

**KARNATAKA LOKAYUKTA**

No.Compt/Uplok/BGM-1398/2018/ARE-6 M.S. Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru.  
Date:15/09/2020.

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

Sub: Proceedings against 1) Deputy Director, Department of Archeology, Museum and Heritage, Dharwad, 2) PDO, Gokarna Gram Panchayath, Kumta Taluk, Uttara Kannada District, 3) Smt.Parvathi Subray Nirvaneshwar, Rathabeedi, Gokarna, Kumta Taluk, Uttara Kannada District, 4) Sri.Shivananda Jois, the then Panchayath Development Officer, Gokarna Gram Panchayath, Kumta Taluk, presently working as PDO, Hegde Gram Panchayath, Kumta Taluk, Uttara Kannada District and 5) Sri.Yadava Naik, the then Panchayath Development Officer, presently working as PDO, Baragi Gram Panchayath, Kumta Taluk, Uttara Kannada District, about their misconduct as Public/Government servants - reg.

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On the complaint filed by Sri.Pradeep Ganapathi Ganeyan, Near Karnataka Bank, Ganjigadde, Gokarna, Karwar District (hereinafter referred to as complainant for short) against 1) Deputy Director, Department of Archeology, Museum and Heritage, Dharwad, 2) PDO, Gokarna Gram Panchayath, Kumta Taluk, Uttara Kannada

District, 3) Smt.Parvathi Subray Nirvaneshwar, Rathabeedi, Gokarna, Kumta Taluk, Uttara Kannada District, 4) Sri.Shivananda Jois, the then Panchayath Development Officer, Gokarna Gram Panchayath, Kumta Taluk, presently working as PDO, Hegde Gram Panchayath, Kumta Taluk, Uttara Kannada District and 5) Sri.Yadava Naik, the then Panchayath Development Officer, presently working as PDO, Baragi Gram Panchayath, Kumta Taluk, Uttara Kannada District, (hereinafter referred to as respondent Nos.1 to 5 respectively) alleging that they, being Public/Government servants, have committed misconduct, an investigation has been taken up u/s 9 of the Karnataka Lokayukta Act, 1984.

2) This complaint is with regard to issuance of license by the PDO of the Gokarna Gram Panchayath, in violation of the permission granted by the Archeology, Museum and Heritage Department, Karwar, in favour of 3<sup>rd</sup> respondent Smt.Parvathi Subraya Nirvaneshwara, for construction of new house in Sy.No.6 of Gokarna Village, which is next to Mahabaleshwara Temple.

3) The report of I/c Deputy Director, Department of Archeology, Museum and Heritage, Dharwad, discloses that, only a permission was issued in favour of Smt.Parvathi, for doing some repair work pertaining to existing old house and without demolishing the said building and without obtaining the new plan, as per

communication dtd:7-1-2015. But, it is seen that, the Gokarna Panchayath PDO has issued license dtd:3-3-2016 in favour of the 3<sup>rd</sup> respondent for construction of new building as per the plan.

4) In view of the said report, the respondents 4 & 5 have been impleaded. The respondent No.5 has submitted his comments dtd:12-6-2020. The respondent No.5 has stated that, he was working as PDO of Gokarna Gram Panchayath, from 18-8-2017 to 15-12-2018 and he has not issued the alleged license. It is stated that, 3<sup>rd</sup> respondent has obtained license dtd:3-3-2016 and got constructed the house. He has also stated about pendency of suit in O.S.55/2018.

5) The 4<sup>th</sup> respondent in his comments has stated that, the 3<sup>rd</sup> respondent had filed an application dtd:24-7-2015 seeking permission for renovation of the old building. The said application was placed before the general body meeting held on 10-8-2015 and it was decided that, since the building in question is very nearer to the heritage building belonging to Archeology Department, unless an NOC is obtained from the said Department, it was not possible to take a decision with regard to issuance of license. It is further stated that, subsequently, the 3<sup>rd</sup> respondent had obtained permission dtd:7-1-2016 from the Archeology Department and submitted the same for issuance of license. Thereafter, after having considered the

said permission, a license dtd:3-3-2016 was issued for the purpose of renovation of the old building, which was constructed in Sy.No.6. It is further stated that, a condition was imposed to the 3<sup>rd</sup> respondent, while issuing the license, to the effect that, renovation should be carried out in terms of the NOC issued by the Archeology Department. It is stated that, he has not committed any dereliction of official duty, while issuing the said license and it was issued as per the NOC issued by the Archeology Department only. Accordingly, prayed to close the complaint.

6) Having regard to the above said facts and circumstances, I have carefully perused the documents made available by the respondent No.4. He has produced the copy of the Government Order dtd:2-7-2015, issued in favour of the 3<sup>rd</sup> respondent. It is seen that, the Department of Forest, Ecology and Environment has issued an order, which reads here as under;

*Accordingly, the NOC issued under para-3 (i)(e) of the CRZ notification, 2011 to the above proposal with the following condition;*

- 1. The reconstruction should not exceed the existing floor face index, existing plinth area and existing density.*
- 2. The activity shall be undertaken strictly in accordance with the provision of CRZ notification, 2011.*

3. *The occupier should implement the sanitation and waste management plan in respect of the above proposal.*

7) The document dtd:7-1-2016 issued by the Deputy Director, Archeology, Museum and Heritage Department, Dharwad, discloses that, no permission was granted in favour of the 3<sup>rd</sup> respondent, to construct new house and as per new plan. The last portion of the order reads here as under;

ಆದ್ದರಿಂದ, ಸದರಿ ಮನೆಯ ಶ್ರೀಮತಿ.ಪಾರ್ವತಿ, ಸುಬ್ರಾಯ, ನಿರ್ವಾಣೇಶ್ವರ, ಗೋಕರ್ಣ, ಇವರ ಮನವಿಯನ್ನು ಪರಿಶೀಲಿಸಿ ಸ್ಥಳ ಪರಿಶೀಲನಾ ಆಧಾರದ ಮೇಲೆ ಈಗಿರುವ ಮನೆಯ ಸ್ಥಿತಿಗತಿಗಳನ್ನು ಅವಲೋಕಿಸಿದಾಗ ಸದರಿ ಮನೆಯು ವಾಸ ಮಾಡುವುದಕ್ಕೆ ತುಂಬಾ ದುಸ್ಸಾರವಾಗಿದೆ ಎಂದು ಮನಗಾಣುತ್ತದೆ. ಆದ್ದರಿಂದ, ತಾವು ಯಾವುದೇ ರೀತಿಯ ಹಳೆಯ ಮನೆಯನ್ನು ಕೆಡವಿ ಹೊಸ ವಿನ್ಯಾಸದ ಮನೆಯನ್ನು ಕಟ್ಟಬಾರದು ಹಾಗೂ ದೇವಾಲಯಕ್ಕೆ ಧಕ್ಕೆ ಉಂಟಾಗದಂತೆ ಎಚ್ಚರವಹಿಸಿ, ನಿಮ್ಮ ಹಳೆ ಮನೆಯ ದುರಸ್ತಿ ಕಾರ್ಯವನ್ನು ಮಾಡಿಕೊಳ್ಳಬಹುದು. ಒಂದುವೇಳೆ, ತಾವು ಪುರಾತತ್ವ ಇಲಾಖೆಯ ನಿಯಮವನ್ನು ಉಲ್ಲಂಘನೆ ಮಾಡಿ ಹೊಸ ಕಟ್ಟಡ ನಿರ್ಮಿಸಿದರೆ ನಿಮಗೆ ಯಾವುದೇ ನೋಟೀಸನ್ನು ನೀಡದೇ ತೆರವುಗೊಳಿಸಲಾಗುವುದು ಹಾಗೂ ಆದೇಶವನ್ನು ರದ್ದುಪಡಿಸಲಾಗುವುದು.

8) The said letter was addressed to the 3<sup>rd</sup> respondent, by the said Department.

9) Subsequently, the 4<sup>th</sup> respondent and the President of the Gram Panchayath have issued license dtd:3-3-2016. The 2<sup>nd</sup> para of the license reads here as under;

ಕರ್ನಾಟಕ ಸರ್ಕಾರ, ಕರ್ನಾಟಕ ಪಂಚಾಯತ್ ರಾಜ್ ಅಧಿನಿಯಮ 1993, ಅಧ್ಯಾಯ-4, ಪ್ರಕರಣ 64 ಹಾಗೂ ಪಂಚಾಯತ್ ರಾಜ್ (ಕಟ್ಟಡಗಳ ನಿರ್ಮಾಣದ ಮೇಲೆ ಗ್ರಾಮ ಪಂಚಾಯಿತಿಗಳ ನಿಯಂತ್ರಣ) ನಿಯಮ 1994 ರನ್ವಯ ನೀವು ಕಟ್ಟಡವನ್ನು ವಿಸ್ತರಣೆ ಮಾಡಲು ಪೂರೈಸಿದ ಕಟ್ಟಡ ನಕಾಶೆಯಲ್ಲಿ ನಮೂದಿಸಿರುವಂತೆ, ಕಟ್ಟಡವನ್ನು ವಿಸ್ತರಣೆ ಮಾಡಲು ಈ ಕೆಳಗಿನ ಅನುಬಂಧದಲ್ಲಿ ಅಳತೆ ನಮೂದಿಸಿ, ಅನುಮತಿ ನೀಡಲಾಗಿದೆ.

10) While issuing the said license, they have also issued 14 conditions as per Annexure. As per the Annexure, the condition No.12 stated that, the building shall be subjected to CRZ Regulations. Condition No.13 discloses that, the condition imposed by the Archeology Department dtd:7-1-2016 are applicable to the license. Condition No.14 discloses that, renovation of the existing building shall be carried out to the extent of the existing building and after completion of the building, completion certificate from the Archeology Department shall be obtained.

11) The above said license prima-facie discloses that, the license issued by the 4<sup>th</sup> respondent and the President are against to the NOC issued by the Archeology Department. In the body of the license, an authorization was given to the 3<sup>rd</sup> respondent, to construct the building as per the plan submitted by the 3<sup>rd</sup> respondent. The copy of the plan dtd:22-7-2015 submitted by the 3<sup>rd</sup> respondent to the 4<sup>th</sup> respondent discloses that, the said estimation and plan was prepared at a cost of 25,49,000/- for the purpose of reconstruction of the building and not for the renovation of

the existing building. Therefore, the comments submitted by the 4<sup>th</sup> respondent is contrary to the said license and the application given by the 3<sup>rd</sup> respondent. Therefore, it cannot be believed and accepted at this stage.

12) The complainant has produced photographs and the said photographs reveal that, a new commercial building has been constructed in that place and the same is contrary to the permission accorded by the Archeology Department.

13) It is seen that, subsequently, the complainant made several representations to the PDO of the Gram Panchayath, to take action against the 3<sup>rd</sup> respondent, for having violated the condition imposed in the license. In that regard the 5<sup>th</sup> respondent has issued notices to the 3<sup>rd</sup> respondent, to the effect that, since she got constructed the building in violation of the permission, her license has been cancelled. He has also written letter dtd:9-8-2018 to the Commissioner, Department of Archeology, stating that, since Smt.Parvathi has constructed the building in violation of the rules, the license issued in her favour has been cancelled and therefore, the Department has to take action against the said person.

14) The above said material at this stage prima-facie discloses that, the 4<sup>th</sup> respondent, in violation of the permission given by the Archeology Department dtd:7-1-

2016, has issued license dtd:3-3-2016 in favour of the 3<sup>rd</sup> respondent, authorizing her to construct the new building in accordance with the new plan. But, for the reasons best known to him and to escape from legal action in future, he has also imposed separate conditions and they are against to the license conditions dtd:3-3-2016. It is seen that, on the basis of the said license issued by the 4<sup>th</sup> respondent, the 3<sup>rd</sup> respondent got constructed a new commercial building by investing lakhs of rupees. The said construction is in violation of the permission given by the Archeology Department. It is seen that, even though the complainant has made request to the Gram Panchayath to take action by stating that, building was being constructed in violation of the permission and the rules, the Panchayath did not take action at the initial stage, to prevent the construction in violation of the said permission. It is seen that, since the respondents 4 & 5 did not take steps to prevent the illegal construction at an appropriate stage, the 3<sup>rd</sup> respondent was able to complete the building and thereafter got obtained an order of temporary injunction by filing the suit.

15) The material on record prima-facie discloses that, the 3<sup>rd</sup> respondent in violation of the conditions imposed by the Archeology Department as per the letter dtd:7-1-2016 and also the condition imposed in the Annexure to the license dtd:3-3-2016 and against to the CRZ and other




regulations, got constructed a commercial building and thereby thrown the permissions and regulations to the winds. Therefore, it has become necessary to take action against the 3<sup>rd</sup> respondent, in respect of the newly constructed commercial building.

16) Since the material on record, prima-facie shows that, the building constructed by the 3<sup>rd</sup> respondent is against to all the norms/guidelines, now acting u/Sec. 12(1) of the Karnataka Lokayukta Act, a recommendation is made to the competent authority to take action in accordance with law, to demolish the building or to take any other appropriate action in accordance with law.

17) 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 against said officials.

Connected records are enclosed.

  
(Justice N.ANANDA)  
Upalokayukta-1,  
State of Karnataka.

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