

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 11<sup>TH</sup> DAY OF AUGUST 2022**

**BEFORE**

**THE HON'BLE MR. JUSTICE M.I.ARUN**

**WRIT PETITION No.9438 OF 2022**  
**C/w. WRIT PETITION No. 9441 OF 2022**  
**& WRIT PETITION No.9456 OF 2022 (EDN-RES)**

**IN WRIT PETITION NO. 9438 OF 2022**

**BETWEEN:**

HYDERABAD KARNATAKA NURSING  
MANAGEMENT ASSOCIATION  
OFFICE AT HIG-14, SHANTHI NAGAR  
MSK MILL ROAD, KALABURAGI-585 103  
REPRESENTED BY ITS GENERAL SECRETARY  
DR.JEESH

...PETITIONER

(BY SRI.REUBEN JACOB, SR. COUNSEL FOR  
SRI. PAWAN KUMAR M N., ADV.)

**AND:**

1. THE CHAIRMAN  
KARNATAKA LEGISLATIVE COUNCIL  
VIDHANA SOUDHA, DR AMBEDKAR VEEDHI  
BENGLAURU-560 001
2. THE SECRETARY  
KARNATAKA LEGISLATIVE COUNCIL  
ROOM NO.156-C, 1<sup>ST</sup> FLOOR  
VIDHANA SOUDHA, DR AMBEDKAR VEEDHI  
BENGALURU-560 001
3. STATE OF KARNATAKA  
MEDICAL EDUCATION DEPARTMENT  
MULTISTORIED BUILDING  
DR AMBEDKAR VEEDHI

BENGALURU-560 001  
REP. BY ITS PRINCIPAL SECRETARY

4. INDIAN NURSING COUNCIL  
8TH FLOOR, NBCC CENTER  
PLOT NO.2, COMMUNITY CENTER  
OKHLA PHASE-I, NEW DELHI-110 020  
REPRESENTED BY IT SECRETARY
5. KARNATAKA STATE NURSING COUNCIL  
NO.71, NIGHTINGALE TOWERS  
A-STREET, 6<sup>TH</sup> CROSS  
A.R.EXTENSION, GANDHINAGAR  
BENGALURU-560 009  
REP. BY ITS REGISTRAR
6. RAJIV GANDHI UNIVERSITY OF  
HEALTH SCIENCES  
4<sup>TH</sup> T BLOCK, JAYANAGAR  
BENGALURU-560 041  
REPRESENTED BY ITS REGISTRAR

...RESPONDENTS

(BY SRI.DHYAN CHINNAPPA, AAG AND  
SRI.S. RAJASHEKAR, AGA FOR R1 TO R3;  
SRI. SHIVARUDRA, ADV. FOR R4;  
SMT. SUMANA BALIGA, ADV. FOR R5;  
SRI. N. K. RAMESH, ADV. FOR R6)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE THAT THE CONSTITUTION OF THE SPECIAL JOINT HOUSE COMMITTEE BY THE CHAIRMAN OF THE KARNATAKA LEGISLATIVE COUNCIL(R1) AND THE TERMS OF REFERENCE THEREOF NOTIFIED AS PER PUBLICATION NO.42 DATED 16.04.2021 ISSUED BY THE SECRETARY, KARNATAKA LEGISLATIVE COUNCIL (R2) VIDE ANNEXURE-B AS UNCONSTITUTIONAL AND ILLEGAL ETC.

**IN WRIT PETITION No. 9441 OF 2022**

**BETWEEN:**

THE KARNATAKA NURSING INSTITUTIONS  
MANAGEMENT ASSOCIATION  
OFFICE AT NO.8/1, 8<sup>TH</sup> CROSS  
BHUVANESHWARI NAGAR  
BENGALURU-560 023

REP. BY ITS GENERAL SECRETARY  
MR.VIJAYDEEP

... PETITIONER

(BY SRI.A.S.PONNANNA, SR. COUNSEL FOR  
SRI. PIYUSH KUMAR JAIN D., ADV.)

**AND:**

- 1 . THE CHAIRMAN  
KARNATAKA LEGISLATIVE COUNCIL  
VIDHANA SOUDHA  
DR AMBEDKAR VEEDHI  
BENGALURU-560 001
- 2 . THE SECRETARY KARNATAKA  
LEGISLATIVE COUNCIL  
ROOM NO.156-C, 1<sup>ST</sup> FLOOR  
VIDHANA SOUDHA  
DR AMBEDKAR VEEDHI  
BENGALURU-560 001
- 3 . STATE OF KARNATAKA  
MEDICAL EDUCATION DEPARTMENT  
MULTI STORIED BUILDING  
DR AMBEDKAR VEEDHI  
BENGALURU-560 001  
REP. BY ITS PRINCIPAL SECRETARY
- 4 . INDIAN NURSING COUNCIL  
8<sup>TH</sup> FLOOR, NBCC CENTER  
PLOT NO.2, COMMUNITY CENTER  
OKHLA PHASE-I, NEW DELHI-110 020  
REP. BY ITS SECRETARY
- 5 . KARNATAKA STATE NURSING COUNCIL  
NO.71, NIGHTINGALE TOWERS, A STREET  
6<sup>TH</sup> CROSS, A.R.EXTENSION, GANDHINAGAR  
BENGALURU-560 009,REP. BY ITS REGISTRAR
- 6 . RAJIV GANDHI UNIVERSITY OF HEALTH SCIENCES  
4<sup>TH</sup> T BLOCK, JAYANAGAR, BENGALURU-560 041  
REPRESENTED BY ITS REGISTRAR

... RESPONDENTS

(BY SRI.DHYAN CHINNAPPA, AAG AND  
SRI. S. RAJASHEKAR, AGA FOR R1 TO R3;  
SRI. SHIVARUDRA, ADV. FOR R4;

SMT. SUMANA BALIGA, ADV. FOR R5;  
SRI. N. K. RAMESH, ADV. FOR R6)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE THAT THE CONSTITUTION OF THE SPECIAL JOINT HOUSE COMMITTEE BY THE CHAIRMAN OF THE KARNATAKA LEGISLATIVE COUNCIL(R1) AND THE TERMS OF THE REFERENCE THEREOF NOTIFIED AS PER PUBLICATION NO.42 DATED 16.04.2021 ISSUED BY THE SECRETARY, KARNATAKA LEGISLATIVE COUNCIL (R2) VIDE ANNEXURE-B AS UNCONSTITUTIONAL AND ILLEGAL ETC.

**IN WRIT PETITION NO. 9456 OF 2022**

**BETWEEN:**

THE KARNATAKA STATE ASSOCIATION  
OF THE MANAGEMENT OF NURSING AND  
ALLIED HEALTH SCIENCE INSTITUTIONS  
HAVING ITS REGISTERED OFFICE AT  
NO. 7380, DADAPEER LAYOUT, NH-4  
NELAMANGALA BENGALURU 562 123  
REP. BY ITS PRESIDENT  
SRI. S.SHIVAKUMAR

... PETITIONER

(BY SRI.UDAYA HOLLA, SR. COUNSEL FOR  
SRI. T. KRISHNA, ADV.)

**AND:**

- 1 . THE STATE OF KARNATAKA  
DEPARTMENT OF HEALTH AND  
FAMILY WELFARE  
MEDICAL EDUCATION  
M.S. BUILDING  
BENGALURU 560 001  
REP BY ITS PRINCIPAL SECRETARY
- 2 . THE KARNATAKA LEGISLATIVE COUNCIL  
VIDHANASOUDHA  
POST BOX NO.5079  
BENGALURU 560 001  
REP. BY ITS UNDER SECRETARY
- 3 . THE SECRETARY  
KARNATAKA LEGISLATIVE COUNCIL

ROOM NO. 156-C, 1<sup>ST</sup> FLOOR  
VIDHANA SOUDHA  
BENGALURU 560 001

- 4 . THE UNDER SECRETARY  
KARNATAKA LEGISLATIVE COUNCIL  
VIDHANA SOUDHA , POST BOX NO. 5079  
BENGALURU – 560 001
- 5 . THE INDIAN NURSING COUNCIL  
8<sup>TH</sup> FLOOR , NBCC CENTER  
PLOT NO.2, COMMUNITY CENTER  
OKHLA PHASE-I  
NEW DELHI 110 002  
REP. BY ITS PRESIDENT
- 6 . THE RAJIV GANDHI UNIVERSITY OF  
HEALTH SCIENCES  
4<sup>TH</sup> 'T' BLOCK, JAYANAGARA  
BENGALURU 560 011  
REP. BY ITS REGISTRAR
- 7 . THE KARNATAKA STATE NURSING  
COUNCIL, ANAND RAO CIRCLE  
BENGALURU 560 009  
REP. BY ITS REGISTRAR                      ... RESPONDENTS

(BY SRI.DHYAN CHINNAPPA, AAG &  
SRI. S. RAJASHEKAR, AGA FOR R1 TO R4;  
SRI. SHIVARUDRA, ADV. FOR R5;  
SMT. SUMANA BALIGA, ADV. FOR R7;  
SRI. N. K. RAMESH, ADV. FOR R6)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227  
OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE  
IMPUGNED COMMUNICATION DATED 04.05.2022 BEARING  
NO.119,ISSUED BY THE SECRETARY THE KARNATAKA LEGISLATIVE  
ASSEMBLY,R3 HEREIN PRODUCED HERewith AS ANNEXURE-A  
AND ETC.

THESE WRIT PETITIONS HAVING BEEN HEARD AND  
RESERVED ON 26.07.2022 FOR ORDERS AND COMING ON FOR  
PRONOUNCEMENT OF ORDER THIS DAY, THE COURT, MADE THE  
FOLLOWING:

**ORDER**

1. Petitioners in these writ petitions are Associations consisting of Nursing Institutions in the State of Karnataka.

2. There was a question raised in the Karnataka Legislative Council regarding permission being granted to new Nursing Colleges and Allied Health Sciences Institutions for the academic year 2020-21 in spite of they not having the necessary infrastructure and violating the directions of Indian Nursing Council and it had resulted in discussions pertaining to Nursing Colleges in general and it was suggested that a Legislative Committee has to be constituted to examine the irregularities. Accordingly, a Special House Committee was constituted as per Clause (1) of Rule 242A of Rules of Procedure and Conduct of Business in the Karnataka Legislative Council.

3. The terms of reference thereof was notified as per Publication No.42 dated 16.04.2021 issued by the

Secretary, Karnataka Legislative Council, which is produced as Annexure-'B' to the writ petitions.

4. The terms of reference are as follows:-

1. *To examine in detail any administrative errors in granting permission to Nursing and Allied Health Sciences Colleges in the year 2020-21 and also to examine all the Nursing and Allied Health Sciences Colleges in the State as per each District and find out any irregularities and suggest suitable remedies.*

2. *To examine all Nursing and Allied Health Sciences Colleges in the State in respect of their standards, infrastructure, admission of students and their attendance.*

3. *To examine the Rules pertaining to Affiliation of Colleges and allotment of seats.*

4. *To examine the Rules regarding fee fixed for students of the State and outside State students and the number of outside State students studying in Nursing and Allied Health Sciences Colleges and their attendance.*

5. *The Rules and Regulations prescribed by Rajiv Gandhi University of Health Science and Indian Nursing Council for opening new Nursing*

*and Allied Health Sciences Colleges in the State and whether the same is being followed.*

*6. How many Nursing Colleges attached to one Medical College can be opened as per Medical Council of India Rules and whether any colleges have been opened contrary to it.*

*7. Whether the Nursing and Allied Health Sciences Colleges permitted to open in the year 2020-21 has necessary infrastructure, departments, teaching and non-teaching staff and also to examine how standards can be improved in all the Colleges.*

*8. The procedure followed in respect of the attendance of students in classes and examinations in the Nursing and Allied Health Sciences Colleges.*

*9. To examine reason for establishing Task Force, members of the committee and responsibilities of the committee and action of Task Force committee so far.*

*10. To examine the recommendations of High Power Committee under the Chairmanship of Principal Secretary to the Government for opening new colleges in the year 2020-21.*



11. *To examine the necessity of setting up of other Committees of the Government to re-examine the applications submitted for starting new Colleges of Nursing and Allied Health Sciences after examination by the Syndicate Committee; to examine the recommendations given by the Committee of Experts;*

12. *Implementation of appropriate guidelines for rectifying administrative loopholes in applications received and granting permission for starting Nursing and Allied Health Sciences Colleges:*

13. *To examine in detail, the administrative errors in granting permission to all the Nursing and Allied Health Sciences Colleges in the State and all the irregularities committed in the said colleges.*

14. *To identify the loopholes in the examination system in Nursing and Allied Health Sciences Colleges and give appropriate instructions:*

15. *Other matters which the Committee may wish to examine;*

*K R Mahalakshmi  
Secretary  
Karnataka Legislative Council*

*To the Hon'ble Members of Legislative Council.*

5. Pursuant to the same, sub-committees were constituted and an order was issued in this regard on 04.05.2022 wherein sub-committees have been empowered to visit all the Nursing Colleges and Allied Health Sciences Institutions in all the Districts of the State, inspect the same and find out whether they are functioning as per the directions of Indian Nursing Council and whether they have the necessary infrastructure, students, staff, attendance, method of conducting examination, clinical facility, library and the like and submit a report within two months. A copy of the said order has been produced as Annexure-'A' in W.P.No.9456/2022.

6. Aggrieved by the constitution of joint Committee for the purposes as mentioned in Annexure-'B', the instant writ petitions have been filed and in W.P.No.9456/2022, the petitioner has also challenged the order at Annexure-'A' to the writ petition by which the sub-committees are constituted.

7. The case of the petitioners is that the discussions in the house pertained to Nursing Colleges and Allied Health Sciences Institutions which were granted permission afresh in the academic year 2020-21 alone and not in respect of all the Colleges and that a Special House Committee cannot be constituted to verify the functioning of all Nursing Colleges and Allied Health Sciences Institutions in the State.

8. It is further contended that even otherwise a Special House Committee cannot visit the Colleges physically and verify their functioning as contemplated in Annexures-'A' and 'B' to the writ petitions and accordingly, they pray for setting aside publication No.42 dated 16.04.2021 issued by the Secretary, Karnataka Legislative Council (vide Annexure-'B' to the writ petitions) and consequently, the order dated 04.05.2022 constituting the sub-committees to physically visit and verify the functioning of Nursing Colleges and Allied

Health Sciences Institutions in the State (vide Annexure-'A' in W.P.No.9456/2022).

9. The respondents, justifying the constitution of the Committee and the subsequent actions thereof, pray for dismissal of the writ petitions.

10. Taking into consideration the rival contentions urged by the parties, the questions that arises for consideration in the instant writ petitions are:

1. *Whether a Special House Committee can be constituted as per the Rules of Procedure and Conduct of Business in the Karnataka Legislative Council to look into the terms of reference as detailed in the publication at Annexure-'B' to the writ petitions.*
2. *Whether the issuance of the order dated 04.05.2022 constituting the sub-committees regarding the same is justified.*

11. Clause (3) of Article 105 of the Constitution of India states about the powers, privileges and immunities of the Members of the Committee of each house of the Parliament and Clause (3) of Article 194 of the

Constitution of India speaks about powers, privileges and immunities of the Members and the Committees of a House of the Legislature of a State and they are similar to each other.

12. Clause (3) of Article 194 of the Constitution of India reads as under:-

*"(3) In other respects, the powers, privileges and immunities of a House of a Legislature of a State, and of the members and the committees of a House of such Legislature, shall be such as may from time to time be defined by the Legislature by law, and, until so defined, shall be those of that House and of its members and committees immediately before the coming into force of section 26 of the Constitution Forty-fourth Amendment) Act, 1978."*

13. The privileges and powers of the Legislature of any State in India is similar to that of House of Commons in United Kingdom and while examining the same, the Hon'ble Supreme Court in **AMARINDER SINGH vs. SPECIAL COMMITTEE, PUNJAB VIDHAN SABHA AND**

**OTHERS** reported in 2010 (6) SCC 113 at paragraph 48 has recognized the following power:

"48. xxx

*(7) The power of the House to compei the attendance of witnesses and the production of papers."*

Further, Rule 205 of the Rules of Procedure and Conduct of Business in the Karnataka Legislative Council reads as under:

*"205. Power to take evidence or call for papers, records or documents: - (1) A witness may be summoned by an order signed by the Secretary and shall produce such documents as are required for the use of a Committee.*

*(2) It shall be in the discretion of the Committee to treat any evidence tendered before it as secret or confidential.*

*(3) No documents submitted to the Committee shall be withdrawn or altered without the knowledge and approval of the Committee."*

As per Rule 206, a committee has to the power to send for persons, papers and records for recording evidence.

14. Both the petitioners and respondents do not dispute the power of the Committee to record evidence. However, the petitioners contend that in the process the members of the committee cannot visit their premises.

15. Education, including technical education, medical education and Universities is part of item No.25 of the Concurrent List in Schedule-VII of the Constitution of India and the Nursing Colleges are governed by the Indian Nursing Council Act, 1947, which is Central Enactment and also the Karnataka Nurses, Midwives and Health Visitors Act, 1961 and Rajiv Gandhi University of Health Sciences Act, 1994, which are Enactments of the Karnataka State. Thus, Karnataka State Legislature is empowered to legislate in respect of the Nursing Colleges and a committee can always be constituted by legislative council to study the performance of Nursing Colleges in the State of Karnataka. Further, the material placed before the Court shows that though initially the debate in the house pertained to Nursing Colleges established in

the Academic Year 2020-21, it later on covered all the Nursing Colleges.

16. Committees are constituted by the legislature for various purposes including to study a prevailing situation regarding a particular subject, so that it can enlighten the legislators on whole range of governmental actions and the information obtained can be used as a basis for legislation or administrative reforms. The Hon'ble Supreme Court in **KALPANA MEHTA AND OTHERS vs. UNION OF INDIA AND OTHERS** reported in (2018) 7 SCC 1, at paragraph 335 has held as under:

*"335. Various committees of both Rajya Sabha and Lok Sabha are entrusted with enormous duties and responsibilities in reference to the functions of Parliament. Maitland in Constitutional History of England while referring to the committees of Houses of British Parliament noticed the functions of the committees in the following words:*

*"... Then again by means of committees the Houses now exercise what we may call an inquisitorial power. If anything is going wrong in*



*public affairs a committee may be appointed to investigate the matter; witness can be summoned to give evidence on oath, and if they will not testify they can be committed for contempt. All manner of subjects concerning the public have of late been investigated by parliamentary commissions; thus information is obtained which may be used as a basis for legislation or for the recommendation of administrative reforms."*

17. In the case of **FACEBOOK vs. DELHI LEGISLATIVE ASSEMBLY** reported in (2022) 3 SCC 529 in paragraphs 177, 178 and 179 the Hon'ble Apex Court has held as under:

*"177. The committees are an extension of the legislature itself and do informed work. Their significance has been exhaustively dealt with in Kalpana Mehta which we have extracted hereinabove. US Representative James Shannon's words were noted with approval in the judgment (at SCC p.55, para 67), recognising that "around the world there is a trend to move toward reliance on committees to conduct the work of parliament,*

*and the greatest reason for this trend is a concern for efficiency.” (emphasis supplied) It is not possible for us to accept the contention of the petitioners to create an artificial division between Assembly’s core/essential and non-essential functions, with any restrictive clauses being placed on the deliberations of the committees. Such water-tight compartmentalisation is not advisable. Unless the committee embarks on a course completely devoid of its functional mandate specified by the Assembly, or the Assembly itself lacks jurisdiction to deal with the subject matter, we are of the view that the widest amplitude must be given to the functioning of these committees. It is the parliamentary committee system that has been recognised as a creative way of parliaments to perform their basic functions. The same principle would apply, even if it is to some extent beyond their legislative domain. This is because they will not be able to make any valid legislative recommendations in the absence of competence over the subject matter. However, they may debate aspects which may be a reflection of their sense and consequently the sense of the House, if so adopted by the House.*

178. Walter Bagehot in his seminal work “The English Constitution” elucidated five

*significant functions of the House - elective, expressive, teaching, informing and finally, the legislative. The legislative function itself is a broad umbrella under which multiple responsibilities and tasks are carried out in synchronization. The legislature is a "democratic nucleus", whereby such title entails the law-making process itself as being multi-functional; involving receipt of informed opinions and balancing interests of various stakeholders. Committees actually are in the nature of specialised forums as Mallory states:*

*"The flow of public business is now so great, and its nature so complicated, that it can only be handled by bodies with the technical competence and the rational organization to master it. As Dr. Bernard Crick has pointed out:*

*The novels of C. P. Snow, Professor Parkinson's Law and K. C. Wheare's Government by Committee are all, in different ways, testimonies to the truth that the most important work of central government is conducted not by civil servants or M.P.'s working as individuals, but by committees (Bernard Crick, Reform of the Commons. Fabian Tract No.319 (London, 1959), p.13)."*

*179. The inquisitorial role of the committee in the functioning of House is of great*

*significance, and as recognized, the investigation of a complicated social problem prior to legislation often rests frequently on such legislative committees. This task involves the examination of witnesses and is helpful in dealing with matters of special and technical nature, wisened by insight into affairs of the workings of different aspects and the views expressed by different stakeholders. It can hardly be said that in the context of what has been debated, the petitioners have no role to play or are "outsiders". Intelligent legislative action and deliberation thereon rests on the power to investigate into questions of public importance and, thus, issuance of summons is key to this investigative exercise - a role clearly recognised in Kalpana Mehta."*

18. In the instant case, there are alleged irregularities said to have been committed by the various Nursing Colieges, they are said to be operating and imparting education pertaining to various nursing courses even though, they are not meeting the standards prescribed by various authorities, more particularly the Indian Nursing Council and the authorities in charge of scrutinizing the functioning of various colleges are

turning a deliberate blind eye to the said irregularities. The legislature intends to verify the same and recommend suitable reforms for which the committee has been constituted to study the functioning of various nursing colleges in the State. No fault can be found in constitution of the same.

19. It is not in dispute that the committee has the power to record evidence and verify documents in the process of its study. It implies that the committee has power to do such acts or employing such means as reasonably necessary to conduct the study for which it is constituted. The Hon'ble Supreme Court in **MATAJOG DOBEY vs. H.C. BHARI** reported in (1955)2 SCR 925 at paragraph 23 has held as under:

*"23. Where a power is conferred or a duty imposed by statute or otherwise, and there is nothing said expressly inhibiting the exercise of the power or the performance of the duty by any limitations or restrictions, it is reasonable to hold that it carries with it the power of doing all such acts or employing such means as are reasonably necessary for such execution. If in the exercise of*

*the power or the performance of the official duty, improper or unlawful obstruction or resistance is encountered, there must be the right to use reasonable means to remove the obstruction or overcome the resistance. This accords with commonsense and does not seem contrary to any principle of law. The true position is neatly stated thus in Broom's Legal Maxims, 10<sup>th</sup> Edn. at p.312: "It is a rule that when the law commands a thing to be done, it authorize the performance of whatever may be necessary for executing its command."*

20. Thus, the committee having power to take evidence or call for papers, records or documents for the purposes of its study, it has to be held the committee has the power to visit the Nursing Colleges to study whether they are functioning in accordance with law or not.

21. However, in the process of studying the functioning of Nursing Colleges, the committee members cannot be permitted to harass the institutions and their visit should be strictly limited to study/collect evidence as to whether the colleges are subscribing to the prescribed standards

and it does not empower the committee members to threaten any legal action or issue any type of directions to the Nursing Colleges. Further, the visit should be during office hours and with due prior intimation to the colleges about the visit. The committee is constituted only to study the functioning of the colleges and not to supervise or perform the function of authorities under various laws, which govern the functioning of Nursing Colleges. Further, various authorities created under Indian Nursing Council Act, 1947, Karnataka Nurses , Midwives and Health Visitors Act, 1961, Rajiv Gandhi University of Health Sciences Act, 1994 and the like which are empowered with regulating the conduct of Nursing Colleges in the State of Karnataka, if wants to initiate any action against any erring colleges, will have to do so in accordance with the respective enactments under which they function and not merely based on the findings of the committee constituted by Karnataka Legislative Council.

For the reasons aforementioned subject to the restrictions mentioned in paragraph 21 *supra*, the writ petitions are dismissed.

**Sd/-  
JUDGE**

VMB