

Heard the learned senior Counsel Sri. Ashok Haranahalli appearing on behalf of the petitioner.

The learned AGA accepts notice for respondent Nos.1 to 7.

Learned counsel Sri. G.I. Gachhinamath accepts notice for respondent No.8.

Registry is directed to reflect the names of the respective counsels as appearing for the respondents.

The controversy, at the heart of the present petition, is a challenge to the Government Order dated 18.10.2025. By its terms, the said order proscribes the gathering of more than 10 individuals, declaring such congregation to be unlawful assemblies, thereby rendering participants susceptible to penal consequences under the BNS, 2023.

Certain clauses of this Government Order, deserve atleast at the periphery, to be set forth. They stipulate, inter alia that:

“(a) Government property means and includes any land, building, structure, road, park, play ground, waterbody or any other immovable property owned and manged by local authority or department, Boards, croporation, under the control or vested in, entrusted with or maintained by the Government of Karnataka.

(d) "Procession or Rally" means congregation of more than 10 people called by any name, who are accompanied by music or otherwise, any other activity having a common object to carry on a common movement or route march passing through a Government property except marriage and funeral gatherings and movements.

II) "Violation of this Government Order"

If any person or persons, organisations, association or group of persons or any other person agency on their behalf, holds any programme or procession in Government properties in contravention of this Government Order, such programme or procession shall be considered as unlawful and assembly be treated as unlawful assembly as per the provisions of Bharatiya Nyaya Samhithe (BNS) 2023. The jurisdictional police officers shall take steps to prevent occurance of any congnozable offece as per the provisions of Bharatiya Nagarika Suraksha Samhita (BNSS) 2023 and in the event of any occurrence of offence then the jurisdictional police shall register a case either upon information of other person or suo-moto by invoking proper penal sections of Bharatiya Nyaya Samhithe (BNS)2023.”

Any contravention of the aforesaid clauses shall be deemed to be an unlawful assembly under BNS, 2023, thereby empowering jurisdictional police to prevent or prosecute cognizable offences. By virtue of the said order, the use of public roads, parks, playgrounds and all other Government-held properties by groups exceeding 10 in number, would be declared unlawful assemblies.

The learned senior counsel for the petitioner has drawn the Court’s attention to Section 31 of the Karnataka Police Act, which already occupies the field, regulating assemblies and processions, in particular, subsection (6) of section 31 prescribes the manner of regulation. Against this statutory backdrop, the Government Order trenches upon the rights enshrined in chapter III of the Constitution of India, specifically the freedoms under Article 19(1)(a) and (b).

It is trite that fundamental rights cannot be curtailed by executive orders. Article 13(2) of the Constitution holds a bar against such encroachment, that Chapter III of the Constitution can only be abridged by a law and not by an administrative order, or a Government Order.

Therefore, the impugned Government Order runs contrary to Article 13(2) and thereby, taking away the fundamental right under Article 19(1)(a) and (b). Allowing it to operate would prima facie mean to permit liberty granted to citizens under Articles 1((1)(a) and (b) to be taken away by an executive order.

In the light of the aforesaid reasons, the Government Order being in manifest violation of Article 13(2) of the Constitution of India, this Court deems it appropriate to stay the operation of the impugned Government Order, and all consequential proceedings that have emanated therefrom, till the next date of hearing.

List on 17.11.2025 at 02:30 p.m. for further hearing.

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