

**IN THE HIGH COURT OF KARNATAKA, AT DHARWAD**

**DATED THIS THE 29<sup>th</sup> DAY OF APRIL 2026**

**PRESENT**

**THE HON'BLE MR. JUSTICE B.M.SHYAM PRASAD**

**AND**

**THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR**

**WRIT APPEAL NO.100080 /2026 (LB - RES)**

**BETWEEN:**

1. SMT. USHA MAHESH DASAR, W/O. MAHESH DASAR,  
AGED ABOUT 27 YEARS,  
R/A SIDDARAMESHWAR NAGAR,  
NEAR HUGAR PLOT, GADAG – 582 101.
2. SRI. ANIL M. ABBIGERE S/O. MALLAPPA,  
AGED ABOUT 49 YEARS,  
R/A 1728/5, OLD SARAF BAZAAR,  
GADAG – 562 101.
3. SRI. GULAPPA S. MUSHIGERI,  
S/O. HANAMANTHAPPA MUSHIGIRI,  
AGED ABOUT 45 YEARS,  
R/A NO.250/9, VIVEKANANDA NAGAR,  
NEAR HANUMAN TEMPLE,  
BETAGERI, GADAG – 582 101.

... APPELLANTS

(BY SRI. PRABHULING K. NAVADGI, SR. COUNSEL;  
FOR SRI. MRUTYUNJAYA S. HALLIKERI, ADV.)

**AND:**

- 1 . THE STATE OF KARNATAKA,  
URBAN DEVELOPMENT DEPARTMENT,  
M.S. BUILDING, BENGALURU – 560 001,  
REPRESENTED BY ITS PRINCIPAL SECRETARY.

- 2 . THE DEPUTY COMMISSIONER,  
GADAG DISTRICT ,  
DISTRICT ADMINISTRATION BUILDING,  
GADAG - 582 101.
- 3 . THE REGIONAL COMMISSIONER,  
BELAGAVI DIVISION, BELAGAVI – 590 002.
- 4 . THE COMMISSIONER,  
CITY MUNICIPAL COUNCIL  
GADAG-BETAGERI, STATION ROAD,  
GANDHI CIRCLE, GADAG – 582 102.
- 5 . THE ASSISTANT COMMISSIONER,  
GADAG CUM ELECTION OFFICER,  
GADAG -BETAGERI CITY  
MUNICIPAL COUNCIL, GADAG – 582 102.
6. KRISHNA, S/O. PARASAPPA PARAPUR,  
AGE: 58 YEARS, OCC:AGRICULTURE,  
R/O: 398/1, PLOT NO.100, 101  
DC MIL ROAD, TALAGERI ONI, GADAG – 582 101.

... RESPONDENTS

(BY SRI. K. SHASHIKIRAN SHETTY, ADVOCATE GENERAL A/W  
SRI. GANGADHAR J.M., AAG, AND SRI. PRAVEEN K.  
UPPAR, AGA FOR R1 TO R3 & R5;  
SRI. HARSH DESAI, ADV. FOR R4;  
SRI. K. DIWAKAR, SR. COUNSEL FOR  
SRI. K.L. PATIL, ADV. FOR R6)

THIS WRIT APPEAL IS FILED U/S. 4 OF KARNATAKA  
HIGH COURT ACT, 1961, PRAYING TO SET ASIDE ORDER  
PASSED BY THE LEARNED SINGLE JUDGE DATED 10.02.2026  
IN W.P.NO.101601/2025 PASSED BY THE LEARNED SINGLE  
JUDGE, CONSEQUENTLY ALLOW THE WRIT PETITION, IN THE  
INTEREST OF JUSTICE AND EQUITY AND ETC.,

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 25.04.2026 COMING ON FOR PRONOUNCEMENT OF JUDGMENT, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE B.M.SHYAM PRASAD  
AND  
THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

**CAV JUDGMENT**

(PER: THE HON'BLE MR. JUSTICE B.M.SHYAM PRASAD)

The Appellants are the elected Councillors of Gadag-Betageri City Municipal Council [*for short 'the CMC'*]. The appellants have challenged the third respondent's [*the jurisdictional Regional Commissioner's*] Order dated 27.02.2025 in W.P No. 101601 of 2025. The Regional Commissioner has removed the appellants from the office of the Councillors of the CMC acting under Section 41 of the Karnataka Municipalities Act, 1964 [*for short the Municipalities Act*]. The writ Court, by the impugned order dated 10.02.2026, has rejected the writ petition confirming this decision.

**Factual Matrix:**

2. The Regional Commissioner has decided to remove the appellants from the office of the Councillors because of their participation in the decision [*a Resolution*] to extend the lease of the land measuring approximately 34 acres 32 guntas of Whakaar-Saal, Gadag [*the subject properties*]. The allegation is that the appellants, in a conduct unbecoming of the office of the Councillors, have brought about a fabricated resolution. The Subject Properties are acquired for the establishment of a Cotton Market way back in 1896, and 54 plots in the subject properties are allotted on lease in a public auction. In the later years, the Cotton Market is relocated to the APMC Yard, Gadag, and the original allottees are allotted alternative plots in this yard.

3. However, several of these original allottees continued to hold these plots. This has resulted in several litigations by the CMC, and against it. The CMC has

commenced proceedings to secure vacant possession of the plots from the allottees/ occupants [*the occupants*]. The details of the several litigations must be mentioned in brief in the light of certain rival submissions.

**The details of these litigations:**

4. The CMC has initiated proceedings under the provisions of the Karnataka Public Premises [Eviction of Unauthorized Occupancy] Act, 1974 [for short '*the KPP Act*'], but the occupants have called in question such act in W.P. No.8070/1980. This writ petition is disposed of on 13.06.1982 permitting the CMC to evict the occupants of the corresponding plots under the law. The CMC has thereafter commenced proceedings, but the occupants have filed suit in O.S. No.218/1988 for declaration against the CMC's resolution dated 28.06.1985; for recovery of rents and restraining from eviction. This suit is decreed, but the decree is reversed by the first appellate Court in R.A. No.42/1990.

4.1 The occupants have called in question the decree in the appeal in R.A. No.42/1990 unsuccessfully in RSA No.40/1994, and these occupants are also unsuccessful in the SLP filed before the Apex Court. The CMC's effort to recover possession and rent is further hindered with commencement of the suit in O.S. No.106/1999 & O.S. No.33/1999 [originally O.S. No.454/1997] for declaration that the lease of the plots in favour of the Occupants is for a period of 99 years. However, the suits are dismissed on 18.03.2013.

4.2 In the meantime, the CMC has yet again initiated proceedings under the KPP Act for eviction, and the Competent Authority under this Act has directed the occupants' eviction but the occupants have called these orders in question in appeal under the KPP Act in M.A. Nos.9/2004 to 68/2004. The District Court has dismissed these appeals on 19.12.2005 but these outcomes are called in question in W.P. No.474/2006 and other connected matters. These writ petitions are withdrawn because of

certain communication and a concession on the period during which the occupants could continue in possession of the respective plots.

4.3 The CMC has taken action in July 2019 to demolish structures and evict the occupants, and the occupants have filed writ petitions in W.P. No.112012/2019 and connected matters for different reliefs including the relief of payment of compensation of Rs.1 [one] crore to every occupant. The writ Court has dismissed this writ petition on 12.08.2022, and some of the occupants have filed the intra Court appeals in W.A. No.100488/2022 and W.A. No. 100490/2022. This Court, in these appeals [*vide* interim order dated 07.11.2022], has observed that the authorities and the occupants to explore the possibilities of an amicable resolution. The writ appeals in W.A. No.100488/2022 and W.A. No. 100490/2022 are disposed of by this Bench on 12.08.2024 in the light of the occupants bringing on record a copy of the CMC's Resolution dated 09.02.2024 [*the Resolution*].

4.4 The Resolution, which is the reason for the present round of litigation, reads that the occupants will have the benefit of extended lease for a period of five years. This Court, in the order dated 12.08.2024 in these appeals, has observed that it would be open to the occupants to work out their remedy in terms of the Resolution. The appellants as elected Councillors of the CMC<sup>1</sup> are signatories to the Resolution. This Court must now refer to the litigation with the State Government taking action against the appellants for being parties to the Resolution

**The criminal proceedings:**

5. On 14.08.2024 *i.e.*, two days after the disposal of the writ appeals in W.A. No.100488/2022 and WA 100490/2022, the first information is filed with the jurisdictional police against the appellants alleging that they had fabricated the Resolution. The jurisdictional Police have registered the first information in Crime

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<sup>1</sup> *The appellants have been elected as Councillors in the general elections held in December 2021, and their term, but for their removal, will be upto December 2026*

No.65/2024 for offences punishable under Sections 318(4), 336(2), 336(3), 340(2) and 61(2) of *Bharatiya Nyaya Sanhita, 2023*. The appellants have filed petitions under Section 528 of *Bharatiya Nagarik Suraksha Sanhita, 2023* in CrI.P. No.102611/2024 and CrI.P. No.102711/2024 for quashing of these proceedings.

5.1 The Court has rejected these criminal petitions on 19.12.2024 opining *that there is a strong prima facie material to proceed against the appellants and that the allegations made in the complaint are to be investigated and involvement of all those persons who facilitated fabrication and forgery of the signature must be ascertained*. The Court's order dated 19.12.2024 in these criminal petitions in CrI.P. No.102611/2024 and CrI.P. No.102711/2024 is challenged with the Apex Court in SLP (CrI.) No.1616/2025. The Apex Court *vide* order dated 06.02.2025 has rejected these petitions observing that there is no reason for interference with the order dated 19.12.2024. The jurisdictional police in the meantime has filed charge sheet

against the appellants on 31.01.2025. The appellants now stand trial.

**The Regional Commissioner's first order dated 13.02.2025.**

6. The Commissioner, CMC has caused the Communication dated 24.01.2025 requesting the Deputy Commissioner [*the second respondent*] to take action against the appellants for fabrication of the Resolution. The second respondent has forwarded the request to the jurisdictional Regional Commissioner [*the third respondent*] who has issued notice dated 31.01.2025 to the appellants to show cause against removal under Section 41 of the Municipalities Act.

6.1 The Regional Commissioner, on 07.02.2025, has informed the appellants about the enquiry scheduled to be held on 13.02.2025. The appellants have responded to the show cause notice dated 31.01.2025 and the information letter dated 07.02.2025 stating, amongst others, that they

have received the notice dated 31.01.2025 only on 06.02.2025 and that they have submitted applications for the copies of some documents requesting for time to respond to the show cause notice. The Regional Commissioner, by the order dated 13.02.2025, has ordered the appellants' removal from the office of Councillors observing that though the appellants have sought for time stating that they have to receive certain documents they have not furnished the details and that the request for time is only to protract the proceedings.

**The W.P. No.101414/2025:**

7. The appellants have called in question the Regional Commissioner's order dated 13.02.2025 in W.P. No.101414/2025. The writ Court, by its order dated 24.02.2025, has interfered with the Regional Commissioner's order opining that the decision to pass the order on the date of the enquiry itself is in violation of the opportunity envisaged in the proviso to Section 41[1] of

the Municipalities Act and also in violation of the principles of natural justice.

7.1 This Court must observe that on behalf of the appellants it is submitted that they were seeking copies of the Resolution and Minute Book and inspection of the original Minute Book. As such, the writ Court has directed the CMC to furnish to the appellants the copies of the Resolution and the Minute Book relevant to the meetings immediately before and after the Resolution and also give inspection of the original of the Minute Book. The writ Court has permitted the appellants to file their submissions by 3 p.m. on 27.02.2025 calling upon the Regional Commissioner to pass orders under Section 41 of the Municipalities Act after considering the explanation offered. The writ Court has also observed that if the appellants do not file the explanation by 3 p.m. clock on 27.02.2025, they will forfeit the opportunity extended.

7.2 **W.A. No.100124/2025**: The appellants have filed this writ appeal in W.A. No.100124/2025 calling in question the writ Court's order dated 24.02.2025 in W.P. No.101414/2025. This Court, on 27.02.2025, while considering the appellant's request for interim order, has observed that the appellants must file an application with the writ Court in W.P. No.101414/2025 for further time to offer their explanation and that they must also be at liberty to impress upon the Regional Commissioner about the binding nature of the Apex Court's decision that they propose to rely upon.

7.3 However, this Court on 28.02.2025 in the forenoon, with a request being made on behalf of the appellants for leave to participate in the elections to the Office of the President and Vice President despite the Regional Commissioner's order dated 27.02.2025, has called upon the authorities to defer the elections. Subsequently, on the same date it was placed before this Court that the jurisdictional Assistant Commissioner had

held elections to the CMC's Board despite this Court's decision to defer elections being communicated. However, on behalf of the State, the learned Advocate General has placed on record that elections have been held *and the results* announced. On the next date of hearing, this Court has directed that those elected to the office of the President and Vice President shall not assume office.

7.4 **C.C.C. No.100070/2025**: The appellants have also commenced contempt proceedings in C.C.C. No.100070/2025 alleging that the Deputy Commissioner/the Assistant Commissioner, Gadag and the Commissioner CMC were guilty of deliberate disobedience of the Court's directions to defer elections to the office of the President and Vice President of the CMC. This Court has disposed of this application for contempt proceedings and the writ appeal in W.A No.100124/2025 on 02.03.2026 observing that the appeal is rendered infructuous in view of the Regional Commissioner's next order dated 27.02.2025 and the outcome in the challenge against such order in writ

petition No. 101601/2025. This Court has accepted the apology tendered for the failure to defer elections to close the contempt proceedings.

**The Regional Commissioner's second order dated 27.02.2025 and the next writ proceedings:**

8. The appellants have filed their submissions on 27.02.2025, and the Regional Commissioner has once again directed the appellants' removal from the office of a Councillor. The State Government, in exercise of powers under Section 315 of the Municipalities Act, has issued the Notification dated 29.07.2024 appointing the District Commissioner, Gadag District as the Administrator of the CMC. The appellants have called in question the Regional Commissioner order dated 27.02.2025 in W.P. No.101601/2025, and a few members of the CMC have filed the writ petition in *WP No.105810/2025* calling in question the Notification dated 29.07.2024. The writ Court has rejected these petitions by the impugned common order.

**The proceedings which are ancillary to the present controversy**

8.1 The appellants have requested for stay of the Regional Commissioner's order dated 27.02.2025 in the writ petition in WP 101601/2025 [*the present writ appeal is filed against the final orders in this writ petition*]. The writ Court, on 04.03.2025, has observed that the request for stay will be considered once the pleadings are completed. The appellants have called this order dated 04.03.2025 in question in the writ appeal in WA No. 100132/2025.

8.2 This Court, on 05.03.2025, with both the writ appeal in No. 100124/2025 and this writ appeal in No. 100132/2025 being listed on the same date, has granted interim order directing the President and Vice President-elect not to assume the office. This Court has later [*on 07.04.2025*] disposed of the latter appeal requesting the writ court to dispose of the pending writ petition in WP No. 101601/2025. This request is also repeated in the writ

appeal in No. 100124/2025 which was pending as of that date.

8.3 This Court must next record that with the writ Court issuing directions in WP No. 105810/2025 [*as part of the common order impugned in this writ appeal*]<sup>2</sup> to the authorities to conduct elections to the office of the President and Vice President CMC, the authorities have issued notifications scheduling elections. The appellants have filed an application in the present appeal for stay of this notification. On 24.02.2026, this Court has observed that the elections could go on but subject to the outcome in the present writ appeal. The appellant's have carried this order in the challenge to the Apex Court in SLP (Civil) No. 8340/2026. The Apex Court has stayed the elections scheduled on 03.03.2026 and this Court's order dated 24.02.2026. Consequentially, the administrator continues in the office.

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<sup>2</sup> *The members who have filed this writ petition in WP 105810/2025 have not filed any appeal but the appellants have pursued grievance against elections to the office of the President and Vice President CMC.*

**The writ Court's reasoning to confirm the Regional Commissioner's order dated 27.02.2025.**

9. The appellants have impugned the regional Commissioner's order dated 27.02.2025 on multiple grounds such as that **[a]** the jurisdiction to remove a Councillor under section 41 of the Municipalities Act must be exercised by the State Government and not by the Regional Commissioner, **[b]** the recommendation for action for removal by the State Government must be by the Council and not by the Administrator who is in office in the place of the council, **[c]** the Regional Commissioner could not have decided on the removal without extending an opportunity to the appellants to cross-examine the then In-charge Commissioner and to lead evidence given the nature of the allegations and **[d]** the regional Commissioner's order dated 27.02.2025 is in violation of the principles of natural justice in as much as it is not a reasoned order in the light of the circumstances cited against the appellants and their explanation.

9.1 The writ Court, in the light of the canvass in these regards, and also the grievance as against the State Government's decision to issue Notification dated 29.07.2024 to appoint an Administrator to the CMC, has formulated multiple questions, including the following. This Court must observe that the appellants do not pursue any ground except on the expense of the *enquiry* envisaged under section 41[1] of the Municipalities Act and the Regional Commissioner's failure to adhere to the asserted procedure and violation of principles of natural justice. In this regard, the writ Court has framed these questions.

**[a]** *Whether the Regional Commissioner, while exercising quasi-judicial powers under Section 41 of the Karnataka Municipalities Act, 1964, was required to conduct a detailed enquiry with framing of specific charges, examination of witnesses, and consideration of defence evidence and whether the Regional Commissioner as violated the principles of natural justice.*

**[b]** *Whether the appellants could be removed from the office of an elected Councillor solely on the basis of allegations, the fire and charge sheet then that is not resulted in Convention or proven misconduct and whether the allegations attributed to the appellants constitute misconduct and is disgraceful to the office of an elected Councillor*

9.2 The writ Court, on the examination of section 41[1] of the Municipalities Act and an elaborate reference to the salient of a *reasonable opportunity* for compliance with the principles of natural justice, has opined that the statute does not prescribe a particular procedure for the enquiry contemplated. The writ Court's observation in this regard are paraphrased thus:

- The enquiry under section 41 of the Municipalities Act is quasi-judicial and requires only two essentials **[a]** an enquiry and **[b]** a reasonable

opportunity to be heard. It does not mandate a specific procedure such as examination or cross-examination of witnesses.

- The procedure in quasi-judicial proceedings is flexible and context-dependent; where no procedure is prescribed by the statute, the authority has discretion to adopt a process consistent with natural justice.
- The principles of natural justice are not rigid or universally fixed; their scope varies based on the statutory framework, the nature of rights affected and the consequences involved. The test in this regard is, whether, in the totality of circumstances, it can be opined that the procedure was fair, reasonable and proportionate to the nature of allegations and the statutory framework. The fairness does not require an elaborate or trial-like process in every case.

- The Municipalities Act does not mandate a formal adversarial trial with framing of charges or examination and cross-examination of witnesses; importing such criminal trial procedures would go beyond the statutory intent.
- ‘A *full-fledged inquiry*’ does not mean a trial-like enquiry; it requires a proper, thorough, and fair process, which may include examining documents, hearing the affected party, and considering their explanation as clarified in ***Ravi Yashwant Bhoir v. District Collector, Raigad***<sup>3</sup>.
- The Regional Commissioner has complied with the requirements of reasonable opportunity [*referring to this Court’s observation in the interim order on 24.02.2026 in the writ appeal in No. 100124/2025*] because [**a**] the appellants are issued with notices, [**b**] they are extended an opportunity to file written submissions, [**a**] they are heard personally and [**d**]

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<sup>3</sup> [2012] 4 Supreme Court Cases 407

in examining their explanation in the light of the decision in Apex Court in **Ravi Yashwant Bhoir** [*supra*].

9.3 The writ Court, on the second question, has opined [*i*] that the examination of the witnesses is unnecessary and the FIR / the filing of the charge sheet would suffice and [*ii*] that the Regional Commissioner has *carefully considered all the material on record* to opine that the circumstances in which the Resolution is brought about tantamount misconduct and are disgraceful to the office of an elected Councillor.

9.4 On the first aspect as afore, the writ Court has opined that the documentary evidence is conclusive. The evidence against the appellants is not oral in nature. The evidence is based on CMC official records, there is a categorical denial by the Commissioner, CMC that he has signed the Resolution, the obvious irregularities in the Resolution itself, the expert's opinion regarding the forged

signature in the Resolution and the self evidently untenable defense setup by the appellants.

9.5 On the second aspect, the writ Court has opined that the Regional Commissioner has examined CMC official records, the Resolution Register, the original Resolution [in No. 378] unlike the fabricated Resolution, relates to a State Financial Corporation, the criminal court's order in criminal petition No102611/2024 and 102711/2024 declining to quash the criminal proceedings, the dismissal of the SLP by the Apex Court. The writ Court has further opined that the Regional Commissioner has passed a reasoned order, that the application of mind is seen and that it is no reason to believe that the regional Commissioner has not considered the appellant's explanation.

**The rival submissions**

10. As observed by this Court in the earlier paragraph, the appellants have contested the Regional

Commissioner's order dated 27.02.2025 on grounds such as the jurisdiction that when the statute mentions that the State Government can take a decision to remove an elected Councillor, the procedure for removal must commence not based on an Administrator's recommendation but on the Council's recommendation. However, the appellants confine the grounds in the present proceedings only to the nature of enquiry and the Regional Commissioner's failure to reason the order while contesting the writ Court's opinion that the Regional Commissioner has carefully examined the material on record by a reasoned order.

10.1 On behalf of the State Government and the CMC, the submissions are that the appellants cannot assert a denial of opportunity [*or even a right to cross-examine the In-charge Commissioner or lead evidence*] and that the writ court's observations on careful consideration by the Regional Commissioner are unexceptionable. Sri Prabhuling Navadgi, a learned senior counsel leads for the

appellant. Sri Shashi Kiran Shetty, the learned Advocate General, argues on behalf the State Government. On behalf the CMC, its learned standing counsel, Sri Hasrh Deasi, and for the sixth respondent [a member of CMC] Sri K Diwakar, a learned senior counsel, have made submissions. The canvass by each of them is as follows.

**Sri. Prabhuling Navadgi's submissions**

11. The removal of an elected Councillor of a municipality on the ground of misconduct and disgraceful conduct has severe repercussions to such elected member, and this could also mean a civil death because of the stigma attached by such accusation/allegation and the disqualification for 4 years as contemplated under section 16 of the Municipalities Act. Therefore, the concerned elected member must have every a reasonable opportunity to defend himself/herself against allegations of misconduct and disgraceful conduct.

11.1 The enquiry as contemplated under section 41[1] of the Municipalities Act cannot be just confined to an

opportunity of offering an explanation as envisaged in the proviso to section 41[1] of the Municipalities Act, it must include a comprehensive opportunity before the enquiry concluded in a Report and an opportunity to offer explanation against such Report if it is adverse to the concerned.

11.2 The Apex court in ***Ravi Yashwant Bhoir [supra]*** has clearly elucidated that an elected official in a local self-government has to be put on a higher pedestal than a government servant, and that if a temporary government employee cannot be removed on the ground of misconduct without *a full-fledged enquiry*, it would be difficult to imagine how an elected office bearer can be removed without holding *a full-fledged enquiry*.

11.3 The concerned elected member must be given an opportunity to lead evidence, if an elected member is placed on a higher pedestal than a government employee, if a government employee cannot be removed from service

without an enquiry involving an opportunity to offer evidence and challenge the evidence placed against him/her upon being served with definite Articles of Charge, then even an elected member can be removed only after *a full-fledged enquiry*.

11.4 The section 41[1] of the Municipalities Act, as originally enacted, did not have the proviso and it contained the phrase that '*after giving him an opportunity of being heard and after such enquiry as it deems necessary*' the State Government may remove any elected Councillor if it thought fit on the recommendation of the Municipal Council. However, by Act 83 of 1976, and w.e.f., 8.12.1976 the first part of the expression viz., *after giving him an opportunity of being heard* is deleted and the proviso is included to stipulate that no Councillor shall be removed except after being afforded an opportunity to submit an explanation. The legislature, in bringing about this amendment, intended to provide first for an enquiry resulting in a report and then an opportunity to offer

explanation against the report before there is a decision to remove.

11.5 The Coordinate Benches of this Court considering the *pari materia* provision in section 43A of the Karnataka Gram Swaraj and Panchayat Raj Act 1993 [for short '*the Gram Panchayat Act*'], has opined that an elected member of a gram panchayat cannot be removed on allegations unless there is an enquiry with an opportunity to cross-examine the witnesses who are examined to justify the accusation and to lead evidence to establish the defense. The reiterated position in law must also be considered by this court in deciding whether an enquiry [a full-fledged enquiry as emphasized by the Apex Court in ***Ravi Yashwant Bhoir*** [*supra*] must include an opportunity to cross-examine witnesses and to lead evidence because the question would be the removal of an elected member in both the situations. The reliance is upon the following decisions.

- ***Ajith kumar Vs State of Karnataka***<sup>4</sup>
- ***Bhavani and another Vs State of Karataka***<sup>5</sup>

11.6 The Regional Commissioner has not reasoned why the appellants must be removed on the ground of misconduct or conduct that is disgraceful for an elected Councillor. The Regional Commissioner, after an elaborate reference to the notice issued, the opportunity extended on 13.02.2025, the outcome in the writ petition in WP No. 101414/2025 resulting in the appellants being given an opportunity to file an explanation on 27.02.2025 and a cursory reference to the outcome in the criminal proceedings, has concluded that the appellants are guilty of misconduct or disgraceful conduct for an elected Councillor.

11.7 Even if this Court is of the view that the appellants cannot have an opportunity to cross-examine

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<sup>4</sup> *ILR 2019 KAR 67*

<sup>5</sup> *2020 SCC OnLine Kar 2011*

the In-charge Commissioner and to lead evidence, this Court must intervene because of the Regional Commissioner's failure to reason; to decide based on reasons is a salient of the principles of natural justice. The Regional Commissioner has ignored the responsibility to decide on civil consequences by a reasoned order.

**Sri. Shashi Kiran Shetty's submissions:**

12. The expression '*after enquiry as it deems necessary*' in section 41[1] of the Municipalities Act only contemplates an enquiry as seen necessary depending upon the circumstances of each case, and therefore, the State Government [or its delegate] can decide on the contours of such enquiry. However, given the proviso, the minimum threshold is an opportunity for submitting an explanation against the Municipal Councils [the Administrator's] recommendation.

12.1 The Apex Court in ***Ravi Yashwant Bhoir*** [*supra*] has articulated only a strict adherence to the

statutory provisions, and this means that *Section 41[1] of the Municipalities Act* cannot be read expansively to provide for opportunity to cross examine witnesses and lead evidence when it does not specifically provide for that. The question of violation of the provision would arise only when there is a failure to adhere to the minimum requirement of extending an opportunity to offer explanation as against the recommendation for removal.

12.2 The two decisions relied upon on behalf of the Appellants relying upon Section 43-A of Grama Panchayath Act cannot be applied in the case of decisions under the Municipalities Act because the expression '*after giving him an opportunity of being heard*' is omitted by the 1976 Amendment. In 1997, the Grama Panchayat Act is amended incorporating Section 43-A stating '*after giving him an opportunity of being heard and after such enquiry as it deems necessary*'. These decisions rendered in the light of this provision which is materially different from Section

41[1] of the Municipalities Act cannot be of any avail to the appellants.

12.3 The Regional Commissioner may not have expressly referred to **[i]** the proceedings prior to the proceedings in W.P.No.101414/2025 which show that there could not have been an extension of lease or **[ii]** the concerned Municipal Commissioner reporting to duty only on 27.03.2024 and continuing in office until 08.08.2024 with the Resolution being dated 09.02.2024 or **[iii]** in not mentioning the authorities reliance on original Resolution in No.378 dated 09.02.2024, but the Regional Commissioner has considered the charge sheet filed by the jurisdictional police and this charge sheet encompass all material including the afore circumstances. Therefore, the Regional Commissioner's decision is a reasoned decision.

12.4 The appellants do not dispute that the concerned In-charge Commissioner was in office only between 27.03.2024 and 08.08.2024 but the Resolution is

dated 09.02.2024. The Regional Commissioner is categorical in recording that he has examined all the records, he has heard the arguments and even considered the writ Court's observations in its order dated 24.02.2025 in W.P. No.101414/2025, and therefore, there cannot be allegations of lack of application of mind or lack of reasoning.

12.5 As underscored by the Apex Court in **Jagjit Singh v. State Harayana**<sup>6</sup>, the principles of natural justice are not immutable but flexible, they are not cast in a rigid mould or put in a legal straitjacket and whether the requirements of natural justice have been complied with or not has to be considered in the context of the facts and circumstances of a particular case. The Apex Court has reiterated these propositions referring to the proceedings and the Tenth Schedule of the Constitution of India refusing to interfere with the Speakers decision to disqualify the petitioners [*the elected members of a State*

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<sup>6</sup> (2006) 11 Supreme Court Cases 1

*Legislature]* on the ground that they were entitled to cross-examine but denied such opportunity.

12.6 The Apex Court has explicated that because the principles of natural justice are flexible and have to be examined in each case, and that the Courts, on the facts of the case despite denial of opportunity to lead evidence, may come to the conclusion that the reasonable opportunity has been afforded to the person. Therefore, this Court in the circumstances of this case, though the decision to remove the appellants is under an enactment [*akin to disqualification of a member of the state legislature under the Tenth Schedule of the Constitution*], may not read a right to cross-examine or to lead evidence in the enquiry under Section 41[1] of the Municipalities Act.

**Sri Harsh Desai's submissions:**

13. The appellants cannot dispute the different proceedings by and against the occupants of the 54 Plots in Wakhaar-saal, Gadag, or that the concerned Commissioner,

CMC assumed office only on 27.03.2024 and continued in office till 08.08.2024 or this Commissioner could not have been in office as of the date of the Resolution [09.02.2024] or this Resolution did not see the daylight until 18.08.20 24 when it was produced for the first time in the then pending appeal in WA No. 100488/2022 and connected appeals or the original Resolution dated 09.02.2024 relates not to the extension of lease to the occupants but to the grant of certain funds to a State Finance Corporation. If the appellant's cannot dispute these, the appellants cannot assert a right to cross-examine the then In-charge Commissioner, and it becomes obvious that this right is being asserted only to protract the proceedings.

13.1 The appellants in the writ proceedings in WP No. 100141/2025 have only sought for an opportunity to file explanation accepting that if an opportunity is granted, they will file such explanation before 3 p.m. on 27.02.2025, the date fixed by the writ court while disposing of such petition. The appellants did not assert that they have a

right to cross-examine the In-charge Commissioner, CMC or to lead their evidence. The appellants have thus acknowledged that an enquiry under section 41 of the Municipalities Act only contemplates an opportunity to file explanation against the recommendation for decision dismissal, and even otherwise the appellants, because they did not even assert a right to cross-examine the In-charge Commissioner CMC or lead evidence, are now estopped from taking up such defence.

**Sri K Diwakar's submissions:**

14. The Apex Court in its recent decision in **State Bank of India v. Amit Iron Private Limited**<sup>7</sup>, while deciding on the objectives and the contours of the principles of natural justice, has observed that these principles are intended to ensure fairness in action and prevent miscarriage of justice and that involves either an opportunity to be served with a Show Cause Notice and

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<sup>7</sup> [2026] SCC Online SC 538

eliciting a response with an obligation to pass a reasoned order or extending to the concerned [*along with the opportunity as aforesaid*], the opportunity of personal hearing or a higher opportunity of even being given the facility of cross-examination.

14.1 The appellants cannot deny that the Regional Commissioner has indeed extended an opportunity to offer explanation with the issuance of the show cause notice dated 31.01.2025 and the opportunity of personal hearing on 13.02.2025 and that the appellants, who did not file any explanation after the receipt of the show cause notice dated 31.01.2025, have filed their explanation after the intervention of the writ court in WP No. 101414/2025 and that in the framework of the statute as contained in section 41 of the Municipalities Act, the appellants cannot argue for a right to cross-examine the In-charge Commissioner CMC or to lead evidence.

**Sri Prabhuling K. Navadg's submissions in Rejoinder:**

15. Any interpretation of Section 41 of the Municipalities Act admitting discretion in the government [or its delegate] to decide on the nature of the enquiry or the limits of enquiry based on facts of each case would amount to admitting in the government [or its delegate] a power that could be used arbitrarily without any check and that cannot be permitted.

15.1 The Government[or its delegate] under Section 41 of the Municipalities Act, in deciding whether there should be removal resulting in disqualification, is discharging the functions of a Court or a Tribunal, and therefore, the procedure must have all the trappings are associated with the *judicial and quasi judicial* proceedings. This Court must lean in favour of the interpretation by the Co-ordinate Bench of Section 43A of the Gram Panchayath Act. The interpretation of statutes has always been in favour of reading a complete opportunity in an enquiry to

test the credibility of any evidence that is offered against the concerned.

15.2 The Apex Court in ***Jagjit Singh v. State of Haryana*** [*supra*] was deciding on the procedure adopted by the Speaker of a State Legislature [a High Constitutional Office], and therefore, the Apex Court did not lean in favour of an opportunity to cross-examine the person who had appeared on a Television Channel speaking about the concerned elected members intentions. However, in the present case it is an enquiry by an executive as a delegate of the State Government. As such, this decision may not be apposite in the present circumstances.

**The questions for consideration:**

16. The rival submissions are centered around the nature of enquiry that must be under section 41[1] of the Municipalities Act with the appellant asserting that such enquiry must involve an opportunity to cross-examine the material witness [*the In-charge Commissioner*] and that,

even if this Court is not inclined to read this right into the scope of enquiry contemplated, this Court must intervene with the Regional Commissioner's order dated 27.02.2025 because, the officer, despite the consequences that befall on removal of the councillor, has not reasoned the conclusion for the appellants removal.

16.1 On behalf of the State, CMC and the sixth respondent the argument in support of the afore propositions are seriously contested. The writ Court has categorically observed that the enquiry under section 41 of the Municipalities Act must be a *'full-fledged enquiry'* but that cannot involve an elaborate process of serving a charge memo with an opportunity to lead evidence while holding that the Regional Commissioner has carefully examined all the materials as mandated under the statute. The questions for consideration, therefore, will be:

**[A]** *Whether this Court can opine that there is reason to interfere with the writ Court's conclusion:*

- *that the power under section 41 of the Municipalities Act is quasi judicial and that the provision does not mandate a trial-like procedure with examination and cross examination of witnesses.*

*Or*

- *that the decision of the Apex Court in **Ravi Yashwant Bhoir** [supra] that an enquiry for removal or disqualification of an elected member of a local authority must be after a full-fledged enquiry does not mean that such enquiry must involve a trial like procedure when power under section 41 of the Municipalities Act is exercised.*

**[B]** *Whether this Court must interfere with the writ Court's opinion that the Regional Commissioner has carefully considered all material and by a reasoned order has opined that the appellants must be removed from office of elected Councillors.*

**Reg. Question No. 1;**

17. This Court must, at the outset, observe that the consistent view as seen from the different decisions, including the recent decision of the Apex Court in ***State Bank of India v. Amit Iron Private Ltd and others*** [*supra*], is that the requirement of flexibility in the concept of natural justice is inevitable and that the procedure which must be followed to ensure compliance with the principles of natural justice cannot be rigid or put in a straitjacket. The Apex Court in the afore decision, after referring to the earlier decisions and reiterating that the flexibility in the concept of natural justice is inevitable as it encompasses different layers, has declared which layer would be applicable will depend on the nature of the enquiry and the framework of the law in which it is held with an opportunity to show cause and decision by a reasoned order.

17.1 The Apex Court has also held that if an opportunity to show cause and decide by a reasoned order

is one facet that would meet the requirements of compliance with the principles of natural justice, the other is where these two are coupled with an opportunity of personal hearing, and the next aspect is a higher opportunity where there is a right to cross-examine witness. The Apex Court's decision in this regard reads as under:

**78.** *The flexibility in the concept of natural justice is inevitable as it encompasses different layers and as to which one would be applicable would, as held in A.K. Kraipak (supra), depend on the nature of the enquiry and the framework of the law under which it is held. For example, an opportunity to be served with a show cause notice and eliciting a reply with an obligation to pass a reasoned order is one facet of natural justice. Another facet is the grant of an interview to the noticee whereby he is personally heard by virtue of an oral hearing. A yet higher facet is where in the said process of a personal hearing he is given the facility of cross-examination of witnesses. To top it all, could be such cases where the opportunity to be represented by a lawyer or a legally trained mind is guaranteed.*

Crucially, the Apex Court has opined that in the absence of any rule being prescribed in the statute or rule or regulations, or in any policy, what would meet the requirements under the statute effectively would depend on the circumstances and that one cannot start with the assumption that as of right, a noticee is entitled to a personal hearing.

17.2 The writ Court, upon extracting section 41[1] Municipalities Act, has observed that the statute only stipulates enquiry<sup>8</sup> and an opportunity to explain against the allegation and it does not prescribe framing of a formal charge memo or service thereof, or examination of witnesses or cross-examination. The writ Court has further opined that if the statute does not prescribe a detailed procedure but only draws the outline for an enquiry, the authority vested with the power is also given the discretion

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<sup>8</sup> *The writ Court has used the expression 'enquiry' as it is used in Section 41[1] of the Municipalities Act.*

to devise a procedure that is fair and reasonable and that the obligation to be fair and reasonable will include:

**[i]** the opportunity to show cause against the allegation, and

**[ii]** the obligation to conclude by a reasoned order.

This Court must opine that the writ Court's conclusions are in accord with the propositions as enunciated by the Apex Court.

17.3 On behalf of the appellants, this Court is also being called upon to take a different view relying upon **[a]** the original text of section 41[1] of the Municipalities Act, **[b]** the amendment in 1976, **[c]** the interpretation of the provisions of section 43A of the Gram Panchayat Act by the Co-ordinate Benches, and **[d]** the significance of an opportunity to file an explanation in the proviso to section 41[1] of the Municipalities Act. This Court must observe that these are arguments that are presented for consideration in the present proceedings, and these aspects

are being considered for a decisive pronouncement on the question even in the light of these.

17.4 This Court must first read in juxtaposition the original text of section 41[1] of the Municipalities Act and the amended text of this section to decide on whether the legislature intended an opportunity beyond what is held by the writ Court, and this Court must also refer to the material parts of Section 16 [1] [f] and the relevant proviso of the Municipalities Act as this contemplates the consequences that will be when an elected Councillor is removed under Section 41 [1] thereof.

<p><b><i>Sec. 41 of the Municipalities Act prior to the 1976 Amendment</i></b></p>	<p><b><i>Sec. 41 of the Municipalities Act prior to the 1976 Amendment after insertion by Act 83 of 1976 [w.e.f. 08.12.1976]</i></b></p>
<p><b><i>41. Liability to removal from office.—(1) The Government, if it thinks fit on the recommendation of the municipal council, may</i></b></p>	<p><b><i>41. Liability to removal from office.—(1) The Government, if it thinks fit on the recommendation of the municipal council, may remove</i></b></p>

<p>remove any councillor elected or appointed under this Act, <b><u>after giving him an opportunity of being heard</u></b> and after such enquiry as it deems necessary, if such councillor has been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct, or has become incapable of performing his duties as a councillor.</p>	<p>any councillor elected or appointed under this Act, <del><b><u>9[x x x]</u></b></del> and after such enquiry as it deems necessary, if such councillor has been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct, or has become incapable of performing his duties as a councillor.</p> <p><b><u><sup>10</sup>Provided that no Councillor shall be removed except after being afforded an opportunity for submitting an explanation.]</u></b></p>
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**The relevant portions of Section 16 [1] of the Karnataka Municipalities Act, 1964**

“16. General disqualifications for becoming a councillor.— (1) A person shall be disqualified for being chosen as, and for being, a councillor,—

xxxxx

(f) if he has been removed from office under section 41 of this Act; or

xxxx

Provided that,—

xxxx

<sup>9</sup> The words “after giving him an opportunity of being heard” omitted by Act No. 83 of 1976, S.11(i), w.e.f. 08-12-1976.

<sup>10</sup> Proviso inserted by Act No. 83 of 1976, S.11(ii), w.e.f. 08-12-1976.

*(c) the disqualification in clauses (a), (d) and (f) shall cease to operate after the expiry of four years from the date of such sentence, dismissal, or removal or earlier by an order of the Government”*

17.5 The consequence of removal from the office of a Councillor, as contemplated under section 16 of the Municipalities Act, is a disqualification for four [4] years from the date of removal. This could mean that a removed elected Councillor can lose the present term and the next term as well, and this indeed, will be significant. The original text of Section 41[1] of the Municipalities Act reads that an elected Councillor could be removed ‘*after giving him an opportunity of being heard and after an enquiry as it deems necessary.*’ This Court must observe that the expression *after giving an opportunity* of being heard and *after an enquiry* do not readily reconcile to convey a definite procedure.

17.6 The original text of section 41[1] of the Municipalities Act is amended by the Act 83 of 1976. It is seen from the Statement of Objects to the Act of 83 of 1976

that the amendments are based on the proposals by an Action Committee [*after the conference of the State of Karnataka Municipal Presidents and Vice Presidents*], the Divisional Commissioners and the Controller, State Accounts Department. The amendments are because of the difficulties faced in the implementation of the provisions of the Municipalities Act<sup>11</sup>. If the afore expressions in the original text of Section 41[1] did not readily reconcile, the amendment with the omission of the expression [*after giving him an opportunity of being heard*] in the section and inclusion of an opportunity to offer an explanation brings about the legislature's intention to remove this difficulty.

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<sup>11</sup> Statement of Objects of the Act 83 of 1976 of the Karnataka Municipalities Act, 1964- .....*The action Committee of the Karnataka State Municipal President and Vice-President conference held during 1969 desired a scrutiny of the Karnataka Municipalities Act, 1964. A Committee was therefore constituted to have a detailed scrutiny of the provisions of the Act and to suggest amendments thereto. Some difficulties were also felt in the implementation of the provisions of the Act. The Divisional Commissioners and the Controller, State Accounts Department also proposed certain amendments to the Karnataka Municipalities Act, 1964*

17.7 It is settled law that the main section and the proviso appended thereto must be read together as one throws light on the other. It is also settled that a proviso can take something out of what is contemplated in the main section but it cannot introduce something which is foreign to the main section. This Court in this regard must refer to the following from the decision of the Apex Court in ***J.K. Industries Ltd. v. Chief Inspector of Factories and Boilers***<sup>12</sup>.

**33.** *A proviso to a provision in a statute has several functions and while interpreting a provision of the statute, the court is required to carefully scrutinise and find out the real object of the proviso appended to that provision. It is not a proper rule of interpretation of a proviso that the enacting part or the main part of the section be construed first without reference to the proviso and if the same is found to be ambiguous only then recourse may be had to examine the proviso as has been canvassed before us. On the other hand an accepted rule of interpretation is that a section and the proviso thereto must be construed as a whole, each portion throwing*

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<sup>12</sup> (1996) 6 SCC 665. This decision is also referred to by the Apex Court in *DDA v. Virender Lal Bahri*, (2020) 15 SCC 328

*light, if need be, on the rest. A proviso is normally used to remove special cases from the general enactment and provide for them specially.*

- 34.** *A proviso qualifies the generality of the main enactment by providing an exception and taking out from the main provision, a portion, which, but for the proviso would be a part of the main provision. A proviso must, therefore, be considered in relation to the principal matter to which it stands as a proviso. A proviso should not be read as if providing something by way of addition to the main provision which is foreign to the main provision itself.*
- 35.** *Indeed, in some cases, a proviso, may be an exception to the main provision though it cannot be inconsistent with what is expressed in the main provision and if it is so, it would be ultra vires of the main provision and struck down. As a general rule in construing an enactment containing a proviso, it is proper to construe the provisions together without making either of them redundant or otiose. Even where the enacting part is clear, it is desirable to make an effort to give meaning to the proviso with a view to justify its necessity.*

17.8 The section 41[1] of the Municipalities Act, after its amendment, only stipulates that the State Government [or its delegate]<sup>13</sup>, may remove an elected Councillor after such enquiry as deemed necessary. This Section does not stipulate anything more on the nature of enquiry. Therefore, the State Government [or its delegate] must adopt such procedure which is fair and reasonable [*a requirement of natural justice*]. Further, the proviso, which must be read holistically with the section, only stipulates that the State Government [or its delegate] cannot devise a procedure for enquiry that excludes the opportunity to offer an explanation to the allegation.

17.9 The appellants contend that the amendment of Section 41[1] of the Municipalities Act is to bring on par the procedure for removal of an elected Councillor under this section with the procedure contemplated generally for Departmental /Disciplinary proceedings against a

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<sup>13</sup> *The power under this Section is delegated to the Regional Commissioner under the Notification dated 09.01.2015.*

government servant which involves, apart from framing of charges, an opportunity to cross-examine the witnesses. This Court must opine that to read this into the Section 41[1] of the Municipalities Act reading the proviso appended expansively, results in violating the rule against reading the proviso to introduce an addition into the section and the rule that the language in a statute must be read plainly<sup>14</sup>.

17.10 The appellants also rely upon the provisions of Section 43-A of the Gram Panchayat Act and the interpretation thereof by the division benches of this Court.<sup>15</sup> This Court must immediately recognize the difference in the language between this section and section 41[1] of the Municipalities Act. Further, the legislature, despite the original text of the section 41[1] of the Municipalities Act being amended in 1976 [*vide* Act 83 of

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<sup>14</sup> *Allahabad University v. Geetanjali Tiwari* (2024) 20 SCC 23

<sup>15</sup> *Ajith kumar Vs State of Karnataka* [ILR 2019 Kar 67] and *Bhavani and another Vs State of Karataka* [2020 SCC OnLine Kar 2011]

1976], has incorporated Section 43-A of the Gram Panchayat Act in 1997 with the language of the original text in Section 41[1] of the Municipalities Act. These two provisions are read as under:

<p style="text-align: center;"><b>Sec. 41 of the Municipalities Act after the 1976 Amendment [insertion by Act 83 of 1976 w.e.f. 08.12.1976]</b></p>	<p style="text-align: center;"><b>Section 43A - Gram Panchayath Act, 1993 [Inserted vide Act 29 of 1997 w.e.f. 20.10.1997]</b></p>
<p><b>41. Liability to removal from office.</b>—(1) The Government, if it thinks fit on the recommendation of the municipal council, may remove any councillor elected or appointed under this Act, <u>and after such enquiry as it deems necessary</u>, if such councillor has been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct, or has become incapable of performing his duties as a councillor. Provided that no Councillor shall be removed except after being afforded an opportunity for submitting an explanation.</p>	<p><b>43A. [Removal of members for misconduct-</b> The Government if it thinks fit, on the recommendation of the Grama Panchayat, or otherwise, may remove <u>any member after giving him an opportunity of being heard and after such enquiry as it deems necessary</u> if such member has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or has become incapable of performing his duties as a member.]</p>

17.11 This Court, on a careful examination of all the material, is of the considered opinion that if the legislature has amended section 41[1] of the Municipalities Act in 1976 to remove the difficulties providing discretion to the State Government [or its delegate] to devise a procedure for the enquiry that is fair and reasonable but on the condition that the enquiry shall include an opportunity to offer explanation as the minimum threshold, an elaborate procedure cannot be written by interpretation based on the provisions in another enactment. The later enactment is two decades after 1976 but including the original text in section 41[1] of the Municipalities Act. Therefore, the appellants cannot succeed even on relying upon the decisions on Section 43A of the Gram Panchayat Act.

17.12 The appellants rely upon the decision of the Apex Court in **Ravi Yashwant Bhoir** [*supra*] where the Apex Court has held as follows;

*Undoubtedly, any elected official in local self-government has to be put on a higher pedestal as*

*against a government servant. If a temporary government employee cannot be removed on the ground of misconduct without holding a full-fledged inquiry, it is difficult to imagine how an elected office-bearer can be removed without holding a full-fledged inquiry.*

However, the Apex Court in the subsequent paragraphs has also declared that an elected representative has no vested right and he/she could be removed from office in strict compliance with the procedure prescribed by the legislature. The elected Councillor, who faces the allegation of misconduct or disgraceful conduct, must be given an opportunity to offer an explanation against that allegation and the State Government [or its delegate], must after a fair and just enquiry decide by a reasoned order on whether the elected representative must be removed from office. There is no dispute that the Regional Commissioner, as part of the enquiry under Sec. 41(1) of the Municipalities Act can extend a personal hearing to the appellants, and in fact he has extended such hearing prior to the order dated 13.02.2025

17.13 This Court, on the procedure that is followed by the Regional Commissioner, must recount that the appellants are served with show cause notice dated 31.01.2025, that they have been extended a personal hearing on 13.02.2025. The appellants have sought for extension of time, but the Regional Commissioner has passed an order of removal of the appellants from the office of councillors on the same day [13.02.2025] which is challenged WP No. 101414/2025. The writ Court has given them an opportunity to file explanation. The submissions on behalf of the appellants and the writ Court's opinion in W.P No. 101414/2025 are as follows:

*“23. ...., learned counsel for the petitioners, is that, if the documents which have been applied to respondent No.4 are furnished, the reply would be furnished by 3:00 p.m. on 27.02.2025.*

*24. That being so, I am of the considered opinion that such valuable right of the petitioners cannot be deprived when petitioners have come forward*

*now to submit their reply within the date and time frame as stipulated by them.”*

17.14 However the appellants, in the detailed Explanation dated 27.02.2025, have specifically asserted that they must be issued with specific charges and that they must be extended with opportunity to cross-examine the In-charge Commissioner, CMC to prove their case. The rival submissions on the appellants being estopped because of the submission as recorded will not be germane because of this Court's opinion that the writ Court is justified in its opinion that in the framework under the Municipalities Act, there cannot be a *trial like* procedure for the removal of an elected Councillor.

17.15 In the light of the above, this Court answers the first question opining that the two essential requirements of the procedure of enquiry under section 41[1] of the Municipalities Act are **[a]** an enquiry that is just and fair, **[b]** an opportunity to the concerned to offer

explanation against the allegation, and **[c]** a personal hearing to elaborate in person on the explanation filed reiterating the writ court's conclusion that the Section 41[1] of the Municipalities Act does not mandate a '*trial-like procedure*' requiring framing of formal Charge Memo and examination of witnesses or cross-examination of the witnesses.

**Reg. Question No.2:**

18. The writ Court has opined that the Regional Commissioner in passing the Order dated 27.02.2025 has carefully examined the following.

- [a]** The CMC Official Records.
- [b]** The Resolution.
- [c]** The Resolution Register.
- [d]** The Original Resolution in No.378 relating to State Financial Corporation Grant/ allocation.
- [e]** The order of the Court in Criminal Petition Nos.102611/2024 and CrI.P. No.102711/2024.

**[f]** The orders of the Apex Court in SLP No.1616/2025.

The writ Court has further opined that the Regional Commissioner has passed '*a detailed reasoned order*' explaining why the appellants' explanation was not acceptable and why their removal from the office of elected councillors is warranted while concluding that the Regional Commissioner's application of mind is obvious from the order dated 27.02.2025. The writ Court has observed that the appellants' defence is nebulous because the then In-charge Commissioner's denial of the signature in the Resolution is on record, the Resolution is not part of the CMC official records, the appellants have not denied that the then Commissioner's signature is forged and the Resolution has obvious irregularities.

18.1 This Court is called upon re-examine these conclusions to decide on whether the Regional Commissioner has carefully considered all material and

reasoned the decision to remove the appellants from the office of an elected councillor. This Court must begin by examining the appellants' grievance with the writ Court's opinion and conclusion as afore observing that the importance of a reasoned decision to remove an elected councillor under Section 41[1] and Proviso of the Municipalities Act cannot be over emphasized because of the following.

- In the proceedings under these provisions, there will not be a *trial-like procedure* akin to the disciplinary / departmental proceedings.
- The concerned councillor will only have an opportunity to offer an Explanation in writing and justify the same in a personal hearing.
- The decision by a reasoned order is at the core of the safeguard against what could be an arbitrary decision.

18.2 This Court in this regard must refer to the decision of the Apex Court in **Ravi Yashwant Bhoir** [*supra*]. The Apex Court, referring to the earlier decisions, has emphasized that it is imperative and obligatory on the part of the authority, which exercises the jurisdiction to decide on the removal of an elected councillor, to strictly adhere to the statutory provisions and that this authority will have to keep in mind the safeguards and protections provided under the statute. In fact, the Apex Court in referring to the earlier decisions has affirmed that “*severer the punishment, the greater has to be the care taken to see that all the safe guards provided in a statue are scrupulously followed and that if those safeguards are not observed, the order, which will have serious consequences, is liable to be quashed.*”

18.3 This Court must therefore observe that it was incumbent upon the Regional Commissioner to reason the decision to remove the appellants from the office of an elected councillor in the light of the terms of the show

cause notice and the appellants' explanation. The Regional Commissioner has issued the Show Cause Notice dated 31.01.2025 informing the appellants that:

**[a]** the first information is filed with the jurisdictional Police in Crime No.65/2024 upon ascertaining that the Resolution is fabricated because the Resolution [which is numbered 378] does not tally with the entry under that resolution number in the Resolutions Register of, and

**[b]** the appellants have signed the resolution.

The Regional Commissioner has also referred to the Deputy Commissioner's report dated 28.01.2025 and the Commissioner's report dated 24.01.2025 without detailing the contents of these two reports.

18.4 The appellants, on 13.02.2025, have not filed a detailed explanation but they have only sought for time, but with the writ Court in W.P. No.101414/2025 permitting them to file a detailed explanation, they have specifically

averred the following on the circumstances in which the resolution was passed.

**[a]** After the interim orders granted by this Court in writ appeal Nos. 100488/2022 and 100490/2022<sup>16</sup> on 07.11.2022 against creating third-party interests during the pendency of the appeals but observing that it would be open to the State Government/CMC to explore the possibilities of a settlement, the Council [*by a majority*] resolved to extend the lease in favour of the occupants for a period of five years.

**[b]** This decision was taken because the CMC was not receiving any rent for the period from 2019 and the majority of the Councillors felt that it would be in the interest of the CMC as well if the lease is extended for a period of five years collecting the rental arrears.

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<sup>16</sup> *These appeals are against the rejection of the petitions by the occupants for payment of Rs.1 Crore to each as compensation.*

**[c]** The majority of councillors are party to the decision and the resolution is drawn up in terms of this majority decision.

18.5 The authorities, apart from relying upon the First Information and the outcome in the criminal petitions filed by the appellants, assert that the In-charge Commissioner whose signature is found in the Resolution was in office only between 27.03.2024 and 08.08.2024, that the Resolution in No.378 [the number mentioned in the resolution] is about allocation of State Finance Corporation Funds and that the Resolution was not known until the incumbent Commissioner called for an explanation from the then In-charge Commissioner after the interim orders of this Court in writ appeal Nos. 100488/2022 and 100490/2022

18.6 The Regional Commissioner's order, which is on the date that the appellants have filed their Explanation [27.02.2025], can be seen in four parts apart from the

subject and the reference. The first part refers to the orders of the writ Court in W.P. No.101414/2025 and the outcome therein as also the presence of the appellants and the officers at the time of hearing on such date. The second part refers to the copies of documents being delivered to the appellants, the filing of the explanation and the reliance of the decision in **Ravi Yashwant Bhoir** [supra]. The third part of the Regional Commissioner's order contains a list of a few general circumstances, the outcome in the criminal proceedings in CrI. P. No.102611/2024 and 102711/2024 and the reference by the writ Court to the criminal proceedings while deciding the writ petition in W.P. No.101414/2025.

18.7 The final part of the Regional Commissioner's order is a conclusion that the appellants are guilty of disgraceful conduct. The Regional Commissioner has neither adverted to the appellants' specific case that the decision to extend the lease in favour of the occupants is by a majority of the members of the Council, nor there is a

verification of this aspect. Further, the Regional Commissioner has not referred either to the In-charge Commissioner being [or not being] in Office during the relevant period or the Resolution going missing from the records or the relevant entry in the Resolution Register does not tally with the contents of the Resolution.

18.8 This Court must opine that, given expanse of the enquiry under Section 41 of the Municipalities Act with the undeniable emphasis on a reasoned order, the Regional Commissioner should have reasoned which of the two rival versions would prevail. The Regional Commissioner's order is definitely found wanting in this regard. It is canvassed on behalf of the State Government and the CMC that the requirement of a reasoned order is satisfied with the Regional Commissioner referring to the Court's order in CrI.P. No. 102611/2024 and 102711/2024 and the earlier proceedings in WP 101414/2025. This Court, on a careful consideration of the contents of the Regional Commissioner's order dated 27.02.2025, must observe that

this would amount to adding reasons into the order, and in any event, supplementing reasons.

18.9 This Court must at this stage refer to the settled principles that when a statutory functionary makes an order based on certain grounds, its validity must be adjudged by the reasons mentioned in the order and the order cannot be supplemented by fresh reasons in the shape of an affidavit or otherwise, and if fresh reasons are permitted to be supplemented, an order bad in the beginning may, by the time it comes to Court on account of a challenge get validated by additional grounds. This Court must refer to the celebrated decision of the Apex Court in ***Mohinder Singh Gill and another vs. the Chief Election Commissioner***<sup>17</sup>, where the Apex Court, while expositing the afore, has affirmed that public orders are intended to affect the conduct of those to whom the orders are addressed and must be considered objectively with reference to the reason in the order itself.

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<sup>17</sup> AIR 1978 SC 851

18.10 This Court in view of the discussion as afore, is not persuaded to confirm the writ Court's view and conclusion that the Regional Commissioner has carefully considered all the documents and has decided on the appellants removal from the office of the elected councillors under section 41 of the Municipalities Act by a reasoned order. Therefore, the second question is answered in the affirmative, interfering with the writ Court's order that the Regional Commissioner has by a reasoned order opined that the appellants must be removed from the office of elected councillors. Consequentially, the Regional Commissioner's order dated 27.02.2025 must be quashed restoring the proceedings to the Regional Commissioner for due consideration of the rival versions and for a reasoned order.

19. On the appellants' right to continue as elected councillors of the CMC and to participate in any election as such members of the Council when the question of their removal is pending consideration by the Regional Commissioner on the restoration as aforesaid, this Court

observes that the appellants can assert a right only upon the orders of the Apex Court in SLP(C) No. 8340/2026 wherein the Apex Court has stayed the election scheduled on 03.03.2026. Further, this Court observes that the Regional Commissioner, who must issue an opportunity of hearing as was extended in terms of the notice dated 07.02.2025 prior to the order dated 13.02.2025, must not be in a haste to decide as such decision would be a quasi-judicial decision, and a caution in this regard would serve the salient that justice should not only be done but also seen to be done.

**ORDER**

The Writ appeal is allowed-in-part setting aside the writ Court's conclusion on the Regional Commissioner's order dated 27.02.2025 being a reasoned order and quashing the Regional Commissioner's order dated 27.02.2025 restoring the proceedings under the Section 41[1] of the Karnataka Municipalities Act, 1964 for reconsideration on the following terms;

- a.** The Regional Commissioner shall issue notice of personal hearing to the appellants at the earliest indicating the date of personal hearing.
- b.** The appellants shall avail this opportunity without seeking any extension of time.
- c.** The Regional Commissioner shall decide on the appellants' removal as elected councillors of the Gadag-Betageri City Municipal Council in the light of this Court's observations.

Sd/-  
**(B.M.SHYAM PRASAD)**  
**JUDGE**

**Sd/-**  
**(SHIVASHANKAR AMARANNAVAR)**  
**JUDGE**

Kms/Rsh  
CT: ASC