

**KARNATAKA LOKAYUKTA**

No:COMPT/LOK/BGM/710/2017/ARLO-3

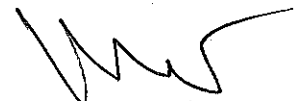
M.S. Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru, Dtd:31/05/2021

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

Sub: Proceedings initiated against, 1) Principal Secretary to Government, Water Resources Department, Government of Karnataka, Bengaluru, 2) Principal Secretary to Government, Government of Karnataka, Environment Department, Bengaluru, 3) Deputy Commissioner, D.C. Office, Belgaum District, Belgaum, 4) Tahasildar, Taluk Office, Ramadurga Taluk, Ramadurga, Belgaum District And 5) Executive Engineer, Malaprabha Left Bank Canal, Division-1, Ramadurga, Belgaum District for redressal of grievance of the complainant - Reg.,

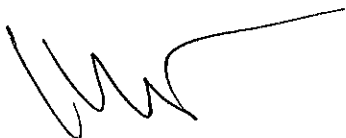
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An investigation was taken up under Section 9 of The Karnataka Lokayukta Act, 1984, (K.L.Act for short) on the basis of complaint filed by Dr. Poornima Ashok Gouroji, Social Worker, Ningapura Peta, Ramadurga District, Belgaum. Presently R/at C15-1182, Ramangar 1st Main Road, Dharwad District (hereinafter referred to as '**complainant**' for short) against 1) Principal Secretary to Government, Water Resources Department, Government of Karnataka, Bengaluru, 2) Principal




Secretary to Government, Government of Karnataka, Environment Department, Bengaluru, 3) Deputy Commissioner, D.C. Office, Belgaum District, Belgaum, 4) Tahasildar, Taluk Office, Ramadurga Taluk, Ramadurga, Belgaum District And 5) Executive Engineer, Malaprabha Left Bank Canal, Division-1, Ramadurga, Belgaum District (hereinafter referred to as **'respondent Nos. 1 to 5'** for short).

2. It is the grievance of the complainant that she had filed Writ Petition bearing W.P.No.13606/2003 before the Hon'ble High Court of Karnataka seeking directions to the respondents to protect Malaprabha river and its environment by removing the encroachment on the river bed and to take proper and effective steps to supply pure drinking water to the people of Ramdurga and surrounding villages. In the said case the respondents had contended that alternative arrangements were made for supply of drinking water to the residents of Ramdurga and surrounding villages and instructions have been given to the Tahasildar by Deputy Commissioner, Belagavi to survey the lake area and remove encroachments in accordance with law.
3. It is stated by the complainant that, considering the statement made by the respondents, the Hon'ble High Court of Karnataka dismissed the writ petition by observing that the Government will see that Ramdurga and surrounding villages of Belagavi District will get



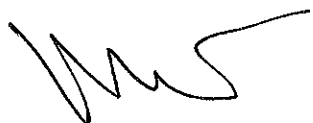
sufficient drinking water and also to take action against the encroachers in accordance with law. However, inspite of such observations the respondents have not taken any action to comply the observations made in the said order. Hence, she has prayed for action for redressal of her grievances and also the grievances of the public.

4. On the complaint, comments were called from the respondents and the same are placed on record. In the comments of respondent no.3 i.e., Deputy Commissioner, Belagavi it is contended that pursuant to the submissions made before the Hon'ble High Court of Karnataka several developmental actions have been taken and the sewage water which was let in the Malaprabha River was noticed and a sample of the said water was collected on 21/06/2016. On securing the water analysis report show cause notice was issued to the Chief Officer, TMC, Ramadurga and he was also informed to install water treatment plant for treatment of water.
5. It is further stated that a criminal case bearing C.C.No. 258/2005 was registered at the court of Hon'ble JMFC, Ramdurga under Water Act and the Chief Officer of TMC was imposed fine of Rs. 5,000/- for violating the provisions of said Act. It is further stated that underground drainage work at Ramdurga is in progress and it has been constructed for 22 kilometers. Work



relating to construction of UGD for 2 kilometers is pending for completion. One well has been constructed whereas the construction of another well is in progress.

6. It is further reported that the Karnataka Water Supply and Sewage Board had informed the respondent no.3 that, a proposal for construction of water treatment plant with revised estimate at a cost of Rs. 19.00 Crores has been submitted to the Government. On securing its approval further action would be taken. Therefore, it is stated that compliance of the submissions made before the Hon'ble High Court of Karnataka is monitored on regular basis by issuing suitable instructions to the Chief Engineer, KNNL (Malaprabha scheme), Dharwad as well as the Regional Officer, KSPCB, Belagavi and Executive Engineer, Rural Drinking Water Supply, PRED, Belagavi.
7. Considering the statements of respondent no.3 it was noticed that the execution of several works for redressal of grievance of public at large with regard to supply of drinking water to Ramdurga were under progress. Therefore, the Deputy Commissioner, Belagavi was informed to submit present status of the works mentioned in his comments dated 20/01/2018.
8. The Deputy Commissioner, Belagavi in response to the said intimation had submitted report dated 29/06/2019 stating that the action with respect to supply of drinking water facility to the rural area as observed in the order



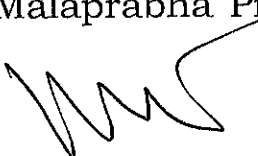
of Hon'ble High Court of Karnataka in W.P.No.13606/2003 has been provided. To this effect report dated 20/05/2019 has been received from the Executive Engineer, Rural Drinking Water and Sanitation, Belagavi and another report dated 09/05/2019 to the same effect was secured by him which were forwarded to this authority.

9. Apart from this, the report dated 15/05/2019 submitted by Executive Engineer, Karnataka Urban Water Supply and Drainage Board, Division, Belagavi were also furnished. The report dated 14/05/2019 submitted by the Regional Officer, Karnataka State Pollution Control Board, Belagavi with respect to the actions taken by him for redressal of the grievance of the public was also placed on record.
10. The complainant had submitted letter dated 05/08/2019 reiterating the grievances made in the complaint with respect to substandard quality of work executed at 7 km of Malaprabha river by respondent no.5. The complainant had requested for action against the respondents so as to improve the quality of work for redressal of grievance of public at large.
11. Considering the contents of the report and the contents of the letter dated 05/08/2019 submitted by the complainant it was noticed that the grievance of the complainant with respect to supply of drinking water to the rural areas was substantially redressed. However,



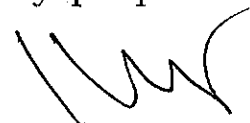
the complainant had alleged that the works undertaken at Malaprabha river to an extent of 7 km is of substandard quality. In order to effectively investigate the said aspect and also to redress the grievance of the public, it was opined that it would be proper to inform the complainant and respondent no.5 to personally appear before this authority so as to investigate further.

12. In response to the said intimation both the parties named above had appeared and a report dtd.29/06/2019 was filed during hearing on 26/09/2019. The said report indicated that, the grievance of the complainant with regard to the supply of quality drinking water has been redressed. This position was admitted by the complainant also. However, it was the submission of the complainant that her grievance with regard to the removal of encroachment throughout the Malaprabha river and maintenance of quality of the water in the river has not yet been redressed. Respondent no.5 was directed to give a copy of the photographs to the complainant which were submitted during hearing. It was also pointed out by the complainant and her husband that drainage water throughout the river bank is connected to the river which results in pollution of the river water. This is a matter which requires examination by the concerned authorities of the State. Sri. Ashok Gouroji pointed out that it is the responsibility of the Chief Engineer, Malaprabha Project Zone, Dharward. In the light of the



said submission, it was found desirable to hear the Chief Engineer, Karnataka Neeravari Nigama Niyamitha, Malaprabha Project Zone, KCD Collage Road, Dharward-1, as such notice was ordered to him. He was directed to go through the grievance made by the complainant in the complaint and also the objections filed by the respondents and the rejoinder filed by the complainant and submit his report with regard to the steps already taken and required to be taken to prevent the discharge of pollutant substance to Malaprabha River and maintain the quality of the water in it and also to remove the encroachment on the banks of the Malaprabha River.

13. It was pointed out by the complainant that there has been illegal extraction of sand from Malaprabha River. It is needless to point out that respondent no.3 who is the Chairman of the District Sand Monitoring Committee and the Deputy Director-cum-Senior Geologist of the Mines and Geology Department are required to take effective steps to prevent illegal extraction of sand. As such they were directed to conduct an enquiry and submit a report with regard to the illegal removal of sand.
14. It was also submitted that on account of floods, huge amount of sand had fallen on the river bed and though the same is required to be protected by the officials of the State on account of their inaction many people are



committing theft of the sand both during day time and night. This is a matter which requires to be examined by the respondents with some urgency.

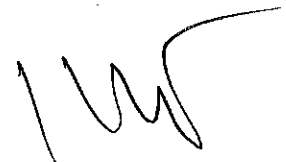
15. All the respondents were directed to examine the issues raised by the complainant and submit their status report. They were given 12 weeks time to examine the issue raised and submit the status report.
16. The complainant was given liberty to file additional statement, if any, and also to give appropriate representation to the authorities, if need be, in public interest.
17. Subsequently the complainant through her Advocate had submitted additional statement dtd.30/12/2019. In the said additional statement, it was prayed that the Chief Secretary to Karnataka State Government shall in consultation with Chief Minister may be recommended to form a committee called "Malaprabha Nadi Parisara Samrakshana Samithi" under the chairmanship of Chief Secretary with the following officers as members of the said committee and shall formulate an action plan. The members suggested are as follows:

- a. Chief Secretary to Karnataka State Government, Revenue Department, Bengaluru.



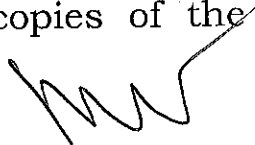


- b. Commissioner/Chief Secretary of the Department of Survey Settlement and Land Records.
  - c. Chief Secretary, Irrigation Department.
  - d. Chief Secretary, Public Works Department.
  - e. Chief Secretary, Forest Department.
  - f. Chief Secretary, Mines and Geology Department.
  - g. Inspector General of Police, North Zone, Belagavi.
  - h. Regional Commissioner, Belagavi.
18. Further it was prayed in the above statement that the said Regional Commissioner, Belagavi shall work as a Member Secretary and the Chief Engineer Malaprabha, Dharwad was requested to be nominated as a Nodal Officer. The complainant had requested for constitution of above committee with a view to supervise the actions taken by the officers of all the Departments named above for removal of encroachment on river area and to develop the river area in coordination with each other.
19. In order to ascertain further actions taken in the matter, the Regional Commissioner, Belagavi as well as the D.C., Belagavi were informed to submit further action taken



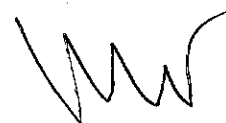
report. Accordingly they had submitted reports dated 16/07/2020 and 15/07/2020 respectively.

20. The report of D.C. Belagavi indicated that the persons who were found illegally extracting sand have been proceeded against and penalty amount have been recovered from them. Therefore it was stated that action as required under law has been taken.
21. The report of Regional Commissioner indicated that he had secured reports from D.C. Of Belagavi, Bagalkote and Gadag with respect to actions taken in their respective districts with respect to ascertainment and removal of encroachments made in the area of Malaprabha river. He had stated that the jurisdictional Tahsildars of the Taluk concerned in the said three districts have commenced actions for removal of such encroachments and that the D. C., Gadag as well as DDLR, Bagalkote have sought time of one month and one week respectively to submit detailed action taken reports.
22. The report further indicated that during the course of allotment of survey work to the surveyor there has been some technical problem in Bagalkote district and correspondence with the Commissioner for SSLR, Bengaluru has been made to set right the said technical defect. Therefore, it was reported that the action for ascertaining the river area at the spot is in progress. The copies of the said reports forwarded to the Regional

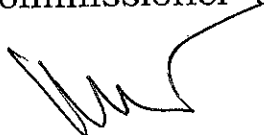


Commissioner by the D.C., and DDLR as mentioned above were enclosed as copies to said report and placed on record.

23. Considering the contents of the reports mentioned above, since the action with respect to the ascertainment of river area and encroachment, if any, on it by the Tahasildars and officials of Survey Department were in progress, it was thought to be desirable to await further action taken reports from all the said officers so as to ascertain the progress made in respect of redressal of the grievance of the public at large. Meanwhile it was considered proper to forward the reports mentioned above to the complainant with intimation for her to submit her rejoinder/statement on it.
24. Thereafter the DDLR, Bagalkote had submitted report dtd.31/12/2020 stating that out of 34 villages survey work relating to 24 villages were completed and the work of surveying 10 villages was required to be completed.
25. The District Commissioner, Belagavi had submitted report dtd.16/12/2020 stating that he had secured report dtd.11/12/2020 from the Tahasildar, Ramdurga which indicated that the encroachment made on the area of Malaprabha river has been naturally removed due to the floods that had occurred in the month of August 2019. He has also made reference to the report submitted earlier to state that the details of the action taken by his office were reported therein.

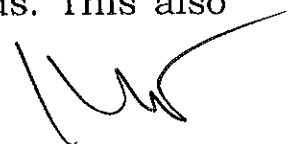


26. The District Commissioner, Belagavi had submitted another report dtd.02/01/2021 referring to the earlier report dtd.16/12/2020 stating that the grievance of the complainant with respect to removal of encroachment and curbing illegal transportation of sand has been redressed as such the action required to be taken from his office is already taken.
27. The Tahsildar, Ramdurga had submitted report dtd.11/12/2020 reiterating the contents as submitted by the District Commissioner, Belagavi in the reports mentioned above.
28. The District Commissioner, Gadag had submitted report dtd.11/12/2020 stating that the ADLR, Gadag; AC, Gadag and Tahsildar, Rona had been instructed to supervise the execution of works in question relating to ascertainment of encroachment by conducting survey and to submit compliance report. Accordingly a reference was made to the report dtd.04/03/2020 submitted by ADLR, Gadag with respect to the actions taken by his office.
29. Considering nature of reports as mentioned above it appears that the action with respect to survey of land, ascertainment of encroachment made on the river area, its removal, development and protection of lake area for free flow of water, are being carried by various officers of the State at various cadres right from the Regional Commissioner at the top till the ADLR in the Survey



Department as well as the Village Accountants and Revenue Inspector in Revenue Department at the lower strata of administration.

30. Since the area in question relating to protection and preservation of Malaprabha river is wide and it comprises of area flowing within the limits of Belagavi, Bagalkote and Gadag Districts, the officials of the three districts as named above are required to work in coordination with each other so as to redress the grievance of the residents of the villages, the farmers cultivating the agricultural lands and cattle and other animals who are dependent on the water flowing in Malaprabha river.
31. It is needless to point out that the flow of any polluted substance in a river would seriously affect the health of members of the public who use the water and also the animals and birds who may use the water which results in violation of Right to Life and Liberty guaranteed to the citizens of this country under Article 21 of the Constitution of India. It is unnecessary to emphasize the duties of the concerned authorities to maintain quality of the water in the river.
32. It is relevant to point out that preservation and protection of river area is not only aimed at facilitating supply of water to various villagers and other areas but also to curb the menace of floods resulting in the destruction of villages and agricultural lands. This also



reduces the effect of draught and famine. In the light of what is stated above since various actions are being taken by various Government servants, it would be proper to make a recommendation to the Competent Authority in terms of Sec. 12(1) of Karnataka Lokayukta Act to take action to survey the area covered under Malaprabha river and to remove encroachments, if any, on such area and to preserve, protect as well as develop the river area so as to redress the grievance of public at large. The Competent Authority may also examine feasibility of constituting a committee to oversee the actions taken for redressal of grievances and also to bring in coordination between various departments in that regard.

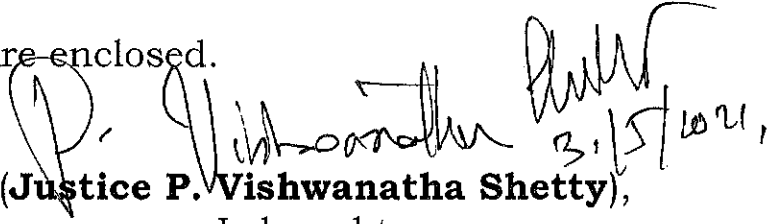
33. In the light of discussion made above, it is necessary to make recommendation under Section 12(1) of the Karnataka Lokayukta Act, 1984 recommending the Competent Authority to take the following actions in accordance with law for redressal of grievance of the public at large:

- a. To conduct survey of the actual river area of Malaprabha river and to remove encroachments, if any, on the river area as per law.
- b. To prohibit sand mining in Malaprabha river area except on the permit issued in accordance with law.



- c. To take all steps in effectively prosecuting the persons found to be involved in such mining activity without proper permit as per law.
  - d. To develop and protect the Malaprabha river area by prohibiting flow of sewage into its water. Steps may also be taken to install sewage treatment plants in such area as may be found necessary.
  - e. To take such other steps for effective utilization of the water flowing in Malaprabha river so as to avoid floods and also to reserve water during the time of famine/draught that may be found desirable for redressal of grievance of public.
34. Further, as per Section 12(2) of Karnataka Lokayukta Act, 1984, the Competent Authority is required to intimate this Authority within three months from the date of receipt of this report, the action taken or proposed to be taken on this report.

Connected records are enclosed.

  
(Justice P. Vishwanatha Shetty),  
Lokayukta,  
State of Karnataka.