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KARNATAKA LOKAYUKTA

Compt/Uplok/BCD/2214/2015/ARE-9

M.S.Building,
Dr. B.R.Ambedkar Veedhi,
Bangalore, dtd. 03/10/2016.

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

Sub: Proceedings for taking necessary action to
remove the encroachment on Rajakaluve
and also to clear the same – reg.

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A suo-motu investigation was taken up on the petition filed by one Sri Saidatta, Social Worker, Chandrappa after invoking power vested under Section 7(2) of the Karnataka Lokayukta Act, 1984 and others against 1) Assistant Engineer, Ward no.81, Mahadevapura Village, K.R. Puram Hobli, BBMP, Bengaluru East Taluk, Bengaluru 2) Assistant Executive Engineer, Ward no.81, Mahadevapura Village, K.R. Puram Hobli, BBMP, Bengaluru East Taluk, Bengaluru 3) Executive Engineer, Ward no.81, Mahadevapura Village, K.R. Puram Hobli, BBMP, Bengaluru East Taluk, Bengaluru 4) Assistant Engineer, Storm Water Drainage, BBMP, Bengaluru East, 5) Assistant Executive Engineer, Storm Water Drainage, BBMP, Bengaluru East Taluk, 6) Executive Engineer, Storm Water Drainage, BBMP, Bengaluru East Taluk, Bengaluru.

2. There are two complaints filed by one Saidatta, social worker, Chandrappa and others. One is Misc 1361/2015 filed against the BBMP officials alleging that one BVS Reddy and Ashwathnarayan have constructed apartments in the name and style of Mytri apartments covering the 66 feet storm water drain (Rajkaluve)

running in Sy. No. 119, 152, 151/4 and 49, Mahadevapura village, KR Puram Hobli, Bangalore East taluk. It is alleged that the developers have illegally converted the Rajkaluve into approach road to the Shilpitha Splendor Apartment by putting slabs on the said Rajkaluve and BBMP officials have failed to taken any action.

3. Misc. No. 1362/2015 is filed against the revenue officials alleging that by tampering the Khata register, they have inserted the sites formed in the agricultural lands without conversion and issued certificates. It is alleged that they have issued A Khathas and collected the Taxes and regularized the illegal layout and thereby caused loss of revenue to the government. Since both cases are pertaining to same land and issues, they have been clubbed together in the present case.

4. Notices were issued to the concerned BBMP Engineering and Revenue officials. In so far as allegations of forming approach road on the Rajkaluve is concerned, 1) Sri Mallinath Malkapur-Assistant Engineer, Ward no. 81, Mahadevapura Zone 2) Smt Bhagyamma-Assistant Executive Engineer, Ward no.81, HAL Sub-division, BBMP, 3) Sri Raghavendra-Assistant Engineer, Storm Water Drain, 4) Sri Pandurangaiah-Assistant Executive Engineer, Storm Water Drain, 5) Smt. Malathi-Executive Engineer, Storm Water Drain, BBMP, Bengaluru (hereinafter referred to as 'respondents no.1 to 5 respectively' for short) are made as parties. In so far as allegations of issuance of illegal Khatha is concerned, the Revenue Officer and Assistant Revenue Officers are made as respondents. The respondents have also submitted their comments.

5. As per the comments there is no dispute that the approach road is formed on the storm water drain (Rajkaluve) by raising slabs over it to reach the apartments. In the same manner there is no dispute that the Khahtas have been issued in respect of the sites which are formed in agricultural and non-converted land. During the enquiry, the respondents appeared before Hon'ble Upalokayukta from time to time. They were directed to take necessary action in the matter. They were asked to submit action taken report now and again. But they did not submit the compliance report. On 1/4/2016, the complainant submitted that during the enquiry the respondent-Mallinath has closed the Rajkaluve and waste weir to help the builders. In this regard, the respondent-Engineers had under taken submit a report. But they did not submit the same. On 25/4/2016, the respondent No. 1 to 3 had under taken to bring the facts to the notice of the Joint Commissioner and take necessary police help clear the Raj Kaluve and submit report. Again they did not submit the report. In para 39 the notes, on 23/5/2016, it is clearly observed that Executive Engineer storm water-Smt. Malati, under taken to visit the report and direct the officials namely Mallinath and Bhaghyamma to restore the Rajkaluve and submit report. But the said report was not submitted on 25/4/2016. It is further stated that the said report was not submitted even on 23/5/2016 and that shows the inaction on part of the officials. It is further observed that Mallinath who had helped the builders to close the Rajkaluve had nothing to say. Even Smt. Bhagayamma, the Assistant Executive Engineer, BBMP also had not submitted the report. In fact, in this regard, a letter was also written to the commissioner. But the commissioner also did not take any steps and informed the same to this authority. On 27/6/2016 the Assistant executive Engineer and assistant engineers submitted a report. But the said report is not

complete one. It is mentioned in the report that they have removed the encroachment on the Rajkaluve by leaving the approach road and they have also removed the waste weir of the Raja kaluve which was alleged to be blocked by the builders. But under law, it is impermissible to form of road on the Rajkaluve including the approach road as it may many times lead to disasters. The very photographs produced by the respondents themselves disclose that encroachment is not removed completely and only slabs are removed and it's concrete beams are left as it is. If the water flowed during the rainy season, certainly it will cause the hurdle for smooth flow of water and as mentioned it may cause serious problems. In the report, the respondents have not mentioned what is the exact width and length of Raj Kaluve and how much width and length has been cleared. The report is vague and not clear. The Photographs produced by the respondents show that only some portion of Raj Kaluve is cleared and entire hurdle on the Rajkaluve is not cleared.


6. The Executive Engineer, Assistant Executive Engineer, and Assistant Engineer of Storm Water Drain, have contended that their duty is only to identify the encroachment. The Assistant Engineer and Assistant Executive Engineers of ward No. 81 have to remove the encroachment. But this contention appears to be not acceptable. If the concern Engineers did not take any action on the encroachment on drainage, it is the duty of the storm water engineers to bring the same to the notice of the higher officers of the Ward engineers and take necessary action for removal of the encroachment. But, in the present case the said Engineers of Storm Water Drainage have not done so. As such, from the above, it is very clear that the Engineering officials have shown total inaction in

clearing the encroachment over the Rajkaluve and thereby they have committed an act which amounts to misconduct.

7. Therefore, recommendation is made to the Competent Authority under Section 12(1) of the Karnataka Lokayukta Act, 1984, to take action to remove the encroachment on Rajkaluve and also to clear the same.

8. 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,
State of Karnataka.

3/10.

