Reserved on : 03.12.2025 Pronounced on : 15.12.2025



IN THE HIGH COURT OF KARNATAKA DHARWAD BENCH

DATED THIS THE 15TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION NO. 101631 OF 2025 (S - RES)

BETWEEN:

DR.SUNEEL G. PATIL
PROFESSOR
S/O. GURUSHANTHGOUDA PATIL,
AGED ABOUT 51 YEARS,
DEPARTMENT OF DENTISTRY,
KMCRI, HUBBALLI – 580 021.

...PETITIONER

(BY SRI. PRABHUGOUDA B. TUMBIGI A/W SRI. RAJASHEKHAR BURJI, ADVOCATE)

AND:

- THE GOVERNMENT OF KARNATAKA, REPRESENTED BY PRINCIPAL SECRETARY, DEPARTMENT OF MEDICAL EDUCATION, VIDHAN SOUDHA, BENGALURU - 560 001.
- 2. THE DIRECTORATE OF MEDICAL EDUCATION, BENGALURU MEDICAL COLLEGE AND RESEARCH INSTITUTE, OLD BUILDING, 1ST FLOOR, FORT, K. R. ROAD,

BENGALURU – 560 002, REPRESENTED BY ITS DIRECTOR.

- 3. THE KARNATAKA MEDICAL COLLEGE AND RESEARCH CENTRE HUBBALLI, HUBBALLI 580 021, REPRESENTED BY ITS DIRECTOR.
- 4. GADAG INSTITUTE OF MEDICAL SCIENCE, GADAG - 582 103, REPRESENTED BY ITS DIRECTOR.
- 5. DR. KESHAV ABBAYYA,
 PROFESSOR,
 S/O. ABBAYYA,
 AGED ABOUT 49 YEARS,
 DEPARTMENT OF DENTISTRY,
 KMCRI, HUBBALLI 580 021.

...RESPONDENTS

(BY SRI. GANGADHAR J. M., AAG A/W SMT. GIRIJA S. HIREMATH, HCGP FOR R1 & R2; SRI. K.N.PHANINDRA, SENIOR COUNSEL FOR R5; R3 & R4 ARE SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO I) TO ISSUE WRIT OF CERTIORARI BY QUASHING THE TRANSFER ORDER DATED 05-03-2024 PASSED IN MED 263 MSF 2023 BY THE RESPONDENT NO.1 VIDE ANNEXURE-J AS ILLEGAL AND BAD IN LAW; II) TO ISSUE WRIT OF CERTIORARI BY QUASHING ORDER DATED 30-03-2024 **PASSED** KIMS/CV(1)A/434/2023-24 BY THE RESPONDENT NO.3 VIDE ANNEXURE-M AS ILLEGAL AND BAD IN LAW; III) TO ISSUE WRIT OF CERTIORARI BY OUASHING THE PROVISIONAL SENIORITY LIST DATED 21-01-2025 PASSED IN K.M.C.R.I:CV(1) A AND B: 206:2024-25 BY THE RESPONDENT NO.3 VIDE ANNEXURE-T AS ILLEGAL AND BAD IN LAW; IV) TO ISSUE WRIT OF MANDAMUS TO ALLOW THE PETITIONER TO TAKE CHARGE AS HOD IN THE DEPARTMENT OF DENTISTRY OF THE 3RD RESPONDENT BY SHOWING HIS NAME AT SL.NO. 1 IN THE SENIORITY LIST OF PROFESSORS IN DEPARTMENT DENTISTRY OF THE 3RD RESPONDENT BY CONSIDERING THE

REPRESENTATIONS DATED 23-12-2024 AND 24-01-2025 AS PER THE REGULATIONS AND GUIDE LINES OF THE RESPONDENT AUTHORITIES PRODUCED VIDE ANNEXURE-R AND V.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 03.12.2025, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: THE HON'BLE MR JUSTICE M.NAGAPRASANNA

CAV ORDER

The petitioner is before this Court seeking a slew of prayers. They read as follows:

- "(i) To issue writ of certiorari by quashing the transfer order dated 05-03-2024 passed in MED 263 MSF 2023 by the respondent No.1 vide Annexure-J as illegal and bad in law;
- (ii) To issue writ of certiorari by quashing the order dated 30-03-2024 passed in KIMS/CV(1)A/434/2023-24 by the respondent No.3 vide Annexure-M as illegal and bad in law;
- (iii) To issue writ of certiorari by quashing the provisional seniority list dated 21-01-2025 passed in K.M.C.R.I:CV(1)A&B:206:2024-25 by the respondent No.3 vide Annexure-T as illegal and bad in law;
- (iv) To issue writ of mandamus to allow the petitioner to take charge as HOD in the department of dentistry of the 3rd respondent by showing his name at SI No.1 in the seniority list of professors in department of Dentistry of the 3rd respondent by considering the representations dated 23-12-2024 and 24-01-2025 as per the regulations and guide lines

of the respondent authorities produced wide Annexure-R and $\ensuremath{\mathsf{V}};$

- (v) pass such any other order/s as deems fit in the facts and circumstances of the case, in the interest of justice."
- 2. Heard Sri.Prabhugouda B Tumbigi learned counsel along with Sri.Rajashekhar Burji, learned counsel appearing for the petitioner, Sri.Gangadhar J.M., AAG along with Smt.Girija S. Hiremath, learned HCGP for respondent Nos.1 and 2, Sri.K.N.Phanindra, learned Senior Counsel appearing for respondent No.5.
- 3. Shorn of unnecessary details, facts in brief, germane, are as follows:
- 3.1. The petitioner is appointed as a lecturer in the Department of Dentistry at the 3rd respondent-Karnataka Medical College and Research Centre [hereinafter referred to as 'KIMS' for short]. The petitioner then owing to his eligibility, is promoted to the post of Assistant Professor in the Department of Dentistry at KIMS with effect from 01.05.2006. The petitioner is further promoted as Associate Professor in the Department of Dentistry on 01.07.2014. In terms of the Regulations that govern the process of promotion to higher cadres, the petitioner is said to

have become eligible to be considered for the post of Professor in dentistry after his completion of four years of service as Associate Professor.

3.2. When things stood thus, it transpires that on 21.03.2022, the 1st respondent-State issues an order appointing 5th respondent who was a Professor in Gadag Institute of Medical Sciences [hereinafter referred to as 'GIMS' for short] to come here as Professor for a period of three years. The teaching staff of KIMS in the Department of Dentistry are said to have objected to the entry of the 5th respondent into its institute on deputation. The averment in the petition is that the transfer of the 5th respondent into KIMS, is contrary to the guidelines operating or regulating the transfer between autonomous institutions. On 01.03.2024, when the 5th respondent was working as a Professor, an order comes to be passed by the 1st respondent to create a new post of Professor in the Department of Dentistry by abolishing one post of Professor in any other department within six months. On 05.03.2024, the 1st respondent orders transfer of the 5th respondent from the Department of Dentistry of GIMS to KIMS, subject to the condition that the post of Professor to any other departments would be abolished and a new post of Professor would be created in the Department of Dentistry. On 13.03.2024, it transpires that a Departmental Promotion Committee is constituted against a sanctioned post of Professor in dentistry and the petitioner is found to be eligible for the post of Professor in the Department of Dentistry of the 3rd respondent-institution. The 3rd respondent-Institute then appoints 5th respondent as Head of Department, notwithstanding the fact that the petitioner was already holding the post of Professor in dentistry.

3.3. On 26.07.2024, the Governing Council of the 3rd respondent would meet in which the promotion of the petitioner is ratified and discussion happens about abolishing the post of Professor in the Department of Cardio-thoracic and Vascular Surgery to accommodate the 5th respondent, is the averment in the petition. The communication then springs from the 1st respondent to the 3rd respondent to permanently abolish the post of Professor in Department of Cardio-thoracic and Vascular Surgery. On 23.12.2024, a communication springs from the 1st respondent that one Dr.Khobbanna Kattimani was eligible to be posted as Professor. Therefore, the post should not be abolished.

- 3.4. Provisional seniority list is drawn of the Professors in Dentistry in the meantime, in which the petitioner is placed below the 5th respondent. The petitioner files objections to the said provisional seniority list that the petitioner ought to have been placed as Professor and not the 5th respondent as he had come on transfer on his own volition and could not take away the seniority of persons already working in the institute. It is the aforesaid actions i.e., appointing the 5th respondent as Professor of dentistry, is transferred to the institute, placing him above the petitioner in the seniority list, that are called in question in the case at hand.
- 4.1. Learned counsel appearing for the petitioner would vehemently contend that the 5th respondent is the brother of a sitting Member of Legislative Assembly. It is, therefore, the petitioner's case is considered for appointment as Professor in KIMS contrary to law. It is his submission that the post of Professor is created by abolishing a necessary post in the institute only to accommodate the 5th respondent. Learned counsel submits that the petitioner was eligible to be promoted as Professor on the day he completed four years of service as Associate Professor. He was promoted as the Associate Professor

on 01.07.2014. In terms of the guidelines, one who completes four years of service as Associate Professor, would become eligible to be promoted as Professor and the guidelines would further indicate that if there is a vacancy and any person eligible to be promoted to the post of Professor, no person should be imported from any other autonomous institution. The learned counsel would submit that the petitioner was in fact eligible and available but the 5th respondent was chosen only for his political clout.

4.2. Not stopping at that, the learned counsel submits that 5th respondent was appointed as Professor in dentistry following the superannuation of a particular Professor in KIMS, subject to condition that a post would be abolished and the petitioner would be accommodated. He would submit, even today, there is no post of Professor abolished. Deliberations have happened to abolish the post of Professor in Department of Cardio-thoracic and Vascular Surgery but there is no order abolishing the post. The very entry of the petitioner into the institute by deputation and permanent absorption is not with the consent of the National

Medical Commission. Therefore, he would submit that the entire process is smacked with illegality.

- 5. Per contra, learned Additional Advocate General would vehemently refute the submissions contending that the petitioner is not even eligible to challenge the entry or promotion of the 4th respondent to KIMS. He would submit that the petitioner becomes a Professor only in the year 2022. By then, the 5th respondent had already become a Professor in GIMS with effect from 2019. Therefore, the petitioner having no locus to challenge, is wanting to throw stones at the 5th respondent. He would submit that malafides are only urged in the petition without making the Member of Legislative Assembly as a party respondent. He would further submit that his submissions be treated as his objections and dismiss the petition as it is not the first entry of the 5th respondent into KIMS, he is working there since 2022 itself. On all these counts, learned Senior Counsel submits that the petition be dismissed.
- 6. Learned AAG has placed the records for perusal of this Court. He would further submit reiterating what the learned Senior Counsel for the petitioner submits that his entry was by

way of a tripartite agreement in the year 2022. Since the 5th respondent has been in the institute since 2022, it was thought that 5th respondent should be absorbed into the services of KIMS as there was no post in the Professor of dentistry, the State thought it fit to abolish a post which was lying vacant for long time and create one post of Professor in dentistry in the Department of Dentistry. He would submit that creation or abolition of post, are all the prerogative of the government and there can be no qualm about the said principles. He would seek to place reliance upon certain judgments which would bear consideration *qua* their relevance in the course of the order. He has also placed the original records pertaining to the case for a perusal.

- 7. I have given anxious consideration to the submissions made by the learned counsel appearing for the respective parties and have perused the material on record.
- 8. The afore-narrated facts are not in dispute as they are all a matter of record but the dates and events for resolution of the issue in the *lis* are required to be iterated.

- 9. At the outset, it becomes necessary to trace the chronological progression of the petitioner's service. The petitioner commences his career at KIMS on 16.02.1999 upon his appointment as a lecturer in the Department of Dentistry, thereby entering and continuously serving the institution from that year onward. He was promoted as Assistant Professor with effect from 1.5.2006, serving in the cadre within the same department, eight years later, he was promoted as Associate Professor. The date on which he was promoted as Associate Professor, there existed no sanctioned post of Professor in the Dentistry Department on KIMS. It was only on 18.12.2018, pursuant to a revision of the teaching pattern matrix, a post of professor in the Department of Dentistry was formally approved and bought into existence.
- 10. Thus, the sanctioned post of Professor in Dentistry materialized on 18.12.2018. Under the regulatory regime governing promotions, earlier framed by the erstwhile Medical Council of India, depicts an Associate professor to become eligible to be promoted to the post of Professor, would require three years of service as Associate Professor. The relevant regulations read as under:

Posts	Academic	Teaching & Research Experience			
Professor	Qualification MDS	 i. Associate Professor in the subject for three years in a permitted/recognized medical /dental college/institution 			
		ii. Should have at least four Research publications (at least two as Associate Professor) [only original papers, meta-analysis, systematic reviews, and case series that are published in journals included in Medline, PubMed, Central Science Citation Index, Science Citation Index, Expanded Embase, Scopus, Directory of Open Access Journals (DoAJ) will be considered].			
		iii. Should have completed the basic course in Medical Education Technology from Institutions designated by NMC.			
		 iv. Should have completed the basic course in Biomedical Research from Institutions designated by NMC. 			

11. In terms of the regulations/guidelines governing the promotion i.e., guidelines of the National Medical Commission or Medical Council of India as it prevailed prior to the National Medical Commission coming into existence was that an Associate Professor would become eligible to be promoted to the cadre of Professor on his completion of three years of service. The petitioner having been promoted as Associate Professor on 01.07.2014, had fulfilled this requirement at the time of creation

of the post of Professor itself. Based upon the guidelines of the Medical Council of India/National Medical Commission, the government has bought in certain norms into terms of the governmental norms, when a qualified and eligible candidate is available within the native institution, the induction of a Professor from an external autonomous institution impermissible. Therefore, it becomes necessary to notice the governmental norms/guidelines in tune with the NMC or the Byelaws of the institute. The guidelines were notified on 21.10.2023. In so far as the transfer and deputation of teaching staff, the guidelines direct as follows:

"ಬೋಧಕ ಸಿಬ್ಬಂದಿಗಳ ವರ್ಗಾವಣೆಗೆ ಅನ್ವಯಿಸುವ ಷರತ್ತು ಹಾಗೂ ನಿಬಂಧನೆಗಳು:-

- 1. ಯಾವುದೇ ವರ್ಗಾವಣೆಗೆ ಖಾಯಂ ಪೂರ್ವಾಸೇವಾವಧಿಯನ್ನು ಕಡ್ಡಾಯವಾಗಿ ಪೂರೈಸಿರತಕ್ಕದ್ದು ಮತ್ತು ಈ ವರ್ಗಾವಣೆಗೆ ಉಭಯ ಸಂಸ್ಥೆಗಳ ನಿರಾಕ್ಷೇಪಣಾ ಪತ್ರ ಕಡ್ಡಾಯವಾಗಿರತಕ್ಕದ್ದು.
- 2. ಈ ವರ್ಗಾವಣೆಗೆ ನಿರಾಕ್ಷೇಪಣಾ ಪತ್ರಗಳನ್ನು ಕಡ್ಡಾಯವಾಗಿ ಸಂಸ್ಥೆಗಳ ಆಡಳಿತ ಮಂಡಳಿಗಳ ಪೂರ್ವಾನುಮೋದನೆಯನ್ನು ಪಡೆದು ನೀಡತಕ್ಕದ್ದು.
- 3. ಮೇಲ್ಕಂಡಂತೆ ವಿಂಗಡಿಸಲಾಗಿರುವ ಗುಂಪುಗಳಲ್ಲಿ "ಎ" ಗುಂಪಿನ ಸಂಸ್ಥೆಗಳಿಂದ 'ಬಿ' ಹಾಗೂ 'ಸಿ' ಗುಂಪಿನ ಸಂಸ್ಥೆಗಳಿಗೆ ವರ್ಗಾವಣೆ ಮಾಡಲು ಅವಕಾಶವಿದ್ದು, "ಬಿ" ಹಾಗೂ "ಸಿ" ಗುಂಪಿನ ಸಂಸ್ಥೆಗಳಿಂದ "ಎ" ಗುಂಪಿನ ಸಂಸ್ಥೆಗಳಿಗೆ ವರ್ಗಾವಣೆ ಮಾಡಲು ಅವಕಾಶವಿರುವುದಿಲ್ಲ. "ಬಿ" ಗುಂಪಿನ ಸಂಸ್ಥೆಗಳಿಂದ "ಸಿ" ಗುಂಪಿನ ಸಂಸ್ಥೆಗಳಿಗೆ ವರ್ಗಾವಣೆ ಮಾಡಲು ಅವಕಾಶವಿದ್ದು "ಸಿ" ಗುಂಪಿನ ಸಂಸ್ಥೆಗಳಿಂದ "ಬಿ" ಗುಂಪಿನ ಸಂಸ್ಥೆಗಳಿಗೆ ವರ್ಗಾವಣೆ ಮಾಡಲು ಅವಕಾಶವಿರುವುದಿಲ್ಲ.

- 4. ಅಂತರ ಗುಂಪು ಅಂದರೆ "ಎ" ಯಿಂದ "ಎ" ಗುಂಪು, "ಬಿ" ಯಿಂದ "ಬಿ" ಗುಂಪು ಮತ್ತು "ಸಿ" ಯಿಂದ "ಸಿ" ಗುಂಪಿನ ನಡುವೆ ವರ್ಗಾವಣೆ ಮಾಡಲು ಅವಕಾಶ ಕಲ್ಪಿಸಿದೆ.
- 5. ಮೇಲ್ಕಂಡ ಎಲ್ಲಾ ಗುಂಪುಗಳ ಅಧೀನದಲ್ಲಿ ಬರುವ ಆಸ್ಪತ್ರೆಗಳು ಮೂಲ ಸಂಸ್ಥೆಗಳ ಆಧೀನದಲಿಯೇ ಮುಂದುವರೆಯುತ್ತವೆ.
- 6. NATIONAL MEDICAL COMMISSIONನ ನಿಯಮಾನುಸಾರ ಯವುದಾದರು ಹುದ್ದೆಗಳಿಗೆ 02 ವರ್ಷದೊಳಗೆ ಪದೋನ್ನತಿಗೆ ಅರ್ಹರಿರುವ ವೈದ್ಯರುಗಳು ಸಂಸ್ಥೆಗಳಲ್ಲಿ ಇದ್ದಲ್ಲಿ ಅಂತಹ ಹುದ್ದೆಗಳಿಗೆ ಬೇರೆ ಸಂಸ್ಥೆಗಳಿಂದ ಯಾವುದೇ ವರ್ಗಾವಣೆಗೆ ಅವಕಾಶ ಕಲ್ಲಿಸುವ ಪ್ರಸ್ತಾವನೆಗಳಿಗೆ ನಿರಾಕ್ಷೇಪಣಾ ಪತ್ರಗಳನ್ನು ನೀಡುವಂತಿಲ್ಲ
- 7. ಬೋಧಕ ವೃಂದದ ವೈದ್ಯರುಗಳು ಯಾವ ವೃಂದದಲ್ಲಿ ನೇಮಕಾತಿ ಹೊಂದಿರುತ್ತಾರೋ ಅದೇ ವೃಂದದಲ್ಲಿ ಮಾತ್ರ ವರ್ಗಾವಣೆಗೆ ಅರ್ಹರಾಗಿರುತ್ತಾರೆ. ಒಂದು ವೇಳೆ ಪದೋನ್ನತಿ ಹುದ್ದೆಯಲ್ಲಿ ವರ್ಗಾವಣೆ ಬಯಸಿದ್ದಲ್ಲಿ, ಪದೋನ್ನತಿ ಹೊಂದಿದ ಹುದ್ದೆಯಲ್ಲಿ ಕನಿಷ್ಟ 02 ವರ್ಷಗಳ ಸೇವೆಯನ್ನು ಪೂರೈಸಿರುವ ಪ್ರಕರಣಗಳಲ್ಲಿ ಮಾತ್ರ ವರ್ಗಾವಣೆಗೆ ಅರ್ಹರಿರುತ್ತಾರೆ.
- 8. ಯಾವುದೇ ಬೋಧಕ ಹುದ್ದೆಗಳ ವರ್ಗಾವಣೆಗೆ ನಿರಾಕ್ಷೇಪಣಾ ಪತ್ರ ನೀಡುವ ಮುನ್ನ NMC ಅನ್ವಯ ನಿಗಧಿತ ಪ್ರಮಾಣದ ಹುದ್ದೆಗಳು ಇರುತ್ತದೆ ಎಂಬುವುದನ್ನು ಖಚಿತಪಡಿಸಿಕೊಳ್ಳುವುದು. ಈ ವರ್ಗಾವಣೆಗೆ NMC ಮಾನದಂಡಗಳನ್ವಯ ಬೋಧಕ ಹುದ್ದೆಗಳಲ್ಲಿ ಕೊರತೆ ಉಂಟಾಗುವುದಿಲ್ಲವೆಂಬ ಬಗ್ಗೆ ದೃಢಪಡಿಸಿಕೊಳ್ಳುವುದು.
- 9. ಹೊಸ ವೈದ್ಯಕೀಯ ಸಂಸ್ಥೆಗಳಲ್ಲಿನ ಬೋಧಕ ಸಿಬ್ಬಂದಿಗಳ ವರ್ಗಾವಣೆಯನ್ನು ಸದರಿ ಹೊಸ ಸಂಸ್ಥೆಯು NMC ಯಿಂದ ಮಾನ್ಯತೆ ಪಡೆಯುವವರೆಗೂ ಯಾವುದೇ ವರ್ಗಾವಣೆಗೆ ನಿರಾಕ್ಷೇಪಣಾ ಪತ್ರವನ್ನು ನೀಡತಕ್ಕದ್ದಲ್ಲ.
- 10. ಈ ವರ್ಗಾವಣೆ ಮಾರ್ಗಸೂಚಿಯ ಮೇಲೆ ವರ್ಗಾವಣೆ ಮಾಡುವ ಪ್ರಕರಣಗಳಲ್ಲಿನ ನೌಕರರುಗಳು ವರ್ಗಾವಣೆಗೊಂಡ ಸಂಸ್ಥೆಗಳಲ್ಲಿನ ಆಯಾಯ ವೃಂದದ ಜೇಷ್ಠತೆಯಲ್ಲಿ ಕಿರಿಯವರಾಗಿರುತ್ತಾರೆ.
- 11. ಪತಿ-ಪತ್ನಿ ಪ್ರಕರಣಗಳು ಹಾಗೂ ವೈದ್ಯಕೀಯ ಕಾರಣಗಳ ಹಿನ್ನೆಲೆಯ ಪ್ರಕರಣಗಳಲ್ಲಿನ ವರ್ಗಾವಣೆ ಪ್ರಸ್ತಾವನೆಗಳಿಗೆ ಮಾತ್ರ ಮೇಲ್ಕಂಡ ಮಾರ್ಗಸೂಚಿಗಳಿಂದ ವಿನಾಯಿತಿ ನೀಡಲಾಗಿದೆ. ಆದರೆ, ಸದರಿ ವರ್ಗಾವಣೆಗಳಿಗೆ ಖಾಯಂ ಪೂರ್ವ ಸೇವಾವಧಿಯನ್ನು ಕಡ್ಡಾಯವಾಗಿ ಪೂರೈಸಿರತಕ್ಕದ್ದು ಮತ್ತು ನಿರಾಕ್ಷೇಪಣಾ ಪತ್ರವನ್ನು ಆಡಳಿತ ಮಂಡಳಿಯ

ಘಟನೋತ್ತರ ಅನುಮೋದನೆಯನ್ನು ಬಾಕಿ ಇರಿಸಿ ಸಂಸ್ಥೆಗಳ ನಿರ್ದೇಶಕರುಗಳು ನಿರಾಕ್ಷೇಪಣಾ ಪತ್ರ ನೀಡಲು ಅವಕಾಶ ಕಲ್ಪಿಸಿದೆ."

The guidelines are indicative of the fact that the proposals for transfer or deputation should be placed before the Governing Council and after the Governing Council gives its prior approval, the transfer or deputation should be effected. In terms of the guidelines of the National Medical Commission, if there is any person who is eligible to be promoted to the next higher cadre in the next two years, there should be no transfer or deputation from a different autonomous institution. Clause 8 thereon further indicates that if any person is to be transferred or deputed, the National Medical Commission should permit such transfer. Without the approval of the National Medical Commission, no transfer should be effected. Clause 10 thereon is indicative of the fact that whoever comes from another institute to a particular institute, their seniority will be at the bottom of the said cadre.

12. These guidelines have not sprung from air but they are borrowed from the guidelines of the National Medical Commission which undoubtedly have a statutory force. Therefore, they are to be followed in letter and spirit. However, in utter disregard to the governmental norms and the principles laid down therein,

the 5th respondent who was then serving as Professor in the Department of Dentistry at GIMS, was sought to be transferred into KIMS to occupy the aforesaid newly created post. The order springs on 21.03.2022. The order reads as follows:

"ಕರ್ನಾಟಕ ಸರ್ಕಾರ

ಸಂಖ್ಯೆ: ಎಂಇಡಿ 49 ಎಂಎಸ್ಎಫ್ 2022

ಕರ್ನಾಟಕ ಸರ್ಕಾರದ ಸಚಿವಾಲಯ, ಬಹುಮಹಡಿಗಳ ಕಟ್ಟಡ,

ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 21/03/2022

ಅಧಿಸೂಚನೆ

ಡಾ|| ಕೇಶವ ಅಬ್ಬಯ್ಯಾ ಪ್ರಾಧ್ಯಾಪಕರು, ದಂತ ಚಿಕಿತ್ಸಾ ವಿಭಾಗ, ಗದಗ ವೈದ್ಯಕೀಯ ವಿಜ್ಞಾನಗಳ ಸಂಸ್ಥೆ ಇವರನ್ನು ಇದೊಂದು ವಿಶೇಷ ಪ್ರಕರಣವೆಂದು ಪರಿಗಣಿಸಿ, ಕರ್ನಾಟಕ ವೈದ್ಯಕೀಯ ವಿಜ್ಞಾನಗಳ ಸಂಸ್ಥೆ, ಹುಬ್ಬಳ್ಳಿ ಇಲ್ಲಿನ ದಂತ ಚಿಕಿತ್ಸಾ ವಿಭಾಗದ ಪ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಗೆ ತಕ್ಷಣದಿಂದ ಜಾರಿಗೆ ಬರುವಂತೆ 03 ವರ್ಷಗಳ ಅವಧಿಗೆ ಅಥವಾ ಮುಂದಿನ ಆದೇಶದವರೆಗೆ, ಇವುಗಳಲ್ಲಿ ಯಾವುದು ಮೊದಲೋ ಅಲ್ಲಿಯವರೆಗೆ ನಿಯೋಜಿಸಿ ನೇಮಿಸಲಾಗಿದೆ.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆಜ್ಞಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಸಹಿ/21/3/2022
(ಎ ಶ್ರೀನಿಧಿ)
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ-3
ವೈದ್ಯಕೀಯ ಶಿಕ್ಷಣ ಇಲಾಖೆ."

He was deputed to KIMS for a period of three years or until further orders. The petitioner and the like who were eligible to be considered for promotion, objects to the entry of the 5^{th}

respondent to KIMS by filing their objections on 24.03.2022. In the objections, it was clearly indicated that it is contrary to law and it is only to accommodate the brother of Member of Legislative Assembly of Hubballi East one Sri.Prasad Abbayya. They also contended that they are eligible to be considered for the post of Professor and getting an extra Professor from GIMS was illegal. However, this comes to be rejected by KIMS by the following order:

"ಸಂಖ್ಯೆ: ಕಿಮ್ಸ/ಸಿವಿ(1)ಎ/284/2022-23

ದಿನಾಂಕ:22-11-2022

ಗೆ, ಮಾನ್ಯ ಸರ್ಕಾರದ ಕಾರ್ಯದರ್ಶಿಗಳು, ವೈದ್ಯಕೀಯ ಶಿಕ್ಷಣ ಇಲಾಖೆ, ಬಹುಮಹಡಿಗಳ ಕಟ್ಟಡ, ಬೆಂಗಳೂರು – 560 001.

ಮಾನ್ಯರೇ,

ವಿಷಯ: ಡಾ: ಕೇಶವ ಅಬ್ಬಯ್ಯಾ, ಪ್ರಾದ್ಯಾಪಕರು, ದಂತ ಚಿಕಿತ್ಸಾ ವಿಭಾಗ, ಕಿಮ್ಸ್ ಹುಬ್ಬಳ್ಳಿ, ಇವರ ವರ್ಗಾವಣೆ ಕುರಿತು.

ಉಲ್ಲೇಖ: ಸದರಿ ವೈದ್ಯರ ಮನವಿ ದಿನಾಂಕ: 21-11-2022.

ಮೇಲ್ಕಾಣಿಸಿದ ವಿಷಯ ಹಾಗೂ ಉಲ್ಲೇಖದನ್ವಯ, ಡಾ: ಕೇಶವ ಅಬ್ಬಯ್ಯಾ, ಪ್ರಾಧ್ಯಾಪಕರು, ದಂತ ಚಿಕಿತ್ಸಾ ವಿಭಾಗ ಇವರು ಸಧ್ಯ ನಿಯೋಜನೆ ಮೇಲೆ ಕಿಮ್ಸ್ ಸಂಸ್ಥೆಯಲ್ಲಿ ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಿದ್ದು, ಸದರಿಯವರು ಕೌಟುಂಬಿಕ ಕಾರಣಗಳಿಂದಾಗಿ ಗದಗ ವೈದ್ಯಕೀಯ ವಿಜ್ಞಾನ ಸಂಸ್ಥೆ, ಗದಗನಿಂದ ಕರ್ನಾಟಕ ವೈದ್ಯಕೀಯ ವಿಜ್ಞಾನ ಸಂಸ್ಥೆ, ಹುಬ್ಬಳ್ಳಿಯ ದಂತ ಚಿಕಿತ್ಸಾ ವಿಭಾಗದಲ್ಲಿ ಪ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಗೆ ವರ್ಗಾವಣೆ ಕೋರಿ ನಿರಾಕ್ಷೇಪಣಾ ಪತ್ರ ನೀಡುವಂತೆ ವಿನಂತಿಸಿರುತ್ತಾರೆ.

ಸದರಿಯವರಿಗೆ ಗದಗ ವೈದ್ಯಕೀಯ ವಿಜ್ಞಾನ ಸಂಸ್ಥೆ, ಗದಗನಿಂದ ವರ್ಗಾವಣೆಗೆ ನಿರಾಕ್ಷೇಪಣಾ ಪತ್ರ ದೊರೆತಿರುತ್ತದೆ. ಆದರೆ ದಂತ ಚಿಕಿತ್ಸಾ ವಿಭಾಗದಲ್ಲಿ ಪ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಯು ಖಾಲಿ ಇರುವುದಿಲ್ತಾ. ಸದರಿ ವೈದ್ಯರು ಕಿಮ್ಸ್ ಸಂಸ್ಥೆಗೆ ಖಾಯಂ ಆಗಿ ವರ್ಗಾವಣೆ ಹೊಂದಲು ಸರ್ಕಾರದ ಮಟ್ಟದಲ್ಲಿ ತೀರ್ಮಾನ ತೆಗೆದುಕೊಳ್ಳಬಹುದಾಗಿದೆ ಎಂಬ ವಿಷಯವನ್ನು ಮಾನ್ಯರ ಅವಗಾಹನೆಗೆ ತರುತ್ತಾ, ಸದರಿ ವೈದ್ಯರು ಈ ಕಚೇರಿಗೆ ಸಲ್ಲಿಸಿದ ಮನವಿಯನ್ನು ತಮಗೆ ಮುಂದಿನ ಸೂಕ್ತ ಕ್ರಮಕ್ಕಾಗಿ ಸಲ್ಲಿಸಲಾಗಿದೆ.

ಧನ್ಯವಾದಗಳೊಂದಿಗೆ,

ತಮ್ಮ ವಿಶ್ವಾಸ ಸಹಿ ನಿರ್ದೇಶಕರು, ಕರ್ನಾಟಕ ವೈದ್ಯಕೀಯ ವಿಜ್ಞಾನ ಸಂಸ್ಥೆ, ಹುಬ್ಬಳ್ಳ"

The petitioner kept quiet. The government then notifies certain guidelines of movement of teaching staff between autonomous institutions and the methodology to be adopted thereon. The guidelines form the fulcrum of the issue in the *lis*.

13. When things stood thus, a Government Order springs on 01.03.2024 creating a post of Professor in dentistry. The Order reads as follows:

"ಕರ್ನಾಟಕ ಸರ್ಕಾರದ ನಡವಳಿಗಳು

ವಿಷಯ: ಕರ್ನಾಟಕ ವೈದ್ಯಕೀಯ ವಿಜ್ಞಾನಗಳ ಸಂಸ್ಥೆ, ಹುಬ್ಬಳ್ಳಿ ಇಲ್ಲಿನ ದಂತಶಾಸ್ತ್ರ ವಿಭಾಗಕ್ಕೆ ಒಂದು ಪ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಯನ್ನು ಸೃಜನೆ ಮಾಡುವ ಕುರಿತು.

ಓದಲಾಗಿದೆ: ಆರ್ಥಿಕ ಇಲಾಖೆಯ ಟಿಪ್ಪಣಿ ಸಂಖ್ಯೆ: ಆಇ 92 ವೆಚ್ಚ/2024, ದಿನಾಂಕ:28.02.2024

ಪುಸ್ತಾವನೆ:

ಮೇಲೆ ಓದಲಾದ ಟಿಪ್ಪಣೆಯಲ್ಲಿ ಆರ್ಥಿಕ ಇಲಾಖೆಯು ಕರ್ನಾಟಕ ವೈದ್ಯಕೀಯ ವಿಜ್ಞಾನ ಸಂಸ್ಥೆ (ಕಿಮ್ಸ್), ಹುಬ್ಬಳ್ಳಿ ಸಂಸ್ಥೆಯ ದಂತಶಾಸ್ತ್ರ ವಿಭಾಗಕ್ಕೆ ವಿಶೇಷ ಪ್ರಕರಣವೆಂದು ಪರಿಗಣಿಸಿ 01-ಪ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಯನ್ನು ಸಂಸ್ಥೆಯ ಯಾವುದೇ ವಿಭಾಗದಲ್ಲಿ 01- ಪ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಯನ್ನು ಆರು ತಿಂಗಳೊಳಗಾಗಿ ರದ್ದುಗೊಳಿಸಿ ಸರ್ಕಾರದ ಆದೇಶವನ್ನು ಹೊರಡಿಸಿ, ಪ್ರತಿಯನ್ನು ಆರ್ಥಿಕ ಇಲಾಖೆಗೆ ಒದಗಿಸುವುದು ಎಂಬ ಷರತ್ತಿಗೊಳಪಟ್ಟು ಸೃಜಿಸಲು ಸಹಮತಿ ನೀಡಲಾಗಿರುತ್ತದೆ.

ಅದರಂತೆ, ಕರ್ನಾಟಕ ವೈದ್ಯಕೀಯ ವಿಜ್ಞಾನ ಸಂಸ್ಥೆ, ಹುಬ್ಬಳ್ಳಿ ಸಂಸ್ಥೆಯ ದಂತಶಾಸ್ತ್ರ ವಿಭಾಗಕ್ಕೆ ಒಂದು ಪ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಯನ್ನು ಸೃಜಿಸಲು ಸರ್ಕಾರವು ತೀರ್ಮಾನಿಸಿ, ಈ ಕೆಳಕಂಡಂತೆ ಆದೇಶಿಸಿದೆ.

ಸರ್ಕಾರದ ಆದೇಶ ಸಂಖ್ಯೆ : ಎಂಇಡಿ 130 ಎಂಎಂಸಿ 2024, ಬೆಂಗಳೂರು, ದಿನಾಂಕ 01.03.2024

ಪ್ರಸ್ತಾವನೆಯಲ್ಲಿ ವಿವರಿಸಿರುವ ಅಂಶಗಳ ಹಿನ್ನೆಲೆಯಲ್ಲಿ, ಕರ್ನಾಟಕ ವೈದ್ಯಕೀಯ ವಿಜ್ಞಾನ ಸಂಸ್ಥೆ, ಹುಬ್ಬಳ್ಳಿ ಸಂಸ್ಥೆಯ ದಂತಶಾಸ್ತ್ರ ವಿಭಾಗಕ್ಕೆ ಒಂದು ಪ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಯನ್ನು ಸಂಸ್ಥೆಯ ಯಾವುದೇ ವಿಭಾಗದಲ್ಲಿ 01- ಪ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಯನ್ನು ರದ್ದುಗೊಳಿಸುವ ಷರತ್ತಿಗೊಳಪಟ್ಟು ಸೃಜಿಸಿ ಆದೇಶಿಸಿದೆ.

ಕರ್ನಾಟಕದ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ, ಸಹಿ/-01.03.2024 (ಜೆ. ಕುಮಾರಸ್ವಾಮಿ) ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ-1, ಮೈದ್ಯಕೀಯ ಶಿಕ್ಷಣ ಇಲಾಖೆ."

In KIMS, the order is passed on 01.03.2024, the communication reaches KIMS on 11.03.2024. Even before the ink on the order could dry, a Notification is issued posting the 5th respondent as Professor in the newly created post in the Department of Dentistry. The Notification reads as follows:

"ಅಧಿಸೂಚನೆ

ಡಾ: ಕೇಶವ ಅಬ್ಬಯ್ಯ, ಪ್ರಾಧ್ಯಾಪಕರು, ದಂತ ಚಿಕಿತ್ಸಾ ವಿಭಾಗ, ಗದಗ ವೈದ್ಯಕೀಯ ವಿಜ್ಞಾನಗಳ ಸಂಸ್ಥೆ, ಗದಗ ಇವರನ್ನು ಹುಬ್ಬಳ್ಳಿಯ ಕಿಮ್ಸ್ ವೈದ್ಯಕೀಯ ಸಂಸ್ಥೆಯ ಯಾವುದೇ ವಿಭಾಗದಲ್ಲಿ 01-ಪ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಯನ್ನು ಆರು ತಿಂಗಳೊಳಗಾಗಿ ರದ್ದುಗೊಳಿಸುವ ಪರತ್ತಿಗೊಳಪಟ್ಟು, ಕರ್ನಾಟಕ ವೈದ್ಯಕೀಯ ವಿಜ್ಞಾನ ಸಂಸ್ಥೆ, ಹುಬ್ಬಳ್ಳಿ ಇಲ್ಲಿ ಹೊಸದಾಗಿ ಸೃಜಿಸಲಾಗಿರುವ ದಂತಶಾಸ್ತ್ರ, ವಿಭಾಗದ ಪ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಗೆ ತಕ್ಷಣದಿಂದ ಜಾರಿಗೆ ಬರುವರತೆ ಈ ಕೆಳಕಂಡ ಪರತ್ತುಗಳಿಗೊಳಪಟ್ಟು ಸೇವೆಯಲ್ಲಿ ಒಂದು ಬಾರಿಗೆ ಅನ್ವಯಿಸುವಂತೆ ಖಾಯಂ ಆಗಿ ವರ್ಗಾಯಿಸಿ ಆದೇಶಿಸಿದೆ.

<u>ಷರತ್ಕುಗಳು:</u>

- 1. ಸದರಿಯವರ ಸೇವಾ ಜೇಷ್ಠತೆಯನ್ನು ಕರ್ನಾಟಕ ವೈದ್ಯಕೀಯ ವಿಜ್ಞಾನ ಸಂಸ್ಥೆ, ಹುಬ್ಬಳ್ಳಿ ಇಲ್ಲಿನ ದಂತಶಾಸ್ತ್ರ ವಿಭಾಗದಲ್ಲಿ ಪ್ರಸ್ತುತ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿರುವ ಪ್ರಾಧ್ಯಾಪಕರ ವೃಂದದಲ್ಲಿ ಕಿರಿಯರನ್ನಾಗಿ ನಿಗದಿಪಡಿಸತಕ್ಕದ್ದು.
- 2. ಸದರಿಯವರು ಮತ್ತೆ ಇನ್ನಿತರೆ ಯಾವುದೇ ಸ್ವಾಯತ್ತ ವೈದ್ಯಕೀಯ ಸಂಸ್ಥೆಗಳಿಗೆ ವರ್ಗಾವಣೆ ಮಾಡುವಂತೆ ಕೋರತಕ್ಕದ್ದಲ್ಲ.
- 3. ಸದರಿಯವರು ಕರ್ನಾಟಕ ವೈದ್ಯಕೀಯ ವಿಜ್ಞಾನ ಸಂಸ್ಥೆ, ಹುಬ್ಬಳ್ಳಿ ಸಂಸ್ಥೆಯ ಬೈಲಾ/ವೃಂದ ಮತ್ತು ನೇಮಕಾತಿ ನಿಯಮಗಳು, ಸೇವಾ ಷರತ್ತು ಮತ್ತು ನಿಬಂಧನೆಗಳಿಗೆ ಒಳಪಡತಕ್ಕದ್ದು.
- 4. ಸದರಿಯವರ ಲೀನ್ ಕರ್ನಾಟಕ ವೈದ್ಯಕೀಯ ವಿಜ್ಞಾನ ಸಂಸ್ಥೆ, ಹುಬ್ಬಳ್ಳಿ ಇಲ್ಲಿಗೆ ಖಾಯಂ ಆಗಿ ವರ್ಗಾಯಿಸತಕ್ಕದ್ದು.
- 5. ಈ ವರ್ಗಾವಣೆ ಪ್ರಸ್ತಾವನೆಯನ್ನು ಉಭಯ ಸಂಸ್ಥೆಗಳ ಆಡಳಿತ ಮಂಡಳಿಯಲ್ಲಿ ಮಂಡಿಸಿ ಘಟನೋತ್ತರ ಅಮಮೋದನೆ ಪಡೆಯತಕ್ಕದ್ದು.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ

> ಸಹಿ/-05.03.2024 (ಆರ್. ಮಂಜುನಾಥ)

ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ-3 ವೈದ್ಯಕೀಯ ಶಿಕ್ಷಣ ಇಲಾಖೆ."

The condition while appointing the 5th respondent as Professor of dentistry is that the post is created, subject to condition that the post of Professor in any of the departments in KIMS should be abolished. The 5th respondent assumes charge immediately as he was already working in the institute on deputation. The Departmental Promotion Committee then meets on 13.03.2024 and the petitioner is held eligible to be promoted to the post of Professor and petitioner applies to be posted as Head of Department of the 3rd respondent owing to his eligibility and the incumbent retiring on attaining the age of superannuation. He is not posted as Head of Department but the 5th respondent is posted as Head of Department. Not stopping at that, a provisional seniority list is notified by KIMS in Department of Dentistry. In the seniority list, the name of 5th respondent springs at first place and the petitioner is at the second place. The provisional seniority list is as follows:

-	-			<u>u</u>	ಂಚ್ಯಕ್ತಿ ವಿಭಾಗ		-		T.
ಕ್ಷ. ಹೆಸರು ಸಂ.	ವಿಭಾರ		ಜನ್ಮ ಬನಾಂಕ	ಸೇವೆಗೆ ಸೇಲದ ಐನಾಂಕ	ನೇಮಕಾತಿಯಾದ ಹುದ್ದೆ ಮತ್ತು ವೇತನ ಶ್ರೇಣಿ	ಪದೋನ್ನತಿ ಹೊಂಬರ ಹುದ್ದೆ ಮತ್ತು ಏನಾಂಕ		ಖದ್ಯಾಹೇತೆ	sica
2		3	4	5	6	7	- 8	9	10
ಡಾ: ಕೇಶವ ಅಬ್ಬಯ್ಯಾ	PR	ශ්රපනු	16-09-1975	29-04-2019	ಸ್ವಾಧ್ಯಾಪಕರು			BDS- December 1998 MDS- June 2005	ත්ප්රාාන්ධ න්නුද්පයි අතුන්තේවීන්ගේදීයට ශු.ම 283 ශාර කර වියදී: 2023, ආර්ථ -03-2024 ප්රේඛ ණ ත්රම්දීර් කාරාර ජේ ත්රම්දීර් කාරාර ජේ ත්රම්දීර් ක්රෙන සි: 07-03-2024 ප්රේඛ කත්වයම් රෝක්ෂ්
2 ಡಾ: ನುಸೀಲ ಜಿ. ವಾಣಲ	PR doss	21-02-1974	26-02-1999	ಉಪನ್ಯಾಸಕರು	ಸಹಾಯಕ ಪಾಧ್ಯಾಪಕರು	01-05-2006	BDS- June 1997 MDS- 2006	duly day food	
					ಸಹ ಪ್ರಾಧ್ಯಾಪಕರು				
						04-07-2024			
ಡಾ: ಮಂಜುನಾಥ ಏಜಾಪೂರ	pR ශ්රකදී	24-05-1972	23-02-1999	ಉಪನ್ಯಾಸಕರು	ಪ್ರಧ್ಯಾಪಕರು	01-10-2006	BDS- July	ತುರ್ತ ಜಿಕಿತ್ತಾ ಕೇಂದ್ರದ ಒಂದು ಅಂಗವಾದ ಮ್ಯಾಕ್ಟಿಲೋ ಘೇಶಿಯಲ್ ಸರ್ಜಲ ಏಭಾಗದಲ್ಲ ಕಾರ್ಯೂರ್ನಿಕಿಸುತ್ತಿದ್ದಾರೆ	
					ಸಹ ಪ್ರಾಧ್ಯಾಪಕರು	13-06-2019			
		a a				ಪ್ರಾಧ್ಯಾಪಕರು	05-07-2024	-16	
She had	لبند						Mles Notes established	,	
						ತರ್ನಾಟಕ ವೈದ್ಯ		ದ್ಯಾಲಯ ಮತ	<u>ಕ್ಕು</u>
	മ: ಕೇಶವ ಅಜ್ಞಯತ್ಯ ಶಾ: ಸುನೀಲ ಜ. ಶಾ: ಮಂಜುನಾಥ	2 ಡಾ: ಕೇಶವ ಅಜ್ಜಯತ್ಯ ಶಾ: ಸುಸೀಲ ಜಿ. ಶಾ: ಮಂಜುನಾಥ	2 3 කෘ: ප්පේස් PR ශ්ලශද්දි පසුරාම් PR ශ්ලශද්දි පසුරාම් PR ශ්ලශද්ද	2 3 4 ක: ප්පෙත් PR ශ්රයනු 16-09-1975 පවුරුවල PR ශ්රයනු 21-02-1974 ක: ස්රයනුවල් pp ශ්රයනු 21-02-1974	2 3 4 5 aa: ස්සේත් PR ශ්ලාල් 16-09-1975 29-04-2019 ම: ත්රාහල ස. PR ශ්ලාල් 21-02-1974 26-02-1999	සිය සිත් සිත් සිත් සිත් සිත් සිත් සිත් සිත්	ස්ථානය සිතුවේ සිතුව ස්ථානය සිත්ව ස්ථානය ස්ථානය ස්ථානය ස්ථානය සිත්ව සිතුව ස්ථානය ස්ථානය ස්ථානය සිතුව ස්ථානය සිතුව ස්ථානය සිතුව සිතු	ස්තියේ සිත් ස්තු ක්රියාන් ස්තියේ සිත් ස්තු ක්රියාන් ස්තියෝෂ ස්තෙක් ස්තු ක්රියාන් සිත්තේ සිත් ස්තු ක්රියාන් සිත්තේ ස්තු ක්රියාන් සිත්තේ සිත් ස්තු ක්රියාන් සිත්තේ සිත් ස්තු ක්රියාන් සිත්තේ සිත් සිත්ත් සිත්	ක්රීම් විසින් කිරීම කිරීම කිරීම කිරීම සිටි. ක්රීම් කිරීම කිර

The shara against the 5th respondent is that he has been transferred permanently from GIMS to KIMS and has reported to duties on 07.03.2024 and the petitioner has been promoted on 04.07.2024. Therefore, on sheer date of entry, the 5th respondent is placed above the petitioner. The petitioner objects. The objection is as follows:

"From:

Dr Suneel G Patil Professor Department of Dentistry KMCRI, Hubli

To,

The Director KMCRI, Hubli

Respected Sir,

Sub: Objection to my placement at SL.No.2 in the provisional seniority list of Professors in the Department of Dentistry as on 01/01/2025

I have been appointed at KMCRI Hubli on 26/02/1999 and am working in this institution continuously for the past 25 yrs and i have been eligible for the post of professor since the past 10 yrs.

I have been promoted to the post of Professor in the Department of Dentistry in the DPC held on 13/03/2024 for the vacancy arising due to the superannuation of the former Professor and HOD Dr R.M.Alnavar occupying the only sanctioned post of Professor in Dentistry, by the virtue of being at SL.No.1 in the seniority list of Associate Professors in the Department of Dentistry. The promotion order was issued on 04/07/2024 which subsequently has been ratified in the GC meeting held on 26/07/2024 To my surprise i have been placed at SL.No.2 in the provisional seniority list of Professors in Dentistry, below that of Dr Keshav Abbayya (joined service in 2019 at GIMS, Gadag) who has been transfered from GIMS Gadag, to KMCRI Hubli, even though there was no vacancy for the post of Professor at KMCRI Hubli, moreover the said transfer was subject to abolishing a sanctioned post of Professor in any Medical Department of this Medical college in 6 months, to create an extra post of Professor in Dental Department of this Medical college, according to the administrators of this Institution the process is not complete till the publication of this seniority list as on 01/01/2025

I am the senior most faculty in the department, occupying the legal and legitimate sanctioned post of Professor in the department of Dentistry at the time of publishing this seniority list should be placed at SL.No.1 and not below that of Dr. Keshav Abbayya, an extra professor transfered from another institution without existing vacancy and sanctioned

24

post but to a created post just to facilitate his transfer to KMCRI, even the procedure for which is not complete

Hence I request you to place me at SL.No.1 in the seniority list of Professors in the Department of Dentistry and oblige

Thanking you,

Yours Sincerely

24/01/2025

Sd/-

Hubli

(Dr. Suneel G Patil)."

No timely action having been forthcoming, the petitioner is constrained to knock at the doors of this Court seeking redress. The pivotal question that arises for consideration is whether the entry of the 5th respondent in KIMS can withstand judicial scrutiny. The relevant guidelines have already been adverted to *supra*. It is not in dispute that the 5th respondent is a Professor at GIMS and not of KIMS. The mode and manner of his appointment at GIMS is of no consequence to the present adjudication. What falls squarely for determination is the legitimacy of his ingress into KIMS which constitutes the crux of the controversy.

14. A perusal at the original files placed before this Court is indicative of one glaring fact that the petitioner comes into

KIMS from GIMS purely on his own request. The request of the petitioner reads as follows:

"From,

Date:21/11/22 Place:Hubli

Dr.Keshava Abbayya, Professor, Dept. of Dentistry KIMS, Hubli.

To,

The Secretary, Medical Education, Bangalore. Though proper channel, Director, KIMS, Hubli.

Subject: Regarding transfer to KIMS, Hubli from GIMS, Gadag.

Respected Sir,

I the undersigned (Dr.Keshava.A) have been deputed from GIMS, Gadag to KIMS, Hubli, since 24/03/2022. As my mothers health is not good, so I hereby request you to kindly transfer me to KIMS, Hubli. As I have already received a No Objection Certificate from GIMS, Gadag, hence I once again request you to consider my request & do the needful.

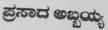
Thanking you,

Your's sincerely, Sd/-(Dr.Keshava.A)"

Viewed through the prism of settled jurisprudence, the petitioner having migrated from GIMS to KIMS ostensibly at his own behest, could lay claim, to the lowest rung in the seniority of Professors, and nothing else. Yet, the factual canvass reveals an unusual anomaly, that existed, as there was only one sanctioned post of Professor and the petitioner alone was eligible to be promoted to the said post on the relevant date. Therefore, the controversy cannot be confined to a narrow examination of

seniority alone, but must be tested against the totality of circumstances and attendant contentions that surrounded the $5^{\rm th}$ respondent's very induction to KIMS.

15. The narrative of the 5th respondent's entry into KIMS does not rest upon a slender reed of a voluntary request. It is preceded, indeed propelled by a communication addressed to the Minister, by none other than the petitioner's brother, a sitting MLA. The imprint of political interference towards the transaction is thus not speculative, it is manifest and unmistakable. The factum of political influence, is rendered even more conspicuous by the fact that the said MLA represents the very constituency in which KIMS, Hubballi stands situate. A perusal at the records would indicate three communications that are germane to be noticed. One that springs from the brother of the petitioner the MLA and the other two directing the Institute by the State. They are as follows:



ಶಾಸಕರು

72 - ಹುಬ್ಬಳ್ಳಿ - ಧಾರವಾಡ ಪೂರ್ವ ವಿಧಾನ ಸಭಾ ಕ್ಷೇತ್ರ



Prasad Abbayya

Member

Karnataka Legislative Assembly

AS)

ಕೃ.ಸಂ. :

ಹುಧಾಸೂವಿಸಸ 1063/23

ದಿನಾಂಕ

To. 3, 8 6 8 5 - 277 - \$22-06-2023

ಸನ್ಮಾನ್ಯ ಶ್ರೀ ಶರಣ ಪ್ರಕಾಶ್ ಪಾಟೀಲ್ ರವರು

ಮಾನ್ಯ ವೈದ್ಯಕೀಯ ಶಿಕ್ಷಣ ಹಾಗೂ ಕೌಶಲ್ಯಾಭವೃದ್ಧಿ ಸಚಿವರು

ಕರ್ನಾಟಕ ಸರ್ಕಾರ, ವಿಧಾನ ಸೌಧ.

ಬೆಂಗಳೂರು.

, ಮಾನ್ಯರೇ,

ಬಿಷಯ:- ಡಾಃ ಕೇಶವ ಅಬ್ಬಯ್ಯ, ಸ್ಪಾಧ್ಯಾಪಕರು, ದಂತ್ರ್ಯಕ್ಷಭಾಗ ಇವರನ್ನು ಕಿಮ್ಸ್ ಹುಬ್ಬಳ್ಳ ಇಲ್ಲಗೆ ಖಾಯಂಆಗಿ ವರ್ಗಾವಣೆ ಮಾಡುವ ಕುರಿತು.

ಉಲ್ಲೇಖ:- ಸರ್ಕಾರಿ ಆದೇಶ ಸಂಖ್ಯೆ: ಎಂಇಡಿ/49/ಎಂಎಸ್ಎಫ್/2022 ದಿನಾಂಕ:-21-03-2022

ಮೇಲ್ಕಂಡ ಬಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಡಾ ಕೇಶವ ಅಬ್ಬಯ್ಯ, ಪ್ರಾಧ್ಯಾಪಕರು, ದಂತ ಚಿಕಿತ್ಸಾ ವಿಭಾಗ, ಗದಗ ವೈದ್ಯಕೀಯ ವಿಜ್ಞಾನಗಳ ಸಂಸ್ಥೆ, ಗದಗ ಇವರನ್ನು ಮೇಅನ ಆದೇಶದಂತೆ ಹುಬ್ಬಳ್ಳ ಕಿಮ್ಸ್ ನ ದಂತ ಚಿಕಿತ್ಸಾ ವಿಭಾಗದಲ್ಲ ಮೂರು ವರ್ಷದ ಅವಧಿಗೆ ಅಥವಾ ಮುಂದಿನ ಆದೇಶದವರಗೆ ಪ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಗೆ ನಿಯೋಜಿಸಿ ನೇಮಿಸಲಾಗಿತ್ತು

ಈ ಹಿನ್ನಲೆಯಲ್ಲ ನನ್ನ ಸೋದರನಾಗಿರುವ ಡಾಃ ಕೇಶವ ಅಬ್ಬಯ್ಯ. ಪ್ರಾಧ್ಯಾಪಕರು ದಂತ ವಿಭಾಗ ಇವರನ್ನು ಕರ್ನಾಟಕ ವೈದ್ಯಕೀಯ ವಿಜ್ಞಾನಗಳ ಸಂಸ್ಥೆ ಹುಬ್ಬಳ್ಳ ಇಲ್ಲ ಖಾಲಂಬರುವ ಪ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಗೆ ಖಾಯಂ ಆಗಿ ವರ್ಗಾವಣೆ ಮಾಡುವಂತೆ ಈ ಮೂಲಕ ತಮ್ಮನ್ನು ಕೋರಿದೆ.

ಗೌರವಗಳೊಂದಿಗೆ,

ಶ್ಟ್^ಣ' ತಮ್ಮ

(ಪ್ರಸಾದ ಅಖ್ಯಯ್ಯ)



ಸಂಖ್ಯೆ:ಎ೦ಇಡಿ 263 ಎ೦ಎಸ್ಎಫ್ 2023

ಕರ್ನಾಟಕ ಸರ್ಕಾರ ಸಚಿವಾಲಯ, ಬಹುಮಹಡಿಗಳ ಕಟ್ಟಡ, ಬೆಂಗಳೂರು, ದಿನಾಂಕ:27/12/2023.

ಇಂದ:

ಸರ್ಕಾರದ ಅಪರ ಮುಖ್ಯ ಕಾರ್ಯದರ್ಶಿ, ವೈದ್ಯಕೀಯ ಶಿಕ್ಷಣ ಇಲಾಖೆ, ಬಹುಮಹಡಿಗಳ ಕಟ್ಟಡ, ಬೆಂಗಳೂರು.

ಇವರಿಗೆ:

ನಿರ್ದೇಶಕರು, ಕರ್ನಾಟಕ ವೈದ್ಯಕೀಯ ವಿಜ್ಞಾನಗಳ ಸಂಸ್ಥೆ, ಹುಬ್ಬಳ್ಳಿ.

ಮಾನ್ಯರೆ,

(Professor) ವಿಷಯ: ಸಂಸ್ಥೆಯಲ್ಲಿನ ಪ್ರಾಧ್ಯಾಪಕರ ವಿವರಗಳನ್ನು ಒದಗಿಸುವ ಬಗ್ಗೆ.

ಉಲ್ಲೇಖ: 1. ತಮ್ಮ ಸಂಸ್ಥೆಯ ಪತ್ರ ಸಂಖ್ಯೆ:ಕಿಮ್ಸ್/ಸಿವಿ(1)ಎ/231/2023-24, ದಿನಾಂಕ:10-11-2023.

2. ಪರಿಷ್ಕೃತ ವರ್ಗಾವಣೆ ಮಾರ್ಗಸೂಚಿಗಳು.

ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಉಲ್ಲೇಖಿತ ತಮ್ಮ ಪತ್ರದ ಕಡೆಗೆ ಗಮನ ಸೆಳೆಯಲಾಗಿದೆ. ಡಾ. ಕೇಶವ ಅಬ್ಬಯ್ಯ, ಪ್ರಾಧ್ಯಾಪಕರು, ದಂತ ಚಿಕಿತ್ಸಾ ವಿಭಾಗ, ಗದಗ ವೈದ್ಯಕೀಯ ವಿಜ್ಞಾನಗಳ ಸಂಸ್ಥೆ, ಗದಗ ಇವರನ್ನು ಕರ್ನಾಟಕ ವೈದ್ಯಕೀಯ ವಿಜ್ಞಾನಗಳ ಸಂಸ್ಥೆ, ಹುಬ್ಬಳ್ಳಿ ಇಲ್ಲಿಗೆ ಖಾಯಂ ಆಗಿ ವರ್ಗಾವಣೆ ಮಾಡುವ ಕುರಿತು ಪರಿಷ್ಕೃತ ವರ್ಗಾವಣೆ ಮಾರ್ಗಸೂಚಿಗಳಲ್ಲಿನ ಎಲ್ಲಾ ಅಂಶಗಳನ್ನು ಕೂಲಂಕಷವಾಗಿ ಪರಿಶೀಲಿಸಿ, ನಿರಾಕ್ಷೇಪಣಾ ಪತ್ರ ನೀಡುವ/ತಿರಸ್ಕರಿಸುವ ಕುರಿತು ತಮ್ಮ ಸ್ಪಷ್ಟ ಅಭಿಪ್ರಾಯವನ್ನು ಸರ್ಕಾರಕ್ಕೆ ಸಲ್ಲಿಸುವಂತೆ ತಮ್ಮನ್ನು ಕೋರಲು ನಿರ್ದೇಶಿಸಲ್ಪಟ್ಟಿದ್ದೇನೆ.

ತಮ್ಮ ನಂಬುಗೆಯ

ब्रुवेशम् क्रम् क्रमाण्य स्टब्स् स्टब्स (ವೈದ್ಯಕೀಯ ಶಿಕ್ಷಣ್ಣ)

16 27/12/202)

ರ್ಯದರ್ಶಿ-3 ಟುಂಬ ಕಲ್ಯಾಣ ಇಲಾಖೆ

(ಆರ್. ಮಂಜುನಾಥ) ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ-3, ವೈದ್ಯಕೀಯ ಶಿಕ್ಷಣ ಇಲಾಖೆ

Note # 1

ಸ್ಪೀಕೃತಿ ಸಂಖ್ಯೆ7451847/2024

ಎಂಇಡಿ 263 ಎಂಎಸ್ಎಫ್ 2023 ಕಡತವು ಕಿಮ್ಸ್, ಹುಬ್ಬಳ್ಳಿ ಸಂಸ್ಥೆಯಲ್ಲಿ ದಂತಶಾಸ್ತ್ರ ವಿಭಾಗದಲ್ಲಿ ಒಂದು ಪ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಯನ್ನು ಸೃಜಿಸುವ ಕುರಿತಂತೆ ಮುಂದಿನ ಕ್ರಮಕ್ಕಾಗಿ 'ಸಿ' ಶಾಖಿಯಿಂದ ಸ್ವೀಕೃತವಾಗಿರುತ್ತದೆ. ಸದರಿ ಕಡತದ ಟಿಫ್ಷಣ ಹಾಳ

ಸದರಿ ಕಡತ ಸಂಖ್ಯೆಎಂಇಡಿ 263 ಎಂಎಸ್ಎಫ್ 2023ರ ನೋಟ್-80ರಲ್ಲಿ ಆರ್ಥಿಕ ಇಲಾಖೆಯು ಕಿಮ್ಸ್, ಹುಬ್ಬಳ್ಳಿ ಸಂಸ್ಥೆಗೆ ವಿಶೇಷ ಪ್ರಕರಣವೆಂದು ಪರಿಗಣಿಸಿ, ದಂತಕ್ಕಾಸ್ತ್ರ ವಿಭಾಗದಲ್ಲಿ 01- ಫ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಯನ್ನು ಸಂಸ್ಥೆಯ ಯಾವುದೇ ವಿಭಾಗದಲ್ಲಿ 01 ಫ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಯನ್ನು ರದ್ದುಗೊಳಿಸುವ ಷರತ್ತಿಗೊಳಪಟ್ಟು ಸೃಜಿಸಲು ಆರ್ಥಿಕ ಇಲಾಖೆಯು

ಕಿಮ್ಸ್, ಹುಬ್ಬಳ್ಳಿ ಸಂಸ್ಥೆಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಆರ್ಥಿಕ ಇಲಾಖೆಯ ದಿನಾಂಕ:28.03.2023ರ ಅನಧಿಕೃತ ಟಿಪ್ಪಣೆಯಲ್ಲಿ ಕಿಮ್ಸ್ ಹುಬ್ಬಳ್ಳಿ ಸಂಸ್ಥೆಯ ದಂತಶಾಸ್ತ್ರ ವಿಭಾಗಕ್ಕೆ ಮಂಜೂರಾಗಿರುವ ಸಹ ಪುಧ್ಯಾಪಕರ ಹುದ್ದೆಯನ್ನು ಪುಧ್ಯಾಪಕರು (ಬಾಯಿ ಮತ್ತು ದವಡೆ) ಹುದ್ದೆಗೆ ಉನ್ನತೀಕರಿಸಲು ಆರ್ಥಿಕ ಇಲಾಖೆಯು ಸಹಮತಿಸಿದೆ ಎಂದು ತಿಳಿಸಲಾಗಿರುತ್ತದೆ. ಅದರಂತೆ ಮತ್ತು ದಿವರಿಗೆ ಹೆಚ್ಚುಗಳುತ್ತದೆ. ತಂಡಡಿ 367 ಎಂಎಂಸಿ 2020, ದಿನಾಂಕ:30.10.2023ರಲ್ಲಿ ಕಿಮ್ಸ್, ಸಂಸ್ಥೆಯ ದಂತಶ್ರಾಸ್ತ ವಿಭಾಗಕ್ಕೆ ಮಂಜೂರಾಗಿರುವ ಸಹ ಫ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಯನ್ನು ಫ್ರಾಧ್ಯಾಪಕರು (ಬಾಯಿ ಮತ್ತು ದವಡೆ) ಹುದ್ದೆಗೆ

ಪ್ರಸ್ತುತ, ಎಂಇಡಿ 263 ಎಂಎಸ್ಎಫ್ 2023 ಕಡತದಲ್ಲಿ ಆರ್ಥಿಕ ಇಲಾಖೆಯು ದಂತಶಾಸ್ತ್ರ ವಿಭಾಗಕ್ಕೆ ಮತ್ತೊಂದು ಫ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಯನ್ನು ಸೃಜಿಸಲು ಸಹಮತಿ ನೀಡಿರುವುದರಿಂದ, ಅ ವಿಭಾಗದಲ್ಲಿ ಮತ್ತೊಂದು ಫ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಯನ್ನು ಸ್ಥಳಿಸಿದಲ್ಲಿ, ಒಟ್ಟು ಮೂರು ಪ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಗಳು ಸೃಜನೆಯಾದಂತಾಗುತ್ತದೆ. ಎನ್.ಎಂ.ಸಿ. ನಿಯಮಗಳನ್ನಯ, ಕಿಮ್ಸ್, ಸಂಸ್ಥೆಯ ದಂತಶ್ರಾಸ್ತ್ರ ವಿಭಾಗಕ್ಕೆ 03 ಪ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಗಳ ಸೃಜನೆಗೆ ಅವಕಾಶವಿದೆಯೇ ಎಂಬ ಬಗ್ಗೆ ಸಂಸ್ಥೆಯ ನಿರ್ದೇಶಕರಿಂದ ಸ್ಪಷ್ಟ ಮಾಹಿತಿ ಪಡೆದು, ನಂತರ ಮುಂದಿನ ಕ್ರಮವಹಿಸಲು ಕಡತ ಮಂಡಿಸಲಾಗಿರುತ್ತದೆ.

ಸದರಿ ಕಡತ ಸಂಖ್ಯೆ ಎಂಇಡಿ 263 ಎಂಎಸ್ಎಫ್ 2023ರ ಕಡತದ ನೋಟ್ -94ರಲ್ಲಿ ಸರ್ಕಾರದ ಜಂಟಿ ಕಾರ್ಯದರ್ಶಿಯವರು ಆರ್ಥಿಕ ಇಲಾಖೆಯು ನೀಡಿರುವ ಸಹಮತಿಯಂತೆ ಕ್ರಮವಹಿಸಲು ಸೂಚಿಸಲಾಗಿರುತ್ತದೆ. ಈ ಕಡತದಲ್ಲಿ ಆರ್ಥಿಕ ಇಲಾಖೆಯು ನೀಡಿರುವ ಅಭಿಪ್ರಾಯವು ಈ ಕೆಳಕಂಡಂತಿರುತ್ತದೆ(ಪಟು:24).

" ಆಡಳಿತ ಇಲಾಖೆಯ ಪ್ರಸ್ತಾವನೆಯನ್ನು ಪರಿಶೀಲಿಸಲಾಯಿತು. ವಿಶೇಷ ಪ್ರಕರಣವೆಂದು ಪರಿಗಣಿಸಿ ಕಿಮ್ಸ್ ವೈದ್ಯಕೀಯ ವಿಜ್ಞಾನಗಳ ಸಂಸ್ಥೆಯ ದಂತಶ್ವಾಸ್ತ್ರ ವಿಭಾಗದಲ್ಲಿ 01- ಫ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಯನ್ನು ಈ ಕೇಕಂಡ ಷರತ್ತಿಗೊಳಪಟ್ಟು ಸ್ಥಜಿಸಲು ಆರ್ಥಿಕ ಇಲಾಖೆಯು ಸಹಮಿತಿಸಿದೆ. ಷರತ್ತು:

ಹುಬ್ಬಳ್ಳಿಯ ಕಿಮ್ಸ್ ವೈದ್ಧಕೀಯ ಸಂಸ್ಥೆಯ ಯಾವುದೇ ವಿಭಾಗದಲ್ಲಿ 01- ಪ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಯನ್ನು ಆರು ತಿಂಗಳೊಳಗಾಗಿ ರದ್ದುಗೊಳಿಸಿ ಸರ್ಕಾರದ ಆದೇಶವನ್ನು ಹೊರಡಿಸಿ, ಪ್ರತಿಯನ್ನು ಆರ್ಥಿಕ ಇಲಾಖೆಗೆ ಒದಗಿಸುವುದು. "

ಈ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಆರ್ಥಿಕ ಇಲಾಖೆಯು ನೀಡಿರುವ ಸಹಮತಿಯಂತೆ ಕಿಮ್ಸ್, ಹುಬ್ಬಳ್ಳಿ ಸಂಸ್ಥೆಯ ದಂತಶ್ಯಾತ್ರ ವಿಭಾಗದಲ್ಲಿ 01- ಪ್ರಾಧಾಕ್ಷಕರ ಹುದ್ದೆಯನ್ನು ಸೃಜಿಸಲು ಸಿದ್ದಪಡಿಸಿರುವ ಕರಡು ಆದೇಶವನ್ನು ಅನುಮೋದನೆಗೆ ಮಂಡಿಸಿದೆ.

01/03/2024 12:32 PM

GIRISHA ASSISTANT

ಕಡತ ಸಂಖ್ಯೆ ಎಂಇಡಿ 263 ಎಂಎಸ್ಎಫ್ 2023ರ ಪೂರ್ಣ ಕಡತವನ್ನು TOCಯಲ್ಲಿ ಅವಗಾಹನೆಗೆ ಸಲ್ಲಿಸಿದೆ. ಸದರಿ ಕಡತದಲ್ಲಿ ಅನುಮೋದನೆಯಾಗಿರುವಂತೆ, ಕಿಮ್ಲ್ ವೈದ್ಯಕೀಯ ವಿಜ್ಞಾನಗಳ ಸಂಸ್ಥೆಯ ದಂತಕ್ಕಾಸ್ತ್ರ ವಿಭಾಗದಲ್ಲಿ 01- ಪ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಯನ್ನು, ಆ ಸಂಸ್ಥೆಯ ಯಾವುದೇ ವಿಭಾಗದಲ್ಲಿ 01- ಪ್ರಾಧ್ಯಾಪಕರ ಹುದ್ದೆಯನ್ನು, ಆದೇಶಿಸಲು ಹೊರಡಿಸಬಹುದಾದ ಸರ್ಕಾರಿ ಆರ್ಡೆಸ್ನ ಕುಮ್ಲ್ ನಿರ್ಣಾಪಕರ ಸಂಪ್ರೆಯನ್ನು ರದ್ದುಗೊಳಿಸುವ ಷರತ್ತೆಗೊಳಪಟ್ಟು, ಸೃಜಿಸಿ, ಆದೇಶಿಸಲು ಹೊರಡಿಸಬಹುದಾದ ಸರ್ಕಾರಿ ಆರ್ಡೆಸ್ನ ಕುಮ್ಲ್ ನಿರ್ಣಾಪಕರ ಸಂಸ್ಥೆಸಿದೆ. ಸರ್ಕಾರಿ ಆದೇಶದ ಕರಡನ್ನು ಅನುಮೋದನೆಗೆ ಮಾಡಿಸಿದೆ.

01/03/2024 01:32 PM

R K RAMESHA

The submissions advanced in the petition therefore, do not hover in the realm of surmise or conjecture. They are firmly anchored in the documentary record. A careful perusal at the original files brings to the fore three communications of relevance supra. One, emanating from the petitioner's brother, the MLA and two others flowing from the corridors of the State issuing directions to the institute. Therefore, the petitioner's entry is traceable political influence. Such indubitably to interference when allowed to infiltrate into the realm of administrative governance, it puts the foundations of public administration to peril, and places the rights of deserving individuals in grave jeopardy. The controversy, thus, transcends a mere infraction of statutory provisions or executive guidelines, it is in fact an imprint of political Therefore, the impugned action becomes a suspect from its inception.

16. As earlier noted, the regulatory framework issued by the National Medical Commission unequivocally stipulates that the Associate Professor, who has completed three years of service is eligible to be considered for promotion to the post of Professor. The governmental guidelines further mandate that

when an Associate Professor who could be considered for promotion to the post of Professor in the ensuing two years, the importation of a Professor from any other autonomous institute, whether by transfer or deputation, permanent or otherwise, is strictly impermissible. The petitioner having already completed requisite qualifying service as early as at the time when the new post of Professor in Dentistry was created, was fully eligible and available for promotion. Yet, the 5th respondent whose fraternal relationship with the sitting Member of the Legislative Assembly, representing Hubballi, appears to have been ushered into KIMS through the channels of influence, notwithstanding the oppositions raised by those affected.

17. The State however did not halt at this juncture. It proceeded to conjure a new post of Professor in the Department of Dentistry without first securing the concurrence of the National Medical Commission, and that too, on the express condition that an existing post in another department would be abolished. Deliberations regarding such abolition were indeed held but till date, no post has actually been abolished in fulfilment of that condition. The 5th respondent's permanent

transfer to KIMS, predicated upon the fulfilment of this condition, thus stands on an untenable ground. Added to this, well settled Service Jurisprudence dictates that a person who seeks permanent transfer into a cadre at his own request must necessarily be placed at the bottom of the seniority list therein. While it is true that the 5th respondent reported to duty as Professor on 7.3.2024, and the petitioner's promotion followed on 8.7.2024, the fact remains that the very entry into the cadre was illegal.

18. The permanent placement of 5th respondent as Professor of KIMS being in blatant violation of binding statutory guidelines and indelibly tainted by political influence, cannot be sustained in law. The petitioner's subsequent promotion, though effect a few months later, does not efface or cure the illegality that vitiates the appointment of the 5th respondent. When the petitioner was statutorily entitled for promotion, importing an outsider into the lone available post in the department, effectively divested the petitioner of both his seniority, a statutory right, and his legitimate consideration of promotion, a fundamental right. The government though

empowered to create or abolish post, must exercise such authority within the confines of fairness and non-arbitrariness. Article 14 stands as a constitutional sentinel prohibiting whimsical actions or favouritism by the State. In the light of the aforesaid circumstance, the petitioner's grievance merits acceptance and the prayers that are sought are to be granted.

19. For the aforesaid reasons, the following:

<u>ORDER</u>

- [i] Writ Petition is **allowed**.
- [ii] Transfer order dated 05.03.2024 passed in MED 263 MSF 2023 by the respondent No.1 vide Annexure-J, stands quashed.
- [iii] Order dated 30.03.2024 passed in KIMS/CV(1)A/434/2023-24 by the respondent No.3 vide Annexure-M, stands quashed.
- [iv] Sequentially, to the preceding clauses [i] and [ii], provisional seniority list dated 21.01.2025 passed in

K.M.C.R.I:CV(1)A&B:206:2024-25 by the respondent No.3 vide Annexure-T, stands quashed.

[v] The petitioner is declared entitled to all consequential benefits that would flow from the quashment of the order.

Ordered accordingly.

Sd/-

(M.NAGAPRASANNA) JUDGE

Cbc CT-MJ