

KARNATAKA LOKAYUKTA

No. Compt/Uplok/GLB-5084/2013/DRE-3

M.S. Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru, dated 12/10/2018.

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

Sub: Report u/s 12(1) of the Karnataka Lokayukta Act, 1984 for taking action against the illegal layout formed in sy.no. 9/1 & 10 of Udanooru village, and also with respect to illegal conversion of park areas into sites in the layouts formed in sy.no. 176/2 (site nos. 282 to 305) and sy.no.194/1 (site nos.462 to 478) of Kusoonuru village and sy.no. 22/2B (site no. 88) of Sharanasirasagi village of Kalburgi Taluk and also for taking action against the Managing Committee of the State Government Employees Housing Cooperative Society Ltd., Kalburgi for formation of aforesaid illegal layouts and for illegal conversion of park areas into sites - reg.

An investigation was taken up under Section 9 of the Karnataka Lokayukta Act, on the basis of complaint filed by 1) Sri. Dattappa S/o Sharanappa Durg, Ex-Town Planning Authority Member, Ram Nagar, Brahmapur, Gulbarga and 2) Sri. Jaikumar Degouker, Ex-Director, Gulbarga-Bidar, Milk Federation, H.No. 11-862/4/A, Ashok Nagar, Gulbarga-3 (hereinafter referred to as 'complainants' for short) against Sri. Gururaj H. Kulkarni, Senior Pharmacist, ESI hospital, CBI colony, Gulbarga and Ex- President of NGO Housing Society, R/o CIB Colony, Gulbarga (hereinafter referred to as 'respondent' for short).

2. The complaint allegations are that the respondent Sri. Gururaj H. Kulkarni being the Senior Pharmacist, ESI hospital, CBI colony, Gulbarga was the president of *State Government Employees Housing Co-operative Society Ltd*, Kalburgi. With disproportionate assets acquired by him, the respondent has purchased lands in sy.no. 9/1 measuring 29 guntas and land in survey no. 10 measuring 4.31guntas of Udanooru village in the name of his wife. As per the byelaws of the society, transactions with the family members are prohibited. During the respondent's tenure as President of the said society, the above said lands have been purchased from his wife to the society illegally for a sum of Rs. 28,20,000/-.

Further the respondent has got approved layout plan from Nandikooru Grama Panchayath on 17/10/2002 even prior to the order of the conversion dt. 04/01/2003 of the alleged land for non agricultural purpose by the Deputy Commissioner. As per the conversion order, the layout plan was required to be approved by Gulbarga Development Authority.

Even though there are only 78 sites in the Grama Panchayath approved layout plan, 120 sites have been mentioned in the agreement of sale. Remaining sites have been swallowed by the respondent and other members of the managing committee of the society.

The respondent has got modified the layout plan in sy.no. 9/1 and 10 from the Grama Panchayath and has converted park area into site illegally and has sold the same to one Sri. Shivarudrappa Utagi.

Similarly the respondent has got modified the layout plan in sy.no. 176/2 of Kusunooru village and in sy.no. 60 & 68 of Badepura village from the Grama Panchayath and has illegally sold the area reserved for park. The respondent is having one or 2 sites in every layout formed by the said housing society.

By stating that the President (respondent) and other members of managing committee of the society are involved in illegal land dealings and are cheating the public, the complainant has sought to cancel the registration of the society and to take action against the respondent.

3. Received report of Superintendent of Police, Karnataka Lokayukta, Kalburgi dt. 12/01/2018 along with the report of I.O. Sri. T.R. Raghavendra, Police Inspector, Karnataka Lokayukta, Kalburgi dt. 28/12/2017. The respondent is reported to be dead on 20/08/2016 (death certificate is produced).
4. The I.O. has submitted the following report;
 - The purchase of land in sy.no. 9/1 measuring 29 guntas and sy.no. 10 measuring 4.31 acres of Udanooru village by *State Government Employees Housing Co-operative Society Ltd* for total consideration of Rs. 28,20,000/- during the respondent's tenure as President is against the bye-laws of the society.
 - As per the conversion order of Deputy Commissioner, Kalburgi dt. 04/01/2003, layout plan in Sy.No. 9/1 and Sy.No.10 was required to be approved from the Gulbarga Development

Authority. But the respondent has got approved the layout plan from Nandikooru Grama Panchayath which is illegal.

- The respondent during his tenure as President of the said Society, has converted area reserved for park as sites and has sold the following sites;
 1. In the layout formed in sy.no. 9/1 and 10 of Udanooru village, the area reserved for park has been converted into site no. 77.
 2. In the layout formed in Sy.no. 176/2 of Kusunooru village, the area reserved for park has been converted as site no. 282 to 305.
 3. In the layout formed in sy.no. 194/1 of Kusunooru village, area reserved for park has been converted as site no. 462 to 478.
 4. In the layout formed in sy.no. 22/2B of Sharanasirasagi village, the area reserved for park has been converted as site no. 88.
- With respect to conversion of park area into sites in sy.no. 176/2 of Kusunooru village, an order u/s 68 of Karnataka Cooperative Societies Act, 1959 has been made by the Deputy Registrar of Cooperative Societies on 21/07/2014 directing the Urban Development Authority, Kalburgi and City Municipal Corporation, Kalburgi to take action against the then Secretary and Managing Committee of the Society for committing the offence under section 73 of the Karnataka Town and Country Planning Act, 1961. Also has directed the Managing Committee of the said society to

submit proposal against the respondent u/s 29(C) of Karnataka Cooperatives Societies Act for his disqualification from the membership of the Society.

- Further, the I.O. in his report has opined to direct the Deputy Registrar of Cooperative Societies, Gulbarga to conduct statutory enquiry with respect to conversion of park area into sites by the said society and to direct the Commissioner, Urban Development Authority, Kalburgi and the Commissioner, CMC, Kalburgi to take action for restoring the areas reserved for park.

5. Perused the materials on record. I.O. along with his report has submitted letter dt. 20/12/2017 of the Commissioner, Urban Development Authority, Kalburgi wherein it is stated that getting approval of the layout plan from Nandikooru Grama Panchayath instead of obtaining approval from the Urban Development Authority, Kalburgi is illegal.

I.O. has also produced copy of the order of Deputy Registrar of Cooperative Societies, Kalburgi dt. 21/7/2014 passed u/s 68 of Karnataka Cooperative Societies Act, 1959 after conducting of enquiry u/s 64 of the said Act. In the said order, a direction has been given to the Urban Development Authority, Kalburgi and City Municipal Corporation, Kalburgi to take action under section 73 of Karnataka Town and Country Planning Act 1961 against the then Secretary, President and Managing committee of the said society for converting and selling the area reserved for park into sites in Sy.no. 74.

It is also ordered to take action u/s 109 of the Karnataka Cooperative Societies Act, 1959 against the then Secretary, President and Managing Committee of the said society for selling the plots to non members, for not maintaining records in the society with respect to with respect to approval of the layout plan in sy.no. 74 and sale of sites in the said layout by converting the Park area into sites.

It is also ordered to take action u/s 69 of the Karnataka Cooperative Societies Act, 1959 against the then Secretary, President and Managing Committee of the said society for sale of site properties by converting the park area of the layout formed in sy.no. 2/23(9) and sy.no. 176/2 of Kusunooru village.

He has also directed the Present Secretary and Managing Committee of the alleged society to submit proposal against the respondent u/s 29(C) of Karnataka Cooperatives Societies Act for his disqualification from the membership of the Society and to recover Rs. 37,000/- from the respondent towards sale consideration received by him by selling the sites formed in the park area in sy.no. 176/2 and has failed to deposit the same to the society.

There are no records to show that action has been taken as per the above said order of Deputy Registrar of Cooperative Societies, Kalburgi.

6. The respondent Sri. Gururaj H. Kulkarni is stated to be died on 20/08/2016. IO has produced death certificate of the respondent issued by Hyderabad Municipal Corporation showing the date of respondent as

20/08/2016. Under the circumstances no departmental action can be initiated against the respondent.

7. The report of I.O. clearly show that the respondent's society has illegally got approved the layout plan from Nandikooru Grama Panchayath with respect to layout formed in sy.no. 9/1 and 10 of Udanooru village, Kalburgi taluk.

The report of I.O. also shows that the society has converted the area reserved for park as sites and has sold the following sites.

1. In the layout formed in sy.no. 9/1 and 10 of Udanooru village, the area reserved for park has been converted into site no. 77.
 2. In the layout formed in Sy.no. 176/2 of Kusunooru village, the area reserved for park has been converted as site no. 282 to 305.
 3. In the layout formed in sy.no. 194/1 of Kusunooru village, area reserved for park has been converted as site no. 462 to 478.
 4. In the layout formed in sy.no. 22/2B of Sharanasirasagi village, the area reserved for park has been converted as site no. 88.
8. Section 15 & 17 of the Karnataka Town and Country Planning Act 1961 reads as follows;

15. Permission for development of building or land.

(1) On receipt of the application for permission under section 14, the Planning Authority shall furnish to the applicant a written acknowledgment of its receipt and

after such inquiry as may be necessary either grant or refuse a commencement certificate:

Provided that such certificate may be granted subject to such general or special conditions as the State Government may, by order made in this behalf, direct

(2)

(3).....

(4) If any person does any work on, or makes any use of, any property in contravention of section 14 or of sub-section (1) of this section, the **Planning Authority may** direct such person by notice in writing, to stop any such work in progress or discontinue any such use; and may, after making an inquiry in the prescribed manner, **remove or pull down any such work and restore the land to its original condition** or, as the case may be, take any measure to stop such use.

(5) Any expenses incurred by the Planning Authority under sub-section (4) shall be a sum due to such Authority under this Act from the person in default or from the owner of the land.

17. Sanction for sub-division of plot or lay-out of private street.—

(1) Every person who intends to sub-divide his plot or make or lay-out a private street on or after the date of the publication of the declaration of intention to prepare the outline development plan under sub-section (1) of section 10, **shall submit the lay-out plan together with the prescribed particulars to the Planning Authority for sanction.**

(2)

(3).....

(4) If any person does any work in contravention of sub-section (1) or in contravention of the modifications and

*conditions of the sanction granted under sub-section (2) or despite refusal for the sanction under the said subsection (2), **the Planning Authority may direct such person by notice in writing to stop any work in progress and after making an inquiry in the prescribed manner, remove or pull down any work or restore the land to its original condition.***


(5) Any expenses incurred by the Planning Authority under sub-section (4) shall be a sum due to the Planning Authority under this Act from the person in default.

Under the above said statutory provisions of law, the planning authority is empowered to take action against any residential layouts formed in contravention of the provision of the Karnataka Town and Country Planning Act, 1961.

9. Under the circumstances, it is deemed proper to send recommendation u/s 12(1) of the Karnataka Lokayukta Act, 1984 to the Competent Authority for taking action against the illegal layout formed in sy.no. 9/1 & 10 of Udanooru village and also with respect to illegal conversion of park areas into sites in the aforesaid layouts formed in sy.no. 176/2 (site nos. 282 to 305) and sy.no.194/1 (site nos.462 to 478) of Kusoonuru village and sy.no. 22/2B (site no. 88) of Sharanasirasagi village as stated supra in accordance with section 15 and 17 and other provisions of the Karnataka Town and Country Planning Act, 1961 and also to take action against the Managing Committee of the State Government Employees Housing Cooperative Limited, Kalburgi for the above said illegalities committed by the Society under the provisions of the Karnataka Cooperative Societies Act, 1959.

10. Further, as per Section 12(2) of Karnataka Lokayukta Act, 1984, the Competent Authority is directed to intimate to 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. 15/10.