

Print

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

CASE COMPT/UPLOK
NUMBER : /BD/3400/2023
District : Bengaluru (R)

BY :

1. Suo Moto

As per the Order of Honble Upalokayukta-2,
Dated: 07/06/2023.

COMPLAINANT/S

AGAINST :

1. Chief Officer

Town Municipal Council, Vijayapura,
Shivaganesha Circle, Devanahalli Road,
Vijayapura, Bengaluru Rural District.

2. Executive Engineer

Town Municipal Council, Vijayapura,
Shivaganesha Circle, Devanahalli Road,
Vijayapura, Bengaluru Rural District.

RESPONDENT/S

Allegation/Grievance Dereliction of duty.
Brief :

Received From : Suo Moto (Upalok-2 section)
Received On : 08-06-2023

Seal and Signature

ಸಹಾಯಕ ವಿಭಾಗೀಕರಣ

ಕಾನೂನು ಅಭಿಪ್ರಾಯ

ಮೂರು ವಿಭಾಗ

SCRUTINY AND OPINION

ಬೆಂಗಳೂರು-೧.

**Complaint stands
allotted to :**

ARE-20

KARNATAKA LOKAYUKTA

No:

Date:07/06/2023

ORDER

In "Samyukta Karnataka" newspaper dated 07/06/2023 a news article with the heading "ಮಳೆಯಿಂದ ರಸ್ತೆ ಸಂಚಾರ ಅಸ್ತವ್ಯಸ್ತ: ಸಾರ್ವಜನಿಕ ಪರದಾಟ!" has been published. Instead of repeating the news item, it is useful to extract the relevant portion which reads as hereunder:

“ಮಳೆಯಿಂದ ರಸ್ತೆ ಸಂಚಾರ ಅಸ್ತವ್ಯಸ್ತ: ಸಾರ್ವಜನಿಕ ಪರದಾಟ!”

“ಕಳೆದ ಐದು ಆರು ವರ್ಷಗಳಿಂದ ರಸ್ತೆ ದುರಸ್ತಿಗೆ ಪುರಸಭೆ ಅಧಿಕಾರಿಗಳು ಮುಂದಾಗಿಲ್ಲ. ರಸ್ತೆಗಳು ಓಡಾಡುವುದಕ್ಕೆ ಯೋಗ್ಯವಾಗಿಲ್ಲದೆ ದಿನನಿತ್ಯ ಜನಸಾಮಾನ್ಯರು ಪರದಾಡುವಂತಾಗಿವೆ ಎಂದು ಸ್ಥಳೀಯರು ಪುರಸಭೆ ಅಧಿಕಾರಿಗಳ ವಿರುದ್ಧ ಆಕ್ರೋಶ ವ್ಯಕ್ತಪಡಿಸಿದರು.

ವಿಜಯಪುರ ಪಟ್ಟಣದ ಜಿ.ಎಂ.ಸರ್ಕಲ್ ನಿಂದ ಎಲ್ಲಮ್ಮ ದೇವಾಲಯದ ಕಡೆಗೆ ಸಂಚರಿಸುವ ಮುಖ್ಯರಸ್ತೆ ಹಾಗೂ ತಾತಯ್ಯನವರ ರಸ್ತೆ ಹಳ್ಳಗಳು ಬಿದ್ದು ರಸ್ತೆ ಹದಗೆಟ್ಟಿದೆ. ಮಳೆಯ ನೀರೆಲ್ಲವೂ ರಸ್ತೆಯಲ್ಲಿ ನಿಂತು ಕೆಸರುಗದ್ದೆಯಾಗಿ ಮಾಪಾಡಾಗಿದ್ದು ವಾಹನಗಳ ಸಂಚಾರಕ್ಕೆ ತುಂಬಾ ತೊಂದರೆಯಾಗಿದೆ ಎಂದು ಸ್ಥಳೀಯ ತೊಂದರೆಯಾಗಿದೆ ಎಂದು ಸ್ಥಳೀಯ ನಿವಾಸಿ ವಿಜಯಕುಮಾರ್ ಬೇಸರ ವ್ಯಕ್ತಪಡಿಸಿದರು, ಪುರಸಭೆಗೆ, ಹಲವಾರು ಬಾರಿ ಅರ್ಜಿಗಳನ್ನು ಕೊಟ್ಟಿದ್ದೇವೆ. ಪಟ್ಟಣದ ಪ್ರಮುಖ ದೇವಾಲಯಗಳಾದ ನಗರೇಶ್ವರಸ್ವಾಮಿ ದೇವಾಲಯ. ಗುರಪ್ಪನಮಠ ಓಂಕಾರೇಶ್ವರಸ್ವಾಮಿ ದೇವಾಲಯ ಸೇರಿದಂತೆ ಗಾಂಧಿಚೌಕ ಹಾಗೂ ಶಿಡ್ಲಘಟ್ಟದ ಕಡೆಗೆ ಸಂಚರಿಸುವ ಮುಖ್ಯರಸ್ತೆಯಾಗಿದೆ. ಈ ರಸ್ತೆಯನ್ನು ದುರಸ್ತಿಗೊಳಿಸಿ ವಾಹನ ಸಂಚಾರಕ್ಕೆ ಅನುವು ಮಾಡಿಕೊಡಬೇಕು ಎಂದು ಒತ್ತಾಯಿಸಿದರು”.



2. The news article extracted above indicates that the officers of Vijayapura Town Municipal Council have not repaired/maintained the road from Vijayapura GM circle to Yellamma temple from the past 5 to 6 years. That the public had repeatedly given the representations to the Municipality officers to repair the roads connecting GM circle to Yellamma temple and had also given representations for repairing the Thatayya's road which also connects the aforesaid road. The newspaper article also reads that the aforesaid road is riddled with potholes and the road is unpaved. The article further reads that the public are facing great difficulty in using the road for travelling to historical temples like Gurappana Matt, Omkareshwara swamy temple, Gandhi chowka, and towards Shiddlaghatta.

3. The right to life is enshrined under article 21 of the Indian Constitution. The right of the public to have access to properly maintained roads is part of Article 21 of Indian Constitution. The Hon'ble Supreme Court of India in **Sodan Singh v. New Delhi Municipal Committee**, (1989) 4 SCC 155 at page 166 has stated as under:-

"14. The primary object of building roads is undoubtedly to facilitate people to travel from one point to another. Quoting several authorities Byron K. Elliott and William F. Elliott in their treatise on the Law of Roads and Streets have defined a street as a road or public way in a city, town or village. A way over land set apart for public travel in a town or city is a street, no matter by what name it may be called. If a way is free to all people it is a highway. P. Duraiswami Aiyangar in his

book dealing with the Law of Municipal Corporations in British India (1914 Edn.) has observed that the primary and paramount use of the street is public travel for man, beast and carriage for goods. On behalf of the respondents reliance has been placed on the oft-repeated adage that public have a right of passing and re-passing through a street but have no right "to be on it", which Shri Aiyangar also has mentioned at p. 542 of his book. Halsbury, relied upon by both sides, has stated (Vol. 21 para 107) that the right of the public is a right to pass along a highway for the purpose of legitimate travel, not to be on it, except so far as the public's presence is attributable to a reasonable and proper user of the highway as such. These statements certainly do not mean that a traveller has to be in perpetual motion when he is in a public street. It may be essential for him to stop some time for various reasons — he may have to alight from a vehicle or pick up a friend, collect certain articles or unload goods or have to take some rest after a long and strenuous journey. What is required of him is that he should not create an unreasonable obstruction which may inconvenience other persons having similar right to pass; he should not make excessive use of the road to the prejudice of the others. Liberty of an individual comes to an end where the liberty of another commences. Subject to this, a member of the public is entitled to legitimate user of the road other than actually passing or re-passing through it.

4. Further the Division Bench of Hon'ble High Court of Bombay in **Dr. Mahesh Vijay Bedekar vs the State of Maharashtra and others (2016) 6 AIR Bom R533** authored by Hon'ble Justice AS Oka has stated that the right to have roads in a reasonable condition is the fundamental right guaranteed under the article 21 of the Indian Constitution of India. The relevant portion of the aforesaid judgment is hereby reproduced:-

31. Thus, the right to have roads in a reasonable condition is a part of fundamental right guaranteed under Article 21 of the Constitution of India. The basic object of constructing roads is to allow the passage of vehicles. The basic object of making foot-paths/footways which are a part of street is to allow the citizens to walk and travel from one place to another. If obstructions are created on the streets or foot-paths in such a manner that it prevent the citizens from beneficially or reasonably enjoying their right of passage through the streets and footpaths, surely it will amount to infringement of the fundamental right under Article 21 of the Constitution of India to have streets in a reasonable condition. The fundamental right to have the streets in a reasonable condition will naturally encompass in it right to have the same free of any obstruction which prevents its beneficial or reasonable user. The Apex Court has expanded the scope of Article 21 of the Constitution of India. The Apex Court has held that the right to live dignified life is also a part of Article 21 of the Constitution of India. Right to live a meaningful life is also a part of Article 21 of Constitution of India. In the case of *Sudhir Madan v. MCD*, the Apex Court in paragraph 6 observed thus:

"6. The scheme need not be populist in its appeal, but must be practical and consistent with **The rights of citizens, who have a fundamental right to use the roads, parks and other public conveniences provided by the State.**"

L.

5. Thus it can be seen that the right to have roads in a reasonable condition is a fundamental right of every citizen as enshrined under Article 21 of Indian Constitution. The improper maintenance of road leads to the pollution causing huge inconvenience to the public. The improper maintenance of road and consequential potholes also leads to the accidents. The Hon'ble Supreme Court of India in various cases including the famous Delhi pollution case has time and again reiterated the concern relating to the increase in accidents and pollution due to improper maintenance of roads. The proper maintenance of road would help the citizens to safely travel on the aforesaid road. Hence, it is the duty of the state to provide the roads in a reasonable condition.
6. Based on the news item published in Samyukta Karantaka Daily newspaper dated 07/06/2023, I am satisfied that the public of Vijayapura are facing difficulty in using the accident prone polluted road from GM circle till Yellamma temple of Vijayapura and I am also convinced that public are suffering from undue hardship because of the improper maintenance of the road.
7. The object of Karnataka Lokayukta Act, 1984 is to ensure good governance in the state administration and it is also to prevent maladministration. The

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purpose of setting up of institution of Lokayukta as per statement of object and reasons is for the purpose of improving the standards of public administration, by looking into complaints against administrative actions, including cases of corruption, favoritism and official indiscipline in administration machinery. The negligence on part of the concerned authorities who are entrusted with the responsibility of maintaining the roads in a reasonable condition and ensuring accident free and pollution free roads needs to be deprecated, in my considered view the situations highlighted in the news article regarding the improper maintenance of the road in a reasonable condition falls within the meaning of maladministration u/s 2(10) of Karnataka Lokayukta Act, 1984.

8. Therefore, I am of the view that it is desirable to consider the news articles published in Samyukta Karantaka date 07/06/2023 as the source material to exercise the power conferred on me u/s 7(2) and section 9(3)(a) of Karnataka Lokayukta Act, 1984. Accordingly, I exercise my Suo-moto power and the office is directed to register the proceedings as Suo-moto proceedings, and issue notice to the following officers and call for comments from them.

L

1	Chief Officer, Town Municipal Council, Vijayapura, Shivaganesha Circle, Devanahalli Road, Vijayapura, Bengaluru Rural District-562 135.
2	Executive Engineer, Town Municipal Council, Vijayapura, Shivaganesha Circle, Devanahalli Road, Vijayapura, Bengaluru Rural District-562 135.

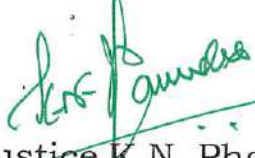
9. The officers referred to above is directed to examine the issues raised in the news item extracted above and take steps to get the road maintained in a reasonable manner and, they are directed to ensure that the footpath and other facilities appurtenant to the said road are properly maintained. He is given four weeks time to submit their report/comments to the issue in question.

10. The Respondents are directed to take all immediate necessary steps to redress the grievance if any as alleged and submit their comments and action taken report to me (Upa-Lokayukta-2) within 4 weeks from today on the issues referred to in the news item extracted above as well as various issues referred to above in my order.

Q.

11. Communicate the copy of this order to the respondents referred to above along with copy of the news item published in 'ಸಂಯುಕ್ತ ಕರ್ನಾಟಕ' news paper. Also send a copy of this order to Deputy Commissioner, Bengaluru Rural District and Superintendent of Police, Bengaluru Rural District to supervise the directions issued to respondent and report.

List this matter on **05.07.2023**.


(Justice K.N. Phaneendra)
Upalokayukta-2,
Karnataka State.

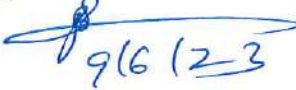
12. ARLO-4 (Complaints Section)

ನಿರ್ದೇಶಿಸಿದ ವಿಷಯಗಳಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ


08/06/2023

13) ARE-20)

office to comply the direction
forth with


9/6/23

11/7/2022
ಸಿರಿಯಂಶ ನಾಟಕ

ದ

ಮಳೆಯಿಂದ ರಸ್ತೆ ಸಂಚಾರ ಅಸ್ತವ್ಯಸ್ತ : ಸಾರ್ವಜನಿಕ ಪರದಾಟ



ದ ವತಿಯಿಂದ
ಲ್ಲಿ ತಾಲೂಕಿನ
ದ ಕೈಗಾರಿಕಾ
ಸಲಾಗುವುದು.
ಮ್ ಸಂಘಕ್ಕೆ
ರಾಗಿರುತ್ತೇವೆ.
ಣ ಮಾಡುವ
ಕ್ತಿಗಳಿಗೆ ಮಾತ್ರ
ಡಲು ನಮಗೆ
ಅಭಿನಂದನೆ
ಬೊಮ್ಮಸಂದ್ರ
ಗಳಾದ ಆರ್
ತ್, ಸದಸ್ಯರಾದ
ಎಸ್. ಅನಜಿ,
ಆಡಳಿತ ವರ್ಗ



ಟ್ರಸ್ಟ್ ವತಿಯಿಂದ

ಸಂ.ಕ. ಸಮಾಚಾರ, ವಿಜಯಪುರ
ಕಳೆದ ಐದು ಆರು ವರ್ಷಗಳಿಂದ ರಸ್ತೆ
ದುರಸ್ತಿಗೆ ಪುರಸಭೆ ಅಧಿಕಾರಿಗಳು
ಮುಂದಾಗಿಲ್ಲ. ರಸ್ತೆಗಳು ಓಡಾಡುವುದಕ್ಕೆ
ಯೋಗ್ಯವಾಗಿಲ್ಲದೆ ದಿನನಿತ್ಯ
ಜನಸಾಮಾನ್ಯರು ಪರದಾಡುವಂತಾಗಿದೆ
ಎಂದು ಸ್ಥಳೀಯರು ಪುರಸಭೆ
ಅಧಿಕಾರಿಗಳ ವಿರುದ್ಧ ಆಕ್ರೋಶ
ವ್ಯಕ್ತಪಡಿಸಿದರು.

ವಿಜಯಪುರ ಪಟ್ಟಣದ
ಜಿ.ಎಂ.ಸರ್ಕಲ್ ನಿಂದ ಎಲ್ಲಮ್ಮ
ದೇವಾಲಯದ ಕಡೆಗೆ ಸಂಚರಿಸುವ
ಮುಖ್ಯರಸ್ತೆ ಹಾಗೂ ತಾತಯ್ಯನವರ
ರಸ್ತೆ ಹಳ್ಳಿಗಳು ಬಿದ್ದು ರಸ್ತೆ ಹದಗೆಟ್ಟಿದೆ.
ಮಳೆಯ ನೀರೆಲ್ಲವೂ ರಸ್ತೆಯಲ್ಲಿ ನಿಂತು

ಕೆಸರುಗದ್ದೆಯಾಗಿ ಮಾರ್ಪಾಡಾಗಿದ್ದು
ವಾಹನಗಳ ಸಂಚಾರಕ್ಕೆ ತುಂಬಾ
ತೊಂದರೆಯಾಗಿದೆ ಎಂದು ಸ್ಥಳೀಯ
ನಿವಾಸಿ ವಿಜಯಕುಮಾರ್ ಬೇಸರ
ವ್ಯಕ್ತಪಡಿಸಿದರು. ಪುರಸಭೆಗೆ, ಹಲವಾರು
ಬಾರಿ ಅರ್ಜಿಗಳನ್ನು ಕೊಟ್ಟಿದ್ದೇವೆ.
ಪಟ್ಟಣದ ಪ್ರಮುಖ ದೇವಾಲಯಗಳಾದ
ನಗರೇಶ್ವರಸ್ವಾಮಿ ದೇವಾಲಯ,
ಗುರಪ್ಪನಮಠ ಒಂಕಾರೇಶ್ವರಸ್ವಾಮಿ
ದೇವಾಲಯ, ಸೇರಿದಂತೆ ಗಾಂಧಿಚೌಕ
ಹಾಗೂ ಶಿಡ್ಲಘಟ್ಟದ ಕಡೆಗೆ ಸಂಚರಿಸುವ
ಮುಖ್ಯರಸ್ತೆಯಾಗಿದೆ. ಈ ರಸ್ತೆಯನ್ನು
ದುರಸ್ತಿಗೊಳಿಸಿ ವಾಹನ ಸಂಚಾರಕ್ಕೆ
ಅನುವು ಮಾಡಿಕೊಡಬೇಕು ಎಂದು
ಒತ್ತಾಯಿಸಿದರು.

ಪರಿ

ಸಂ.ಕ. ಸಮಾಚಾರ
ಪ್ರಕೃತಿದತ್ತ
ಅತ್ಯಮೂ
ಮಾಡುವು
ರೂರಲ್
ಹಿರಿಯ
ಹೇಳಿದರು.
ಸೂಲಿಜ
ಪ್ರಾಥಮಿಕ
ಡವಲಮಂ
ಟ್ರಸ್ಟ್ ದೊಡ್ಡ
ಪರಿಸರ ದಿನ



CM K