

**Karnataka Lokayukta**  
(Under Section 7 of the Karnataka Lokayukta Act, 1984)

①

CASE NUMBER : **COMPT/LOK/BCD/4359/2015**  
District : **Bangalore (U)**

**BY :**

**1. B.N. VASUDEVA REDDY,**  
S/o Late Narayanappa, D.No.401, Saptagiri  
Nilaya, Bellandur Outer Ring Road, Next to  
Vakil Gardenia Apartment, BENGALURU.  
560103  
Mobile/Landline: 09845820429

**COMPLAINANT/S****AGAINST :**

- 1. PRINCIPAL SECRETARY,**  
Department of Revenue, Vikasa Soudha,  
BENGALURU.
- 2. COMMISSIONER,**  
Bangalore Development Authority,  
BENGALURU.
- 3. COMMISSIONER,**  
BBMP, Corporation Circle, Hudson Circle,  
BENGALURU.
- 4. PRINCIPAL SECRETARY,**  
Department of Forest, Vikasa Soudha,  
BENGALURU.  
560001

**RESPONDENT/S****Allegation/Grievance** Dereliction of Duty.**Brief :**

Received From : **By Hand Received.**  
Received On : **04-12-2015**

**Seal and Signature**

*04/12/15 at 5.00 PM*

**Complaint stands**  
**allotted to :** **ARE-1**

**SCRUTINY AND OPINION**

-19,

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**KARNATAKA LOKAYUKTA : BENGALURU**

No: Compt/Lok/BCD-4359/2015

Date: 06-02-2020

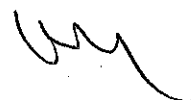
**ORDER**

Smt. Asha Kumari, Assistant Director of Land Records, Bengaluru South Taluk, is present along with Sri. D.T.Srinivasachar, Surveyor.

2. On behalf of Bruhat Bengaluru Mahanagara Palike, Bengaluru, Smt. Bhupradha, Assistant Executive Engineer (Lakes), is present.

3. Smt. Sharmila G, SDA, is present representing the Tahsildar, Bengaluru South Taluk.

4. Smt. Asha Kumari, ADLR, has submitted that the survey has been done and if she is given two weeks time, a report along with the sketch will be submitted. She has also made available to me a copy of the survey sketch. The same is placed on record. The sketch shows that in the portion of the Ibbalur lake area, the BDA road and another road has been formed and a park has also been formed. At this stage, I need not go into the details of the same.



15/2

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5. In the course of the hearing, it is brought to my notice that certain proceedings are pending. It is pointed out by Smt. Bhupradha that it is within the knowledge of the Revenue authorities. In the light of the said submission, the Tahsildar, Bengaluru East Taluk and Tahsildar, Bengaluru South Taluk are directed to take immediate steps to move the concerned Court for modification of the interim order made <sup>by ✓</sup> in the Court or expeditious disposal of the suit on merits. In the light of the submissions made that since the lake area falls within the boundary of Tahsildar, Bengaluru East Taluk and Tahsildar, Bengaluru South Taluk, it is for them to sit and sort out actually within whose jurisdiction the lake is located.

6. The Hon'ble Supreme Court in the case Jitendra Singh V/s. Ministry of Environment and others (2019 SCC online SC 1510) has emphasized the importance of protecting the lakes for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution of India. In this connection, it is relevant to

*by*

extract the observation made by the Hon'ble Supreme Court at Paragraphs No. 15, 16, 18, 19 and 20, which read as follows:

**"15. In Hinch Lal Tiwari v. Kamala Devi<sup>2</sup>, this Court settled that 'ponds' were a public utility meant for common use and held that they could not be allotted or commercialised. It had refused to give any weight to similar arguments of the pond having become levelled, with merely some portion getting covered during rainy season by water. Importantly, it emphasised that:**

**"13. It is important to notice that the material resources of the community like forests, tanks, ponds, hillock, mountain etc. are nature's bounty. They maintain delicate ecological balance. They need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution. The Government, including the Revenue Authorities i.e. Respondents 11 to 13, having noticed that a pond is falling in disuse, should have bestowed their attention to develop the same which would, on one hand, have prevented ecological disaster and on the other provided better environment for the benefit of the public at large. Such vigil is the best protection against knavish attempts to seek allotment in non-abadi sites."**

**16. This Court reiterated in *Jagpal Singh v. State of Punjab*<sup>3</sup> and noted that since time immemorial, certain common lands had vested in village communities for collective benefit. Except in exceptional circumstances when used exclusively for the downtrodden, these lands were inalienable. It was observed that such protections, however, remained on paper, and since Independence powerful people and a corrupt system had appropriated these lands for personal aggrandisement. Pointing out the harms in allowing such misappropriation, the Court noted an urgent public interest in stopping such misdeeds. Further, various directions were issued for eviction of illegal occupants and restoration of the common land to villagers. It was explicitly**

specified that "long duration of such illegal occupation or huge expenditure in making constructions thereon" cannot be a "justification for condoning this illegal act or for regularising the illegal possession".

18. Even otherwise, the action of the respondent-authorities contravenes their Constitutional obligations. Article 48-A of the Constitution casts a duty on the State to "endeavour to protect and improve the environment and to safeguard the forests and wild life of the country", and Article 51-A(g) expects every citizen to perform his fundamental duty to "protect and improve the natural environment". A perusal of our Constitutional scheme and judicial development of environmental law further shows that all persons have a right to a healthy environment. It would be gainsaid that the State is nothing but a collective embodiment of citizens, and hence collective duties of citizens can constructively be imposed on the State. Such an interpretation of the Constitution has also been adopted in *MC Mehta v. Union of India*<sup>4</sup> wherein this Court mandated the State to ensure mandatory environmental education to all school students in pursuance of the fundamental duties enshrined in Article 51-A(g):

"24. Having regard to the grave consequences of the pollution of water and air and the need for protecting and improving the natural environment which is considered to be one of the fundamental duties under the Constitution (vide Clause (g) of Article 51A of the Constitution) we are of the view that it is the duty of the Central Government to direct all the educational institutions throughout India to teach atleast for one hour in a week lessons relating to the protection and the improvement of the natural environment including forests, lakes, rivers and wildlife in the first ten classes. The Central Government shall get text books written for the said purpose and distribute them to the educational institutions free of cost. Children should be taught about the need for maintaining cleanliness commencing with the cleanliness of the house both inside and outside, and of the streets in which they live. Clean surroundings lead to healthy body and healthy mind. Training of teachers who teach this subject by the introduction of short term courses for such training shall also be considered. This should be done throughout India."



19. There remains therefore no doubt that it is the responsibility of the respondents to ensure the protection and integrity of the environment, especially one which is a source for livelihood for rural population and life for local flora and fauna.

20. Protection of such village-commons is essential to safeguard the fundamental right guaranteed by Article 21 of our Constitution. These common areas are the lifeline of village communities, and often sustain various chores and provide resources necessary for life. **Waterbodies, specifically, are an important source of fishery and much needed potable water. Many areas of this country perennially face a water crisis and access to drinking water is woefully inadequate for most Indians. Allowing such invaluable community resources to be taken over by a few is hence grossly illegal.**

7. Smt. Bhupradha, Assistant Executive Engineer (Lakes), has admitted before me that she has got details of the proceedings i.e., No. of suit/Writ Petition. She has assured me to pass over the same by means of letter to the Tahsildars of Bengaluru East Taluk and Bengaluru South Taluk. She is also directed to file a memo before the Deputy Registrar of Enquiries-3, Karnataka Lokayukta, Bengaluru, setting out the details of the pending proceedings i.e., O.S.No., or the Writ Petition, within a week's time.



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8. The authorities referred to above, are directed to file the status reports, by the next date of hearing i.e., on 06-05-2020.

9. Communicate this order to the parties and also to the Tahsildars of Bengaluru South Taluk and Bengaluru East Taluk.

List this case on **06-05-2020 at 03-00 p.m.**

*P. Vishwanatha Shetty*  
(Justice P. Vishwanatha Shetty),  
Lokayukta,  
Karnataka State. *6/2/2020.*

AS\*

*Sampled par. 9  
on 11/2/2020.*

*Tahsildar, South, Letlu  
dt 19-11-2019. received. &  
submitted for kind orders.  
oo*

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LOK/BCD/4359/2015

DRE-31

10 As per the direction of Hon'ble Lokayukta, this matter is adjourned.

11 Issue fresh notice to the parties concerned.

12 List this matter on 16/07/2020 at 03.00 p.m.

  
DRE-3

Complied per.

Any report not received from concerned parties if submitted for kind orders.



13. Secretary:-

In view of oral submissions of Hon'ble Lokayukta this matter is adjourned to 8-10-2020



8/10

Complied per



(20)

Letter dt: 13-7-2020 prepared  
- from complaint.

AEE, BBMP, letter dt 24-7-2020  
received.

→ letter dtd 8/10/2020 received  
from complainant.

→ Reports are not received from  
other concerned parties  
Submitted for lead orders.

8/10/2020

14.) JLC Secretary:-

Putup on

19-10-2020

8/10

15.) Secretary:-

LOK/BCD-4359/2015

Secretary)

Received the letters dated 16-11-2019 and 05-02-2020 from the Tahsildar, Bengaluru South Taluk, stating that, a letter has been addressed to the ADLR, Bengaluru South Taluk to conduct survey of lake in question and submit the survey report to enable him to take steps for removal of encroachment. However, so far no such report has been received from him.

16. The complainant has filed a memo dated 13-07-2020 and 08-10-2020 stating that the survey of lake in question is yet to be completed and if the report is submitted contrary to his stand, an opportunity may be provided to submit his objection to the survey report.

17. Received a report dated 24-07-2020 from The Asst. Executive Engineer (Lakes) BBMP, stating that they have addressed a letter to the Tahsildar, Bengaluru South Taluk seeking information about the steps taken by him for removal of encroachment

of the lake in question. However, they have not received any report so far. Along with the report, a letter dated 24-07-2020 addressed to the Tahsildar, Bengaluru South Taluk and Bengaluru East Taluk is filed.

18. Hence, my Lord, if approved;

- a) notice will be issued to the ADLR, Bengaluru East Taluk and Bengaluru South Taluk to submit the status report about the steps taken by them to survey the lake in question.
- b) Notice will be issued to the Tahsildar, Bengalure East Taluk and Bengaluru South Taluk to submit the status report about the steps taken by them for removal of the encroachment of lake in question in terms of the orders passed by the Hon'ble Lokayukta dated 06-02-2020.
- c) Notice will be issued to the Addl. Chief Engineer (Lakes), BBMP to furnish further action taken report

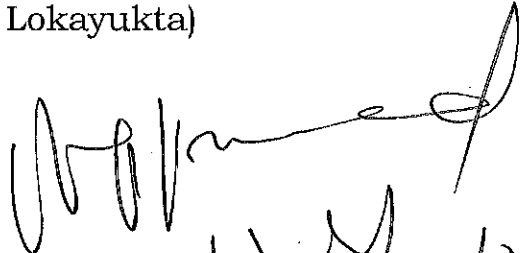
regarding the steps taken for  
rejuvenation of the lake in question.

Call on 28-12-2020.

Submitted for kind orders.

  
Secretary


19) Hon'ble Lokayukta)

  
22/10/2020

*Copy Circ.*

→ A.E.E.-H. Lakes, B.B.M.P,  
Bengaluru report dtd. 19.12.2020  
received.

→ Acknowledgments received  
but reports are not received  
from the A.D.L.Rs and  
Tahsildars of Bengaluru  
East and Bengaluru  
South Taluks

Submitted for kind orders  
  
28/12/2020

20] Secretary :-

LOK/BCD/4359/2015

20. Received a report dated 19.12.2020 from the Assistant Executive Engineer-4, Lakes, BBMP, Bengaluru stating that they have addressed letters as well as reminders to the Tahasildars, Bengaluru East and Bengaluru South Taluks to take steps for removal of encroachment in terms of order passed by the Hon'ble Lokayukta dated 06.12.2020. However, they have not taken any steps for removing the encroachment.

21. Notice was also issued to the ADLRs and Tahasildars, Bengaluru East and Bengaluru South Taluks to take steps for removal of encroachment in the lake in question in terms of order passed by the Hon'ble Lokayukta dated 06.12.2020. Though, the notice has been served upon them, they have not submitted the reports as directed earlier.

22. Hence, My Lord, if approved,

LOK/BCD/4359/2015

- i) Notice will be issued to the ADLRs and Tahasildars of Bengaluru East and Bengaluru South Taluks to submit status report as directed earlier. In the event of failure to submit the reports, they will be directed to appear in person on 11.02.2021 at 3.00 p.m along with explanation for the delay.

Call on 11.02.2021.

Submitted for kind orders.

*[Signature]*  
Secretary

23. Hon'ble Lokayukta)

*[Signature]*  
13/12/2020

*Completed*

→ Tahasildar, Bengaluru South Taluk report dtd. 28.01.2021 received.

→ Acknowledgements received, but reports are not received from the Tahasildar & ADLR, East North and ADLR South

*[Signature]*  
10/2/2021

-> ADLR, Bengaluru South  
report dtd, 8.2.2021 received.

(32)

24) Secretary

24. Received a report dated 08.02.2021 from the ADLR, Bengaluru South Taluk along with the survey sketch indicating the extent of area encroached upon in the lake in question. According to the report, an extent of 01 acre 14 guntas of lake area has been encroached upon by the private persons and an extent of 8 acre 05 guntas of lake area has been encroached upon by the governmental authorities.

25. Report dated 28.01.2021 is received from the Tahasildar, Bengaluru South Taluk stating that Civil Suits in O.S. No.2533/2014 and 26030/2016 have been filed by the encroachers and the same are pending for adjudication. In this regard, it is desirable to seek further report from the Tahasildar, Bengaluru South Taluk with respect to the present stage of the aforesaid Civil Suits with the copies of the orders if any passed in the said suits.

26. Reports are not received from the Tahasildar and the ADLR Bengaluru East Taluk.

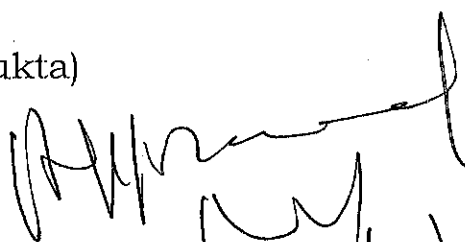
27. Hence, My Lord, if approved,

- i. Notice will be issued to the Tahasildar, Bengaluru South Taluk to submit further action taken report with respect to the steps taken for removal of encroachment as indicated in the report dated 08.02.2021 submitted by the ADLR, Bengaluru South Taluk and also to furnish the information about the present status of the Civil Suits filed by the encroachers along with the copies of orders if any made in the said suits.
- ii. Notice will be issued to the Tahasildar and the ADLR Bengaluru East Taluk to submit the status reports as directed earlier.
- iii. The matter will be listed for hearing before your Lordship on 20.04.2021 at 3.00 p.m and in this regard, notice will be issued to the parties concerned.

Submitted for kind orders.

  
Secretary

28. Hon'ble Lokayukta)

  
17/4/2021



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29. As directed by the Hon'ble Lokayukta in view of the surge in Covid-19 cases, the matter is adjourned to 10.07.2021. However, the concerned parties are directed to submit their up-to-date action taken reports by 10.07.2021 with regard to the steps taken for rejuvenation, removal of encroachment etc, of the lake in question as directed by the Hon'ble Lokayukta in the order dated 17.02.2021.

  
Secretary

→ Taluk Taluk, Bengaluru South  
Taluk report dtd. 15.04.2021  
is received.