

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

(ORIGINAL JURISDICTION)

WRIT PETITION NO. _____ /2020 (PIL)

BETWEEN:

1. RADHAKRISHNA NAYAK J.S
S/O. JANARDHAN NAYAK
AGED ABOUT 45 YEARS
RESIDING AT
SHENI TOTADAMANE HOUSE
SHENI POST AND VILLAGE
MANJESHWARA TALUKA
KASRGOD DISTRICT
KERALA STATE-671323
 2. SOMSHEKAR J.S
S/O. JANARDHAN NAYAK S
AGED ABOUT 41 YEARS
SHENI TOTADAMANE HOUSE
SHENI POST AND VILLAGE
MANJESHWARA TALUKA
KASRGOD DISTRICT
KERALA STATE-671323
 3. IYTAPPA KULALA
S/O. KOCHANNA MOOLYA
AGED ABOUT 51 YEARS
CHAWARKAD HOUSE
ENMAKAJE VILLAGE (KERALA STATE)
ADYANADAKA POST
KARNATAKA-574260
-PETITIONERS**

AND

1. UNION OF INDIA

MINISTRY OF HOME AFFAIRS
REPRESENTED BY ITS
SECRETARY TO GOVERNMENT
NORTH BLOCK
NEW DELHI-110001

2. STATE OF KARNATAKA
HOME DEPARTMENT
REPRESENTED BY ITS
PRINCIPAL SECRETARY
VIDHANA SOUDHA
BANGALORE-560001
3. THE GOVERNMENT OF KERALA
HOME DEPARTMENT
REPRESENTED BY ITS
PRINCIPAL SECRETARY
GROUND FLOOR MAIN BLOCK
SECRETARIAT
THIRUVANANTHAPURAM
KERALA-695001
4. THE DIRECTOR GENERAL
AND INSPECTOR GENERAL OF POLICE
STATE OF KARNATAKA
NRUPATHUNGA ROAD
BANGALORE-560002
5. THE DIRECTOR GENERAL
AND INSPECTOR GENERAL OF POLICE
VAZHUTHACAUD
THIRUVANNATHAPURAM
KERALA-695010
6. DEPUTY COMMISSIONER
BUNDER, MANGALORE
DAKSHINA KANNADA DISTRICT
KARNATAKA- 575001
7. TAHSILDAR

BANTWAL TALUK
DAKSHINA KANNADA
KARANATAKA-574219

8. DEPUTY COMMISSIONER
KASARGOD DISTRICT
CIVIL STATION VIDYANAGAR
KERALA-671123

.....**RESPONDENTS**

**MEMORANDUM OF WRIT PETITION UNDER ARTICLE 226 AND
227 OF CONSTITUTION OF INDIA**

The Petitioners respectfully submits as follows:

1. The Petitioners in this Writ Petition are seeking directions to the State of Karnataka to allow the ingress and egress of the residents of the villages Saya, Chavarkadu and Bagilapadavu of Enmakaje Gram Panchayat to reach Perla, Manjeshwar taluk, Kasargod District, Kerala State and Bantwal taluk through Saradaka police check post (Adyanadaka village) Bantwal taluk, Dakshina Kannada district.

2. The petitioners are residents of Kerala State Manjeshwara taluk in the border district of Karnataka. The Petitioner No.1 and 2 are the residents of Sheni, near Perla town, Manjeshwar taluk, Kasargod district. The petitioner No.3 is the resident of Saya of Enmakaje Village, Manjeshwar taluk, Kasargod district of Kerala state. The mother tongue of the Petitioners is Kannada and Tulu which is the local language. The Ward No 1 Saya And Ward no 2 of Charbakadu village is having around 700 houses and out of that around 300 families is belonging to Marathi community which is a Scheduled Tribe and 50 percent of the population is belonging to Scheduled Caste. All of them are dependent on Perla town for their daily activities like ration, agricultural activities, electricity and medical facilities. The distance between

the Perla town and Saya and Charwakadu village is around 15kms. To reach Perla town these villagers have to travel through Kalladka-Charkala State Highway. In the 15 km stretch on this State highway these petitioner and other villagers have to cross 1 km road belonging to Karnataka state near Saradaka police check post from Saradka police check post to Adyanadka Marakkini the total stretch is 1 km. From the Perla side there 300000 people from Puttige, Badiyadka, Kumdaje and Bellur have to cross this gate to reach Karnataka. Due to the Covid-19 the government of karnataka has completely closed the police checkpost at Saradka blocking total ingress and egress of the villagers of Saya, Charvakadu and Enmakaje to both Perla town situated in Manjeshwar Taluk and the Bantwal taluk situated in Karnataka State.

3. The Petitioners are espousing the cause of the general public of the above stated villages of the border district of Karnataka and Kerala. Hence filing this Public Interest Litigation.

4. The Petitioners and several other residents of the above villages have to regularly visit the border taluks of Karnataka namely Sulya, Bantwal, Balthangdi, Puttur. Many of the children of these villagers are studying in the neighbouring Taluk for various reasons like their mother tongue is kannada , the higher education is available at the nearest border taluk and it is easily accessible for the residents.

5. It is submitted that though the Perla town is in Kerala State the residents of these three villages have to reach Perla town only after crossing 1 km road which is part of State of Karnataka. The State of Karnataka has blocked the Saradkam Check post which will be the access point for the Kerala state.

By blocking the said road the 2nd Respondent has completely blocked the access to the petitioner and other villager to their own town which is located in the same state. A copy of the rough sketch showing the geographical location of these villagers are produced as per **ANNEXURE-A**. The area which falls within the Karnataka state is shown highlighted in yellow colour.

6. It is submitted that considering the hardship suffered by the villagers the Gram Panchayat Enmakaje passed a resolution dated 10/06/2020 to request the deputy commissioner Dakshina Kannada to permit ingress and egress to the villagers of the above village. A copy of the representation is produced as per **ANNEXURE -B** along with the resolution as per **ANNEXURE-C**. The president of Gram Panchayat has made several request to the Deputy Commissioner Dakshina Kannada requesting permission to travel through this road to reach Perla or Bantwala. A copy of the representation is produced as per **ANNEXURE-D**.

7. It is submitted that the government of Karnataka has allowed inter state transportation after the lockdown is removed. The persons who are travelling from Mangalore to kasargod are permitted to travel. However even after the lockdown is open the Saradkam Check post is not opened for the public to reach either Perla or Bantwala. Due to the said action of the 2nd Respondent State the petitioners and other villagers of the Manjeshwar taluk are prevented from free movement for their daily needs, education, medical facilities etc. Hence this petition.

8. The Petitioner has not filed any other Writ Petition suit or any proceeding on the same cause of action. There being no other alternative remedy the Petitioner prefers this Petition on the following facts and grounds.

GROUND

9. That the petitioners have right to move freely throughout the Territory of India and their right is guaranteed under Article 19 and 21 of constitution of India. By imposing unscientific road block even their access to their own state is restricted. The petitioner and other villagers throughout the lockdown have reached the Perla town by foot for almost 15 km by crossing the river. Now due to the heavy monsoon that access is also closed. They have no other option to reach either Perla or Bantwala. The action of the Respondent No.2 state is illegal and not sustainable. Hence it is necessary to direct the Respondent No.2 State to permit the villagers of the Bagilapadavu, Saya, Chawarkad and Perla of Manjeshwara Taluk to reach either Perla or Bantawala to fulfil their daily needs by giving them access to pass through Saradaka Checkpost.

GROUND FOR INTERIM PRAYER

10. Pending disposal of the above Writ petition it is necessary to direct the respondent state to permit the petitioner and other villagers of Enmakaje, Saya, Charwakadu and Perla to travel through Saradakam check post as their daily routines are dependent to travel on the said road. As the monsoon is in full swing the agriculture operation, school admission, medical needs have to be attended to only by traveling through this road which is the lifeline for these villagers. If the interim order is not

granted the same will cause serious hardship and trouble to the petitioners and the villagers.

PRAYER

WHEREFORE, the Petitioner prays that this Hon'ble Court may be pleased to;

- (a) Issue a writ in the nature of mandamus directing the Respondent No.2 to allow access to the road connecting from Perla Town to Saya village on Charkala-Kalladka State highway through Saradkam check post; and
- (b) to pass such other orders as this Hon'ble Court deems fit in the facts and circumstances of the case in the interest of Justice and Equity.

INTERIM PRAYER

Pending disposal of the above Writ petition this Hon'ble court may be pleased to direct the Respondent No-2 Karnataka State to permit the petitioner and other villagers of Enmakaje, Saya, Charwakadu and Perla to travel through Saradakam check post in the interest of Justice and equity.

BANGALORE

ADVOCATE FOR PETITIONER

DATE :

ADDRESS FOR SERVICE:

R. NAGENDRA NAIK
ADVOCATE
NO.186/8, SIRUR PARK ROAD
SHESHADRIPURAM
BANGALORE-20.

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

W. P.NO. _____ / 2020 (GM-RES)

BETWEEN:

RADHAKRISHNA NAYAK J.S
AND OTHERS

....PETITIONERS

AND

UNION OF INDIA
AND OTHERS

.....RESPONDENTS

SYNOPSIS

| <u>SL.NO</u> | <u>DATE</u> | <u>EVENT</u> |
|---------------------|--------------------|--|
| 1. | 23/03/2020 | ALL INDIA LOCKDOWN DUE TO COVID-19 LED TO SEALING OF BORDERS |

FACTS OF THE CASE

The Petitioners in this Writ Petition are seeking directions to the State of Karnataka to allow the ingress and egress of the residents of the villages Saya, Charvakadu and Enmakaje of Enmakaje Gram Panchayat to reach Perla, Manjeshwar taluk, Kasargod District, Kerala State and Bantwal taluk through Saradaka police check post (Adyanadaka village) Bantwal taluk, Dakshina Kannada district. The petitioners are residents of Kerala State Manjeshwara taluk in the border district of Karnataka. The Petitioner no 1 and 2 are the residents of Perla town, Manjeshwar taluk, Kasargod district. The

petitioner no 3 is the resident of Enmakaje Village, Majeshwar taluk, Kasargod district of Kerala state. The mother tongue of the Petitioners is Kannada and Tulu which is the local language. The Ward No 1 Saya And Ward no 2 of Charbakadu village is having around 700 houses and out of that around 300 families is belonging to Marathi community which is a Scheduled Tribe and 50 percent of the population is belonging to Scheduled Caste. All of them are dependent on Perla town for their daily activities like ration, agricultural activities, electricity and medical facilities. The distance between the Perla town and Saya and Charwakadu village is around 15kms. To reach Perla town these villagers have to travel through Kalladka-Charkala State Highway. In the 15km stretch on this state highway these petitioner and other villagers have to cross 1km road belonging to Karnataka state near Saradaka police check post from Saradka police check post to Adyanadka Marakkini. The total stretch is 1km. Due to the Covid-19 the government of karnataka has completely closed the police checkpost at Saradka blocking total ingress and egress of the villagers of Saya, Charvakadu and Enmakaje to both Perla town situated in Manjeshwar Taluk and the Bantwal taluk situated in Karnataka State. The government of Karnataka has allowed inter state transportation after the lockdown is removed. The persons who are travelling from Mangalore to Kasargod are permitted to travel. However even after the lockdown is open the Saradkam Check post is not opened for the public to reach either Perla or Bantwala. Due to the said action of the 2nd Respondent State the petitioners and other villagers of the Manjeshwar taluk are prevented from free movement for their daily needs, education, medical facilities etc. Hence this petition.

BANGALORE

DATE:

ADVOCATE FOR PETITIONER

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

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BANGALORE

DATE:

ADVOCATE FOR PETITION

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

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RADHAKRISHNA NAYAK J.S
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VERIFICATION AFFIDAVIT

I, R NAGENDRA NAIK, Advocate having office at No.186/8, Sirur Park Road, Sheshadripuram, Bangalore do hereby solemnly affirm and state on oath as follows:

1. I submit that I am the Advocate for petitioner in the subject writ petition and I know the facts of the case on instructions of the petitioners.. I am swearing to the contents of this affidavit as they are unable to visit Bangalore due to lockdown.

2. I submit that the statements made in paragraphs 1 to 9 of the petition accompanying this affidavit are true to my knowledge

3. I state that Annexures-A to E produced are copies of originals.
Bangalore

Date

Deponent

Enmakaje Gram Panchayath

Resolution of the general meeting no.1/1, dated 10/6/2020.

Agenda: Letter dated 29/5/2020 of Smt. Jayashri Kulal Member of ward No.1, Saya.

Decision No. 1/1, dated 10/6/2020

Resolution: approved

The Panchayath administrative committee has decided to open the check post of Saradka, Panaje, Odyia situated at Enmakaje Gram Panchayath at ward No. 1, 2 to enable the public to travel. In this regard the Panchayath secretary has been authority to forward the decision of the Panchayath to Deputy Collector, Kasargodu, also decided to bring to the notice of Hon'ble Chief Minister, Govt.of Kerala

Secretary.

Signature

President

Copy:

TYPED COPY OF THE ANNEEXURE-A

ENMAKAJE GRAMA PANCHAYATH

-----9KM-----

CHERKAL-----KALLADAKKA ROAD-----

PERLA TWON

KARNATAKA SARADUKAM CHECKPOST