IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF NOVEMBER 2026

R

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

WRIT APPEAL NO. 2030 OF 2026 (KLR-RES)

BETWEEN:

GURURAJ GANTIHOLE
AGED ABOUT 42 YEARS
R/AT PREMASHRAYA, GANTIHOLE
BYNDOOR TALUK, BIJOOR POST
UDUPI DISTRICT - 576 232.

...APPELLANT

(BY SRI. ARUNA SHYAM M, SENIOR COUNSEL FOR
SMT. SHIVANI SHETTY, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REP. BY THE SECRETARY TO GOVERNMENT
REVENUE DEPARTMENT
VIDHANA SOUDHA, AMBEDKAR VEEDHI,
BENGALURU 560 001.

2. DISTRICT COMMISSIONER,
DEPUTY COMMISSIONER OFFICE,
RAJATADRI, MANIPAL,
UDUPI DISTRICT – 576 104.

3. TAHSILDAR,
TAHSILDAR OFFICE, KUNDAPUR TALUK,
KUNDAPUR 576 201.

4. K. GOPAL POOJARY,
S/O MANJU POOJARY,
'SHANTHI NILAYA', KANYANA,
KANYANA POST, KUNDAPUR TALUK - 576 232.

Digitally signed by MALA.K.N
Location: HIGH COURT OF KARNATAKA

5. SRINIVAS,
S/O KRISHNAMURTHY,
SHANKARANARAYANA,
KUNDAPUR TALUK - 576 232.

6. DINESH HALLIHOLE,
S/O RAMAKRISHNA NAYAK,
HALLIHOLE POST,
BYNDOOR TALUK - 576 232.

7. HEMALATHA POOJARY,
W/O RAJU POOJARY,
HALLIHOLE POST,
BYNDOOR TALUK - 576 232.

…RESPONDENTS

(BY SRI. I THARANATH POOJARY, AAG FOR
SRI. S H RAGHAVENDRA, AGA FOR R1 TO R3;
SRI. P D SURANA, ADVOCATE FOR R4 & R5;
R6 SERVED)

THIS WRIT APPEAL FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, 1961 PRAYING TO i. CALL FOR RECORDS AND ii. SET ASIDE THE IMPUGNED ORDER DATED 04.08.2026 PASSED IN WP No. 4097/2024 AND CONSEQUENTLY ALLOW THE RELIEFS PRAYED FOR IN WP No. 4097/2024 AND iii. PASS SUCH OTHER ORDERS IN THIS HONBLE COURT DEEMS FIT AND PROPER IN THE FACTS AND CIRCUMSTANCES OF THE CASE, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 06.10.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, ***HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN*** DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE D K SINGH
AND
HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN)

A personal request, political influence or the desire to rehabilitate a leader who has lost political ground cannot, by itself, furnish a justification for creating an additional position or arrangement. The circumstances suggest an attempt to secure a position of authority through an indirect route and to regain power through a back-door route, rather than to address any genuine public necessity. The creation of an additional position or arrangement cannot be justified merely to facilitate the political rehabilitation of a person who has lost ground or to provide an indirect avenue for the restoration of lost influence. The desire of an individual to cling on to power cannot be permitted to dictate the course of public administration. Power is entrusted to public authorities to serve the people, not to provide a refuge for those who have lost their political standing. Public office cannot be treated as a consolation prize for a defeated politician, nor can it be converted into a reward for political loyalty. Public office is a responsibility entrusted in the public interest, not a privilege to be retained at any cost or regained through political manoeuvring. To permit otherwise would be to reduce public

administration to an instrument of personal ambition, undermining the very purpose for which governmental authority is entrusted to those who exercise it. The State Government must, therefore, remain above considerations of personal political advancement and ensure that its decisions are guided by public interest and genuine administrative necessity, rather than by an attempt to accommodate an individual's desire to regain lost authority.

The present intra-court appeal is directed against the common order dated 04.08.2026 passed by the learned Single Judge in Writ Petition No.4097/2024 (KLR-RES). By the said order, the writ petition challenging the constitution of the Additional Committee under Section 94-A(2-A) of the Karnataka Land Revenue Act, 1964 (hereinafter, '**the Act'**), as well as the constitutional validity of Rule 108-EE of the Karnataka Land Revenue Rules, 1966 (hereinafter, '**the Rules**'), came to be dismissed.

2. For the sake of convenience, the parties are referred to by the ranks assigned to them before the learned Single Judge.

I. CASE OF THE PETITIONER:

3. The petitioner's case, in brief, is that he was elected as a Member of the Legislative Assembly (for short, 'MLA') from Byndoor Constituency in the 2023 Karnataka Legislative Assembly Election (for short, 'the 2023 Assembly Election'). Following his election, he was appointed Chairman of the Committee constituted under Section 94-A(1) of the Act read with Rule 108-E of the Rules, vide Notification dated 02.11.2023.

4. According to the petitioner, before the Committee headed by him could even commence its sittings, the State Government/respondent No.1 issued Notification dated 04.12.2023 constituting an Additional Committee under Section 94-A(2-A) of the Act read with Rule 108-EE of the Rules. The petitioner asserts that the notification was issued without any material showing that the State Government had formed the opinion that constitution of an Additional Committee was necessary, as required by the statute. He further points out that respondent No.4, who had contested against him in the 2023 Assembly Election and lost, was appointed Chairman of the Additional Committee.

5. The petitioner further states that, by Notification dated 26.12.2023, the jurisdictions of the two Committees were demarcated. Under that arrangement, 12,313 pending applications were allotted to the Committee headed by the petitioner, while 23,983 applications were assigned to the Additional Committee headed by respondent No.4. According to the petitioner, the allocation of a substantially larger number of applications to the Additional Committee, coupled with the appointment of his defeated electoral opponent as its Chairman, indicates that the Additional Committee was not constituted out of any genuine necessity, but to undermine the statutory role of the elected MLA.

6. On these grounds, the petitioner filed W.P.No.4097/2024 seeking to quash the Notifications dated 04.12.2023 and 26.12.2023. He also challenged the validity of Rule 108-EE of the Rules, contending that it gives the State Government unguided discretion to appoint 'a person' as Chairman of the Additional Committee without prescribing any qualification, rank or class of person eligible for appointment. On that basis, he sought a declaration that the Rule is violative of Article 14 of the Constitution of India, 1950 (hereinafter, 'the Constitution').

II. CASE OF RESPONDENT NOS. 1 TO 3:

7. Respondents Nos.1 to 3 opposed the writ petition, contending that Section 94-A(2-A) of the Act and Rule 108-EE of the Rules expressly authorise the constitution of an Additional Committee. According to them, the State Government's opinion on the necessity of constituting such a Committee is a matter of subjective satisfaction.

8. They further submitted that a substantial number of applications were pending in Byndoor Hobli and Vandse Hobli and that the Additional Committee was constituted to ensure their expeditious disposal. Their case was that the State Government had formed the requisite opinion having regard to the pendency of applications, and that the appointment of respondent No.4 as Chairman did not, by itself, render the decision unlawful. They also denied that Rule 108-EE was arbitrary or contrary to Article 14 of the Constitution.

III. CASE OF RESPONDENT NO. 4:

9. Respondent No.4 filed a separate statement of objections, contending that the petitioner lacked *locus standi* to challenge the Notification dated 04.12.2023. He maintained

that the Additional Committee was constituted because of the large number of applications seeking regularisation of unauthorised cultivation of Government land in Byndoor Constituency. According to him, approximately 17,000 to 18,000 applications were pending in the area covered by the petitioner's Committee, while about 14,000 applications were pending in Vandse Hobli, warranting an Additional Committee.

10. Respondent No.4 further submitted that his defeat in the 2023 Assembly Election did not disqualify him from being appointed Chairman of the Additional Committee. Since the Rules prescribe no such disqualification, he contended that the allegation of political motivation was unfounded.

IV. ORDER OF THE LEARNED SINGLE JUDGE:

11. By the common order dated 04.08.2026, the learned Single Judge dismissed the writ petition. On the question whether the State Government had formed the requisite opinion before constituting the Additional Committee, the learned Single Judge referred to an affidavit dated 29.07.2026 filed by the Tahsildar, Kundapura Taluk, Udupi District, which was placed on record by the learned Additional Advocate General. Relying on the figures of pending

applications set out in that affidavit, the learned Single Judge accepted the submission that the pendency justified the constitution of an Additional Committee.

12. The learned Single Judge also held that the constitution of an Additional Committee fell within the State Government's domain and that its subjective satisfaction, based on the number of pending applications, did not warrant interference under Article 226 of the Constitution.

13. The learned Single Judge observed that judicial review is directed primarily at the decision-making process and that the decision itself would not ordinarily be interfered with. As regards the challenge to Rule 108-EE, the learned Single Judge recorded that the petitioner had not pressed that challenge during arguments and therefore left the issue open for consideration in appropriate proceedings. The writ petition was dismissed accordingly.

14. Aggrieved by the said order, the petitioner has preferred the present intra-court appeal.

V. SUBMISSIONS ON BEHALF OF THE PETITIONER:

15. We have heard Shri Aruna Shyam M., learned Senior Counsel appearing on behalf of Smt.Shivani Shetty, learned counsel for the petitioner. The learned Senior Counsel assailed the order of the learned Single Judge, submitting that the specific challenge regarding the absence of material demonstrating formation of the requisite opinion by the State Government had not been properly considered.

16. The learned Senior Counsel submitted that, while examining the validity of the Notification dated 04.12.2023, the learned Single Judge relied on the Tahsildar's affidavit dated 29.07.2026, filed nearly three years after the notification. According to him, a subsequent affidavit could not establish that the State Government had applied its mind to the necessity of constituting the Additional Committee on 04.12.2023. He therefore contended that the record did not disclose any material showing that the statutory condition had been fulfilled when the notification was issued.

17. It was further contended that respondent No.4, who had lost the 2023 Assembly Election to the petitioner, was thereafter appointed Chairman of the Additional Committee, to

which nearly twice as many pending applications were allotted as to the petitioner's Committee. The learned Senior Counsel submitted that these circumstances indicate that the power under Section 94-A(2-A) was not exercised for the purpose contemplated by the Act, but to circumvent the statutory role of the elected MLA.

18. The learned Senior Counsel also submitted that the challenge to Rule 108-EE had not been examined in its proper perspective. The Rule, according to him, leaves the State Government with unfettered discretion to appoint any 'person' as Chairman of the Additional Committee, without prescribing qualifications, rank or any guiding criteria, and is therefore violative of Article 14 of the Constitution.

VI. SUBMISSIONS ON BEHALF OF THE RESPONDENTS:

19. We have also heard Shri I.Tharanath Poojary, learned Additional Advocate General, on behalf of Shri S.H.Raghavendra, learned Additional Government Advocate for respondent Nos.1 to 3 and Shri P.D. Surana, learned counsel for respondent Nos.4 and 5.

20. The respondents supported the order of the learned Single Judge. They submitted that Section 94-A(2-A) of the Act empowers the State Government to constitute an Additional Committee whenever it considers such a step necessary, and that the decision in the present case was taken in view of the large number of pending applications. According to them, the question of necessity falls within the administrative domain of the State Government and its subjective satisfaction is not open to interference in judicial review unless illegality is established.

21. Respondent No.4 submitted that his appointment as Chairman could not be questioned merely because he had lost the Assembly Election to the petitioner. The Rules contain no such disqualification, and the allegation that his appointment was politically motivated was said to be baseless. He also contended that the petitioner could not claim an exclusive right to decide every application for grant of land in Byndoor Constituency.

22. As regards Rule 108-EE, the respondents contended that the Rule had been in force since 27.09.1994 and that the challenge was raised belatedly. They further submitted that the

Rule could not be invalidated merely because the composition of the Additional Committee differed from that of the Committee constituted under Section 94-A(1) of the Act.

VII. POINT FOR CONSIDERATION:

23. Having heard the parties and examined the records, the following point arises for consideration:

> *"Whether the petitioner has made out any grounds to interfere with the order passed by the learned Single Judge?"*

VIII. REASONING AND ANALYSIS:

24. At the outset, it is necessary to set out the relevant statutory framework against which the facts of the present case must be examined.

25. Section 94-A was inserted into the Act by Amending Act No.2 of 1991 to provide for regularisation, subject to prescribed conditions and payment of the requisite charges, of certain cases of unauthorised occupation of Government land. Sub-section (2-A), providing for constitution of one or more Additional Committees, was subsequently inserted by Amending Act No.33 of 1994.

26. The relevant portion of Section 94-A of the Act, as it stood when the Notification dated 04.12.2023 was issued, reads as follows:

> *"**94A. Regularisation of certain cases of unauthorised occupation by constituting committee etc.—** (1) Subject to such rules as may be prescribed, the State Government shall, by notification, constitute for each constituency of the Legislative Assembly a committee consisting of such number of members not exceeding five of whom one shall be a member of Legislative Assembly, for the purpose of grant land under sub-section (4).*
>
> *(2) The Tahsildar of the concerned taluk shall be the secretary of the Committee.*
>
> *(2A) The State Government may, if it is of the opinion that it is necessary, constitute one or more additional committees for a constituency for the purpose of grant of land under sub-section (4)consisting of such number not exceeding five, as may be prescribed and the State Government shall nominate from among the members one of them as the Chairman and another as the Secretary of the Committee. When an additional committee is constituted, the Deputy Commissioner shall determine the jurisdictions of the committee and the additional committee and transfer the pending applications to the respective committee.*
>
> *xxxxxxxxxxxx"*

27. Rule 108-E of the Rules prescribes the composition of the Committee. The relevant portion, as it stood on the date of the Notification dated 04.12.2023, is set out below:

> "***108-E. Members of the Committee:-*** *(1) The Committee shall consist of the following members.–*
>
> *(1) the Member of the Karnataka Legislative Assembly representing the major part of the taluk;*
>
> *(2) three persons nominated by the State Government of whom one shall be a woman and another shall belong to Scheduled Castes or Scheduled Tribes.*
>
> *(3) the Tahsildar of the concerned Taluk.*
>
> *The State Government shall nominate one of the members of the Committee as Chairman*
>
> *Provided that if such Member of the Legislative Assembly belong to Scheduled Castes or Scheduled Tribes, the Member to be nominated shall not necessarily belong to Scheduled Castes Scheduled Tribes:*
>
> *Provided further that where the member representing major part of the Taluk is not available or is not willing to be a member of the committee, for any reason, the State Government may nominate any other Member of the Legislative Assembly as a member of the Committee.*
>
> *xxxxxxxxxxxx*"

28. The composition of an Additional Committee is governed by Rule 108-EE of the Rules, which reads as follows:

> "***108-EE. Additional Committee.-***
>
> *(1) The Additional Committee shall consist of the following members, namely:*
>
> *(a) a person nominated by the State Government as Chairman;*

(b) three persons nominated by the State Government whom one shall be a Woman and another shall belong to Scheduled Castes or Scheduled Tribes;

(c) the Tahsildar of the concerned taluk.

(2) The quorum of the Additional Committee shall be two, of which one shall be the Tahsildar."

29. The petitioner's first challenge concerns the exercise of power by the State Government under Section 94-A(2-A) of the Act. A plain reading of that provision makes the following requirements clear:

(i) The State Government must form an opinion that there is a necessity to constitute an Additional Committee;

(ii) The necessity to constitute an Additional Committee must be for the purpose of grant of land under Section 94-A (4) of the Act; and,

(iii) If the State Government forms such an opinion, then the State Government may constitute an Additional Committee.

30. It follows that formation of an opinion by the State Government that an Additional Committee is necessary for the purpose of granting land is a condition precedent to the

exercise of power under Section 94-A(2-A) of the Act. The petitioner's specific case is that the State Government did not consider any material before forming such an opinion.

31. It is useful, in this context, to refer to the decisions dealing with the requirement that an opinion must be formed on relevant material before an administrative power can be exercised.

32. In ***Barium Chemicals Ltd. v. Company Law Board***[1], the Supreme Court considered the Central Government's power under Section 237(b) of the Companies Act, 1956, to direct an investigation into a company's affairs. The Court held that, although formation of the opinion is subjective, the record must disclose circumstances capable of supporting that opinion. The relevant observations are extracted below:

> *"**64. . . . . That expression points out that there must exist circumstances from which the authority forms an opinion that they are suggestive of the crucial matters set out in the three sub-clauses. It is hard to contemplate that the legislature could have left to the subjective process both the formation of opinion and also the existence of circumstances on which it is to be founded. It is also not reasonable to say that the clause permitted the authority to say that it has***

[1] 1966 SCC OnLine SC 53

> ***formed the opinion on circumstances which in its opinion exist and which in-its opinion suggest an intent to defraud or a fraudulent or unlawful purpose. It is equally unreasonable to think that the legislature could have abandoned even the small safeguard of requiring the opinion to be founded on existent circumstances which suggest the things for which an investigation can be ordered and left the opinion and even the existence of circumstances from which it is to be formed to a subjective process.*** *This analysis finds support in Gower's Modern Company Law (2nd edition), page 547, where the learned author, while dealing with section 165(b) of the English Act observes that "the Board of Trade will always exercise its discretionary power in the light of specified grounds for an appointment on their own motion" and that "they may be trusted not to appoint unless the circumstances warrant it but they will test the need on the basis of public and commercial morality".* ***There must therefore exist circumstances which in the opinion of the authority suggest what has been set out in sub-clause (i), (ii) or (iii). If it is shown that the circumstances do not exist or that they are such that it is impossible for any one to form an opinion therefrom suggestive of the aforesaid things, the opinion is challengeable on the ground of non-application of mind or perversity or on the ground that it was formed on collateral grounds and was beyond the scope of the statute."***
>
> (emphasis supplied)

33. The principle in ***Barium Chemicals Ltd.*** (supra) was followed in ***Bhikhubhai Vithlabhai Patel v. State of Gujarat***[2]***,*** where the Court considered the expressions *'is of the opinion'* and 'necessary' in the proviso to Section 17(1)(a)(ii) of

[2] (2008) 4 SCC 144

the Gujarat Town Planning and Urban Development Act, 1976. The following observations are relevant:

> *"**24.** The proviso opens with the words "where the State Government is of opinion that substantial modifications in the draft development plan and regulations are necessary, …". **These words are indicative of the satisfaction being subjective one but there must exist circumstances stated in the proviso which are conditions precedent for the formation of the opinion. Opinion to be formed by the State Government cannot be on imaginary grounds, wishful thinking, however laudable that may be. Such a course is impermissible in law. The formation of the opinion, though subjective, must be based on the material disclosing that a necessity had arisen to make substantial modifications in the draft development plan.***
>
> ***25.** The formation of the opinion by the State Government is with reference to the necessity that may have had arisen to make substantial modifications in the draft development plan. **The expression: "as considered necessary" is again of crucial importance. The term "consider" means to think over; it connotes that there should be active application of the mind. In other words the term "consider" postulates consideration of all the relevant aspects of the matter. A plain reading of the relevant provision suggests that the State Government may publish the modifications only after consideration that such modifications have become necessary. The word "necessary" means indispensable, requisite, indispensably requisite, useful, incidental or conducive, essential, unavoidable, impossible to be otherwise, not to be avoided, inevitable. The word "necessary" must be construed in the connection in which it is used.** (See Advanced Law Lexicon, P. Ramanatha Aiyar, 3rd Edn., 2005.)"*
>
> (emphasis supplied)

34. In ***Bhikhubhai Vithlabhai Patel*** (supra), the Supreme Court, referring to its earlier decision in ***ITO v. Lakhmani Mewal Das***[3], further explained that the material relied upon must bear a rational connection to the opinion formed. The relevant passage reads as follows:

> *"**33.** The court is entitled to examine whether there has been any material available with the State Government and the reasons recorded, if any, in the formation of opinion and whether they have any rational connection with or relevant bearing on the formation of the opinion. The court is entitled particularly, in the event, when the formation of the opinion is challenged to determine whether the formation of opinion is arbitrary, capricious or whimsical.* ***It is always open to the court to examine the question whether reasons for formation of opinion have rational connection or relevant bearing to the formation of such opinion and are not extraneous to the purposes of the statute.****"*

(emphasis supplied)

35. We are mindful of the discretion vested in the State Government in relation to the Notifications dated 04.12.2023 and 26.12.2023. The issue before us is not whether the discretion ought to have been exercised differently, but whether the decision-making process leading to the impugned notifications satisfies the requirements of law.

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[3] (1976) 3 SCC 757

36. Read in the light of the above decisions, Section 94-A(2-A) requires the State Government to consider relevant material and apply its mind before forming an opinion that an Additional Committee is necessary. Though the opinion is subjective, it cannot rest on conjecture, imaginary grounds or wishful thinking.

37. The material considered must also bear a rational nexus to the opinion formed. The Court is not concerned with weighing the adequacy or sufficiency of that material; it must, however, be satisfied that the material is relevant and is not remote, speculative, vague or extraneous to the statutory purpose.

38. Against this legal background, we proceed to examine the facts and record of the present case.

(iv) **Challenge to the Notification dated 04.12.2023 and the Notification dated 26.12.2023:**

39. The petitioner's contention is that the State Government did not form the opinion required by Section 94-A(2-A) before issuing the Notification dated 04.12.2023 and, consequently, failed to satisfy a mandatory statutory condition.

40. On examining the record, particularly the Notification dated 04.12.2023, we find no indication that the State Government had considered relevant material or formed an opinion on the necessity of constituting the Additional Committee when the notification was issued.

41. The material relied upon by the respondents includes the affidavit dated 29.07.2026 filed by the Tahsildar/respondent No.3, setting out the number of applications in Byndoor and Vandse Hoblis. The affidavit states that, in Byndoor Hobli, out of 13,253 applications, only 8 had been granted, 2,692 remained pending and the others had been rejected for failure to satisfy the prescribed eligibility criteria. In Vandse Hobli, of 23,722 applications, none had been granted, 1,889 remained pending and the others had been rejected. Thus, of the total 36,975 applications, 4,581 were shown as pending in the two Hoblis.

42. Relying on these figures, the learned Single Judge concluded that the large number of pending applications demonstrated the necessity for an Additional Committee and that the notification had therefore been validly issued. With respect, we are unable to agree with that approach.

43. The figures concerning pendency were placed before the learned Single Judge for the first time through the affidavit dated 29.07.2026. Apart from that affidavit, no convincing material was produced to show that, when the Notification dated 04.12.2023 was issued, the State Government had considered relevant material and formed the requisite opinion. The affidavit can disclose the position of the applications as on the date it was filed; it cannot establish what material was considered nearly three years earlier.

44. The State Government's consideration of relevant material and its formation of the requisite opinion must be evident from the notification or from the record available when it was issued. The decision cannot subsequently be supported by explanations or material introduced after the event.

45. In this regard, the observations in ***Mohinder Singh Gill v. Chief Election Commissioner***[4] are instructive:

> ***"8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court***

[4] (1978) 1 SCC 405

> ***on account of a challenge, get validated by additional grounds later brought out****. We may here draw attention to the observations of Bose, J. in Gordhandas Bhanji [Commr. of Police, Bombay v. Gordhandas Bhanji, 1951 SCC 1088 : AIR 1952 SC 16] :*
>
> *"Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself."*
>
> ***Orders are not like old wine becoming better as they grow older.****"*
>
> (emphasis supplied)

46. In view of the above principle, the learned Single Judge ought not to have relied on the figures contained in the affidavit dated 29.07.2026 to conclude that the State Government had formed the requisite opinion when it issued the Notification dated 04.12.2023.

47. The circumstances surrounding the constitution of the Additional Committee also require consideration. The petitioner was appointed Chairman of the Committee under Section 94-A(1), while respondent No.4 was appointed Chairman of the Additional Committee. The two had contested

against each other in the 2023 Assembly Election from Byndoor Constituency, in which the petitioner was elected as MLA. His appointment as Chairman of the Committee followed by Notification dated 02.11.2023.

48. The record also contains a letter addressed by respondent No.4 to the then Minister for Revenue, Government of Karnataka, requesting constitution of an Additional Committee on the ground that approximately 33,000 applications were pending in Byndoor Constituency. In the same letter, respondent No.4 recommended himself as Chairman and proposed respondent Nos.5 to 7 as the other members. The then Minister for Revenue endorsed the letter, indicating that appropriate action would be taken.

49. A further letter dated 24.11.2023 was addressed by the Minister for Women and Child Development to the then Minister for Revenue, making a similar request. That letter likewise recommended respondent No.4 as Chairman and respondent Nos.5 to 7 as members, and also bears the Revenue Minister’s endorsement.

50. The Additional Committee ultimately constituted by the Notification dated 04.12.2023 comprised respondent No.4

as Chairman and respondent Nos.5 to 7 as members, precisely as proposed in the aforesaid letters.

51. This sequence of events raises a serious question as to whether the State Government independently applied its mind before issuing the Notification dated 04.12.2023, or acted on the requests and recommendations contained in those letters. The record does not disclose any supporting data or objective material substantiating the figures stated in them. In the absence of such support, the letters can only be treated as the views and requests of their authors.

52. The personal views or requests expressed in those letters cannot take the place of the relevant material that the State Government was required to consider under Section 94-A(2-A) of the Act. The material must have a rational connection with the need to constitute an Additional Committee for the purpose of granting land under Section 94-A(4). Vague, remote or extraneous considerations cannot sustain the exercise of statutory power.

53. The State Government has not placed before us any convincing record demonstrating that it independently

considered relevant material and formed the opinion required by Section 94-A(2-A) before issuing the notification.

54. Viewed in its entirety, the sequence suggests that, after failing to secure election as MLA from Byndoor Constituency, respondent No.4 sought to obtain a position of authority through the constitution of an Additional Committee by making a request to the then Minister for Revenue. The Minister's endorsement was followed by a notification that adopted the proposed composition. What could not be secured through the election appears to have been pursued through an indirect route.

55. The Additional Committee was intended to serve the statutory purpose of considering applications for grant of land. Its constitution cannot be founded on a defeated politician's personal desire to acquire power or office. Such a desire is not relevant material for forming an opinion under Section 94-A(2-A) of the Act. Statutory power must be exercised to advance the purpose for which it was conferred, and not to accommodate personal or extraneous interests.

56. For these reasons, we are satisfied that, before issuing the Notification dated 04.12.2023, the State

Government had not considered relevant material or formed the opinion required under Section 94-A(2-A) of the Act. The notification was therefore issued in breach of a mandatory statutory precondition and is liable to be quashed. Since the Notification dated 26.12.2023 was consequential upon the Notification dated 04.12.2023, it too must be quashed.

(ii) <u>Challenge to the Constitutional Validity of Rule 108-EE of the Rules:</u>

57. We next consider the petitioner's challenge to the constitutional validity of Rule 108-EE of the Rules. At the outset, it is necessary to notice the grounds on which a statute or subordinate legislation may be held invalid. In ***Anjum Kadari v. Union of India***[5], it has been held:

> *"48.. . . The Constitution imposes certain limitations on the legislative powers of Parliament and the State Legislatures. Article 13(2) provides that the State shall not make any law that takes away or abridges the rights conferred by Part III. Statutes enacted by the State Legislatures must be consistent with the fundamental rights enumerated under Part III of the Constitution. Further, Article 246 defines the scope and limitations of the legislative competence of Parliament and State Legislatures.* ***A statute can be declared ultra vires on two grounds alone: (i) it is beyond the ambit of the legislative competence of the legislature; or (ii) it violates Part III or any other provision of the Constitution.****"*
>
> (emphasis supplied)

[5] (2025) 5 SCC 53

58. ***Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India***[6] also explains the grounds on which subordinate legislation may be challenged. The relevant observations are as follows:

> *"75. A piece of subordinate legislation does not carry the same degree of immunity which is enjoyed by a statute passed by a competent legislature.* ***Subordinate legislation may be questioned on any of the grounds on which plenary legislation is questioned. In addition it may also be questioned on the ground that it does not conform to the statute under which it is made. It may further be questioned on the ground that it is contrary to some other statute. That is because subordinate legislation must yield to plenary legislation. It may also be questioned on the ground that it is unreasonable, unreasonable not in the sense of not being reasonable, but in the sense that it is manifestly arbitrary.****"*
>
> (emphasis supplied)

59. Against these principles, we turn to the challenge to Rule 108-EE. The petitioner points out that Rules 108-E and 108-EE provide for Committees whose composition is similar in respect of four out of five members. The members specified under Rule 108-E(1)(b) and (c) are also included under Rule 108-EE(1)(b) and (c). The material difference lies in Rule 108-E(1)(a) and Rule 108-EE(1)(a).

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[6] (1985) 1 SCC 641

60. Rule 108-E(1)(a) requires the MLA representing the major part of the Taluk to be a member of the Committee. Rule 108-EE(1)(a), by contrast, contains no corresponding requirement for the Additional Committee.

61. We have considered Section 94-A(1) and Section 94-A(2-A) of the Act alongside Rules 108-E and 108-EE. These provisions show that both Committees are entrusted with the same function and that their composition is substantially similar in respect of four of the five members.

62. Under Rule 108-E(1)(a), the MLA must be included as a member of the Committee and is also relevant to the choice of its Chairman. Rule 108-EE(1)(a) dispenses with both safeguards for the Additional Committee. It permits the State Government to appoint 'a person' without prescribing any qualification or guiding criterion, and provides that the person so appointed shall be the Chairman.

63. Both Committees are constituted for the same statutory purpose, namely, the grant of land under Section 94-A(4) of the Act. Yet Rule 108-EE permits the Additional Committee to function with a materially different composition from that of the principal Committee.

64. The Committee is intended to perform a social welfare function by considering applications for grant of land. The Legislature has required the MLA of the relevant constituency to be a member, recognising that an elected representative is positioned to understand and represent the interests of the people of that constituency. Rule 108-E also requires the MLA to be taken into account in the appointment of the Committee's Chairman.

65. Rule 108-EE(1)(a), however, permits the State Government to appoint any 'person' as Chairman of the Additional Committee without setting out qualifications, standards or guiding principles. The result is that two Committees performing the same function may have materially different compositions, while the appointment under Rule 108-EE is left to wide and unrestricted discretion.

66. Since both Committees discharge the same statutory functions, the composition of the Additional Committee ought reasonably to be placed on a comparable footing with that of the principal Committee. The person appointed under Rule 108-EE(1)(a) should therefore possess experience and competence commensurate with that expected

of an MLA, whose membership is mandatory under Rule 108-E(1)(a).

67. Nevertheless, we are not inclined to strike down Rule 108-EE as unconstitutional. Instead, we consider it appropriate to direct the State Government to frame suitable guidelines for appointments under Rule 108-EE(1)(a). Those guidelines must prescribe objective criteria, including administrative ability, relevant experience, integrity and unimpeachable conduct, so that appointments are made on relevant considerations and not for extraneous reasons.

68. The guidelines must also ensure that the person appointed has the competence and standing required to discharge functions comparable to those entrusted to the principal Committee. This will help ensure that the discretion under Rule 108-EE is exercised fairly, transparently and without arbitrariness.

IX. ORDER:

(i) The appeal is ***allowed in part***;

(ii) The impugned order passed by the learned Single Judge is set aside to the extent indicated hereinbelow:

(1) The Notification dated 04.12.2023, constituting the Additional Committee under Section 94-A(2-A) of the Karnataka Land Revenue Act, 1964, and the consequential Notification dated 26.12.2023, are hereby quashed;

(2) The petitioners had initially challenged the constitutional validity of Rule 108-W of the Karnataka Land Revenue Rules, 1966. However, during the course of the proceedings, they chose not to press the said challenge and gave up the corresponding prayer. In view of the same, the challenge to the constitutional validity of Rule 108-W does not survive for consideration. Accordingly, we refrain from examining or expressing any opinion on the constitutional validity of the said Rule and the question is left open.

(3) The State Government to frame appropriate guidelines governing the appointment of the Chairman of the Additional Committee under Rule 108-EE(1)(a). Such guidelines shall prescribe objective criteria, including appropriate legal knowledge, administrative ability, relevant experience, integrity, confidentiality and unimpeachable conduct, so as to ensure that appointments are made on relevant considerations

and in furtherance of the statutory purpose, without being influenced by extraneous or personal considerations.

(4) The State Government shall ensure that the guidelines so framed provide for a fair, transparent and non-arbitrary process of appointment, having regard to the nature of the functions entrusted to the Additional Committee and the responsibility associated with the office of its Chairman.

(5) The State Government shall bear in mind the observations made in this judgment while framing the aforesaid guidelines.

No order as to costs.

Pending I.As. stand disposed of.

Sd/-
(D K SINGH)
JUDGE

Sd/-
(H.SHANTHI BHUSHAN)
JUDGE

KNM