

KARNATAKA LOKAYUKTA

No. Compt/Uplok/BCD-1445/2017/DRE-2 M.S. Building,
Dr. Ambedkar Veedhi,
Bangalore-560 001,
Date: 23.10.2017.

**REPORT UNDER SECTION 12(3) OF
KARNATAKA LOKAYUKTA ACT, 1984**

Sub: Proceedings initiated against 1) Sri K.L. Gangadharaiah, Present Assistant Director, Town Planning (East), BBMP, Bengaluru 2) Sri N.G. Chandrappa, the then Assistant Director of Town Planning (East)(Retd.), O/o JDTP North, Hudson circle, BBMP, Bengaluru 3) Sri B.R. Rangaswamy, the then Assistant Engineer, O/o ADTP(East), BBMP, Bengaluru (presently working as Assistant Director, Town Planning (North), BBMP, Bengaluru and 4) Smt. Sushilpa.N., the then Assistant Engineer, O/o ADTP (East), BBMP, Bengaluru presently working at O/o ADTP-Bytarayanapura, Amruthahalli main road, BBMP, Bengaluru, regarding their misconduct as Government Servants - reg.

An investigation was taken up under Section 9 of the Karnataka Lokayukta Act, on the basis of complaint filed by 1) Sri S.N. Ghosh, President and 2) Sri R.V. Shivanand Reddy, Secretary, Versova Layout, Residents Welfare Association, C.V. Raman Nagar, Bengaluru (hereinafter referred to as 'complainants' for short) against 1) Sri K.L. Gangadharaiah, Present Assistant Director, Town Planning (East), BBMP, Bengaluru 2) Sri N.G. Chandrappa, the then

Assistant Director of Town Planning (East)(Retd.), O/o JDTP North, Hudson circle, BBMP, Bengaluru 3) Sri B.R. Rangaswamy, the then Assistant Engineer, O/o ADTP(East), BBMP, Bengaluru (presently working as Assistant Director, Town Planning (North), BBMP, Bengaluru and 4) Smt. Sushilpa.N., the then Assistant Engineer, O/o ADTP (East), BBMP, Bengaluru presently working at O/o ADTP-Bytarayanapura, Amruthahalli main road, BBMP, Bengaluru (hereinafter referred to as 'respondents' for short).

- 2) The complainant alleges that there are irregularities in the sanction of plan vide LP no. AD.COM/EST/0167/2014-15 dt. 19/07/2014 for mixed-use of building constructed at property no.1, Kaggadasapura Main Road, 1st main road, Versova layout, Bengaluru, Ward no. 57(83), PID no. 83-79-1. As per the Zoning Regulations 4.1.2 in Revised Master Plan 2015, ancillary use of land is allowed only to an extent of 20% of the total built up area or 50 sqm whichever is higher. But in the sanctioned plan issued by the respondent to the above said property, residential area is 536.29 sqm and commercial area is 687.73 sqm which is higher than the permissible limit of 50 sqm. They have made complaints to BBMP Authorities. The respondent had issued notice dt. 29/06/2016 to the plot owner, but thereafter no action is taken to remove the commercial spaces in the said premises. Hence, has prayed to take action against the respondents.
- 3) The respondent no.1 being the present Asst. Director of Town Planning (East), BBMP has submitted his comments

dated 28.07.2017 stating that upon the application of the owner of the building Shri. K.G. Shivarudraiah for construction of commercial building in property no. 01, plan was approved vide No. AC(E)/OS/LP/0167/2014-15 dated 11.06.2014. The said approval was given by respondent no.2 Shri. N.G. Chandrappa, Asst. Director of Town Planning (East) and respondent no. 3 Shri. B.R. Rangaswamy, Assistant Engineer.

Later the said owner has sought for modified plan for construction of both residential and commercial building. The same was approved vide No. AC(E)/OS/LP/0167/2014-15 dated 19.07.2014. The said approval was given by respondent no. 2 Shri. N.G. Chandrappa, Asst. Director of Town Planning (East) and respondent no. 4 Smt. N. Sushilpa Assistant Engineer.

Further, the respondent no.1 states that as per the CDP - 2015 Master Plan and Zoning Regulations - 2007, there is no provision for approving the plan for the purpose of constructing commercial building beside the road having width of 10.91 Meters. The above said plans have been approved in violation of the said regulations.

It is also stated that in the proceedings in Comp/Uplok-2/Misc-1432/2015 by the same complainant upon the same allegations, there was a direction to issue notice to the owner of the building to submit application for modified plan for residential building. Accordingly, notice was issued vide No. AD(TP)(East)/LP/0167/2014-15 dated 14.12.2015 was issued to the owner of the building which was refused by him. Another notice dated 29.06.2016 was

also issued which was also refused by the owner of the building. When the notice was served on the building, the owner of the building has received the notice personally. If the owner of the building submits application for modified plan for residential purpose, the same will be approved. On failure of the owner to submit such application, necessary action will be taken after obtaining the legal opinion.

The respondent no. 1 has submitted further action taken report dated 25/09/2017 stating that final notice dated 24/07/2017 was issued to the owner of the building. On 01/08/2017 the owner of the building had replied stating that O.S. 8519/2015 is filed by him before City Civil Court challenging the notice issued u/s 321 of KMC Act by Assistant Executive Engineer, C.V.Raman Nagar subdivision, BBMP, Bengaluru and injunction order has been granted against them from demolishing any portion of the building. Further has stated that he has obtained legal opinion from the head of legal cell in which it is opined that since the final notice issued by respondent no. 1 dated 24/07/2017 has not been challenged by the owner of the building, they may proceed in accordance with the final notice. Thereafter acting u/s 443(3) of KMC Act, 1976 he has submitted proposal on 25/09/2017 before Plan Sanction Committee, East Zone, BBMP, Bengaluru for cancellation of the alleged modified plan and license.

- 4) Later respondents 2 to 4 have been added and their comments were called. Respondents 2 to 4 have submitted their comments dated 04/10/2017, 27/09/2017 and 04/10/2017 respectively.

5) Respondents no. 2 & 3 have not denied sanctioning of the alleged plan vide No. AC(E)/OS/LP/0167/2014-15 dated 11.06.2014. Similarly respondents 2 & 4 have not denied sanctioning of the alleged plan vide No. AC(E)/OS/LP/0167/2014-15 dated 19.07.2014. Respondent no. 1 in his comments dated 28/07/2017 has clearly stated that the above said plans have been approved in violation of the Zonal Regulations. The respondent no. 1 along with his comments has produced Revised Master Plan of the year 2015, wherein there is no such commercial area in the place where the alleged property is situated. He has produced the copy of the Gazette Notification vide no. UDD 105 MNJ 2008 Bengaluru dated 20/03/2015, wherein the Zoning Regulations of revised Master Plan-2015 and amendments, Regulations – 2014 are amended in order to bring them in conformity with the affidavit filed by the BDA on 19/02/2014 before Hon'ble High of Court of Karnataka in W.P. 2661/2015 (PIL) as below:

- 1) *No commercial activity of whatsoever nature shall be allowed in residential main and residential mixed zones in the three rings, viz., Ring No.1, Ring No.2 and Ring No.3 if road width is less than 40 feet.*
- 2) *The ancillary usage shall be permitted in residential main and residential mixed zones in Ring no.1 and Ring No.2 upto 20% of the built up area or 50 sq.mtrs whichever is lower provided the width of the road is above 40 feet.*

Under the circumstances, it is clear that the road width in front of the property is of 10.91 mtrs and the respondents 2

and 3 have approved the building plans for commercial purpose vide no. AC(E)/OS/LP/0167/2014-15 dated 11.06.2014 and respondents 2 and 4 have approved modified building plan for commercial and residential purpose vide No. AC(E)/OS/LP/0167/2014-15 dated 19.07.2014 by violating the Zonal Regulations-2007 and CDP-2015. The same has been clearly stated by respondent no. 1 in his comments. Therefore the respondents 2 to 4 are found guilty for sanctioning the alleged plans for commercial purpose by violating the Zonal Regulations.

- 6) The sole allegation against respondent no. 1 is that after issuing notice dated 29/06/2016 to the building owner, no action has been taken to remove the commercial spaces in the alleged building. The respondent no. 1 in his comments has clearly stated that as per the instructions issued in Compt/Uplok-2/Misc-1432/2015, he has issued notice dated 14/12/2015 to the owner of the building to submit modified plan for residential building (copy of the notice produced along with his comments). Records show that respondent no.1 has issued notice dated 29/06/2016 and final notice dated 24/07/2017 to the owner of the building for submitting modified plan for residential building. Even though in his further comments dated 25/09/2017 respondent no.1 has stated that proposal has been submitted before the Plan Sanction Committee, East Zone, BBMP for cancellation of the alleged Plan, from the records it can be ascertained that from 14/12/2015 no serious action is shown to have been taken by the respondent no.1 inspite of having the knowledge that the alleged plan was issued in violation of the Zonal Regulations and CDP-2015. Only after


issuing of notice in the present complaint and further action taken report was called, respondent no. 1 has made up his mind to recommend for cancellation of the alleged plan before the Plan Sanction Committee on 25/09/2017. For about more than 1½ years, no action has been taken by respondent no.1 as per the provisions of Karnataka Municipal Corporation Act, 1976. No reasons have been stated for the delay in taking action for cancelling the alleged plan. Total negligence can be inferred against respondent no.1 with respect to his inaction for cancellation of the alleged plan.

- 7) Under the circumstances, the comments of respondents 1 to 4 cannot be accepted at this stage. There are prima-facie materials against respondents 1 to 4 for the above said misconduct.
- 8) Respondent No.2 is stated to have been retired on 31.01.2015. The alleged modified building plan was approved by Respondent No.2 on 11.06.2014. The limitation of 4 years from the date of incident lapses on 11.6.2018. Therefore action can be initiated against Respondent No.2 under Rule 214(2)(b) of K.C.S.R.s.
- 9) Accordingly now, acting under section 12(3) of the Karnataka Lokayukta Act, recommendation is made to the Competent Authority to initiate disciplinary proceedings against the respondents (1) **Shri. K.L. Gangadhariah**, present Assistant Director, Town Planning (East), BBMP, Bengaluru (Date of Retirement **30.04.2030**) (2) **Shri. N.G. Chandrappa**, the then Assistant Director of Town Planning (East)(Retd.), O/o JDTP North, Hudson circle, BBMP,

Bengaluru (Date of Retirement **30.01.2015**) (3) **Shri. B.R. Rangaswamy**, the then Assistant Engineer, O/o ADTP(East), BBMP, Bengaluru (presently working as Assistant Director, Town Planning (North), BBMP, Bengaluru (Date of Retirement **31.07.2019**) and (4) **Smt. Sushilpa.N.**, the then Assistant Engineer, O/o ADTP (East), BBMP, Bengaluru presently working at O/o ADTP-Bytarayanapura, Amruthahalli main road, BBMP, Bengaluru (Date of Retirement **30.01.2046**) and entrust the inquiry to this Authority under Rule 14-A, of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 along with sanction as required under Rule 214(2)(b) of KCSRs against respondent no. 2 who had already retired from the service.

- 10) Further, as per Section 12(4) of Karnataka Lokayukta Act, 1984, the Competent Authority is required 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), 24/10
Upalokayukta-1,
State of Karnataka.