

**KARNATAKA LOKAYUKTA**

No.Compt/Lok/BGM/375/2016/ARE-6

M.S. Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru.

Date:06/03/2021.

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

Sub: Proceedings against 1) Sri.Ravindra Mallapura, Commissioner, CMC, Ranebennur Taluk, Haveri District, presently working as Managing Director, Davangere Smart City, Davangere, 2) Sri.M.R.Giraddi, Engineer, CMC, Ranebennur Taluk, Haveri District, 3) President, CMC, Administration Board, Ranebennur Taluk, Haveri District, 4) Sri.Karibhimannavar, Commissioner, Urban Development Authority, Shivamogga, 5) Smt. Ashwini B.M, Commissioner, CMC, Sirsi, Uttara Kannada District, presently working as Dy.SP, Department of Excise, Shivamogga Sub-Division, Shivamogga and 6) Dr.Mahanthesh N, Commissioner, CMC, Ranebennur, Haveri District (hereinafter referred to as **respondents no.1 to 6** respectively), about their misconduct as Public/Government servants – reg.

\* \* \* \*

On the complaint filed by Sri.J.M.Rajashekhar, R/o No.36, Near Mount View School, Hunasikatte Road, Ranebennur Taluk, Haveri District, (hereinafter referred to as **Complainant** for short) against respondents No.1 to 6



alleging that though the CMC, Ranebennur, had collected the developmental charges from him, it has failed to provide basic amenities such as road, drainage, street lights, etc., an investigation has been taken up u/Sec. 9 of the Karnataka Lokayukta Act.

2) In order to ascertain the true facts, by means of an order dated 21-11-2018, the matter was referred to the Dy.SP, Karnataka Lokayukta, Haveri, to conduct an investigation and submit a report. Accordingly, the Dy.SP, Karnataka Lokayukta, Haveri, has submitted the report along with the detailed investigation report dated 01-02-2019, submitted by the Police Inspector, Karnataka Lokayukta, Haveri.

3) The report of the Investigating Officer indicates that:-

- (i) Sri. Basavaraja Ningappa Kasavala, R/o Kurubageri Salageri Voni, Ranebennuru Taluk was the owner of the land bearing Sy.No.774/2, measuring 2 acres 35 guntas and he got the said land converted for non agricultural residential purpose as per the order dated 11-09-2002 passed by the Dy. Commissioner, Haveri District;
- (ii) the said owner has formed layout in the said land earmarking 47 sites which includes 45 sites for residential purpose, one site for park and another one site for civic amenities and also left the road spaces;
- (iii) he got the layout plan dated 03-10-2002 approved by the Planning Authority and as per the conversion order



and the Town and Country Planning Act and also the condition imposed by the Planning Authority, the owner was required to develop the road, parks, civic amenities area and execute a relinquishment deed in favour of the Government on free of cost and thereafter, he was required to get the khatas transferred into his name, in respect of the sites formed in the layout and was required to sell the sites. However, instead of doing so, the owner has sold first site in favour of the complainant and subsequently, several other sites in favour of others;

(iv) Thereafter, on 31.01.2011 the complainant had approached the CMC, Ranebennuru and paid the developmental charges and got the khatas transferred to his name;

(v) Respondent no.4 Sri.M.M.Karibheemannavar, the then Commissioner, had issued khatas in favour of 7 purchasers after collecting the developmental charges.

(vi) Respondent No.5 Smt.Ashwini B.M, who was working as Commissioner from 23-11-2013 to 10-7-2014 had also issued khatas in favour of 19 persons after collecting the developmental charges and respondent no.1 Sri. Ravindra B. Mallapura, the subsequent Commissioner, during the period from 30-7-2013 to 13-1-2016, had collected developmental charges from other 9 owners and issued khatas. Thereafter, respondent no.6 Dr.Mahanthasha N, assumed the office of Commissioner, CMC and issued

khatas in favour 2 persons after collecting the developmental charges from them.

(vii) Though the above said Commissioners, had the knowledge of the fact that the layout was not handed over to the CMC in terms of the conversion order and the approved layout plan, they have collected developmental charges from the site owners and issued khatas. However, they have not taken proper steps to provide the basic infrastructure and thereby committed dereliction of their official duty and it also amounts to maladministration within the meaning of Sec. 2(10) of the Karnataka Lokayukta Act.

(viii) The respondents No.1, 4, 5 and 6 have failed to take proper action against the owner of the layout Sri.Basavaraj Ningappa Kasavala for not developing the layout in terms of the conversion order and executing the registered sale deeds without getting the khatas transferred from the CMC.

(ix) Though the respondents have collected developmental charges from the individual purchasers of the sites and made the khatas, they did not take effective steps to provide the basic infrastructure.

4) Based on the investigation report received from the Karnataka Lokayukta Police, Haveri District, the respondents 4 to 6 were impleaded and their comments



were called for. Accordingly, the respondents 4 to 6 have submitted their reply.

5) The respondent No.4 in his reply had admitted about the conversion of the land in question. It is stated that, the land owner, without developing the layout and without bringing to the notice of the CMC sold the sites in favour of several persons including the complainant; on 10-12-2008 a resolution was passed in the general body meeting of the CMC, to collect Rs.248/- per Sq.mtr as developmental charge in respect of the layouts which were not developed, before the commencement of the Government Circular dtd:31-5-2005; since, the owner of the land had already executed the registered sale deeds in favour of the purchasers, it was not possible to collect the developmental charges from the owner, the CMC had decided to collect the developmental charges from the individual purchasers and accordingly, collected the developmental charges; on 21-6-2012, the complainant had approached the CMC and sought permission to construct a building and in that regard a technical report dtd:19-7-2012 was obtained from the Town Planning Authority, Ranebennur and thereafter, a permission was given to construct a building and after completion of the building, occupancy certificate dtd:19-7-2013 was issued to him; he has not at all committed any dereliction of official duty and the decision was taken to collect the developmental charges in the better interest of the



purchasers and as per the resolution; an action plan for a sum of Rs.1.00 lakh was prepared for asphaltting the Hunasikatte Road, but, while implementing the work the expenditure was incurred to the extent of Rs.1,49,950/- and accordingly, bill was paid as per the resolution dtd:14-7-2010.

6) The respondent No.5 in her comments has taken similar and identical stand and further contended that on 02.09.2013, she took charge as Commissioner by that time developmental charges were already collected from the individual purchasers and she worked as Commissioner, till 18-7-2014 i.e. for a period of 10 months, thereafter, she was selected as Dy. Commissioner of Excise and joined to the service in the Excise Department.

7) The respondent No.6, who is the present Commissioner of CMC, Ranebennur in his comments dated 25.07.2019 has stated that the owner of layout in question after getting the approval from the Urban Development Authority and making payment of developmental charges to the CMC, he was required to register the khathas in respect of the sites formed in the layout in the office of CMC. But, he did not do so. Since, he did not complied the requirement of law, a show-cause notice dated 16.01.2003 was issued to the owner of the layout in question calling upon his explanation as to why an action should not be initiated against him and even after issuance of the show



cause notice dated 16.01.2003, the owner of layout in question had sold the sites in favour of the purchasers without giving reply to the show cause notice and developing the layout in question. Further, it is stated that since several owners of the private layouts have sold the sites directly to the purchasers without registering the khathas in the office of CMC and without developing the layouts, on the basis of the requests of the public and in order to protect the interest of publics who have purchased the sites from such defaulting owners of the layouts, a resolution was passed in the meeting held by the council of CMC to issue khathas in favour of such purchasers after collecting developmental charges except providing electricity supply. According to the respondent no.6, the owners of such sites are required to get the power supply from the HESCOM. Further, it is stated that the owner of layout in question by means of his letter dated 21.12.2014 has informed the CMC that there was an oral understanding between him and the purchasers to the effect that the purchasers of the sites have to get the power supply at their own cost; subsequently, on 05.09.2017 another notice was issued to the owner of the layout in question to provide permanent electricity supply to the layout in question. However, he has not taken any steps for complying with the said notice. According to him there was lapse on the part of the complainant and others, while purchasing the non-developed sites. It is stated that out of



the developmental charges collected from the owners of individual site purchasers, they are taking steps to develop the layout in question stage-by-stage and the owners of the sites are getting the electricity supply from the HESCOM department at their own cost. Further, it is stated that the owners of other sites formed in the layout in question have not paid the developmental charges and developmental charges are being collected at the time of granting the building licence & sanctioned plan. When the CMC tried to provide electricity connection to the house of the complainant, he had prevented the authorities claiming that, the entire necessary infrastructure has to be provided; in public interest, a work order dated 15-3-2017 was issued to the contractor to provide street light facility to the layout. However, the complainant did not co-operate with them.

8) The materials collected during the course of investigation indicates that Sri. Basavaraja Ningappa Kasavala, resident of Kurubageri Salageri Oni, Ranebennur taluk was the owner of land bearing Sy.No. 774/2 measuring 2 Acres 35 guntas situated at Ranebennur, he got the said land converted for non agricultural residential purpose as per the order of the Deputy Commissioner, Haveri District dated 11.09.2002. Subsequently, the owner of the said land formed a layout earmarking 47 sites, in which 45 sites for residential purpose, 1 site for park and





another 1 site for civic amenities and also left road spaces. He also got the layout plan approved from the Urban Development Authority, Ranebennur by means of its order dated 29.10.2002.

9) It is relevant to point out that in terms of the conversion order and the approval order granted by the Urban Development Authority, the owner of the layout in question was required to develop the roads, parks, civic amenity areas and execute a relinquishment deed in favour of the Government on free of cost and thereafter, he was require to get the khathas transferred into his name in respect of the sites formed in the layout and was required to sell the sites. However, the materials collected during the course of investigation indicates that the owner of layout in question had sold the sites in favour of the complainant and others without developing the roads, park and civic amenities area and without executing the relinquishment deed in respect of the public spaces and without getting the kahtahs transferred into his name.

10) It is relevant to point out that on 16.01.2003, the Commissioner, CMC, Ranebennur had issued a notice to the owner of the layout in question to develop the layout strictly in terms of the conversion order and the approved layout plan issued by the concerned authority and if there are any violation, it will be brought to the notice of Deputy Commissioner to cancel the order of conversion. It is the



case of respondents that in spite of issuing such notice to the owner, without bringing to the notice of CMC and without developing the layout in question in accordance with the terms specified in the conversion order and without registering the khathas in the office of CMC, the owner of layout in question had sold the sites in favour of purchasers. This fact has also not been disputed by the complainant. However, it is the case of the complainant that though the authorities of CMC have collected the developmental Charges from him, they are not providing basic infrastructure to the layout in question. According to the respondents on 10.12.2008, a resolution was passed in the General Body Meeting of CMC to collect Rs.248/- per Sq.mtr as developmental charges in respect of the lands which were not developed before the commencement of the Government Circular dated 31.05.2005 and since the owner of the land had already executed the registered sale deed in favour of the purchasers, it was not possible for them to collect the developmental charges from the owner, the CMC has decided to collect the developmental charges from the individual purchasers. Accordingly, the developmental charges were collected from the complainant.

11) It is necessary to point out that on 03.12.2014, the Commissioner, CMC, Ranebennur has issued a second show cause notice to the owner of the layout in question



stating that he has completely violated the terms specified in the conversion order and in order to protect the interest of the purchasers of the sites developmental charges have been collected from the purchasers of the sites for the purpose of developing road, drainage, water supply etc., except the supply of electricity. However, the purchasers of sites are demanding them to provide electricity supply. Therefore, he was called upon to take steps for providing electric supply to the layout in question and in the event of failure, the sites which are standing in the name of owner of the layout in question will be got transferred to the name of CMC and those sites will be sold and out of the sale proceeds which would be received will be spent towards providing supply of electricity to the layout in question. On receipt of the said notice, the owner of the layout in question by means of his reply dated 20.12.2014 had informed the Commissioner, CMC, Ranebennur that there was an oral agreement between him and the purchasers of the sites formed in the layout in question to the effect that they have to get the electric supply individually after making the requisite payment to the concerned department.

12) Further, the material on record indicates that on 05.09.2017, the Commissioner, CMC, Ranebennur had issued third show cause notice to the owner of the land in question calling upon him to provide electricity to the layout in question and in the event of failure on his part in



providing the electricity supply to the layout in question, they will take steps for getting the transfer of the sites standing in the name of owner into the name of CMC and the same will be sold and out of the sale proceeds which would be received will be utilized for providing electricity supply to the layout in question. There is no material on record to indicate that whether the owner of the layout in question had complied with the said notice or not and if he has not complied with the notice, what steps the CMC has taken to sell the sites standing in the name of the owner of the layout in question for providing electric supply to the layout in question as indicated in the third show cause notice referred to above.

13) The material on record indicates that though the respondents were not under obligation to collect the developmental charges and issue khathas in favour of the purchasers of the site formed in the layout in question, in order to protect the interest of the purchasers, the respondents appear to have collected the developmental charges and issued khathas in favour of the individual purchasers. It is not the case of complainant that all the purchasers of the sites formed in the layout in question have paid the developmental charges to the CMC, Ranebennur. It is the case of respondent no.6 that they are developing the layout in question stage-by-stage by collecting the developmental charges from the owners of the site and the owners of the sites are paying the



developmental charges only at the time of constructing the house. It is also on record that, road work has been taken up by CMC in some portion of the layout in question and a work order dated 15.03.2017 was issued to the contractor to provide street light facilities to the layout. Under these circumstances, the respondents cannot be found fault with, as they have taken steps to protect the interest of the purchasers of the sites. However, though they have issued show cause notices to the owner of the layout in question, the owner has not taken steps for providing electricity supply to the layout in question.

14) Further, it is relevant to point out that as observed earlier, a resolution was passed by the CMC to collect the developmental charges from the purchasers of the sites and to issue khathas and that resolution has been implemented by the Commissioners of CMC, Ranebennur by collecting the developmental charges from 37 site owners. Therefore, it is the duty and responsibility of the CMC, Ranebennuru, to take steps for providing basic infrastructure including the supply of electricity to the layout in question as the main grievance of the complainant is that CMC is not providing the electricity supply to the lay out in question.

15) The material on record indicates that out of 45 residential sites formed in the layout in question, 37 sites have been sold by the owner of the layout and 7 sites are



still with the owner of the layout. The Commissioner, CMC, Ranebennur had issued show cause notices referred to above calling upon the owner of the layout in question for taking steps to provide electricity supply to the layout in question to relieve the hardship that is being faced by the purchasers of the sites and in the event of failure, they will be taking steps for getting the transfer of sites standing on the name of the owner of the layout to the name of CMC and put them in public auction and the sale proceeds which would be received will be utilized for providing electricity supply to the layout in question. Though, the owner of the layout in question had responded to the second show cause notice issued by the Commissioner, CMC, Ranebennur stating that there was an oral agreement between him and the purchaser to the effect that the purchasers are required to get the electricity supply from the concerned department, his reply cannot be accepted as he has violated the conditions specified in the conversion order as well as the terms specified in the approved plan issued by the Ranebennur Urban Development Authority. It is relevant to point out that under section 34 of the Karnataka Urban Development Act 1987, the concerned Urban Development Authority is also having power to issue notice to the owner of the layout who has failed to carry out the developmental works in terms of the permission granted by it and if such owner fails to comply with the notice, the Urban Development Authority



can execute such developmental works and the cost incurred towards the same could be recovered from the owner as arrears of land revenue.

16) In this connection it is useful to extract section **34 of the Karnataka Urban Development Act 1987**, which reads as hereunder:-

**34. Power of Authority to order work to be carried out or to carry it out itself in default.**- (1) The Authority may,- (a) if any person who applies for permission under section 32 and is permitted expressly by it to carry out himself the work relating to the forming of the extension or layout or the making of a street, does not so carry it out; or (b) if any private street or part thereof is not levelled, paved, metalled, flagged, channelled, sewerred, drained, conserved or lighted to the satisfaction of the Authority, by notice, require the person forming the extension or layout or the owners of such street or part and the owners of buildings and lands fronting or abutting on such street or part, including in cases where the owners of the land and the buildings thereon are different, the owners both of the land and of the building, to carry out any work which in its opinion, may be necessary and within such time as may be specified in such notice.

(2) If any such work is not carried out within the time specified in the notice under sub-section (1), the Authority may, if it thinks fit, execute itself or cause it to be executed and the expenses incurred shall be paid by the persons or owners referred to in subsection (1) in such proportions as may be determined by the Authority. Such expenses may be recovered from the person concerned as if they were arrears of land revenue.

17) In this case the concerned urban development Authority has not taken such steps. However, the CMC, Ranebeenur is required to take steps against the owner of the layout in question as indicated in the show cause



notices issued by it, so as to relieve the hardship that is being faced by the purchasers of the sites formed in the layout in question. It is needless to point out that under **Section 165 of Karnataka Municipality Act, 1964** the CMC is also empowered to issue notice to the person who is liable to pay the betterment fee. Therefore, the CMC can take steps to issue notice to the owner of the layout calling upon him to make payment of betterment fee for the purpose of developing the layout and if the owner fails to pay the same, it can be recovered from him as land revenue as required under **section 167 of the said Act**.

18) In the light of what is stated above and based on the materials collected during the course of investigation, I am satisfied that failure on the part of CMC, Ranebennur in not taking effective steps for providing the basic infrastructure/amenities including the supply of electricity to the layout in question has resulted injustice/hardship to the complainant and other 36 purchasers of the sites formed in the layout in question. Therefore, in order to redress the grievance of the complainant and others, the following recommendations u/Sec. 12(1) of the Karnataka Lokayukta Act is required to be made to the Competent Authority:-

- (i) The Commissioner, CMC, Ranebennur is directed to take action/steps against the owner of the layout in question as indicated in the third show






cause notice dated 05.09.2017 issued to the owner of the layout in question as he has failed to provide the electricity supply to the layout in question, which was required to be provided by him in terms stipulated in the conversion order.

(ii) Since, the CMC has collected the developmental charges from the owners of 37 sites out of 45 residential sites formed in the layout in question, the Commissioner, CMC, Ranbennur is required to take immediate steps for providing basic infrastructure including the supply of electricity to the layout in question.


(iii) The Commissioner, CMC, Ranebennur is directed to take steps for issuing notice under Section 165 of Karnataka Municipalities Act, 1964 against the owner of the layout in question calling upon him to make the payment of betterment fee for the purpose of developing the layout as he has failed to develop the layout, the terms of the conversion order and the permission granted by the Urban Development Authority. If he makes payment, the CMC to utilize the same for development of the layout and in case he fails to make payment of betterment fees, the CMC to develop the layout and the cost incurred towards development may be recovered from the owner as arrears of land revenue.



(iv) The Principal Secretary to Government, Urban Development Department is directed to issue suitable directions to all the CMCs/TMCs/TPs to strictly follow the guidelines issued by the Urban Development Department in its circular dated 03.12.2012 while effecting the khatas in respect of the sites formed in the private layouts.

19) Further, as per U/s 12(2) of Karnataka Lokayukta Act, 1984, the Competent Authority is required to **intimate this Authority as early as possible but latest within one month from the date of receipt of this report, the action taken or proposed to be taken on this report with regard to providing the basic amenities to the layout.**

Connected records are enclosed.

  
(Justice P. Vishwanatha Shetty) 6/3/2021  
Lokayukta, State of Karnataka,  
Bengaluru.