

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 20<sup>TH</sup> DAY OF JUNE, 2019**

**PRESENT**

**THE HON'BLE MR. ABHAY S. OKA, CHIEF JUSTICE**

**AND**

**THE HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD**

**WRIT PETITION NO.6715/2017 (GM-RES-PIL)**

**BETWEEN:**

SRI V. MARA NAYAKA  
AGED ABOUT 72 YEARS,  
S/O ERAIAH,  
R/AT ESHWARA NILAYA,  
N.I.C. LAYOUT, 4<sup>TH</sup> CROSS,  
KONASAGARA ROAD,  
MOLKALMURU TOWN & TALUK,  
CHITRADURGA DISTRICT-577535.  
(not claiming the benefit of senior citizen)

... PETITIONER

(BY SHRI RAMA BHAT K., ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA  
REP. BY ITS UNDER SECRETARY TO GOVT.,  
TOWN PLANNING DEPARTMENT  
VIDHANA SOUDHA,  
BENGALURU-560001.
2. THE DEPUTY COMMISSIONER  
CHITRADURGA DISTRICT,  
CHITRADURGA-577501.
3. THE CHIEF OFFICER  
MOLAKALMURU TOWN PANCHAYATH,

MOLKALMURU TALUK,  
CHITRADURGA DISTRICT-577535.

4. THE ASST. DIRECTOR  
SOCIAL WELFARE DEPARTMENT,  
MOLAKALMURU,  
MOLKALMURU TALUK,  
CHITRADURGA DISTRICT-577535

.... RESPONDENTS

(BY SHRI V.G. BHANU PRAKASH, AGA FOR R1, R2 & R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE IMPUGNED ORDER DTD:7.1.2017 ISSUED BY THE R-2 AND THEREBY STOP THE CONSTRUCTION OF GIRLS HOSTEL BUILDING IN THE CA SITE MEASURING 90 X 115FT KHATHA NO.3658/1, COMPRISED IN R-SY NO.90/4 SITUATED AT N.I.C. LAYOUT, KONASAGARA ROAD, MOLKALMURU TOWN CHITRADURGA DIST, AS PER ANNEXURE-A AND ETC.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP THIS DAY, **CHIEF JUSTICE** MADE THE FOLLOWING:

### **ORDER**

Heard the learned counsel appearing for the petitioner.

2. This petition is filed purported as a public interest litigation. The objection of the petitioner is to the order of the State Government dated 7<sup>th</sup> January 2017 by which, as per the request made by the Chief Officer of Molakalmuru Town Panchayat, permission was granted to construct a girls' hostel for Scheduled

Caste students on a site meant for civic amenities. The submission of the learned counsel appearing for the petitioner is that if the definition of 'civic amenity' in Clause (h) of Section 2 of the Karnataka Urban Development Authorities Act, 1987 is perused, the girls' hostel will not be a civic amenity.

3. There is an application filed by the third respondent raising an objection to the *locus* of the petitioner. The contention is that the petitioner is a defeated member of Zilla Panchayath and it is a politically motivated petition in order to tarnish the image of the present council.

4. We have carefully perused the petition. If the synopsis of the petition as well as the averments made in the petition and the grounds are perused, it is apparent that the basic contention of the petitioner is that if girls' hostel for the students belonging to Scheduled Caste is constructed, it will cause nuisance to the present petitioner and some other neighbourers staying in the locality.

5. The impugned order permits the construction of a hostel meant for girl-students belonging to Scheduled Caste. One can

understand that if a public interest litigation is based only on the ground that it cannot be constructed on civic amenity space. But the petitioner repeatedly asserted that the construction of hostel for girl-students of Scheduled Caste will cause nuisance to the occupants of the locality. Considering this contention repeatedly raised, we do not think that the object of the petitioner is to act *pro bono*.

6. We are of the view that it is not a fit case where the petitioner should be allowed to invoke extraordinary jurisdiction of this Court by filing a public interest litigation. Accordingly, the petition is dismissed. We, however, make it clear that we have not gone into the issue of legality of the impugned order and the legal issue involved.

**Sd/-  
CHIEF JUSTICE**

**Sd/-  
JUDGE**