



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 8TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO.202919 OF 2023 (S-RES)

BETWEEN:

DESHAK JAGANNATH
S/O S.T. DESHAK,
AGED ABOUT 60 YEARS,
OCC: RETIRED LECTURER IN
NRUPATUNGA FIRST GRADE COLLEGE, SEDAM,
RESIDENCE OF NO.2-10-45,
NEAR LAXMI NARAYAN MANDIR MAIN ROAD,
SEDAM, DIST. KALABURAGI-585220.

...PETITIONER

(BY SRI. AMEETKUMAR DESHPANDE, SR. COUNSEL FOR
SRI. GANESH S. KALBURGI, ADVOCATE)



AND:

1. THE STATE OF KARNATAKA,
REPRESENTED BY PRINCIPAL SECRETARY
TO THE DEPARTMENT OF HIGHER EDUCATION,
GOVERNMENT OF KARNATAKA,
M.S. BUILDING, BENGALURU-560001.
2. THE COMMISSIONER OF COLLEGIATE EDUCATION,
NRUPATUNGA ROAD, BENGALURU-560001.
3. THE REGIONAL JOINT DIRECTOR OF COLLEGIATE
EDUCATION, KALABURAGI-585102.



4. KOTTALA BASAVESHWARA BHARATHIYA
SHIKSHANA SAMITHI,
REPRESENTED BY ITS SECRETARY,
SEDAM, DIST. KALABURAGI-585222.

...RESPONDENTS

(BY SRI. MALLIKARJUN SAHUKAR, AGA FOR R1 TO R3;
R4 IS SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO A) DIRECT THE RESPONDENT NO.3 AND 4 HEREIN TO MODIFY THE DATE OF REGULARIZATION AND ABSORPTION OF THE SERVICE OF PETITIONER HEREIN AS FULL TIME LECTURER FROM DATED 01.12.2003 IN THE ORDER DATED 31.07.2018 BEARING NO.ಕಾಶಿಇ/ಪ್ರಾಕಕ/928/ವೇನಿ/4/2018-2019 PASSED BY RESPONDENT NO.3 AND IN THE ORDER DATED 06.08.2018 BEARING NO.ಪ.ಸಂ:ಕೊಬಭಾಶಿಸಸೇ/ನೃಪಕಾ/ಗ್ರಾಅಲು/ನೇಮಕಾತಿ/2018-2019/54/2 PASSED BY RESPONDENT NO.4 HEREIN THE CERTIFIED COPIES AS ANNEXURE-E AND F RESPECTIVELY, B) DIRECT THE RESPONDENTS TO PAY THE ARREARS OF ALL SERVICE BENEFITS IN FAVOUR OF PETITIONERS HEREIN FORM THE DATE 01.12.2003 TO 05.08.2018; C) DIRECT THE RESPONDENT NOS.1 AND 2 TO CONSIDER THE REPRESENTATION DATED 18.04.2023 SUBMITTED BY THE PETITIONER WHICH IS AT ANNEXURE-G AND TO PASS ANY OTHER ORDER WHICH THIS HON'BLE COURT DEEM NECESSARY IN THE FACTS AND CIRCUMSTANCES OF THE CASE IN THE INTEREST OF JUSTICE.



THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

In this petition, the petitioners seek the following reliefs:

- a) Direct the respondent no.3 and 4 herein to modify the date of regularization and absorption of the service of petitioner herein as full time lecturer from dated 01.12.2003 in the order dated 31.07.2018 bearing No. ಕಾಶಿಇ/ಪ್ರಾಕಕ/928/ವೇನಿ/4/2018-2019 passed by respondent No.3 and in the order dated 06.08.2018 bearing No.ಪ.ಸಂ:ಕೊಬಭಾಶಿಸಸೇ/ನೃಪಕಾ/ಗ್ರಾಅಲು/ನೇಮಕಾತಿ/2018-2019/54/2 passed by respondent No.4 herein the certified copies as Annexure-E and F respectively,
- b) Direct the respondents to pay the arrears of all service benefits in favour of petitioners herein from the date 01.12.2003 to 05.08.2018;
- c) Direct the respondent nos.1 and 2 to consider the representation dated 18.04.2023 submitted by the petitioner which is at Annexure-G and to pass any other order which this Hon'ble Court deem necessary in the facts and circumstances of the case in the interest of justice.

2. A perusal of the material on record will indicate that the petitioner along with other persons approached this Court is W.P.No.9452/2006 and connected matters



with the lead petition being W.P.No.3734/2008 which was disposed of by this Court, vide final order dated 10.11.2010, insofar as the petitioner is concerned, this Court has held as under :

"56. Insofar as the petitioner in W.P.No.9452/2006 is concerned his claim to be regularized as a full time lecturer was rejected on the ground that he was teaching a subject which was not admitted to grant-in-aid as it was a subject that was introduced in the year 1986. In the light of the view taken by this court as above in respect of the claim of institutions that had introduced additional subject courses subsequent to June 1987, who have been shut-out permanently from seeking aid, the petitioner would certainly have the benefit of the circumstance that the institution to which he belongs should be one of those which would qualify to receive aid in terms as held above.

57. xxx

58. xxx

59. Accordingly, in the light of the above opinion of this court it is ordered as follows :

The writ petitions bearing NO.WP No.32516/1997, 32536/1997, 31576/1997, 31970/1999, 36391/1999, 31834/1999, 1251/2000, 3930/2000, 38491/2001 are allowed. The impugned Annexures in the respective petitions are quashed.



Rule 8(1) of the Karnataka Educational Institutions (Collegiate Education) Rules, 2003 shall be read down and shall operate retrospectively from the year 1997, when the State government has for the first time indicated its intention not to provide grant-in-aid to institutions established, or who had introduced additional subject courses and who were eligible for such grant for the academic year 1996-97. However, the respective petitioners would be entitled to such grant-in-aid only from the date that they could or can be accommodated in the place of other aided institutions being excluded, for violation of conditions of grant-in-aid."

Subsequently, the petitioner approached this Court once again in W.P.No.202162/2016 which was allowed by this Court vide final order dated 09.06.2017 as hereunder:

“ORDER

An unfortunate lecturer is before this Court for a writ of certiorari to quash the impugned order dated 23/24.06.2015 made in No.ED/42/UPC/2014 passed by the first respondent as per Annexure-N and also issue direction to respondent Nos.1 and 2 to absorb/regularize the service of the petitioner on full time basis with immediate effect with all service benefits.

I. BRIEF FACTS OF THE CASE:

2. *It is the case of the petitioner that he has obtained a Master Degree in Sociology and has secured 56.03% of aggregate marks and also obtained a degree of Bachelor of Education as per the relevant Rules then existing and now existing. The petitioner is a qualified*



and eligible in all aspects to teach the subject named as Rural Development in the First Grade College.

3. On 26.06.1991, the third respondent – College has issued appointment order appointing the petitioner as a part-time lecturer in Nrupatunga Arts and Commerce College, Sedam to teach the subject named as Rural Development after following all the procedure as contemplated. The said appointment order was sent to the Joint Director of Collegiate Education, Regional Office, Kalaburagi for approval. The appointment order produced as per Annexure-A.

4. The Principal of the third respondent – College by a letter dated 01.12.2003 has forwarded the appointment order of the petitioner to the Joint Director of Collegiate Education, Regional Office, Kalaburagi for regularization of service of the petitioner who is working as part-time lecturer stating that one Sri.Deshak Jagannath, who has been serving as a part-time lecturer for the subjects of Sociology and Rural Development in the third respondent – College and has given application requesting for regularization of his part-time service on par with the part-time lecturers whose part-time services have been regularized recently in terms of the order passed by the Hon'ble Supreme Court and Government of Karnataka thereon. The copy of the said order is produced as per Annexure-B.

5. It is further case of the petitioner that he has secured 507 marks out of 900 marks in M.A. Sociology i.e., 56.3% and he has been continuously making and submitting representations to the Government of Karnataka for approval and absorption/regularization of his services. Despite his request, the Government of Karnataka remained inactive. Therefore, the petitioner was constrained to file a writ petition before this Court in W.P.No.22166/2004. This Court after hearing both the parties by its order dated 16.11.2005 has allowed the writ petition in part and directed the second respondent i.e., Commissioner for Collegiate Education to consider the claim of the petitioner for absorption into service as a lecturer in the third respondent – College and shall



pass orders within a period of three months from the date of receipt of copy of the order, as per Annexure-D.

6. *Taking into consideration, the sincerity and honest service rendered by the petitioner from 1991, respondent Nos.2 and 3 – College by an order dated 14.07.2006 have issued the appointment letter, appointing the petitioner as a full-time lecturer in Nrupatunga Arts and Commerce College, Sedam for teaching the subject - Rural Development as per Annexure-E. The copy of the said appointment order was sent to the Joint Director of Collegiate Education, Regional Office, Kalaburagi for information and for taking suitable action.*

7. *The things stood thus, the second respondent – Commissioner for Collegiate Education by an endorsement dated 17.03.2006 has informed the petitioner that his service cannot be regularized since, he has taught the subject which was an unaided subject, in view of the Government Notification dated 12.12.2004, it is not permissible to teach the unaided subject and therefore, service of the petitioner cannot be regularized. The said endorsement issued by the second respondent - Commissioner for Collegiate Education was the subject matter of W.P.No.9452/2006 before this Court along with other writ petitions in respect of other institutions. This Court after considering the entire material on record by an order dated 10.11.2010 allowed the writ petitions filed by the petitioner and held that the petitioner would certainly have the benefit of the circumstances that the institution to which he belongs should be one of those which would qualify to receive aid in terms as held above. The said order passed by this Court has reached finality.*

8. *It is further case of the petitioner that the Principal of the third respondent – College has issued certificate of service on 20.03.2004 stating that the petitioner has served for the academic year 1991-91 to 2003-04 and his service has been found satisfactory. The subject - Rural Development had been grant-in-aid by the Kalaburagi University on 05.08.1988. Therefore, the petitioner has filed the present writ petition*



challenging the order passed by the State Government as per Annexure-N for the relief sought for.

II. STATEMENT OF OBJECTIONS BY THE GOVERNMENT

9. *In the present writ petition after issuance of notice to the respondents, this Court has granted time to the respondents to file objections. The State Government has filed objections on 23.09.2016 denying the averments made in the writ petition and contended that in the Private Aided Colleges, the College Management is the appointing authority and it is the responsibility of the College/Management to appoint those persons as lecturers, who have possessed the prescribed qualification. The subject - Rural Development in Nrupatunga College, Sedam was unaided subject. The appointment of the petitioner was not approved by the department and the UGC Act was provided for the co-ordination and determination of standards in Universities and for that purpose, the University Grants Commission was established.*

10. *It is further stated that the petitioner has approached the authorities for regularization of his services on account of rendering service as part-time lecturer. On account of non-consideration of his case, he filed a writ petition before this Court in W.P.No.22166/2004. This Court has directed the State to consider his claim for absorption. Accordingly, the case of the petitioner was considered and rejected his claim by an endorsement dated 17.03.2006. The said order was the subject matter of W.P.No.9452/2006 before this Court. This Court has quashed the endorsement dated 17.03.2006. It is further contended that in pursuance of the order passed by this Court, the petitioner's case was examined as per the Regularization Rules, 2003. Accordingly, the State Government vide Annexure-M has issued direction to bring the Rural Development subject under grant-in-aid in State Government pay-scale. In pursuance of the Government letter dated 24.11.2012, the department brought to the notice of the Government that the service of the petitioner cannot be regularized as per the*



Regularization Rules, 2003 and requested the Government to issue orders extending aid to Rural Development subject. Thereafter, the State Government considering the case of the petitioner has rejected the claim by the impugned order. The substance of the case of the State Government is that the appointment order passed by the third respondent – College appointing the petitioner as full-time lecturer is not at all approved by the Government and Rural Development subject was not sanctioned in grant-in-aid and the petitioner is not eligible in terms of the UGC Act. Therefore, sought for dismissal of the writ petition.

**III. RIVAL CONTENTIONS OF THE LEARNED
COUNSEL FOR THE PARTIES**

11. *I have heard the learned counsel for the parties to the lis.*

12. *Sri Ameet Kumar Deshapande, learned counsel for the petitioner vehemently contended that the impugned order passed by the State Government as per Annexure-N dated 23.06.2015 is erroneous, contrary to the material on record and in utter violation of the directions issued by this Court and recommendation made by the then Secretary as per Annexure-M dated 24.11.2012. He further contended that admittedly the petitioner was appointed as part time lecturer in 1991 in the subject of Rural Development. His service was satisfactory and thereafter as per the Karnataka Educational Institutions (Absorption of persons working as part time lecturers in Aided Private Educational Institutions) Special Rules 2003, the petitioner was to be continued as full time lecturer and he has been serving as lecturer more than 25 years. The same has not been considered by the State Government. He further contended that the impugned order passed by the State Government rejecting the claim of the petitioner for regularisation is contrary to the material on record, contrary to Rules and contrary to the directions issued by this Court. Therefore, he sought to quash the impugned order by allowing the Writ Petition.*



13. *Per contra Smt Archana P. Tiwari, learned Government Advocate while sought to justify the impugned order passed by the Respondent-State as per Annexure-N strenuously contended that the appointment of the petitioner part-time lecturer in the Respondent No. 3 college was not at all approved by the State Government. The subject Rural Development was unaided subject and till today the subject was not approved by the State Government. The appointment of the petitioner was not approved. Therefore, it is for the management to look after and the Government is nothing to do with the appointment made by the management. Therefore, she submits that the impugned order passed by the State Government rejecting the claim of the petitioner for regularisation is in accordance with law. She further contended that the petitioner has not fulfilled the eligibility as per the UGC Rules for appointment of lecturer in Rural Development subject, the petitioner cannot ask for regularisation. Therefore, she sought to dismiss the Writ Petition.*

14. *During the course of arguments, she brought to the notice of this Court that during the pendency of the Writ Petition i.e., on 27.04.2017 now the State Government has passed an order withdrawing the recommendation made by the Principal Secretary of Government, Higher Education to the College Education dated 24.11.2012 reiterating that the impugned order passed is in accordance with law. The said letter/order passed by the Government produced along with memo by the learned Government Advocate. The same is placed on record.*

IV. THE POINT FOR DETERMINATION

15. *In view of the aforesaid rival contentions of the learned counsel for the parties, the only point that arises for consideration in the present Writ Petition is:*

“Whether the impugned endorsement dated 23.06.2015 issued by the State Government rejecting the request of the petitioner for



regularisation is justified in the facts and circumstances of the present case.?”

V. CONSIDERATION

16. *I have given my thoughtful consideration to the arguments advanced by the learned counsel for the parties and perused the entire material on record carefully.*

17. *It is undisputed fact that the petitioner was appointed as part time lecturer in the 3rd Respondent college on 26.06.1991. The same was forwarded to the concerned officers for necessary action. It is also not in dispute that the request of the petitioner was not considered. Therefore, the petitioner has approached this Court by filing Writ Petition No. 22166/2004. This Court after hearing both the parties by its order dated 16th November 2005 allowed the Writ Petition and directed the 3rd Respondent to consider the case of the petitioner for absorption into service as lecturer in the 3rd Respondent college within the period of three months from the date of receipt of copy of this order, which reads as under:*

5. *Having heard the learned counsel for the parties, it is to be seen that the authorities have not passed any orders regarding the claim made by the petitioner for absorption. It is not in dispute that the petitioner has made representation addressed to the 2nd respondent seeking absorption. The authorities are required to examine the length of service put in and the entitlement of the petitioner for absorption as claimed by him and pass appropriate orders. Petitioner cannot be made to work as a temporary/part time lecturer indefinitely. The 3rd Respondent is also duty bound to forward necessary documents pertaining to the services of the petitioner with a request for absorption of the petitioner. In these circumstances, the only order that is required to be passed is to issue direction to the 2nd respondent to pass*



appropriate orders on the claim made by the petitioner. Hence, I pass the following:

ORDER

Writ petition is allowed in part. The 2nd respondent is directed to consider the claim made by the petitioner for absorption into service as Lecturer in the 3rd respondent-Institution. The authorities shall pass appropriate orders within a period of three months from the date of receipt of a copy of this order.

Writ petition stands disposed of in terms stated above with no order as to costs.

18. *It is also not in dispute that in pursuance of the order passed by this Court, the Commissioner, Collegiate Education by an endorsement dated 17.03.2006 rejected the claim of the petitioner for regularisation on the ground that the petitioner was part time lecturer in Rural Development subject is not an aided subject as per the Government Order dated 12.12.2004. There is no provision to consider his request for regularisation.*

19. *That was the subject matter of the Writ Petition before this Court in Writ Petition No. 9452/2006. This Court while considering the Writ Petition filed by petitioner along with others, by an order dated 10th November 2010 recorded the specific findings that insofar as the petitioner in W.P.No. 9452/2006 is concerned his claim to be regularised as a full time lecturer was rejected on the ground that he was teaching a subject which was not admitted to grant-in-aid as it was a subject that was introduced in the year 1988. In the light of the view taken by this Court as above in respect of the claim of institutions that had introduced additional subject courses subsequent to June 1987, who have been shut out permanently from seeking aid, the petitioner would certainly have the benefit of the circumstance that the institution to which he belongs should be one of those which would qualify to receive aid in terms as held above. Accordingly the*



Writ Petition came to be allowed holding that the petitioner is entitled for regularisation. The said order passed by this Court has reached finality.

20. It is also undisputed fact that since the Government has not implemented the order passed by this Court, the petitioner was constrained to file the Contempt in CCC No.200042/2015. This Court by an order dated 5th June 2016 dropped the contempt proceedings in view of the endorsement dated 23/24.06.2015 filed as per Annexure R-2 to the Writ petition reserving liberty to the petitioner to question the same in accordance with law. It is also not in dispute that against the said order passed by this Court in Contempt proceedings, the petitioner filed Special Leave Petition No. 9902/2016 before the Hon'ble Supreme Court. The Hon'ble Supreme Court by an order dated 22.04.2016 disposed of the Special Leave Petition to appeal which reads as under:

We find no merit in the impugned order passed by the High Court that there is no contempt. We find that the High Court has given liberty to the petitioner to challenge the order dated 24.06.2015 passed by the Government.

The learned counsel for the petitioner submits that the petitioner is a part time lecturer and he has been in litigation more than over two decades.

We request the High Court to dispose of the writ petition filed by the petitioner challenging the order dated 24.06.2015 passed by the Government, expeditiously and preferably within six weeks.

The special leave petition is disposed of.

21. This Court during the pendency of the proceedings by an order dated 22.08.2016 observed as under;

“Notwithstanding the fact that prima facie case appears to be covered by a decision of the



Co-ordinate Bench of this Court dated **10.11.2010** in **W.P.No.3734/2008** and connected matters in the case of **Gururaj Tengli and others Vs. State of Karnataka and others** followed by the order passed by the **Under Secretary** himself vide **Annexure-M dated 24.11.2012** giving sanction for providing grant-in-aid for the subject 'Rural Development' in the case of the present petitioner himself, who has been appointed as a Teacher for the said subject in the year 1991 prior to the amendment of Rules in the year 1997 which were read down by the learned Single Judge in the aforesaid judgment and held applicable only prospectively for appointments after 1997.

However, that order of Under Secretary dated **24.11.2012** appears to have been undone by the impugned order Annexure-N dated **23/24.06.2015** which has been challenged in the present writ petition. It is also noteworthy the petitioner has been litigating for this issue of grant-in-aid for his subject for the last two decades as noted by the Hon'ble Supreme Court also in the aforesaid order dated 22.04.2016 and therefore, the case calls for early disposal by this Court."

22. When this matter came up before this Court on 28.03.2017, after hearing the parties this Court observed as under:

Sri. Ameet Kumar Deshpande, learned counsel for the petitioner, while elaborating his arguments invited the attention of the court that the observations made by this court in W.P.No.3734/2008 and connected matters and the present petitioner was the petitioner in W.P.No.9452/2006 at para 29. This court held as under:

29. In WP No.9452/2006, the petitioner is a part-time lecturer in the fourth respondent college, who was appointed in the year 1991.



The petitioner had sought for regularization of his services as a full-time lecturer, with the coming into force of the Karnataka Educational Institutions (Absorption of persons working as part-time lecturers in Aided Private Educational Institutions) Special Rules 2003. In view of the inaction of his request, he was constrained to approach this court earlier by way of a writ petition, which came to be allowed, directing the respondent therein to consider his claim.

The petitioner's claim was rejected on the ground that he was teaching the subject – Rural Development, which was not aided. The petitioner complains that the course was introduced as early as 1988 and since the institution of the petitioner is an aided institution, the rejection of his claim is not justified. It is further contended that Rule 8 of the 2003 Rules that debars institutions established subsequent to 01.06.1987 is ultra vires the Karnataka Education Act and is liable to be struck down as being violative of Article 14, 16 and 21 of the Constitution of India.

2. This court also considering materials on records at para 56 held as under:

56. In so far as the petitioner in WP No.9452/2006 is concerned his claim to be regularized as a full time lecturer was rejected on the ground that he was teaching a subject which was not admitted to grant-in-aid as it was a subject that was introduced in the year 1988. In the light of the view taken by this court as above in respect of the claim of institutions that had introduced additional subject courses subsequent to June 1987, who have been shut-out permanently from seeking aid, the petitioner would certainly have the benefit of the circumstance that the institution to which he belongs should be one of those which



would qualify to receive and in terms as held above.

3. This court at para 59 by order held that “while considering Rule 8(1) of the Karnataka Educational Institutions (Collegiate Education) Rules, 2003, shall be read down and shall operate retrospectively from the year 1997, when the Government has for the first time indicated its intention not to provide grant-in-aid to the institutions established, or who had introduced additional subject courses and who were eligible for such grant for the academic year 1996-97. However, the respective petitioners would be entitled to such grant-in-aid only from the date that they could or can be accommodated in the place of other aided institutions being excluded, for violation of conditions of grant.

4. The Principle Secretary to the Government, department of Higher Education by an order dated 24.11.2012 addressed to the Commissioner, Collegiate Education with regard to the implementation order passed by this court dated 10.11.2010 made in W.P.No.3734/2008 and connected matters has recommended to regularize the service of Sri. Deshak Jagannath (the present petitioner), the subject Rural development which, he is teaching should be given aid and regularize the services of Sri. Deshak Jagannath and also opined that there are no grounds to challenge the order passed in the writ petition and also stated the appointments on compassionate grounds were approved prior to 01.03.2001 and further issued direction, directing the Commissioner, Collegiate Education, Bangalore to initiate suitable action by according aid to the subject Rural Development and to regularize the services of Sri. Deshak Jagannath Part Time Lecturer in subject Rural Development in Nrupathunga College Sedam, District Gulbarga, as per Karnataka Educational Institutions (Absorption of Persons Working as part Time



*Lectures in Aided Private Educational Institutions)
(Special) Rules 2003.*

5. *In spite of the said order passed by this court and the order passed by the Principle Secretary to the Government, the present impugned order passed by the subsequent Secretary to the Government Education Collegiate held that there is no provision in the rules for regularization of services as Full time as Lecturers, in the subject courses which are not aid. Ignoring the order passed by this court and the earlier recommendation made by the then Secretary. Absolutely no reference is made in respect of the direction issued by this court in W.P. No.3734/2008 and connected matters at para 29 and 56 and recommendation made as per Annexure-M.*

6. *This court by an order dated 22.08.2016 after hearing both the parties has observed that; Notwithstanding the fact that prima facie case appears to be covered by a decision of the Co-ordinate Bench of this Court dated 10.11.2010 in W.P.No.3734/2008 and connected matters in the case of Gururaj Tengli and others Vs. State of Karnataka and others followed by the order passed by the Under Secretary himself vide Annexure-M dated 24.11.2012 giving sanction for providing grant-in-aid for the subject 'Rural Development' in the case of the present petitioner himself, who has been appointed as a Teacher for the said subject in the year 1991 prior to the amendment of Rules in the year 1997 which were read down by the learned Single Judge in the aforesaid judgment and held applicable only prospectively for appointments after 1997.*

However, that order of Under Secretary dated 24.11.2012 appears to have been undone by the impugned order Annexure-N dated 23/24.06.2015 which has been challenged in the



present writ petition. It is also noteworthy the petitioner has been litigating for this issue of grant-in-aid for his subject for the last two decades as noted by the Hon'ble Supreme Court also in the aforesaid order dated 22.04.2016 and therefore, the case calls for early disposal by this Court.

7. Admittedly the order passed by the learned Single Judge on merits has reached finality and government has not challenged. The government is bound by the orders of this court and recommendation made by the earlier Secretary. Merely because, change of Secretary it is not open for the subsequent Secretary to go beyond the directions of this court and recommendation made by the then Secretary.

At this stage, Smt. Archana.P.Tiwari, learned AGA seeks two weeks time to get proper instructions in respect of the present impugned order.

23. It is undisputed fact that by the order dated 10th November 2010, allowed the Writ Petition filed by the petitioner and recorded specific finding that the petitioner was entitled the benefit of circumstance that the institution to which he belongs should be one of those which would qualify to receive aid in terms as held above. The said order passed by this Court has reached finality.

VI. RECOMMENDATION DATED 24.11.2012

24. In pursuance of the order passed by this Court, the Secretary by letter dated 24.11.2012 addressed to the Commissioner, Collegiate Education, has recommended the case of the petitioner, which reads as under:

The above said 4 colleges filed the writ petition which were disposed off by the Hon'ble High Court of Karnataka, Kalaburagi Bench on 10.11.2010 along with petitions submitted by



other persons seeking employment on compassionate grounds as per government order dated 1.3.2004, further seeking regularization of salary as per grant-in-aid scheme and the above said writ petitions were clubbed together and allowed.

Sl. No.	W.P.No.	Petitioner	Subject
1.	3734/2008	<u>Gururaj Tengli</u> <u>Sharanappa Panchakashari</u> <u>Mallikarjun Kottargi for Employment under group D and</u> <u>Vinayak Mallur for Group C</u>	For appointment on Compassionate Grounds
2.	9452/2006	<u>Deshak Jagannath</u>	For Regularization of salary

In view of the orders passed by the Hon'ble High Court the Commissioner Collegiate Education as per Ref. No.2 has recommended the Secretariat vide Ref. No.1 to 4 to regularize services of Sri Deshak Jagannath, the subject Rural Development which he is teaching should be given aid and regularize service of Deshak Jagannath and also of Sri Gururaj Tengli, Sri Sharnappa Panchakshari and Sri Mallikarjun Kottargi as group D post and Sri Vinayak Mallur for group c post on compassionate grounds; and also sought for guidelines from the government. It was considered to challenge the order of the Hon'ble High Court questioning the appointments on compassionate grounds and sought for information regarding regularization of employees



prior to 1.3.2000, the Commissioner collegiate Education submitted a report as per Ref. No.1 and opined that there are no grounds to challenge the order passed in writ petition and also stated that the appointments on compassionate grounds were approved prior to 1.3.2001. In view of this, the orders passed by the Hon'ble High Court in V.P. No. 3734/2008 and in other cases dated 10.11.2010 may be accepted and issued following directions.

1. To initiate suitable action by according aid to the subject Rural Development and to regularize the services of Sri Deshak Jagannath Part Time Lecturer in subject Rural Development in Nrupathunga college, Sedam, Dist. Gulbarga, as per Karnataka Educational Institutions (Absorption of Persons Working "as part Time Lecturers in Aided Private Educational Institutions) (Special) Rules 2003; and regularize the appointment of Sri Gururaj Tengli, Sri Sharanappa Panchakshari and Sri Mallikarjun Kottargi as group D post and Sri Vinayak Mallur for group C post on compassionate grounds.

To tack action in accordance with above said directions.

Yours faithfully,

*Sd/-
(U.B.Ulavi) 24.11.12,
Under Secretary to the
Government
Department of Education
(Collegiate Education)*

VII. FINDINGS AND ORDER PASSED IN
W.P.NO.9452/2006 DATED 10.11.2010

25. It is unfortunate inspite of directions issued by this Court and inspite of recommendations made by the then Secretary to the Government dated



24.11.2012, the State Government has passed the present order rejecting the claim of the petitioner in utter disobedience of orders passed by this Court. Infact the Hon'ble Supreme Court while deciding the Special Leave Petition No. 9902/2016 on 22.04.2016 held "We find no merit in the impugned order passed by the High Court that there is no contempt and ultimately observed that petitioner is a part time lecturer and he has been in litigation more than two decades and requested this Court to dispose of the Writ Petition. In the impugned order except the reference made to the order passed by this Court dated 10.11.2010, ignoring the directions issued by this Court holding that the petitioner is entitled for the benefit of grant-in-aid specifically held at para Nos. 53 to 61 which reads as under;

53. It is to be noticed that Rule 8(1) of the 2003 Rules lays down that, colleges established with effect from June 1987 shall be permanently "ineligible" (sic) for grant-in-aid. The petitioner institutions were not found to have been wanting in any respect by the State government when it permitted the institutions to commence the courses and appoint staff and also having granted permission every year, to continue the courses thereafter. The Rule declaring that such institutions were ineligible merely because of introduction of additional subject courses in the year 1987 or later, is wholly inexplicable and irrational. This is especially so when the very institutions are admitted to grant and receive aid in respect other courses studies commenced prior thereto.

54. The petitioners are also on firm ground in having brought home the fact, now admitted by the respondents, that out of 299 privately aided institutions, atleast 49 were ineligible, in the year 2006. The State government was required to take action and penalize those institutions by withdrawing the grant in their favour. It is not made known whether this has been enforced. It is again not



made known as to whether such other institutions that have rendered themselves ineligible for continued provision of grant-in-aid, still continue to receive grant.

55. In the opinion of this court, as long as the State was in a position to accommodate a certain number of institutions, for provision of grant-in-aid, there should be no impediment to accommodate the petitioner institutions, subject to their eligibility and other criteria (apart from the "ineligibility" contemplated under Rule 8(1) against the exclusion of other institutions as being rendered ineligible for the continued assistance of grant, in having failed to comply with the conditions of grant and the Collegiate Education Rules, 2003. By this, the policy decision of the State not to provide aid to institutions established after June 1987 for want of funds is not effectively disturbed. Though the policy decision is only related to paucity of funds by way of pleadings and no other material is placed on record.

The retrospectivity of the Rule is also not disturbed, in its application subsequent to the year 1997 when the State government issued endorsements denying grant-in-aid to institutions which had been established or commenced additional subject courses subsequent to June 1987. For it is only in 1997 that the State Government has disclosed that it would no longer provide aid to institutions commenced after June 1987. In that, it would not affect institutions which were eligible as of the academic year 1996-1997 to be eligible to be considered for being admitted to grant-in-aid. The State is required to accommodate only the present petitioners and such other institutions who are found eligible and who would alone fit into the slots made available, by the exclusion of ineligible institutions, and if such institutions were eligible for grant-in-aid as per norms



prevalent prior to 1997, as in the case of the petitioners.

56. In so far as the petitioner in WP 9452/2006 is concerned his claim to be regularized as a full time lecturer was rejected on the ground that he was teaching a subject which was not admitted to grant-in-aid as it was a subject that was introduced in the year 1988. In the light of the view taken by this court as above in respect of the claim of institutions that had introduced additional subject courses subsequent to June 1987, who have been shut-out permanently from seeking aid, the petitioner would certainly have the benefit of the circumstances that the institution to which he belongs should be one of those which would qualify to receive aid in terms as held above.

57. The petitioners in WP 10157/2006 and WP 3734/2008, who were appointed on compassionate grounds by their respective institutions, having been treated as appointed to unapproved and permanently un-aided posts of non-teaching staff, though they were appointed prior to 1-3-2001, in view of sub-rule (2) of Rule 8 of the 2003 Rules, have questioned the Rule as being ultra vires the Karnataka Education Act and Articles 14 and 16 of the Constitution of India.

58. The petitioners in the above petitions were all appointed before 1-3-2001 against existing vacancies, which were aided posts as on the respective dates of their appointment. The employer had sought for approval of such appointments before the 2003 Rules had come into force. The competent authority however seeks to place reliance on the above said Rule 8(2) to refuse approval. These very petitioners, in WP 3734/2008, had approached this court earlier in WP 30107/2002 and connected cases, which were disposed by common order dated 5-8-2005. This court had, by a considered order,



highlighted the infirmity in the action of the respondents and had directed the authorities to reconsider the case of the petitioners. The respondents have mechanically repeated their earlier stance. The question, therefore, is whether the Rule can be made applicable in respect of appointments made prior to 1-3-2001. A plain reading of the Rule would indicate that the same cannot be applied to the case of the petitioners. The respective posts to which they were not vacant as on 1-3-2001, as the petitioners were already appointed. The posts were aided posts. Therefore, it is inexplicable that the competent authorities seek to contend that the posts are deemed to be vacant as on 1-3-2001 merely on the footing that a decision is taken not to grant approval after the 2003 Rules have come into force. Even if the Rule is operated retrospectively it would hardly affect the petitioners. Hence the respondents are bound to consider the case of the petitioners positively in accordance with law and parity.

59. Accordingly, in the light of the above opinion of this Court it is ordered as follows:

The writ petitions bearing no. 32516/1997, 32536/1997, 31576/1997, 31970/1999, 36391/1999, 31834/1999, 1251/2000, 38491/2001 are allowed. The impugned Annexures in the respective petitions are quashed.

Rule 8(1) of the Karnataka Educational Institutions (Collegiate Education) Rules, 2003 shall be read down and shall operate retrospectively from the year 1997, when the State government has for the first time indicated its intention not to provide grant-in-aid to institutions established, or who had introduced additional subjects courses and who were eligible for such grant for the academic year 1996-97. However, the respective petitioners would be entitled to such grant-in-aid only from



the date that they could or can be accommodated in the place of other aided institutions being excluded, for violation of conditions of grant-in-aid.

60. The writ petitions in WP 10157/06 & WP 3734/08 are allowed. The impugned annexures in the said petitions are quashed. The respondents shall give effect to the opinion expressed herein as to the scope of Rule 8(2) in so far as the petitioners are concerned and consider their cases in accordance with law.

61. Writ petition 9452/2006 is allowed, subject to the condition as stated hereinabove.

26. It is also not in dispute that this Court on two occasions passed detailed orders on 22.08.2016 and 28.03.2017. The said orders not challenged and this Court by an order dated 28.03.2017 specifically observed that admittedly orders passed by the learned Single Judge on merits has reached finality and the Government has not challenged and the Government is bound by the orders passed by this Court and recommendation made by the then Secretary. The said observations made by this Court also reached finality. In spite of the recommendations made by earlier Secretary and directions issued by this Court by allowing the Writ Petition which has reached finality and in spite of observations made by this Court, very strangely now the State Government by letter dated 27.04.2017 has withdrawn the recommendations made by the then Secretary dated 24.11.2012 reaffirming the impugned order when the matter is ceased and it was heard in part and without previous permission from this Court. This attitude of the State Government is nothing but circumbant to the orders passed by this Court and the recommendations made earlier by the then Secretary. This Court proceeded to direct the State Government to regularise the case of the petitioner. In spite of the order passed by this Court as stated supra, the State Government proceeded to withdraw the recommendation made earlier based on the records when the matter is pending and it was heard in part.



27. *The present order passed withdrawing the recommendations dated 24.11.2012 when the matter was heard in part, is nothing but obstruction of administration of justice. This Court never expects the Government such an attitude to withdraw the recommendations unilaterally, when the petitioner was relying upon the recommendations made by earlier Secretary dated 24.11.2012 under which the petitioner was recommended to regularise his service and mere withdrawal of the recommendations, the Government cannot escape from the directions issued by this Court on 10th November 2010 directing the State Government to regularise the petitioner holding that he is entitled the benefit of grant-in-aid. The said order passed by this Court has reached finality and admittedly the said order passed by this Court has not challenged by the State Government till today. It is not open for the State Government to pass orders in the present passion when the matter is ceased and it was heard in part. It shows the callus attitude of the State Government in respect of the Court orders. This attitude of the concerned officer of the State Government is deprecated and it should not be encouraged.*

28. *The State Government is a custodian of citizens and it should be fair to the people in accordance with law. The same has not been done in the present case. If the State Government is not conducting itself in a transparent manner the God only save the citizens of the State. The petitioner is agitating this matter as a third round litigation and went upto Hon'ble Supreme Court and is fighting for justice for almost two decades. This is nothing but harassment. The State Government should have taken immediate decision either he is entitled or disentitle, he should not be dragged like the present case.*

VIII. CONCLUSION

29. *The Hon'ble Supreme Court while considering Special Leave Appeal against the order in Contempt proceedings held that "we find no merit in the impugned order passed by the High Court that there is*



no contempt,” because of the attitude of the concerned Secretary of the State Government the petitioner has to spent his money and to undergo mental agony for nearly two decades. Therefore, the petitioner is entitled cost of litigation which would quantified about Rs.25,000/- payable by the Government within a period of one month from the date of receipt of the order with liberty to State Government to recover the same from concerned Secretary responsible who passed the impugned order. It is high time for the State Government not to encourage such type of officers/Secretaries who have harassed the citizens of the State, who approaches the Government as well as the Courts with great expectations.

30. For the reasons stated above the point raised in the present Writ Petition has to be answered in the negative holding that the State Government is not justified in passing the impugned order in the facts and circumstances of the present case.

In view of the above, the Writ Petition is allowed. The impugned endorsement/order dated 23/24.06.2015 made in No. ED.42.UPC.2014 passed by the 1st Respondent State Government as per Annexure-N is quashed. The Respondent Nos. 1 and 2 are hereby directed to absorb/regularise the service of the petitioner on full time basis with immediate effect with all service benefits from the date of recommendations dated 01.12.2003 in obedience of the orders passed by this Court dated 10th November 2010 within a period of three months from the date of receipt of copy of this order.

Ordered accordingly.”

The aforesaid judgment of this Court has attained finality insofar as petitioner is concerned and become conclusive and binding upon the respondents. In this context, it is



pertinent to note that in addition to directing the respondents to absorb/regularise the service of the petitioner on full time basis with immediate effect, this Court directed the respondents to grant all service benefits from the date of the recommendation dated 01.12.2003 and proceed further in accordance with law.

3. It is the grievance of the petitioner that despite the specific/positive direction issued by this Court to the respondents directing them to grant all service benefits from 01.12.2003, the respondents passed the impugned order restricting the service benefits only from 26.03.2018 and not from 01.12.2003 as directed by this Court and as such petitioner is before this Court by way of the present petition.

4. Respondents have filed statement of objections denying the various allegations and claim made by the petitioner.



5. As rightly contented by the learned Senior Counsel for the petitioner, in the light of the specific, unambiguous and unequivocal directions issued to the respondents directing them to grant all service benefits in favour of the petitioner from the date of the recommendation dated 01.12.2003 in obedience of the orders passed by this Court dated 10.11.2010, the respondents were clearly estopped from passing the impugned order granting service benefits only from 26.03.2018 which is completely and totally contrary and dramatically opposite to the earlier order and direction of this Court, which have attained finality and become conclusive and binding upon the respondents.

6. Under these circumstances, I deem it just and appropriate to dispose of this petition modifying the impugned order at Annexure-E dated 31.07.2018 by directing the respondents to grant all service benefits in favour of the petitioner from 01.12.2003 instead of 26.03.2018 and disburse/release all benefits within a



period of 3 months from the date of receipt of a copy of this order.

7. In view of the above directions, petition stands ***disposed of.***

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

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