

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF AUGUST 2022

PRESENT

THE HON'BLE MR. ALOK ARADHE
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE S. VISHWAJITH SHETTY

W.P. NO.22546 OF 2021 (GM-RES)

BETWEEN:

MISS. PUSHPA B. GAVADI

... PETITIONER

(BY MR. N. SPIRAM REDDY, ADV.,)

AND:

1. THE GOVERNMENT OF KARNATAKA
VIDHANA SOUDHA
BENGALURU-560001
REP. BY ITS CHIEF SECRETARY.
2. THE PRINCIPAL SECRETARY
GOVERNMENT OF KARNATAKA
DEPARTMENT OF FOREST, ECOLOGY
AND ENVIRONMENT, NO.708
M S BUILDING, 7TH FLOOR
NEAR VIDHANASOUDHA
AMBEDKAR VEEDHI, BENGALURU-560001.

3. THE MEMBER SECRETARY
KARNATAKA STATE POLLUTION CONTROL BOARD
PARISARA BHAVANA, NO.49
CHURCH STREET, BENGALURU-560001.
4. DR. SHANTH AVERAHALLY THIMMAIAH

... RESPONDENTS

(BY MR. A.S. PONNANNA, SR. COUNSEL FOR
MRS. LEELA P. DEVADIGA, ADV., FOR C/R4
MR. DHYAN CHINNAPPA, AAG A/W
MRS. VANI H, AGA FOR R1 & R2
MR. BASAVARAJ S. SAPPANNAVAR, ADV., FOR R3
(ABSENT)
R4 SERVED)

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THIS W.P. IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE AN ORDER/DIRECTION OR WRIT IN NATURE OF QUO-WARRANTO TO RECALL OR SET ASIDE THE ORDER BEARING NO.A.P.G. 143 EPC 2020, DATED 15/11/2021 AS PER ANNEXURE-C. ANY OTHER ORDER OR DIRECTION IN THE FORM OF WRIT INCLUDING COST OF WRIT PETITION & ETC.

THIS W.P. COMING ON FOR FINAL DISPOSAL, THIS DAY, **ACTING CHIEF JUSTICE** MADE THE FOLLOWING:

ORDER

The petitioner is a Post Graduate Law Student. The petitioner by means of a writ of quo warranto has questioned the appointment of respondent No.4 Dr.Shanth Averahally Thimmaiah (hereinafter referred to as respondent No.4 for short) for the post of Chairman, Karnataka State Pollution Control Board (hereinafter referred to as 'the Board' for short). The petitioner seeks quashment of order dated 15.11.2021.

2. The grievance of the petitioner is that respondent Nos.1 to 3 had ignored the disqualification prescribed under Section 6(1)(e) of The Water (Prevention and Control of Pollution) Act, 1974, (hereinafter referred to as 'the Act' for short) while nominating respondent No.4 for the post of Chairman of the Board for a period of three years.

3. Learned counsel for the petitioner fairly submitted that respondent No.4 had the qualification as prescribed under Section 4(2)(a) of the Act. However, it is submitted that two months prior to his nomination, the respondent No.4 was Director of Metamorphosis Lab Private Limited and Mahrishi Ores Private Limited and therefore, in view of bar contained in Section 6(1)(e) of the Act was disqualified to be nominated as Chairman on account of conflict of interest. In support of aforesaid submissions, reliance has been placed on decision of Supreme Court in **'A.C.MUTHAIAH VS. BOARD OF CONTROL FOR CRICKET IN INDIA', (2011) 6 SCC 617** and **ASHOK KUMAR YADAV VS. STATE OF HARYANA, (1985) 4 SCC 417.**

4. On the other hand, learned Additional Advocate General submitted that in compliance with the directions of the Hon'ble Supreme Court in **'TECHI**

TAGI TARA VS. RAJENDRA SINGH BHANDARI AND OTHERS', (2018) 11 SCC 734 guidelines viz., 'guidelines for nomination, terms and conditions of service of Chairman, Members and appointment of Member Secretary of the Karnataka State Pollution Control Board' were framed. It is further submitted that Selection Committee constituted by the State Government verified the details of the candidates and after scrutiny, respondent No.4 was selected for the post of Chairman. It is further submitted that respondent No.4 at the time of his selection did not suffer from any disqualification.

5. We have considered the submissions made on both sides and have perused the record. The Supreme Court in **TECHI TAGI TARA** supra directed the State Government to frame appropriate Guidelines / Recruitment Rules within a period of six months. In compliance of the aforesaid direction, Government of

Karnataka by an order dated 19.06.2020 framed the guidelines. Para 3 of the aforesaid guidelines provides for educational qualification, whereas, para 4 deals with age limit. Para 5 provides for constitution of Search-cum-Selection Committee. The aforesaid guidelines were amended by issuance of corrigendum dated 21.07.2020 and 21.09.2020 and 06.11.2020.

6. In accordance with the guidelines, a search committee was constituted. The relevant extract of Section 4(2)(a), which prescribes for qualification of a Chairman, read as under:

4. Constitution of State Board.—

(1) xxxxx

(2) A State Board shall consist of the following members, namely:—

(a) a chairman, being a person having special knowledge or practical experience in respect of 7 [matters relating to environmental protection] or a person having knowledge and experience in administering institutions dealing with the matters aforesaid, to be nominated by the State Government:

7. Admittedly, respondent No.4 possesses the aforesaid qualification. The only contention urged is that the respondent No.4 was disqualified under Section 6(1)(e) of the Act. The relevant extract of Section 6(1)(e) of the Act reads as under:

6. Disqualifications.—(1) *No person shall be a member of a Board, who—*

(a) xxxx

(b)xxxx

(e) has directly or indirectly by himself or by any partner, any share or interest in any firm or company carrying on the business of manufacture, sale or hire of machinery, plant, equipment, apparatus or fittings for the treatment of sewage or trade effluents.

8. It is not the case of the petitioner that at the time of nomination, the respondent No.4 was either a Director of the Company or a Partner of a

firm. Thus, there is no infraction of Section 6(1)(e) of the Act.

9. A writ of quo warranto can be issued when the holder of public office has been appointed in violation of constitution or statutory provisions. In the instant case, the petitioner has not been able to demonstrate that respondent No.4 has been appointed in violation of any statutory provision.

For the aforementioned reasons, we do not find any merit in this petition. The same fails and is hereby dismissed.

**Sd/-
ACTING CHIEF JUSTICE**

**Sd/-
JUDGE**