

**KARNATAKA LOKAYUKTA**No:Compt/Uplok/BCD-1869/2017/ARLO-1.Date:28-04-2022  
L 30**REPORT UNDER SECTION 12(3) OF KARNATAKA LOKAYUKTA  
ACT, 1984.**

Sub:- Initiation of proceedings against the respondent No:1 Sri. Puttappaswamy, Asst. Executive Engineer, BBMP West Division, Rajajinagar Zone, Bengaluru about his misconduct as public/Government servant-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.Chanrappa L., No:11, 9<sup>th</sup> Cross Road, 1<sup>st</sup> Main Road, Kamakshipalya, Behind Veerabhadreshwara Convention Hall, Bengaluru (hereinafter referred to as 'complainant' for short) against (1) Sri.Puttappaswamy, Asst. Executive Engineer, BBMP West Division, Rajajinagar Zone, Bengaluru, (2) Sri.Maheshwarappa, Asst. Executive Engineer, Rajajinagar Sub-Division, BBMP., Bengaluru and (3) Sri.Narayana, Asst. Engineer, Rajajinagar Sub-Division, BBMP., Bengaluru (hereinafter referred to as 'Respondent No:1 to 3' for short).

2. The instant complaint is filed by the complainant Sri.Chandrappa.L against the Respondent No.1 Sri.Puttappaswamy, Asst. Executive Engineer, BBMP West Division, Rajajinagar Zone, Bengaluru, (2) Sri.Maheshwarappa Asst. Executive Engineer, BBMP West Division, Rajajinagar Zone,

Bengaluru and (3) Sri.Narayanappa, Asst. Engineer, BBMP West Division, Rajajinagar Zone, Bengaluru.

3. The substance of the complaint is that one Sri.Sundar is constructing a building at 12<sup>th</sup> Cross, Karekal, Kamakshmi Palya, Ambabhavani Temple Road, (beside BBMP Mini Water tank) without there being any sanctioned plan and license, commencement certificate from the BBMP authorities. It is also alleged that public road is encroached by said Sri.Sundar. It is also alleged that inspite of the complaint to the BBMP authorities, no action has been taken against the said illegal construction. Alleging the above grounds the complainant prays to take action against the respondents.
4. Along with the complaint, the complainant has furnished the copy of the representation made to Asst. Executive Engineer, West, Ward No.101, BBMP, Copy of the representation to Joint Commissioner, copy of representation to the Chief Secretary to Urban Development Department.
5. The note sheet reveals that at the first instance, the instant complaint has been filed against the Resp.No.1 alone ie.,Sri. Puttaswamy Asst. Executive Engineer, BBMP West Division, Rajajinagara Zone, Bengaluru. Later the incumbent Asst. Executive Engineer, Sri.Maheshwarappa and Asst. Engineer Sri.Narayana have been impleaded as Resp.No.2 & 3.
6. Resp.No.1/Asst. Executive Engineer Sri.D.K. Puttaswamy has filed his comments dtd:28/8/2017 stating that on receipt of the complaint dtd:22/5/2017 from Smt.Bhagyamma and others alleging illegal construction by one Sri.Sundar at 12<sup>th</sup> cross, Karekal Kamakshipalya, Bengaluru, he had issued notice U/s 308

of the KMC Act on 8/6/2017; passed orders U/s 321(1) & 321(2) of KMC Act on 8/8/2017 and issued order U/s 321(3) of KMC Act on 19/8/2017. Along with the comments the Resp.No.1 filed order passed U/s 321(1), 321(2) of KMC and Sec.321(3) of KMC Act.

7. The Resp.No.2 & 3 have submitted their comments dtd: 28/2/2018 stating that a report under Sec.462 of the KMC Act, 1976 has been sent to the Divisional office. The owner of the property has filed OS.No.6286/2017 before the Civil Court. The Hon'ble court granted ad-interim order of temporary injunction against the defendants, restraining the defendants, their henchmen, agents, servants, PA holders or anybody on behalf of the plaintiff from in any way interfering with the plaintiff's possession of the suit schedule property, pending disposal of the suit. It is also stated that the Resp.No.2 has been working as Asst. Executive Engineer, Rajajinagar Sub Division BBMP from 23/10/2017 and the Resp.No.3 has been working as Asst. Engineer, Ward No.101, from 28/10/2017. The perusal of the order sheet in OS No:6286/2017 on the file of the Hon'ble X ACCJ Bengaluru discloses that on 13/9/2017 Hon'ble court has granted exparte temporary injunction restraining the defendants from interfering with the peaceful possession and construction of suit property till further orders. The perusal of the order sheet and the plaint copy in OS.No:6286/2017 discloses that neither the instant respondents nor any other BBMP Engineers are parties in the said suit.

8. It is pertinent to note that the instant complaint is filed before this authority on 5/7/2017. The service particulars of the Resp.No.1 discloses that as on the date of the instant complaint by

complainant before this authority the Resp.No.1 Puttaswamy was working as Asst. Executive Engineer, BBMP West Division, Rajajinagar Zone Bangalore and the Resp.No.1 has been working as Asst. Executive Engineer BBMP West Division, Rajajinagar Zone Bangalore from 10/4/2017.

9. The perusal of the notice dtd: 8/6/2017 issued under Sec. 308 KMC Act discloses that the instant Resp.No.1 being the Asst. Executive Engineer of the jurisdictional area has issued notice U/s 308 of the KMC Act 1976 to the owner of the building calling upon him to produce the approved plan and other relevant documents. The perusal of the order dtd: 8/8/2017, U/s 321(1) discloses that in pursuance of the complaint by Smt.Bhagyamma and others the instant Resp.No.1 along with the Asst. Engineer has passed order U/s 321(1) of KMC Act. The perusal of the order dtd: 8/8/2017, U/s 321(2) of KMC Act also discloses that the instant Resp.No.1 being the Asst. Executive Engineer of the jurisdictional area has passed order U/s 321(2) of KMC Act, 1976 on 8/8/2017 along with the Asst. Engineer.
10. A perusal of the order dtd: 19/8/2017 u/s 321(3) of KMC Act, discloses that the instant Resp.No.1 being the Asst. Executive Engineer of Rajajinagara Sub Division, BBMP has passed confirmation order U/s. 321(3) of KMC Act 1976 on 19/8/2017 directing owner of the building to remove the illegal construction. It is pertinent to note that as per the comments of Resp.No.1 dtd: 28/8/2017 notice has been issued under Sec.308 of KMC Act and order U/s 321(1), 321(2) & 321(3) of KMC Act has been passed on receipt of complaint dtd: 22/5/2017 from Smt.Bhagyamma and others. So it discloses that as I have already discussed above the

complainant has filed instant complaint before this authority on 5/7/2017 and the Resp.No.1 had received complaint regarding the illegal construction on 22/5/2017 i.e. prior to lodging of the complaint by complainant before this authority. It is also pertinent to note that notice u/s 308 of KMC Act has been issued by the Resp.No.1 on 18/6/2017, order u/s 321(1) & 321(2) has been passed by the Resp.No.1 along with Asst. Engineer on 8/8/2017 respectively and confirmation order has been passed by Resp.No.1 u/s 321(3) of KMC Act on 19/8/2017 and a report has been sent by the Resp.No.1 u/s 462 of KMC Act to the Executive Engineer on 30/8/2017. So the perusal of the above order passed by Resp.No.1 clearly discloses that only after filing of the complaint by the complainant before this authority regarding the illegal construction the Resp.No.1 has issued notice U/s 308 of KMC Act and passed order U/s 321(1), 321(2) & 321(3) of KMC Act and sent report to the Executive Engineer U/s 362 of KMC Act. It also discloses that the Resp.No.1 did not take any action against the illegal construction immediately after the receipt of the complaint from Smt. Bhagayamma and others regarding the illegal construction on 22/5/2017 till the filing of the complaint by the complainant before this authority. This shows the Resp.No.1 failed in his duty to stop the illegal construction and the building has been allowed to be constructed illegally without any approved plan and building licence encroaching the public road violating the BBMP rules. It is also pertinent to note that the Resp.No.1 being the Asst. Executive Engineer of the jurisdictional area was duty bound to take action against the illegal construction from the commencement of the construction of the building itself. In this regard, I feel it necessary

to go through the relevant circulars of BBMP commissioner in this regard.

11. In the circular of the BBMP/Commissioner dtd:7/8/2015 the Commissioner has delegated the powers by exercising his powers U/s 67 of Karnataka Municipal Corporation Act, 1976 at para-3 & 4 of the circular as follows:

“ಪಾಲಿಕೆಯು ಎಲ್ಲಾ ರೀತಿಯಲ್ಲಿಯೂ ಕ್ರಮ ಜರುಗಿಸುತ್ತಿರುವಾಗಲೂ ಕೂಡ ಅನಧಿಕೃತ/ನಕ್ಷೆ ಮಂಜೂರಾತಿ ಉಲ್ಲಂಘನೆ ಕಟ್ಟಡಗಳ ನಿರ್ಮಾಣವನ್ನು ನಿಯಂತ್ರಿಸಲು ಪರಿಣಾಮಕಾರಿಯಾಗಿ ಕ್ರಮಕೈಗೊಳ್ಳಲು ಸಾಧ್ಯವಾಗುತ್ತಿಲ್ಲ.

ಈ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಕೆಳಕಂಡ ಮೂರು ಕ್ರಮಗಳನ್ನು ಇಂತಹ ಎಲ್ಲಾ ಪ್ರಕರಣಗಳಲ್ಲಿ ತೆಗೆದುಕೊಳ್ಳಲು ಉಪ ವಿಭಾಗಗಳ ಸಹಾಯಕ ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಭಿಯಂತರರುಗಳಿಗೆ ಸೂಚಿಸಿದೆ. ಸಂಬಂಧಪಟ್ಟ ಉಪ ವಿಭಾಗದ ಸಹಾಯಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು ಕಟ್ಟಡಗಳ ತಳಪಾಯ ತೋಡುವ ಹಂತದಿಂದಲೂ ಕಟ್ಟಡಗಳ ನಿರ್ಮಾಣದ ಬಗ್ಗೆ ಗಮನಹರಿಸಿ, ಕಾಲಕಾಲಕ್ಕೆ ಕಟ್ಟಡದ ಹಂತಗಳ ಬಗ್ಗೆ ಕಛೇರಿ ಕಡತದಲ್ಲಿ ನಮೂದಿಸತಕ್ಕದ್ದು.

ಕ್ರಮ 1: . . . . .

12. The perusal of the office order of the Commissioner, BBMP., dated:29-6-2015 reads as follows:-

“ಬೃಹತ್ ಬೆಂಗಳೂರು ಮಹಾನಗರ ಪಾಲಿಕೆ ವ್ಯಾಪ್ತಿಯಲ್ಲಿ ಮಂಜೂರಾತಿ ನಕ್ಷೆಗೆ ವಿರುದ್ಧವಾಗಿ/ಅನಧಿಕೃತವಾಗಿ ನಿರ್ಮಾಣವಾಗುತ್ತಿರುವ

ಕಟ್ಟಡಗಳನ್ನು ಪರಿವೀಕ್ಷಿಸಿ, ವ್ಯತಿರಿಕ್ತ ನಿರ್ಮಾಣ ಕಂಡುಬಂದಲ್ಲಿ ಕ್ರಮವಹಿಸುವ ಅಧಿಕಾರ ಪ್ರತ್ಯಾಯೋಜನೆಯ ಉಲ್ಲೇಖದ ಕಛೇರಿ ಆದೇಶ ಹಾಗೂ ಹಿಂದಿನ ಎಲ್ಲಾ ಸುತ್ತೋಲೆ/ಕಛೇರಿ ಆದೇಶಗಳನ್ನು ರದ್ದುಪಡಿಸಲಾಗಿದೆ. ಮುಂದುವರೆದು, ಬೃಹತ್ ಬೆಂಗಳೂರು ಮಹಾನಗರ ಪಾಲಿಕೆಯಲ್ಲಿನ 28 ವಿಭಾಗಗಳ ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಭಿಯಂತರರುಗಳು ಮತ್ತು 64 ಉಪವಿಭಾಗಗಳ ಸಹಾಯಕ ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಭಿಯಂತರರುಗಳು ಕಾರ್ಯನಿರ್ವಹಿಸುವ ವಿಭಾಗ/ಉಪವಿಭಾಗದ ವ್ಯಾಪ್ತಿಯಲ್ಲಿ, ಮಂಜೂರಾತಿ ಫಡೆದು ನಿರ್ಮಿಸುತ್ತಿರುವ ಕಟ್ಟಡಗಳನ್ನು ಪರಿವೀಕ್ಷಿಸಿ, ಮಂಜೂರಾತಿ ನಕ್ಷೆಗೆ ವ್ಯತಿರಿಕ್ತ ನಿರ್ಮಾಣ ಅಥವಾ ಅನಧಿಕೃತ ನಿರ್ಮಾಣ ಕಂಡುಬಂದಲ್ಲಿ ಕೆ.ಎಂ.ಸಿ. ಕಾಯ್ದೆ, 1976 ರ ಸೆಕ್ಷನ್ 321(1) ರಂತೆ ತಾತ್ಕಾಲಿಕ ಆದೇಶ, 321(2) ರಂತೆ ಕಾರಣ ಕೇಳಿ ಪತ್ರ ಮತ್ತು 321(3) ರಂತೆ ಸ್ಥಿರೀಕರಣ ಆದೇಶ ಹೊರಡಿಸಿ ಕ್ರಮ ಕೈಗೊಳ್ಳುವ ಅಧಿಕಾರವನ್ನು ಸಂಬಂಧಪಟ್ಟ ಉಪವಿಭಾಗದ ಸಹಾಯಕ ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಭಿಯಂತರರು ರವರಿಗೆ ಹಾಗೂ ಸೆಕ್ಷನ್ 462 ರಂತೆ ವ್ಯತಿರಿಕ್ತ ನಿರ್ಮಾಣ ಅಥವಾ ಅನಧಿಕೃತ ನಿರ್ಮಾಣ ತೆರವುಗೊಳಿಸುವ ಆದೇಶ ಹೊರಡಿಸಿ ಕ್ರಮ ಕೈಗೊಳ್ಳುವ ಅಧಿಕಾರವನ್ನು ಸಂಬಂಧಪಟ್ಟ ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಭಿಯಂತರರು ರವರಿಗೆ ಪ್ರತ್ಯಾಯೋಜನೆಯನ್ನು ನೀಡಿ ಆದೇಶಿಸಲಾಗಿದೆ.”

13. The above referred circular makes it very clear that the Resp.No.1 being the Asst. Executive Engineer of the jurisdictional area was duty bound to take action to stop and remove the illegal construction from the stage of commencement of the construction of the foundation itself. The circular of the BBMP/Commissioner dtd: 7/8/2015 also provides for intimating the competent authority

to disconnect the electrical connection, water connection and drainage connection to the said unauthorized illegal structures. But in this case without taking any action immediately after receipt of the complaint dtd: 22/5/2017 except issuing notice u/s 308 of KMC Act on 18/6/2017, after the lapse of nearly one month of the receipt of the complaint and except passing order u/s 321(1), 321(2) and 321(3) of KMC Act after filing of the instant complaint before this authority, the Resp.No.1 did not take any action at the time of the commencement of the construction itself. It is also pertinent to note that the issuance of notice U/s 308 of KMC Act and passing of order U/s 321(1), 321(2) and 321(3) of KMC Act itself will not amounts to taking of action by the Resp.No.1 against the illegal construction. So this shows the Resp.No.1 failed in his duty to stop the illegal construction and committed dereliction in his duty and allowed the building to be constructed without licence and approved plan in violation of the BBMP rules. Therefore it appears that there is a prima facie material against the Resp.No.1 for the above said misconduct in his duties.

14. As for as the Resp.No.2 & 3 are concerned Resp.No.2 Sri.Mahaeshwarappa is a subsequent Engineer, Rajajinagar Sub-Division, BBMP, Bangalore, who has taken the charge of the post on 23/10/2017. The Resp.No.3 Sri.Narayana the Asst. Engineer Rajajinagar Sub-Division, BBMP Bengaluru has been working in the said jurisdiction from 22/11/2017. Hence under these circumstances, it clearly establishes that the Resp.No.2 and Resp.No.3 were not working as Asst. Executive Engineer and Asst. Engineer respectively at the relevant point of time ie., at the time of commencement of the construction or at the time of issuing notice U/s. 308 of KMC Act or at the time of passing order U/s. 321(1),

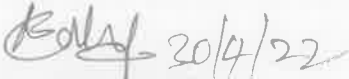


321(2) & 321(3) of KMC Act. Hence under these circumstances no action can be initiated against Resp.No.2 & 3.

15. Therefore, it appears that there is a prima facie material against the respondent No:1 Sri. Puttaswamy, Assistant Executive Engineer, West Division, Rajaji Nagara Zone, BBMP., Bengaluru to show that he has committed misconduct in his duties as contemplated under Sec.3(1) (i) to (iii) of the Karnataka Civil Services (Conduct) Rules 1966/ Presently Karnataka Civil Services (Conduct) Rules, 2021.

16. Hence, the report U/sec.12(3) of Karnataka Lokayukta Act, 1984 is sent to the Competent Authority to initiate departmental enquiry against the respondent No:1Sri.Puttaswamy, Assistant Executive Engineer, West Division, Rajaji Nagara Zone, BBMP., Bengaluru through the disciplinary authority and take necessary action as per Law.

17. Further as per section 12(4) of the Karnataka Lokayukta Act, 1984 the Competent Authority shall intimate the action taken or proposed to be taken on this report within three months from the date of receipt of this report. Connected records are enclosed.

 20/4/22  
[ Justice B.S.PATIL ]  
Upa-Lokayukta  
State of Karnataka,  
Bengaluru.

