

IN THE HIGH COURT OF KARNATAKA AT BANGALORE  
DATED THIS THE 7TH DAY OF MAY 2002

PRESENT:

THE HON'BLE MR. JUSTICE P.VISHWANATHA SHETTY  
AND  
THE HON'BLE MR. JUSTICE M.S. RAJENDRA PRASAD

WRIT PETITION NO. 20319/2002 ( LB - PIL )

BETWEEN :

S.R. Jagadish,  
S/o S.C. Rudrappa,  
Aged 41 years,  
R/o Sunnadahalli Village,  
Nandi Post, Tarikere Taluk,  
Chickmagalur District.

...PETITIONER

(By Sri. V.Lakshminarayana, Adv.)

AND :

1. The Chief Election  
Commissioner in Karnataka,  
Bangalore - 560 001.
2. The Deputy Commissioner,  
Chickmagalur District,  
Chickmagalur.
3. The Assistant Commissioner,  
Tarikere Sub-Division,  
Tarikere, Chickmagalur Dist.

4. The Chief Election Officer,

Chickmagalur.

Contd..2...

4. The Caste Verification  
Committee, Chickmagalur,  
represented by its  
Secretary.

5. Sunnadahalli Gram  
Panchayat, Sunnadahalli,  
Tarikere Taluk,  
Chickmagalur District,  
represented by its  
Secretary.

6. Smt. S.R. Gangamma,  
W/o Sarjappa Nayak,  
Age : Major,  
R/o Sunnadahalli village,  
Nandi Post,  
Tarikere Taluk,  
Chickmagalur District.

...RESPONDENTS

(By Sri. V. Y. Kumar, GP, for R-1 to 4)

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This Writ Petition is filed Under Articles  
226 & 227 of the Constitution of India praying  
to direct R-1 to 4 to direct the R6 Smt. Gangamma  
to vacate the seat in Nandi Block No.2 constitu-  
ency coming under Sunnadahalli Gram Panchayat and  
not to function as a member of the said Gram  
Panchayat and etc.,

This Writ Petition coming on for preliminary  
hearing, this day, VISHWANATHA SHETTY, J., made the  
following :

**ORDER**

Sri.V.Y.Kumar, learned Government Pleader,  
is directed to take notice for the respondents  
No.1 to 4.

2. The petitioner in this petition claims  
to be a voter of the fifth respondent-Panchayat.  
In this petition, the petitioner has sought for  
the following reliefs:-

Firstly, he has sought for a direction to  
the respondents No.1 to 4 to direct the  
respondent No.6 to vacate the seat in Nandi Block  
No.2 Constituency coming under Sunnadahalli Gram  
Panchayat and not to function as a member of the  
said Gram Panchayat;


Secondly, he has prayed for a direction to  
the respondents No.1 to 4 to hold a fresh  
election to Block No.2, Nandi Village, coming  
under Sunnadahalli Gram Panchayat from ST (Woman)  
category only;

Thirdly, he has prayed for a direction restraining the respondent No.6 from participating in any of the meetings of Sunnadahalli Gram Panchayat; and

Finally, he has prayed for a direction to the respondents - the Deputy Commissioner, Chickmagalur and the Caste Verification Committee, Chickmagalur District and the Chief Election Commissioner in Karnataka, Bangalore, to hold an enquiry into the caste of the respondent No.6 in terms of the Certificate issued by the Sarakari Primary School, as per Annexure-'C'.

3. In our view, this petition deserves to be dismissed on grounds more than one. Admittedly, election to the Membership of the Panchayat had taken place on 27-2-2000. If the sixth respondent did not belong to Scheduled Tribe category, as claimed by the petitioner, it was open to the petitioner, who is admittedly a voter of the village, to call in question the election of the sixth respondent. Further, the learned

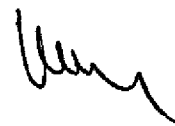
counsel for the petitioner fairly admitted before us that no one else has called in question the election of the sixth respondent. Merely because the authorities of the School have issued a certificate stating that the sixth respondent is a palegar by caste, in our view, it is inappropriate for us to investigate into the caste of the sixth respondent as to whether she belongs to Scheduled Tribe or not in exercise of the powers conferred on us under Article 226 of the Constitution of India, after expiry of the time prescribed for challenging the election of the sixth respondent as provided under the provisions of the Karnataka Panchayat Raj Act. It is not disputed by Sri.Lakshminarayana, learned counsel for the petitioner, that the petitioner and the sixth respondent are the voters of the same constituency and residents of the same village. It is not clear as to under what circumstances the petitioner came to know about the alleged fraud committed by the sixth



respondent that she did not belong to Scheduled Tribe community only a few days prior to the date of filing of the petition. In our view, after the expiry of more than two years from the date of election it is inappropriate for us to direct an enquiry to be conducted with regard to the caste of the sixth respondent. The petitioner who is a voter was required to be vigilant. If he has failed to take steps for more than two years, at this stage he cannot be permitted to move this petition as a Public Interest Petition.

4. In the light of the discussions made above, the decision relied upon by Sri.Lakshminarayana, learned counsel for the petitioner, in the case of **VASANT PANDURANG NARWADE @ NARVDE v. SUHASH & OTHERS** reported in **JT 2001 (10) SC 125** is of no assistance to the petitioner.

5. Accordingly, this petition is liable to be rejected. Accordingly, it is rejected.



Sri.V.Y.Kumar, learned counsel for the petitioner, is permitted to file memo of appearance within four weeks.

Sd/—  
Judge

Sd/—  
Judge

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