REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL ORIGINAL JURISDICTION

WRIT PETITION (CRIMINAL) NO. 154 OF 2013

Selvi J. Jayalalithaa & Ors. …Petitioners

Versus

State of Karnataka & Ors. …Respondents

WITH

WRIT PETITION (CRIMINAL) NO. 166 OF 2013

JUDGMENT

Dr. B.S. Chauhan, J.

1. The petitioners have challenged the order dated 10.9.2013 passed by the Government of Karnataka asking Shri G. Bhavani Singh – respondent no.4, Special Public Prosecutor (hereinafter referred to as 'SPP') in a pending prosecution against the petitioners not to appear in the said matter; the communication dated 14.9.2013 passed by the Chief Justice of High Court of Karnataka at Bangalore by which the

Chief Justice has approved the removal of Shri G. Bhavani Singh as SPP, as well as the consequential order dated 16.9.2013 issued by the State Government removing the respondent no.4 from the post of SPP.

2. A prosecution was launched against the petitioners for having assets disproportionate to their known income in the year 1996-1997 in the State of Tamil Nadu. Thiru. K. Anbazhagan (respondent no. 5) is a political rival of the petitioner no.1, who is and has been the Chief Minister of Tamil Nadu on a number of occasions. The petitioners approached this Court on 18.11.2003 for transferring the petitioners' trial to the neighbouring State of Karnataka in the interest of justice, on the ground that a fair trial was not possible in the State of Tamil Nadu. While transferring the matters to the State of Karnataka, this Court for appointment of SPP issued the following directions:

> *"The **State of Karnataka in consultation** with the Chief Justice of High Court of Karnataka shall appoint **a senior lawyer** having experience in criminal trials as public prosecutor to conduct these cases. The public prosecutor so appointed shall be entitled to assistance of another lawyer of his choice. The fees and all other expenses of the Public Prosecutor and the Assistant shall be paid by the State of Karnataka who will thereafter be entitled to get the same reimbursed from the State of Tamil Nadu." (Emphasis added)*

3. On 19.2.2005, the Government of Karnataka, after consultation with the Chief Justice of the High Court of Karnataka, appointed Shri B.V. Acharya, a former Advocate General, as SPP to conduct the prosecution. On 12.8.2012, Shri Acharya expressed his inability to continue as SPP. The Government of Karnataka accepted his resignation in January, 2013 and discharged him from the case.

4. The Government of Karnataka then initiated the process for appointment of a new SPP and in accordance with the directions of this Court, submitted names of four Advocates to the High Court for consideration by the Chief Justice.

5. The Acting Chief Justice of Karnataka High Court on 29.1.2013 recommended the name of Shri G. Bhavani Singh, respondent No.4 for appointment though his name was not submitted by the Government of Karnataka. The Government of Karnataka accepted the same and issued a Notification appointing Shri G. Bhavani Singh as SPP. After issuance of the notification dated 2.2.2013, Shri G. Bhavani Singh started working and 99 defence witnesses were examined and 384 defence exhibits were marked between 28.2.2013 and 29.7.2013. The defence commenced arguments

on 2.8.2013 and concluded the same. However, it was on 13.8.2013 that respondent no.5 filed an application under Section 301(2) Cr.P.C. The learned Special Judge permitted respondent no.5 vide order dated 21.8.2013 to file Memo of Arguments and to render such assistance to the SPP as he may require. The respondent no.5 filed two applications on 23.8.2013 before the trial court, one under Section 309 Cr.P.C. seeking adjournment by 4 weeks and another under Section 311 Cr.P.C. to recall PW.259, the Investigating Officer (whose examination was over on 24.2.2003) and to examine him as a court witness.

6. On 26.8.2013, the Government of Karnataka issued a Notification withdrawing the appointment of respondent no.4 as SPP without assigning any reason and without consulting the Chief Justice of Karnataka High Court.

7. The petitioners, apprehending delay in the trial approached this Court challenging the removal of respondent no.4 as SPP by filing a Writ Petition (Criminal) No. 145 of 2013 under Article 32 of the Constitution of India (hereinafter referred to as the 'Constitution'). This Court issued notice to the respondents on 30.8.2013. On 6.9.2013, Mr. G.E. Vahanvati, learned Attorney General appeared for the State of Karnataka and informed the court that the Notification

dated 26.8.2013 would be withdrawn with a view to consult the Chief Justice of the Karnataka High Court. In view thereof, the afore-stated writ petition was dismissed as having become infructuous.

8. The State Government withdrew the Notification dated 26.8.2013 vide Notification dated 10.9.2013 and simultaneously, vide letter of the same date, asked Shri G. Bhavani Singh, respondent no.4 not to appear in the matter before the Special Judge. The petitioners then filed the present Writ Petition (Criminal) No. 154 of 2013 challenging the said letter written to the respondent no.4 and to direct the learned Special Judge to conclude the trial. On 13.9.2013, this Court issued notice returnable in ten days and stayed the operation of the letter being No. LAW 149 LCE 2012 dated 10.9.2013 passed by respondent Nos.1-2.

9. While the afore-stated writ petition was pending in this Court, the Government of Karnataka consulted the Chief Justice of the Karnataka High Court for withdrawing the appointment of respondent no.4 as SPP. The Chief Justice concurred with the view of the State Government, vide communication dated 14.9.2013 and thus, the appointment of Shri G. Bhavani Singh stood withdrawn by the

Government of Karnataka vide Notification No.LAW 149 LCE 2012 dated 16.9.2013.

10. Aggrieved, the petitioners have filed Writ Petition (Criminal) No.166 of 2013, challenging the said orders dated 14.9.2013 and 16.9.2013.

11. Both petitions have been heard together.

Shri Shekhar Naphade and Shri U.U. Lalit, learned senior counsel appearing for the petitioners submitted that it is settled law that an accused has a right to a speedy trial, as guaranteed under Article 21 of the Constitution; the order withdrawing the appointment of respondent no.4 as SPP is a calculated step to protract the trial in view of impending retirement of the learned Special Judge on 30th September, 2013; and any Judge who takes over the matter would require considerable time to get familiar with the lengthy record as the recorded evidence oral and documentary run into 34000 pages; the trial has almost been completed since the entire evidence of the prosecution and the defence has been recorded and statements of the accused persons (petitioners) under Section 313 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.') have also been recorded; the withdrawal of appointment of SPP after six months of his

functioning is motivated by malafides with a view to protract the trial as there has been a change of government in the State of Karnataka; the present case being a warrant case under the Prevention of Corruption Act, 1988 (hereinafter referred to as the 'Act 1988'), final submissions of the defence already stood concluded. Eventually, according to the learned counsel, the scheduled conclusion of the trial has become impossible and the petitioners face the prospect of remaining under trial for a long time, which would be to the political advantage of their rivals in the ensuing elections. In view thereof, this court must quash the order of withdrawal/revocation of the appointment of respondent no.4 as SPP and to also further extend the duration of tenure of the learned Special Judge till the conclusion of this trial.

12. Shri G.E. Vahanvati, the learned Attorney General submitted that the act of revoking the appointment is substantially under Section 21 of the General Clauses Act and has been made in the like manner to the appointment i.e. after consultation with the Chief Justice of the Karnataka High Court as, contemplated by this Court. The main reason for revocation of the appointment, according to the learned Attorney General, was that the appointment itself was not made after due consultation since the name of Shri G. Bhavani Singh did not find

place in any of the four names submitted by the Government of Karnataka to the then learned Acting Chief Justice of Karnataka High Court for appointment as SPP. In an action contrary to the true purpose of consultation, the Acting Chief Justice recommended the name of Shri G. Bhavani Singh on his own, thus preventing any consultation on the name. Further, in exercise of its extraordinary power under Article 142 of the Constitution, this court cannot force the Government of Karnataka to allow the Special Judge to continue in service after reaching the age of superannuation on 30.9.2013. Therefore, the petitions lack merit and are liable to be dismissed.

13. Shri Vikas Singh, learned senior counsel appearing for the respondent no.5 has submitted that the petitioners themselves have been adopting dilatory tactics in the trial and it is only in the recent past that they have become very punctual and had been forcing the learned Special Judge to proceed with the matter in haste. The trial has been conducted in an unwarranted manner and an example of the same is that the arguments of the defence had been entertained by the learned Special Judge before the arguments of the prosecution. Mr. G. Bhavani Singh had been appointed on the suggestion of learned Acting Chief Justice of the High Court of Karnataka, though his name had not

been there in the panel sent by the State Government. Thus, in the facts and circumstances of the case, no interference is warranted and petitions are liable to be dismissed.

14. We have heard learned counsel for all the parties and perused the record produced before us by the Karnataka High Court.

15. The reason put forth by the Government of Karnataka for removing Shri G. Bhavani Singh as SPP appears to be rather unusual. It may be true that the name of Shri G. Bhavani Singh was not in the list of four names submitted by the Government of Karnataka to the then Acting Chief Justice of the High Court and the name originated from the Acting Chief Justice, prior to making of appointment of SPP by the Government of Karnataka; but it is equally true that the appointment was made by the Government without questioning the ability or suitability of the incumbent nor the government raised any issue in respect of the manner/issue of consultation. On the contrary, upon receiving the recommendation, the Government proceeded to appoint Shri G. Bhavani Singh by issuing a Notification without any demur. Apart from this the appointment continued un-objected for almost seven months.

16. Even before us, no issue has been raised by the respondents in respect of the eligibility, suitability or credibility of the respondent no.4 as a SPP.

In the letter dated 29.1.2013 communicated by the learned Registrar General of the High Court of Karnataka to the State Government, the experience of Shri Bhavani Singh has been recited as under:

> "Sri G. Bhavani Singh, who is presently working as State Public Prosecutor-II has standing experience of 38 years at the Bar exclusively on criminal side, he has conducted the cases before the Trial Court as a defence counsel and he has served as a Government Pleader from 1977 for a period of three years in the High Court of Karnataka and as Additional Public Prosecutor for a period of 3 years and currently for the past 8 years working as State Public Prosecutor-II in the High Court of Karnataka."

17. Whenever consultation is mandated by law, it necessarily involves two authorities; one, on whom a duty is cast to consult and the other who has the corresponding right(s) to be consulted. The grievance that there has been no consultation or insufficient consultation is normally raised by the authority who has a right to be consulted, in this case the Chief Justice. It is not legitimate for the party who has a duty to consult and who has failed in that duty, to make a grievance that there has been no consultation. This is exactly

what has happened in the present case. If the Government found the name of Shri G. Bhavani Singh, which was sent by the Acting Chief Justice, not acceptable on any ground, it was duty bound to refer the name back to the Acting Chief Justice along with their views and suggestions, which was not done by them. On the contrary, they proceeded to appoint Shri G. Bhavani Singh as SPP without demur, who had already been a Public Prosecutor for several years. There is nothing on record to indicate that the Government of Karnataka had been forced by anyone to make the said appointment. The Government thus voluntarily acquiesced in the process and is now not entitled to raise this grievance. The grievance is thus baseless and does not carry any conviction.

In the facts and circumstances of the case, the judgments relied upon by the Hon'ble Chief Justice of Karnataka High Court in his communication, concurring with the suggestion made by the Government of Karnataka to withdraw the appointment of respondent no.4 as SPP, particularly in **Chandramouleshwar Prasad v. The Patna High Court & Ors.**, AIR 1970 SC 370; **Union of India v. Sankalchand Himatlal Sheth & Anr**., AIR 1977 SC 2328; **State of Gujarat v. Gujarat Revenue Tribunal Bar Association,** AIR 2013

SC 107; and **State of Gujarat & Anr. v. Justice R.A. Mehta (Retired) & Ors.**, (2013) 3 SCC 1, have no application.

18. We may record that though some criticism was made of the letter dated 14.9.2013 of the Chief Justice of Karnataka approving the revocation of the appointment of Shri G. Bhavani Singh and certain observations therein, we are not inclined to go into the merits, demerits or validity of the letter. In the first place, the said letter is not an order that may affect any of the rights of the petitioners. It is merely an approval given in the course of consultation for the removal of Shri G. Bhavani Singh who has not questioned his removal. The petitioners have challenged the validity of the action of the State Government removing Shri G. Bhavani Singh on the ground that fundamental rights under Article 21 for speedy trial have been breached thereby. In the circumstances, it is not necessary to pronounce on the correctness or otherwise of the contents of the letter written by Hon'ble the Chief Justice.

19. Mr. Vikas Singh, learned senior counsel appearing for respondent No. 5, referred to the entire proceedings after the case was transferred to the State of Karnataka and submitted that the prosecution has been proceeding in a most undesirable manner, particularly, after

the appointment of Shri G. Bhavani Singh as SPP. According to the learned counsel, the Investigating Officer has been permitted to be examined as a defence witness and the Special Judge has proceeded to pass certain orders even in the absence of SPP. These allegations have been denied as factually incorrect by Mr. Naphade, learned senior counsel appearing for the petitioners. We are, however, not inclined to go into all these submissions since they would form a subject of entirely different enquiry and the allegedly illegal proceedings and orders if any, can be challenged separately. It was also argued by Mr. Vikas Singh that the Special Judge has wrongly permitted the defence to commence their arguments before the arguments of the prosecution. On the other hand, according to the petitioners, this is entirely permissible in view of the fact that this is a prosecution under Section 13 of the Act 1988 and being so, any party including the defence is entitled to begin its submissions on the close of its evidence by virtue of Section 314 Cr.P.C., which applies to warrant cases. Further, by virtue of Section 5 of the Act 1988, cases under this Act are liable to be tried as warrant cases and there is therefore, no illegality in this regard.

The respondents' contention that the prosecution alone must begin their arguments is based on Section 234 Cr.P.C., which is not

applicable to the present trial at all. Having regard to the scope of the present dispute, we do not consider it necessary or appropriate to decide this question either.

20. In the instant case, as disclosed during the course of arguments, there has been a change of the political party in power in May 2013 and thus, the order of the State Government is alleged to be politically motivated. In our opinion, though there is an undoubted power with the Government to withdraw or revoke the appointment within Section 21 of the General Clauses Act, but that exercise of power appears to be vitiated in the present case by malafides in law inasmuch as it is apparent on record that the switch-over of government in between has resulted in a sudden change of opinion that is abrupt for no discernable legally sustainable reason. The sharp transitional decision was an act of clear unwarranted indiscretion actuated by an intention that does not appear to be founded on good faith.

21. The record of the case reveals that the learned Special Judge had started hearing of the present case on 20.11.2012. He had recorded the statements of the accused in December 2012 and January 2013 under Section 313 Cr.P.C. The learned Judge examined 99 defence witnesses and 384 defence exhibits were marked before him. The

defence concluded its argument before the learned Special Judge and SPP commenced the final arguments on 23.8.2013. He was interrupted abruptly as on 26.8.2013, the SPP was asked not to continue with the work. The evidence led in the case is very bulky as it runs into 34000 pages. In case a new Judge starts hearing the matter, he is bound to take a long time to understand the factual and legal niceties involved in the case. Accordingly, we have no hesitation in holding that the Notification purporting to revoke the appointment of Shri G. Bhavani Singh as SPP is liable to be struck down.

22. In **State of Tamil Nadu & Ors. v. K. Shyam Sunder & Ors.,** AIR 2011 SC 3470, this Court has observed that the Government has to rise above the nexus of vested interests and nepotism and eschew window-dressing. The principles of governance have to be tested on the touchstone of justice, equity and fair play. A decision may look legitimate but as a matter of fact, if the reasons are not based on values but to achieve popular accolade, the decision cannot be allowed to operate. Therefore, unless it is found that the act done by the authority earlier in existence is either contrary to the statutory provisions or unreasonable, or is against public interest, the State should not change its stand merely because the other political party has

come into power. “Political agenda of an individual or a political party should not be subversive of rule of law.”

(See also: **M.I. Builders Pvt. Ltd. v. V. Radhey Shyam Sahu & Ors.**, AIR 1999 SC 2468; **Onkar Lal Bajaj etc. etc. v. Union of India & Anr. etc.etc.,** AIR 2003 SC 2562; **State of Karnataka & Anr. v. All India Manufacturers Organization & Ors.**, AIR 2006 SC 1846; and **A.P. Dairy Development Corporation Federation v. B. Narasimha Reddy & Ors**., AIR 2011 SC 3298).

23. In **Smt. S.R. Venkataraman v. Union of India & Anr**., AIR 1979 SC 49, this Court explained the concept of legal malice observing that malice in its legal sense means malice such as may be assumed from the doing of a wrongful act intentionally but without just cause or excuse, or for want of reasonable or probable cause.

24. In **Ravi Yashwant Bhoir v. District Collector, Raigad & Ors.**, AIR 2012 SC 1339, while dealing with the issue, this Court held:

> *"37..... Legal malice" or "malice in law" means something done without lawful excuse. It is a deliberate act in disregard to the rights of others. It is an act which is taken with an oblique or indirect object. It is an act done wrongfully and wilfully without reasonable or probable cause, and not necessarily an act done from ill-feeling and spite. Mala fide exercise of power does not imply any moral turpitude. It means exercise of statutory power for "purposes foreign to those for which it is in*

law intended." It means conscious violation of the law to the prejudice of another, a depraved inclination on the part of the authority to disregard the rights of others, where intent is manifested by its injurious acts. Passing an order for unauthorized purpose constitutes malice in law."

(See also: **Kalabharati Advertising v. Hemant Vimalnath Narichania & Ors.**, AIR 2010 SC 3745).

25. Thus, it is trite law that if discretionary power has been exercised for an unauthorised purpose, it is generally immaterial whether its repository was acting in good faith or in bad faith and the order becomes vulnerable and liable to be set aside.

26. Fair trial is the main object of criminal procedure and such fairness should not be hampered or threatened in any manner. Fair trial entails the interests of the accused, the victim and of the society. Thus, fair trial must be accorded to every accused in the spirit of the right to life and personal liberty and the accused must get a free and fair, just and reasonable trial on the charge imputed in a criminal case. Any breach or violation of public rights and duties adversely affects the community as a whole and it becomes harmful to the society in general. In all circumstances, the courts have a duty to maintain public confidence in the administration of justice and such duty is to vindicate

and uphold the 'majesty of the law' and the courts cannot turn a blind eye to vexatious or oppressive conduct that occurs in relation to criminal proceedings.

Denial of a fair trial is as much injustice to the accused as is to the victim and the society. It necessarily requires a trial before an impartial judge, a fair prosecutor and an atmosphere of judicial calm. Since the object of the trial is to mete out justice and to convict the guilty and protect the innocent, the trial should be a search for the truth and not a bout over technicalities and must be conducted under such rules as will protect the innocent and punish the guilty. Justice should not only be done but should be seem to have been done. Therefore, free and fair trial is a *sine qua non* of Article 21 of the Constitution. Right to get a fair trial is not only a basic fundamental right but a human right also. Therefore, any hindrance in a fair trial could be violative of Article 14 of the Constitution.

"No trial can be allowed to prolong indefinitely due to the lethargy of the prosecuting agency or the State machinery and that is the raison d'etre in prescribing the time frame" for conclusion of the trial.

Article 12 of the Universal Declaration of Human Rights provides for the right to a fair trial what is enshrined in Article 21 of our Constitution. Therefore, fair trial is the heart of criminal jurisprudence and, in a way, an important facet of a democratic polity and is governed by rule of law. Denial of fair trial is crucifixion of human rights. (Vide: **Smt. Triveniben v. State of Gujarat**, AIR 1989 SC 1335; **A.R. Antulay & Ors, v. R.S. Nayak**, AIR 1992 SC 1701; **Raj Deo Sharma (II) v. State of Bihar**, (1999) 7 SCC 604; **Dwarka Prasad Agarwal (D) by L.Rs. & Anr. v. B.D. Agarwal & Ors.**, AIR 2003 SC 2686; **K. Anbazhagan v. Supdt. of Police**, AIR 2004 SC 524; **Zahira Habibullah Sheikh (5) v. State of Gujarat,** AIR 2006 SC 1367; **Noor Aga v. State of Punjab & Anr.**, (2008) 16 SCC 417; **Capt. Amarinder Singh v. Parkash Singh Badal & Ors.**, (2009) 6 SCC 260; **Mohd. Hussain** @ Julfikar Ali **v. State** (Govt. of NCT of Delhi), AIR 2012 SC 750; **Sudevanand v. State** through CBI, (2012) 3 SCC 387; **Rattiram & Ors. v. State of M.P.**, (2012) 4 SCC 516; and **Natasha Singh v. CBI**, (2013) 5 SCC 741).

27. It was lastly contended by Mr. Naphade, learned senior counsel appearing for the petitioners that this would be a fit case for exercise of powers under Article 142 of the Constitution for a

direction to the competent authority to extend the tenure of the Special Judge, who is due to reach the age of retirement on 30th September, 2013.

28. The learned Attorney General, however, submitted that this Court could not exercise its powers under Article 142 of the Constitution in the present case since such an exercise would be contrary to laws under which each Judge must retire on reaching the age of superannuation. In order to fortify his submission, learned Attorney General placed reliance on the judgment of this court in **A.B. Bhaskara Rao v. Inspector of Police, CBI Vishakapatnam,** (2011) 10 SCC 259, wherein this court held that the powers under Article 142 of the Constitution cannot be exercised by this court in contravention of any statutory provisions, though such powers remain unfettered and create an independent jurisdiction to pass any order in pubic interest to do complete justice. However, such exercise of jurisdiction should not be contrary to any express provision of law.

The powers under Article 142 of the Constitution stand on a wider footing than ordinary inherent powers of the court to prevent injustice. The constitutional provision has been couched in a very wide compass that it prevents "clogging or obstruction of the stream

of justice." However, such powers are used in consonance with the statutory provisions.

(See also: **Teri Oat Estates (P) Ltd. v. UT, Chandigarh & Ors.**, (2004) 2 SCC 130; **Manish Goel v. Rohini Goel**, AIR 2010 SC 1099; and **State of Uttar Pradesh v. Sanjay Kumar**, (2012) 8 SCC 537).

29. We find force in the submissions advanced by the learned Attorney General that this Court generally should not pass any order in exercise of its extraordinary power under Article 142 of the Constitution to do complete justice if such order violates any statutory provisions. We do not intend to say that it would be illegal to extend the term of the special judge, but that it is a matter within the jurisdiction of the State in accordance with the relevant law.

There is yet an uncontroverted legal principle that when the statute provides for a particular procedure, the authority has to follow the same and cannot be permitted to act in contravention of the same. In other words, where a statute requires to do a certain thing in a certain way, the thing must be done in that way and not contrary to it at all. Other methods or mode of performance are impliedly and necessarily forbidden. The aforesaid settled legal proposition is based on a legal maxim *"Expressio unius est exclusio alterius*", meaning

thereby that if a statute provides for a thing to be done in a particular way, then it has to be done in that manner and in no other manner and following any other course is not permissible.

In **State of Uttar Pradesh v. Singhara Singh & Ors**., AIR 1964 SC 358, this court held as under:

> *"8. The rule adopted in **Taylor v. Taylor** (1876) 1 Ch D 426 is well recognised and is founded on sound principle. Its result is that if a statute has conferred a power to do an act and has laid down the method in which that power has to be exercised, it necessarily prohibits the doing of the act in any other manner than that which has been prescribed. The principle behind the rule is that if this were not so, the statutory provision might as well not have been enacted."*

(See also: **Accountant General, State of Madhya Pradesh v. S.K. Dubey & Anr.**, (2012) 4 SCC 578)

30. We have examined the scheme of the statutory provisions in this regard. The Karnataka Civil Services (General Recruitment) Rules, 1977 authorise the State Government to appoint a retired government servant on contractual basis after meeting certain formalities, for a specific period as may be necessary. So far as judicial officers are concerned, their services are governed by the Karnataka Judicial Services (Recruitment) Rules, 1983 and Rule 3(2) thereof provides the application of the rules framed under any law or proviso under Article

309 of the Constitution to judicial officers, though subject to the provisions of Articles 233, 234 and 235 of the Constitution. The Rules of 1983 stand repealed by the Karnataka Judicial Service (Recruitment) Rules 2004 (hereinafter referred to as the 'Rules 2004') and Rule 11(2) thereof reads as under:

> "11(2). All rules regulating the conditions of service of the members of the State Civil Services made from time to time under any law or the proviso to Article 309 of the Constitution of India shall, subject to Articles 233, 234 and 235 be applicable to the Civil Judges (Junior Division), Civil Judges (Senior Division) and the District Judges recruited and appointed under these rules."

Thus, it is evident that the State Government is competent to appoint the learned Special Judge on contractual basis after his retirement for the period required to conclude the present trial, though with the consultation of the High Court as required under Article 235 of the Constitution. Further, in our humble opinion, such a course must be adopted in the manner prescribed under the Rules 2004 and in view thereof, the matter requires to be considered by the State Government with the consultation of the High Court.

31. Therefore, in view of the aforestated facts, we refer the matter to the High Court of Karnataka to decide on the administrative side as to whether, in order to conclude the trial expeditiously as guaranteed

under Article 21 of the Constitution requires the extension of the services of the learned Special Judge. Considering the urgency of the matter, we request the High Court of Karnataka to take a decision in this regard as early as possible.

32. In view of the above, we are of the considered opinion that the order of removal of Shri G. Bhavani Singh-respondent no.4 is a product of mala fides and the impugned order is not sustainable in the eyes of law as such the same is hereby quashed.

33. With the aforesaid observations/directions, the writ petitions stand disposed of.

.....J.
(DR. B.S. CHAUHAN)

.....J.
(S.A. BOBDE)

New Delhi,
September 30, 2013