

16. The Hon’ble Supreme Court in the case of **State of Karnataka and others Vs. Kempaiah¹²** relied upon by the petitioners considering a fact situation wherein upon receipt of a complaint, the Upa-Lokayukta conducted a preliminary enquiry under Section 7(2) of the Act and called for comments of the Government servant under Section 9(3) which was challenged by the Government servant in a writ petition before the High Court. An FIR

¹¹ R.P.No.100050/2020 and other connected petitions, order dated 28.06.2021

¹² (1998) 6 SCC 103

was also lodged under Section 13(1)(e) r/w Section 13(2) of the Prevention of Corruption Act, 1988 which was challenged by the Government servant in a criminal petition before the High Court. The High Court disposed of the writ petition and criminal petition together. In the writ petition, the High Court upheld the contention of the Government servant that the Upa-Lokayukta was not entitled to investigate the allegation. In a challenge made by the State, the Hon'ble Supreme Court noticed the definition of the word "action" in Section 2(1) of the Act and held that "*the same encompasses administrative action taken in any form by way of recommendation or finding or in any other manner*". The Hon'ble Supreme Court interpreted the words "*in any other manner*" as defined under Section 2(1) of the Act. It was held that the investigation under Section 7(2) was required to be limited to the "action" as interpreted therein.

17. In the case of ***M. Iliyas⁷***, a Co-ordinate Bench of this Court was considering a fact situation, wherein, a candidate was appointed as Junior Engineer in the Rural

Development and Panchayathraj Department on 01.10.1995. That pursuant to a complaint dated 19.02.2014, the Lokayuktha submitted a report under Section 12(3) of the Act, *prima facie* finding that, the respondent did not have the requisite educational qualification to be appointed as Junior Engineer at the time of his appointment. Pursuant thereto, an order was passed by the Chief Executive Officer, Zilla Panchayat, Koppal on 25.01.2016 demoting the respondent from the post of Junior Engineer to Second Division Clerk. Challenging the same, the candidate had preferred W.P.No.101343/2016, calling in question the order of demotion, wherein, the learned Single Judge of this Court, noticed that the candidate had passed S.S.L.C., when he was appointed on a contract basis to the post of Junior Engineer, also obtained a Diploma Certificate from the Board of Technical Examination on 28.01.2005. The learned Single Judge, noticing that, although the candidate had only an S.S.L.C. qualification, when he was appointed on a contract basis, since the candidate had served as a Junior Engineer for

more than 24 years during which period he had obtained Diploma Certificate, set aside the order of demotion. The appeal filed by the State questioning the order of the learned Single Judge was heard along with the writ petition filed by the candidate challenging the dismissal of his application before the Tribunal, wherein, the order of entrustment and articles of charge were the subject matter of challenge. A co-ordinate bench of this Court, dismissed the writ appeal filed by the State and allowed the writ petition filed by the candidate and set aside the order of entrustment and articles of charge. In the case of **M.Iliyas⁷**, the co-ordinate bench also referred to the judgment of Hon'ble Supreme Court in the case of **Kempaiah¹²** and held as under:

"18. In fact, as rightly pointed out by the learned counsel for the contesting respondents, Annexure-A order dated 04.01.2006, by virtue of the Chief Executive Officer regularized the services of the contesting respondent and many other persons, bears reference to the Government Order dated 20.10.1994. However while

passing the order of demotion the Chief Executive Officer has failed to look into the Government Order. Therefore, as on the date of regularization of the services, the contesting respondent had requisite educational qualification. In fact the Principal Secretary of the R.D.P.R. had communicated to the Chief Executive officer on 20.10.2015 at annexure-G that the question raised regarding the educational qualification and regularization of services of the contesting respondent was considered and had clearly directed that the matter stands closed. Nevertheless the Chief Executive Officer passed the impugned order on 25.01.2016 demoting the contesting respondent from the post of Junior Engineer to the post of Second Division Clerk, which was uncalled for.

19. We are also of the considered opinion that the entrustment of the enquiry in this regard, not being an administrative action on the part of the contesting respondent, during his services, could not have been entrusted to the Lokayuktha, since it is beyond the scope and object of the Karnataka Lokayuktha Act, to go into such grievances which arise during the

recruitment of an employee. Further, since this Court has also opined that the regularization of services of the contesting respondent is in accordance with law, no further enquiry at the hands of the State Government or the Lokayuktha can continue."

(emphasis supplied)

18. It is clear and forthcoming from the aforementioned that the co-ordinate bench of this Court in the case of **Smt.Ranjana Suresh Patil⁸** had noticed the scope and extent of investigation that was permissible under the Act with specific reference to the investigation carried out in respect of the irregularities in the recruitment Notification dated 16.05.2012 and having specifically answered the contention raised that the alleged irregularities pertains to a time prior to the appointment of the candidate as a Government servant, upon noticing Rule 20 of the General Recruitment Rules, having held that such an investigation is permissible, which has also been not interfered by the Hon'ble

Supreme Court, the same would also be applicable *qua* the petitioner in the present writ petition.

19. The reliance placed by the learned counsel for the petitioner on the judgment of Hon'ble Supreme Court in the case of ***Kempaiah***¹² as also co-ordinate bench judgment in the case of ***M.Ilyas***⁷ will not aid the case of the petitioner since the said case arose from an entirely different factual matrix and Rule 20 of the General Recruitment Rules *vis-à-vis* Section 7 of the Act were not considered in the said cases.

20. In view of the discussion made above, the writ petition is dismissed as being devoid of merit.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C.M. POONACHA)
JUDGE**

HMB/YAN/PMP