



IN THE HIGH COURT OF KARNATAKA AT BENGALURU



DATED THIS THE 15TH DAY OF DECEMBER, 2023

PRESENT

THE HON'BLE MR PRASANNA B. VARALE, CHIEF JUSTICE

AND

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

WRIT PETITION NO. 24939 OF 2023 (GM-RES)

BETWEEN:

BHIMAPPA GUNDAPPA GADAD,

...PETITIONER

(BY SRI. AMRUTHESH N P.,ADVOCATE)

AND:

1. GOVERNMENT OF KARNATAKA,
VIDHANA SOUDHA,
AMBEDKAR VEEDHI,
BENGALURU-560 001.
2. HON'BLE GOVERNOR OF KARNATAKA
RAJ BHAVAN, RAJ BHAVAN ROAD,
BENGALURU-560 001.
REP BY ITS SECRETARY ADMINISTRATION.





3. SPEAKER OF LEGISLATIVE ASSEMBLY,
GOVERNMENT OF KARNATAKA,
VIDHANA SOUDHA, AMBEDKAR VEEDHI,
BENGALURU-560 001.
4. SRI. D K SHIVAKUMAR,
HON'BLE DEPUTY CHIEF MINISTER,
ROOM NO.323A, 3RD FLOOR,
VIDHANA SOUDHA, BENGALURU-01.
5. SRI. SATISH JARKHIHOLI
HONBLE MINISTER FOR PUBLIC WORKS DEPT
ROOM NOI.444-445, VIKASA SOUDHA,
DR B R AMBEDKAR VEEDHI,
BENGALURU-560 001.
6. SRI. B Z ZAMEER AHMED KHAN,
7. SRI. K N RAJANNA,
HON'BLE MINISTER OF CO OPERATION DEPT,
ROOM NO.339-339A, VIDHANA SOUDHA,
DR B R AMBEDKAR VEEDHI,
BENGALURU-560 001.
8. SRI. SHIVANAND PATIL,
HON'BLE MINISTER OF TEXTILES SUGARCANE
DEVELOPMENT AND DIRECTORATE OF SUGAR
AND AGRICULTURAL MARKETING FROM
CO OPERATION DEPARTMENT,
R/AT WARD NO.7, M G ROAD,
VIJAYAPURA-586 101.
9. SRI. S S MALLIKARJUN,
HON'BLE MINISTER OF MINES AND GEOLOGY
HORTICULTURE DEPARTMENT,
ROOM NO.305-305A, VIDHANA SOUDHA,
DR B R AMBEDKAR VEEDHI,
BENGALURU-560 001.



10. SMT. LAXMI HEBBALKAR,
HON'BLE MINISTER OF DEPT OF WOMEN AND
CHILD DEVELOPMENT DISABLED AND
SENIOR CITIZENS EMPOWERMENT,
ROOM NO.301-301A, VIDHANA SOUDHA,
DR B R AMBEDKAR VEEDHI,
BENGALURU-560 001.
11. DR. M C SUDHAKAR,
HON'BLE MINISTER OF HIGHER EDUCATION DEPT
ROOM NO.344-345, VIKASA SOUDHA,
DR B R AMBEDKAR VEEDHI,
BENGALURU-560 001.
12. SRI. B NAGENDRA,
HON'BLE MINISTRY OF YOUTH SERVICES,
SPORTS DEPT S T WELFARE DEPT
ROOM NO.343-343A, VIDHANA SOUDHA,
DR B R AMBEDKAR VEEDHI,
BENGALURU-560 001.
13. SRI. U T KHADAR,
HON'BLE SPEAKER AND MEMBER OF KARNATAKA
LEGISLATIVE ASSEMBLY,
VIDHANA SOUDHA, BENGALURU-560 001.
ALSO AT DOOR NO.1-2,
AMMUNJE HOUSE, BOLIYAR VILLAGE,
MANGALURU.
14. SRI. A M MANAGULI,
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY,
SINDAGI ASSEMBLY CONSTITUENCY
BANGARAMMA NIVASA,
ANAND CHITRA MANDIR ROAD,
SINDAGI, VIJAYAPURA DISTRICT-586 128.
15. SRI. ASIF SAIT,
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY,
BELAGAVI NORTH ASSEMBLY CONSTITUENCY,
PLOT NO.433, SECTOR NO.3,
M M EXTENSION, SHIVABASAV NAGAR,
BELAGAVI DISTRICT-590 001.



16. SRI. BABA SAHEB PATIL,
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY,
KITTURA ASSEMBLY CONSTITUENCY,
H NO. 8 TORANAGATTI ONI, KESARAKOPPA,
NEGINAHAL, BAILHONGAL TALUK,
BELAGAVI DISTRICT - 591 102.
17. SRI. BASANAGOUDA R PATIL (YATNAL)
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY,
VIJAYAPURA ASSEMBLY CONSTITUENCY,
NEAR I N G VYSYA BANK,
SRI SIDDESHWAR DEVASTHAN FRONT ROAD,
VIJAYAPURA - 586 101.
18. SRI. BASAVARAJA SHIVAGANGA CHANNAGIRI
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY,
CHANNAGIRI ASSEMBLY CONSTITUENCY,
NO. 135, HIREKOGALURU VILLAGE,
CHANNAGIRI TALUK,
DAVANGERE DISTRICT - 577 213.
19. SMT. BHAGIRATHI MURULYA
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY,
SULLIYA ASSEMBLY CONSTITUTENCY,
SHANTINAGARA A MANE,
MURULYA VILLAGE AND POST, SULLIA TALUK,
DAKSHINA KANNADA DISTRICT - 574 328.
20. DR. CHANDRU LAMANI,
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY,
SHIRAHATTI ASSEMBLY CONSTITUENCY,
MAHANTESH NAGARA, 1ST CROSS,
AT LAXMESHWAR LAXMESHWARA TALUK,
GADAG DISTRICT - 582 116.
21. SRI. G T DEVEGOWDA,
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY,
CHAMUNDESHWARI ASSEMBLY CONSTITUENCY,
NO. G-2, AND CF-2, NO. 3 69,
ALVA RESIDENCE 13TH MAIN ROAD,
SADASHIVANAGARA, BENGALURU - 560 080.
ALSO AT NO 12, GUNGRAL CHATRA,
ELWALA HOBLI, MYSURU TALUK AND DISTRICT.



22. SRI. DODDANAGOUDA H PATIL
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY,
KUSHTAGI ASSEMBLY CONSTITUENCY,
136, NEAR HANAMANT TEMPLE,
KORADAKERA POST, KORADAKERA, KUSHTAGI TQ,
KOPPAL DISTRICT - 583 231.
23. SRI. G N GANESH
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY,
KAMPLI ASSEMBLY CONSTITUENCY,
WARD NO.17, HARIKRUPA COLONY,
N N J LAYOUT, KAMPLI ROAD, KURUGODU,
VIJAYANAGARA DISTRICT - 583 132.
24. SRI. H R GAVIYAPPA
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY,
VIJAYANAGAR ASSEMBLY CONSTITUENCY,
NEW DOOR NO. 31/354, H R G HOUSE,
2ND CROSS, N C COLONY, HOSAPETE,
VIJAYANAGARA DISTRICT - 560 040.
25. SRI. BASANAGOUDA TORIVANHALA,
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY,
MASKI ASSEMBLY CONSTITUENCY,
TURAVIHALA SINDHANUR TALUK,
RAICHUR DISTRICT - 584 128.
26. SRI. K HARISH GOWDA
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY,
CHAMARAJA ASSEMBLY CONSTITUENCY,
HOUSE NO. 1, C H 35, KANTHARAJA URS ROAD,
K G KOPPALU, MYSURU - 570 009.
27. SRI. VIJAYANANDA KASHAPPANAVAR
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY
HUNGANDA ASSEMBLY CONSTITUENCY,
HOUSE NO. 4521, POST ILKAL, ILKAL TALUK,
BAGALKOTE DISTRICT - 587 125.
28. SRI. H A IQBAL HUSSAIN
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY,
RAMANAGARA ASSEMBLY CONSTITUENCY,
NO 86 HUKUNDA VILLAGE,



UYYAMBALLI HOBLI, KANAKAPURA TALUK,
RAMANAGARA DISTRICT - 562 159.

29. SRI. JANARDHAN REDDY
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY,
GANGAVATI ASSEMBLY CONSTITUENCY,
FALT NO. 2, PARIJATHA APARTMENT,
CHALUKYA CIRCLE, RACE COURSE ROAD,
BENGALURU - 560 001.
30. SRI. KANEEZ FHATIMA
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY,
KALBURGI NORTH ASSEMBLY CONSTITUENCY,
NO 108/5, KALPANA CHAWLA ROAD,
R M V II STAGE, BHOOPASANDRA,
BENGALURU - 560 094.
ALSO AT H NO. 1-864/5, MSK MILL ROAD,
STATION BAZAAR, KALABURAGI - 585 102.
31. SRI. A R KRISHNAMURTHY
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY,
KOLLEGALA ASSEMBLY CONSTITUENCY,
ALURU VILLAGE AND POST,
CHANDAKAVADI HOBLI,
CHAMARAJANAGARA DISTRICT - 571 441.
32. DR.MANTARAGOWDA,
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY
MADIKERI ASSEMBLY CONSTITUENCY,
P.B.NO. 10, NAGAROOOR ESTATE,
BALAGUNDA POST, SOMVARAPET TALUK
KODAGU DISTRICT 571 236.
33. SRI. P M NARENDRASWAMY,
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY
MALAVALLI ASSEMBLY CONSTITUENCY,
PURIGALLI VILLAGE AND POST,
B G PURAHOBLI, MALAVALLI TALUK,
MANDYA DISTRICT 571 430.
34. SRI. NARA BHARAT REDDY
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY
MADIKERI ASSEMBLY CONSTITUENCY,



NO. 21/2, 2ND CROSS, NEHRU COLONY
GANDHINAGAR, BALLARI DISTRICT 583 101.

35. SMT. NAYANA MOTAMMA
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY
MADIKERI ASSEMBLY CONSTITUENCY,
WARD NO.-1, ULLENPETE ROAD,
MUDIGERE TOWN, MUDIGERE,
CHIKKAMAGALURU 577 132.
36. SRI. NEMI RAJA NAIK K
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY
MADIKERI ASSEMBLY CONSTITUENCY,
260, WEST WING GOUDARA STREET,
MARIYAMMANAHALLI THANDA, HOSPETE TALUK,
VIJAYANGARA DISTRICT 583 222.
37. SRI. PRAKASH K KOLIWADA
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY
RENEBENNUR ASSEMBLY
CONSTITUENCY, TOWER NO. 1,
HOUSE NO. 121, 1st A CROSS,
PAYBAL BAY APARTMENT,
RAMAKRISHNA LAYOUT,
R M V 2ND STAGE, BENGALURU 560 094.
ALSO AT GUDAGUR VILLAGE & POST GUDAGUR,
RANEBENNUR TALUK,
HAVERI DISTRICT 581 115.
38. SRI. C K RAMA MURTHY
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY
JAYANAGARASSEMBLY CONSTITUENCY,
NO. 712/A, 10TH A MAIN JAYANAGAR
4TH BLOCK, BENGALRUU 560 011.
39. DR. H D RANGANATH
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY
KUNIGALASSEMBLY CONSTITUENCY,
S/O DODDAIAH H R,
A HOSAHALLI VILLAGE,
YALIYUR POST HUTRIGUTGA KUNIGAL TALUK,
TUMAKURU DIST 572 126.



40. SMT. ROOPAKALA M
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY
KGF ASSEMBLY CONSTITUENCY,
NO.115, 1ST A CROSS, 3RD MAIN ROAD,
DOMALURU 2ND STAGE,
BENGALURU 560 071.
ALSO AT NO. 115, 1ST A CROSS,
3RD MAIN ROAD, DOMALURU 2ND STAGE,
BENGLURU 560 071.
41. SRI. SAMRUDDHI V MANAJUNATHA
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY
MULBAGAL ASSEMBLY CONSTITUENCY,
SAIKUTEERA, THATTANAGUNTE VILLAGE,
DEVARAYASAMUDRA POST,
AVANI HOBLI, MULBAGAL TALUK,
KOLAR DISTRICT 563 131.
42. SRI. SHARAN GOWDA KANDAKURU
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY
GURMITKAL ASSEMBLY CONSTITUENCY,
KANDAKUR HOUSE NO. 5/618/7
NEAR NEW BUS STAND, K H B COLONY,
YADGIR 585 403.
43. DR. SHAILENDRA K BELDALE
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY
BIDAR SOUTH ASSEMBLY CONSTITUENCY,
HOUSE NO. 350 R/O CHITTA WADDI
TQ DISTRICT BIDAR SOUTH 585 403.
44. SRI. SHAMANUR SHIVASHANKARAPPA
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY
DAVANAGERE ASSEMBLY CONSTITUENCY,
BAKKESH NO. 2633/1.7TH MAIN 2ND CROSS,
M C C B BLOCK, DAVANAGERE 577 004.
45. SRI. B SHIVANNA
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY
ANEKAL ASSEMBLY CONSTITUENCY,
NO. MIG (A) 291 SURYA NAGAR
1ST STAGE, IGGALURU, ANEKAL TALUK
BENGALURU DISTRICT 560 081.



46. SRI. H K SURESH
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY
MADIKERI ASSEMBLY CONSTITUENCY,
BELUR ASSEMBLY CONSTITUENCY
NO. 10 VAIKUNTA BEEDI, KOTE, BELUR TALUK,
HASSAN DISTRICT 573 115.
47. SRI. H D TAMMAIAH
MEMBER OF KARNATAKA LEGISLATIVE ASSEMBLY
CHIKKAMAGALURU ASSEMBLY CONSTITUENCY,
C.D.A LAYOUT, KALYANAGARA BYPASS ROAD,
JYOTHI NAGARA, CHIKAMAGALURU 577 102.

...RESPONDENTS

(BY SMT.NILOUFER AKBAR., AGA FOR R1)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO i) ISSUE A WRIT OF MANDAMUS OR ANY OTHER APPROPRIATE ORDER, DECLARING THE OATH TAKEN BY THE 9 MINISTERS OF STATE AND 37 MEMBER OF LEGISLATIVE ASSEMBLY, VIDE ANNEXURES-C, C1, WHO HAVE NOT TAKEN OATH AS PER THE PRESCRIBED FORMAT UNDER THE SCHEDULE III OF THE CONSTITUTION OF INDIA, AS UNCONSTITUTIONAL AND ILLEGAL AND II) ISSUE A WRIT OF MANDAMUS, DIRECTING THE RESPONDENT - MEMBER OF LEGISLATIVE ASSEMBLY AND MINISTERS OF STATE TO PAY PENALTY FINE AS PRESCRIBED UNDER ARTICLE 193 OF THE CONSTITUTION OF INDIA, FOR EACH DAY OF ATTENDING OF OFFICE/ASSEMBLY UNDER OATH TAKEN INCORRECTLY AND ETC.,

THIS PETITION COMING ON FOR ORDERS THIS DAY,
CHIEF JUSTICE MADE THE FOLLOWING:



ORDER

Petitioner claiming to be a public spirited citizen, is invoking the PIL jurisdiction of Writ Court with the following plural prayers:

"(a) ISSUE A WRIT OF MANDAMUS OR ANY OTHER APPROPRIATE ORDER, DECLARING THE OATH TAKEN BY THE 9 MINISTERS OF STATE AND 37 MEMBER OF LEGISLATIVE ASSEMBLY, VIDE ANNEXURES-C, C1, WHO HAVE NOT TAKEN OATH AS PER THE PRESCRIBED FORMAT UNDER THE SCHEDULE III OF THE CONSTITUTION OF INDIA, AS UNCONSTITUTIONAL AND ILLEGAL, IN THE INTEREST OF JUSTICE AND EQUITY.

(b) ISSUE A WRIT OF MANDAMUS, DIRECTING THE RESPONDENT - MEMBER OF LEGISLATIVE ASSEMBLY AND MINISTERS OF STATE TO PAY PENALTY FINE AS PRESCRIBED UNDER ARTICLE 193 OF THE CONSTITUTION OF INDIA, FOR EACH DAY OF ATTENDING OF OFFICE/ASSEMBLY UNDER OATH TAKEN INCORRECTLY, IN THE INTEREST OF JUSTICE AND EQUITY.

(c) ISSUE A WRIT OF MANDAMUS, ANY OTHER APPROPRIATE WRIT OR ORDER DIRECTING THE RESPONDENTS TO RETAKE THEIR OATH BY ADHERING TO THE PRESCRIBED FORMAT FOR TAKING THE OATH AND AFFIRMATION OF OFFICE, AS PER ARTICLE 188 AND SCHEDULE III OF THE INDIAN CONSTITUTION, IN THE INTEREST OF JUSTICE AND EQUITY.



(d) ISSUE A WRIT OF MANDAMUS, DIRECTING THE 3RD RESPONDENT TO HOLD AN ENQUIRY IN RESPECT OF THE INCORRECT OATHS TAKEN BY THE RESPONDENT MEMBER OF LEGISLATIVE ASSEMBLY AND MINISTERS OF STATE, IN THE INTEREST OF JUSTICE AND EQUITY."

2. The thrust of submission of learned counsel appearing for the petitioner is as to non-compliance of the requirement of the format of oath taking by the respondents. He argues that the respondents, some of whom took oath as Ministers, one of them took oath as the Speaker of the Legislative Assembly and others took oath as the Members of Legislative Assembly, have committed the breach of constitutional imperative enacted in Article 188 read with Schedule III of the Constitution of India, and therefore, all they should be disqualified. He also submits that the private respondents should be asked 'to pay penalty fine as prescribed under Article 193 of the Constitution of India, for each day of attending of office/assembly..' sic



3. Having heard the learned counsel for the petitioner and the learned Additional Government Advocate appearing for respondent No.1 and having perused the papers, we decline indulgence in the matter inasmuch as the oath has been taken in substantial compliance of the format. It is not uncommon in the Indian society that the people and their elected representatives do show due deference to the sages, social reformers and tall figures who have contributed for the upliftment of society, more particularly, of downtrodden sections. At times, tall figures like Bhagawan Buddha (563 BCE - 483 BCE) Jagajyothi Basaveshwara (1131-1196), Dr.B.R.Ambedkar (1891-1956), etc., are held as *daivaansha-sambhootaas* i.e., divine incarnates which the English word 'God' employed in the constitutional formats in Third Schedule, does nearly denote the same. It is said in Kannada '*devanobba, naama halavu*' nearly meaning that: God is one, though he is called by multiple names. This is in line with what **Brihadhaaranyaka Upanishad** states: "*ekam sat vipra bahudha vadanti*" which literally means that, truth is one



and the wise call him with various nomenclatures. It is significant to note that, the format permits God neutral oath taking.

4. Mr. D.X.Junkin, A.M. in his THE OATH A DIVINE ORDINANCE and an ELEMENT OF THE SOCIAL CONSTITUTION (New York: Wiley and Putnam, 161 Broadway 1845) writes something interesting about oath:

"...we think the inference is inevitable that man could not have originated the ordinance of oath... it is obvious that the oath must be ascribed to a Divine Origin. From the fact that it was used in the earliest ages, even in patriarchal society, we cannot but infer that the oath is one of the earliest social institutions; and that it was probably given to man so soon as he needed such an ordinance i.e., just after the fall and so soon as our world became a world of lies... it is an ordinance of Divine appointment."

What a Division Bench of Kerala High Court in MADHU PARUMALA vs. SPEAKER, KERALA LEGISLATIVE ASSEMBLY, (2006) 7 KL CK 0084 at paragraph 8 has observed needs to be profitably reproduced:

"8. The word God used in Form VIIB is not in general term but takes in God in its restricted term particularly to the person who takes the oath. An elected member is expected to swear



in the name of God in which he and not his electorate believes. Then only the purpose and object of Article 188 would be achieved. The word 'God' in Form VII B takes in Allah also. ... When a member of the Hindu community takes oath in the name of God, the God which he refers may be Lord Ayyappa, Lord Siva, Lord Krishna and so on since God in Hinduism has several manifestations. We cannot accept the contention that an elected member takes oath not on his behalf but on behalf of the members of the constituency he represents... Oath taking, in our view, is purely personal and its purpose is to give sanctity to the pledge by which the oath-taker binds himself... To insist that a person who takes oath in the name of God should take the oath not only in the name of God in whom he believes, but also in the names of Gods in whom the members of the constituency believe is clearly illegal and unconstitutional."

5. It is also significant to note that oath can be taken in the name of God or by solemn affirmation without taking any name of God. This becomes evident by a sheer look at all the formats enlisted in the Third Schedule to the Constitution of India which employs the expression "swear in the name of God" and alternatively other expression "solemnly affirm". There have been instances wherein the oath is taken by uttering both the expressions, although going by logic, they are mutually exclusive. However that



does not pollute the sanctity attached to the oath. What one has to see is the substance of prescription and not just the format. This is not to subsidize the sanctity attached to the forms, especially those which the Constitution itself prescribes. Civilized jurisdictions have moved from form to substance, is true; even then, in technical matters like this, forms have their own value & sanctity and such form is prescribed keeping the same in mind. Aristotle discusses this aspect of the matter in his *Metaphysics*, wherein he argues that form is what unifies some matter into a single object, the compound of the two: he appeals to it in his *De Anima*, by treating soul and body as a special case of form and matter. It is not impertinent to state here that Article 210 provides for taking oath in mother tongue or in any one of the 22 languages enlisted in Schedule VIII to the Constitution. Despite vociferous submissions of the learned counsel appearing for the petitioner, we are not convinced that the oath subscribed by the private respondents does not comply with the requirement of the prescribed formats.



We hasten to caution that the failure to subscribe to the oath in substance would give scope for avoidable litigations of the kind. More is not necessary to specify.

In the above circumstances, this petition being devoid of merits is liable to be and accordingly dismissed, costs having been reluctantly made easy.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

Snb,
List No.: 1 SI No.: 10