

KARNATAKA LOKAYUKTA

Compt/Lok/BGM/311/2018/ARLO-3

M.S. Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru, dated: 15/05/2021.

**REPORT UNDER SECTION 12(1) OF
KARNATAKA LOKAYUKTA ACT, 1984**

Sub: Proceedings initiated against (1) Sri S. Jiyaula, Deputy Commissioner, D.C. office, Belgaum District, Belgaum; (2) Sri R. Ramachandran, Chief Executive Officer, Zilla Panchayath, Belgaum District, Belgaum.; (3) Sri N.B. Patil, Tahasildar, Taluk Office, Hukkeri Taluk, Belgaum District; (4) Sri M.S. Biradar Patil, Executive Officer, Taluk Panchayath, Hukkeri Taluk, Belgaum District for redressal of grievance- reg.,

On the basis of a complaint filed by **Sri Basavanni Bharamappa Hanji**, Dadabanahatti Village, Hattaragi Post, Hukkeri Taluk, Belgaum District (hereinafter referred as '**complainant**' for short) alleging that (1) **Sri S. Jiyaula**, Deputy Commissioner, D.C. office, Belgaum District, Belgaum; (2) **Sri R. Ramachandran**, Chief Executive Officer, Zilla Panchayath, Belgaum District, Belgaum.; (3) **Sri N.B. Patil**, Tahasildar, Taluk Office, Hukkeri Taluk, Belgaum District; (4) **Sri M.S. Biradar Patil**, Executive Officer, Taluk Panchayath, Hukkeri



Taluk, Belgaum District (hereinafter referred to as '**Respondents**' for short) have failed to take action against unauthorised construction made on public property, an investigation was taken up under Section 9 of the Karnataka Lokayukta Act, 1984.

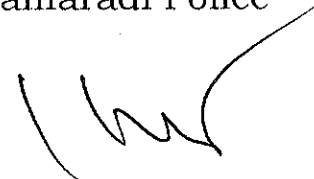
2. The grievance of the complainant in this complaint is that the land bearing Survey Number 251/A/1 measuring 3 gunta (50*80 feet) was granted in favour of **Sri Shanthakumar Shiddabasayya Haladevaramath** (hereinafter called as the '**beneficiary**' for short) by regularising his unauthorised occupation on it. On 18/06/2005 he was issued Hakku Patra on the issuance of notification by the Government. However, it is contended by the complainant that, the said beneficiary in collusion with the members and officials of the Hattaragi Grama Panchayat got the entries in the records modified to indicate that the total land allotted to him was 1 acre 21 gunta (250*280 feet) instead of (50*80 feet). Subsequently the land to a larger extent was mutated in his name.
3. It is further contended by the complainant that the error in the entries made in the records of the Grama Panchayat was brought to the notice of the respondents by the complainant through his representation dated 04/05/2017 and he requested the respondents to take action for resumption of land and also for initiating action against the wrongdoers. It is contended that the



respondents on receipt of the representation submitted by the complainant registered criminal case in Crime no. 155/2017 at Yankanamaradi Police Station. However, no action was initiated by them to resume the excess of land claimed and possessed by the beneficiary than the one which was allotted to him.

4. On perusal of the complaint averments and enclosed documents it was noticed that the complainant had submitted copies of the records relating to the grant of land and also the copies of the records relating to the criminal case referred to above. Therefore those records made out a prima facie case for investigation as such notices were issued to the respondents directing them to submit their comments on the complaint.

5. In response to the intimation issued by this authority the respondents have submitted their comments. The comments of all the respondents are identical in nature. The comments submitted by the Respondent No. 4 i.e., the Executive Officer of Taluka Panchayat, Hukkeri indicated that four public servants and the beneficiary were subjected to criminal prosecution in Crime No. 155/2017. Therefore in order to ascertain the status of investigation and the allegations involved in the criminal case, the Station House Officer of Yamakanamaradi Police



Station was informed to submit copy of the final report submitted before the jurisdictional Magistrate.

6. Accordingly the Station House Officer of Yamakanamaradi Police Station i.e., the Police Inspector had submitted copy of the final report in Crime no. 155/2017 with his letter dated 31/05/2019. The charge sheet and other records placed on the file indicated that the beneficiary and the public servants, who had allegedly assisted him in getting the extent of land modified in order to give him possession of land to a larger extent than what was actually granted to him, were subject to prosecution in the case mentioned above which was pending before The Hon'ble Judicial Magistrate First Class at Sankeshwar. However the details of the action taken by the local authority for resumption of land were not placed on record. Therefore the Executive Officer, Taluk Panchayat, Hukkeri and the Panchayat Development Officer, Hattaragi Grama Panchayat were informed to submit action taken report in that regard.

7. In response to the intimation issued by this authority both the Executive Officer and the Panchayat Development Officer had submitted reports dated 09/08/2019 stating that the land in possession of the beneficiary apart from the one granted to him i.e., to an extent of 3 gunta was a revenue land as such the

Tahasildar of Hukkeri Taluk was required to take action for resuming such land into the Government's possession. As such the Tahasildar was informed by this authority to submit action taken report with respect to the resumption of land from the beneficiary.

8. The Tahasildar, Hukkeri has submitted report dated 13/10/2020 enclosing report dated 05/08/2020. In those reports the Tahasildar had stated he had obtained a report from the Revenue Inspector of Yamakanamaradi Circle and from the Village Accountant of Hattargi village and that the criminal case initiated against the beneficiary and the public servants for alleged fabrication of public record and cheating was pending trial before the Hon'ble JMFC, Sankeshwar. It is reported that the beneficiary is in possession of land to an extent of 1 acre 20 gunta by constructing building on the said land. Therefore, it is evident from the said report that due to pendency of criminal case no action for resumption of excess land in possession of the beneficiary was taken.
9. I have carefully perused the entire material placed on record. Considering the above material it appears that the fact that the beneficiary was allotted 3 gunta of land in survey number 251/A/1 is not in dispute. It is also not in dispute that the beneficiary is in actual possession of land measuring 1 acre 21 gunta. The material on record indicates that the beneficiary has taken possession of

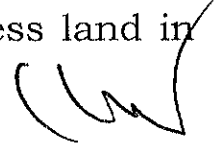
land to a larger extent by allegedly getting the records of Grama Panchayat modified in collusion with the public servants as such all of them are prosecuted for commission of offence as stated in the final report submitted in Crime no. 155/2017. Therefore it is evident that the beneficiary and the public servants who are allegedly responsible for fabrication of record are subject to criminal prosecution. The land in question is a revenue land. Therefore the Tahasildar, Hukkeri is competent to resume land to the Government's possession which is presently in the possession of the beneficiary. The material on record also indicates that so far the action for resumption of excess land which is in possession of the beneficiary which is more than the land granted to him is not initiated by the Tahasildar, Hukkeri.

10. It is relevant to point out that prosecution of the beneficiary and public servants who are allegedly involved in fabrication of records is different from initiating action for resumption of excess government land which is in possession of the beneficiary. As mentioned above, it is not in dispute that the actual extent of land granted to the beneficiary is 3 gunta and not 1 acre 21 gunta. Therefore the beneficiary is prima facie in possession of excess land than what was actually granted to him. The report of the Tahasildar, Hukkeri that the criminal case initiated against the beneficiary and public servants is pending before the jurisdictional Magistrate is not a



ground for refusing to initiate action for resumption of Government land.

11. It is needless to point out that conviction or acquittal in a criminal case is based on the proof of ingredients constituting an offence as defined in the penal provisions. But the action for resumption of land is required to be initiated based on the records which manifestly indicate that the beneficiary was entitled to only 3 guntas of land and not to a land measuring 1 acre 21 gunta. Therefore inaction on the part of public servants to resume government land into the possession of Government has resulted in grievance and injustice to the public at large. It is germane to note that a public property owned by the State belongs to all the members of the society as such every member of the public is entitled to enjoy the same and also request the public authorities to preserve and protect the same without letting it to be enjoyed exclusively by any person for his own advantage by depriving such public of its use and occupation.
12. As mentioned above the records in this case prima facie indicates that the beneficiary is in possession of 1 acre 21 gunta as against 3 guntas of land to which he is lawfully entitled to possess and enjoy. Therefore I am of the view that this is a fit case to make a recommendation in terms of section 12(1) of Karnataka Lokayukta Act recommending the Competent Authority to initiate action in accordance with law for resumption of excess land in

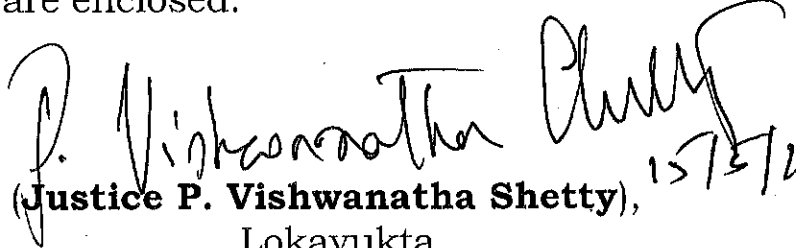


survey number 251/A/1 excluding 3 guntas of land lawfully granted in favour of the beneficiary.

13. Accordingly, now, acting under Section 12(1) of The Karnataka Lokayukta Act, 1984, recommendation is made to the Competent Authority to initiate action in accordance with law for resumption of excess land in survey number 251/A/1 of Hattaragai village, Hukkeri Taluk, Belagavi district excluding 3 guntas of land lawfully granted in favour of the beneficiary i.e., Sri Shanthakumar Shiddabasayya Haladevaramath.

14. Further, as per Section 12(2) of Karnataka Lokayukta Act, 1984, the Competent Authority shall intimate to this Authority within three months from the date of receipt of this report, as to the action taken or proposed to be taken on the basis of this report.

Connected records are enclosed.


(Justice P. Vishwanatha Shetty), 15/5/2021
Lokayukta,
State of Karnataka.