



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF NOVEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE ASHOK S.KINAGI

WRIT PETITION NO. 26355 OF 2025 (S-RES)

BETWEEN:

DEVANAND PUTTAPPA NAYAK
AGED ABOUT 63 YEARS,
SON OF PUTTAPPA NAIK
RESIDING AT NO.29-534-214
KAKOL ROAD, 5TH CROSS
SOMESHWAR NAGAR,
BYADAGI -581106

...PETITIONER

(BY SRI. P.S. RAJAGOPAL, SR. COUNSEL FOR
SRI. KASHYAP N. NAIK., ADVOCATE)



AND:

1. STATE OF KARNATAKA
REPRESENTED BY PRINCIPAL SECRETARY
REVENUE DEPARTMENT,
M S BUILDING
BANGALORE-560001



2. THE REGISTRAR

KARNATAKA LAND GRABBING SPECIAL COURTS,
BENGALURU
3RD FLOOR, KANDAYA BHAVAN,
BENGALURU-560001

...RESPONDENTS

(BY SRI. K. SHASHIKIRANSHETTY, AG A/W

SMT. B.P. RADHA, AGA

V/O DATED 10.11.2025 VIKRAM HUILGOL, SR. COUNSEL
APPOINTED AS AMICUS CURIAE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO 1) ISSUE A WRIT OF MANDAMUS OR SUCH OTHER APPROPRIATE WRIT/S DIRECTING THE RESPONDENTS TO FRAME APPROPRIATE REGULATIONS OR GUIDELINES FOR THE SELECTION AND APPOINTMENT TO THE POSTS OF CHAIRPERSON, JUDICIAL MEMBER AND REVENUE MEMBER OF THE KARNATAKA LAND GRABBING PROHIBITION SPECIAL COURTS, BENGALURU.

THIS PETITION, COMING ON FOR FURTHER HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE ASHOK S.KINAGI



ORAL ORDER

1. The petitioner filed this writ petition seeking following prayer:

"To issue a writ of mandamus or such other appropriate writ/s directing the respondents to frame appropriate regulations or guidelines for the selection and appointment to the posts of Chairperson, Judicial Member And Revenue Member of the Karnataka Land Grabbing Prohibition Special Courts, Bengaluru."

2. The brief facts leading rise to filing of this writ petition are as follow:
3. The petitioner is challenging the arbitrary and non-transparent selection process adopted by the State of Karnataka for appointment to the Karnataka Land Grabbing Prohibition Special Court, Bengaluru. The petitioner, a retired District Judge seeks a direction to the respondents to frame appropriate regulations or guidelines for selection and appointments to the



post of Chairperson, Judicial Member, and Revenue Member of the said Special Court. The petitioner retired as a second Additional District Concession Judge in March 2023 after an unblemished service record. Following vacancies in the Karnataka Land Grabbing Prohibition Special Code, the Government of Karnataka issued Public Notices on 16.07.2025. Calling for application to the post of chairman, judicial member and revenue member. The petitioner duly applied for the post of judicial member on 08.08.2025.

4. The Karnataka Land Grabbing Prohibition Act, 2011 under Section 7 establishes the Special Court, with a chairman, two judicial members, and two revenue members. The Act only prescribes minimum qualifications. The chairman must be a sitting or retired High Court Judge, the judicial member must be a sitting or retired District Judge, and the revenue members must hold or have held a post not below



the rank of Deputy Commissioner. Neither Karnataka Land Grabbing Prohibition Act nor the Karnataka Land Grabbing Prohibition Special Court (Conditions of Service of the Chairman and Members) Rules, 2017 prescribes any selection procedure or criteria beyond these basic qualifications. It is contented that complete absence of a selection procedure or criteria renders the entire process arbitrary, unfair and violative of Articles 14 and 16 of the Constitution of India. The lack of transparency in selection and appointment to a judicial post undermines the rule of law. And is contrary to the settled principles established by the Hon'ble Apex Court and the High Court of Karnataka. Hence, the petition is filed seeking direction to the respondents to frame the appropriate regulations or guidelines for selection and appointment to the post in the Karnataka Land Grabbing Prohibition Special Courts.



5. The State filed a statement of objections containing that The writ petition filed by the petitioner is not maintainable either under law or on facts. It is contended that respondent no. 2 is a special court constituted under Section 7 of the Karnataka Land Grabbing Prohibition Act, 2011 for the purpose of providing speedy enquiry into any alleged act of land grabbing and for the trial of cases relating to ownership, title or lawful possession of land alleged to have been grabbed without a valid or lawful title and those offences specified in Chapter XIV-A of the Land Revenue Act, 1964. As per Sub-section 2 of Section 7 of the Act, the Special Court consists of a chairman, and four members to be appointed by the government. The register of Karnataka Land Grabbing Special Court i.e., Respondent no. 2 by an order of Government has issued a Public Notices / Advertisement No.1 of 2025 dated 15.07.2025 calling for the recruitment to the post of chairman.,



judicial members and revenue members in the Karnataka Land Grabbing Prohibition Special Court. The said advertisement was issued for calling application as per the stipulated norms under subsection 3 of Section 7 of the Karnataka Land Grabbing Prohibition Act, 2011. The petitioner challenged the advertisements issued for recruitment to various posts in the Special Court constituted under the Act, on the sole ground that the Government has not prescribed specific rules governing the selection process, thereby rendering the process unfair and lacking in transparency. However, the said contention is untenable and irrelevant to the present case. Section 7 of the Karnataka Land Grabbing Prohibition Act, 2011 (hereinafter "the Act of 2011" for short) stipulates the qualification and composition of the Special Court. The statute itself necessitates the appointment of highly qualified and experienced



persons i.e., The chairman and judicial members being sitting or retired members of the said of the esteemed judiciary and the revenue members being the senior officers of the state not below the rank of Deputy Commissioner. Accordingly, in the light of clear statutory prescription under Section 7 of the Act of 2011, the absence of separate recruitment rules cannot be a valid ground to challenge the process, nor can it give rise to any apprehension of arbitrariness or lack of transparency. Hence prays to dismiss the petition.

6. Heard Sri.P.S. Rajagopal, learned Senior Counsel for the petitioner and Sri.Sashi Kiran Shetty, learned Advocate General for the State.
7. Learned Senior Counsel appearing for the petitioner submit that Articles 14 and 16 of the Constitution of India guarantee equality before law and equality of opportunity in public employment. This constitutional



provision serves as the foundation for ensuring the appointment to the public offices are made in a fair, transparent, and non-arbitrary manner. It is submitted that the Supreme Court has consistently emphasized that the process of selection in making appointments to the public posts must comport with the principles of reasonableness under Article 14 and equality in public employment under Article 16. It is submitted that the selection process is inherently unfair, lacks transparency and ex-facie arbitrary. He also submits that the Government of Karnataka has completely failed to prescribe any selection process or qualification criteria to determine the appointment should be based on merits as required by law. To buttress his argument, he has placed a reliance on the judgment of the Hon'ble Apex Court in the cases of ***Renu and others v. District and Session Judge, Tishazri and another***, reported in **(2014) 2 S.C.R. 537**, and ***State of A.P v. State of***



Karnataka and others reported in ***AIR 2001 SC 1560***. He also placed reliance on judgement of the coordinate bench of this Court in the case of ***the Karnataka Kaigarika Pradeshabhivruddi Mandali v. The State of Karnataka*** in ***WP No. 33055 of 2019*** disposed of on 08.05.2020. It is imperative that there should be a proper application of mind, before making an appointment. First of all only prescribing a minimum qualification without any procedure or method for differentiating between multiple candidates applying for the same post, is grossly arbitrary and unsustainable in law. Most of the candidates cannot be kept in the dark on the criteria and selection process that would be adopted by the appointing authority and the manner in which the present appointments are sought to be made by the State are thus violative of Article 14 of the Constitution. As it is inherently unfair, lacks transparency and certainty is ex-facia arbitrary. He



also submitted that complete failure to prescribe any selection criteria or process in complete abdication of duty of the State and leaves the selection/appointment entirely at the discretion of the appointing authority. He also submits that the Act prescribes the appointment for the post of chairman, shall be made after the consultation with the Chief Justice of the High Court, no such consultation is even required for appointment as a judicial member. There are neither any safeguards or any transparency in the selection nor appointment, to the post of judicial member, thus rendering the entire selection process arbitrary. Hence, on these grounds, he prays to allow the writ petition.

8. *Per contra*, learned Advocate General submits that the writ petition filed by the petitioner is not maintainable, either under law or on facts. He submit that Sub-section 2 of Section 7 of the Act of 2011, the Special Court consists of the chairman and four



members to be appointed by the government and the said section stipulates the qualification and composition of the Special Court. The statute itself necessitates the appointment of highly qualified and experienced persons i.e. the chairman and judicial members being sitting or retired members of a esteemed judiciary and the revenue members being the senior officers of the State not below the rank of the Deputy Commissioner. He submitted that the post constitutes the pleasure appointments made by the government and the members of the Special Courts have been appointed on three different occasions, depending upon the vacancies arising from time to time. He also submitted that it is settled position of law that the executive is always entitled to take a policy decisions in accordance with the facts and circumstances of each case. At the same time, the Judiciary ought not to venture into the legislative domain by issuing a writ of mandamus directing the



government or any executive authority to frame rules or regulations unless the statute expressly mandates the same and there is no necessity for the separate selection criteria for selection of a chairman and other members of the Special Court and he submitted that the appointments of the judicial members and revenue members rest exclusively as a prerogative of the State Government as expressly provided under Section 7 of the Act, and any related public notice/advertisements are issued in accordance with the statutory provisions. He submitted that the division bench of this Court in WP No. 47747/2017 and connected matters has upheld the constitutional validity of the Act of 2011. His argument has placed a reliance on the judgment of the Hon'ble Apex Court in the case ***State of A.P. and others vs. K. Mohanlal and Another*** reported in ***(1998) 5 SCC 468***. Hence on these grounds, he prays to dismiss the writ petition.



9. Perused the records and considered the submissions of the learned counsel for the parties.
10. It is an undisputed that the petitioner was appointed as a District and Session Judge and he retired after attaining the age of superannuation. On 21.09.2023, one post of Judicial Member of Karnataka Land Grabbing Prohibition Special Court became vacant. Following the vacancy in the Special Court, the Government of Karnataka issued a public notice on 16.07.2025 vide Annexure C, calling for the application to the post of chairman, judicial member and revenue member of the Special Court. The petitioner being the retired District and Session Judge applied for the post of judicial member on 08.08.2022 vide Annexure E. However, it is the case of the petitioner that the Public Notices issued by respondent no.1 prescribes only a single qualification criteria i.e. Sitting or retired High Court Judge for the post of chairman and sitting or retired District Judge



for the post of judicial member and without any procedure or guidelines for the selection in the case of multiple candidates applying for the same post. First of all, the Land Grabbing Prohibition Act, 2011 provides for the establishment of the Karnataka Land Grabbing Prohibition Court comprising of a chairman, two judicial members and two revenue members. Karnataka Land Grabbing Prohibition Act nor the Karnataka Land Grabbing Prohibition Special Code (Condition of Service of a Chairman and Members) Rules 2017 prescribes any selection procedure or criteria beyond these basic qualifications.

11. For the purpose of better understanding The perusal of Section 7 of Karnataka Land Grabbing Prohibition Act is required to be examined. Thus, Section 7 of Karnataka Land Grabbing Prohibition reads as follows:

"Section 7. **Constitution of a Special Courts** - (1) The Government may for



the purpose of providing speedy enquiry into any alleged act of land grabbing and the trial of cases in respect of ownership and title to, or lawful possession of, the land grabbed and those offences specified in Chapter XIV-A of the Karnataka Land Revenue Act, 1964, by notification, constitute a special court.

(2) a special court shall initially consist of a chairman and four members to be appointed by the government.

(3), the chairman shall be a person who is or was A judge of a High Court and of other four members., two shall be persons who are or were District Judges. Hereinafter referred to as judicial members and the other two members shall be persons who hold or have held a post not below the rank of Deputy Commissioner of the District. Hereinafter referred to as revenue members.

Provided that the appointment of a person who was a judge of High Court As the chairman of the Special Court shall be made after consultation with the Chief Justice of the High Court.



(4) The government, if, it is of the opinion that the additional bench of the Special Court is necessary for trial of said cases, may likewise constitute additional benches of the Special Court, by notification, in the respect of such areas, as may be specified therein".

12. The perusal of Section 7 of the Act of 2011 discloses that the said provision prescribes only minimum qualification for the post of judicial member and the chairman of Special Court and further perusal of the Rules of 2017 discloses that there are no rules and regulations regarding the appointment of a judicial member for Special Courts. Further, Section 18 of the Act of 2011 entrusts the power to make rules for carrying out the purposes of the Act of 2011, on the State Government. It is the case of the petitioner that the respondent has completely failed to prescribe rules, in its advertisement vide Annexure C (colly), regarding selection process or qualification criteria for the appointment of a judicial member



post as required under the law and thus, there is a lack of transparency in selection process and appointment to the judicial post undermining the rule of law and violates Article 14 and 16 of the Constitution of India.

13. The Hon'ble Apex Court in ***Renu and others v. District and Session Judge, Tishazri and another***, (*referred supra*) had an occasion to explain regarding the requirement of transparency in public employment. In para 16 of the said judgment which reads as follows:

"16. Another important requirement of public appointment is that of transparency. Therefore, the advertisement must specify the number of posts available for selection and recruitment. The qualification and other eligibility criteria for such posts should be Explicitly provided and the schedule for requirement process. Should be published with certainty and clarity. The advertisement should also specify the



rules under which the selection is to be made and in the absence of the rules, the procedure under which the selection is likely to be undertaken. This is necessary to prevent arbitrariness and to avoid change of criteria of selection after selection process is commenced, thereby unjustly benefiting someone at the cost of others."

14. In view of the judgment of the Hon'ble Apex Court, the advertisements itself should specify the schedule of requirement process and it should be published with certainty and clarity. Post of the advertisements should also specify the rules under which the selection is to be made and in the absence of the rules, common the procedure under which the selection is likely to be undertaken.
15. Further, the Hon'ble Apex Court in the case of Supreme Court advocates on record ***Supreme Court Advocates on Record and Another v. Union of India*** reported in ***(2015) 13 SCR 1***, held that: "the



judicial appointment should be made on the basis of clearly defined criteria and by published declared process. The process should ensure equality of opportunity for all who are eligible for judicial office."

16. Admittedly in the present matter on hand the State has not specified the eligibility criteria of the members who are similarly qualified and who have qualified the minimum requirement qualification for the post of Judicial Member at Special Court, as provided under Section 7 of the Act of 2011. The impugned notice or advertisement issued by the respondents is without any procedure or guidelines for the selection in the case of multiple candidates applying for the same post. The State Government is interested with the powers to make rules regarding the appointment, it has not specified any procedure under which the selection is likely to be undertaken. The failure to prescribe any selection criteria or process is the dereliction of duty on the part of the



State and results in the infringement of fundamental rights to an equal opportunity in public employment. There is a lack of transparency in the selection process as published via Public Notice dated 16.07.2025. There is an ambiguity in the selection procedure and thus the Public notice dated 16.07.2025 is violative of Article 14 and 16 of the Constitution of India. The said Act leaves the selection of the appointment commentary at the discretion of the appointing authority i.e., State, which is against the rule of law.

17. The Hon'ble Apex Court in the case of ***Madras Bar Association v. Union of India*** reported in **(2021) 7 SCC 369**, held that the independent tribunals for determining the rights of the citizen is necessary concomitant of rule of law. Thus the selection for the post of Judicial Member for Special Court without any prescribed procedure, hinders the rule of separation of power and thus, the action of the respondents in



not prescribing the qualification for the appointment of members of Karnataka Land Grabbing Prohibition Court is arbitrary and arbitrary.

18. Thus the perusal of the rulings of the Hon'ble Apex Court disclose that it has stressed that members of tribunals must be qualified to protect the constitutional guarantee of an independent judiciary, especially when tribunals exercise judicial functions. The court has directed that qualifications for judicial members of tribunals should be similar to those for judges of the High Court. This typically means eligibility for appointment as a High Court judge, which requires a certain number of years of legal experience. The Supreme Court has ruled against minimum age restrictions (like 50 years) that are deemed arbitrary, as they can deter younger talent and do not align with the goal of appointing qualified individuals with the right experience. While qualifications for technical members can be different,



the Court has implied they should also have specialized expertise in the field the law dealing with the land grabbing. The Court has repeatedly struck down legislation that does not comply with its prior judgments on tribunal appointments.

19. Learned Advocate General placed reliance on the judgment of the Hon'ble Apex Court in the case of ***State of A.P. and others Vs K Mohanlal and Another*** (referred *supra*) wherein the Hon'ble Apex Court has upheld the constitutional validity of the Andhra Pradesh Land Grabbing Prohibition Act, 1982. The Section 7 of the Andhra Pradesh Land Grabbing Prohibition Act, 1982 is identical to Section 7 of the Act of 2011. The judgment rendered in the K. Mohanlal and another (referred *supra*), wherein the Hon'ble Apex Court in para 15 held that: "The High Court, therefore was not right in giving directions for mandatory consultation with the Chief Justice of the High



Court in the case of appointment of all members including Revenue Members of the Special Court...."

20. However, in subsequent case, the Hon'ble Apex Court, i.e., in the case of ***Ganeshkumar Rajeshwar Rao Selukar and Another v. Mahendra Bhaskar Limaye and Others***, reported in ***(2025) 8 SCC 634***, by placing reliance on its own proposition of law laid down in the case ***Supreme Court Advocates-on-Record Assn. v. Union of India*** reported in ***(2016) 5 SCC 1***, held that " the primacy of judiciary is imperative in selection and appointment of judicial officers including Judges of the High Court and the Supreme Court. Cognizant of the doctrine of separation of powers, it is important that judicial appointments take place without any influence or control of any other limb of the sovereign. Independence of judiciary is the only means to maintain a system of checks and balances on the working of legislature and the executive. The executive is a litigating party in most of the litigation and



hence cannot be allowed to be a dominant participant in judicial appointments."

(Emphasis supplied)

21. It is the well settled principle of law that the judicial independence and separation of judicial power from the executive, are part of common law tradition and implicit in the Constitution itself. The exclusion of the judiciary from the process of appointment of the judicial officers of the Special Courts constituted under a Statute would be detrimental to the independence of judiciary and against the principle of superstition of power and also violates the principle of rule of law. In view of the above proposition the judicial appointments should take place without any influence or control of any other limb of the sovereign. Thus, the executive cannot be a dominant participant in the judicial appointments.



22. The Division Bench of the Bombay High Court in the case of ***Dr. Sanjay Lakhe Patil v. State of Maharashtra and others***, reported in **2018 SCC OnLine Bom 1661**, held in para 27 as follows:

"**27.** Ordinarily, it is not for this Court to issue writs or orders or directions to the State Government to exercise its Rule making power and in pursuance thereof to frame Rules. However, in a situation where there is no implementation of a Central Act, as important as the DMA, for want of the State Government framing Rules for a period of over 12 years from the date when the DMA has come into force, we are left with no option but to issue appropriate writ, order or direction requiring the State Government to take all steps to implement the provisions of the DMA in general and in particular to frame Rules within a time bound manner, so that, there is no effective implementation of the provisions of DMA. The State Government cannot frustrate the provisions of an all important enactment like the DMA, which deals with



precious lives and property of the peoples by unreasonably delaying the framing of Rules, in the absence of which, the various authorities under the DMA are unable to function effectively."

(Emphasis supplied)

23. The Full Bench of the Bombay High Court in the case of **Dr. Sanjay Lakhe Patil** (supra), relying upon the judgment of Hon'ble Apex Court in the case of **Aeltemesh Rein vs. Union of India** reported in **(1988) 4 SCC 54**, held in para No.30, which reads as follows:

"30. In Aeltemesh Rein v. Union of India. [(1988) 4 SCC 54], the Supreme Court noticed that nearly 27 years had lapsed since the Advocates Act, 1961 was passed but no decision had yet been taken by the Central Government on the issue of bringing into force the provisions of Section 30 thereof. In this context, the Supreme Court held that every discretionary power vested in the executive should be



exercised in a just, reasonable and a fair way. Accordingly, the Central Government was directed to consider within a reasonable time the question whether the Section 30 of the said Act can be brought into force or not. The Supreme Court observed that if on such considerations the Central Government feels that the prevailing circumstances do not render it appropriate for the provisions to be brought into force, that is a different matter. But, the Government cannot be allowed to leave the matter to lie over without applying its mind to the said question. The Supreme Court noted that even though the power under Section 1(3) of the Advocates Act with regard to the bringing into force of the provisions of the Act is discretionary, the Central Government should be called upon to consider the question whether it should exercise the discretionary one way or the other having regard to the fact that more than a quarter of century has elapsed from the date on which the Act entered into force. Accordingly, a writ of mandamus was issued to the Central



Government to consider within a period of six months whether Section 30 of the Act should be brought into force or not."

24. Further, the Hon'ble Apex Court, in the case of ***Renu and others v. District and Session Judge, Tishazri and another***, (referred *supra*) issued the guidelines/directions regarding the appointments in the High Courts as well as the other subordinate Courts, in para 35, as follows:

"35. the appeal stands disposed of with the following directions:

i) All High Courts are requested to re-examine the statutory rules dealing with the appointment of staff in the High Court as well as in the subordinate courts and in case any of the rule is not in conformity and consonance with the provisions of Articles 14 and 16 of the Constitution, the same may be modified.



- ii) To fill up any vacancy for any post either in the High Court or in courts subordinate to the High Court, in strict compliance of the statutory rules so made. In case any appointment is made in contravention of the statutory rules, the appointment would be void ab-initio irrespective of any class of the post or the person occupying it.
- iii) The post shall be filled up by issuing the advertisement in at least two newspapers and one of which must be in vernacular language having wide circulation in the respective State. In addition thereto, the names may be requisitioned from the local employment exchange and the vacancies may be advertised by other modes also e.g. Employment News, etc. Any vacancy filled up without advertising as prescribed hereinabove, shall be void ab-initio and would remain unenforceable and inexecutable except such appointments which are permissible to be filled up without



advertisement, e.g., appointment on compassionate grounds as per the rules applicable. Before any appointment is made, the eligibility as well as suitability of all candidates should be screened/tested while adhering to the reservation policy adopted by the State, etc., if any.

- iv) Each High Court may examine and decide within six months from today as to whether it is desirable to have centralized selection of candidates for the courts subordinate to the respective High Court and if it finds it desirable, may formulate the rules to carry out that purpose either for the State or on Zonal or Divisional basis.
- v) The High Court concerned or the subordinate court as the case may be, shall undertake the exercise of recruitment on a regular basis at least once a year for existing vacancies or vacancies that are likely to occur within the said period, so that the vacancies are filled up timely, and thereby avoiding any



inconvenience or shortage of staff as
it will also control the menace of ad-
hocism."

(emphasis supplied)

25. Thus, in view of the above discussion, and the propositions laid down by the Hon'ble Apex Court in its various judgements, the post of Chairperson and members are vacant. Considering the vacancy for the post of Chairperson and members, the respondents shall exercise the power of the framing of rules and regulations as early as possible.

26. This Court express gratitude for the assistance rendered by Shri. Vikram Huilgol, learned Senior counsel.

27. Accordingly, I pass the following order:

ORDER

- (i) The writ petition is ***allowed***.
- (ii) The Respondents are directed to complete the exercise of frame



and frame appropriate guidelines or regulations for the selection and appointment to the posts of Chairperson, Judicial Member and Revenue Member of the Karnataka Land Grabbing Prohibition Special Courts within 3 months from the date of receipt of this order.

(v) Pending IAs, if any, disposed of accordingly.

Sd/-
(ASHOK S.KINAGI)
JUDGE

RK (ONLINE)
CT:KHV

List No.: 1 Sl No.: 22