

High Court of Karnataka

Daily Orders of the Case Number: WP 24739/2012 for the date of order 10/04/2015

Honble Justice N.KUMAR AND

B.V.NAGARATHNA

10/04/2015

Order in WP 24739/2012

**W.P.Nos.24739-24740/2012, 46601/2012,
30450/2012, 46523/2012, CCC Nos.1641-
1650/2013, 36508-36517/2013, 48595/2013,
18167-18168/2014.**

NKJ & BVNJ:

It is submitted that a sum of Rs.118.5 crores has been released and paid to the contractors as well as to the Pura Karmikas as per the bills submitted. It is also stated that the concerned officials have sent a certificate stating that they have obtained No Objection Certificate and Compliance Certificate from the respective ward Residents Welfare Association (RWA) and Shuchimithra for the period from September 2014 to December 2014. Those certificates are yet to be collected. The order is very clear that before making such payment, No Objection Certificate from RWAs./ Shuchimithra shall be obtained to

ensure that monies are paid to the right persons and not mis-utilised. Therefore, it is necessary for the authorities to place on record No Objection Certificate/Compliance Certificates issued by the RWAs., and Shuchimitra before passing any order for further payment.

(2) The Commissioner for BBMP submits that another sum of Rs.30 crores would be released within a couple of days, so that amount could also be distributed to the persons who have the right to receive the same.

(3) It is submitted that at present, BBMP is carrying on the activity of municipal solid waste management (SWM) in about 120 wards. However, they have already prepared the tender documents in consultation with the expert committee. What is coming in the way of issuing tenders is that the wards are proposed to be delimited depending on the population, which may affect the tender terms and conditions. But solid waste management cannot wait. It has to proceed on a day-to-day basis. Therefore, a way has to be found

out so that SWM is not in any way affected with either bifurcation or trifurcation of BBMP or by delimitation of wards.

Authorities may think of introducing necessary clauses in the tender document keeping in mind delimitation of wards and issue tender notifications at the earliest so that waste management would be carried on in a more professional manner.

(4) BBMP has given its report vis-à-vis the activities, which are in progress at M/s.MSGP Infra Tech Pvt. Ltd. In pursuance of notice issued, M/s.MSGP Infra Tech Pvt. Ltd., has sent a reply as per Annexure C. Memo is filed today along with photographs showing the various activities. From the photographs produced by petitioners and MSGP it is clear that it is mixed waste, is being sent to the said Unit and after processing it, non-recyclable waste is stored at the unit. According to petitioners, such storage is creating health hazards. Under the above circumstances, the concerned officers of BBMP are directed to visit the said site personally to find out as to whether all safety measures have been

put in place and followed and in case of failure, to insist on compliance with the legal requirements and then, submit their report. It would be proper for them to take along with them the Expert Committee members for inspection so that their views also could be considered in that regard.

(5) In so far as bulk generators are concerned, in the report, it is stated that in the first phase, 2902 bulk generators is in the category of Hotels, Restaurants, Malls and Kalyana Mantaps have been directed to do in situ processing / Linkage with service providers is also being provided. Action is under progress to involve the remaining 585 bulk generators. They have also issued notices to the bulk waste generators in the category of educational institutions, clubs, postgraduate hostels and temples and by the next hearing date, they would place on record the progress made in this direction. A report on the further action taken in this regard shall be placed on record.

(6) It is submitted that Biomethanisation unit at Kannahalli would become

operational from today and they would start receiving the waste from 15th of this month, quantity of which, would be gradually increased. A report on this aspect shall be filed.

(7) It is submitted that tender to be called for 21 Reverse Osmosis (RO) plants has been finalized. In fact, work is in progress for establishment of 12 RO plants. The Executive Engineer of Rural Drinking Water Supply and Sanitation has also addressed a letter to the Government Advocate assuring full cooperation in the efforts of the BBMP. What is expected from them is not merely addressing a letter to the Advocate appearing in the case, but to extend full cooperation to the BBMP authorities by providing requisite funds for early implementation of the said project. In fact, learned Addl. Advocate General submits that if any proposal is given by BBMP., for extending any financial support, the same would be considered and appropriate action would be taken. In this regard, it is submitted that the elected representatives of the five Village

Panchayats have been consulted and it is only as per the report submitted by the local Zilla Panchayats and Rural Development and Panchayat Raj Ministry, locations have been identified and plants are set up. Further progress on the project shall be reported by the next date of hearing.

(8) In pursuance of directions issued by this Court earlier, BBMP has conducted about 12 health camps in different villages on different dates. Letter produced by petitioners show that about 525 patients have been examined and appropriate treatment has also been given to them. Still the villagers are not happy with the service rendered by the Doctors. Therefore, they point out that they will give a written submission to the BBMP fixing the dates on which health camps are to be conducted and at what places. If possible, they would also give particulars of the persons, the nature of their ailment they are suffering so that health service to be rendered would be more effective and meaningful. The officials of the BBMP readily agree to the said proposal and submit that as soon as they receive

written communication from villagers, they would arrange for health camps and they will also make available requisite professional services to treat those patients.

(9) Petitioners have produced photographs of Mavallipura land fill showing mixed waste being dumped opposite the platform; large parts of the windrow shed missing; high bird activity in the newly dumped waste over existing landfill and new inert waste dumped and covered on existing land fill; a Well situated at 100 feet from Ramky Gate polluted by leachate from new and old waste and mixed waste on platform. BBMP shall take note of the photographs and send their officials to the spot and ensure that the said grievances are remedied forthwith. A report in this regard shall be filed by the next date of hearing.

(10) It is submitted that the BBMP has approached Agricultural University for conducting agricultural survey in the area to assess the impact of SWM in that area and a fee of Rs.7.5 Lakhs has already been paid to the University in that regard a couple of

days back. Therefore, they are hopeful that the University would take up the survey at the earliest and submit a report, which would be placed before this Court by the next date of hearing.

Call on 29.04.2015.

NKJ & BVNJ

W.P.Nos.24739-24740/2012, 46601/2012, 30450/2012, 46523/2012, CCC Nos.1641-1650/2013, 36508-36517/2013, 48595/2013, 18167-18168/2014.

On 09.01.2015, this Court made the following Order:

The residents around KCDC have presented a submission to this Court. They submit that Special Commissioner sought one months period to put the odour in control in terms of the orders passed by this Court on 5.12.2014. But, the same is not done. These are the problems which we had anticipated

when the Government appointed the Chairman and the Vice Chairman. A copy of the said submission is handed over to the learned Government Advocate to be handed over to the newly appointed Chairman and Vice Chairman of the KCDC, to ensure that by the next hearing date odour is controlled and the people would be relieved of odour to some extent at least. This would be a test case where the Chairman and the Vice Chairman would have to perform and meet the expectations of the people who are residing in and around KCDC. A copy of the submission is also handed over to the Managing Director of KCDC, to take action in the matter by bringing it to the notice of the Chairman and Vice Chairman of KCDC. The Special Commissioner assures the Court that the construction work which they have undertaken in KCDC would be completed within two months from today. Submission is placed on record. A report in this regard shall be submitted by next hearing date.

(2) Thereafter, on 13.02.2015, Dr. Anand Kumar, newly appointed Chairman,

Karnataka Compost Development Corporation Ltd., and Sri M.S. Muthuraj, newly appointed Vice Chairman of KCDC were present in Court. In their presence and after hearing them, the following order was made:

(7) Dr. Anand Kumar, newly appointed Chairman, Karnataka Compost Development Corporation Ltd., is before the Court. Sri M.S. Muthuraj, newly appointed Vice Chairman of KCDC is also present. Their presence shows the interest they have in waste disposal. Today, on their behalf, a report is also placed on record. It shows the developmental activities which they have undertaken after assuming charge. In fact, along with the report, they have produced a sketch of the area in which KCDC is functioning. Along with the sketch, they have also produced photographs showing the operations being conducted at KCDC.

The Chairman submits that he has visited the place and has interacted with the residents in the adjoining locality. Except the residents who are residing adjoining the

lake, adjoining KCDC premises, which belongs to BDA, others have not complained. The photographs show sewerage water flowing into that lake and a large number of pigs are found in the marshy area. During his visit he also found animal waste was dumped in the said lake. Chicken, fish, slaughter waste are dumped on the lake bed by the local residents who are the residents adjoining the lake. The domestic waste dumped by local residents is yet another cause for polluting the lake and therefore he submits that unless that lake is cleaned, properly fenced and maintained, the foul smell would continue to emanate.

Learned counsel for Bangalore Development Authority is present before the Court. He states that the said lake measures about 16 acres. From the photographs produced, it is clear that it is not only a case of maintaining lake, it is also a case of finding a way out for this sewerage water and also preventing pollution of the lake. Under the circumstances, Bangalore Development Authority, Pollution Control Board, Bangalore Water Supply and Sewerage

Board and also Lake Development Authority, shall act in unison and take appropriate steps to restore the lake to its original status by preventing sewerage being let into that lake. Pollution Control Board shall take steps to ensure that no polluted water flows into the lake or foul smell would emanate from the said tank. Probably, pollution of the lake is one of the reasons for the foul smell emanating from the area apart from the dumping of waste in KCDC Area.

The Special Commissioner is present in Court and submits that inspite of best efforts they could not find a odor controlling mechanism installed in any solid waste management plant. Now they have approached the Council for Scientific Industrial Research (CSIR) at Kerala with their problems. They are working on the same and they have assured a solution. Once they come out with a mechanism by which odor could be controlled and prevented, they would implement the same at the earliest and report to the Court. The residents of the village also want to have a say in the odor control management.

The Chairman of the KCDC, who is present before the Court submits that lack of sufficient funds is yet another reason for non-implementation of certain action required for the proper functioning of the KCDC. They submit that they have sent a proposal to the State Government to include the expenditure required by the KCDC in the budget. As Honble Chief Minister is involved in this mammoth task of cleaning up Bangalore City and he has shown keen interest in solving the problems in this regard, we are sure he would understand the gravity of the situation and make available requisite funds for KCDC in the coming budget so that all programmes which the KCDC intend implementing in the wet waste process would be in place and their problem are sorted out at the earliest.

The residents of the area where KCDC is located have also brought to the notice of the court photographs of inert waste, which is dumped in the premises of KCDC.

Therefore they are afraid if the said wet waste is continued to be dumped, as in the

case of Mandur, it may create problems in future. As KCDC cannot further process the said inert waste, it is appropriate that it is transported to a land fill, so as to prevent dumping of not only wet waste but also inert waste. We find force in the submission.

Therefore, KCDC is directed to remove all inert waste which is found in their compound and ensure that it is taken to an appropriate land fill which is meant for dumping of inert waste and report in this regard shall be filed by KCDE by the next date of hearing.

(3) Today, the residents of the locality have produced an affidavit along with Annexures.

Annexure A is copy of the letter dated 16.03.2015 addressed by Dr. Ananda Kumar, Chairman of the Karnataka Compost Development Corporation, to the Commissioner of BBMP. The relevant portion of the said letter reads as under:-

**P. A. F. U.
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(4) Therefore, it is clear that the apprehensions expressed by the petitioners in these cases at the time when appointments were made to KCDC have come true. KCDC instead of taking over the responsibility and assisting in processing waste now is virtually blocking supply of waste to the Unit. In the aforesaid letter, Chairman has paid encomiums to the Hon`ble Chief Minister with regard to action taken by him for Swacha Karnataka and has praised him. Instead of strengthening the hands of the Hon`ble Chief Minister in achieving the objective, virtually, KCDC is now becoming an obstacle. It is for the Chief Minister to decide whether he would be able to achieve

his dream of Swacha Karnataka with the present head of the said Organization. The Hon`ble Chief Minister, who had a first-hand experience of what happened in Mandur and the agitations and the consequences which emanated therefrom, should take immediate action and ensure that such attitudes and action do not repeat in any part of Bengaluru. Otherwise, Hon`ble Chief Ministers efforts in SWM may be brought to naught and he may have to face another Mandur like situation.

(5) Furnish a copy of this order to the Additional Advocate General for being communicated to the Hon`ble Chief Minister, forthwith.

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