

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTH ZONE, AT CHENNAI**

OA No. 140/2023

BETWEEN:

Prasanna Kumar

...APPLICANT

AND

State of Karnataka & Ors.

...RESPONDENTS

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BENGALURU

DATE: 04.04.2024



ADVOCATE FOR RESPONDENT NO.6
(VINAYAKA S. PANDIT)

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**STATEMENT OF OBJECTIONS FILED BY THE RESPONDENT NO.6 -
ANEKAL PLANNING AUTHORITY**

1. The Applicant has filed this Application seeking for a direction against this Respondent - Anekal Planning Authority (APA in short) to release funds as this Hon'ble Tribunal deems fit and proper to restore the Hennagara Lake free from pollution and flow of fresh water is maintained for ever while also seeking a direction to release such funds in favour of Hennagara Grama Panchayat to meet the situation.
2. This Respondent is a Planning Authority constituted on 19.07.2006 under Section 4C of the Karnataka Town and Country Planning Act, 1961 (KTCP Act in short). The APA is constituted for proper planning of the area under it and also to stop uncontrolled development of land use under the planning area among other functions.
3. The Planning Authority is burdened with the task of preparing a Master Plan for the areas under it. Master Plan includes zoning of land use for residential, commercial, industrial, agricultural etc; Complete street pattern; areas reserved for parks, playgrounds, public spaces and so on. The Planning Authority is required to oversee the developmental activities in its jurisdiction in consonance with its Master Plan. Hence, to enforce the Master Plan, the Planning Authority is required to grant permissions for any change in land use under its jurisdiction.


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 **ANEKAL.**

4. The Planning Authority while granting permission for change in land use is bound to consider several permissions/No Objection Certificates issued by various Govt. Boards and Agencies in favor of Applicant seeking change of land use. In order to ensure treatment of sewage generated in Group Housing Projects and also Commercial Establishments, the Karnataka Forest, Ecology & Environment Secretariat vide Notification No. FEE 316 EPC 2015 dated 19.01.2016 has issued certain directions to authorities. The Town Planning Authority is required to approve construction plans or development of layouts only upon Consent for Establishment (CEF) Certificate is issued by the Respondent No.4 under the Water (Prevention and Control of Pollution) Act, 1974. The Respondent No.4 issues this certificate for establishing sewerage treatment plant of appropriate capacity based on the project. Hence, the Planning Authority is required to grant any approval only after the Applicant produces CEF issued by the Respondent No.4. Copy of the Notification dated 19.01.2016 is produced as ANNEXURE-R6/1.
5. The Planning Authority is empowered to levy a fee in cases where permission is sought for change of land use. The Planning Authority is required to levy and collect an additional prescribed fee for rejuvenation of lakes or tanks, if any, in that local planning area when an application for permission for development of building or sanction for sub-division of plot or layout is submitted to any Planning Authority. This is given under Section 18 (1A) of the KTCP Act. Section 18(1A) of the KTCP Act is extracted herein below for easy perusal.

“18(1A) Where an application for permission for development of building or land or sanction for sub-division of plot or layout of Private Street is submitted under section 15 or 17 to any Planning Authority, such Planning Authority shall levy and collect an additional prescribed fee for rejuvenation of lakes or tanks, if any, in that local planning area.”


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6. This fee collected for the purposes of rejuvenation of lakes or tanks is required to be utilized for the purpose of development and rejuvenation of water bodies under the area of the Planning Authority. This is provided under Rule 37A (1A) (2) of the Karnataka Planning Authority Rules, 1965 (1965 Rules in short).
7. It is now pertinent to state that Section 68A of the KTCP Act gives for managing of funds of Planning Authority. Section 68A of the KTCP Act is given below for easy reading.

“68A Funds of Planning Authority.—

(1) Every Planning Authority shall have and maintain a separate fund to which shall be credited,—

(a) all moneys received by the Planning Authority from the State Government by way of grants, loans, advances or otherwise;

(b) all charges or fees received by the Planning Authority under this Act or rules, regulations or bye-laws made thereunder;

(c) in the case of a Planning Authority constituted under section 4C, such contributions from the Fund or Funds of the local authority or local authorities of the area included in the planning area, as such local authority or local authorities may from time to time be required by the State Government to make to such Planning Authority;

(d) all moneys received by the Planning Authority from any other source.

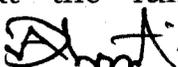
(2) The Fund shall be applied towards meeting,—

(a) the expenditure incurred in the administration of this Act;

(b) the cost of acquisition of land in the planning area for the purposes of development;

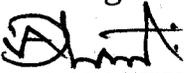
(c) the expenditure for such other purposes as the State Government may direct.”

Section 68A (2) is clear on how the funds are required to be utilized. It gives that the funds may be utilized towards


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expenditure, cost of acquisition of land for the purpose of development and the expenditure for other purposes as the State Government may direct. Hence, under Section 68A (2) (c) of the KTCP Act, the APA can release funds only upon the directions of the State Government especially in cases where funds are required to be released for rejuvenation of lakes/water bodies under the area of the Planning Authority. This Respondent has levied additional fee under the head "Lake Rejuvenation Fee" as given under Section 18 (1A) of the KTCP Act. The total funds available under the head "Lake Rejuvenation Fee" as on 14.12.2023 is ₹149.43 Crores. This Respondent is ever willing to disburse the said amount for rejuvenation of lakes coming under its jurisdiction as and when the State Government directs to do so.

8. This Respondent submits that the Planning Authority is not empowered to undertake any developmental works or rejuvenation works of the existing tanks/lakes or even in formation of new lakes/tanks. The State of Karnataka has set-up a separate authority called the Karnataka Lake Conservation and Development Authority (KLCDA) under the Karnataka Tank Conservation and Development Authority Act, 2014. The KLCDA is responsible to maintain the tanks/lakes. Upon approval granted by the Govt. at the request of KLCDA, the rejuvenation of lakes is carried out. After approval of the Govt., the Planning Authority would release the funds in favour of the agency which takes up developmental/rejuvenation works.
9. This Respondent submits that an administrative approval was granted vide Govt. Order bearing No. Bo.Na.A.E 71 BMR 2017 dated 02.08.2017 for development of 34 lakes under the jurisdiction of APA at an estimated cost of ₹54.74 Crores. It was directed that the funds be released in favour of Karnataka Rural Infrastructure Development Limited (KRIDL). Accordingly, this Respondent had released ₹1.03 Crores in favour of KRIDL for developmental work of Ragihalli Lake which falls within the


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jurisdiction of APA. The KRIDL vide letter bearing No. EE/KRIDL/BD/Lake/2020-21 dated 15.05.2020 has stated that due to lack of technical staff for implementation, the rejuvenation works be handed over to minor irrigation department after seeking appropriate Orders from Govt. Further, the Govt. vide letter bearing No. NaAE 86 BMR 2021 (E) dated 25.08.2021 has prohibited entrustment of any works to KRIDL with immediate effect.

10. This Respondent submits that in the 79th Meeting of the APA dated 16.07.2022, it was resolved that a sum of ₹63.21 Crores be released for development of 14 lakes in the jurisdiction of the APA upon administrative approval given by the Govt. This proposal for obtaining administrative approval will be submitted to the Metropolitan Commissioner, Bangalore Metropolitan Region Development Authority (BMRDA).

11. It is submitted that the APA has no power to release the funds without approval of the Govt. and moreover, the APA is not empowered to carry out formation/developmental/rejuvenation works of lakes/tanks. Similarly, the Hennagara Grama Panchayat is also not the competent authority to carry out lake rejuvenation/developmental works. In these facts and circumstances, this Respondent submits that the prayer against this Respondent that the funds be released that too in favour of Hennagara Grama Panchayat is misconceived. Hence, the prayers sought against this Respondent be dismissed.

BENGALURU

DATE: 11/11/24



RESPONDENT

NO.6

**MEMBER SECRETARY
ANEKAL PLANNING AUTHORITY**

 **ANEKAL.**



Advocate for Respondent No.6
(Vinayaka S. Pandit)

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VERIFYING AFFIDAVIT

I, Vijaymaharubh, S/o. Adappa, Aged about 38 years, Joint Director of Town and Country Planning & Member Secretary on in-charge basis, Anekal Town Planning Authority, No. 430, Anna Building, 1st Floor, Henngara Gate, Near Chandapura, Bengaluru, do hereby solemnly affirm and state on oath as follows:

1. I am conversant with the facts and circumstances of this case and hence swearing to this Affidavit.
2. I submit that the averments made in paragraph 1 to 11 in the accompanying statement of objections are true and correct to the best of my knowledge, information and I believe it to be true and correct.
3. The Annexure R6/1 produced is a true copy of its Original.

I, the above named deponent do hereby declare that what are all stated above are true and correct.

Identified by me,



Advocate




DEPONENT

**MEMBER SECRETARY
ANEKAL PLANNING AUTHORITY**

ANEKAL.

Sworn Solemnly affirmed and signed before me on this 4 day of 9 2024 at Bengaluru

No. of Corrections 4 N.R.No. 1561/2024

VEENA. K, Advocate & Notary, Bengaluru



ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು
ಬಿಶೇಷ ರಾಜ್ಯ ಪತ್ರಿಕೆ

ಭಾಗ- III	ಬೆಂಗಳೂರು, ಬುಧವಾರ, ಜನವರಿ ೨೦, ೨೦೧೬ (ಪುಷ್ಯ ೩೦, ಶಕ ವರ್ಷ ೧೯೩೭)	ನಂ. ೧೧೩
Part- III	Bengaluru, Wednesday, January 20, 2016 (Pushya 30, Shaka Varsha 1937)	No. 113

FOREST, ECOLOGY & ENVIRONMENT SECRETARIAT NOTIFICATION

No. FEE 316 EPC 2015, Bengaluru, dated:19.01.2016

Whereas, Tanks/Lakes both in Urban and rural areas were serving as source of drinking water to people, animals and birds and helped in increasing the fertility of the lands through controlling soil erosion which in turn enhanced the agricultural production. Tanks served as habitat for aquatic fauna boosting fish production and most importantly increasing the ground water table. Lakes are considered as lung spaces of cities and help moderate vagaries of climate and maintenance of ambient temperatures. Construction activities, destruction of tanks and wetland systems have added to the deterioration of urban environment.

Whereas, siltation, pollution, encroachment of Raja Kaluves, construction of apartments and entry of untreated sewage into the tanks, have resulted in deterioration to the level of hyper eutrophication state in many Tanks / Lakes in the urban areas. The services that the tanks were rendering earlier are vanished in Bengaluru and other urban areas. Such tanks lakes are contrarily posing threat in many ways and causing environment and health hazards.

Whereas, the foams and ignition phenomena observed in the Bellandur Amani Lake and Varthur Lake in Bengaluru in the recent past are the manifestations of severity of the problem.

Whereas, the inspection and monitoring by the Central Pollution Control Board and the Karnataka State Pollution Control Board reveals that the following are the chief causes for deterioration of water quality in the said lakes.

1. Increasing discharge of untreated wastewater containing abnormal quantity of organic matter, phosphorus, oil & grease, chemicals from detergents & cleaners etc. over a long period and its settlement as sediment.
2. Oil and grease from industrial activity, sewage and garbage have accumulated in sewer lines and in some parts of Lake. Due to heavy rains, the oil & grease accumulated in the sewer lines and storm water drains, etc. have been flushed to the surface of the lake.

Whereas, the State Government in exercise of powers conferred under 18 (1) (b) of the Water (Prevention and Control of Pollution) Act 1974 have issued direction to the Karnataka State Pollution Control Board vide the Notification No. FEE 22 EPC 2009 (P-1), dated: 04.08.2010 to exempt the residential and commercial construction of less than 20,000 Square meter built up area from the consent mechanism within the sewerage areas wherein permission from Bangalore Water Supply and Sewerage Board (BWS&SB)/ BBMP/ Municipalities / Corporations is obtained to discharge sewage in sewer lines and charges paid to these authorities.

Whereas, the Central Pollution Control Board Vide No.A-19014/41/2006-MON/1242, dated:22.05.2015 have under section 18 (1) (b) of the Water (Prevention and Control of Pollution) Act 1974 directed the Karnataka State Pollution Control Board to ensure that all apartments with more than 50 units shall treat sewage in their own STPs and reuse the treated sewage within its premises.

Whereas, the Karnataka State Pollution Control Board has a mandate to comply with the directions issued by the Central Pollution Control Board under Section 18 (1) (b) of the Water (Prevention and Control of Pollution) Act, 1974.

Whereas, the Karnataka State Pollution Control Board vide latter No.PCB/CNP/10/GEN/15/277, dated:13.10.2015 have submitted the proposal to the Government for issue of direction under Section 5 of the Environment (Protection) Act, 1986 to the concerned

Planning Authority i.e Bangalore Development Authority (BDA) and Bruhath Bengaluru Mahanagara Palike (BBMP) to insist for installation of STPs in Residential Apartments with 50 units and above irrespective of existence of sewer line and for treatment of sewage to urban reuse standards and to reuse the same within their premises.

Whereas, it is opined that establishment of sewage treatment plants in Group Housing Projects, Commercial Establishments and such other Institutions help in prevention of pollution of water bodies apart from reducing the fresh water demand in such establishments as Bangalore is facing shortage of fresh water supply by BWS&SB.

Wherefore, in order to ensure treatment of sewage generated in the Group Housing Projects, Commercial Establishments and such other Institutions and to ensure reuse of treated water for non-potable purposes apart from ensuring prevention of pollution of lakes and other water bodies, the State Government hereby issue direction under section 5 of the Environment (Protection) Act, 1986 in exercise of the powers delegated to the State Government vide Notification No.S.O.152 (E), dated: 10.02.1988 to the Authorities listed in the Table-1 below as mentioned against each of such authorities.

Table - 1

Sl. No.	Designation of the Authority issued with the direction under section 5 of Environment (Protection) Act, 1986	Direction under section 5 of Environment (Protection) Act, 1986
1	2	3
1.	The Commissioner, Bruhath Bengaluru Mahanagara Palike (BBMP), N.R.Square, Bengaluru-560002.	Shall approve plan for construction of buildings and development of layout in respect of activities listed in Table-2 of this notification only after production of copy of Consent for Establishment (CFE) issued under the Water (Prevention and Control of Pollution) Act, 1974 by the Karnataka State Pollution Control Board for establishment of sewage treatment plant of appropriate capacity.
2.	The Commissioner, Bangalore Development Authority (BDA), T.Chowdaiah Road, Kumara Park West, Bengaluru - 560020.	
3.	The Commissioner, the Bangalore Metropolitan Region Development Authority (BMRDA), No.1, Ali Askar Road, Bengaluru-560052.	
4.	The Commissioner of all the City Corporations in the State	
5.	The Chairman, Bangalore Water Supply and Sewerage Board (BWSSB), Cauvery Bhavan, Bengaluru - 560009	Shall provide water connection to the activities covered under this direction in Table-2 only after production of copy of Consent for Establishment (CFE) issued under the Water (Prevention and Control of Pollution) Act, 1974 by the Karnataka State Pollution Control Board for establishment of sewage treatment plant of appropriate capacity.
6.	Director of Municipal Administration, V.V.Main Tower, Dr. B.R.Ambedkar Veedhi, Bengaluru-560001.	Shall ensure that the urban local bodies in the State coming under the jurisdiction of DMA approve plan for construction of buildings and development of layout in respect of activities listed in Table-2 of this notification only after production of copy of Consent for Establishment (CFE) issued under the Water (Prevention and Control of Pollution) Act, 1974 by the Karnataka State Pollution Control Board for establishment of sewage treatment plant of appropriate capacity.
7.	The Managing Director, Karnataka Urban Water Supply and Sewerage Board, No.6, JalaBhavan 1 st Stage, 1 st Phase, BTM Layout, Bannerghatta Road, Bengaluru - 560029	Shall provide water connection to the activities covered under this direction in Table -2, only after production of copy of Consent for Establishment (CFE) issued under the Water (Prevention and Control of Pollution) Act, 1974 by the Karnataka State Pollution Control Board for establishment of sewage treatment plant of appropriate capacity.

Sl. No.	Designation of the Authority issued with the direction under section 5 of Environment (Protection) Act, 1986	Direction under section 5 of Environment (Protection) Act, 1986
1	2	3
8.	The Director, Town Planning, M.S Building, Bengaluru.	Shall approve plan for construction of buildings and development of layout in respect of activities listed in Table -2 of this notification only after production of copy of Consent for Establishment (CFE) issued under the Water (Prevention and Control of Pollution) Act, 1974 by the Karnataka State Pollution Control Board for establishment of sewage treatment plant of appropriate capacity.
9.	CEO & Executive Member, Karnataka Industrial Areas Development Board (KIADB), No. 49, East Wing, Khanija Bhavan, Race Course Road, Bangalore - 560001.	Shall approve plan for construction of buildings and development of layout in respect of activities listed in Table-2 of this notification either for their own use or for the occupiers only after production of copy of Consent for Establishment (CFE) issued under the Water (Prevention and Control of Pollution) Act, 1974 by the Karnataka State Pollution Control Board for establishment of sewage treatment plant of appropriate capacity.
10.	The Managing Director, BESCO, CESCO, GESCO, MESCOM and HESCO.	Shall provide permanent power connection to the activities covered under this direction at Table-2, only after production of copy of Consent for Establishment (CFE) issued under the Water (Prevention and Control of Pollution) Act, 1974 by the Karnataka State Pollution Control Board for establishment of sewage treatment plant of appropriate capacity. However, this direction shall not be made applicable for temporary connection provided for construction phase.
11.	The Member Secretary, Karnataka State Pollution Control Board, No. 49, Parisasra Bhavana, Church Street, Bengaluru.	Shall include the activities covered under this direction under the consent mechanism in accordance with the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and the Rules made thereunder and shall ensure that such activities listed in Table-2 also are established along with sewage treatment plant of appropriate capacity and mechanism for reuse of treated water is put in place as directed by CPCB. Such activities shall be issued with CFE / CFO following the due procedure of law, after ensuring permissibility of such activity.

The direction issued under this Notification in column 3 of the above Table-1 shall be made applicable for the activities listed in the Table-2 below:

Table - 2

Sl. No.	Activities that need to install Sewerage Treatment Plants (STP) compulsorily and ensure reuse of treated water
i)	All the residential Group Housing Projects / Apartments with 20 Units and above or having a total built up area of 2,000 square meter including basement shall install STP.
ii)	Commercial constructions Projects (Commercials Complexes, office, IT related activities etc.) with total built up area of 2,000 Squire meter and above shall install STP.
iii)	Educational Institutions with or without Hostel facility having total built up area of 5,000 Squire meter and above shall install STP.
iv)	Townships and Area Development Projects with an area of 10 acres and above shall install STP.

This direction will come to effect from the date of its publication in the Government Gazette.

The direction issued to the Karnataka State Pollution Control Board vide Government Notification No. FEE 22 EPC 2009 (P-1), dated: 04.08.2010 stands withdrawn.

By Order & in the Name of the Governor of Karnataka

ANDANAYYA MATHAD
Under Secretary to Government
(Ecology & Environment)
Forest, Ecology & Environment Dept.,