

[Skip to main content](#)[← back](#)**Status: Pending**Case Number: **WP 38218/2013**
(KAHC010054562013)Classification: **BDA**Date of Filing: **26/08/2013 10:22:34**Petitioner: **SRI T RAJKUMAR**Pet. Advocate: **GANAPATH HEGDE**Respondent: **BANGALORE
DEVELOPMENT AUTHORITY**Resp. Advocate: **SACHIN B S FOR R1**Filing No.: **WP 38218/2013**Judge: **ALOK ARADHE AND ANANT
RAMANATH HEGDE**Last Posted For: **FINAL HEARING**Last Date of Action: **24/11/2021**Last Action Taken: **ADJOURNED**

Next Hearing Date:

Daily Orders: WP 38218/2013

1	ALOK ARADHE AND ANANT RAMANATH HEGDE	<u>24/11/2021</u>
	List after one week.	
2	ALOK ARADHE AND ANANT RAMANATH HEGDE	<u>09/11/2021</u>
	Learned counsel for the petitioners once again pray for an adjournment. On 18.10.2021 also adjournment was sought. However, by way of indulgence, let this petition be listed along with connected matters on 23.11.2021	
3	ALOK ARADHE AND S VISHWAJITH SHETTY	<u>18/10/2021</u>
	Mr.Ganapathi Hegde, learned counsel for the petitioner. Mr.Sachin B.S., learned counsel for the respondent No.1. Mr.Gururaj Joshi, learned counsel for the respondent No.2. Learned counsel for the parties are directed to file paper books and comply with the office objections. Learned counsel for the parties jointly submit that the matter be fixed for hearing. In view of the aforesaid joint submission, let the writ petitions be listed for hearing on 09.11.2021.	
4	ARAVIND KUMAR AND PRADEEP SINGH YERUR	<u>02/08/2021</u>
	Re-list these matters on 02.09.2021.	
5	ARAVIND KUMAR AND N S SANJAY GOWDA	<u>30/06/2021</u>

This Public Interest Litigation (PIL) along with connected matters have been pending since 2013 and the Registry has raised objections with regard to non furnishing of second set of writ petitions / statement of objections / counter affidavits. For the reasons best known, the said office objections have not been complied. In all those matters which requires compliance of office objections, we grant 10 days time finally to comply with office objections, failing which, we make it explicitly clear that such of the pleadings / the office objections which have been unattended to will not be looked into by this Court or in other words, such of those pleadings would not be perused or examined by this Court.

2. On account of Sri.Sajjan Poovayya, Amicus Curiae had pleaded inability to attend these matters, we had discharged him by our order dated 07.06.2021 and had appointed Smt.Manasi Kumar and Sri.S.Sammith, learned members of this Bar to act jointly as Amicus Curiae and assist the Court in the matter. Accordingly, they have appeared before this Court.

3. Registry is directed to furnish one set of copies of writ petitions and pleadings to themforthwith, at any rate, within 10 days from today.

4. Learned Amicus Curiae can collect the copies of writ petitions, statement of objection, reports etc., from the Registry.

5. Relist these matters on 28.07.2021.

6. Learned advocates are requested to co-operate with the Court in disposing of these matters by addressing the arguments on the said date.

7. Registry is further directed to make available copies of such of those documents available on record and sought for by the learned Amicus Curiae appointed by this Court without waiting for any further orders from this Court.

6	ARAVIND KUMAR AND PRADEEP SINGH YERUR	<u>03/04/2021</u>
	<p>Learned Government Advocate appearing for State would submit that order dated 17.01.2018 passed by National Green Tribunal, Principal Bench, New Delhi would be implemented in letter and spirit. His submission and undertaking is placed on record.</p> <p>It is made clear that these writ petitions having been pending since long as such they are to be taken up on day-to-day basis. Learned counsel appearing for parties are requested to cooperate with the Court for disposal of these cases on merits and in accordance with law.</p> <p>Wherever office objections, filing of second set, payment of process fee if any is to be made and same shall be complied on or before 22.04.2021, failing which, those petitions where it has not been complied would be dismissed on the next date of hearing.</p> <p>Re-list these matters on 07.06.2021.</p>	
7	ARAVIND KUMAR AND PRADEEP SINGH YERUR	<u>31/03/2021</u>
	<p>Learned Government Advocate appearing for State would submit that order dated 17.01.2018 passed by National Green Tribunal, Principal Bench, New Delhi would be implemented in letter and spirit. His submission and undertaking is placed on record.</p> <p>It is made clear that these writ petitions having been pending since long as such they are to be taken up on day-to-day basis. Learned counsel appearing for parties are requested to cooperate with the Court for disposal of these cases on merits and in accordance with law.</p> <p>Wherever office objections, filing of second set, payment of process fee if any is to be made and same shall be complied on or before 22.04.2021, failing which, those petitions where it has not been complied would be dismissed on the next date of hearing.</p> <p>Re-list these matters on 07.06.2021.</p>	
8	ARAVIND KUMAR AND PRADEEP SINGH YERUR	<u>24/02/2021</u>
	<p>ORDER</p> <p>Learned AGA has filed a memo stating therein that the matter may be taken up on 17th March 2021.</p> <p>Hence, we direct Registry to re-list this matter on 17th March 2021.</p>	
9	ARAVIND KUMAR AND PRADEEP SINGH YERUR	<u>16/02/2021</u>

ORDER
Learned Advocates appearing for parties submit that they would positively go on with the matter next week.
Their submission and undertaking is placed on record.
We have noticed in some of the pleadings which have been filed, Registry has raised objections and same is not complied. It shall be done on or before next date of hearing, failing which, said pleadings stand rejected without reference to the Bench.
Re-list these matters on 24.02.2021.

10	ARAVIND KUMAR AND PRADEEP SINGH YERUR	20/01/2021
	W.P.No.18854/2018 is ordered to be delinked from this batch of writ petitions. At request of learned counsel appearing for petitioner in W.P.No.38493/2013, re-list these matters on 16.02.2021. We also make it explicitly clear that on the said date no adjournment on any ground whatsoever would be granted and learned Advocates are requested to cooperate with the court, failing which matter would be heard on merits and proceed to orders.	
11	ARAVIND KUMAR AND PRADEEP SINGH YERUR	06/01/2021

ORDER

1. In all these writ petitions, the issue relates to maintaining buffer zone around Thippagondanahalli reservoir built at the confluence of Arkavathy and Kumudwathi rivers, which is the source of drinking water to the city of Bengaluru and its surrounding areas since 1930.

2. The Government of Karnataka, on 18.11.2003 issued a notification sub-dividing the conservation zone into four parts in order to safeguard the zone by putting certain embargo in utilizing these conservation zone areas. The same was challenged before this Court and a Division Bench has affirmed the validity of the said notification. It is thereafter, the authorities have taken steps to issue notices to individuals calling upon them to remove the structures, which are contrary to the notification dated 18.11.2003. In some of the writ petitions now pending before this Court, said notices are under challenge. However, during the pendency of these writ petitions, the Government of Karnataka issued another notification dated 24.07.2014 withdrawing earlier notification dated 18.11.2003. This has been challenged and it is stayed by this Court on 28.11.2014. At the request of the Government Advocate, the matter has been adjourned from time to time and thereafter, by an order dated 19.01.2016, this Court had observed as under:-

"Thippagondanahalli Reservoir is a source of water for the people in the State of Karnataka. Instead of maintaining the reservoir, people have encroached upon its catchment area and illegally made constructions.

The government rose from its slumber and made an aerial survey of the area. The area was divided into four zones and certain activities were prohibited by a notification issued in the year 2003.

It is a matter of regret that the said notification was not seriously pursued. Admittedly, there has been a violation.

Ultimately, for reasons known to the authorities, the notification of the year 2003 was withdrawn by issuing another notification on July 24, 2014. Hence, the present litigation has been launched.

This Court appointed the Environmental Management and Policy Research Institute (EMPRI) to submit a comprehensive assessment of Thippagondanahalli reservoir catchment area and its preservation zone.

A detailed report, in three volumes, has been submitted and the same is on record.

Now, it is for the government to consider the said report and take appropriate steps to preserve the Thippagondanahalli reservoir catchment area and its preservation zone.

Already, the notification of 2014 is stayed. The government must come forward and submit before this Court as to whether they still insist to maintain the notification of 2014 or intend to follow the notification of 2003 or any other notification for maintenance of the Thippagondanahalli reservoir catchment area and its preservation zone.

Mr. R. Devdas, learned Principal Government Advocate appearing for the State, submits on instructions that, there were several meetings and a report has been prepared. The said report is placed before the Hon'ble Chief Minister for consideration. Mr. R. Devdas prays for some time to inform this Court as to what steps the government wants to take.

Post these matters after three weeks, when Mr. R. Devdas, learned Principal Government Advocate, is requested to obtain instructions and inform us as to whether the government still insists to maintain the notification of 2014 or not, and as to what steps the government wants to pursue for maintenance of the Thippagondanahalli reservoir catchment area and its preservation zone."

3. Pursuant to the orders passed by this Court and also order dated 19.01.2016, Environmental Management and Policy Research Institute (EMPRI), has submitted a comprehensive assessment report on Thippagondanahalli reservoir and catchment area and preservation zone, and same was taken note of by order dated 03.12.2018.

4. By notification dated 20.07.2013, the earlier notification dated 18.11.2003 has been modified. In this background, the following order came to be passed on 19.08.2019:-

"Our attention is invited to the notification/order dated 20th July 2019 issued by the State Government which modifies the earlier order dated 18th November 2003. Before we go into the question whether the order dated 20th July 2019 is prospective or retrospective, we direct the

	<p>State Government to carry out a survey after notice to the petitioners with a view to ascertain whether any of the structures which are subject matter of this group of petitions are affected by the order dated 20th July 2019. Survey shall be carried out in all the cases and reports shall be placed before the Court."</p> <p>5. The above direction has since been complied and a memo is filed today by the learned Government Advocate stating thereunder that, a survey has been conducted as ordered on 19.08.2019. The translated copy of the Government Order dated 20.07.2019 is also filed and the said memo is placed on record. The parties are at liberty to respond to the same within two weeks from today.</p> <p>6. Re-list on 20.01.2021.</p>	
12	ARAVIND KUMAR AND SHIVASHANKAR AMARANNAVAR	18/12/2020
	<p>Learned AGA appearing for State submits that needful will be done during the course of day namely, survey report would be filed as ordered by this court on 06.06.2019. His submission and undertaking is taken on record.</p> <p>If needful is not done, State shall take appropriate action against concerned officials, since order has been passed one (1) year back and yet, same is not complied.</p> <p>Re-list this matter on 06.01.2021.</p>	
13	ARAVIND KUMAR AND SHIVASHANKAR AMARANNAVAR	09/12/2020
	<p>Learned AGA submits that as ordered on 06.06.2019 survey work has been carried out and report would be filed to the said effect. Hence, he prays for week's accommodation.</p> <p>Placing his submission on record, we direct the registry to list these matters on 18.12.2020.</p>	
14	ABHAY SHREENIWAS OKA (CJ) AND S VISHWAJITH SHETTY	19/11/2020
	<p>To enable the State Government to report compliance with the directions issued under the order dated 19th August 2019, let the petitions be listed under the caption of 'Orders' on 9th December 2020.</p>	
15	ABHAY SHREENIWAS OKA (CJ) AND H.P.SANDESH	28/07/2020
	ADJOURNED	
16	CJ & SRKKJ	24/09/2019
	<p>Not to be placed before a Bench of which one of us (Justice S.R.Krishna Kumar) is a party.</p> <p>The Registrar (Judicial) shall place the matter before the Chief Justice on the administrative side for passing appropriate orders.</p>	
17	CJ & MNJ	19/08/2019
	<p>Our attention is invited to the notification/order dated 20th July 2019 issued by the State Government which modifies the earlier order dated 18th November 2003. Before we go into the question whether the order dated 20th July 2019 is prospective or retrospective, we direct the State Government to carry out a survey after notice to the petitioners with a view to ascertain whether any of the structures which are subject matter of this group of petitions are affected by the order dated 20th July 2019. Survey shall be carried out in all the cases and reports shall be placed before the Court.</p> <p>In the meanwhile, we direct the State Government to furnish English translation of the order dated 20th July 2019.</p> <p>List all the petitions at 2.30 p.m. on 24th September 2019.</p> <p>The State Government shall produce the survey reports on the next date.</p>	
18	CJ & MNJ	30/07/2019

	List these matters on 19th August 2019 at 3:00 p.m.	
19	CJ & PSDJ	<u>06/06/2019</u>
	<p>We direct the State Government as well as the Pollution Control Board to file status report within a period of four weeks from today.</p> <p>The learned counsel appearing for the petitioner in W.P.No.38218/2013 states that the petitioner is not in touch with him and hence, submits that he will take necessary steps as required under law.</p> <p>Place these matters for Preliminary Hearing on 9th July 2019.</p>	
20	LNS J (AG.CJ) & PSDJ	<u>23/01/2019</u>
	<p>Sri B.V.Shankar Narayana Rao, learned counsel for respondent-BDA has filed respective memos in W.P.Nos.38218/2013, 38493-38505/2013, 38795-38800/2013, 38492/2013 and 38183/2013 to delete his name.</p> <p>Memos are taken on record.</p> <p>Office to delete the name of Sri B.V.Shankar Narayana Rao, learned counsel.</p> <p>Learned counsel for the parties are directed to remove the office objections and to file the 2nd set of papers wherever necessary.</p> <p>Call on 20.02.2019.</p>	
21	DINESH MAHESHWARI (CJ) & SSJ	<u>10/12/2018</u>
	<p>Learned Advocate General prays for time to complete all his instructions.</p> <p>List these matters on 16.01.2019, as prayed.</p>	
22	DINESH MAHESHWARI (CJ) & SSJ	<u>03/12/2018</u>
	<p>IN</p> <p>W.P.No.38218/2013 and connected matters</p> <p>Learned Amicus Curiae, Sri Sajan Poovayya, Senior Counsel has referred to the reports submitted by the Environmental Management and Policy Research Institute (EMPRI), pursuant to the orders of this Court and also to the order dated 19.01.2016, whereby the learned Principal Government Advocate was granted time to complete all his instructions as regards the issues involved in the matter.</p> <p>Learned Additional Government Advocate, Sri V.G.Bhanuprakash, prays for a few days time to complete his instructions.</p> <p>List these matters on 10.12.2018, as prayed.</p>	
23	SKMJ(CJ) & BRBJ	<u>10/11/2016</u>
	<p>Post these matters after three weeks.</p>	
24	SKMJ(CJ) & RVMJ	<u>08/09/2016</u>
	<p>Post these matters in the first week of November, 2016.</p>	
25	SKMJ (AG.CJ) AG.CJ & RVMJ	<u>19/01/2016</u>

Thippagondanahalli Reservoir is a source of water for the people in the State of Karnataka. Instead of maintaining the reservoir, people have encroached upon its catchment area and illegally made constructions.

The government rose from its slumber and made an aerial survey of the area. The area was divided into four zones and certain activities were prohibited by a notification issued in the year 2003.

It is a matter of regret that the said notification was not seriously pursued. Admittedly, there has been a violation.

Ultimately, for reasons known to the authorities, the notification of the year 2003 was withdrawn by issuing another notification on July 24, 2014. Hence, the present litigation has been launched.

This Court appointed the Environmental Management and Policy Research Institute (EMPRI) to submit a comprehensive assessment of Thippagondanahalli reservoir catchment area and its preservation zone.

A detailed report, in three volumes, has been submitted and the same is on record.

Now, it is for the government to consider the said report and take appropriate steps to preserve the Thippagondanahalli reservoir catchment area and its preservation zone.

Already, the notification of 2014 is stayed. The government must come forward and submit before this Court as to whether they still insist to maintain the notification of 2014 or intend to follow the notification of 2003 or any other notification for maintenance of the Thippagondanahalli reservoir catchment area and its preservation zone.

Mr.R.Devdas, learned Principal Government Advocate appearing for the State, submits, on instructions, that there were several meetings and a report has been prepared. The said report is placed before the Honble Chief Minister for consideration. Mr.R.Devdas prays for some time to inform this Court as to what steps the government wants to take.

Post these matters after three weeks, when Mr.R.Devdas, learned Principal Government Advocate, is requested to obtain instructions and inform us as to whether the government still insists to maintain the notification of 2014 or not, and as to what steps the government wants to pursue for maintenance of the Thippagondanahalli reservoir catchment area and its preservation zone.

26	SKMJ (AG.CJ)& BMJ	11/12/2015
	List these matters on January 11, 2016.	
27	SKMJ (AG.CJ) & BVNJ	06/11/2015
	List these matters on December 11, 2015.	
28	SKMJ (AG.CJ) & BVNJ	21/09/2015

Thippagondanahalli Reservoir, built at the confluence of Arkavathi and Kumudvathi rivers, is one of the sources of drinking water to the city of Bengaluru and its surrounding areas since 1930.

2. The Government of Karnataka, on November 18, 2003, issued a notification sub-dividing the conservation zone into four parts and put certain embargo in utilizing those conservation zone areas.

3. We are informed that the said notification of November 18, 2003, was challenged before this Court and a Division Bench of this Court affirmed that notification.

4. Subsequently, the authorities issued notices to individuals asking them to remove the offending structures. Those notices are under challenge in these writ petitions.

5. During the pendency of these writ petitions, the Government of Karnataka issued a notification dated July 24, 2014, withdrawing the earlier notification dated November 18, 2003.

6. When the matter came up for consideration before the Honble Single Judge, it was referred to the Division Bench.

7. The operation of the Government order dated July 24, 2014, has been stayed.

8. An Environment Committee was appointed. It has submitted its final report.

9. Mr.A.G.Shivanna, learned Additional Advocate General-I, submits that the government would consider the report submitted by the said Environment Committee. He prays for some time to come up with a proper notification by the government to protect the Thippagondanahalli Reservoir and its catchment areas.

List these matters in the month of November, 2015.

29	SKMJ (AG.CJ) & BVNJ	<u>22/06/2015</u>
	At request, adjourned for a fortnight.	
30	D.H.WAGHELA (CJ)& RMRJ	<u>30/03/2015</u>
	<p>W.P.No.38218/2013 c/w W.P.Nos.38493-38505/13, 38697-38701/13, 38795-38800/13, 38492/13, 38518/13, 39030/13, 38506/13, 39029/13, 38183/13, 39614/13, 39938-39940/13, 40193/13, 40269-40273/13, 41793-41794/13, 41042-41043/13, 40970/13, 38483/13, 40508/13, 38793/13, 38737/13, 44160/13, 40779/13, 40782/13, 40781/13, 40783/13, 40780/13, 40411-40413/13, 48047/13 and 58328/13</p> <p>The affidavit filed by BWSSB is taken on record. Learned counsel Mr.Gururaj Joshi appearing for KSPCB has read the affidavit and sought time to take instructions as regards the steps taken by the pollution control board in respect of consistent and continuously increasing contamination of water in the reservoir in question. He proposes to file an affidavit of an officer of the rank of Senior Environmental Officer concerned. Since it is submitted in the affidavit of BWSSB that so many bore-wells have been dug in the vicinity of the reservoir and the river, it is deemed proper to join as respondent No.5, the electricity supply company which, in the facts of the present case, would be Bengaluru Electricity Supply Company (BESCOM). Notice to this newly joined respondent shall be served by the office, without payment of any process fee, through learned standing counsel appearing for BESCOM. List on 01.04.2015.</p>	
31	D.H.WAGHELA (CJ)& RMRJ	<u>23/02/2015</u>

W.P.No.38218/2013 c/w W.P.Nos.38493-38505/13, 38697-38701/13, 38795-38800/13, 38492/13, 38518/13, 39030/13, 38506/13, 39029/13, 38183/13, 39614/13, 39938-39940/13, 40193/13, 40269-40273/13, 41793-41794/13, 41042-41043/13, 40970/13, 38483/13, 40508/13, 38793/13, 38737/13, 44160/13, 40779/13, 40782/13, 40781/13, 40783/13, 40780/13, 40411-40413/13, 48047/13 and 58328/13

The memo submitted today by learned Additional Advocate General is taken on record and placed at page Nos.638 to 642.

Learned counsel Mr.K.B.Monesh Kumar appearing for BWSSB is requested to place on record, on affidavit, the details of inflow and outflow, and in and from CRS reservoir, T.G.Halli, particularly, from the year 1992-1993 onwards. If any measurements or proportions are available as regards the loss of water on account of evaporation, they may also be stated by a competent and qualified officer of BWSSB.

List on 30.03.2015.

32	D.H.WAGHELA (CJ)& ABHJ	02/02/2015
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W.P.No.38218/2013 c/w W.P.Nos.38493-38505/13,
38697-38701/13, 38795-38800/13, 38492/13, 38518/13, 39030/13, 38506/13, 39029/13, 38183/13,
39614/13,
39938-39940/13, 40193/13, 40269-40273/13,
41793-41794/13, 41042-41043/13, 40970/13, 38483/13, 40508/13, 38793/13, 38737/13, 44160/13,
40779/13, 40782/13, 40781/13, 40783/13, 40780/13,
40411-40413/13, 48047/13 and 58328/13

1. Pursuant to the previous order dated 22.01.2015, learned amicus curiae has submitted his brief submissions with draft terms of reference and prayed for directions through the respondent-State Government to various authorities, including Bengaluru Metropolitan Region Development Authority (BMRDA), Bengaluru Development Authority (BDA), Nelamangala Planning Authority, Bruhat Bengaluru Mahanagara Palike (BBMP), Karnataka State Pollution Control Board (KSPCB), Bengaluru Water Supply and Sewerage Board (BWSSB) and all revenue authorities to assist EMPRI and abide by the instructions of EMPRI in a timely manner, so as to enable the conduct of a comprehensive study in accordance with the terms of reference, as may be approved by this Court. It is also prayed that direction may be issued to remote sensing agencies under the State Government to assist EMPRI and share requisite data with EMPRI for a comprehensive and accurate survey of the area in question.

2. Learned Additional Advocate General Mr.A.G.Shivanna has fairly conceded that the terms of reference, as articulated and suggested in the draft terms of reference, are required to be accepted, adopted and incorporated in the order of this Court. He also stated, on instruction, that the State Government will bear all the necessary expenses for conducting the study and survey in accordance with the terms of reference.

3. Learned counsel Mr.Amar Kumar appearing for some of the original petitioners has, after consultation with other advocates appearing for the petitioners, submitted that the petitioners would have no objection to the study and survey being conducted by EMPRI in accordance with the draft terms of reference and the petitioners will fully co-operate in conduct of the survey and completion thereof as early as practicable. He also conceded that, in order to avoid any factual controversy in future about the location, area, survey number or the existing superstructures, two representatives, jointly or in the alternative, representing all the petitioners will join the survey work with the team of EMPRI at the time and place to be appointed and intimated by EMPRI. If there are any differences about the details and demarcation of the lands in question, they would be sorted out during the course of finalization of the report of EMPRI and thereafter, there would not be any factual dispute about the constructions or other utilization of the lands in the area in question.

4. In the above facts and circumstances, the draft terms of reference submitted by learned amicus curiae are accepted by consent and, EMPRI and the State Government are requested to carry out the study and survey, so as to submit before this Court at least an interim report within a period of three months, latest by 27.04.2015, whereafter further time may be allowed, if required, for submitting final report with full details and documents. Accordingly, the prayers made in the memo submitted by learned amicus curiae today are granted.

5. It may be noted and clarified here that, by virtue of the previous order dated 28.11.2014, pending hearing of the present group of petitions, the operation of the notification dated 24.07.2014 issued by the Government of Karnataka in exercise of powers under Section 5 of the Environment (Protection) Act, 1986 was stayed till further orders, with the effect that the original notification dated 18.11.2003 operates and the authorities designated therein continue to be responsible for strict compliance with the said notification. It is, therefore, unnecessary to further clarify that any new development, construction, utilization or conversion of lands, in violation of the original notification dated 18.11.2003, shall be viewed seriously and may result into prosecution for the offences under the Environment (Protection) Act, of the officers and authorities concerned.

6. The reports and statements regarding quality of water in Thippagondanahalli reservoir are submitted by learned counsel Mr.Gururaj Joshi appearing for KSPCB and they are taken on record. Learned Additional Advocate General is requested to collect and furnish, by the next date of hearing, the data and reports as regards flow in the rivers viz., Arkavathi and Kumudvathi, and the year to year average storage of water in the Thippagondanahalli reservoir.

The matter may be listed for hearing on 23.02.2015.

33	D.H.WAGHELA (CJ)& RMRJ	22/01/2015
	<p>WP No.38218/2013 (BDA) c/w W.P.Nos. 38493-505/13, 38697-701/13, 38795-800/13, 38492/13, 38518/13, 39030/13, 38506/13, 39029/13, 38183/13, 39614/13, 39938-40/13, 40193/13, 40269-273/13, 41793-794/13, 41042-43/13, 40970/13, 38483/13, 40508/13, 38793/13, 38737/13, 44160/13, 40779/13, 40782/13, 40781/13, 40783/13, 40780/13, 40411-413/13, 48047/13 & 58328/13</p> <p>1. The brief submissions of learned amicus curiae are taken on record and the prayers made therein are considered.</p> <p>2. Learned Additional Advocate General Mr.A.G.Shivanna, appearing for the State Government submitted that in view of the requirements of the present litigation, the State Government may not have serious objections to frame detailed terms of reference and scope of study for the purpose of a report of Environmental Management and Policy Research Institute (EMPRI), which may provide necessary inputs for adjudication of issues in the present group of matters. Learned AAG fairly submitted that he would take necessary instructions and after involving learned amicus curiae and a representative of EMPRI, suitable terms of reference may be evolved for the aforesaid purpose and may be placed on record on the next date of hearing. He sought some time for that purpose.</p> <p>3. Learned counsel Mr.Gururaj Joshi, appearing for the State Pollution Control Board, submitted that in spite of clear direction contained in the previous order dated 18.12.2014, the KSPCB has not placed on record or shared with learned amicus curiae the available analysis reports about quality of water during the years 2010 onwards, relevant for the present purpose. He, however, assured the Court that the data will be collected and collated in the form of tables and shared with learned amicus curiae within three days and shall also be submitted to the Court before next date of hearing.</p> <p>4. Accordingly, further hearing is adjourned to 29th January, 2015 at the request of learned counsel on either side for further necessary orders.</p>	
34	D.H.WAGHELA (CJ)& BRBJ	18/12/2014

WP No.38218/2013 c/w WP Nos.38493-505/13, 38697-701/13, 38795-800/13, 38492/13, 38518/13, 39030/13, 38506/13, 39029/13, 38183/13, 39614/13, 39938-40/13, 40193/13, 40269-273/13, 41793-794/13, 41042-43/13, 40970/13, 38483/13, 40508/13, 38793/13, 38737/13, 44160/13, 40779/13, 40782/13, 40781/13, 40783/13, 40780/13, 40411-413/13, 48047/13 & 58328/13.

1. As recorded in the previous order dated 12.12.2014, the present litigations have to be treated as public interest litigation, with a view to address the long-term environmental concerns. As recorded in the earlier order dated 28.11.2014, there appeared, prima facie, to have been number of violations of the notification dated 18.11.2003 and so many prohibited units and unauthorised layouts have come up within the administrative jurisdiction of Bengaluru Development Authority(BDA) in Zone-3 of TGR catchment area. The subsequent notification dated 24.07.2014 is stayed. The willingness of the State Pollution Control Board to come forward with all the data relating to developments and encroachments taking place in the zones prescribed by the previous notification dated 18.11.2003 has also been recorded. It is also already recorded that in the peculiar facts and circumstances, an independent amicus curiae was required to be requested to assist the Court.

2. Accordingly, learned senior counsel Mr.Sajan Poovayya has come forward to assist the Court and appeared with the request that some time may be granted for him to collect and collate all the materials available in different petitions, by getting necessary copies, as also to allow to the petitioners sufficient time to submit correct translations of the documents on record which are not in English. Since the litigation is treated as public interest litigation and the petitioners as well as the State Pollution Control Board and Bengaluru Water Supply and Sewerage Board (BWSSB) have come forward to jointly produce an accurate report on the exact state of affairs in the affected areas, by conducting surveys, if necessary, and with photographs, maps and sketches so as to, as far as may be, eliminate any factual controversy in respect of the course and location of the river and the developments and constructions which have taken place along the banks of the river. Fortunately, learned counsel appearing on either side have expressed their willingness to co-operate in preparation of such report or reports about the factual position prevailing in the area and learned counsel for the petitioners have agreed to pay all the necessary expenses which may be incurred for the purpose of preparation of reports. It is also agreed that one or two representatives of the petitioners, the Chief Environmental Officer of the State Pollution Control Board and one Chief Engineer of (BWSSB) will join hands with learned amicus curiae and meet at the appointed time and place to share the data and information, so as to prepare the report. Additionally, the State Pollution Control Board shall place on record and also share with learned amicus curiae all the available analysis reports about the quality of water during the years 2010 onwards, so as to determine the extent of deterioration in the quality and potability of water now flowing in the river in question.

3. Learned counsel for the petitioners have agreed to initially deposit with learned amicus curiae the amount of Rs.1,00,000/- (Rupees-One-Lakh-only) for the purpose of meeting all the necessary expenses after collecting such amount from the petitioners.

Hearing is adjourned to 22.01.2015 as suggested by learned counsel for the parties.

35	D.H.WAGHELA (CJ)& BRBJ	<u>12/12/2014</u>
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W.P.No.38218/2013 c/w W.P.Nos.38493-505/13, 38697-701/13, 38795-800/13, 38492/13, 38518/13, 39030/13, 38506/13, 39029/13,38183/13, 39614/13, 39938-40/13, 40193/13, 40269-273/13, 41793-794/13, 41042-43/13, 40970/13, 38483/13, 40508/13, 38793/13, 38737/13, 44160/13, 40779/13, 40782/13, 40781/13, 40783/13, 40780/13, 40411-413/13, 48047/13, 58328/13.

1. Even as several office objections are yet to be removed by the petitioners, several petitions were argued on merits for the purpose of ensuring that whatever interim relief is operating in the petitions may not be vacated in view of the recent order dated 28.11.2014 staying operation of the notification dated 24.7.2014 issued by the Government of Karnataka.

2. It was prima facie clear from the arguments of learned counsel Mr. Gururaj Joshi appearing for the State Pollution Control Board and arguments of several learned counsel appearing for the petitioners that, wittingly or unwittingly the original notification dated 18.11.2003 issued under Section 5 of the Environment

(Protection) Act, 1986 was by and large observed in its violation as a result of which, not only petitioners before this Court, but many other people residing in the area or carrying on their economic activities were bound to be affected by the decision which may be taken in the present set of petitions.

3. It was, under the circumstances, jointly submitted that the present litigation may be treated as public interest litigation, with a view to addressing long term environmental concerns, the violation of aforesaid notification, the illegalities appearing to have been committed on a massive scale and the developments carried on at huge investments. It was obvious that the recent notification of the State Government, operation of which is stayed as aforesaid by an interim order, is also required to be taken into consideration; and in view of the vested interest of the parties appearing before the Court, an independent Amicus Curiae was required to be requested to assist the Court. There was a consensus in that regard and the name of learned former Additional Advocate General Sri Sajan Poovayya was suggested for requesting him to assist the Court as an Amicus Curiae. Accordingly, a copy of this order shall be served upon learned senior advocate Mr.Sajan Poovayya, with a request to assist the Court as Amicus Curiae and if he agrees to appear as such, necessary papers of all the matters and copies of all the successive orders made by the Court shall be supplied to him free of cost.

4. Hearing is adjourned to 18.12.2014, by which time office objections shall be removed and copies of the petitions shall be supplied to the office with proper serial and parallel page numbers with all annexures included, so as to furnish the set of papers to learned Amicus Curiae as well.

36	D.H.WAGHELA (CJ)& BRBJ	<u>28/11/2014</u>
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W.P.No.38218/2013 c/w W.P.Nos.38493-505/13, 38697-701/13, 38795-800/13, 38492/13, 38518/13, 39030/13, 38506/13, 39029/13, 38183/13, 39614/13, 39938-40/13, 40193/13, 40269-273/13, 41793-794/13, 41042-43/13, 40970/13, 38483/13, 40508/13, 38793/13, 38737/13, 44160/13, 40779/13, 40782/13, 40781/13, 40783/13, 40780/13, 40411-413/13, 48047/13, 58328/13.

1. Pursuant to the order dated 28.07.2014 of learned Single Judge in W.P.No.38218/13, the whole group of matters have been appropriately referred to Larger Bench and this Bench which functions as the only Bench to take up the environmental matters, as the green bench which has to hear the cases. The aforesaid order dated 28.07.2014 of learned single Judge also delineates the context in which reference is made to the green bench.

2. Even as the matters arising from enforcement of the notification dated 18.11.2003 and apparent inaction on the part of the enforcing agencies have attracted the attention of the Court, in a number of petitions, orders have been made from time to time to ensure, monitor and supervise implementation of the said notification dated 18.11.2003 which was issued in exercise of powers delegated to the State Government under Section 23 of the Environment(Protection) Act, 1986. The recent interim orders of learned Single Judge in these group of writ petitions have been reflecting in clear terms the anguish of the Court at the alarming situation created by inaction and indirect complicity of agencies and institutions which were required to implement the said notification dated 18.11.2003. It is noted in the previous order dated 18.12.2013 that 34 prohibited units existed in Zone-3 prior to 18.11.2003 and 137 prohibited units have come up thereafter; and besides that, 146 unauthorized layouts have come up within the administrative jurisdiction of BDA in Zone-3 of the TGR catchments area. The Monitoring Committees constituted earlier and Special Task Force also appeared to have failed in their task. By April 2014, the situation worsened to a stage where learned Advocate General submitted that instructions would be issued to all the Sub-Registrars not to register any non-agricultural properties in the areas falling under TGR Zone-3. Therefore, it was quite clear before the Court that so-called developments were taking place in the face of the notification dated 18.11.2003, which was intended to arrest deterioration in quality of streams and reduction in inflow into the reservoir known as Tippagondanahalli reservoir, which happens to be an important source of water in the city of Bengaluru since the year 1930. That reservoir has a catchment area of nearly 1453 Sq. Kms. and consequent to the survey and study made by the Indian Space Research Organisation and Indian Resource Information and Management Technologies Private Limited, and upon their recommendations, the conservation zones were required to be maintained which in turn required the issuance of notification dated 18.11.2003 under the Environment(Protection) Act.

3. It is in this background, that the State Government has come forward with Notification dated 24.07.2014 with the specific purpose of withdrawal of aforesaid notification dated 18.11.2003. By virtue of such withdrawal many of the petitions would become infructuous and have been sought to be withdrawn for obvious reasons. Prima-facie, one of the essential fall-outs of the new Notification dated 24.07.2014 would be absolving all persons who had put up structures and constructions in violation of the provisions of the notification dated 18.11.2003 as also disempowering the enforcement agencies so as to put at naught the efforts, if any, made by any agency to arrest illegal encroachment on the catchment area of the reservoir. The only argument advanced through learned Advocate General in favour of the notification dated 24.07.2014 is that, after complete review of the environmental issues and until the new notification is issued by the Government, all the authorities and departments concerned are prohibited from granting any permission or licence to unauthorized buildings and non-agricultural activities in the catchment area; and hence, further encroachment is unlikely to happen. This futuristic restriction is also couched in such terms that in all likelihood it will fail and will be taken advantage of by the parties who have already invested monies and who would be bent upon putting up constructions which would eventually choke the river and the reservoir. When these apprehensions were put before learned Advocate General, the only response was that the Government is now proposing to draft a better and more accurate notification which could be enforced with clarity and minimum legal complications.

4. Under the circumstances, the State Pollution Control Board was requested and has indeed promised to come forward with all the data relating to the developments and encroachments taking place in the Zones prescribed by the previous notification dated 18.11.2003 and assist the Court in determining the impact on the river and the reservoir on account of illegal structures admittedly put up and standing in the catchment area.

5. While the matters are to be heard for further adjudication and the State Government and learned Advocate General are put on notice to state as to why the recent notification dated

24.7.2014 should not be set aside on the basis of the record of the cases, the data which may be brought on record and the probable effect on the environment and the right to life of lakhs of people who stand exposed to danger posed by pollution of the river and reservoir which are now also stated to be in danger of completely drying up. Since the rationale behind the new notification dated 24.7.2014 is not clear, it is specifically put to learned Advocate General as to why the notification should not be set aside on the grounds of arbitrariness, vagueness and an unholy intention of protecting the parties who might have put their illegal structures in violation of the previous notification dated 18.11.2003 and the governmental agencies which might have failed in implementing and enforcing the said notification.

6. Further hearing of these group of petitions is adjourned to 12.12.2014 and, pending hearing and disposal of these petitions, by way of ad-interim order, the operation of the notification dated 24.07.2014 issued by the Government of Karnataka in exercise of the powers under Section 5 of the Environment (Protection) Act, 1986 is stayed till further orders.

7. At the request of learned Advocate General it is clarified that study and survey for preparation of any fresh notification for the same purpose need not be affected by this order.

37	D.H.WAGHELA (CJ)& BRBJ	19/11/2014
	<p>W.P.No.38218/2013 (BDA) and connected matters</p> <p>Learned counsel for the petitioners submitted that the second set of all the papers shall be supplied within one week. List for hearing on 28.11.2014. In whichever petition the second set is not supplied and any other office objections, if any, are not removed, the interim relief operating in the petitions shall stand vacated.</p>	
38	ANVGJ	18/12/2013

Pursuant to a meeting held on 08.07.2003, in which a resolution was passed, to protect the ecological sensitive area, as quantum and quality of water supply from Tippagondanahalli Reservoir (TGR) has direct impact on larger population of Bangalore and there being a necessity to protect the catchment area of TGR by preventing any activity that would lead to contamination of the reservoir, the Government of Karnataka, in exercise of powers under S.5 of the Environment (Protection) Act, 1986, issued a notification dated 18.11.2003, whereby, the entire TGR catchment area was classified into four zones, specifying the nature of activities in each zone. Zone-3 is within one k.m. radius from the river bank. Another G.O. dated 14.03.2011 was issued constituting three separate Committees in the matter of removal of unauthorized constructions etc. In pursuance of the said notification and order/s passed and the consequential action taken by the respondents, feeling aggrieved, the petitioners have filed these writ petitions, seeking various reliefs.

2. Learned advocates appearing for the petitioners contended that there is pick and choose method adopted by the respondents. They submitted that, uniform action has not been taken against all the establishments situated in the prohibited zones and that the petitioners alone have been targeted and thus, the impugned action of the respondents is discriminatory and also arbitrary.

3. To find out, whether there are any similarly situated establishments etc. in the different zones of TGR, based on the submission made by Sri. H. Kantharaja, learned AAG, that a meeting of the Officers of the concerned departments and the members of three committees constituted in pursuance to the G.O. dated 14.03.2011 would be held by the Principal Secretary, Urban Development Department i.e., to take stock of the steps that have been taken to achieve the object sought to be achieved in public interest by issue of notification dated 18.11.2003, the Principal Secretary, UDD/GOK, was directed to hold a meeting of the Officers of all concerned departments along with the members of the constituted Committees, in the matters relating to preservation of TGR catchment area and evolve the modalities in the matter of total prohibition of non-agricultural-related activities, depending upon the classified zones. On that day, learned AAG submitted that the Government and all the Boards and Authorities concerned, would jointly evolve the modalities in the matter of effective implementation of said notification and the Government Orders passed and to give effect to the orders passed by this Court, from time to time, in the matters relating to preservation of TGR catchment area. The State and the Departments/Boards concerned were directed to identify and furnish the details of all the non-agricultural units etc. established both prior and after classification of catchment areas into different zones vide notification dated 18.11.2003. The petitions were adjourned to 13.12.2013.

4. On the subsequent hearing date, learned AGA filed a Memo enclosing the proceedings of meeting held on 10.12.2013, under the Chairmanship of Principal Secretary, UDD/GOK. From the proceedings of the said meeting, it came to light that 34 prohibited units existed in zone-3 prior to 18.11.2003 and 137 prohibited units have come up thereafter. There were other material deficiencies as well, which reflected the poor administration by the Authorities and the Law Enforcing Agencies and thereby, the purpose of the said notification being allowed to be defeated. After noticing the material circumstances, the Commissioner, BDA, was directed to constitute 23 separate teams, village-wise, to conduct physical verification and submit report/s. The Committees having been accordingly constituted, the draft report/s was filed by Sri G. Lakshmeesh Rao on 17.11.2013. Sri S.G. Pandith filed an affidavit of the Additional Director and Secretary of BMICAPA, furnishing the particulars of the buildings, which have been found to be put to non-residential use in Zone-3 of TGR area, falling within the administrative jurisdiction of BMICAPA. Learned AGA filed a Memo enclosing nine affidavits, including that of Deputy Commissioner, Bangalore District.

5. The contention urged on behalf of the petitioners that there is selective approach by the respondents in the matter of giving effect to the notification dated 18.11.2003, prima facie, appears to be correct, when examined along with the said affidavits and the draft report/s filed, since, 146 unauthorized layouts have come up within the administrative jurisdiction of BDA i.e., in Zone-3 of TGR catchment area. Though BDA is having a Special Task Force Cell, headed by a Superintendent of Police with other Police Officers in the ranks of Deputy Superintendents, Circle Inspectors, Sub Inspectors etc., it appears that they have remained silent and have allowed the unauthorised layouts to be formed. 146 unauthorized layouts could not have been formed, had the Task Force Cell been vigilant and taken action in consultation with the Commissioner, BDA. The omissions and commissions of the Task Force Cell and other Jurisdictional Authorities will have to be examined later, by providing opportunity of hearing to the Head of Special Task Force Cell of BDA and the other Authorities.

6. From the affidavits filed and other materials placed on record, it appears that the situation is

quite alarming. There is faster deterioration of TGR catchment area, after issue of notification dated 18.11.2003, which becomes clear from the draft report/s filed by the BDA and also the affidavit of the Deputy Commissioner, Bangalore District. Said affidavit shows that action has been taken to identify 34 non-agricultural units and 6519 dwelling houses established prior to 18.11.2003 and 137 non-agricultural units and 3018 dwelling houses constructed after 18.11.2003 in 12 Grama Panchayat areas of Bangalore North and South Taluks. I do not find any meaning in the statement made that action has been taken to identify. The figures, as above could not have been available i.e., with regard to structures etc. which existed prior to 18.11.2003 and which have come up after 18.11.2003, if data had not been collected earlier. Mere collection of data with regard to the number of non-agricultural units and the dwelling houses would not serve any useful purpose. The data being available, the details as above has been stated in the said affidavit. The Deputy Commissioner and others, prima facie, have so far not acted in the right direction.

7. The affidavits of other officers filed along with the memo by the learned AGA, does not show any purposeful action having been taken, to achieve the object for which notification dated 18.11.2003 was issued. The three Committees constituted under the Government Order dated 14.03.2011, prima facie, have not functioned effectively for achieving the purpose for which they were constituted. Though the cases pertaining to TGR catchment area and the said notification have been pending in this Court from 2005 onwards, the Authorities concerned have not taken the effective steps to protect and preserve TGR reservoir and the catchment area.

8. Perusal of the record with the assistance of the learned advocates demonstrates that there is no proper attention made by the respective Committees to achieve the object behind the notification dated 18.11.2003. Instead of curtailing the menace, due to which the notification dated 18.11.2003 was issued, there is multifold increase in the non-agricultural related activities in the TGR catchment area. The prohibited activities, if not stopped, there will be frustration of the said notification, the validity of which has been upheld by this Court.

9. In the circumstances, taking into consideration the suggestions made by the learned advocates, there being an urgent need, a monitoring Committee comprising of the following Officers is constituted:

Sri V. Umesh Addl. Chief Secretary to Govt.
Chairman

Sri M.N. Vidyashankar Addl. Chief Secretary to Govt. Commerce and Industries
Department Member

Sri Vijayabhaskar T.M. Principal Secretary to Govt. Rural Development and
Panchayat Raj Department Member

Sri P.N. Sreenivasachary Principal Secretary to Govt. Urban Development
Department Member

Sri Basavaraj Principal Secretary to Govt. Revenue Department Member

Sri Ramachandra Secretary to Govt.

Ecology & Environment

Department Member

Sri S.B. Honnur Additional Director of Town

and Country Planning,

BMRDA, Bangalore. Member Secretary

10. The responsibilities of the monitoring Committee will be;

(a) To monitor the effective implementation of notification dated 18.11.2003 of TGR catchment area by the concerned Committees / Boards / Authorities etc.;

(b) To monitor the effective implementation of the Orders passed from time to time in W.P.Nos. 19808/2005,38162/2009,15928/2010 and 30084/2012 and the present writ petitions.

(c) To ensure that the three Committees constituted under the Government Order dated 14.03.2011 and all other concerned Authorities function effectively and in time bound manner.

(d) To ensure that no prohibited activity shall commence or continue to take place within the prohibited Zones.

11. The monitoring Committee shall hold weekly meeting with the Committees constituted under G.O. dated 14.03.2011 and other Authorities/agencies etc., whose presence and participation may be required for achieving the object of the notification dated 18.11.2003.

12. All the Committees, Authorities and others, who may be called upon by the monitoring Committee to perform any task, shall extend ready co-operation for achieving of the object of the said notification. Non co-operation by any Committee/s / Member etc., if brought to the notice of the Court, would be viewed seriously and appropriate action would follow.

The monitoring committee shall place on record, before the next hearing date, the progress made in the matter.

List on 10.01.2014 at 2.30 pm., for further orders.

A copy of this order be made available to Sri H. Kantharaja, learned Additional Advocate General, for being forwarded forthwith to the Chief Secretary, Government of Karnataka, for taking up the follow-up action, to immediately issue order constituting the Monitoring Committee, as above.

39	ANVGJ	<u>17/12/2013</u>
	<p>Pursuant to the order passed on 13.12.2013, the Commissioner of Bangalore Development Authority having constituted 23 teams for conducting physical survey of the buildings situated within 1 K.M. from the catchment area of T.G.R. Zone-3, the committees having conducted the survey, along with the affidavit of Sri A.V.Rangesh, Town Planning Member, BDA, the draft information regarding existing structures and nature of usage in Zone-3 of T.G.R.Area was placed on record by Sri G.Lakshmeesh Rao, learned counsel appearing for the BDA.</p> <p>Sri S.G.Pandit, learned counsel appearing for BMICAPA filed affidavit of Dr.B.Mahendra, working as Additional Director, Town and Country Planning and Member Secretary of BMICAPA, annexing the particulars of buildings which have been put to non-residential use in Zone-3 of T.G.R.area. Learned Government Advocate filed memo enclosing the affidavits of 9 officers including that of the Deputy Commissioner of Bangalore District.</p> <p>Sri Lakshmeesh Rao submitted that in the area comprising of 23 villages was surveyed by the different teams and have found there are 146 unauthorised layouts.</p> <p>Looking into the nature of draft information furnished, which appears to be a sketchy, the Commissioner of BDA is directed to file a detailed affidavit with regard to the survey conducted and action taken pursuant to the order passed on 13.12.2013 and the follow up action proposed to be taken indicating the time schedule.</p> <p>Keeping in view the object of Notification dated 18.11.2003, there is a need to constitute a special committee under the Chairmanship of an Officer of the rank of Additional Chief Secretary to the Government of Karnataka. In this regard, certain suggestions have been made by the learned counsel appearing for the parties.</p> <p>Court time is over. Hence, to consider the suggestions and to pass further order, re-list on 18.12.2013.</p>	
40	ANVGJ	<u>13/12/2013</u>

Sri S.Lakshminarayana, learned AGA filed a memo enclosing the proceedings of the meeting held on 10.12.2013 under the Chairmanship of the Principal Secretary to Government, Urban Development Department, pursuant to the order passed on 5.12.2013.

2. The Deputy Commissioner, Bangalore Urban District, who is one of the Chairmen of the committees, constituted pursuant to the Government Order dated 14.3.2011, has stated that he has taken action to identify non-agricultural units/industries in 9 Gram Panchayats in Bangalore North Taluk which are falling in Zone-3 of T.G.R.Area i.e. within one kilometer distance on either side of River Arkavathi. According to him, 34 units have come up prior to 18.11.2003 and 137 units have come up after 18.11.2003 in Zone-3 of T.G.R.Area. This reflects very poorly on the administration and law enforcing agencies, inasmuch as, the purpose of issuing Government Order dated 18.11.2003 has not served the purpose, instead the same is allowed to be defeated. However, the issue will have to be examined at a later date, after hearing the learned counsel on both sides.

2(a). However, it is seen that the Deputy Commissioner, Bangalore Urban District, has been directed by the Principal Secretary of Urban Development Committee to file an affidavit highlighting the steps taken and also the action taken by BESCO, Mines and Geology Department and such other Authorities which are part of the said committee. The Deputy Commissioner has informed the Principal Secretary that he will collect information from the concerned authorities and would file a consolidated affidavit about the action taken. No affidavit has been filed till date. It is expected that the Deputy Commissioner, Bangalore Urban District, will file a consolidated affidavit about the action taken in pursuance of the deliberations in the meeting which was held on 10.12.2013. Learned AGA shall inform the Deputy Commissioner, Bangalore Urban District, of the need to file, on the next hearing date, the affidavit with regard to the aforesaid aspect.

3. The Commissioner of BDA has stated in the said meeting, that the BDA has initiated action to serve notices under Ss.15(4) AND 17(4) OF KTCP Act, 1961 through daily newspapers, as it was not possible for them to serve notices directly to the concerned persons, who have constructed buildings in Zone-3. The Court is at loss to understand the difficulties of the BDA/Town Planning Department in effecting service on the owners/occupants of the buildings which are in existence. Law mandates the personal service of notice to be effected and the course which the BDA/Town Planning Authority has undertaken prima facie appears to be not in conformity with law. The concerned authorities would take note of the provisions and act accordingly.

4. It has been stated by the Commissioner of BDA, that unauthorised buildings are still in existence, though some of the industries which were located within the area wherein unauthorised buildings have been constructed, 56 buildings having been shifted and no industrial activities being carried in those buildings. The Commissioner has stated in the meeting, that 23 villages are within the jurisdiction of BDA falling under Zone-3 of T.G.R.Area and some time is required to conduct Total Station Survey to identify unauthorised constructions in these villages.

5. The Notification having been issued on 18.11.2003 and the matter being taken up in this Court from a long time and orders having been passed from time to time by the Division Bench earlier, it was expected that BDA should have made ready the data with regard to the unauthorised constructions at least in Zone-3 of T.G.R. Area.

6. Even according to the BDA, there being only 23 villages falling within its jurisdiction, it will not be a big task to conduct the physical Survey. Even otherwise, atleast now, personnel could be deputed to identify the illegal structures and a preliminary report can be prepared and submitted to the Court. All that is required is to constitute separate teams, village-wise, to inspect the unauthorised buildings/units etc., which have come up in the prohibited zone and submit the fact finding reports. The officials of the BDA, present in the Court, who assisted Sri Lakshmeesh Rao, learned advocate appearing for the BDA, submitted that teams would be formed and inspection, village-wise, would be conducted and the requisite data would be made available to the Court, on the next hearing date.

7. In a matters of the present nature, where the Notification dated 18.11.2003 has not been allowed to achieve the object, which appears from the fact that large illegal constructions have come up after the notification was issued, the authorities are expected to act swiftly for achieving the object in larger public interest, for which the said Notification has been issued, the validity of which has been upheld by the Division Bench of this Court.

8. In the circumstances, the Commissioner of BDA is directed to constitute separate teams, village-wise, to conduct physical verification and submit the report/s and the inspection can be

done even on holidays. Hence, the Commissioner, BDA is hereby directed to forthwith constitute 23 teams to inspect 23 villages within the jurisdiction of BDA falling under Zone-3 of T.G.R.Area and the teams so constituted shall inspect the objectionable place/units etc., as the case may be, on 14th, 15th and 16th of December, 2013, prepare respective reports, which be made available to the Court on the next hearing date.

9. The committees concerned shall report as to the action taken in the first instance to the Principal Secretary, Urban Development Department and shall make available all the materials with reference to the above aspects to this Court on the next hearing date.

Re-list on 17.12.2013 at 2.30 p.m.

Copies of this order be made available to Sri S. Lakshminarayana and G.Lakshmeesh Rao, for compliance.

41	ANVGJ	<u>04/12/2013</u>
	Heard Sriyuths G.Lakshmeesh Rao, B.S.Sachin and Karunakaran for Town Planning Authority. So also Sri H.Kantha Raja, learned AGA for the State in part and Sri S.G.Pandit for BMICAPA. List on 5.12.2013.	
42	ANVGJ	<u>29/11/2013</u>
	Since Sri Gururaj Joshi has been appointed as Panel Advocate of Karnataka Pollution Control Board, his name may be printed in the cause list in the place of Sri D.Nagaraj. Heard Sriyuths M.D.Naik, Sateesha M.G., Vishwanath H.M. Vijaya Kumar, Amar Correa and Shrikara P.K. Re-list on 2.12.2013 at 2.30 p.m.	