

KARNATAKA LOKAYUKTA

No. Compt/Uplok/BCD-1485/2016/ARLO-1

M.S. Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru, dated 27/02/2020.

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

Sub: Report u/s 12(1) of the Karnataka Lokayukta Act, 1984 to remedy the injustice and hardship being caused to the public at large by taking proper and effective action to rejuvenate and maintain the Banaswadi lake by taking effective steps to remove the garbage, debris and solid waste from the lake and to stop pollution and the dumping of such material into the lake. Further to provide proper fencing to the lake so as to prevent the stray animals taking shelter near the lake and also to stop the discharge of sewage water into the lake - reg.

An investigation was taken up under Section 9 of the Karnataka Lokayukta Act, 1984, on the basis of complaint filed by Sri. Prakash Babu, B.R, S/o Late B.N. Krishnappa, No. B-28, B Block, Jayanthi Apartment, 13th cross, 4th main, Malleshwaram, Bengaluru (hereinafter referred to as 'Complainant' for short) against Dr. B.R. Harish, Tahsildar, Bengaluru East, Taluk Office, K.R. Puram Taluk, Bengaluru (hereinafter referred to as 'Respondent' for short).

2. The substance of the complaint is that the Tahsildar, Bengaluru East is the custodian of Banaswadi Lake. The lake is filled with garbage, debris and solid waste.

N. Harish

The dumping of waste materials is still going on. There are frequent instances of fire catching the debris. In addition to it, flow of sewage water into the lake has aggravated the health hazards. People are suffering from various communicable diseases like dengue, chikungunya, malaria etc. Street dogs and pigs have taken shelter in the lake area. Illegal activities are also rampant in the lake area. There is absolute necessity to remove all the debris and solid waste which is dumped in the lake area and also to fence the lake with chain-linked fencing to protect the lake.

3. The Chairman of Karnataka Pollution Control Board has passed an order dated 29/04/2016 under section 33-A of the Water (Prevention and Control of Pollution) Act, 1974 directing the Tahsildar, Bengaluru East to remove the garbage and solid waste from the lake area and to send action plan on rejuvenation of Banaswadi Lake and to maintain water quality of the lake by preventing entry of sewage and to install C.C. TV Cameras in suitable locations of Lake Boundary. Also Additional Commissioner, Bengaluru Urban District vide letter dated 18/03/2016 has also directed the Tahsildar to see that fencing is done to the required height through Nirmithi Kendra by conducting spot inspection to prevent encroachment of the lake area and dumping of garbage. In spite of it, the respondent-Tahsildar has not taken any action. Hence the complainant has requested to take action against the respondent.

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4. A report was called for from the Dy. Commissioner, Bengaluru Urban District. The Additional Dy. Commissioner, Bengaluru Urban has submitted copy of the letters dated 27/07/2016, 23/09/2016 addressed to the Tahsildar, Bengaluru East to take appropriate action and to submit report. The Additional Dy. Commissioner vide letter dated 21/11/2016 has also directed the Assistant Commissioner, Bengaluru North Sub Division to take appropriate action against the Tahsildar, Bengaluru East for his failure to submit the report. Similar letter dated 20/02/2017 is also addressed by the Dy. Commissioner to the Assistant Commissioner, Bengaluru North Sub Division directing him to submit a proposal against the Tahsildar, Bengaluru East for his failure to submit report.
5. The Tahsildar, Bengaluru East had addressed a letter dated 12/04/2017 to the Joint Commissioner, BBMP, Mahadevapura Zone, Bengaluru stating that an area of 25.14 acres in Sy. No. 211 of Banaswadi Village has been fenced by Nirmithi Kendra in accordance with the specification of the department. The said lake area is a dried up area. Maintenance of sewage water is the responsibility of the BBMP. Therefore he has sought to take appropriate action against dumping of solid waste in the lake area and to see that the flow of sewage water to the lake area is stopped.
6. By citing the said letter of Tahsildar, Bengaluru East dated 12/04/2017, the Dy. Commissioner, Bengaluru

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Urban District vide letter dated 24/04/2017. has sought this authority to close the matter.

7. Assistant Executive Engineer, Maruthi Seva Nagar Sub Division, BBMP has submitted letters dated 19/06/2017, 21/09/2017 and 03/02/2018 stating that:

- He has addressed a letter dated 21/09/2017 to Tahsildar, Bengaluru East, K.R. Puram, Bengaluru stating that the chained link fencing beside 7th Main Road (towards fire station), 7th 'B' Road and 9th Main Road is destroyed for which garbage and other solid waste material are being dumped at night hours in the lake area and therefore has sought to take appropriate action for preventing the same.
- He has addressed letter dated 21/09/2017 to the Assistant Executive Engineer, Banaswadi Sub Division, BWSSB, HSBR Layout, 1st Block, Bengaluru to take action for preventing the flow of sewage water to Banaswadi Lake Area.
- He has addressed letter dated 21/09/2017 to the Assistant Executive Engineer, Storm Water Drain, East Zone, Bengaluru to take action for preventing the flow of sewage water to Banaswadi Lake Area.

In his letter dated 03/02/2018, he has stated that the Revenue Department has handed over the lake to Bengaluru Development Authority (BDA). The protection of the lake and its rejuvenation is to be done

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by Bengaluru Development Authority and therefore has requested to drop him from the proceedings.

8. On perusal of the material on record, the Tahsildar, Bengaluru East has written a letter dated 12/04/2017 to the Joint commissioner, BBMP, Mahadevapura Zone, Bengaluru stating that the maintenance of sewage water comes within BBMP Administration and therefore has sought to take appropriate action for preventing the dumping of garbage and flow of sewage water into the lake area.
9. The Assistant Executive Engineer, Maruthi Seva Nagar, Sub Division BBMP, in his letter dated 03/02/2018 states that the rejuvenation and protection of the lake falls within the jurisdiction of Bengaluru Development Authority.
10. The Dy. Commissioner, Bengaluru Urban District vide his letter dated 24/04/2017 by citing the letter of Tahsildar, Bengaluru East dated 12/04/2017 has sought this authority to close the matter.
11. Since it appeared that none of the authorities i.e., the Revenue Department nor the BBMP had taken any action with respect to the protection of the Banaswadi Lake, with respect to removal of garbage and debris from the lake area and also with respect to preventing of flow of sewage water into the lake area, since the Revenue Department has pointed its finger towards BBMP and BBMP has pointed its finger towards BDA with respect to taking action upon the complaint allegations and since the copy of the order of the

N. Shankar

Chairman of Karnataka State Pollution Control Board dated 29/04/2016 (produced by the complainant) shows that directions have been issued to the Tahsildar, Bengaluru East stating that he is the custodian of Banaswadi Lake, to ascertain the following questions :

- Who is the appropriate authority to take action for protection of the lake area,
- Who is the appropriate authority to take action for removal of garbage, debris and solid waste,
- Who is the appropriate authority to take action for preventing the sewage water from entering the lake area,

a detailed and specific report was called from the heads of all the related departments i.e., from the Commissioner, BBMP, Commissioner, BDA, Chairman, BWSSB, Regional Commissioner, Office of the Regional Commissioner, Revenue, Bangalore Division and the Chairman, the Karnataka State Pollution Control Board. They were also requested to submit report with respect to the name and addresses of the officials who are responsible for taking action with respect to the above stated complaint allegations.

12. Copy of the letter dated 12/04/2018 was received from the Additional Commissioner o/o Regional Commissioner, Bengaluru Division, Bengaluru addressed to the Dy. Commissioner, Bengaluru City to submit report along with the names and addresses of the officers who are responsible for protection of Banasawadi Lake. But no such report was submitted

N. Srinivas

by the Dy. Commissioner. The Member Secretary, Karnataka State Pollution Control Board (KSPCB) has submitted letter dated 28/04/2018 stating that samples of water from the lakes will be collected by KSPCB and its quality will be verified regularly. The result of water quality testing will be sent to the concerned departments for further action in the matter. The sample collected on 07/09/2017 at Banasawadi Lake was in accordance with specifications of class-e (irrigation, industrial cooling, and controlled waste disposal) quality. The KSPCB has brought the observations made during their spot inspection to the notice of the BBMP and BWSSB. Since there was no water in Banasawadi lake recently, no quality testing of water has been done recently. Further it is stated that the protection of lake is related to the concerned departments. It is further stated that since KSPCB has taken all measures with respect to the lakes in its jurisdiction, no action needs to be taken against its officers.

Copy of letter dt: 21.4.2018 was received from the Addl. Commissioner, Bangalore Urban District addressed to the Tahsildar Bangalore East Taluk to take action with respect to fencing of Banasawadi lake and to submit report with respect to the names and designation of the officials who have failed to take action for protection of lake area.

13. But no such report as sought from this office was received from the Commissioner, BDA, the Chairman,



BWSSB and the Regional Commissioner, Revenue, Shantinagar, Bangalore. Copy of the letter dt. 30/07/2018 was received from the Additional Commissioner, Office of the Regional Commissioner, Bengaluru Division, Bengaluru addressed to the Deputy Commissioner, Bengaluru Urban District directing him to submit the report with respect to the names and designations of the officials who are responsible for taking action with respect to the complaint allegations.

14. The Additional Commissioner, Office of the Regional Commissioner, Bengaluru has submitted copy of the letter dt. 29/10/2018 addressed to the Deputy Commissioner, Bengaluru Urban District directing him to submit report as sought by this office.
15. Copy of the letter dt. 03/10/2018 was received from the Deputy Commissioner, Bengaluru Urban District addressed to the Assistant Commissioner, Bengaluru North Sub division and the Tahsildar, Bengaluru East Taluk directing them to take appropriate action and to submit report in the matter.
16. Copy of the letter dt. 04/12/2018 was received from the Additional Commissioner, Office of the Regional Commissioner, Shantinagar, Bengaluru wherein it is stated that u/s 33-A of the Water (Preservation and Control of Pollution) Act, 1974, the Authority to preserve the lakes vests with the Deputy

N. Prasad

Commissioner and Tahsildar and therefore has requested to close the matter.

17. The Additional Commissioner, Bengaluru District has submitted copy of the letter dt. 28/11/2018 addressed to the Assistant Commissioner, Bengaluru North Sub division and the Tahsildar, Bengaluru East Taluk directing them to take appropriate action and to submit report.
18. Though notice and reminders have been served to the Commissioner, BDA and Chairman, BWSSB. They have not submitted their reports as sought by this office. The Engineer-in-Chief, BWSSB has submitted letters dt. 2/4/2019 and 10/7/2019 stating that no sewage water is being discharged into the Banaswadi Lake through the underground drainage of BWSSB.
19. Executive Engineer, North Division, BDA, Bengaluru has submitted letter dt. 11/09/2018 stating that an estimate has been prepared for Rs.19.90 crores to clean Bansawadi Lake and also for chained-link, fencing along with other facilities like toilet, drinking water facilities, Yoga Kendra, Park etc., and technical approval has been accorded by BDA on 27/07/2018. E-tender has been called and tender process is in progress. Immediately action will be taken after completion of tender process and report will be submitted to this authority. Further he has submitted letter dt. 27/11/2019 stating that the technical bid of the tender was opened on 29/9/2018. 7 bidders had



participated, from which bids were accepted and the proposed work was placed before Tender Scrutiny Committee on 21/1/2019 for financial approval. Thereafter it was suggested by the members of the committee to take action considering the availability of funds, which was approved by the Commissioner. It is stated that since the financial condition did not improve, the proposed work was postponed and the EMD amount was returned to the bidders, who had participated in the tender.

20. Considering the forgoing discussion and the material on record, there appears to be prima facie material to show that the Banasawadi Lake in question had not been maintained properly. None of the authorities have given a firm report denying the allegations of dumping of garbage, debris and solid wastes into the lake. It appears that the fencing of the lake is also not proper. Consequentially, it appears that stray dogs and pigs could have taken shelter inside the lake as alleged by the complainant. It cannot be denied that due to the debris and sewage water, there could be problem of mosquitoes that may cause the spread of diseases like dengue and malaria as alleged by the complainant. From the above and the material on record, it appears that the concerned authorities have only made letter correspondences to each other but have not taken any proper and effective action to maintain the lake by taking steps to remove the garbage, debris and solid waste from the lake and to


stop pollution and the dumping of garbage, debris and solid waste into the lake. Further it appears that no action has been taken to provide proper fencing to the lake so as to prevent the stray dogs and pigs taking shelter near the lake and also to stop the discharge of sewage water into the lake. The matter is of utmost public importance as the public at large has a right to clean environment and protection of a lake is crucial to the environment. The Competent Authority cannot be a silent and quiescent witness to a problem that not only has the potential of putting the environment at stake but also putting the human health at peril. Financial stringency cannot be a defence for the Competent Authority to not take action to redress the kind of problem in question under the present complaint as has been held by the Hon'ble Supreme Court in the case of *Municipal Council, Ratlam v. Sri Vardichand and others* reported in (1980) 4 SCC 162.

21. Therefore in view of the above, as the matter is of utmost public interest and importance, it would be proper to send recommendation u/s 12(1) of the Karnataka Lokayukta Act, 1984, to the Competent Authority with a recommendation to remedy the injustice and hardship being caused to the public at large by taking proper and effective action to rejuvenate and maintain the lake by taking steps to remove the garbage, debris and solid waste from the lake and to stop pollution and the dumping of such material into the lake. Further to provide proper

fencing to the lake so as to prevent the stray animals taking shelter near the lake and also to stop the discharge of sewage water into the lake.

22. Accordingly, recommendation u/s 12(1) of the Karnataka Lokayukta Act, 1984 is made to the Competent Authority to remedy the injustice and hardship being caused to the public at large by taking proper and effective action to rejuvenate and maintain the Banaswadi lake by taking effective steps to remove the garbage, debris and solid waste from the lake and to stop pollution and the dumping of such material into the lake. Further to provide proper fencing to the lake so as to prevent the stray animals taking shelter near the lake and also to stop the discharge of sewage water into the lake.
23. Further, as per Section 12(2) of Karnataka Lokayukta Act, 1984, the Competent Authority is required to intimate this Authority within one month from the date of receipt of this report, the action taken or proposed to be taken on this report.

Connected records are enclosed.


(Justice N. Ananda)
Upalokayukta -1, 27/2
State of Karnataka.