



KARNATAKA LOKAYUKTA

Compt/Uplok/Mys/390/2003/ARE-6 Multi-storeyed Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru, dated 27.02.2018

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

Sub: Regarding taking immediate steps to
remove the encroachment inside the forest
area and also for protecting the entire forest
area declaring with Tiger Protection Area
without any delay in Biligiri Rangaiahna Betta.

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When the world is debating and discussing, how to prevent  
global warming as in the name of socio-economic development,  
there has been systematic destruction of forest, environment,  
flora and fauna causing irreparable injury to the eco system and  
natural habitats in the forest. However, the allegation in this  
complaint shows that, a notified forest way back in 1942 and  
notified as 'Tiger Reserve Area', being encroached by  
unauthorised cultivators. In addition to this, that State has  
become party to grant the reserve forest land for cultivation

dehorse to the provisions of Forest Act (Central Act), The Karnataka Forest Act, Conservation of Forest Act, Wildlife (Protection) Act, etc. It is stated that, large area of forest land is sought to be converted into revenue land for the purpose of granting for cultivation. In this complaint, it is alleged that, Revenue authorities, without even transfer of the forest land, has granted the same to several persons, whereas the Forest Department has also not taken any action even against unauthorised cultivators. It appears that, the Forest Department which is formed to protect forest has shut its eyes, hence it is time for it to open its eyes and take action to protect at least available forest for the future.

2. This complaint is filed by one Shri K. Somanna s/o Madle Krishna Naik, Village Head, Biligiri Ranga Hills, Yalandur Taluk, Chamarajanagar District [hereinafter referred to as 'the complainant'] on 08.09.2003 and has been pending since then. The grievance of the complainant was that, till today, the respondents i.e., officials of Forest, Revenue and Survey Departments have not taken any

positive steps to conduct the survey and submit the concerned records relating to their occupation and mutation.

3. The complainant alleged that, they have been cultivating the lands, however the Forest Department, Revenue Department and Survey Department have not demarcated the lands and also, have not taken any steps to confirm their rights by mutating their names in the revenue records according their occupation.

4. In 2003 itself, former Hon'ble Lokayukta had directed to conduct joint survey of the land bearing Sy. Nos. 2, 3 and 4 of Biligirirangana Betta measuring 22,640 acres 06 guntas. On 03.10.2003, the Range Forest Officer (RFO), Wildlife Range, Yalandur, Chamarajanagar District submitted a report to the Deputy Commissioner, Chamarajanagar District, Chamarajanagar, and a copy of which is marked to this Institution stating that, Government, by order Nos. DCF, Mysuru No.142-696:DCR:60-61 dated 14.06.1960; DCF, Mysuru No.FOC:GL.3318:5:61-61 dated 06.01.1962; and DCF,

Mysuru No.FOC.GL:3318:8:61-62 dated 18.03.1963, have granted 'darkhast' in favour of Scheduled Tribes and others to the extent of 300 acres by Government Order dated 14.06.1960 and 125 acres by order dated 06.01.1962 and the land has been transferred by the Forest Department to the Revenue Department. However, in respect of the said 425 acres, the podi work has not been done since then.

5. Though several notices were issued by this Institution, however for one or the other reasons, joint survey was not conducted by the Forest and Revenue Departments. On 21/23.10.2009, the then Deputy Commissioner, Chamarajanagar District, Chamarajanagar, submitted his

report stating that, no records are available as to the demarcation of boundaries in respect of 425 acres of land transferred by the Forest Department to the Revenue Department and the sketch prepared by the Revenue Department, did not reflected the exact area of land granted, as such, even there is no possibility of demarcating the land granted to the tribal and no possibility of identifying the

correct area as the terrain is hilly area and difficult to conduct survey. He also pointed out that, the land granted is much more than the land transferred by the Forest Department to the Revenue Department. As per the provisions of Conservation of Forest Land, Government of India permission is necessary to divert the use of forest land for cultivation purpose and stated that, as a result, there has been delay in conducting the joint survey. Thereafter, the Tahsildar sought for time by his letter dated 19/21.02.2011 as there is a need to conduct survey of the land which is released by the Forest Department to the Revenue Department and in this regard, letter was written to the

Deputy Conservator of Forests, Wildlife, Yalandur for confirmation of the sketch prepared by the Revenue Department.

6. On 21.09.2012, Deputy Commissioner, Chamarajanagar District, Chamarajanagar informed that, for want of number of surveyors, there is a delay in conducting the joint survey and in this regard, the Deputy Director of Land

Records was directed for resurvey of the lands. Though 544 acres of land has been released by the Forest Department to the Revenue Department, but total land granted under 'darkhast' as well as unauthorised cultivation is 733 acres 14 guntas and as such, he sought for 06 months time to submit the survey report. He also informed by letter dated 21.09.2012 that since the land under cultivation or unauthorised occupation has increased then the land released by the Forest Department. Hence, there is a need for a decision in this regard by the competent authority as regard to the excess land. The Deputy Commissioner again sought for time in October 2012, again in January 2013 on the ground of want of surveyors. On 09.10.2013, he submitted GPS sketch of the joint survey indicating the land under cultivation by virtue of darkhast or unauthorised cultivation or illegal cultivation. However, despite of several replies by the Deputy Commissioner, Chamarajanagar, the actual demarcation of the land under cultivation as well as the illegal occupation of the forest land was not demarcated.

7. The Forest Department i.e., Deputy Conservator of Forests, Wildlife, Yalandur Range, by his letter dated 10.10.2014 informed that, the total extent of forest land as per the gazette notification of 1942 and the land released from time to time have to be considered for the purpose of conducting the joint survey.

8. In the mean while, on 17/20.12.2011, Deputy Conservator of Forests (DCF), Wildlife Division, Chamarajanagar informed the Deputy Commissioner, Chamarajanagar District, Chamarajanagar that, His Highness the Maharaja of Mysore was pleased to declare under the provisions of Section 35(iii) of Mysore Forest Act XI of 1900 that, the limits of which are declared in Scheduled annexed thereto shall be "Reserved Land". Forest Department was sanctioned as per Government Order No.1200-02-MUZ.177-37-2 dated 26.02.1938 the rights and previlages were specified at the footnote, same was published in Mysore Gazette Part-I on 01.10.1942 (page 1593-96). Accordingly, DCF, Wildlife

Division, Chanarajanagar stated that, the said forest shall be deemed to be reserved forest granted to the Forest Department for the management under Section 36D of the Mysore Forest Act XI of 1900 and all the provisions of Chapter II and IV thereof and rules made there under from time to time shall be applicable. Reserved forest will be under the management of District Forest Officer and his staff in whose jurisdiction the forest lies as per the gazette dated 20.10.1943.

9. In view of the gazette notification under the provisions of Section 35(3) of the Mysore Forest Act, 1900 and an area of 21,965 acres is notified forest land. Hence, he requested the

Deputy Commissioner to cancel all the grants made in respect of notified forest land including the lands granted or transferred to Revenue Department and hand over the same to Forest Department as the same land is notified as Forest land and any diversion of the forest land would amounts to violation of Forest Conservation Act, 1980.

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10. Deputy Conservator of Forests (Technical Assistant), Chamarajanagar, by his letter dated 09.01.2014 informed the Asst. Conservator of Forests, Yalandur that, there is only mention of release of 130 acres from the notified forest area under the gazette notification dated 21.09.1942 and except this, there is no other transfer or grant made by the Forest Department and there are no document of release of 425 acres of forest land to the Revenue Department and expressed serious doubt as to the transfer and de-reservation of forest and stated that, he has already informed even the Deputy Conservator of Forests as well as Deputy Commissioner on 20.12.2011 for removal of the encroachments in the forest land.

11. On 10.01.2014, the Asst. Conservator of Forests reaffirmed that, there is no document of release of forest land to the Revenue Department except ~~130 acres~~ under gazette notification dated 21.09.1942. However, the Deputy Commissioner, Chamarajanagar District by his letter dated 18.02.2014 addressed to the Asst. Conservator of Forests,

Wildlife, Yalandur informed that, there was a correspondence between Divisional Forest Officer, Working Plan Division, Mysuru; Divisional Forest Officer, Mysuru; and Divisional Forest Officer, Chamarajanagar for transfer of land from the Revenue Department to Forest Department on 07.07.1999 by letter in No.LND.58/87-88, the then Deputy Commissioner - Shri B.H. Manjunath and Shri Vijayakumar Gogi, DCF, Chamarajanagar, Shri V.L. Meena, ACF, the then Tahsildar conducted the spot inspection and in their report, there is reference to transfer of land from Forest Department to Revenue Department and stated that, there may be some records relating to the transfer of forest land to the Revenue Department.

12. Thereafter, there were series of correspondence with the Deputy Commissioner, Chamarajanagar District; DFO and DCF, Wildlife as regard to the status of the reserved forest area at Biligirirangana Betta. However, neither the revenue officials could come out with the authenticated documents of transfer of forest land to the Revenue Department for the

purpose of granting/issuing darkhast or issuing hakku patra nor they come out with correct survey report as to the notified forest area and unauthorised occupation over the forest land.

13. Thus, the facts remains that by gazette dated 21.09.1942, the Government of His Highness the Maharaja of Mysore was pleased to declare under the provisions of Section 35(iii) of the Mysore Forest Act XI of 1900 that, the lands the limits which described in the Annexure II shall be reserved land for the purpose of management of temple forest by Forest Department sanctioned under the said notification, the total area of 22,610.72 acres of Sri Biligiri Rananatha Swamy Temple Forest Reserve was declared as reserved land bearing Sy. No.2 measuring 71 acres 36 guntas, Sy. No.3, 13 acres 10 guntas and Sy. No.4, 22,605 acres 06 guntas i.e., nearly 22,611 acres 32 guntas as reserved forest under the management of Temple Forest Department then. The notification also specifies that, as to the mode of utilisation of the forest land for construction of road and other non forest activities and

out of 22,611 acres of land, the privilege rights were granted to the temple by earmarking 130 acres of land as shown in the map then as Sri Biligiri Ranganatha Swamy Temple, the dwelling house of temple staff, choultry, Jagirdar's bungalow, Sanhebavi, Swamy Kalyana, Bilamounankola and lands for cultivation to the temple staff and Sericulture Department for mulberry and blank area is treated as enclosure to the forest reserve and will be demarcated and free from reservation. This 130 acres of land which was sought to be released under the notification of 1942 was also subjected to demarcation to free it from the reserve. The land was also provided for particular purpose and for particular persons for the benefit of the temple and temple staff. Except this, the rest of the area was reserve forest area.

14. On 24.01.2011, the Government of Karnataka, in exercise of power under Section 38 of the Wildlife (Protection) Act, 1972 (Central Act 53 of 1972), declared an area of 359.10 Sq. Kms., as an area constituting Biligiri Ranganatha Swamy Temple Tiger Reserve. This was with

the approval of National Tiger Protection Authority and Government of India. This reserve forest area was declared as Tiger Reserve Area by the Government of Karnataka under the Central Act as a 'Tiger Reserve Area'.

15. Since the records clearly indicate that, an area of 22,611 acres of the Biligiri Rangana Betta was declared as reserve forest under the then Mysore Forest Act and there was no documents of de-reserving the forest land at any time as per the Forest Department correspondence, but still Government, during 1960, 1961 and 1962, granted 300+125 acres in all, 425 acres of land by darkhast and also by confirming the ~~occupation in the forest land though there was no de-~~ reservation of forest at any time nor there was any land which was available for the Revenue Department to issue *darkhast*.

16. According to the Deputy Commissioner, Chamarajanagar District, there is an additional area under

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cultivation and as per his opinion, more than 700 acres is under cultivation or illegal occupation.

17. Several correspondences were made to ensure to protect the reserve forest area and more so, Tiger Reserve Area as per the provisions of Wildlife (Protection) Act, 1972 and Karnataka Forest Act.

18. Considering the importance of the matter, personal inspection as well as the enquiry with the Revenue and Forest Department officials was convened at Biligiri Ranga Hills Guest House on 17.01.2018. The said meeting was attended by the Deputy Commissioner, Chaurajanagar District, Conservator of Forests, Tahsildar, Yalander, other forest officers, revenue officials and the villagers as well as the complainant.

19. During the course of the meeting, the Conservator of Forests submitted that, except proposal for de-reservation of 130 acres under the notification dated 21.09.1942, there is no de-reservation of forest by any notification by the

Government of Karnataka, however he admits that Government has granted 300 acres and 125 acres under the 'darkhast' as well as by confirmation of unauthorised occupation. More than 750 acres of forest land is being under occupation with or without any grant by the Revenue Department. He submitted that, there is no demarcation of forest and unauthorisedly occupied land. He also stated that, illegal occupation and encroachment is still continuing and has become regular phenomina.

20. In this regard, the Deputy Commissioner, Chamarajanagar and the revenue officials as well as the forest officials were requested to submit a report atleast identifying the actual forest area and the remaining area under the cultivation or otherwise with the Revenue Department. On 08.02.2018, the Deputy Commissioner, Chamarajanagar has submitted the documents along with sketch as to the land <sup>fed</sup> ~~der~~ under 'inam abolition', confirmation of unauthorised occupation and under darkhast. According to him, 352 acres 6 guntas is granted under 'Inam Abolition' Order; 09 acres 19

guntas under regularisation of unauthorised occupation; and  
74 acres 02 guntas under darkhast by issuing saguvali chit.

21. Looking at the grant of land under inam grant, it shows that, as many as 56 persons have been granted lands of different extents which even exceeds 13 acres and all these orders are dated 01.04.2008, 01.06.2008, and 01.07.2008 appears to have been made to favour some persons. All these land come under the reserve forest area. Similarly issue of darkhast as well as confirmation of unauthorised occupation also come under the reserve forest area.

22. The original notification of reserving the land under the management of the forest itself prevented the use of any portion of the forest land for any other purpose except the privilege rights granted in respect of 130 acres of land out of 22,611 acres and that too subject to demarcation. However, the then Deputy Commissioner and the revenue officials clandestinely, without any authority and in violation of the then Mysore Forest Act, rules and regulations made there



~~under~~ as well as the Karnataka Forest ~~Act~~ have granted 'darkhast' and also granted occupancy rights in the name of 'inam'. When the land is notified as the forest land, the entire jurisdiction of management of forest land vests with the Forest Department. If there is any provision under the provisions of Forest Act for de-reserving the forest land only on de-reserving the forest land and transferring the same to the Revenue Department, the Revenue Department subject to the provisions of Karnataka Land Revenue Act, Land Grant Rules, etc., could make the grants of such lands. As of now, the records show that, till today, there is no transfer of forest land and more so, there being no provision which enables for

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transfer of the forest land when it is reserved one, the question of granting or using it for any other purpose other than the forest purpose is wholly illegal and without jurisdiction.

23. The object of the conservation of forest is to protect the forest as much as possible. There is provision to deforest. In turn, the object is to increase the forest area both for

environmental purpose and also to maintain safe zone for the wild life under the Protection of Wildlife Act. However, till today, neither the Forest Department nor the Revenue Department are interested in protecting the forest. What appears from the series of correspondence with the Revenue Department, Revenue Department is in hurry to divert the forest land for revenue purpose and reduced the forest area causing perpetual injury to the nature and the wildlife and the environment. This reduction of forest area has resulted in several wildlife species entering into urban area in search of food.

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24. ~~In a sustainable development and sustainable ecology,~~ the Government policy is to strictly prohibit the deforestation, by banning any transfer of forest land either for grant or mining industry and other activities which may be endanger the forest.

25. The Hon'ble Supreme Court time and again has alerted and warned State Governments in the matter of protecting

wildlife deforestation and protection of tribal's by rehabilitation. Huge amount is spent to protect the wildlife, natural species by patrolling, surveillance with watch and ward, preventing untoward incident in forest area. It is in this regard, Tiger Reserve area is notified with an intention to create natural habitation for the tigers and also to create an atmosphere of natural wildlife area ensuring the protection of tigers and wildlife in the forest area and the forest.

26. Though there is no provision for diversion of forest land much less after declaring the forest as reserve forest area and declaring it as Tiger Reserve Area, the Government should have taken immediate steps to remove all such encroachment, illegal cultivation, alleged grants and remove such occupants from the forest area. In turn, the information gathered from the locals show that, not only illegal cultivation is going on, but some of the forest area is used for construction of resorts for luxury enjoyment at the cost of wildlife. There are some coffee estates developed. These all show that, this will not be possible without the connivance of

the revenue as well as Forest Department officials. Hence, it is high time for the Government to take action to protect the reserve forest at least from the clutches of land grabbers, illegal occupants by removing them and such cultivation inside the forest as early as possible.

27. Neither under the provisions of the Forest Act, nor under the Karnataka Forest Act nor under Wild Life Protection Act or Conservation of Forest Act, the reserve forest more so declared as Tiger Reserve Area could be diverted for any other purpose. As such, any diversion of reserve forest area contrary to law is illegal and unacceptable. Thus, it is the duty of the State as an Authority to protect the forest, but in this complaint, the State itself is indulging in reducing the forest by diverting the same without any authority much less due process of law.

28. Neither in the name of social justice nor for any other reason, it is impermissible to deforest and such act would be considered as unconstitutional. Hence, State being custodian

of forest in public trust is bound to protect the same, state is an authority to protect forest, it itself can become encroacher or party to encroachment of forest land. Hence, it is legitimate expectation that, the State shall protect the forest.

29. Hence, in the above circumstance and also in view of the provisions of Karnataka Forest Act, The Forest Act and the Wildlife (Protection) Act, there is a need to conserve the forest, as such, a recommendation to the Competent Authority to restore the forest area by removing all the encroachment in the Biligiri Rangaiahna Betta is necessary.

30. Accordingly, in exercise of power under Section 12(1) of the Karnataka Lokayukta Act, 1984, it is hereby recommended to the Competent Authority to take immediate steps to remove the encroachment inside the forest area and restore the entire forest area as per the notification..

31. The Competent Authority shall intimate the action taken or proposed to be taken on this report within one

month from the date of receipt of this report as contemplated  
under Section 12(2) of the Karnataka Lokayukta Act, 1984.

Connected original records are enclosed.

*Sgd* 27/2/18  
(Justice B. Subhash Adi)  
Upalokayukta,  
State of Karnataka.

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