

High Court of Karnataka
Daily Orders of the Case Number : WP 24739/2012 for the date of order 04/02/2013

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Honble Justice N.KUMAR AND B.V.NAGARATHNA

04/02/2013

Order in WP 24739/2012

NKJ & BVNJ:

4.2.2013 W.P.Nos. 24739-40/2012

46523/2012, 30450/2012,

46601/2012

The Corporation has filed its action taken report today.

(a) Regarding constitution of Ward Committees - It is stated that out of 198 Wards, they have constituted 182 Ward Committees and some of the Ward Committees have already conducted their first meeting. In respect of the remaining 16 Wards it is stated the Corporators have submitted the list of persons to be appointed as Committee members in respect of 15 Wards, which but it is not in accordance with law. Therefore, the Commissioner is in the process of looking into the said names suggested and trying to bring the names suggested as per the requirement of law and it may take a week's time so that by next date in those Wards also committee could be constituted. One among 16 Wards there is no Corporator because of the disqualification by the Court and therefore the Ward Committee is not constituted. Though Section 13H of the Act mandates that the Councilor of the Corporation representing the Ward shall be the Chairperson of the Ward Committee, what should happen if there is no Councilor in that Ward is not set out in the provision. However, Sub-section (8) of Section 13H provides that, no act done or proceedings taken under this Act by the Ward Committee shall be invalid merely on the ground of any vacancy in it. Therefore, till

the Councilor could represent the said Ward in accordance with law, we deem it proper to direct the Secretary of that Ward Committee who is the Convener of the meeting of the Ward Committee also, shall act as the Chairperson of that Ward Committee and complete the constitution of the Ward Committee and thereafter shall start discharging the functions stipulated under the Act to be performed by the Ward Committee.

The whole object of the constitution of the Ward Committees is to see that there is a public participation of the proper management of this solid waste. Therefore, it is in the interest of the public, the persons who are so appointed should be made known to the public also. Therefore, the Corporation shall take immediate steps to get the names of all these persons duly published in their notice Board and in their respective Ward Committees as well as put on their website along with their mobile numbers and also landline numbers so that people would know who are the persons who are entrusted with the responsibility of managing the garbage in the site and in future the public will know who is the cause if there is mismanagement and the phone numbers enable the public to call them directly, to redress their grievances.

(b) Regarding Weighment of the solid waste:- It is stated that the steps have been taken. Private agencies have been engaged for weighing and NGOs and officials of KSDC are also engaged and they are also co-operating. As directed in the earlier order it is only after 30 days weighing every day they are expected to submit a report and they would do so.

(c) Regarding Subramanyapura Lake - They have stated the action taken in pursuance of the earlier order and they need little more time to completely implement the directions issued by this Court. It is also brought to the notice of the Court that there is an interim order of stay granted by a learned single Judge of this Court regarding demolition and eviction of unauthorized occupants is concerned. They submit they will move the appropriate authority bringing to their notice the orders passed by this Court and take

appropriate action.

(d) The Government by an order dated 29.1.2013 has passed an order for handing over 18 items of lands measuring 74.22 acres to BBMP free of cost. The Corporation shall take possession of the said items of lands forthwith and start utilizing them for solid waste management.

(e) The petitioners have brought to the notice of the Court that, in the Mandur land fill, the garbage has caught fire and gases are emanating from the landfill which are hazardous and therefore they request the authorities be directed to take appropriate action to prevent the residents of the nearby village from being affected by such gases.

The Commissioner of the Corporation who is before the Court submits that, immediately on coming to know of this fire they have taken steps to stop the fire from being spreading. Initially they used water, later it was found that will not solve the problem and now they are capping the fire with the assistance of the Pollution Control Board. Learned counsel for the Pollution Control Board also submits not only they have extended full cooperation to the Corporation in this regard they have also advised how this hazardous gas has to be dealt with. In this regard it is useful to refer to the provisions of the Municipal Solid Waste (Management and Handling) Rules, 2000. Clause (25) and (27) of the said Rules read as under : -

25. Ambient Air Quality Monitoring Installation of landfill gas control system including gas collection system shall be made at landfill site to minimize odour generation, prevent off-site migration of gases and to protect vegetation planted on the rehabilitated landfill surface.

26. The concentration of methane gas generated at a landfill site shall not exceed 25 per cent of the lower explosive limit (LEL).

27. The landfill gas from the collection facility at a landfill site shall be utilized for either direct thermal applications or

power generation, as per viability. Otherwise, landfill gas shall be burnt (flared) and shall not be allowed to directly escape to the atmosphere or for illegal tapping. Passive venting shall be allowed if its utilization or flaring is not possible.

28. Ambient air quality at the landfill site and at the vicinity shall be monitored to meet the following specific standards, namely:-

Sl.No. Parameters Acceptable levels

- (i) Sulphur dioxide 120 mg/m³ (24 hours)
- (ii) Suspended Particulate Matter 500 mg/m³ (24 hours)
- (iii) Methane Not to exceed 25 per cent of the lower explosive limit (equivalent to 650 mg/m³)
- (iv) Ammonia daily average (sample duration 24 hours) 0.4 mg/m³ (400 mg/m³)
- (v) Carbon monoxide 1 hour average: 2 mg/m³
8 hour average: 1 mg/m³

29. The ambient air quality monitoring shall be carried out by the concerned authority as per the following schedule names:-

- (a) Six times in a year for cities having population of more than fifty lakhs;
- (b) Four times in a year for cities having population between ten and fifty lakhs;
- (c) Two times in a year for town or cities having population between one and ten lakhs.

In the light of the aforesaid provisions, the Corporation as well as the Pollution Control Board should not only cap the fire but also should take steps to see that the hazardous gases which emanate from the said landfill which are trapped do not affect the residents in the nearby villages and they should properly, commercially exploit the said gases so that public at large also would be benefited. The

Corporation and the Pollution Control Board shall report to the Court on the next hearing date, the action taken in this regard and the implementation of the aforesaid Rules in letter and spirit.

(f) Regarding Karnataka Compost Development Corporation Limited Earlier in the presence of the Commissioner of the Corporation of City of Bangalore as well as the Managing Director of the Karnataka Compost Development Corporation Limited they agreed that an extent of 15 acres of land adjoining the Karnataka Compost Development Corporation Limited extension plan would be handed over to them for establishment of one more plant. The Commissioner of the Corporation of the City of Bangalore who is present before the Court submits that the land will be handed over today so that from tomorrow the Karnataka Compost Development Corporation Limited could start setting up the new plant. In fact the Karnataka Compost Development Corporation Limited requested the Corporation instead of giving money to them, to provide the necessary infrastructure and on their request the Corporation has already taken steps to build the necessary infrastructure. This submission is placed on record. It is pointed out that, at the moment Karnataka Compost Development Corporation Limited is able to process about 200 MT per day. They are working in one shift of 8 hours. Having regard to the extraordinary situation in which Bangalore is placed, till a new plant is established, it is necessary that the existing plant could be made to work in 3 shifts. Therefore, Karnataka Compost Development Corporation Limited is directed to take immediate steps which is required to start functioning in 3 shifts so that this problem of processing garbage which is lying in their premises for quite some time is removed at the earliest. In the event of there being any resistance from public, the Commissioner of Police, Bangalore City, is directed to give such protection as is necessary for working of the unit throughout the day. It is made clear that Karnataka Compost Development Corporation Limited was established in that area in the year 1975. It is only over the years, the people have constructed houses near the plant. Therefore, they

cannot prevent this unit from working which in effect is only processing the garbage of the residents including those persons. At any rate till this backlog of garbage is completely processed, the said residents have no right to object. At the same time authorities shall also take appropriate steps to see that the working of the unit no way affects the residents who are residing nearby. They are also directed to file action taken report stating on what date the three shifts have started functioning.

(g) The Bangalore Development Authority has also placed on record their statement. They have stated that, in the Revised Master Plan, 2015 areas are reserved and earmarked for public utilities, such as power, water, garbage facility, treatment plant in addition to other public utilities.

The Government exercising power conferred under sub-clause (vi) of clause (bb) of Section 2 of the Bangalore Development Authority Act, 1976 notified areas for dumping city garbage as a civic amenity.

They have also produced an extract showing lands identified and reserved for public utilities which includes power, water, garbage facility, treatment plant in the Master Plan, 2015 approved by the Government on 25.6.2007 Hobli/Village wise. They have produced an extract showing the civic amenity site available for allotment at different divisions such as South, North, East and West Division. However, CA site No. 5 situated at Banashankari VI Stage, V Block, measuring an extent of 39,086 sq. mtrs. has been allotted to Bruhat Bangalore Mahanagara Palike vide allotment dated 15.1.2009.

They state that the BBMP can make use of the sites as landfill sites whenever needed. In view of the said offer made by the Bangalore Development Authority, now it is upto the Bangalore City Corporation to take decision in respect of all those sites which the BDA has ear-marked for garbage facility and utilize the same if necessary Ward-wise or Division-wise within the city.

From the aforesaid statement, it is clear that few private layouts have been sanctioned. The BDA is going to insist for setting apart land for garbage facility/treatment plant, but insofar as layouts for which already sanction has accorded, such a reservation is made. However, all those Civic Amenity Sites have been allotted by the BDA. In view of the amendment to the BDA Act as set out above, the Civic Amenity includes areas for dumping city garbage. While dealing with the Civic Amenity Sites, BDA shall reserve the land earmarked for civic amenity for the purpose of garbage facility/treatment plan. Thereafter transfer the same to the corporation for its maintenance. It would also solve the problem in respect of those layouts for which sanction has already been accorded, but yet to be completed. Under any circumstance, the BDA shall permit those Civil Amenity Sites for the purpose other than garbage facilities/treatment plant.

(h) Smt. Pramila Nesargi, learned Senior Counsel has filed an application to implead herself in the public interest litigation to assist the Court for proper management of the garbage in the City of Bangalore. In the application, she has clearly setout its salient features of the solid waste management which is now adopted by an organization named Arrow-Bio. She has also made available the video C.D., which shows the processing of the garbage. The said application is taken on record and it is allowed.

She is directed to furnish copies of the C.Ds. to the Bangalore City Corporation, Bangalore Development Authority, Pollution Control Board, Karnataka Composed Development Corporation Ltd., and also to the learned counsel appearing for the petitioners as well as to the Government Advocate, in this case, so that they could view the C.D. and then have their say in the matter on the next date of hearing, so that the Court can take up the said application for consideration for passing appropriate order.

(i) One of the petitioners before the court is complaining that the garbage is thrown in the corner of the street.

Learned counsel for the Corporation submits that proper steps have been taken. In the circumstances, the petitioners to furnish full particulars of such garbage throwing along with the photographs to the Corporation within two days, so that the Corporation shall take prompt action and that those things are not repeated in future.

A copy of this order shall be furnished forthwith to all concerned.

List the matter on 04.03.2013.

(N. KUMAR)
JUDGE

(B V NAGARATHNA)
JUDGE