**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 9TH DAY OF APRIL, 2025**

**PRESENT**

**THE HON'BLE MR. N.V. ANJARIA, CHIEF JUSTICE**

**AND**

**THE HON'BLE MR. JUSTICE M.I. ARUN**

**WRIT PETITION NO. 2906 OF 2021 (S-PRO-PIL)**

BETWEEN:

1 . SHRI H.T. UMESH
S/O SHRI HEMAGIRI GOWDA
AGED ABOUT 37 YEARS
R/A NO.33, KEMPEGOWDANANAGARA
VISHWANEEDAM POST
BANGLAORE - 560 091

2 . DR. S. ANANDA
S/O LATE PATEL SIDAPPA
AGED ABOUT 44 YEARS
R/A NO.194, THYLOORU VILLAGE
MADDUR TALUK - 571 428
MANDYA DISTRICT

3 . DR. H.P. PUTTARAJU
S/O LATE PUTTEGOWDA
AGED ABOUT 66 YEARS
R/A NO.14, 6TH CROSS
56TH BLOCK, NAGARBHAVI 2ND STAGE
BANGALORE - 560 072

... PETITIONERS

(BY SRI ARUN B.M., ADVOCATE)

AND:

1 . STATE OF KARNATAKA
BY ITS PRINCIPAL SECRETARY
DEPARTMENT OF HIGHER EDUCATION
MULTISTORIED BUILDINGS

DR. AMBEDKAR VEEDHI
BANGALORE - 560 001

2 . BANGALORE UNIVERSITY
JNANABAHRATHI CAMPUS
BANGALORE - 560 056
REP. BY ITS REGISTRAR

3 . THE CHANCELLOR
BANGALORE UNIVERSITY
RAJ BHAVAN
BANGALORE - 560 001
REP. BY ITS REGISTRAR

4 . UNIVERSITY GRANTS COMMISSION (UGC)
BAHADUR SHAH ZAFAR MARG
NEW DELHI - 110 002
REP. BY ITS REGISTRAR

5 . DR. M. SHIVASHANKAR
PROFESSOR
DEPARTMENT OF LIFE SCIENCE
BANGALORE UNIVERISTY
BANGALORE - 560 056

... RESPONDENTS

(SMT. NILOUFER AKBAR, AGA FOR RESPONDENT No.1
SRI B. PRAMOD, CGC FOR RESPONDENT No.2
SRI T.P. RAJENDRA KUMAR SUNGAY, ADVOCATE
FOR RESPONDENT No.3,
SRI SHRIKAR JAYAGOVIND, ADVOCATE FOR
RESPONDENT No.4
SRI LAKSHMIKATH G. ADVOCATE FOR RESPONDENT No.5)

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THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF QUO WARRANTO AND OUST THE 5$^{TH}$ RESPONDENT FROM THE POSTS OF ASSOCIATE PROFESSOR, PURSUANT TO THE ORDER DATED 19/12/2017 OF THE 2$^{ND}$ RESPONDENT - BANGALORE UNIVERSITY, VIDE ANNEXURE-A AND ETC.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE THE CHIEF JUSTICE MR. JUSTICE
N.V. ANJARIA
and
HON'BLE MR. JUSTICE M.I.ARUN

**CAV JUDGMENT**

(PER: HON'BLE THE CHIEF JUSTICE
MR. JUSTICE N. V. ANJARIA)

Heard learned advocate Mr. Arun B.M. for the petitioners, learned Additional Government Advocate Smt. Niloufer Akbar for respondent No.1, learned Central Government Counsel Mr. B. Pramod for respondent No.2, learned Advocate Mr. T.P. Rajendra Kumar Sungay for respondent No.3, learned Advocate Mr. Shrikar Jayagovind for respondent No.4 and learned Advocate Mr. Lakshmikanth G for respondent No.5.

2. Three petitioners herein, of whom petitioner No.1 is shown to be the degree holder in computer application and petitioner No.3 is a retired professor, whereas no details are given about petitioner No.2, projecting themselves to be interested in improving the standards of education and further describing them as public spirited persons, have filed the present petition styling it as public interest petition.

2.1 The petitioners seek a writ of *quo warranto* against respondent No.5 to oust him from the post of Associate Professor on the ground that respondent No.5 is not qualified to hold the post, consequentially also the post of Professor to which he is promoted. It is the case of the petitioners that by getting appointed to the post of Associate Professor at respondent No.2 Bengaluru University, respondent No.5 has usurped the public office by holding the post in question to which he is not entitled to.

3. Respondent No.2-Bangalore University is a University established under the Bangalore University Act, 1964. On coming into force the Karnataka State Universities Act, 1976, respondent No.2 became a University under the said Act. Presently, respondent No.2-University is governed under the provisions of the Karnataka State Universities Act, 2000 and the statutes framed thereunder.

3.1 Respondent No.5 was appointed as Lecturer in the Sericulture Department in respondent No.2-University on 26.02.2003, then came to be promoted to the post of Assistant Professor and to further become Associate Professor by order dated 19.12.2017. Thereafter, he further came to be promoted as Professor.

3.2 Stated in nutshell, the case of the petitioners is that in order to qualify to be appointed as Associate Professor, respondent No.5 was required to satisfy the norms and the prescriptions regarding submission of research papers and academic contributions, as set out by the University grants Commission-respondent No.4 herein. It is stated that the University Grants Commission (UGC) issued Notification dated 13th June 2013 notifying the Regulations called the University Grants Commission (Minimum Qualification for Appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education) (II Amendment) Regulations, 2013.

3.3 In that, changes were brought out in Category III – Research and Academic Contributions which was part of the assessment for the purpose of promotion to a higher grade. Respondent No.5 submitted application for becoming Assistant Professor on the ground that he was eligible as on 1st July 2015. In the meantime, another Notification dated 11th July 2016 came to be issued by the UGC, in which changes were again made in Category III aforementioned.

3.4 It is the case of the petitioners that when respondent No.5 was promoted to the post of Assistant Professor by order dated 17th February 2017, it was suspected that respondent No.5 did not fulfil the criteria of submission of requisite research publications and academic contributions as per the norms of UGC prevalent to be applied at the time when the respondent No.5 was appointed as Associate Professor.

3.5 The case was sought to be elaborated in the pleadings and the submissions that the academic integrity of the petitioner was questionable and that submission of thesis and other research papers were tainted by plagiarism and that the research papers submitted by respondent No.5 would not stand scrutiny of the UGC Notification. It was stated that the enquiry on the part of the pleaders revealed that respondent NO.5 had indulged into the plagiarism to the extent of 72%.

3.6 On the basis of the above premise, it was contended that eventhough not qualified respondent No.5 came to be appointed and he usurped the public office of the post of Associate Professor.

4. The allegations were refuted by respondent No.5 claiming that his assessment was properly done and his appointment to the

post of Associate Professor was after verification that he satisfied the norms of the UGC regarding and including submission of research papers. Respondent No.2-University filed reply defending the application of respondent No.5.

4.1 Respondent No.4-UGC, which is a statutory apex body constituted under Section 4 of the University Grants Commission Act, 1956 to discharge the responsibility of maintaining of standards of education and teaching standards, inter alia stated respondent No.5 worked as a Lecturer between 2003 to 2005, promoted as Assistant Professor, thereafter came to be promoted as Associate Professor. When his name was recommended by the Syndicate. It was by order dated 19th December 2017 that respondent No.5 was promoted as Associate Professor, stated the UGC.

4.2 Assessment is done in accordance with the methodology provided under Appendix-IV, Table I-III in the Regulations, by duly constituted selection committee. It is stated that UGC (Promotion of Academic Integrity and Prevention of Plagiarism in Higher Educational Institutions) Regulation 2018 are framed, which are intended to curb plagiarism. It was then stated that respondent No.5 came to be subsequently promoted as Professor, when 2018

Regulations were in vogue and the eligibility criteria for promotion were accordingly determinable.

4.3 The UGC stated in its affidavit that 'the promotion of the 5th respondent is in accordance with the Clauses mentioned of the Regulations mentioned supra'. It was stated that appointment of respondent No.5 to the post of Associate Professor and subsequent promotion as Professor was based on the recommendation of the Selection Committee and subsequent to resolution of 151st meeting of the syndicate of the University.

5. While the respondents have taken their respective stance on merits by raising various factual and legal aspects in their support, on a careful and complete examination of the controversy and its legal facets and aspects, the Court found it not necessary to delve into the said merits.

5.1 Since the petitioners have prayed for a writ of *quo warranto*, the essentials for issuance of this writ needs to be adverted to at the outset. The writ of *quo warranto* is a special kind of prerogative writs. The Constitutional Courts may issue the writ of *quo warranto* to unseat and oust the holder of public office or public post, when such holder is found to have occupied and usurped such post even

though the holder does not fulfill the statutory eligibility criteria for the post and that he is unqualified to hold the post.

5.1.1 Three ingredients are necessary to be satisfied before a writ of *quo warranto* could be claimed. First is the post or office held by the person against whom the writ is sought for, is of the nature of public office. Secondly, the appointment of the post must be found to contrary to statutory provisions defining the eligibility of the post. Thirdly, the order is an usurper without legal authority and is unqualified to man the post, which is a public office.

5.2 The Supreme Court in **The University of Mysore vs. C.D. Govindarao (AIR 1965 SC 491]** highlighted about the kind and nature of the writ of *quo warranto*, in the following observations,

> "Broadly stated, the *quo warranto* proceeding affords a judicial enquiry in which any person holding an independent substantive public office, or franchise, or liberty, is called upon to show by what right he holds the said office, franchise or liberty; if the inquiry leads to the finding that the holder of the office has no valid title to it, the issue of the writ of *quo warranto* ousts him front that office. In other words, the procedure of *quo warranto* confers jurisdiction and authority on the judiciary to control executive action in the matter of making appointments to public offices against the relevant statutory provisions; it also protects a citizen from being deprived of public office to which he may have a right." (para 7)

5.2.1 It was further stated that, it would thus be seen that if these proceedings are adopted subject to the conditions recognised in that behalf, they tend to protect the public from usurpers of public office; in some cases, persons not entitled to public office may be allowed to occupy them and to continue to hold them as a result of the connivance of the executive or with its active help, and in such cases, if the jurisdiction of the courts to issue writ of *quo warranto* is properly invoked, the usurper can be ousted and the person entitled to the post allowed to occupy it. It is thus clear that before a citizen can claim a writ of *quo warranto*, he must satisfy the court, inter alia, that the office in question is a public office and is held by usurper without legal authority, and that necessarily leads to the enquiry as to whether the appointment of the said alleged usurper has been made in accordance with law or not.

5.2.2 From the Halsbury Laws of England (3rd Ed. Vol. II Page 145), the Supreme Court quoted with approval in **University of Mysore (supra)**

> "An information in the nature of a *quo warranto* took the place of the obsolete writ of *quo warranto* which lay against a person who claimed or usurped an office, franchise, or liberty, to enquire by what authority he supported his claim, in order that the right to the office or franchise might be determined."
>
> (para 7)

5.2.3 In **Rajesh Awasti vs. Nandanlal Jaiswal [(2013) 1 SCC 501]**, the Apex Court underlined the ingredients for *quo warranto* that the writ would lie when the appointment is made against statutory provisions,

> "A writ of *quo warranto* will lie when the appointment is made contrary to the statutory provisions. This Court in Mor Modern Coop. Transport Society Ltd. v. Financial Commr. & Secy to Govt. of Haryana held that a writ of *quo warranto* can be issued when appointment is contrary to the statutory provisions. In B. Srinivasa Reddy, this Court has reiterated the legal position that the jurisdiction of the High Court to issue a writ of *quo warranto* is limited to one which can only be issued if the appointment is contrary to the statutory rules. The said position has been reiterated by this Court in Hari Bansh Lal wherein this Court has held that for the issuance of writ of *quo warranto*, the High Court has to satisfy itself that the appointment is contrary to the statutory rules." (para 19)

5.3 The decision of the **Mysore High Court in Dr. P.S. Venkataswamy Setty vs. University of Mysore [AIR 1964 Mysore 159],** traced the history of the writ of *quo waranto* and highlighted ingredients thereof referring to the English decision in **The King vs. Speyer [(1916) 1 KB 595]**,

> "The peculiar characteristics of the of *quo warranto* and the history of its development in England are found discussed in the leading case of

The King v. Speyer, (1916) 1 KB 595. Lord Reading, C.J., points out that originally a writ of *quo warranto* was available only for use by the King against encroachment of royal prerogative or of rights, franchise or liberties of the Crown but that later it gave place to the practice of filing information's by the Attomey General on the strength of which the Court enquired into the authority whereby the respondent held any public position. Later still, the King's coroner commenced the practice of exhibiting the information of *quo warranto* at the instance of even private persons. To prevent the abuse of this practice statutes were subsequently passed during the reign of the King William and Queen Mary, after which the practice of coroner filing information was stopped. Another statute was passed during the reign of Queen Anne making the issue of a writ of *quo warranto* subject to the discretion of the Court to grant or refuse the same upon the informations exhibited by private persons. In a sense, the proceedings were criminal in nature because the party who laid information before the Court was merely in the position of an informer or a relator. The long history of the proceedings in *quo warranto* led to considerable conflict of decisions." (para 11)

5.3.1 In the same paragraph, it was further observed,

"The matter was fully examined by the House of Lords in the case Darley v. R., (1946) 12 Cl. And F. 520 at p. 537: 8 ER 1513, in which Tindal C.J. expressed his conclusion in the following off-quoted words.

> "After the consideration of all the cases and dicta on the subject, the result appears to be that this proceeding by information in nature of *quo warranto* will lie for usurping any office, whether created by charter alone, or by the Crown with the consent of Parliament, provided the office be of a public nature, and a

> substantive office, not merely the function or employment of a deputy or servant held at the will and pleasure of there."
>
> (para 11)

5.3.2 The High Court stressed the aspect that the *quo warranto* will lie only in respect of what can be categorized as public offices. It observed and held,

> "After that decision, the position was firmly established in England that a writ of *quo warranto* will lie only in respect of what may be briefly described as public offices, that is to say, offices the holders of which exercise some governmental function or power or are conferred with the power or charged with the duty of acting in execution or application of the law. It is necessarily so because in its origin the writ of *quo warranto* was action taken by the Crown itself in England against persons who usurped or purported to usurp any of the privileges, prerogatives, rights or liberties of the Crown, and in England the Crown was the fountain source of law. The same position is found summarised in paragraphs 274 to 277 of Halsbury's Laws of England, Third Edition, Volume II." (para 11)

5.4 The principles in the **English Case [(1916) 1 KB 595]** have been /applied in India, stated the High Court in **University of Mysore (supra)**,

> "The only case where it was held that even in the case of *quo warranto* the petitioner must have a personal interest before he could move the Court is the decision of a Single Judge Chandra Reddi, J., as he then was, of the Madras High Court reported in

> Re, Chakkarai Chettiar, AIR 1953 Mad 96. His Lordship purported to follow the decision of a Bench of that High Court reported at page 94 of the same Volume. That Bench decision, however, related to a case of certiorari. The opinion of Chandra Reddi, J., was dissented from by a subsequent Bench ruling of the Madras High Court in Sivarama Krishnan v. Arumugha Mudliar, (S) AIR 1957 Mad 17. It is pointed out in that case that no other High Court in India has accepted Justice Chandra Reddi's view. Among the rulings of other High Courts expressing such dissent are Biman Chandra v. Governor, West Bengal, AIR 1952 Cal 799 and V.D. Deshpande v. State of Hyderabad, (S) AIR 1955 Hyd 36. in the latter decision other cases, both English and Indian, are found discussed and the principles formulated."
>
> (para 12)

5.5 In **University of Mysore (supra)**, the contesting respondents held the post of Professors or a Reader in the subject of Physics. The High Court held that they were not the post created by the Constitution nor they were the statutory authorities under the provisions of the Mysore University's Act. Section 13 of the Mysore University Act was referred to which gave list of statutory authorities of the University. It was observed that there was no provision in the Act which enumerated or designated Professors, Readers or Teachers as statutory functionaries in the same way like the Chancellor, Vice-Chancellor, the Registrar, to have been.

5.6 The following pertinent observations were made in paragraph 14, by the Mysore High Court,

> "Professors and Readers of the University clearly do not exercise any governmental functions nor are they invested with the power or charged with the duty of acting in execution or enforcement of law. They are merely employees under the statutory body. They cannot therefore in any sense be described as holders of public offices in respect of which *quo warranto* would lie."

5.7 The above proposition of law would squarely apply to the facts of this case and the post of Associate Professor and that of Professor held by respondent No.5. Section 11 of the Karnataka State University's Act, 2000 gives list of the Officers of the University, reading as under,

> "Section 11 of the Karnataka State Universities Act, 2000 reads as follows:
>
> OFFICERS OF THE UNIVERSITY
>
> 11. Officers of the University: The following shall be the officers of the University, namely: -
>
> (a) the Chancellor;
> (b) the Pro-Chancellor;
> (c) the Vice-Chancellor;
> (d) the Registrar;
> (e) the Registrar (Evaluation);
> (f) the Deans;
> (g) librarian;
> (h) the Finance Officer;

> (i) the Director of Planning, Monitoring and Evaluation Board;
> (j) the Director of students welfare;
> (k) the Director, College Development Council;
> (l) the Director of Physical Education;
> (m) such other officers of the University as the Chancellor may, on the recommendation of the State Government from time to time, designate."

5.8 In **Armed Forces Medical Association vs. Union of India [(2006) 11 SCC 531]**, the Supreme Court again has reiterated that if a person can claim a writ of *quo warranto*, he has to satisfy the Court that the office in question is a public office. It is stated that the *quo warranto* proceeding affords a judicial remedy by which any person who holds an independent substantive public office or franchise or liberty, is called upon to show by what right he holds the said office, etc. The proceedings of *quo warranto* are intended to protect the public office from the usurpers of such offices.

5.8.1 The following observations highlighted that the writ of *quo warranto* is prayed for only when a person is holding a public office,

> "Thus, as per the law laid down in a catena of decisions, the jurisdiction of the High Court to issue a writ of *quo warranto* is a limited one, which can only be issued when a person is holding the public office does not fulfill the eligibility criteria prescribed to be appointed to such an office or when the appointment is contrary to the statutory rules. Keeping in mind the law laid down by this Court in the aforesaid decisions on the jurisdiction of the Court while issuing a writ of

*quo warranto*, the factual and legal controversy in the present petition is required to be considered."

5.9 In yet another decision in **Gambhirdan K. Gadhvi vs. State of Gujarat [(2022) 5 SCC 179]**, the Apex Court was dealing with the aspect whether the post of Chancellor or the Vice Chancellor was a public post. It was observed explaining the meaning and purpose of writ of *quo warranto*,

> "….the procedure of quo warranto gives the judiciary a weapon to control the executive from making appointments to public office against law and to protect citizens from being deprived of public office to which they have a right. These proceedings also tend to protect the public from usurpers of public office." (para 17)

5.9.1 The Court laid down,

> "… thus, be seen that before a person can effectively claim a writ of *quo warranto*, he has to satisfy the Court that the office in question is a public office and is held by a usurper without legal authority, and that inevitably would lead to an enquiry, as to, whether, the appointment of the alleged usurper has been made in accordance with law or not." (para 17)

5.9.2 It was again reiterated after referring to several decisions that the condition precedent for issuance of *quo warranto* is that a person is holding the public office,

> "Thus, as per the law laid down in a catena of decisions, the jurisdiction of the High Court to issue a writ of *quo warranto* is a limited one, which can only be issued when a person is holding the public office does not fulfil the eligibility criteria prescribed to be appointed to such an office or when the appointment is contrary to the statutory rules. Keeping in mind the law laid down by this Court in the aforesaid decisions on the jurisdiction of the Court while issuing a writ of *quo warranto*, the factual and legal controversy in the present petition is required to be considered."
>
> (para 18)

6. In the Indian context, the nature of office in respect of which *quo warranto* will lie has to be the office to be one either created by or under the Constitution, or by or under the Statute. Furthermore, the order of the post must have been invested with duties in the nature of public duties. Or that the holder is invested power or charged with duty of acting in execution for an enforcement of the law. Further observed that such office may be either an elective office or in respect of which a nomination or appointment is made by the specified authority.

6.1 An Associate Professor or the Professor, as respondent No.5 is, may be part of the faculty, but for all purposes including functional, he is an employee of the University. The lecturers, the assistant professors or associate professors bear jural relationship with the University and that relationship is only of employee –

employer. An Associate Professor or Professor has no public function to discharge. An Associate Professor or Professor does not interact publicly in his duties nor discharge duties in public domain. Their post cannot be characterised or classified as public office contemplated and as understood for the purpose of issuance of writ of *quo warranto*.

6.2 The concept of public office in general context as well as in the concept of *quo warranto* in particular is presupposed to be a post or office which have a clear public trappings. It must be a post or office where the incumbent is associated with duties of public nature. The functional realm of the order of office should be one to travel to public domain. Professors, readers or teachers cannot be grouped to treat them in the category. By no stretch of imagination, for their very nature of post and the work and duties attached, they cannot become holders of public office.

7. For all the above considerations, the post of Associate Professor held by respondent No.5 is not a public office. The *sine qua non* for issuance of writ of *quo warranto* is not satisfied in the present case. In this view, as no relief can be granted on this score alone, need doesn't arise to go into any other aspect of merit. The court therefore has not gone into any other question of merit. No

finding is rendered whether respondent No.5 was qualified for holding the post, as the said issue is not gone into on merits, as not required.

8. It is to be recollected that in the service matters, the public interest petition would not be maintainable. However, the exception is that a person may ask for a writ of *quo warranto* by filed public interest petition seeking removal of a person claiming to be not qualified to hold the public office. The corollary is that a public interest petitioner who wants the court to issue a writ of *quo warranto*, must satisfy a stricter standard as a bonafide litigant. His locus as a public interest petition must be untainted. Not only that the petitioner seeking writ of *quo warranto* should not have any personal motive involved. As a relator to the facts also he should ensure himself completely insulated from personal consideration.

9. It would be trite that the *quo warranto* should be refused where it is an outcome of malice or ill-will. Even otherwise only person who comes before the Court bonafide and for real public purpose, can claim the locus. The Supreme Court in **Armed Forces Medical Association (supra)**, observed that the writ of *quo warranto* has to be refused when it is actuated with ill-will. Noticing on facts that writ petition of respondent No.1 and 2 lacked

bonafides and it was outcome of malice which respondent No.2 nursed against the appellant, the Supreme Court observed that the High Court ought to have dismissed the writ petition on that ground alone, emphasizing further,

> "It is no doubt true that the strict rules of locus standi are relaxed to an extent in a *quo warranto* proceedings. Nonetheless an imposter coming before the Court invoking public law remedy at the hands of constitutional court suppressing material facts has to be dealt with further." (para 53)

10. An undenied averments are found in the affidavit-in-reply filed by respondent No.5 that the petitioners filed the present petition out of ill-will, with personal and professional vengeance and with unclean hands. Following are the averments not denied,

> "….. Petitioner No. 3 is none other than the former colleague and Chairman of the Department and he himself has accorded and forwarded the application for promotion to Associate Professor cadre of the Respondent under Career Advancement Scheme as per UGC Regulations along with a strong recommendation certificate dated 16.08.2016. Now having colluded with Petitioner No. 1 and 2 have approached this court with a petition styled as a public interest litigation with a camouflage to foster personal vendetta."

10.1 The aforesaid dimension of the subject matter controversy necessarily go to show that the petitioners had different motive to

grind in filing this petition, styling it as public interest petition to seek the *quo warranto* writ with an intention to oust respondent No.5 to satisfy personal score. In that view, the petition turns out to be an abuse of process of law. A token cost of Rs.7,500/- deserves to be imposed on the petitioners.

11. For all the aforesaid reasons and discussion, the petition stands meritless. The petition is dismissed with cost of Rs.7,500/- to be paid within four weeks from today by the petitioner to the Karnataka State Legal Services Authority, Bengaluru.

**Sd/-**
**(N.V. ANJARIA)**
**CHIEF JUSTICE**

**Sd/-**
**(M.I. ARUN)**
**JUDGE**

AHB