

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

WRIT PETITION No.7990 OF 2020

BETWEEN :

Parishishta Jathi / Parishishta
Pangadagala Melavicharane Mattu
Balavardhana Sangha, Bengaluru.

... PETITIONER

AND :

The Prl. Secretary to Govt.,
Dept., of Social Welfare and others.

... RESPONDENTS

STATEMENT OF OBJECTIONS ON BEHALF OF THE
RESPONDENT No.1 - STATE

Under Rule 21 of the Karnataka High Court Writ Proceedings Rules, the Respondents named above most respectfully submit as follows:

1. In the above Writ Petition, the Petitioner had sought for quashing the following reliefs:-

(a) a writ of mandamus or any other appropriate writ, order or direction, directing the Respondents to



effectively implement the POA Act Rules and to monitor the implements of the same;

(b) Director the Respondent to set up Exclusive Courts as stipulated under Section 14 of the POA Act in Atrocity Prone Districts of the State;

(c) Issue a writ of mandamus or any other appropriate writ, order to adhere to the meeting requirements of the State, District & Sub-District Vigilance and Monitoring Committees to discuss and deliberate upon issues of Caste & Conduct Meetings in accordance with Rules 16(2), 17(3) and 17-A(4) of the POA Rules;

(d) Issue a writ of mandamus or any other appropriate order or direction to the Respondents to conduct investigations in a timely manner in accordance with Rule 7(2) and 7(3) of the POA Act and Rules;

(e) Issue a writ of mandamus or any other appropriate writ or order to conduct periodic workshop and set up awareness centres in atrocity prone areas or other areas,

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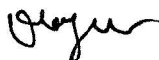
or take any other precautionary measures and preventive action as may be applicable in accordance with POA Rules.

(f) Issue a writ of mandamus or any other appropriate writ or order mandating periodic surveys to be carried out look into the implementation of the POA Act;

(g) Issue a writ of mandamus or any other appropriate writ or order Respondents to pay timely compensation and relief to the victims in accordance with POA Rules.

2. It is submitted that the Writ Petition is not maintainable either in law or on facts and hence, the same is liable to be dismissed. The Petitioner is not entitled for the reliefs they seek for the following among other reasons:-

3. It is respectfully submitted that as per Government Order bearing No.SWD 135 SSC 74 dated 07.08.1974, a copy of which is produced herewith as ANNEXURE R-1, a Special Police Cell was created to effectively enforce the various provisions of law for



exercising Civil Rights and protection of the Scheduled Castes. Further, vide Government Order bearing No. SWD 353 SSC 75 dt. 27.12.1975, a copy of which is produced herewith as ANNEXURE R-2, the said Special Cell has been tasked with effectively implementing the various measures which have been statutorily enacted for the upliftment of SCs & STs whereunder the following aspects are dealt with.

i. Violation of Government Orders pertaining to ear making and utilization of 18% of posts in Government services including judiciary, local Bodies, Public Sectors undertakings, Universities other Government Aided Institutions and undertakings relating SCs/STs.

ii. Violation of Government Orders pertaining to earmarking and utilization of 18% of the funds of the local bodies to be spent exclusively on schemes aided and the socio economic betterment of SCs/STs.

iii. Violation of the provisions of Karnataka Land Grant pertaining to reservation of 50% of the Government lands surplus lands and excess Gomal lands relating to SCs/STs.

iv. Violation of the directions of Government relating to eviction of the marginal and sufficient holders from encroachments of land made by them on the gomal lands confirming the right of occupancy of the Gomal lands by the insufficient landless people belonging to SCs/STs.

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v. Violation of Rules pertaining to grant of sites in so far as they relate to the claims of SCs/STs.

vi. Wrongful alienation of the grant/service inam lands and house of sites granted to SCs/STs.

vii. Wrongful eviction of people belonging to SCs/STs by the landlords.

viii. Wrongful evictions of people belonging to SCs/STs from the Government/gomal/Service Inam lands by other communities or by the Government agencies.

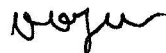
ix. Cases of production of false cases certificate by people belonging to other communities for claiming the benefits that are extended to the SCs/STs.

x. Offences committed against the provisions of the "Bonded Labour System (Abolition) Ordinance, 1975" concerning SCs/STs.

xi. Offences committed against the provisions of the Karnataka Debt Relief Ordinance 1975 concerning SCs/STs.

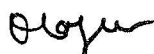
xii. All instances of mismanagements and misuse of grants in aid by the authorities of the Government Aided hostels pertaining to Social Welfare Department.

xiii. Any other matters pertaining to the violation of constitutional safeguards and protection extended to SCs/STs.



xiv. Any matter pertaining to the contravention or violation of an law or rule or executive order aimed at the Socio-economic upliftment and Welfare of the SCs/STs.

4. It is submitted that the investigation into SC/ST Atrocities cases have been carried out in accordance with Karnataka State Government Orders and Circulars and investigation in supervision is mandatory without any irresponsibilities or negligence. The said investigations are carried in accordance with the laws and there is no delay in obtaining opinions except the FSL and other departments documentation in some cases. Accordingly, monitoring, supervision of the investigation of Atrocity cases is being carried out. The averments made in the writ petition at paras 21 to 24 that investigation is not being done within time as contemplated under Rule 7(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules (hereinafter referred to as 'POA Rules') is false and the Petitioner is put to strict proof of the same. For the years 2015 to 2019, the details of the cases registered for atrocities of the Schedule Caste and their disposal by the Police and Courts including Sub-Courts respectively for the period 2015 to 2019 i.e., for the last 5 years is furnished herein below:-



| Year | Case brought forward from previous years | No. of cases registered during the year | Total No. of cases | No. of cases charge sheeted | No. of cases closed after investigation/ final reports filed (B & C reports) | No. of cases undue investigation |
|------|--|---|--------------------|-----------------------------|--|----------------------------------|
| 2015 | 592 | 1841 | 2433 | 1340 | 265 | 828 |
| 2016 | 828 | 1866 | 2694 | 1488 | 364 | 842 |
| 2017 | 842 | 1869 | 2711 | 1488 | 353 | 870 |
| 2018 | 870 | 1322 | 2192 | 1093 | 340 | 759 |
| 2019 | 759 | 1732 | 2491 | 1042 | 165 | 1284 |

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5. It is respectfully submitted that all atrocity cases are being investigated by Dy. Superintendent of Police / Asst. Commissioner of Police level officers, so as to ensure that officers with sufficient experience and seniority investigate the cases in accordance with the Rules. Hence the averment in the writ petition that the same is not being complied with is false and incorrect. A review of the atrocity cases indicate that 80% of cases were charge sheeted within the stipulated period of 60 days. Delay, if any, is caused, in a few cases, due to reasons other than aspects pertaining to

false.

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investigation like, delay in procuring certain documentation like caste certificate, wound certificates, FSL reports, stay by Hon'ble Courts, etc. The Atrocity cases disposed of by the Courts for the period 2015 to 2019 are detailed herein below :-

| Year | Total | | | No. of cases decided and ended | | | Total No. of cases pending in Courts at the end of year |
|-------|-----------------|------------------------|---------------------|--------------------------------|-----------|-------|---|
| | Brought forward | Charge sheets received | Total Pending trial | Conviction | Acquittal | Total | |
| 2015 | 5209 | 1340 | 6549 | 23 | 791 | 814 | 5735 |
| 2016 | 6509 | 1488 | 7997 | 22 | 752 | 774 | 7223 |
| 2017 | 7035 | 1488 | 8523 | 21 | 565 | 586 | 7937 |
| 2018 | 7932 | 1093 | 9025 | 45 | 541 | 586 | 8439 |
| 2019 | 8406 | 1042 | 9448 | 23 | 549 | 272 | 8876 |
| Total | 35091 | 6451 | 41542 | 134 | 3198 | 3332 | 38210 |

6. With regard to the pendency of the cases, it is relevant to note that in the State of Karnataka, an average of 2.25 Lakhs cases were reported in a year including of IPCs and Special and Legal Laws. Out of the same, IPC cases is alone up to the extent of 1.2 Lakhs in a year, whereas atrocity cases arc 2000 in a year and

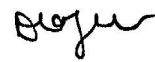
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*don't match
10%
cases
decided*

18% 15.5% 4% 8% disposed

constitutes 1.5% of total cases. The Special Atrocity Courts are established in each Districts namely Mysuru, Belagavi, Kolar, Vijayapura, Kalaburgi, Raichur, Tumakuru and Ramanagara out of total 30 Districts in the State of Karnataka. However, the proposal is under consideration to set up 12 more Special Courts where number of pending cases are more than 100. Vide letter dt. 29.4.2019, copy of the said letter dt. 29.04.2019 is produced herewith as ANNEXURE-R-3, the State Government had requested the Registrar General, High Court of Karnataka to consider setting up of 9 more Special Courts. Further vide another letter dt. 25.8.2020, copy of the said letter dt. 29.04.2019 is produced herewith as ANNEXURE- R-4 addressed to the Registrar General, High Court of Karnataka, the said request has been re-iterated.

7. The 1st Respondent states that Court Monitoring Cells were established at all the SP Office / Deputy SP Offices to monitor progress of the cases and production of witnesses in time for speedy trial.



8. The Government of Karnataka vide Notification dated 07.08.1974 created Civil Rights Enforcement Cell to deal with the offences of untouchability. Later, the same was upgraded and re-designated as Directorate of Civil Enforcement headed by the Officer of the rank of Additional DGP. The said Directorate arrayed as 3rd Respondent to this Writ Petition. The 3rd Respondent has 7 Regional units at Mysuru, Mangaluru, Belagavi, Davanagere, Kalaburgi, Bengaluru Headquarters and Bengaluru Region. Each region is placed under the charge of a Superintendent of Police. The Government has also created District Units at Vijayapura, Bagalkote, Tumakuru and Kolar as per Government Order dated 28.02.2002.

9. The 3rd Respondent monitors and supervises the investigation of Atrocity cases reported in the State. The cases are investigated by the Officers of the rank of Deputy Superintendent of Police / ACPs as required by Rule 7 of SC /ST (POA) Rules 1995.

10. The Director General and Inspector General of Police of State of Karnataka had conducted a meeting on 30.5.2017, a copy of the minutes is produced as ANNEXURE-R-5, to review all cases,

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which ended in acquittal under Scheduled Castes / Scheduled Tribes (Prevention of Atrocities) Act, 1989 and following instructions were issued to improve the conviction rate :-

- (a) One of the cases for acquittal is lapses in investigation. Wherever lapses are there, it should be viewed seriously. Directed range IGPs and COPs to take strict action.
- (b) Range IGs & COPs to ensure that District SPs & DCPs compulsorily visit the scene of offence, issue instructions to the Investigating Officer and evince personal interest in the progress of the investigation of those cases.
- (c) All panchanamas and statement of witnesses should be video graphed. Copy of the video recording taken 65B of Indian Evidence Act Certificate obtained and should be brought in PF and kept in the case record.

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Is this being done.

(d) Range IGPs / COPs were asked to keep a check with complaints / witnesses on the authority of statement recorded. They should ask SPs / DCPs also to do so.

(e) Court Monitoring Cells started in SP / Dy.SP's Offices. While monitoring it should be ensured that witnesses are refreshed so has to ensure that the case ends in the conviction.

(f) Acquittal Review Committees at Range Level, IGP should call all SPs and Prosecution Department once in a quarter to review all acquitted cases.

(g) To file Appeal in the cases which are acquitted and quantum of punishment is less, in co-ordination with the Prosecution Department.

11. It is respectfully submitted that, apart from such meetings, regular reviews are being held from time to time and regarding the manner in which the cases are being investigated and prosecuted. Two such circulars dt. 16.05.2017 and 12.06.2017 issued

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they are set up

where are the meeting reports

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in this regard are produced herewith as ANNEXURES-R-6 & 7 respectively.

12. The 3rd Respondent Directorate also undertakes Special Enquiries regarding violation of Constitutional Safeguards given to SC / ST people. It also investigates important atrocity cases entrusted by the Government / DGP. It also interacts with other Department and ensures that the compensation and other allowances due to the victims are paid in timely and promptly manner.

13. It is respectfully stated that periodic meetings have been held at the District Level as contemplated under Rule 17 of the Rules and at the Sub-Divisional Level as contemplated under Rule 17A of the Rules. A chart containing details of the meetings held for the year 2019 & 2020 at the District Level are produced herewith as ANNEXURES - R8 & R9. A chart containing details of the meetings held for the year 2019 & 2020 at the Sub-Divisional Level are produced herewith as ANNEXURES -R10 & R11. Minutes of 2 such meetings dt. 17.2.2020 and 1.03.2020 conducted at Gadag and Belgavi are produced herewith as ANNEXURES-R12 & R13.

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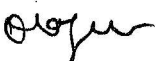
14. It is submitted that the investigation of the 2nd Respondent has played a major and significant role in the SC/ST atrocity cases, filing of cases and filing of charge sheet against the accused. As per the Karnataka State Government Circulars and Hon'ble orders passed by the 2nd Respondent, SC/ST meeting has been convened on 3rd Sunday of every month to take appropriate action and resolve their problems and this day is celebrated as the Dalits Day or Victimized day. As such sincere efforts has been made to mitigate victimized SC/ST people.

15. Quarterly Monitoring Committee headed by the Home Secretary reviews investigation and compensation paid in all atrocity cases by inviting Heads of Police, Prosecution and Social Welfare Department in accordance with the POA Act. It is further submitted that the DGP and IGP conducts review of all atrocity cases by calling all Commissioners, Range IGPs and District SPs at least once in a year. The Secretary of the 1st Respondent, Social Welfare Department is a Nodal Officer in the State. The Additional DGP (L & O) is designated as Nodal Officer in the Police Department under

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POA Act. They will visit all units and review the implementation of the Atrocity Act.

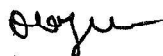
16. It is respectfully submitted that Awareness meetings and workshops are required to be held as per Rule 3(viii) of the Rules and the same has been duly complied with by the Respondent. Suitable Budget allocation for creating Awareness programmes at the District and Taluk level has been made vide Government Order dt. 29.03.2019, a copy of which is produced herewith as **ANNEXURE- R14.** A circular bearing no. SKN/C.S-1/C.R-22/2018 dt 31.12.2019 has also been issued regarding creation of such Awareness programmes, a copy of which is produced herewith as **ANNEXURE-R-15.** Details of the Awareness meetings conducted are detailed in a chart which is produced herewith as **ANNEXURE – R-16.** The 1st Respondent – Department has brought handbook in English and Kannada about the POA Act 1989 Rules 2016 and distributed to all Police Stations in the State of Karnataka for the use of Officers and staff implementing the Act at the grass root level. The said hand book contains all relevant information for appropriate implementation of the Act. A copy of the Hand Book is



produced herewith as ANNEXURE – R17. Special workshops have been organized at KPA (Karnataka Police Academy) & ATI, Mysuru to sensitize all Police Officers and Staff.

17. It is respectfully stated that, the Petitioner had given a representation to the Respondent regarding various non-compliances with regard to the implementation of the provisions of the POA Act & Rules. The Additional Chief Secretary of the Department of Health and Family Welfare held a review meeting dt. 13.03.2018 herein issues pointed out by the Petitioner were addressed. A copy of the minutes of the said meeting dt. 13.03.2018 is produced herewith as ANNEXURE – R- 18. Subsequently, a compliance report vide letter dt. 24.06.2019 was also submitted to with respect to various aspects and issues that were raised during the said meeting dt. 13.3.2018. A copy of the said letter dt. 24.06.2019 together with the compliance report is produced herewith as ANNEXURE – R19.

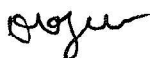
18. The averment at paras 34 to 39 in the writ petition that re-habilitation is not being done as contemplated under Section 15 A of the Act is false and incorrect. The Karnataka Civil Services



(Appointment of Family Members of Persons belonging to SCs or STs, who die in atrocities on compassionate grounds), Special Rules 1999 laid down following criteria :-

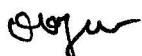
- (1) Member of the family of the deceased persons applied for job should be more than 18 years;
- (2) Should be applied in prescribed format.
- (3) Should be applied within 1 year from deaths or 2 years in case of minor.
- (4) He produces an affidavit to the effect that his family has no other income.
- (5) He produces the Certificate of DC of the District regarding income, entitlement and other facts.

A copy of the Karnataka Civil Services (Appointment of Family Members of persons belonging to Scheduled Castes or Scheduled Tribes who die in atrocities on Scheduled Castes or Scheduled tribes, on Compassionate Grounds) (Special) Rules, 1999 is produced herewith as ANNEXURE-R20.



19. All Atrocity cases are being disposed of in a timely manner and victims have availed all the compensations, who are notified by the 1st Respondent and dispersed as per POA Act and Rules. The Respondent State, vide Government Order No. SWD 37 SPA 2016, dt. 20.06.2016 (a copy of which has been produced as Annexure F to the writ petition) has issued revised order for enhancement of the monetary relief to victims of atrocities belonging to SCs / STs. The compensation amounts are being disbursed from time to time in accordance with the said Government Order dt. 20.06.2016.

20. It is respectfully submitted that, the Respondent, vide Government Order bearing No. SWD 59 SPA 2019 dt. 20.05.2019 has notified a contingency plan in accordance with Rule 15 of the POA Rules, in supersession of the earlier contingency plan dt. 24.11.2000. A copy of the said GO dt. 20.05.2019 together with the contingency plan is produced herewith as **ANNEXURE – R21.**




21. In view of the averments made herein above, the relief sought for by the Petitioners in the above Writ Petition are not liable to be granted and the above Writ Petition is liable to be dismissed.

22. All other averments which are not specifically traversed herein are hereby denied as false and baseless. No averment made by the Petitioner shall be deemed to be admitted by mere reason of non-traverse. The Respondents crave leave of this Hon'ble Court to adduce further documents at the time of hearing of the above matter.

WHEREFORE, the Respondents - State most respectfully pray that this Hon'ble Court may be pleased to DISMISS the above Writ Petition, in the interests of justice and equity.

BENGALURU
DATED :


(C.M. POONACHA)
ADDL. GOVERNMENT ADVOCATE
& ADVOCATE FOR RESPONDENTS –
STATE OF KARNATAKA

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