Reserved on : 24.02.2025
Pronounced on : 04.04.2025

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IN THE HIGH COURT OF KARNATAKA DHARWAD BENCH

DATED THIS THE 04TH DAY OF APRIL, 2025

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.107792 OF 2024 (GM-RES)

BETWEEN:

1. SRI JAGADGURU BASAVA JAYMRITYUNJAY SWAMIJI
   AGED ABOUT 45 YEARS OLD
   S/O APPAJI
   R/A KUDAL SANGAM, SANGAM
   TALUK HUNGUND, DISTRICT - BAGALKOT
   KARNATAKA – 587 115.

2. VENKANAGOUD SHIVANAGOUD KANTEPPAGOUDRA
   AGED ABOUT 60 YEARS
   R/AT KUNDAGOLA TALUK
   HIREBUDIHAL VILLAGE
   DHARWAD, KARNATAKA - 580 028.

3. CHANDRASHEKHAR S. NEGINAHAL
   AGED ABOUT 62 YEARS
   S/O SHANKARAPPA
   R/AT KAMANAKATTI
   HOSAYALLAPUR ROAD
   KARNATAKA – 580 001.

4. NINGAPPA IRAPPA KARIKATTI
   AGED ABOUT 47 YEARS
   R/AT BADIGER ONI, POST – KABBENUR

VILLAGE KALLE, DHARWAD
KARNATAKA – 581 201.

... PETITIONERS

(BY SRI PRABHULING NAVADAGI, SR. ADVOCATE A/W.,
SMT. POOJA R.SAVADATTI, ADVOCATE AND
SMT. SANJEEVINI NAVADAGI, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS CHIEF SECRETARY
VIDHANA SOUDHA
BENGALURU – 560 001.

2. THE SECRETARY
DEPARTMENT OF HOME
VIDHANA SOUDHA
BENGALURU – 560 001.

3. THE SECRETARY
DEPARTMENT OF SOCIAL WELFARE
VIDHANA SOUDHA
BENGALURU – 560 001.

4. THE DIRECTOR GENERAL AND
INSPECTOR GENERAL
GOVERNMENT OF KARNATAKA
OFFICE OF DG AND IG
NRUPATUNGA ROAD
BENGALURU – 560 001.

5. THE COMMISSIONER OF POLICE BELGAUM
BELGAUM REGION – 590 001
OFFICE OF COMMISSIONER OF POLICE.

6. THE ADDITIONAL DIRECTOR GENERAL OF POLICE

(LAW AND ORDER)
THE OFFICE OF ADDITIONAL DIRECTOR
GENERAL OF POLICE

7. SUPERINTENDENT OF POLICE
BELGAUM
OFFICE OF SUPERINTENDENT OF POLICE
BELGAUM, SUBHASH NAGAR
BELGAUM – 590 001.

... RESPONDENTS

(BY SRI SHASHIKIRAN SHETTY, ADVOCATE GENERAL
SRI GANGADHAR J. M., AAG AND
SRI SHARAD V.MAGADUM, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE NATURE OF MANDAMUS DIRECTING THE RESPONDENTS HEREIN TO CONSTITUTE A COMMISSION OF ENQUIRY AT CONTEMPLATED UNDER THE COMMISSION OF ENQUIRY ACT, 1952 FOR ENQUIRING INTO THE POLICE ACTION TAKEN ON 10.12.2024 AT SUVARNA SOUDHA, BELAGAVI AGAINST THE PERSONS INCLUDING THE PETITIONERS WHO WERE HOLDING A PEACEFULLY PROTESTING SEEKING THE ENDS OF JUSTICE.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 24.02.2025, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioners, four in number, are at the doors of this Court seeking a direction by issuance of a writ in the nature of mandamus, directing constitution of a Commission of Inquiry, as contemplated under the Commission of Inquiry Act, 1952 for enquiring into the police action taken on 10-12-2024 at Suvarna Soudha, Belagavi against the petitioners and several others who are said to have been holding a peaceful protest.

2. Shorn of unnecessary details, the facts in brief germane are as follows:-

The petitioners are the members of Panchamasali Community. They are said to have undertaken peaceful protest all over the area requesting the Government to implement the Government order dated 27-03-2023. It is their case that in terms of the Government order, members of certain sections of the Society were accorded reservation and the petitioners and the like are denied. The Government order dated 27-03-2023 became

subject matter of challenge before the Apex Court in Writ Petition No.435 of 2023 (**L.GHULAM RASOOL V. STATE OF KARNATAKA**) in which the State is said to have undertaken that it would not implement the Government order until further orders at hands of the Apex Court. The petitioners who are the beneficiaries of the said Government order made several representations to all the concerned including the Chief Minister to take necessary steps for implementation of the Government order. The 1st petitioner, pontiff who sphere headed the agitation personally meets the Chief Minister. He also made a representation to the Chief Minister as also his Excellency the Governor. No response from the State led the members of the community to peacefully protest the apathy of the Government when the Government was in winter session at Belagavi.

3. The petitioners represented to the Deputy Commissioner, Belagavi seeking permission to protest. The Deputy Commissioner, Belagavi on 08-12-2024 passes an order prohibiting all vehicles coming towards Suvarna Soudha in the wake of protest. Later the Deputy Commissioner is said to have modified the said order on

09-12-2024 not permitting the petitioners to protest. This order of the Deputy Commissioner comes to be challenged before this Court in Writ Petition No.107452 of 2024. The writ petition comes to be disposed of permitting the petitioners and others to peacefully protest in the City of Belagavi, except that they would not come in tractors and create a law and order problem. After the order in Writ Petition No.107452 of 2024, close to 10,000 persons assembled in Kondaskoppa Village which is about 1.5 kms. from Suvarna Soudha and held a meeting as a prelude to the protest march. Several members of Legislative Assembly also participated in the meeting and emphasized on the need for the Government's intervention to address the matter. It appears that some of the Members wanted to go to Suvarna Soudha for submitting their representation. They then decided to peacefully walk towards Suvarna Soudha and assemble there and request the Chief Minister to consider the representation.

4. When things stood thus, it is alleged that the Police machinery charged towards the members assembled there preventing them from approaching Suvarna Soudha and ordered

lathi charge totally unprovoked which resulted in grave injuries to several members of the crowd assembled at the said place. The petitioners have produced certain photographs to buttress the lathi charge undertaken on the orders of Additional Director General of Police and medical reports of injuries sustained. On the said incident comes the subject petition seeking an inquiry into the ordering of lathi charge by the Additional Director General of Police unprovoked and completely contrary to law.

5. Heard Sri Prabhuling Navadagi, learned senior counsel along with Pooja R. Savadatti, appearing for the petitioners and Sri Shashikiran Shetty, learned Advocate General appearing for the respondents.

6. The learned senior counsel Sri PrabhulingaNavadagi appearing for the petitioners would vehemently contend that the petitioners were in peaceful protest. The meeting was attended by several members of the Legislative Assembly. The pontiff/1st petitioner was sphere heading the protest and all was peaceful to submit a representation. The protestors marched towards Suvarna

Soudha which was 1.5 Kms. away. Totally unprovoked, the Additional Director General of Police directed the Police to put barricades and indulged in lathi charge. It is his submission that no orders as necessary under the Police manual or under the CrPC is ever notified or made known to the protesting public. The learned senior counsel, therefore, submits that due to the atrocity committed upon the peaceful protestors there should be an inquiry; the inquiry not at the hands of Police or bureaucrats, but it should be under the Commission of Inquiry Act, in which event, the guilty would not go scot-free is his submission. Learned counsel Smt Pooja R. Savadatti would add to the vivid and minute details of the incident of abuse and assault.

7. Per contra, the learned Advocate General would vehemently refute the submissions of the learned senior counsel in contending that the petitioners are not victim, but were aggressors. In the light of the fact that they become aggressors, to prevent any law and order situation immediate lathi charge was the only option to be resorted to. If the petitioners had peacefully protested, the situation as alleged would not have emerged at all. The protest

turned violent and the protestors wanted to march towards Suvarna Soudha with violent behaviour.

8. The learned senior counsel for the petitioners would join issue in contending that every thing is filmed. Videos are taken which would clearly indicate who are the aggressors and who are the perpetrators of atrocities. The learned Advocate General also would say that videos are taken which would demonstrate that who are the aggressors.

9. Both the learned counsel for the petitioners and the respondent-State have produced their respective pen drives which have captured the incident that has happened on the said day for the perusal of the Court and the production is in accordance with law. Both the learned counsel have also relied on plethora of judgments of the Apex Court and that of this Court, all of which would bear consideration *qua* their relevance in the course of the order.

10. I have given my anxious consideration to the submissions made by the learned senior counsel and the learned Advocate General and have perused the material on record. In furtherance whereof, the issue that falls for consideration is:

"Whether the case at hand necessitates Commission of Inquiry to be constituted to enquire into the allegations and contra allegations *qua* incident that has happened on 10-12-2024?"

11. The 1st petitioner is the pontiff of a mutt and other petitioners are said to be the persons who have joined the campaign demanding reservation to Panchamasalis. The genesis is in terms of the Government order dated 27-03-2023. It reads as follows:

"**ಕರ್ನಾಟಕ ಸರ್ಕಾರದ ನಡವಳಿಗಳು**

ವಿಷಯ: ರಾಜ್ಯದ ಹಿಂದುಳಿದ ವರ್ಗಗಳಿಗೆ ಶಿಕ್ಷಣ ಮತ್ತು ಉದ್ಯೋಗದಲ್ಲಿ ಕಲ್ಪಿಸಿರುವ ಮೀಸಲಾತಿಯನ್ನು ಮರು ವರ್ಗೀಕರಿಸುವ ಕುರಿತು.

ಓದಲಾಗಿದೆ: 1. ಸರ್ಕಾರದ ಆದೇಶ ಸಂಖ್ಯೆ ಸಕಇ 225 ಬಿಸಿಎ 2000 ದಿನಾಂಕ: 30.03.2002.
2. ಕರ್ನಾಟಕ ರಾಜ್ಯ ಹಿಂದುಳಿದ ವರ್ಗಗಳ ಆಯೋಗದ ಮಧ್ಯಂತರ ವರದಿ ದಿನಾಂಕ: 21-12-2022

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ಪ್ರಸ್ತಾವನೆ:

ಮೇಲೆ (1) ರಲ್ಲಿ ಓದಲಾದ ಸರ್ಕಾರದ ಆದೇಶದಲ್ಲಿ ರಾಜ್ಯದ ಹಿಂದುಳಿದ ವರ್ಗಗಳನ್ನು ಗುರುತಿಸಿ ಪ್ರವರ್ಗ-1, ಪ್ರವರ್ಗ-2 'ಎ', 2 'ಬಿ', 3 'ಎ' ಮತ್ತು 3 'ಬಿ' ಎಂದು ವರ್ಗೀಕರಿಸಿ, ಸದರಿ ಜಾತಿಗಳ ಸಾಮಾಜಿಕ ಮತ್ತು ಶೈಕ್ಷಣಿಕ ಹಿಂದುಳಿದಿರುವಿಕೆಯ ಅನುಸಾರ ಪ್ರವರ್ಗಗಳಲ್ಲಿ ಸೇರ್ಪಡೆ ಮಾಡಿ ಶಿಕ್ಷಣ ಮತ್ತು ಉದ್ಯೋಗದಲ್ಲಿ ಮೀಸಲಾತಿಯನ್ನು ಕಲ್ಪಿಸಲಾಗಿರುತ್ತದೆ.

ಇತ್ತೀಚಿನ ವರ್ಷಗಳಲ್ಲಿ ಪಂಚಮಸಾಲಿ ವೀರಶೈವ ಲಿಂಗಾಯಿತ, ಒಕ್ಕಲಿಗ, ಮರಾಠ ಹಾಗೂ ಇನ್ನಿತರ ಸಮುದಾಯಗಳು ಹಿಂದುಳಿದ ವರ್ಗಗಳ ಪಟ್ಟಿಯಲ್ಲಿ ಹಿಂದುಳಿದ ವರ್ಗಗಳ ಮರು ವರ್ಗೀಕರಣ ಹಾಗೂ ಮೀಸಲಾತಿಯನ್ನು ಹೆಚ್ಚಿಸಲು ಸರ್ಕಾರಕ್ಕೆ ಮನವಿಯನ್ನು ಸಲ್ಲಿಸಿರುತ್ತವೆ. ಸರ್ಕಾರವು ಈ ಸಮುದಾಯಗಳ ಕೋರಿಕೆಯನ್ನು ಪರಿಶೀಲಿಸಿ ವರದಿ ಸಲ್ಲಿಸುವಂತೆ, ಕರ್ನಾಟಕ ರಾಜ್ಯ ಹಿಂದುಳಿದ ವರ್ಗಗಳ ಆಯೋಗವನ್ನು ಕೋರಲಾಗಿರುತ್ತದೆ.

ಮೇಲೆ (2) ರಲ್ಲಿ, ಕರ್ನಾಟಕ ರಾಜ್ಯ ಹಿಂದುಳಿದ ವರ್ಗಗಳ ಆಯೋಗವು ವಿವಿಧ ಜಿಲ್ಲೆಗಳಿಗೆ ಭೇಟಿ ನೀಡಿ ಕ್ಷೇತ್ರ ಅಧ್ಯಯನ ನಡೆಸಿ, ಸಂಬಂಧಿಸಿದ ಸಮುದಾಗಳೊಂದಿಗೆ ಬಹಿರಂಗ ವಿಚಾರಣೆ ನಡೆಸಿ ಸಲ್ಲಿಸಿದ ಮಧ್ಯಂತರ ವರದಿಯಲ್ಲಿ ಈ ಕೆಳಕಂಡ ಮುಖ್ಯಾಂಶಗಳು ಕಂಡುಬಂದಿರುತ್ತವೆ.

1. ಸರ್ಕಾರದ ಆದೇಶ ಸಂಖ್ಯೆ: ಸಕಇ 225 ಬಿಸಿಎ 2000, ದಿನಾಂಕ: 30.03.2002ರಲ್ಲಿ ಹಿಂದುಳಿದ ವರ್ಗಗಳನ್ನು ಪ್ರವರ್ಗವಾರು ವರ್ಗೀಕರಿಸಿ ಮೀಸಲಾತಿಯನ್ನು ನಿಗದಿಪಡಿಸಲಾಗಿರುತ್ತದೆ. ಸದರಿ ಆದೇಶದ ನಂತರ ಸುಮಾರು 20 ವರ್ಷ ಕಳೆದರೂ ಆಯೋಗದಿಂದ ಹಿಂದುಳಿದ ವರ್ಗಗಳ ಪಟ್ಟಿಯ ಪರಿಷ್ಕರಣೆಯ ಕಾರ್ಯ ಕೈಗೊಂಡಿರುವುದಿಲ್ಲ. ಈ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಹಿಂದುಳಿದ ವರ್ಗಗಳ ಸಮುದಾಯಗಳಿಗೆ ಸಾಮಾಜಿಕ ನ್ಯಾಯ ಕೊಡುವ ದೃಷ್ಟಿಯಿಂದ ಪ್ರಸ್ತುತ ಸರ್ಕಾರದಿಂದ ಅಧಿಕೃತಗೊಳಿಸಿರುವ ಹಿಂದುಳಿದ ವರ್ಗಗಳ ಪಟ್ಟಿಯ ಪರಿಷ್ಕರಣೆ ಹಾಗೂ ಪುನರ್ ವರ್ಗೀಕರಣ ಕೈಗೊಳ್ಳುವುದು ಅವಶ್ಯವಿರುತ್ತದೆ. ಭಾರತ ಸಂವಿಧಾನ ಅನುಚ್ಛೇದ 15 (5) ಮತ್ತು 16(5) ರನ್ವಯ ಆರ್ಥಿಕವಾಗಿ ದುರ್ಬಲ ವರ್ಗಗಳಿಗೆ (EWS) ರಾಜ್ಯದಲ್ಲಿರುವ ಕೇಂದ್ರ ಸರ್ಕಾರ ವ್ಯಾಪ್ತಿಗೆ ಬರುವ ಇಲಾಖೆಗಳಲ್ಲಿ ಉದ್ಯೋಗ ಮತ್ತು ಕೇಂದ್ರ ಸರ್ಕಾರದ ಶಿಕ್ಷಣ ಸಂಸ್ಥೆಗಳಿಗೆ ಶೇಕಡ 10ರ ಮೀಸಲಾತಿ ಸೌಲಭ್ಯವನ್ನು ಕಲ್ಪಿಸಲಾಗಿರುತ್ತದೆ. ಅದೇ ರೀತಿ ಆರ್ಥಿಕವಾಗಿ ದುರ್ಬಲ ವರ್ಗಗಳಿಗೆ (EWS) ರಾಜ್ಯ ಸರ್ಕಾರ ವ್ಯಾಪ್ತಿಯಲ್ಲಿ ಬರುವ ಇಲಾಖೆಗಳಲ್ಲಿ ಉದ್ಯೋಗ ಮತ್ತು ರಾಜ್ಯ ಸರ್ಕಾರದಿಂದ ನಡೆಸಲ್ಪಡುವ ಶಿಕ್ಷಣ ಸಂಸ್ಥೆಗಳಲ್ಲಿ ಶಿಕ್ಷಣಕ್ಕಾಗಿ ಮೀಸಲಾತಿಯನ್ನು ಗರಿಷ್ಠ 10% ರವರೆಗೆ ಜಾರಿಗೊಳಿಸಬಹುದಾಗಿದೆ. ಈ ಮೇಲಿನ ಕ್ರಮದಿಂದ ಕೆಲವೊಂದು ಹಿಂದುಳಿದ ವರ್ಗಗಳ ಸಮುದಾಯಗಳನ್ನು ಆರ್ಥಿಕವಾಗಿ ದುರ್ಬಲ ವರ್ಗಗಳಿಗೆ (EWS) ನೀಡಲಾಗುತ್ತಿರುವ ಮೀಸಲಾತಿಗೆ ವರ್ಗಾಯಿಸ ಬಹುದಾಗಿರುತ್ತದೆ ಎಂಬ ಅಂಶವನ್ನು ಸರ್ಕಾರ ಪರಿಶೀಲಿಸಬಹುದಾಗಿದೆ. ಹೀಗೆ ಕೆಲವೊಂದು ಸಮುದಾಯಗಳು ಆರ್ಥಿಕವಾಗಿ ದುರ್ಬಲ ವರ್ಗಗಳ (EWS) ಮೀಸಲಾತಿಗೆ ವರ್ಗಾವಣೆಯಾದಲ್ಲಿ ಈ ರೀತಿ ವರ್ಗಾವಣೆಯಾಗುವ

ಸಮುದಾಯಗಳು ಪಡೆಯುತ್ತಿದ್ದ ಮೀಸಲಾತಿ ಪ್ರಮಾಣವನ್ನು ಉಳಿದ ಹಿಂದುಳಿದ ವರ್ಗಗಳ ಸಮುದಾಯಗಳು ಇದರ ಉಪಯೋಗವನ್ನು ಪಡೆಯಬಹುದಾಗಿರುತ್ತದೆ ಎಂಬ ಅಂಶವನ್ನು ಸರ್ಕಾರ ಪರಿಶೀಲಿಸಬಹುದಾಗಿದೆ.

2. ಹಿಂದುಳಿದ ವರ್ಗಗಳ ಆಯೋಗವು ಮೀಸಲಾತಿಯ ಪಟ್ಟಿಯಲ್ಲಿ ಹೊಸದಾಗಿ ಸೇರಿಸಲು ಹಾಗೂ ವರ್ಗಾಯಿಸಲು ಪಂಚಮಸಾಲಿ, ಲಿಂಗಾಯಿತ, ಮರಾಠ ಹಾಗೂ ಇತರೆ ಸಮುದಾಯವೂ ಸೇರಿದಂತೆ, ರಾಜ್ಯ ಒಕ್ಕಲಿಗರ ಸಂಘ ಹಾಗೂ ಇತರೆ ಅನೇಕ ಸಂಘಗಳು ಸಲ್ಲಿಸಿರುವ ಬೇಡಿಕೆಯನ್ನು ಕಾನೂನು, ಸಂವಿಧಾನದ ಮತ್ತು ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯ ಇಂತಹ ಪ್ರಕರಣಗಳಲ್ಲಿ ನೀಡಿದ ತೀರ್ಪಿನ ಅಡಿಯಲ್ಲಿ ಪರಿಶೀಲಿಸಬೇಕಾಗಿರುತ್ತದೆ.

3. 3ಎ ಸಮುದಾಯವನ್ನು (ಒಕ್ಕಲಿಗ ಹಾಗೂ ಇತರೆ ಸಮುದಾಯಗಳು) ಪ್ರವರ್ಗ 2 ಅಂದರೆ More Backward ಎಂದು ಪರಿಗಣಿಸಿ 2ಸಿ ಎಂಬ ಒಂದು ಹೊಸ ಪ್ರವರ್ಗವನ್ನು ಸೃಜಿಸುವುದು.

4. 3ಬಿ (ಪಂಚಮಸಾಲಿ, ಲಿಂಗಾಯತ ವೀರಶೈವ ಹಾಗೂ ಇತರ ಸಮುದಾಯಗಳು) ಸಮುದಾಯವನ್ನು ಪ್ರವರ್ಗ 2 ಅಂದರೆ More Backward ಎಂದು ಪರಿಗಣಿಸಿ 2ಡಿ ಎಂಬ ಒಂದು ಹೊಸ ಪವರ್ಗವನ್ನು ಸೃಜಿಸುವುದು.

5. ಈ ಹೊಸದಾಗಿ ಸೃಜಿಸುವ 2ಸಿ ಮತ್ತು 2ಡಿ ಮೀಸಲಾತಿಯನ್ನು ಹೆಚ್ಚಿಸುವ ಅವಕಾಶವನ್ನು ಈಗಾಗಲೇ ಅತ್ಯಂತ ಹಿಂದುಳಿದ ಪ್ರವರ್ಗ-1 ಹಾಗೂ 2ಎಗೆ ಧಕ್ಕೆ ಹಾಗೂ ಬದಲಾವಣೆ ಆಗದಂತೆ ಕಟ್ಟು ನಿಟ್ಟಾಗಿ ನೋಡಿಕೊಳ್ಳತಕ್ಕದ್ದು

ಮುಸ್ಲಿಂ ಸಮುದಾಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಆಂದ್ರ ಪ್ರದೇಶ ರಾಜ್ಯದ ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು ಟಿ.ಮುರುಳಿಧರ ಮತ್ತು ಇತರರು ವಿರುದ್ಧ ಆಂದ್ರ ಪ್ರದೇಶ ಸರ್ಕಾರ ಪ್ರಕರಣದಲ್ಲಿ ಈ ಕೆಳಕಂಡಂತೆ ಆದೇಶಿಸಿರುತ್ತದೆ.

> *"Whereas, reservation in favor of Muslim Community was called into question before the Hon'ble Andhra Pradesh High Court, in T. Muralidhar and Others v. State of Andhra Pradesh. The 7 Judges Bench by judgment dated 08.02.2010 held that Andhra Pradesh Reservation in favor of Socially and Educationally Backward Classes of Muslims Act, 2007 is unsustainable and isin violation of Articles 14, 15(1) and 16(2) of the Constitution of India. Against the said order of the Hon'ble Andhra Pradesh High Court, Civil Appeal No. 7513/2005 is pending before the Hon'ble Supreme Court of India"*

Whereas at the time 28 category was created and the members of Muslim Community were included/ classified as Backward Classes

for the purpose of reservation, there was neither any recommendation by any body, nor was there any empirical data nor any material for granting them the said status.

Whereas the members of the Minority community have adequate protection under the Constitution for establishment and admission of Minority Institution/Students. Whereas Government has taken into consideration the above amongst other factors

ಮುಂದುವರೆದು, ಡಾ. ಬಿ.ಆರ್. ಅಂಬೇಡ್ಕರ್ ಅವರ ನಿಲುವಿನ ಅನ್ವಯ ಹಾಗೂ 2B (4%) ಯಲ್ಲಿರುವ Religious Minority ಯನ್ನು ಹಿಂದುಳಿದ ಪಟ್ಟಿಯಿಂದ ಈ ವರ್ಗವನ್ನು ಸಹಜವಾಗಿ ಶೇ. 10 ಮೀಸಲಾತಿ ಇರುವ EWS ಪಟ್ಟಿಗೆ ಸೇರಿಸುವುದರಿಂದ 2 B ವರ್ಗದ ಶಿಕ್ಷಣ ಹಾಗೂ ಉದ್ಯೋಗ ಮೀಸಲಾತಿಯನ್ನು ರಕ್ಷಿಸಲಾಗಿದೆ.

ಶಿಕ್ಷಣ ಹಾಗೂ ಉದ್ಯೋಗಕ್ಕಾಗಿ ಸರ್ಕಾರದಿಂದ ಅನುಷ್ಠಾನಗೊಳಿಸುತ್ತಿರುವ ವಿವಿಧ ಕಲ್ಯಾಣ ಕಾರ್ಯಕ್ರಮಗಳ ಕುರಿತು ಪರಿಶೀಲಿಸಲಾಗಿ ಹಿಂದುಳಿದ ವರ್ಗಗಳ ಪ್ರವರ್ಗದಲ್ಲಿರುವ ಸಮುದಾಯಗಳು ಸಾಮಾಜಿಕ ಹಾಗೂ ಶೈಕ್ಷಣಿಕವಾಗಿ ಸಾಕಷ್ಟು ಅಭಿವೃದ್ಧಿ ಹೊಂದದೇ ಇರುವುದನ್ನು ಗಮನಿಸಲಾಗಿದೆ. ಆದ್ದರಿಂದ ಈ ಸಮುದಾಯಗಳನ್ನು ಅತೀ ಹಿಂದುಳಿದವರೆಂದು ಪರಿಗಣಿಸಿ, ಸದರಿ ಸಮುದಾಯಗಳಿಗೆ ಹೆಚ್ಚಿನ ಪ್ರಾತಿನಿಧ್ಯ ದೊರೆಯುವಂತೆ ಹಾಗೂ ಸರ್ಕಾರದ ವಿವಿಧ ಕಲ್ಯಾಣ ಯೋಜನೆಗಳನ್ನು ಪರಿಣಾಮಕಾರಿಯಾಗಿ ಜಾರಿಗೊಳಿಸುವ ಮೂಲಕ ಸದರಿ ಸಮುದಾಯಗಳ ಅಭಿವೃದ್ಧಿಯನ್ನು ಕೈಗೊಳ್ಳಬೇಕಿರುವುದು ಕಂಡುಬಂದಿರುತ್ತದೆ.

ಈ ಹಿನ್ನೆಲೆಯಲ್ಲಿ, ಶೈಕ್ಷಣಿಕ ಮತ್ತು ಔದ್ಯೋಗಿಕ ಮೀಸಲಾತಿಗಾಗಿ ಚಾಲ್ತಿಯಲ್ಲಿರುವ 03 ಪ್ರವರ್ಗಗಳಾದ ಅತ್ಯಂತ ಹಿಂದುಳಿದವರು, ಅತೀ ಹಿಂದುಳಿದವರು ಹಾಗೂ ಹಿಂದುಳಿದವರು ಎಂಬುದರ ಬದಲಾಗಿ ಅತ್ಯಂತ ಹಿಂದುಳಿದವರು ಹಾಗೂ ಅತೀ ಹಿಂದುಳಿದವರೆಂದು 02 ಪ್ರವರ್ಗಗಳನ್ನು ಪುನರ್ ವಿಂಗಡಿಸಿ ಸೃಜಿಸುವುದು ಸೂಕ್ತವಾಗಿರುತ್ತದೆ.

ಮೇಲಿನ ಎಲ್ಲಾ ಅಂಶಗಳನ್ನು ಗಣನೆಗೆ ತೆಗೆದುಕೊಂಡು ಹಾಗೂ ಪ್ರಸ್ತುತ ಸರ್ಕಾರದ ಆದೇಶ ಸಂಖ್ಯೆ: SWD 225 BCA 2000 Dated:30-03-2002ರ ಆದೇಶವನ್ನು ಗಮನದಲ್ಲಿಟ್ಟುಕೊಂಡು, ಸರಿ ಆದೇಶದರುವ ಪ್ರವರ್ಗ-3ಎ ರಲ್ಲಿ ಇರುವ ಎಲ್ಲ ಜಾತಿಗಳನ್ನು ಅಂದರೆ

1. 1 (a) ಒಕ್ಕಲಿಗ, (b) ವಕ್ಕಲಿಗ, (c) ಸರ್ಪ ಒಕ್ಕಲಿಗ, (d) ಹಳ್ಳಿಕಾರ್ ಒಕ್ಕಲಿಗ, (e)ನಾಮಧಾರಿ ಒಕ್ಕಲಿಗ, (f) ಗಂಗಡ್‌ಕಾರ್ ಒಕ್ಕಲಿಗ, (g) ದಾಸ್ ಒಕ್ಕಲಿಗ, (h) ರೆಡ್ಡಿ ಒಕ್ಕಲಿಗ, (i) ಮರಸು ಒಕ್ಕಲಿಗ, (j) ಗೌಡ (GOUDA)/ ಗೌಡ (GOWDA), (k) ಹಳ್ಳಿಕಾರ್, (l) ಕುಂಚಿಟಿಗ, (m) ಗೌಡ, (n) ಕಾಪು, (0) ಹೆಗ್ಗಡೆ, (p) ಕಮ್ಮ, (q) ರಡ್ಡಿ, (r)ಗೌಂಡರ್, (s) ನಾಮಧಾರಿ ಗೌಡ, (t) ಉಪ್ಪಿನ ಕೊಳಗ/ಉತ್ತಮ ಕೊಳಗ,

2. 2 ಕೊಡಗರು,

3. 3 (a) ಬಲಿಜ, (b) ಬಲಜಿಗ/ಬಣಜಿಗ/ ಗೌಡಬಣಜಿಗ (c) ನಾಯ್ಡು, (d) ತೆಲಗ ಬಲಿಜ/ತೆಲಗ ಬಣಜಿಗ, (e)ಶೆಟ್ಟಿ ಬಲಿಜ/ಶೆಟ್ಟಿ ಬಣಜಿಗ/ಬಣಜಿಗ ಶೆಟ್ಟಿ, (f) ದಾಸರ ಬಲಿಜ/ದಾಸರ ಬಲಜಿಗ/ದಾಸರ ಬಣಜಿಗ/ದಾಸ ಬಣಜಿಗ, (g) ಕಸ್ಟನ್, (h)ಮುನ್ನೂರ/ಮುನ್ನಾರ್ ಕಾಪು, (i) ಬಳೆಗಾರ/ಬಳೆ ಬಣಜಿಗ/ಬಳೆ ಬಲಜಿಗ, ಬಳ ಚೆಟ್ಟಿ/ಬಣಗಾರ, (j) ರೆಡ್ಡಿ (ಬಲಿಜ) (k) ಜನಪ್ಪನ್, (l) ಉಪ್ಪಾರ (ಬಲಿಜ) (m) ತುಲೇರು (ಬಲಿಜ).

ಹಾಗೂ ಪ್ರವರ್ಗ-3ಬಿ ರಲ್ಲಿರುವ ಎಲ್ಲ ಜಾತಿಗಳು ಅಂದರೆ

1. 1 (a) ವೀರಶೈವ ಲಿಂಗಾಯತ, (b)ಲಿಂಗಾಯತ ಉಪಜಾತಿಗಳಾದ ಹೆಳವ, ಅಂಬಿಗ, ಭೋಯಿ, ಗಂಗಾಮತ, ಸುಣಗಾರ, ಅಗಸ, ಮಡಿವಾಳ, ಕುಂಬಾರ, ಕುರುಬ, ಬಜಂತ್ರಿ, ಬಂಡಾರಿ, ಹಡಪದ, ಕ್ಷೌರಿಕ, ನವಲಿಗ ನಾವಿ, ಅಕ್ಕಸಾಲಿ, ಬಡಿಗಾರ್, ಕಮ್ಮಾರ, ಕಂಸಾಳ, ಪಂಚಾಳ, ಮೇದರ ಉಪ್ಪಾರ, ಗೌಳಿ,

2. 2(a) ಮರಾತ, ಮರಾಠ, (b) ಅರೆ ಕ್ಷತ್ರಿ, ಅರೆ ಮರಾಠ, ಆರ್ಯ ಮರಾಠ, (c) ಆರ್ಯ, ಆರ್ಯರು, (d) ಕೊಂಕಣ ಮರಾಠ, (e) ಕ್ಷತ್ರಿಯ ಮರಾಠ, (f) ಕುಳವಾಡಿ,

3. 3. ಕ್ರಿಶ್ಚಿಯನ್,

4. 4(a) ಬಂಟ್/ಬಂಟ್, (b) , ಪರಿವಾರ್ ಬಂಟ್

5. 5 ಜೈನರು (ದಿಗಂಬರರು),

6. 6 (a) ಸಾತಾನಿ, (b) ಚಾತ್ತದ ಶ್ರೀವೈಷ್ಣವ/ಚಾತ್ತಾದ ವೈಷ್ಣವ / ಶಾತ್ತಾದ ವೈಷ್ಣವ/ಶಾತ್ರಾದ ಶ್ರೀವೈಷ್ಣವ, (c) ಕದ್ರಿ ವೈಷ್ಣವ, (d) ಸಮರಾಯ, (e) ಸಾತ್ತದವಲ್, (f) ಸಾತ್ತದವನ್, (g) ವೈಷ್ಣವ

ಸಮುದಾಯಗಳಿಗೆ (ಪುವರ್ಗ-3ಎ ಮತ್ತು 3ಬಿ) ಹಿಂದುಳಿದ ವರ್ಗಗಳಿಗೆ ಸಾಮಾಜಿಕ ನ್ಯಾಯವನ್ನು ಕಲ್ಪಿಸುವ ಉದ್ದೇಶದಿಂದ ಅತೀ ಹಿಂದುಳಿದವರೆಂದು ಪರಿಗಣಿಸಿ ಕ್ರಮವಾಗಿ ಪ್ರವರ್ಗ-2ಸಿ ಹಾಗೂ ಪ್ರವರ್ಗ-2ಡಿ ಎಂದು ಮರು ವರ್ಗೀಕರಣ ಮಾಡಿ, ಶಿಕ್ಷಣ ಮತ್ತು ಉದ್ಯೋಗ ಮೀಸಲಾತಿಗಾಗಿ ಪ್ರಸ್ತುತ ಚಾಲ್ತಿಯಲ್ಲಿರುವ ಮೀಸಲಾತಿಯನ್ನು ಮರು ವರ್ಗೀಕರಣ ಕೈಗೊಳ್ಳುವುದು ಸೂಕ್ತವಾಗಿರುತ್ತದೆ.

ಪ್ರಸ್ತಾವನೆಯನ್ನು ಪರಿಶೀಲಿಸಿ ಈ ಕೆಳಕಂಡಂತೆ ಆದೇಶಿಸಿದೆ.

ಸರ್ಕಾರಿ ಆದೇಶ ಸಂಖ್ಯೆ: ಹಿಂವಕ 135 ಬಿಸಿಎ 2023,
ಬೆಂಗಳೂರು, ದಿನಾಂಕ : 27.03.2023.

ಪ್ರಸ್ತಾವನೆಯಲ್ಲಿ ವಿವರಿಸಿರುವ ಅಂಶಗಳ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ರಾಜ್ಯದಲ್ಲಿರುವ ಹಿಂದುಳಿದ ವರ್ಗಗಳಿಗೆ ಸಾಮಾಜಿಕ ನ್ಯಾಯವನ್ನು ಕಲ್ಪಿಸುವ ದೃಷ್ಟಿಯಿಂದ ಹಿಂದುಳಿದ ವರ್ಗಗಳಿಗೆ ಈ ಕೆಳಕಂಡಂತೆ ಮೀಸಲಾತಿಯನ್ನು ಪುನರ್ ವರ್ಗೀಕರಿಸಿ, ಮೀಸಲಾತಿ ಪ್ರಮಾಣವನ್ನು ಯಥಾವತ್ತಾಗಿ ಮುಂದುವರೆಸಿ ಆದೇಶಿಸಿದೆ.

ಪುನರ್ ವರ್ಗೀಕೃತ ಮೀಸಲಾತಿ ಪಟ್ಟಿ

ಪ್ರವರ್ಗ	ಮೀಸಲಾತಿ ಪ್ರಮಾಣ	**ವರ್ಗೀಕರಣ**	**ಒಳಪಡುವ ಜಾತಿಗಳು**
CATEGORY-I	4%	ಅತ್ಯಂತ ಹಿಂದುಳಿದವರು	ಸರ್ಕಾರದ ಆದೇಶ ಸಂಖ್ಯೆ: ಸಕಇ 225 ಬಿಸಿಎ 2000 ದಿನಾಂಕ: 30.03.2002 ರಲ್ಲಿರುವಂತೆ
CATEGORY-II(A)	15%		ಸರ್ಕಾರದ ಆದೇಶ ಸಂಖ್ಯೆ: ಸಕಇ 225 ಬಿಸಿಎ 2000 ದಿನಾಂಕ: 30.03.2002 ರಲ್ಲಿರುವಂತೆ
CATEGORY-II(B)	0%	-	-
CATEGORY-II(C)	6%	ಅತೀ ಹಿಂದುಳಿದವರು	ಒಕ್ಕಲಿಗ ಮತ್ತು ಇತರ ಜಾತಿಗಳು (ಅನುಬಂಧ 1)
CATEGORY-II(D)	**7%**	ಅತೀ **ಹಿಂದುಳಿದವರು**	**ಲಿಂಗಾಯತ/ ವೀರಶೈವ-ಪಂಚಮಸಾಲಿ ಮತ್ತು ಇತರ ಜಾತಿಗಳು (ಅನುಬಂಧ 2)**
ಒಟ್ಟು	**32%**		

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ
ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ
ಸಹಿ/–
22/3/23
(ತುಳಸಿ ಮದ್ದಿನೇನಿ ಐಎಎಸ್)
ಸರ್ಕಾರದ ಕಾರ್ಯದರ್ಶಿ,
ಹಿಂದುಳಿದ ವರ್ಗಗಳ ಕಲ್ಯಾಣ ಇಲಾಖೆ,"

(Emphasis added)

The category in which Panchamasalis would come is depicted to be backward class and 7% reservation was sought to be granted. This comes to be challenged before the Apex Court in a petition under Article 32 of the Constitution of India, before whom the State of Karnataka undertook that it would not give effect to the Government order till the next date of hearing and the earlier notification relating to reservation dated 30-03-2002 would continue. The order of the Apex Court reads as follows:

> "Learned Solicitor General would appear and submit that pleadings which were to be put in is ready and is being filed today.
>
> List the matter on 9th May, 2023.
>
> We further record the following statements made by the learned Solicitor General.
>
> (1) The impugned orders dated 27-03-2023 shall not be implemented till the next date of hearing.
>
> (2) He further submits that the earlier regime relating to reservation viz., Notification dated 30-03-2002 will continue to hold the field till the next date of hearing.
>
> He undoubtedly submits that this submission which he has made is without prejudice to his contentions.
>
> W.P.(C) No.468 of 2023 and W.P.(C) No.469 of 2023 be tagged along with W.P.(C) No.435 of 2023."

After the order of the Apex Court, springs a representation from the pontiff, the 1st petitioner, to the powers that be i.e., His Excellency the Governor and the Chief Minister. One such representation to the Chief Minister reads as follows:

"ಸನ್ಮಾನ್ಯ ಶ್ರೀ ಸಿದ್ದರಾಮಯ್ಯ ರವರು,
ಮಾನ್ಯ ಮುಖ್ಯ ಮಂತ್ರಿಗಳು,
ಕರ್ನಾಟಕ ಸರ್ಕಾರ, ವಿಧಾನಸೌಧ,
ಬೆಂಗಳೂರು.

ಮಾನ್ಯರೆ,

ವಿಷಯ: ಕರ್ನಾಟಕ ರಾಜ್ಯದ ಲಿಂಗಾಯತ ಪಂಚಮಸಾಲಿ ಸಮುದಾಯವನ್ನು ಹಿಂದುಳಿದ ಪ್ರವರ್ಗ 2ಎ ದಲ್ಲಿ ಸೇರಿಸುವ ಕುರಿತು.

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ಕರ್ನಾಟಕ ರಾಜ್ಯದಲ್ಲಿ ಲಿಂಗಾಯತ ಪಂಚಮಸಾಲಿ ಸಮುದಾಯವು ಕೃಷಿಯನ್ನು ಅವಲಂಬಿಸಿರುವ ಕೃಷಿ ಕಾಯಕ ಸಮುದಾಯವಾಗಿದ್ದು, ಈ ಸಮುದಾಯದವರು ಕೃಷಿಕರಾಗಿ, ಕೃಷಿ ಕಾರ್ಮಿಕರಾಗಿ ಕಾಯಕ ಮಾಡುವವರಾಗಿದ್ದು, ಆರ್ಥಿಕವಾಗಿ ಹಾಗೂ ಶೈಕ್ಷಣಿಕವಾಗಿ ಹಿಂದುಳಿದ ಸಮುದಾಯವಾಗಿರುತ್ತದೆ. ಸದರಿ ಸಮುದಾಯಕ್ಕೆ ಸೂಕ್ತವಾದ ಮೀಸಲಾತಿ ವ್ಯವಸ್ಥೆಯನ್ನು ಕಲ್ಪಿಸಿ ಸಮಾಜಕ್ಕೆ ನ್ಯಾಯ ಒದಗಿಸುವಂತೆ ಸರ್ಕಾರಕ್ಕೆ ಒತ್ತಾಯಿಸಿ ಜಗದ್ಗುರು ಶ್ರೀ ಬಸವ ಜಯ ಮೃತ್ಯುಂಜಯ ಮಹಾ ಸ್ವಾಮಿಗಳು ಲಿಂಗಾಯತ - ಪಂಚಮಶಾಲೆ ಮಹಾ ಪೀಠ ಕೂಡಲ ಸಂಗಮ ಇವರ ನೇತೃತ್ವದಲ್ಲಿ 3-4 ವರ್ಷಗಳಿಂದ ಹಲವಾರು ರೀತಿಯ ಹೋರಾಟ ಮಾಡುತ್ತಾ ಬರಲಾಗಿದೆ.

ಹಿಂದಿನ ಸರ್ಕಾರವು ಶಾಶ್ವತ ಹಿಂದುಳಿದ ವರ್ಗಗಳದ ಆಯೋಗದ ಮಧ್ಯಾಂತರ ವರದಿಯನ್ನು ಆಧರಿಸಿ ಲಿಂಗಾಯತ ಪಂಚಮ ಸಾಲಿ ಸಮುದಾಯವನ್ನು ಹಿಂದುಳಿದ ಪ್ರವರ್ಗ 28ಡಿ ಗೆ ಸೇರಿಸಿ ಶೇಕಡ 7 ಮೀಸಲಾತಿಯನ್ನು ನೀಡಿದ್ದು, ಆದರೆ ಸದರಿ ಆದೇಶವು ಜಾರಿಯಾಗಿರುವುದಿಲ್ಲ. ಲಿಂಗಾಯಯತ - ಪಂಚಮಸಾಲಿ ಸಮುದಾಯವು ಸಂವಿಧಾನದಡಿಯಲ್ಲಿ ಪ್ರವರ್ಗ 2ಎ ದಲ್ಲಿ ಸೇರಲು ಎಲ್ಲಾ ರೀತಿಯ ಮಾನದಂಡಗಳ ವ್ಯಾಪ್ತಿಯಲ್ಲಿ ಬರುತ್ತದೆ.

ಕಾರಣ ಮಾನ್ಯರವರು ಈ ವಿಷಯವಾಗಿ ತುರ್ತು ಕ್ರಮ ಜರುಗಿಸಿ ಲಿಂಗಾಯತ ಪಂಚಮಸಾಲಿ ಸಮುದಾಯವನ್ನು ಹಾಗೂ ಪರ್ಯಾಯನಾಮಗಳಾದ ದೀಕ್ಷ ಲಿಂಗಾಯತ, ಲಿಂಗಾಯತ ಗೌಡ. ಮಲೇಗೌಡ ಸಮುದಾಯಗಳನ್ನು ಹಿಂದುಳಿದ ಪ್ರವರ್ಗ 2ಎ ವ್ಯಾಪ್ತಿಗೆ ಸೇರಿಸಿ ಈ ಸಮುದಾಯಗಳಿಗೆ ಸಾಮಾಜಿಕ ನ್ಯಾಯ ಕಲ್ಪಿಸಿಕೊಡಬೇಕೆಂದು ವಿನಂತಿಸಿ ತಮ್ಮಲ್ಲಿ ಈ ಮನವಿಯನ್ನು ಸಲ್ಲಿಸಿಕೊಂಡಿರುತ್ತೇವೆ.

ಗೌರವಗಳೊಂದಿಗೆ,

ಸಹಿ/–
18/10/2024."

12. The petitioners then, on the score that their representations have gone unheeded, decided to hold a protest march, to which the Deputy Commissioner on being approached passes an order on 8-12-2024. The order reads as follows:

"ಆದೇಶ

ಪ್ರಸ್ತಾವನೆಯಲ್ಲಿ ವಿವರಿಸಿದ ಕಾರಣಗಳಿಂದಾಗಿ **ಮೊಹಮ್ಮದ ರೋಷನ್, ಭಾ.ಆ.ಸೇ ಜಿಲ್ಲಾ ದಂಡಾಧಿಕಾರಿ ಬೆಳಗಾವಿ ಜಿಲ್ಲೆ, ಬೆಳಗಾವಿ** ಆದ ನಾನು **ಭಾರತೀಯ ನಾಗರಿಕ ಸುರಕ್ಷಾ, ಸಂಹಿತಾ (ಬಿ.ಎನ್.ಎಸ್.ಎಸ್), 2023 ಕಲಂ 163 ರ ರಡಿ** ನನ್ನಲ್ಲಿರುವ ಪುದತ್ತವಾದ ಅಧಿಕಾರವನ್ನು ಚಲಾಯಿಸಿ ಬೆಳಗಾವಿಯ ಸುವರ್ಣ ವಿಧಾನಸೌಧದಲ್ಲಿ ದಿನಾಂಕ:09-12-2024 ರಿಂದ ಆರಂಭವಾಗುವ ಕರ್ನಾಟಕ ವಿಧಾನ ಮಂಡಲದ 2024 ನೇ ಸಾಲಿನ ಚಳಿಗಾಲದ ಅಧಿವೇಶನ ನಿಮಿತ್ಯ ಸಾರ್ವಜನಿಕ ಹಿತದೃಷ್ಟಿಯಿಂದ ಯಾವುದೇ ಅಹಿತಕರ ಘಟನೆಗಳು ನಡೆಯದಂತೆ ಹಾಗೂ ಕಾನೂನು ಮತ್ತು ಸುವ್ಯವಸ್ಥೆ ಕಾಪಾಡುವ ಲಿಂಗಾಯತ ಪಂಚಮಸಾಲಿ ಮೀಸಲಾತಿ ಪ್ರತಿಭಟನೆ ಉದ್ದೇಶದಿಂದ ಬೆಳಗಾವಿ ಜಿಲ್ಲೆಯಿಂದ ಟ್ರ್ಯಾಕ್ಟರ ಕ್ರೂಜರ ಹಾಗೂ ಇತರೆ ಯಾವುದೇ ವಾಹನಗಳು ಬೆಳಗಾವಿ ನಗರಕ್ಕೆ ಆಗಮಿಸದಂತೆ ನಿಷೇಧಿಸಿ ಆದೇಶಿಸಿರುತ್ತೇನೆ.

ಈ ಆದೇಸವನ್ನು ಇಂದು ದಿನಾಂಕ:08.12.2024 ರಂದು ನನ್ನ ಸಹಿ ಮತ್ತು ಮೊಹರಿನೊಂದಿಗೆ ಹೊರಡಿಸಿರುತ್ತೇನೆ.

ಈ ಆದೇಶವನ್ನು **ಪೊಲೀಸ್ ಆಯುಕ್ತರು, ಬೆಳಗಾವಿ ನಗರ, ಬೆಳಗಾವಿ ಹಾಗೂ ಪೊಲೀಸ್ ಅಧೀಕ್ಷಕರು, ಬೆಳಗಾವಿ ಜಿಲ್ಲೆ, ಬೆಳಗಾವಿ** ಇವರಗಳು ಜ್ಯಾರಿಯಲ್ಲಿ ತರುವ ಬಗ್ಗೆ ಕ್ರಮ ಜರುಗಿಸತಕ್ಕದ್ದು.

ಸಹಿ/–
(ಮೊಹಮ್ಮದ ರೋಷನ್, ಭಾ.ಆ.ಸೇ)
ಜಿಲ್ಲಾಧಿಕಾರಿ ಹಾಗೂ ಜಿಲ್ಲಾ
ದಂಡಾಧಿಕಾರಿ, ಬೆಳಗಾವಿ ಜಿಲ್ಲೆ, ಬೆಳಗಾವಿ."

This is modified on the next day i.e., on 09-12-2024 and the modified order reads as follows:

"ಪರಿಷ್ಕೃತ ಆದೇಶ

ಪ್ರಸ್ತಾವನೆಯಲ್ಲಿ ವಿವರಿಸಿದ ಕಾರಣಗಳಿಂದಾಗಿ **ಮೊಹಮ್ಮದ ರೋಷನ್, ಭಾ.ಆ.ಸೇ ಜಿಲ್ಲಾ ದಂಡಾಧಿಕಾರಿ ಬೆಳಗಾವಿ ಜಿಲ್ಲೆ, ಬೆಳಗಾವಿ** ಆದ ನಾನು **ಭಾರತೀಯ ನಾಗರಿಕ ಸುರಕ್ಷಾ ಸಂಹಿತಾ (ಬಿ.ಎನ್.ಎಸ್.ಎಸ್), 2023 ಕಲಂ 163 ರ ರಡಿ** ನನ್ನಲ್ಲಿರುವ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರವನ್ನು ಚಲಾಯಿಸಿ ಬೆಳಗಾವಿಯ ಸುವರ್ಣ ವಿಧಾನಸೌಧದಲ್ಲಿ ದಿನಾಂಕ:09-12-2024 ರಿಂದ ಆರಂಭವಾಗುವ ಕರ್ನಾಟಕ ವಿಧಾನ ಮಂಡಲದ 2024 ನೇ ಸಾಲಿನ ಚಳಿಗಾಲದ ಅಧಿವೇಶನ ನಿಮಿತ್ಯ ಸಾರ್ವಜನಿಕ ಹಿತದೃಷ್ಟಿಯಿಂದ ಯಾವುದೇ ಅಹಿತಕರ ಘಟನೆಗಳು ನಡೆಯದಂತೆ ಹಾಗೂ ಕಾನೂನು ಮತ್ತು ಸುವ್ಯವಸ್ಥೆ ಕಾಪಾಡುವ ಹಿತದೃಷ್ಟಿಯಿಂದ **ದಿನಾಂಕ:09.12.2024 ಮತ್ತು ದಿನಾಂಕ:10.12.2024 ರಂದು** ಲಿಂಗಾಯತ ಪಂಚಮಸಾಲಿ ಮೀಸಲಾತಿ ಪ್ರತಿಭಟನೆ ಉದ್ದೇಶದಿಂದ ಬೆಳಗಾವಿ ಜಿಲ್ಲೆಯಿಂದ ಟ್ರ್ಯಾಕ್ಟರಗಳನ್ನು ಮಾತ್ರ ಬೆಳಗಾವಿ ನಗರಕ್ಕೆ ಆಗಮಿಸದಂತೆ ನಿಷೇಧಿಸಿ ಆದೇಶಿಸಿರುತ್ತೇನೆ.

ಈ ಆದೇಶವನ್ನು ಇಂದು ದಿನಾಂಕ:09-12-2024 ರಂದು ನನ್ನ ಸಹಿ ಮತ್ತು ಮೊಹರಿನೊಂದಿಗೆ ಹೊರಡಿಸಿರುತ್ತೇನೆ.

ಈ ಆದೇಶವನ್ನು **ಪೊಲೀಸ್ ಆಯುಕ್ತರು, ಬೆಳಗಾವಿ ನಗರ, ಬೆಳಗಾವಿ ಹಾಗೂ ಪೊಲೀಸ್ ಅಧೀಕ್ಷಕರು, ಬೆಳಗಾವಿ ಜಿಲ್ಲೆ, ಬೆಳಗಾವಿ** ಇವರಗಳು ಜ್ಯಾರಿಯಲ್ಲಿ ತರುವ ಬಗ್ಗೆ ಕ್ರಮ ಜರುಗಿಸತಕ್ಕದು .

ಸಹಿ/–
(ಮೊಹಮ್ಮದ ರೋಷನ್, ಭಾ.ಆ.ಸೇ)
ಜಿಲ್ಲಾಧಿಕಾರಿ ಹಾಗೂ ಜಿಲ್ಲಾ
ದಂಡಾಧಿಕಾರಿ, ಬೆಳಗಾವಿ ಜಿಲ್ಲೆ."

The petitioners approached this Court in W.P.No.107452 of 2024, which comes to be disposed of on 09-12-2024. The operative portion of the order that was released on that day reads as follows:

> **"OPERATIVE PORTION OF THE ORAL ORDER**
>
> **i) The petition is disposed of in view of a fresh order passed by respondent No.2 dated 09.12.2024.**
>
> **ii) The petitioner and other Lingayat Community leaders, followers and persons participating in the protest shall not be restrained to enter Belagavi City and shall not to be prohibited to conduct and participate in peaceful protest in the specified designated place.**
>
> **iii) The petitioner is satisfied if the petitioner and other Lingayat Community people are permitted to enter Belagavi city except the tractor, and conduct protest peacefully without creating any law and order situation.**
>
> **iii) It is needless to mention that the respondent State, along with its authorities, the Police Commissioner of the City of Belgavi and respondents 2 and 3 shall monitor the law and order situation to avoid any untoward incident by putting necessary police force to take care of the situation.**
>
> **iv) Ordered accordingly."**
>
> (Emphasis supplied)

The Police was directed not to restrain the petitioners protest who are permitted to enter Belagavi City and no prohibitory order should be passed. The petitioners were further permitted to participate in

peaceful protest at a specified designated place. It was further observed that needless to mention that the State and its Authorities should monitor the law and order situation to avoid any untoward incident.

13. The next day the protest happens. The protest appears to have gone haywire and the police resorted to lathi charge with the Additional Director General of Police personally indulging in lathi charge on the protestors. Photographs are appended to the petition in which it is seen that the protestors were lathi charged and are severely injured. Hospital records for treatment being taken are also appended to the petition. The pen drive of the recording of the protest is placed by the petitioners. The contents of the pen drive produced by the petitioners have been viewed. The Advocate General has by elaborate statement of objections and a memo, sought to produce certain photographs, as also the pen drive, to buttress his submission that the petitioners are the aggressors. The contents of the pen drive so produced by the respondents are also viewed.

14. Based upon the said incident, a crime comes to be registered against the petitioners or the protestors in Crime No.174 of 2024 for several offences under the BNS and Prevention of Destruction and Loss of Property Act, 1981. The viewing of contents of both the pen drives would depict seriously disputed questions of fact. While the protestors were lathi charged, the reason for lathi charge is missing in both the pen drives. Therefore, the reason for the incident is required to be thrashed out if the guilty have to be brought to books.

15. Elaborate statement of objections are filed alleging that the 1st petitioner started breaking out of the enclosed designated protest area and coming towards National Highways. No heed was given to the words of the Police personnel. The protestors started removing barricades and the Additional Director General of Police, Law and Order, had no other option but to resort to lathi charge. The objections would say that specific warning to the mob was given and the situation went to uncontrolled point and the order of the Court *supra* was also violated. The objections also aver that Section 144 Cr.P.C. was invoked, but no document is produced for

such invocation. It is averred that it is the duty of the Police in terms of Rule 1180 of the Karnataka Police Manual to disperse the mob of unlawful assembly with use of force. Therefore, there are allegations and contra-allegations. **There is electronic content versus electronic content**. The protest in the content appear to be peaceful at the beginning. What happened later is necessary to be enquired into, as the public meeting that was held prior to the protest was attended by the Legislators.

16. The learned Advocate General makes a feign attempt in submitting that the protestors were drunk and in such inebriated state, the aggression has happened, which has resulted in the incident of the day. It is surprising that a statement of the kind is made, as the protestors at the outset of the protest, had within its fold MLAs, the pontiff and all others. Therefore, all these factors would undoubtedly require an enquiry.

17. It now becomes apposite to notice the judgments of the Apex Court rendered in identical circumstances where protest had

been disrupted by the Police force. The Apex Court in **RAMLILA MAIDAN INCIDENT, IN RE**[1] has held as follows:

"…. …. ….

52. The scope of Section 144 CrPC enumerates the principles and declares the situations where exercise of rights recognised by law, by one or few, may conflict with other rights of the public or tend to endanger public peace, tranquillity and/or harmony. The orders passed under Section 144 CrPC are attempted to serve larger public interest and purpose. As already noticed, under the provisions of CrPC complete procedural mechanism is provided for examining the need and merits of an order passed under Section 144 CrPC. If one reads the provisions of Section 144 CrPC along with other constitutional provisions and the judicial pronouncements of this Court, it can undisputedly be stated that Section 144 CrPC is a power to be exercised by the specified authority to prevent disturbance of public order, tranquillity and harmony by taking immediate steps and when desirable, to take such preventive measures. Further, when there exists freedom of rights which are subject to reasonable restrictions, there are contemporaneous duties cast upon the citizens too. The duty to maintain law and order lies on the authority concerned and, thus, there is nothing unreasonable in making it the initial judge of the emergency. All this is coupled with a fundamental duty upon the citizens to obey such lawful orders as well as to extend their full cooperation in maintaining public order and tranquillity.

53. The concept of orderly conduct leads to a balance for assertion of a right to freedom. In *Feiner* v. *New York* [95 L Ed 295: 340 US 315 (1951)] the Supreme Court of the United States of America dealt with the matter where a

[1] **(2012) 5 SCC 1**

person had been convicted for an offence of disorderly conduct for making derogatory remarks concerning various persons including the President, political dignitaries and other local political officials during his speech, despite warning by the police officers to stop the said speech. The Court, noticing the condition of the crowd as well as the refusal by the petitioner to obey the police requests, found that the conduct of the convict was in violation of public peace and order and the authority did not exceed the bounds of proper State police action, held as under: (L Ed p. 300)

> "… It is one thing to say that the police cannot be used as an instrument for the suppression of unpopular views, and another to say that, when as here the speaker passes the bounds of argument or persuasion and undertakes incitement to riot, they are powerless to prevent a breach of the peace. Nor in this case can we condemn the considered judgment of three New York courts approving the means which the police, faced with a crisis, used in the exercise of their power and duty to preserve peace and order. The findings of the State courts as to the existing situation and the imminence of greater disorder coupled with petitioner's deliberate defiance of the police officers convince us that we should not reverse this conviction in the name of free speech."

54. Another important precept of exercise of power in terms of Section 144 CrPC is that the right to hold meetings in public places is subject to control of the appropriate authority regarding the time and place of the meeting. Orders, temporary in nature, can be passed to prohibit the meeting or to prevent an imminent breach of peace. Such orders constitute reasonable restriction upon the freedom of speech and expression. This view has been followed consistently by this Court. To put it with greater clarity, it can be stated that the content is not the only concern of the controlling authority but the time and place of the meeting is also well within its jurisdiction. If the authority anticipates an imminent threat to public order or public tranquillity, it would be free to pass desirable directions within the parameters of reasonable restrictions on the freedom of an individual. However, it must be borne in mind that the

provisions of Section 144 CrPC are attracted only in emergent situations. The emergent power is to be exercised for the purposes of maintaining public order.

55. It was stated by this Court in *RomeshThappar* [AIR 1950 SC 124 : (1950) 51 Cri LJ 1514] that the Constitution requires a line to be drawn in the field of public order and tranquillity, marking off, may be roughly, the boundary between those serious and aggravated forms of public disorder which are calculated to endanger the security of the State and the relatively minor breaches of peace of a purely local significance, treating for this purpose differences in degree as if they were different in kind. The significance of factors such as security of State and maintenance of public order is demonstrated by the mere fact that the Framers of the Constitution provided these as distinct topics of legislation in Entry 3 of the Concurrent List of the Seventh Schedule to the Constitution.

56. Moreover, an order under Section 144 CrPC being an order which has a direct consequence of placing a restriction on the right to freedom of speech and expression and right to assemble peaceably, should be an order in writing and based upon material facts of the case. This would be the requirement of law for more than one reason. Firstly, it is an order placing a restriction upon the fundamental rights of a citizen and, thus, may adversely affect the interests of the parties, and secondly, under the provisions of CrPC, such an order is revisable and is subject to judicial review. Therefore, it will be appropriate that it must be an order in writing, referring to the facts and stating the reasons for imposition of such restriction. In *Praveen Bhai Thogadia* [(2004) 4 SCC 684: 2004 SCC (Cri) 1387], this Court took the view that the Court, while dealing with such orders, does not act like an appellate authority over the decision of the official concerned. It would interfere only where the order is patently illegal and without jurisdiction or with ulterior motive and on extraneous consideration of political victimisation by those in power. Normally, interference should be the exception and not the rule.

57. A bare reading of Section 144 CrPC shows that:

(*1*) It is an executive power vested in the officer so empowered;

(*2*) There must exist sufficient ground for proceeding;

(*3*) Immediate prevention or speedy remedy is desirable; and

(*4*) An order, in writing, should be passed stating the material facts and the same be served upon the person concerned.

These are the basic requirements for passing an order under Section 144 CrPC. Such an order can be passed against an individual or persons residing in a particular place or area or even against the public in general. Such an order can remain in force, not in excess of two months. The Government has the power to revoke such an order and wherever any person moves the Government for revoking such an order, the State Government is empowered to pass an appropriate order, after hearing the person in accordance with sub-section (7) of Section 144 CrPC.

58. Out of the aforestated requirements, the requirements of existence of sufficient ground and need for immediate prevention or speedy remedy is of prime significance. In this context, the perception of the officer recording the desired/contemplated satisfaction has to be reasonable, least invasive and bona fide. The restraint has to be reasonable and further must be minimal. Such restraint should not be allowed to exceed the constraints of the particular situation either in nature or in duration. The most onerous duty that is cast upon the empowered officer by the legislature is that the perception of threat to public peace and tranquillity should be real and not quandary, imaginary or a mere likely possibility.

... ...

> **298. No doubt, the law of social control is preserved in the hands of the State, but at the same time, protection against unwarranted governmental invasion and intrusive action is also protected under the laws of the country. Liberty is definitely no licence and the right of such freedom is not absolute but can be regulated by appropriate laws. The freedom from official interference is, therefore, regulated by law but law cannot be enforced for crippling the freedom merely under the garb of such regulation. The police or the administration without any lawful cause cannot make a calculated interference in the enjoyment of the fundamental rights guaranteed to the citizens of this country. As to what was material to precipitate such a prohibitory action is one aspect of the matter, but what is more important is the implementation of such an order. This is what troubles me in the background that a prohibitory order was sought to be enforced on a sleeping crowd and not a violent one. My concern is about the enforcement of the order without any announcement as prescribed for being published or by its affixation in terms of Delhi Police Standing Order 309 read with Section 134 CrPC."**

(Emphasis supplied)

The Apex Court, later, in the case of **ANURADHA BHASIN v. UNION OF INDIA**[2] has held as follows:

> "…. …. ….
>
> **137.** We may note that orders passed under Section 144 CrPC have direct consequences upon the fundamental rights of the public in general. Such a power, if used in a casual and cavalier manner, would result in severe illegality. This power should be used responsibly, only as a measure to preserve law and order. The order is open to judicial review, so that any person aggrieved by such an action can always

[2] **(2020) 3 SCC 637**

approach the appropriate forum and challenge the same. But, the aforesaid means of judicial review will stand crippled if the order itself is unreasoned or unnotified. This Court, in *Babulal Parate* [*Babulal Parate* v. *State of Maharashtra*, AIR 1961 SC 884: (1961) 2 Cri LJ 16] , also stressed upon the requirement of having the order in writing, wherein it is clearly indicated that opinion formed by the Magistrate was based upon the material facts of the case. This Court held as under : (AIR p. 888, para 9)

> "9. Sub-section (1) confers powers not on the executive but on certain Magistrates. … *Under sub-section (1), the Magistrate himself has to form an opinion that there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable. Again the sub-section requires the Magistrate to make an order in writing and state therein the material facts by reason of which he is making the order thereunder*. The sub-section further enumerates the particular activities with regard to which the Magistrate is entitled to place restraints."
>
> (emphasis supplied)

138. While passing orders under Section 144 CrPC, it is imperative to indicate the material facts necessitating passing of such orders. Normally, it should be invoked and confined to a particular area or some particular issues. However, in the present case, it is contended by the petitioners that the majority of the geographical area of the erstwhile State of Jammu and Kashmir was placed under orders passed under Section 144 CrPC and the passing of these orders need to be looked at in this perspective. In response, it is the case of the respondent, although it has not been stated in clear terms, that it is an issue of national security and cross-border terrorism. Before we part, we need to caution against the excessive utility of the proportionality doctrine in the matters of national security, sovereignty and integrity.

… … …

141. In a situation where fundamental rights of the citizens are being curtailed, the same cannot be done through an arbitrary exercise of power; rather it should be

based on objective facts. The preventive/remedial measures under Section 144 CrPC should be based on the type of exigency, extent of territoriality, nature of restriction and the duration of the same. In a situation of urgency, the authority is required to satisfy itself of such material to base its opinion on for the immediate imposition of restrictions or measures which are preventive/remedial. However, if the authority is to consider imposition of restrictions over a larger territorial area or for a longer duration, the threshold requirement is relatively higher.

142. An order passed under Section 144 CrPC should be indicative of proper application of mind, which should be based on the material facts and the remedy directed. Proper reasoning links the application of mind of the officer concerned, to the controversy involved and the conclusion reached. Orders passed mechanically or in a cryptic manner cannot be said to be orders passed in accordance with law.

… … …

148. Before parting we summarise the legal position on Section 144 CrPC as follows:

148.1. The power under Section 144 CrPC, being remedial as well as preventive, is exercisable not only where there exists present danger, but also when there is an apprehension of danger. However, the danger contemplated should be in the nature of an "emergency" and for the purpose of preventing obstruction and annoyance or injury to any person lawfully employed.

148.2. The power under Section 144 CrPC cannot be used to suppress legitimate expression of opinion or grievance or exercise of any democratic rights.

148.3. An order passed under Section 144 CrPC should state the material facts to enable judicial review of the same. The power should be exercised in a bona fide and reasonable manner, and the same should be passed by relying on the material facts, indicative of application of mind. This will enable judicial scrutiny of the aforesaid order.

> **148.4. While exercising the power under Section 144 CrPC, the Magistrate is duty-bound to balance the rights and restrictions based on the principles of proportionality and thereafter apply the least intrusive measure.**
>
> **148.5. Repetitive orders under Section 144 CrPC would be an abuse of power."**
>
> (Emphasis supplied)

The Apex Court, in the afore-quoted judgments, holds that Section 144 Cr.P.C. being remedial as well as preventive, is exercisable not only where there exists present danger, but also when there is an apprehension of danger. But, the said power cannot be used to suppress legitimate expression of opinion or grievance or exercise of democratic rights.

18. A Division Bench of this Court in **SOWMYA R. REDDY v. STATE OF KARNATAKA**[3] follows the judgments in **RAMLILA MAIDAN INCIDENT** and **ANURADHA BHASIN** *supra* and holds as follows:

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[3] **2020 SCC OnLine Kar. 1527**

"CONSIDERATION OF SUBMISSIONS

14. We have given careful considerations to the submissions made across the Bar. We must note here that as observed earlier, the impugned order affected the fundamental right of the citizens to make peaceful protests. In paragraph 48 of the decision of the Apex Court in the case of *Mazdoor Kisan Shakti San Gath An*, (supra), the Apex Court held thus:

> *"48. We may state at the outset that none of the parties have joined issue insofar as law on the subject is concerned.* ***Undoubtedly, holding peaceful demonstrations by the citizenry in order to air its grievances and to ensure that these grievances are heard in the relevant quarters, is its fundamental right. This right is specifically enshrined under Articles 19(1) (a) and 19(1) (b) of the Constitution of India. Article 19(1) (a) confers a very valuable right on the citizens, namely, right of free speech. Likewise, Article 19(1) (b) gives the right to assemble peacefully and without arms. Together, both these rights ensure that the people of this country have the right to assemble peacefully and protest against any of the actions or the decisions taken by the Government or other governmental authorities which are not to the liking. Legitimate dissent is a distinguishable feature of any democracy.*** *Question is not as to whether the issue raised by the protestors is right or wrong or it is justified or unjustified. The fundamental aspect is the right which is conferred upon the affected people in a democracy to voice their grievances. Dissenters may be in minority. They have a right to express their views. A particular cause which, in the first instance, may appear to be insignificant or irrelevant may gain momentum and acceptability when it is duly voiced and debated. That is the reason that this Court has always protected the valuable right of peaceful and orderly demonstrations and protests."*
>
> (emphasis added)

However, the said right has to be balanced considering the public interests as held in the same decision. But,

when there is an order made under sub-Section (1) of Section 144 of the said Code preventing of holding of protests and nullifying the permissions already granted to hold the protests, the issue is of the violation of the fundamental rights guaranteed under Clauses (a) and (b) of Article 19 of the Constitution of India to hold peaceful protests. Therefore, when the Court does the exercise of testing the legality of such preventive orders, it is not a matter of mere technicality, but it is a matter of substance. The violation of fundamental right of holding peaceful protests which is a basic feature of democracy can not be taken lightly by a Writ Court.

15. There cannot be any second opinion about the fact that the State is responsible for maintaining the law and order situation. The State is the custodian of the interest of the citizens in the sense, that the State is responsible for protecting them. Therefore, if a fact situation exists and the power under sub-Section (1) of Section 144 of the said Code is properly and lawfully exercised, the District Magistrate will be well within his powers to prevent the activities of holding protests and demonstrations. The fundamental rights under sub-Clauses (a) and (b) of Clause (1) of Article 19 of the Constitution of India are always subject to reasonable restrictions. But we must remember that the State is also the custodian of fundamental rights of citizens and therefore, it must do everything to uphold the fundamental rights by taking recourse to imposing minimum possible restrictions.

16. Now we proceed to test the legality and validity of the impugned order. So for as the issue of legality and validity is concerned, this Court is concerned only with the decision making process and not the correctness of the decision. Now we come to the impugned order. The impugned order refers to eight reports/letters in its introductory part which were addressed by the Deputy Commissioners of Police of different divisions in the city of Bengaluru to the Commissioner of Police who is also the District Magistrate under the provisions of the said Code.

Copies of the said letters are produced by the State along with the statement of objections. We have carefully perused the said letters which are more or less in identical terms which record that to oppose CAA, political and other organizations may conduct protests during which anti-social elements may cause damage to the public property and hence, to maintain the law and order and to save public property, it is requested to pass an order under Section 144 of the said Code. Only in one or two letters, there are some additional statements made, such as in the letter at page 33 addressed by the Deputy Commissioner of Police, Central Division, where he has stated that based on credible information received, there are chances that communal harmony may be disturbed. The letter of the Deputy Commissioner of Police, White field Division refers to calling for *Bharath Bandh* on the 19th and 20th December, 2019. It is also mentioned that White field area is sensitive. Otherwise the said letters are in identical terms.

17. It will be appropriate if the English translation of the impugned order annexed to the petitions, the correctness of which is not disputed, is reproduced. It reads thus:

> **"*Proposal:***
>
> *With reference to the reports of the Deputy Commissioners of Police of divisions within the Bengaluru City Police Commissioner ate, to prevent any incidents affecting public peace and order from any protest/strikes/procession/events opposing the recent Citizenship Amendment Act passed by the Central Government and the National Register of Citizens, Section 144 Cr.PC is requested to be imposed. In the above-mentioned reports, following points have been mentioned.*
>
> *The Central Government recently passed the Citizenship Amendment Act and the National Register of Citizens. Opposing these Acts, several political organisations, student organizations and other organisations have been issuing provocative statements through social media. Encouraged by these statements, sudden protests are being conducted in public spaces within Bengaluru City Limits without obtaining any prior permission.*

Apart from that, there is information that, on 19.12.2019 and 20.12.2019, several political parties, organizations have called for an All India Bandh regarding the aforementioned Acts being successfully passed by Lok Sabha and Rajya Sabha.

Bengaluru City Police Commissioner ate limits being a sensitive area, in the event that any protest/strike/procession/event relating to the aforesaid subjects is conducted, there is a possibility of it turning into a severe nature, and that it may cause inconvenience to the movement of the public in the city and affect the public order. And that prohibiting individuals and groups who take law into their own hands in the name of protests will be helpful in maintaining law and order, and in order to facilitate citizens in Bengaluru city to exercise their constitutional rights, and to prevent any damage to public property, it is requested that from 19.12.2019, 6 am to 21.12.2019, 12 am, undertaking steps under Sec. 144 of Criminal Procedure Code would be necessary.

Therefore, from 19.12.2019, 6 am to 21.12.2019, 12 am, to prevent any incidents which could affect the public peace, welfare and maintenance of law and order within the limits of Bengaluru City Police Commissionerate, it has been considered fit to impose the restrictions under Sec. 144 CrPC within Bengaluru City Police Commissionerate.

Order no. SB/Gu. Va/Prohibition/50/2019 Date: 18.12.2019

In this regard, exercising powers vested in me under Section 144 of the Criminal Procedure Code for Bengaluru City Police Commissionerate division limits, I, Bhaskar Rao, IPS, Commissioner of Police, Bengaluru City, relying on the points along with the reasons stated above, order the imposition of the following prohibitions within Bengaluru City Limits from 19.12.2019. 6 am to 21.12.2019, 12 a.m.

1. Assembly of groups of 5 or more people,

2. Organizing any form of celebration, public proccssion, protest, jaatha, strikes, raastarokko, public/political meeting, ceremonies,

3. of weapons, rod, sticks, swords, bricks, baton/mace, stones, knives, guns, lathi or any dangerous weapons or any objects which can cause physical harm,

4. Bursting of any explosive objects, stones, any instrument or launching missiles or carrying or storing of any equipment,

5. Exhibiting any person or their corpse or figure or portraits,

6. Prohibition of exhibition or transmission of anything attacking decency or morality or anything obstructing the public order or anything compromising or ignoring the security of the state or any public declaration inciting crime, singing of songs, playing music, making furious speeches, and making of pictures, symbols, posters or making of any other items,

7. **During this period, all permissions granted for any protests stand cancelled**."

(emphasis added)

Thus, there are four paragraphs above the operative part of the impugned order. The first paragraph refers to the reports of the Deputy Commissioners of Police of the different divisions of the city. The first paragraph notes that in the reports, certain points: have been mentioned which have been incorporated in the subsequent two paragraphs.

18. The next two paragraphs record what is mentioned by the Deputy Commissioners of Police in their reports/letters. Though an attempt was made by the Learned Advocate General to contend that the second and third paragraphs also contain the opinion of the District Magistrate, however, the first paragraph makes it quite clear that what is reproduced in the following two paragraphs are the contents of the letters/reports received from the Deputy Commissioners of Police. The contents of the second and third paragraphs are nothing but reproduction of what appears in the reports of the Deputy Commissioners of Police. In the last part of the third paragraph, even the request of the Deputy Commissioners of Police to take steps under Section 144 of the said Code is noted. In the last

paragraph, just above the operative part, the Commissioner/District Magistrate has not stated any material facts. Sub-Section (1) of Section 144ofthe said Code provides that:

> ***"144. Power to issue order in urgent cases of nuisance or apprehended danger.—(1) In cases where, in the opinion of a District Magistrate, a Sub-Divisional Magistrate or any other Executive Magistrate specially empowered by the State Government in this behalf, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order stating the material facts of the case*** *and served in the manner provided by Section 134, direct any person to abstain from a certain act or to take certain order with respect to certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot, or an affray."*
>
> *(emphasis added)*

The District Magistrate, in the impugned order, has also not recorded formation of any opinion as contemplated under sub-Section (1) of Section 144 of the said Code. He has merely stated that to prevent incidents which could affect the public peace, welfare and maintenance of law and order, it has been considered fit to impose the restrictions under Section 144 of the said Code. He has not stated material facts in support. In the operative part, he has stated "relying on the points along with the reasons stated above". Except for reproducing what is stated by the Deputy Commissioners of Police in their reports, we do not find any reasons recorded by the District Magistrate on his own, in any of the four paragraphs above the operative part. The District Magistrate has not even stated that on inquiry, he found the contents of the reports of the Deputy Commissioners to be correct.

19. It is in the light of this factual aspect, now we must refer to the law laid down by the Apex Court firstly in the case of *Ramlila Maidan*, (supra). The Apex Court has referred to its earlier decisions in the case of *Babulal Parate* v. *State of Maharashtra* [AIR 1961 SC 884.] , and *Madhu Limaye* v. *Sub-Divisional Magistrate, Monghyr* [(1973) 3 SCC 746.] , In the case of ***Madhu Limaye***, the correctness of the view in the case of ***Babulal*** was considered. Paragraph 56 of the decision in the case of ***Ramlila Maidan*** reads thus:

> "56. ***Moreover, an order under Section 144 CrPC being an order which has a direct consequence of placing a restriction on the right to freedom of speech and expression and right to assemble peaceably, should be an order in writing and based upon material facts of the case.*** *This would be the requirement of law for more than one reason. Firstly, it is an order placing a restriction upon the fundamental rights of a citizen and, thus, may adversely affect the interests of the parties, and secondly, under the provisions of Cr.PC. such an order is revisable and is subject to judicial review.*
>
> *Therefore, it will be appropriate that it must be an order in writing, referring to the facts and stating the reasons for imposition of such restriction. In Praveen Bhai Thogadia, this Court took the view that the Court, while dealing with such orders, does not act like an appellate authority over the decision of the official concerned. It would interfere only where the order is patently illegal and without jurisdiction or with ulterior motive and on extraneous consideration of political victimisation by those in power. Normally, interference should be the exception and not the rule."*
>
> (emphasis added)

20. The Apex Court, therefore, in clear terms held that such a prohibitory order should be in writing and must refer to the facts. It must state the reasons for imposition of such restrictions. In paragraph 84, which is relied upon by the Learned Advocate General, the Apex Court held thus:

> *"84. The affidavits filed on behalf of the police and the Ministry of Home Affairs are at some variance.*

> *The variance is not of the nature that could persuade this Court to hold that these affidavits are false or entirely incorrect. This Court cannot lose sight of a very material fact that maintenance of law and order in a city like Delhi is not an easy task Some important and significant decisions which may invite certain criticism, have to be taken by the competent authorities for valid reasons and within the framework of law.* ***The satisfaction of the authority in such decisions may be subjective, but even this subjective satisfaction has to be arrived at objectively and by taking into consideration the relevant factors as are contemplated under the provisions of Section 144 CrPC. Some freedom or leverage has to be provided to the authority making such decisions. The courts are normally reluctant to interfere in exercise of such power unless the decision-making process is ex facie arbitrary or is not in conformity with the parameters stated under Section 144 CrPC itself."***
>
> (emphasis added)

21. Thus, the satisfaction which is required to be recorded under sub-Section (1) of Section 144 of the said Code can be subjective, but the same has to be arrived at objectively by taking into consideration the relevant factors as are contemplated under Section 144 of the said Code.

22. The entire law on the subject has been summarized in the recent decision of the Apex Court in the case of *Anuradha Bhasin*, (supra). In paragraph 70, it has been held that normally the least restrictive measures should be resorted to by the State. It is further held that even the Doctrine of Proportionality has to be applied to an order under sub-Section (1) of Section 144 of the said Code. Thirdly, it is held that power can be exercised only in urgent situations and in cases of apprehended danger. Paragraph 108 is most material. Clauses (a) and (b) of paragraph 108 read thus:

> *"108. The aforesaid safeguards in Section 144, Cr.P.C. are discussed below and deserve close scrutiny.*

> *(a)* ***Prior Inquiry before issuing Order:*** *Before issuing an order under Section 144, Cr.P.C., the District Magistrate (for any authorised Magistrate) must be of the opinion that:*
>
> *i. There is a sufficient ground for proceeding under this provision i.e., the order is likely to prevent obstruction, annoyance or injury to any person lawfully employed or danger to human life, health or safety or disturbance to the public tranquility; and*
>
> *ii. Immediate prevention or speedy remedy is desirable.*
>
> ***The phrase "opinion" suggests that it must be arrived at after a careful inquiry by the Magistrate about the need to exercise the extraordinary power conferred under this provision.***
>
> *(b)* ***Content of the Order:*** *Once a Magistrate arrives at an opinion, he may issue a written order either prohibiting a person from doing something or a mandatory order requiring a person to take action with respect to property in his possession or under his management. But the order cannot be a blanket order.* ***It must set out the "material facts" of the case. The "material facts" must indicate the reasons which weighed with the Magistrate to issue an order under Section 144, Cr.P.C."***

23. Thus, as held in Clause (a) of paragraph 108, there has to be formation of an opinion by the District Magistrate as specifically observed in sub-Section (1) of Section 144 of the said Code. Formation of opinion must be that immediate prevention is required. What is more important is that the Apex Court held that the use of the word "opinion" suggests that it must be arrived at after a careful inquiry. The Apex Court held that "careful inquiry'' is contemplated as the District Magistrate is about to exercise

extraordinary power conferred under Section 144 of the said Code. Coming to the aspect of "careful inquiry," it must be stated here that the statement of objections filed by the State Government is not affirmed by the District Magistrate who passed the impugned order, but it is affirmed by an Assistant Commissioner of Police who has no personal knowledge whether any "careful inquiry" was held by the District Magistrate who passed the order. A perusal of the impugned order shows it is only a reproduction of what is stated in the reports submitted by the Deputy Commissioners of Police. There is not even a remote indication that any further inquiry was made by the District Magistrate. The Learned Advocate General submitted that no inquiry was called for as the District Magistrate who was the Commissioner of Police, had to believe the version of the officers working in the field. It is also an admitted position that some of the Deputy Commissioners of Police had themselves granted permissions to hold protests during the period the three days (19th to 21st December 2019) under the provisions of the said Order and the said material fact was not mentioned in their reports submitted to the Commissioner of Police. The stand of the State Government is that no inquiry was necessary. That implies that no inquiry was held by the District Magistrate. The District Magistrate was under an obligation to make his own inquiry before arriving at the subjective satisfaction. It is not even the case of the State that the District Magistrate held even any telephonic discussion with the Deputy Commissioners who had submitted the reports about the source of their information. This is not a case where even some inquiry was made by the District Magistrate to arrive at subjective satisfaction about the necessity of passing the impugned order. The stand of the State is that the reports were submitted by the Deputy Commissioners of Police working in the field. But still an inquiry was called for, as held by the Apex Court. The reason is what is relevant is the subjective satisfaction of the District Magistrate and formation of opinion by him. As stated earlier, there is not even a remote indication in the impugned order that there was any kind of inquiry made on the basis of the reports submitted by the Deputy Commissioners of Police, by the District Magistrate himself. As stated earlier, there is no affidavit filed by the District Magistrate. It is virtually an admitted position that

some of the Deputy Commissioners had already granted permissions to hold the protests on the very days (19th to 21st December 2019) after making due inquiry as per the said Regulation Order. But, the said fact was not disclosed in the reports. Secondly, except for setting out what the Deputy Commissioners of Police have stated in the reports, no facts have been set out in the impugned order. The material facts as held by the Apex Court must indicate the reasons weighed with the District Magistrate to issue the order.

24. The Apex Court, in the case of *Ramlila Mai Das*, (supra), has held that reasons have to be recorded for passing an order under Section 144 of the said Code. It is true that the requirement of recording reasons can not be stretched beyond a limit as it is not an exercise of judicial or a quasi-judicial power. But in this case there is a complete absence of reasons in the impugned order. So there is no question of going into the question whether the reasons were adequate or inadequate. If the impugned order under Section 144 would have indicated that on making an inquiry, the Commissioner of Police was satisfied about the correctness of the apprehensions mentioned in the reports of the Deputy Commissioners of Police, it would have been another matter.

25. The Learned Advocate General also pointed out the communication issued by the Director General and Inspector General of Police which records the necessity of passing an order under Section 144 of the said Code. Firstly, there is no reference to the said opinion expressed by the superior police officer in the impugned order. Secondly, the Director General and Inspector General of Police is the topmost police officer in the State to whom the Commissioner of Police is subordinate. When the Commissioner of Police exercises the power under sub-Section (1) of Section 144 of the said Code, he does not act as a police officer, but he acts as a District Magistrate and therefore, he cannot simply rely upon the opinion expressed by the police officer who may be incidentally his superior officer in the police machinery. In fact he cannot get influenced by the

opinion of his superior Officer in police hierarchy while passing an order under Section 144. The effect of the order under sub-Section (1) of Section 144 of the said Code is to take away the fundamental rights of the citizens and therefore, subjective satisfaction of the District Magistrate and formation of an opinion as required by sub-Section (1) of Section 144 of the said Code are condition precedent for the exercise of power under Section 144 of the said Code. So is the requirement of recording at least brief reasons.

26. The Apex Court in its decision in the case of ***Anuradha Bhasin***, (supra) has repeatedly emphasized the need to record the reasons. In paragraph 129, the Apex Court observed thus:

> *"129. We **may note that orders passed under Section 144, Cr.P.C. have direct consequences upon the fundamental rights of the public in general. Such a power, if used in a casual and cavalier manner, would result in severe illegality. This** power should be used responsibly, only as a measure to preserve law and order.*
>
> ***The order is open to judicial review, so that any person aggrieved by such an action can always approach the appropriate forum and challenge the same. But, the aforesaid means of judicial review will stand crippled if the order itself is unreasoned or un-notified.** This Court, in the case of* Babulal Parate *(supra), also stressed upon the requirement of having the order in writing, wherein it is clearly indicated that opinion formed by the Magistrate was based upon the materialfacts of the case. This Court held as under:*
>
> > *"9. Sub-section (1) confers powers not on the executive but on certain Magistrates… **Under sub-section (1) the Magistrate himself has to form an opinion that there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable. Again the sub-section requires the Magistrate to make an order in writing and state therein the material facts by reason of which he is making the order thereunder.** The sub-section further enumerates the*

particular activities with regard to which the Magistrate is entitled to place restraints."

(emphasis added)

27. Even in paragraph 132, the Apex Court observed that the existence of power of judicial review is undeniable and therefore, the law requires the District Magistrate to state the material facts for invoking this Power. In paragraph 129, the Apex Court held that, if the order itself is unreasoned or un-notified, the power of judicial review which is a basic feature of the Constitution will be crippled. Even in the conclusion drawn in paragraph 140, the Apex Court held that the power under Section 144 of the said Code should be exercised in a reasonable manner and must be based upon material facts indicative of application of mind which enables judicial scrutiny of the orders. Unfortunately, in the present case, there is no indication whatsoever of any application of independent mind by the District Magistrate.

28. A perusal of the statement of objections filed by the State Government would show that an Assistant Commissioner of Police has affirmed the objections and lias tried to supplement various reasons for supporting the impugned order. Such an attempt to supplement reasons has been deprecated by the Apex Court. In this behalf, we cannot resist the temptation of quoting what is held in paragraph 8 of the decision of the Apex Court in the case of *Mohinder Singh Gill*, (supra). In paragraph 8, the Apex Court relied upon its earlier well known decision in the case of ***GordhandasBhanjp.*** [AIR 1952 SC 316.] The Apex Court held thus:

> *"8. The second equally relevant matter is that* ***when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise.*** *Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attetion to the observations of Bose J. In Gordhandasbhanji (AIR 1952 SC 16) (at p. 18)*

> ***"Public orders publicly made, in exercise of a statutory authority can not be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do.*** *Public orders made by public authorities are meant to have public effect and are intended to affect the acting and conduct of those to whom they are addressed and* ***must be construed objectively with reference to the language used in the order itself."***
>
> *(emphasis added)*

> **29. Therefore, for the reasons which we have recorded above, we have no manner of doubt that the impugned order is ex-facie illegal in the light of the law laid down by the Apex Court in the cases of *ANURADHA BHASJN*, (supra) and *RAMLILA MAIDAN*, (supra). In fact, on first principles, the impugned order is completely illegal. The illegality cannot be cured or tolerated even after giving necessary latitude. Therefore, we have no option but to hold that the exercise of powers under sub-Section (1) of Section 144 of the said Code by passing the impugned order was illegal."**
>
> (Emphasis supplied)

The Division Bench, after considering the entire spectrum of law, holds that invocation of the power under Section 144 of the Cr.P.C. was on the face of it illegal, as the protest nowhere gave rise to anything that necessitated invocation of Section 144 Cr.P.C.

19. Long before the aforesaid judgment, a Division Bench of this Court in the case of **STATE OF KARNATAKA v. PADMANABHA BELIYA**[4] has held as follows:

> "…. …. ….
>
> **11.** In such an event, the question is whether the defence taken by the appellant that the act was referable to the delegation of sovereign power of the State is available. The trial Court has dealt on this aspect at considerable length. Before adverting to the various Decisions referred to by the learned Counsel on both sides and also referred to by the trial Court, it would be useful to refer to certain statutory provisions which govern maintenance of public order and tranquility in such a situation. Chapter X of the Cr. P.C. has laid down the procedure that is required to be followed in the dispersal of unlawful assemblies either by the use of civil force or armed force. Section 129 reads thus:
>
> > "129(1) Any Executive Magistrate or officer in charge of police station or, in the absence of such officer in charge, any police officer, not below the rank of a sub-inspector, may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.
> >
> > (2) If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Executive Magistrate or police officer referred to in sub-section (1), may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or member of the armed forces and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form part of it, in order to disperse such

[4] **ILR 1991 KAR 2739**

assembly or that they may be punished according to law."

Sections 130 to 132 relate to the use of armed forces to disperse the unlawful assembly which are not material for our purpose as the services of the armed forces were not requisitioned. Section 132 deals with protection against prosecution for acts done under the aforesaid Sections. Under sub-section (1) of Section 132 no prosecution against any person for any act purporting to be done under Sections 129, 130 or 131 shall be instituted in any Criminal Court excepting with the sanction of the Central Government where such person is an officer or member of the armed forces: or with the sanction of the State Government in any other case. Similarly, no Executive Magistrate or police officer acting under any of the said Sections in good faith or no person doing any act in good faith in compliance with a requisition under Section 129 or Section 130 shall be deemed to have thereby committed an offence [Section 132(2)(a) and (b)]. Sub-section (3) of Section 132 defines "armed forces" to mean the military, naval and air forces operating as land forces and includes any other armed forces of the Union so operating. Suffice it to note that Section 129 is attracted in the instant case and any Executive Magistrate or Officer in charge of the Police Station or, in the absence of such Officer in charge, any Police Officer not below the rank of a Sub-Inspector may command any unlawful assembly to disperse. If such a command given under sub-section (1) is not obeyed, then such force as may be necessary may be used to disperse the assembly. Section 129 uses the word 'force' in a broad sense and in order to regulate the use of such force and the manner in which it should be used, the Government of Karnataka has by its Order No. HD 250 PEG 66 dated 2-3-1967 has issued a Manual called the Mysore Police Manual and now the Karnataka Police Manual. The same is issued by order and in the name of the Governor of Karnataka and it was urged for the respondents that the executive order under which the Police Manual has been issued falls under Article 166 of the Constitution of India.

Article 162 relates to the extent of executive power of the State and it extends to the matters with respect to which the Legislature of the State has power to make laws. Clause 1180 of the Karnataka Police Manual has set down in detail the steps that could be taken towards the dispersal of mobs and mob firing. In our view, this is not in any way conflicting with Section 129 of the Cr. P.C. Sub-clause (2) of Clause 1180 is relevant as it lays down that an unlawful assembly may be ordered to disperse by a Magistrate or an officer incharge of a Police Station and when so ordered, it is the duty of the members of the unlawful assembly to disperse. If they do not, force may be used to disperse them. Any Police Officer may, without warrant, arrest the members of the unlawful assembly and thus disperse the assembly. It then proceeds to lay down certain guidelines which require to be carefully remembered by the police. The police must invariably make it a point to secure the presence of a Magistrate where breach of peace necessitating the use of force is anticipated. Where an actual situation arises and a Magistrate is present at the spot, he should be in complete charge of the situation and he has in law all the necessary legal powers to order any Police Officer to assist him in handling the situation. Thus, when the Magistrate is present, the Officer in command of the police will act as ordered, but when he is alone and acting on his own authority he shall understand distinctly that no firing of any kind shall be commenced until some overt act of violence is commenced by the rioters. After the Magistrate has decided on the kind of force to be used, the Officer in charge of the police is solely responsible for deciding the exact amount of force to be used, the manner of using it and the settling of the details of the operations connected with the use of the force; the Police Officer should, of course, bear in mind the principle that no more force than is necessary should be used. The Magistrate shall communicate his orders as a general rule to the Police Officer in command. **All commands to the police are to be given by the Officer in command of the party. The police are not on any account to fire except by word of command of their Officer, who is to exercise a humane discretion respecting the extent of the line of fire. As soon as it becomes necessary to resort to the use of fire-arms with reference to Clause (e), the Officer in command**

of the party will give the order to load with ball and will bring the men to the leaning position. This will prevent the party from being rushed on while the crowd is being warned. The Officers commanding police parties will, on every occasion when employed in the suppression of a riot or enforcement of the law, ensure that the fullest warning is, if feasible, given to the mob in a clear and distinct manner before any order is given to use tear gas or lathis or fire-arms, and use the most effectual means to explain before hand to the people opposed to them that, if they do not disperse within the specified period, fire with live ammunition will be opened on them. Such warning when conveyed must be capable of being heard by the riotous mob. If, after being warned, the mob refuses to disperse, the order to fire may be given. If the Officer in command of the party is of the opinion that it will suffice if only one or two files fire, he will give orders accordingly, specifying the files that are to fire. Under no circumstance should a warning shot be fired in the air, nor should the fire be directed over the heads of the crowd. Aim should be kept low and directed against the most threatening part of the crowd. The Police Officer below the rank of a Station House Officer has no power to disperse an assembly himself, but he may arrest any person without warrant for being a member of the unlawful assembly. Riot flags should be taken when Armed Reserve are called out in apprehension of disturbances and, before firing or any other means of dispersal is resorted to, should be hoisted before the mob in a position in which the inscriptions on them are clearly visible."

(Emphasis supplied)

The High Court of Delhi as well, in the case of **POLICE COMMISSIONER v. YASH PAL SHARMA**[5], has held as follows:

[5] **2008 SCC OnLine Del 1121**

"…. …. ….

> **21.** As already pointed out above, the case of the appellant is that since there was an unlawful assembly, which fact is undisputed, it was lawful for the police to use necessary and reasonable force to disperse such an assembly. According to the appellant, therefore, the action is authorized by the provisions of Section 129 of the Code and, therefore, no suit for claiming damages could be filed. It is not in dispute that prohibitory orders under Section 144 of the Code had been issued. It is also not in dispute that the procession which was taken out consisted of more than 5 persons and, therefore, such an assembly would be an 'unlawful assembly'. However, the entire dispute has altogether different hue, namely, whether the police used necessary and reasonable force to disperse such an assembly or whether the police exceeded its limits and resorted to severe *lathi* charge, not warranted by the situation.
>
> … … …
>
> **27.** Whether the force used in a particular case, to disperse such demonstration, is reasonable or not would depend upon the facts and circumstances of each case. It would be a totally different scenario where the demonstrations or the mob constituting unlawful assembly are holding weapons or they try to pelt stones at the police or are equipped with *lathis*, etc. with an intention to attack the police or use some kind of force when the police try to disperse such a mob. In the present case, however, it is found, as a fact, that the demonstration in question was peaceful; all the demonstrations were without any arms; and were holding peaceful march."

The Delhi High Court clearly holds that the protest was peaceful as all the demonstrators or protestors were without any arms and were holding a peaceful march.

20. Even in the case at hand, it is not the case of the State that the petitioners were holding any arms. The protest has gone wrong and going wrong of the protest necessitates an inquiry, as Section 144 of the Cr.P.C. is invoked in spur of moment and lathi charge has also taken place on the spur of the moment. The inquiry is to be conducted, but by whom is the question. It cannot be by any State agency, as the Police Officers of the State themselves are alleged of assaulting the petitioners in the incident of the day. Therefore, in the considered view, the entire fulcrum of the *lis* becomes a classic illustration where a appointment of a commission of inquiry, one man or a multi member, under the Commission of Inquiry Act, 1952, need to be constituted for enquiring into the allegations of the incident of the day.

21. For the aforesaid reasons, the following:

O R D E R

(i) Writ Petition is allowed.

(ii) Mandamus issues to the respondents/State to constitute a Commission of Inquiry in terms of the

Commission of Inquiry Act, 1952 on the subject matter and the appointed Commission of Inquiry should be single member or a multi member headed by a retired Judge of this Court.

(iii) The Commission of Inquiry so appointed shall submit its report within three months of such appointment.

(iv) The other reliefs sought would remain subject to the report of the inquiry.

(v) The State shall place its decision on the Inquiry report before this Court in due course.

SD/-
(M.NAGAPRASANNA)
JUDGE

bkp
CT:SS