

Writ Proceedings Rules, 1977

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Writ Proceedings Rules, 1977

By virtue of 1 [Articles 226 and 227] 1 of the Constitution and all other powers thereunto enabling and in supersession of the existing rules, the High Court of Karnataka makes the following Rules to regulate proceedings under 1 [Article 226 and 227] 1 of the Constitution:- (1) These rules may be called 'The Writ Proceedings Rules, 1977'. (2) These rules shall come into force on the 1st day of February, 1977.

PART 1 PART I

1. Section 1 :-

2. Section 2 :-

(1). Every petition under Article 226 and/or Article 227 of the Constitution shall be designated as "Writ Petition" and shall be in Form No. I appended to these rules.

(2) Every petition under Articles 226 and/or Articles 227 of the Constitution shall set forth succinctly, in chronological order and in consecutively numbered paragraphs, all the relevant facts which have given occasion to the petition, the grounds in support of the petition and the relief claimed.

(3) In the petitions referred to in sub-rules (1) and (2), the petitioner shall state whether any other remedy for such redress is provided for/by or under any other law for the time being in force and whether that remedy has been availed of, and if so with what result.

[(3a) In every Memorandum of Writ Petition the petitioner shall state as to whether he or any person through whom he claims had presented a Writ Petition on the same cause of action earlier and if so with what result.]

[(3b) Along with the Petition, list of dates in chronological order

with relevant material facts or events pertaining to each of the dates shall be furnished in the form of synopsis.]

(4) The Petitioner shall state, if the Writ Petition involves the constitutional validity of,-

(i) a State Law;

(ii) Central Law; or

(iii) Central and State Law.]

1. Substituted by Notification No. RPSNo. 120 of 1979 dtd. 13.7.1979 w.e.f. 1.8.1979.

2. Inserted by Notification No. HCE 728 of 1988 dt. 12.9.1988 w.e.f. 22.9.1988

3. Inserted by Notification No. RPS 22 of 2005 dt. 12.4.2005 w.e.f. 23.5.2005

2A. Classification Of Writ Petitions :- Writ Petitions filed on or after the 1st day of January 1981, shall be classified and the classification shall be indicated in the designation in the manner given below:

Classification

3. Every Petition Under :-

[Article 226 and/or Article 227] 1 of the Constitution shall be signed by the petitioner or his Advocate who shall also sign or put his thumb mark at the foot of every page of the petition. The petition shall be supported by an affidavit in Form No. II appended to these Rules and shall be drawn up in the first person and shall state the name, fathers name, age and address of the deponent; the affidavit shall be confined to the verification of the facts set out in the petition and shall specifically indicate by reference to the paragraph numbers in the petition, as to what facts are verified from the knowledge of the deponent and what facts from the information and his belief and shall also contain a statement to the effect that the copies of the documents, if any produced along with the petition are true copies of the originals.

1. Inserted by Notification No. RPS No. 120 of 1979 dtd. 13.7.1979 w.e.f. 1.8.1979.

INTERIM RELIEF

4. Section 4 :-

The petitioner may seek interim relief in the main petition itself and in every main petition where there is a prayer for an ad Interim

Stay or injunction against the Union of India or any State Government or any of its authorities, a copy of such application shall be served upon the standing Counsel/Advocate, for the Union of India or the concerned State Government before the matter is listed in Court, except when the Court otherwise directs].

1. Substituted by Notification No. LCA-I 313 of 1991 dt. 10.8.1992 w.e.f. 20.8.1992

5. Section 5 :-

Objections to a petition under 1 [Article 226 and/or Article 227] 1 of the Constitution and a reply thereto, if filed, and every interlocutory application in a writ petition, shall be in the same manner as specified in rule 2 to the extent applicable, shall be signed in the same manner as specified in rule 3 and shall be supported by an affidavit.

1. Inserted by Notification No. RPS No. 120 of 1979 dtd. 13.7.1979 w.e.f. 1.8.1979.

6. Section 6 :-

(a) Every annexure produced by the petitioner along with the writ petition shall be marked in the alphabetical order, namely, as annexure "A", annexure "B", and so on (omitting the alphabet I) and the marking shall be continued in respect of all additional annexures produced subsequently, along with the reply interlocutory applications, etc.

(b) Every annexure produced by each of the respondents along with the objections shall be marked in the numerical order, namely as annexure 1, annexure 2 and so on, and the numbering shall be continued in respect of all additional annexures produced by that respondent subsequently along with the interlocutory applications or additional affidavits, etc.

(c) The office of the High Court shall give continuous page numbers to all the papers filed subsequent to the filing of the writ petition as and when they are filed, and arrange them in the order in which they are filed and shall prepare a consolidated index of all the papers before posting the case for hearing.

7. Procedure For Filing Common Or Joint Petitions :-

1. Substituted by Notification No. RPS No. 101 of 1980 dtd. 23.8.1980 w.e.f. 4.9.1980. 4 [(1) Several persons having similar but separate and distinct interest in the subject matter of

controversy involving common questions of law and facts may file a common petition but each Petitioner shall pay a separate Court Fee. For all other purposes, it shall be treated as a single petition and the office shall assign one number. Such common Writ Petition shall be in Form No. III appended to these Rules and shall be supported by an affidavit of any one of the petitioners as in Form No. II. For such common petition one Vakalat with one set of Court Fee stamp shall be sufficient.]

(2) Several persons having common or joint interest but not seeking any individual relief 2 [, interim or final] 2 may file a single petition.] 1

2. Added by Notification No. RPS No.101 of 1980 dtd. 29.9.1981 w.e.f. 1.10.1981 3 [Explanation x x x x Proviso x x x]

3. Deleted by by Notification No. RPS No. 101 of 1980 dtd. 29.9.1981 w.e.f. 1.10.1981

8. Section 8 :-

Whenever a writ petition is directed to be posted before a Bench of two or more judges, the petitioner shall also file additional copies of the writ petition together with the affidavit and the annexures thereto, as there are number of Judges on the Bench.

9. Section 9 :-

Every petitioner for issue of a writ in the nature of certiorari seeking to quash an order of any authority shall be accompanied by a certified or authenticated copy of the order sought to be quashed and where the proceedings have taken place before more than one authority, shall be accompanied by certified or authenticated copies of the order of all such authorities.

10. Section 10 :-

Where the petition is for the issue of a writ of any other nature or any order direction, the petition shall be accompanied by the order, notice or proceedings in original or a certified or authenticated copy thereof which gave cause for or is the subject matter of the petition.

11. Section 11 :-

The Court may on application made by the parties for that purpose, dispense with the production of any of the papers required by rules 9 and 10, on such terms and conditions as it may deem fit.

12. Section 12 :-

Every writ petition after it has been admitted to register shall be

posted before the appropriate Bench for preliminary hearing:

[(2) In every Writ Petition where an application is filed for an ad Interim Stay or injunction against the Union of India or any State Government or any of its authorities, a copy of such application shall be served upon the Standing Counsel/Advocate for the Union of India or the concerned State Government before the matter is listed in Court, except when the Court otherwise directs

13. Upon The Hearing :-

(a) the Court if satisfied, shall direct a rule nisi to the respondent calling upon him to show cause why the order sought should not be made, and shall adjourn the hearing for the respondent to appear and for being heard :

(i) Provided that, where the Court deems fit, it may before directing issue of a rule nisi, direct notice to the respondent to show cause why rule nisi should not be issued ;

(ii) Provided, further, that when a notice is issued to show cause why rule nisi should not be issued, the Court may direct the respondent to file objection and documents, if any, in accordance with Rule 21.

(b) In the event of a direction in accordance with proviso (ii) the issue of rule nisi may be dispensed with and the matter may be heard and disposed of on merits.

14. Section 14 :-

1. Omitted by Notification No. RPS 120 of 1979 dtd. 13.7.1979 w.e.f. 1.8.1979.

15. Section 15 :-

Unless otherwise directed by the Court, the petitioners shall pay the process fee and supply as many copies of the petition, the affidavit in support thereof and all the annexures thereto, as there are respondents by the day succeeding the date of the order directing issue of notice.

[(2) Notwithstanding anything contained in sub-rule(1) above in all matters in which the Court directs the issue of notice to the Union of India or to any State Government or to any of its authorities, the petitioner/appellant shall specify the proper department of the Union of India or the State Government as the case may be, on whom the notice is required to be served. The notice shall be served on the appropriate department and additionally on the

Standing Counsel/Advocate of the Union Government or the State Government concerned alongwith a copy of the petition with its annexure. In addition to the usual mode of Service, the petitioner may make a request to the Registrar, for service by hand delivery on the appropriate department and Standing Counsel/Advocate. The Standing Counsel/ Advocate of the Union of India or the State Government concerned shall obtain necessary instructions from the appropriate department or authority].

16. Section 16 :-

When process fee is not paid and/or the requisite number of copies of the petition, affidavit and annexures are not supplied within the time prescribed in rule 15, the petition shall be placed without delay, before the Court for orders.

17. Section 17 :-

(1) The notice to be issued to the respondent/s upon the making of the order of rule nisi shall be in Form IV of these Rules. The copy of the rule nisi granted together with copies of the petition, the affidavit in support thereof and annexures there shall be served on the respondent/s, if not already served by the petitioner or his Advocate.

(2) The respondent/s shall, if directed, produce in Court on the date of appearance all the records, orders and documents, touching the matter in question which are in his/their custody or power

18. Section 18 :-

[(1)] 1 A party against whom an ex-parte order has been made shall be entitled to apply to the Court to discharge or vary the said order after giving notice to the party or parties who are likely to be affected by such order of discharge or variation. Such notice may be served on the Advocate for the parties.

[(2)] Every application made under sub-rule (1) shall be posted for orders before the Court as early as possible, but not later than three days from the date of presentation.

19. Section 19 :-

Whenever an ex-parte interim order made in a writ petition is required or directed to be served on any person or authority not impleaded as a party to the petition, a copy of the order to be so served shall be accompanied by a copy of the petition, affidavit and the annexures thereto. The party obtaining the direction or order

from the Court for service of such order on a person or authority other than the one impleaded in the writ petition, shall file into Court for service on such person or authority the copies mentioned above.

20. Section 20 :-

When a party to the petition files any additional document, into Court which he wishes to rely upon in support of his cases he shall file along with the memorandum accompanying the documents an acknowledgment from the Advocate appearing for the opposite side that copies thereof have been served upon him.

21. Section 21 :-

(1) Answer if any to the rule nisi showing cause against such petition shall be made by filing into Court objections supported by an affidavit within fourteen days after the expiry of the time fixed for appearance or such earlier time as the Court may direct, and reply to the objections supported by an affidavit, may be filed by the petitioner within one week of service of a copy of the objections on him or such earlier time as the Court may direct. The reply shall not raise any new ground in support of the writ petition.

(2) Copies of the objections or reply shall be served on the opposite party or parties or their Advocates and the objections of reply shall not be received unless they contain an endorsement of service signed by such party or parties or their Advocates.

(3) No further statement or affidavit shall be filed by any party except with the leave of the Court.

22. Section 22 :-

The Court may, in its discretion, at any time before a final order is made on the petition, order the rule nisi to be served on any person who in the opinion of the Court is likely to be affected.

23. Section 23 :-

(1) Costs in the writ petitions shall be in the discretion of the Court. When costs are awarded to any party such costs shall include Court fee paid on the petition, the Vakalat and other documents filed with the petition, costs of making copies of paper books either for use of the Court or for service on other parties and Advocates fees. Costs when awarded shall include Advocates fee of Rs.100 unless otherwise ordered.

(2) If costs awarded are not paid, the party entitled to receive the

same may apply to the Court whereupon the Court may transmit the order in the writ petition to any subordinate Court for execution and such subordinate court shall proceed to execute the same in the manner prescribed for execution of decrees of that Court.

24. Section 24 :-

Where a rule nisi is granted in a writ petition impugning the constitutional validity of a State Law, notice of the petition shall be issued to the Advocate General for Karnataka: Provided that no such notice need be issued if the State Government is a party to the petition.

24A. Section 24A :- No person who has presented a Writ Petition, in which public interest is involved shall be entitled to withdraw the writ petition except with the leave of the Court.] 1. Inserted by Notification No. HCE 728 of 1988 dtd. 12.9.1988 w.e.f. 22.9.1988.

PART 2 PART II

25. Section 25 :-

(1) The Rules contained in this part shall apply to petitions seeking the issue of a writ in the nature of habeas corpus and shall as far as may be read as supplemental to the rules contained in Part I of these Rules.

(2) A petitioner seeking the issue of a writ in the nature of habeas corpus, shall file into Court a petition supported by an affidavit: Provided that when a petitioner is under restraint, the Court may, in its discretion, treat any written representation by him, sent by post or otherwise, as a petition and dispense with an affidavit.

(3) A petition seeking the issue of a writ in the nature of habeas corpus shall be posted before a Bench of two Judges for preliminary hearing. Upon the hearing the petitioner or his Advocate, if he appears, the Bench, if satisfied, shall direct a rule nisi to issue to the respondent against whom the order is sought, calling upon him to appear on a date to be fixed therein to show cause why the order sought should not be made and may also further direct him to produce in Court the person or persons alleged to have been illegally or improperly detained, to be dealt with according to law.

(4) On the date fixed for hearing or on any subsequent date to which the hearing thereon may be adjourned, the Court shall dispose of the petition.

(5) An order for release made by the Court under the preceding rule shall be sufficient warrant to any Jailor, public authority or other person for the release of the person under restraint.

[(6) The detenue shall be supplied free of cost a copy of final order made by the Court under sub-rule (4) above.

PART 3 PART III

26. Section 26 :-

Every appeal filed from an order passed by a Single Judge on a writ petition shall be designated as "writ appeal".

27. Section 27 :-

Every writ appeal shall be preferred in the form of a memorandum signed by the appellant or his Advocate as per Form No.V appended to these Rules and shall be accompanied by a certified copy of the order appealed from, unless the Court dispenses with the production of such copy. All the paragraphs therein shall be consecutively numbered and the memorandum shall contain the following particulars:-

(i) The name and description of the parties to the appeal and their respective ranks in the original proceedings and in appeal.

(ii) The address for service of the parties and that of the appellants Advocate at Bangalore.

(iii) The date of the order and the number of the writ petition out of which the appeal arises.

(iv) A concise statement of the facts which gave rise to the original proceedings and how they terminated.

(v) The ground in support of the appeal.

(vi) A list of authorities upon which the appellant relies together with a brief statement of the propositions of law for which the authorities are relied on.

28. Section 28 :-

The appellant seeking any interim order shall file an interlocutory application for the said purpose, supported by an affidavit. In other respects, 1 [rule 18] 1 of Part I shall mutatis mutandis apply.

1. Substituted by Notification No. RPS No. 120 of 1979 dtd. 13.7.1979 w.e.f. 1.8.1979.

29. Section 29 :-

The appellant shall unless otherwise directed by the Court, file into Court two paper books containing copies of:

(i) the memorandum of appeal;

- (ii) the order appealed from; and
- (iii) the pleadings and annexures.

30. Section 30 :-

Every writ appeal after it has been registered and numbered shall be posted before a Bench consisting of not less than two Judges other than the judge from whose order the appeal is preferred, for preliminary hearing. Upon hearing the appellant or his Advocate, if he appears, the Court may dismiss the appeal or direct issue of notice to the respondent. The notice shall be in Form No.VI appended to these Rules.

31. Section 31 :-

Upon directing issue of notice to the respondent, the Court may, if it thinks fit, grant such interim relief to the appellant upon such terms as it may consider just and proper.

32. Section 32 :-

When notice is directed to be issued on any writ appeal, such notice may be served on the Advocate if any, who appeared for the respondent in the original proceedings in the High Court. In all other cases notice shall be issued to the respondent: Provided that where any respondent remained ex-parte in the original proceedings after service of notice, the Court may dispense with the service of notice to such respondent.

33. Section 33 :-

When notice is directed to be issued to the respondent in any writ appeal, the appellant shall unless otherwise directed by the Court-

(a) Within three days, pay the process-fee and supply as many copies of the appeal memorandum as there are respondents: Provided that if any respondent had been represented by an Advocate in the original proceedings in the High Court, such notice may be served on him;

(b) Within two weeks, file into Court, as many paper books as there are respondents, unless otherwise directed. Each respondent or his Advocate on entering appearance shall be entitled to obtain one copy.

34. Section 34 :-

The provisions of rule 18 shall apply mutatis mutandis, to applications filed for varying or discharging any ex-parte interim order passed in a Writ Appeal

35. Section 35 :-

Where the appellant fails to take necessary steps to prosecute the appeal in accordance with these Rules, the matter shall be placed without delay before the Court for orders.

36. Appeal Against Common Order On Several Writ Petitions :-

The provisions of rule 7 shall, mutatis mutandis apply to appeals filed from a common order.

37. Section 37 :-

The provisions of rule 23 shall, mutatis mutandis, apply to costs in writ appeals.

38. Section 38 :-

The provisions of rule 24 shall, mutatis mutandis apply to writ appeals, provided that no notice need be issued to the Advocate General if after service of notice under rule 24 he has not entered appearance in the writ petition.

38A. Section 38A :- The provisions of rule 24-A shall, mutatis mutandis, apply to Writ Appeals] 1. Inserted by Notification No. HCE 728 of 1988 dt. 12.9.1988 w.e.f. 22.9.1988

PART 4 PART IV

39. Application Of The High Court Of Karnataka Rules, Etc :-

The provisions of the High Court of Karnataka Rules, 1959, the rules made by the High Court of Karnataka under the Karnataka Court Fees and Suits Valuation Act, 1958, and the provisions of the Code of Civil Procedure, 1908, shall apply, as far as may be, to proceedings under 1 [Article 226 and/or Article 227] 1 and writ appeals in respect of matters for which no specific provision is made in these rules.

1. Substituted by Notification No. RPS No. 120 of 1979 dtd. 13.7.1979 w.e.f. 1.8.1979.