

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7<sup>TH</sup> DAY OF SEPTEMBER, 2021

PRESENT

THE HON'BLE MR. SATISH CHANDRA SHARMA  
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

**WRIT PETITION NO. 49960 OF 2017(LB-RES-PIL)**

**BETWEEN:**

1. AKHILA BHARATA KSHATRIYA MAHASABHA®  
#3350, K.R.ROAD, NEAR LG SERVICE CENTER  
BSK II STAGE, BANGALORE-560070  
BY ITS PRESIDENT  
SRI SRIDHAR RAJ URS

2. KARNATAKA RAJYA ARASU SANGHA (R)  
NO.265, LAKSHMI NIVAS, 8<sup>TH</sup> MAIN ROAD  
1<sup>ST</sup> STAGE, BCC LAYOUT  
BANGALORE- 560040  
BY ITS SECRETARY  
SRI NANDEESH G URS

...PETITIONERS

(BY SRI.S.SAMPATH, ADVOCATE FOR  
SRI.PUNEETH.K, ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA  
REP. BY ITS CHIEF SECRETARY

GOVT OF KARNATAKA  
VIDHANA SOUDHA, DR.B.R.AMBEDKAR VEEDHI  
BANGALORE-560 001

2. MYSORE MAHANAGARA PALIKE  
MYSORE-578001  
REP BY ITS COMMISSIONER

3. J.S.S.MAHAVIDYAPEETHA,  
J.S.S CIRCLE, MYSURU-570004  
REP BY ITS SECRETARY

4. SRI SHIVARATRI RAJENDRA SEVA TRUST,  
REP. BY ITS SECRETARY  
MEGHANA, T.N.PURA ROAD,  
NANDANANAHALLI VILLAGE, KASABA HUBLI,  
MYSURU-570028.

5. PROF.P.V.NANJARAJA URS,  
RETIRED PROFESSOR,  
UNIVERSITY OF MYSORE,  
NO.16, 19<sup>TH</sup> BLOCK, SBM COLONY,  
SRIRAMAPURA, 2<sup>ND</sup> PHASE,  
MYSURU-570023.

...RESPONDENTS

(BY SRI.VIJAYAKUMAR.A.PATIL, AGA FOR R1;  
SRI.MOHAN BHAT, ADVOCATE FOR R2;  
SRI.VINAYAKA.B, ADVOCATE FOR IMPLEADING R3;  
SMT.ANJANA.C.H, ADVOCATE FOR IMPLEADING R4;  
SRI.AMRUTHESH.N.P, ADVOCATE FOR IMPLEADING R5;  
SRI.SREENIDHI.V, ADVOCATE FOR RESPONDENTS)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE  
CONSTITUTION OF INDIA PRAYING TO QUASH THE GOVERNMENT  
ORDER ISSUED BY THE R-1 DATED 3.3.2017 AT ANNEX-E AND  
CONSEQUENTLY QUASH THE ORDER ISSUED BY R-1 DATED  
28.8.2017 AT ANNEX-F.

THIS WRIT PETITION COMING ON FOR HEARING THIS DAY, **ACTING CHIEF JUSTICE.**, MADE THE FOLLOWING:

**ORDER**

The application I.A.No.2/2019 for impleadment of Prof.P.V. Nanjaraja Urs is allowed.

2. The facts of the case reveal that the 1<sup>st</sup> petitioner is an All India Trust and 2<sup>nd</sup> petitioner is the State level Trust, as stated in the petition, involved in the work of social economical upliftment of the people belonging to backward and downtrodden community. Their grievance is that inspite of the order passed by the Hon'ble Supreme Court on 18.01.2013 in SLP.No.8519/2006 the bust of Sri.Shivarathri Rajendra Swamiji at the southern entrance of Mysore palce near Gun house is being installed and the State Government has granted permission for the same. The order of the State Government dated 3.3.2017 is on record and a prayer has been made for quashment of the order of the State Government (Annexure-E) as well as the order dated

28.8.2017 (Annexure-F) meaning thereby that the prayer has been made for quashment of the resolution passed by the Mysuru Mahanagara Palike as well as the State Government for installing the statue of Sri.Shivaratri Rajendra Mahaswamy at Gun house circle, which is on the main road. It has also been stated by the petitioners that a request was also made initially for installing the statue of Sri. Srikantadatta Narasimharaja Wodeyar to the District Urban Development Cell and the same was rejected citing the judgment of the Apex Court and inspite of the judgment of the Apex Court, permission has been granted to install the statue of Sri.Shivarathri Rajendra Swamiji.

3. The State Government has filed the statement of objections and the stand of the State Government is that the present petition has been filed with the vested interest, as the request of the petitioners was turned down for installing the statue of Sri.Srikantadatta Narasimharaja Wodeyar and it is only after their request was turned down, they are raising hue

and cry as the State Government has granted permission to install the statue of Sri.Shivarathri Rajendra Mahaswamy at Gun House circle. It has been stated that the Supreme Court in the case of **Union of India .vs. State of Gujarath and others** has directed not to grant any permission for installation of any statue or construction of any structure in public roads, pavements, sideways and other public utility places. However, the Gun House Circle is in existence since from the Maharaja's period and there are several such circles in Mysuru City and several such statues are already in existence and therefore, Mysuru Mahanagara Palike has taken a decision to instal the statue of Sri. Shivaratri Rajendra Mahaswamy in the Gun House Circle as the circle is in existence since long time and it is not part of the public road nor does it fall within the definition of pavement, sideways and other public places.

4. The learned counsel for the Mysuru Mahanagara Palike has argued before this Court that they have granted

permission pursuant to the order passed by the State Government and their action is consequential.

5. Sri.Vinayaka B., learned counsel has marked his appearance for 3<sup>rd</sup> respondent and his contention is that the circle is in existence since long time and the statue can be installed and the permission has been granted by the State Government.

6. The learned counsel for the 5<sup>th</sup> respondent- Prof.P.V. Nanjaraja Urs has argued before this Court that the statue can be installed over the island and it is not a public road.

7. Heard the learned counsel for the petitioners, learned counsel for the State Government, learned counsel for the Mysuru Mahanagara Palike and also the learned counsel for the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> respondents. Perused the records.

8. The undisputed facts of the case makes it very clear that the place where the statue in question is likely to be installed is certainly one of the most busy square near Mysuru palace near Gus House. The map has been filed by the State Government and the same reveals, as many as six roads are joining at the square and the circle is certainly the part of the road. It is really strange that the respondent-State Government has stated before this Court that it is not part of the road. Colour photographs have also been filed in the matter. The maps and all other documents clearly establish that the spot is in the center of the road and therefore, the issue is whether the statue can be installed at the center of the road on the circle which is in existence?

9. The order passed by the Hon'ble Supreme Court in Special Leave to Appeal(Civil) No.8519/2006 dated 18.01.2013 on I.A.No.10/2012 reads as under:

1. We have heard Mr.Basavaprabhu S.Patil, learned senior counsel for the applicant and

Mr.M.T.George, learned counsel for the State of Kerala.

2. Mr.M.T.George, leaned counsel for the State of Kerala placed before us a copy of the order dated September 7, 2011 passed by the Government of Kerala granting permission for installation of statue of late Shri.N.Sundaran Nadar, Ex-Deputy Speaker of Kerala Legislative Assembly near to Neyyattinkara-Poovar Road in the curve turning to the KSRTC Bus Stand Neyyattinkara in the Kanyakumari National Highway near bus stand.

3. We have our doubt whether such permission could have been granted by the State Government for installation of statue on the national highway.

4. Until further orders, we direct that the status-quo, as obtaining today, shall be maintained in all respects by all concerned with regard to the Triangle Island where statue of late Shri.N.Sundaran Nadar has been permitted to be sanctioned. We further direct that henceforth, State Government shall not grant any permission for installation of any statue or construction of any structure in public roads, pavements, sideways and other public street lights or construction



relating to electrification, traffic, toll or for development and beautification of the streets, highways, roads etc. and relating to public utility and facilities.

5. The above order shall also apply to all other states and union territories. The concerned Chief Secretary/Administrator shall ensure compliance of the above order."

10. The Hon'ble Supreme Court has categorically directed the State Governments not to grant any permission for installation of any statue or construction of any structure in public roads, pavements, sideways and other public utility places and therefore, on account of the order passed by the Hon'ble Supreme Court, the question of permitting the State Government and the Mysure Mahanagara Palike to install the statue does not arise.

11. In the considered opinion of this Court, neither the petitioners nor any one can install the statue on the island

which is on the road (circle which is on the road) keeping in view the judgment delivered by the Hon'ble Supreme Court.

12. Resultantly, the writ petition is allowed. The impugned orders passed by the State Government dated 3.3.2017 and the order dated 28.8.2017 of the 2<sup>nd</sup> respondent-Mysuru Mahanagara Palike are hereby quashed.

The State Government is also directed to ensure compliance of the directions of the Hon'ble Supreme Court in the entire State of Karnataka.

Sd/-  
ACTING CHIEF JUSTICE

Sd/-  
JUDGE

\*alb/-.