

**KARNATAKA LOKAYUKTA**

No. Compt/Uplok/BCD-2698/2019/ARLO-1 M.S. Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru, dated 29/01/2020.

**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 hardship caused to the public/pedestrians by clearing encroachments by commercial establishments/shop owners in the footpaths at 17, 18, 19, 24 and 27<sup>th</sup> main road of HSR Layout and by making them accessible to the general public by keeping in view the directions of the Hon'ble High Court of Karnataka in W.P.no. 13731/2013 and W.P.no. 14596/2013 - reg.

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An investigation was taken up under Section 9 of the Karnataka Lokayukta Act, 1984, on the basis of complaint filed by Sri. Vijay Dennis, Founder President, Karnataka RTI Workers Seva Samithi, No. 38/28, Somasundar Palya, Near SVR College, HSR Layout, 2<sup>nd</sup> Sector, Bengaluru-102 (hereinafter referred to as 'Complainant' for short) against Sri. Girish Shetty, Assistant Executive Engineer, HSR Sub division, Ward no. 174, BBMP office, HSR Layout, Bengaluru (hereinafter referred to as 'Respondent' for short).

2. The substance of the complaint is that in spite of representation made to the Respondent on 15/03/2018 to remove/clear the encroachment of the

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pedestrian footpath by commercial establishment/shop-owners and in spite of the letter written by the Traffic Police Inspector that he will extend his cooperation, the Respondent has failed to remove/clear the encroachment of the pedestrian footpath for the reasons known to him. It is alleged that the Respondent may be getting bribe from the encroachers and some of the encroachers are influential people.

The complainant has enclosed the copy of representation made to the Respondent on 15/3/2018 and the Traffic department alleging that each and every commercial establishment located in the 17, 18, 19, 24 and 27<sup>th</sup> main have completely occupied the pedestrian footpath on either side of the roads at HSR Layout causing inconvenience to the Citizens especially Senior Citizens, Women and Children, who are forced to walk on the tarmac/road. The complainant has also enclosed the endorsement issued by the Police Inspector under the Right to Information Act, 2005 stating that it is the responsibility of BBMP to remove the encroachment and that a letter dt. 30/04/2018 was addressed to Assistant Executive Engineer, HSR Sub division that cooperation will be extended by traffic police for the removal of the same.

3. The Respondent - Girish Shetty has submitted comments dt. 16/11/2019. In his comments he has stated that as per the orders of the Court, action is being taken under the guidance of the Central Office for clearing the footpaths. He has enclosed the copy of

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- the office orders dt. 9/9/2019 and 24/9/2019 requesting the Assistant Engineers and staff of Ward no. 174 and 190 to participate in the activity of clearing the footpaths on 11/09/2019 and 26/09/2019 respectively. He has enclosed copy of letters dt. 7/09/2019, 23/01/2019 and 23/11/2018 addressed to the Police Inspector, HSR Layout Police Station seeking the assistance and protection in the removal of encroachment on the footpaths as per the directions of the Hon'ble High Court in W.P.no. 14596/2013 and W.P.no. 13731/2013. He has enclosed the copies of photographs in respect of purported removal of encroachments in the footpaths.
4. On perusal of the case status of W.P.no.14596/2013 and W.P.no. 13731/2013 on the website of the Hon'ble High Court, it appears that both the petitions, filed by Ms. Jennifer Pinto against the State represented by the Housing and Urban Development Secretary, BDA, BBMP, DGP, PWD, Karnataka Road Development Corporation Limited, Regional Transport Office, Society of Indian Automobile Manufacturers and Karnataka State Pollution Control Board, have been disposed on 24/02/2016.
  5. The Respondent has submitted letter dt.08/01/2020 along with the copies of orders passed by Hon'ble High Court in the said Writ Petitions no.14596/2013 and W.P.no. 13731/2013, which have been apparently printed from the website of the Hon'ble High Court. However the final order in the said cases has not been furnished. The final order in the said writ petition is

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available in the website of the Hon'ble High Court and it is printed and placed in file for reference.

6. On perusal of the orders in the said Writ petition, it is noted that the petitions were filed in public interest on account of deficiency in facilities for pedestrians in Bengaluru City and seeking pedestrians' safety on the main roads. In the order dt. 23/7/2014, it has been observed that not only people with disabilities but even for ordinary pedestrians, the footpaths are either not made or not in proper repair for able bodied persons to walk upon them and avoid walking on the main road which is extremely hazardous, on account of phenomenal growth in the number of vehicles plying on the roads. The footpaths which have been built over the years, are either not sufficient width or they are encroached upon for multifarious activities including dumping of wastes and running of sewage lines. Further it has been observed that it could not also be disputed that this was not only a health hazard but increases the number of road accidents, maiming or mutilating innocent pedestrians, which include children and people of old age. In the said order dt. 23/07/2014, the Hon'ble High Court has directed the BBMP to remove all unauthorised encroachments, construction and obstructions either temporary or permanent on the existing footpaths within 3 months under section 288D of KMC Act. It has also directed the BBMP to repair and make, unscientifically and improperly laid footpaths, pedestrian-friendly latest by six months. The Hon'ble High Court has also directed

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that individual and personal responsibilities shall be fixed among the officers of BBMP for construction, repair and maintenance of proper footpaths in particular zones, so as to make them liable for any failure on their part, dereliction of duty or injury or loss caused to any pedestrian on account of failure on the part of BBMP to keep the footpaths clear and in good repair. Further, vide order dt. 22/09/2014, the Hon'ble High Court has directed that the earlier directions are required to be implemented keeping in view and without violating the provisions of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. The compliance of the said directions was supervised by the Hon'ble High Court on different dates and ultimately the case has been disposed off on 24/2/2016 with observation that from the report submitted by BBMP, it appears that substantial steps have been taken to safeguard the interest of the petitioners. Further, the Hon'ble High Court has directed the BBMP to see that the footpaths are free and easily accessible by the pedestrians (the orders printed from the website of the Hon'ble High Court in respect of the said Writ petitions are placed in file for reference).

7. Some of the media reports published on the internet suggest that pedestrians account for around 40% of all the road accident fatalities in Bengaluru. They suggest that the common issues that have turned Bengaluru into an unfriendly city for pedestrians include the absence of footpaths, which forces them to travel/walk

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along the road and when footpaths are available, they are unsafe and are encroached, again forcing the pedestrians to travel/walk along the road (some of the media reports printed from the internet are placed in file for reference).

8. In the present case, the allegations pertain to the encroachment of pedestrian footpaths by commercial establishments/shop-owners at HSR layout and the inconvenience caused to general public including senior citizens, women and children, who are forced to walk on the road instead of the footpath. The Respondent in his comments has not denied or disputed the allegation that the footpaths in question have been encroached by the commercial establishments/shop-owners. The comments of the Respondent and the letter dt. 6/5/2018 of the PIO and Police Inspector, HSR Layout Traffic police station furnished along with the complaint, prima facie, indicate that such encroachments exist. The Respondent has only stated that steps are being taken continuously for the removal of the encroachments as per the directions of the Hon'ble High Court in W.P.no. 13731/2013 and W.P.no. 14596/2013. The final order was passed by Hon'ble High Court in the said writ petitions on 24/02/2016 with a direction to see that the footpaths are free and easily accessible by the pedestrians. The representation of the complainant is dated 15/03/2018. The respondent has not stated as to what steps have been taken by him on the said representation and the directions of the Hon'ble High

*N. Srinivas*

Court except writing letters in September 2019 or November 2018 to Police Inspector seeking assistance for removal of encroachments. The comments indicate that even on the date of the comments submitted by the Respondent, the footpaths have not been made easily accessible to the pedestrians by clearing the alleged encroachments by commercial establishments at 17, 18, 19, 24 and 27<sup>th</sup> main road of HSR Layout.

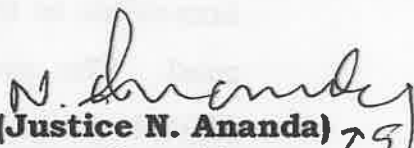
9. It cannot be disputed that hardship even to an extent of loss of life and limb will be caused to the public/pedestrians if the footpaths are not clear and easily accessible to them and if they are forced to walk along the road. The respondent has not disputed that he is the official responsible to take action for removal of encroachment in question in the pedestrian footpaths by commercial establishments at 17, 18, 19, 24 and 27<sup>th</sup> main road of HSR Layout. From the foregoing discussion, it appears that there is prima facie material to attribute negligence on the part of the respondent for not acting promptly and timely for removal of the encroachment of pedestrian footpaths by commercial establishments at 17, 18, 19, 24 and 27<sup>th</sup> main road of HSR Layout and for not making them easily accessible to the pedestrians especially considering the peril/hazard involved in such cases.
10. Accordingly, recommendation u/s 12(1) of the Karnataka Lokayukta Act, 1984 is made to the Competent Authority to remedy the hardship caused to the public/pedestrians by clearing encroachments by commercial establishments/shop owners in the footpaths at 17, 18,

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19, 24 and 27<sup>th</sup> main road of HSR Layout and by making them accessible to the general public by keeping in view the directions of the Hon'ble High Court of Karnataka in W.P.no. 13731/2013 and W.P.no. 14596/2013.

9. 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) 29/1  
Upalokayukta -1,  
State of Karnataka.