



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 11<sup>TH</sup> DAY OF NOVEMBER, 2024**

**PRESENT**

**THE HON'BLE MR. N. V. ANJARIA, CHIEF JUSTICE**

**AND**

**THE HON'BLE MR. JUSTICE K. V. ARAVIND**

**WRIT PETITION NO. 25078 OF 2023 (GM-RES-PIL)**

**BETWEEN:**

1. SRI RAMESH N. R.,  
S/O. LATE NARAYANA RAJU,  
AGED ABOUT 53 YEARS,  
NO.2910, 15<sup>TH</sup> A CROSS,  
BANASHANKARI II STAGE,  
BANGALURU - 560 070.

...PETITIONER

(BY SRI ASWATHAPPA D., ADVOCATE)

**AND:**

1. THE CHIEF SECRETARY  
TO THE GOVERNMENT OF KARNATAKA,  
VIDHANA SOUDHA,  
DR. AMBEDKAR ROAD,  
BENGALURU – 560 001.
2. THE ADDL. CHIEF SECRETARY TO  
THE DEPARTMENT OF URBAN  
DEVELOPMENT (BBMP)  
VIKASA SOUDHA, DR. AMBEDKAR ROAD,  
BENGALURU – 560 001.
3. THE COMMISSIONER  
BHRUHAT BANGALURU MAHANAGARA  
PALIKE (BBMP)  
HUDSON CIRCLE, BANGALURU - 560 001.
4. THE DEPUTY COMMISSIONER  
DEPT. OF LAND ACQUISITION AND TRANSFER  
DEVELOPMENT RIGHTS (TDR)





BHRUHAT BANGALURU MAHANAGARA  
PALIKE (BBMP)  
HUDSON CIRCLE, BANGALURU - 560 001.

5. THE DEPUTY COMMISSIONER  
DEPARTMENT OF ESTATES,  
BHRUHAT BANGALURU MAHANAGARA  
PALIKE (BBMP)  
HUDSON CIRCLE, BANGALURU - 560 001.
6. THE JOINT COMMISSIONER  
DEPARTMENT OF ESTATES,  
BHRUHAT BANGALURU MAHANAGARA  
PALIKE (BBMP)  
HUDSON CIRCLE, BANGALURU - 560 001.
7. THE ADDITIONAL DIRECTOR AND MEMBER  
SECRETARY OF URBAN AND RURAL PLANNING  
BANGALORE-MYSORE INFRASTRUCTURE  
CORRIDOR AREA PLANNING AUTHORITY (BMICAPA)  
MULTI-STOREYED BUILDING, BANGALORE – 560 001.,  
REPT. BY ITS PRINCIPAL SECRETARY.
8. M/S. VENKATESHWARA DEVELOPERS  
A REGISTERED PARTNERSHIP FIRM  
HAVING ITS REGISTERED OFFICE AT NO.A1,  
NITESH CAMP DAVID, NO.32 (OLD NO.7A)  
NETAJI ROAD, PULAKESHI NAGAR,  
BANGALORE – 560 005.,  
REPT. BY ITS MANAGING PARTNER  
SRI PRAVEEN P. SHAH.
9. M/S. BALAJI INFRASTRUCTURES AND DEVELOPERS  
A REGISTERED PARTNERSHIP FIRM  
HAVING ITS REGISTERED OFFICE AT  
NO.A1, NITESH CAMP DAVID,  
NO.32 (OLD NO.7A)  
NETAJI ROAD, PULAKESHI NAGAR,  
BANGALORE – 560 005.,  
REPT. BY ITS PARTNER SRI VIKRAM OSWAL.
10. SRI C. THIMMAIAH  
S/O. LATE THIMMAIAH



AGED ABOUT 75 YEARS  
R/S NO.188/26, 12<sup>TH</sup> CROSS,  
3<sup>RD</sup> BLOCK, THYAGARAJANAGAR,  
BANGALORE – 560 028.

11. SRI T. C. MARIRAJU,  
S/O. SRI C. THIMMAIAH  
AGED ABOUT 45 YEARS  
R/A NO. 188/26, 12<sup>TH</sup> CROSS,  
3<sup>RD</sup> BLOCK, THYAGARAJANAGAR,  
BANGALORE - 560 028.

...RESPONDENTS

(BY SMT. NILOUFER AKBAR, AGA FOR R1  
SRI N.R. JAGADEESWARA, ADVOCATE FOR R2 TO R6)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA R/W RULE 14(1) OF THE HIGH COURT OF KARNATAKA (PRACTICE AND PROCEDURE FOR PUBLIC INTEREST LITIGATION) RULES, 2018 PRAYING TO CALL FOR THE ENTIRE RECORDS FROM THE 1-6 RESPONDENTS OFFICE IN RESPECT OF THE FILE OF ISSUE OF TDR FOR LAND AT KODIYALA KARENAHALLI VILLAGE, RAMANAGARA TALUK AN DISTRICT FOR LANDS TO BE UTILISED FOR DISPOSAL OF THE GARBAGE PURPOSE (AC/TDR/PR/11 AND 12/ 11-12) AS PER VIDE ANNEXURE-A IN THE INTEREST OF JUSTICE AND EQUITY AND ETC,.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:



CORAM: HON'BLE THE CHIEF JUSTICE MR. JUSTICE  
N. V. ANJARIA  
and  
HON'BLE MR JUSTICE K. V. ARAVIND

**ORAL JUDGMENT**

(PER: HON'BLE THE CHIEF JUSTICE  
MR. JUSTICE N. V. ANJARIA)

Heard learned advocate Mr. D. Aswathappa for the petitioner, learned Additional Government Advocate Smt. Niloufer Akbar for respondent No.1 and Mr. N.R. Jagadeeswara for respondent Nos.2 to 6-BBMP.

2. The present petition is styled as public interest petition. The petitioner is a law graduate, projects himself to be a public interest petitioner who has served as a Councillor of the Bruhat Bengaluru Mahanagara Palike (BBMP) from a political party, and also held the position of District President for the party at Bengaluru, as averred by him in paragraph 5 of the petition. It is further stated that the petition is filed on the basis of certain representations given to him by way of complaint from the public and the farmers.

2.1 The prayer in the public interest petition consists of calling the entire records from respondent Nos.1 to 6 in respect of the file regarding issuance of Transferable Development Rights (TDR) for



land at Kodyala Karenahalli Village, Ramanagara Taluka where the land is to be utilised for disposal of garbage purpose. Annexure-A is the said order dated 03.01.2013 passed by the Urban Development Department of the State Government preceded by the copy of the Minutes regarding issuance of permission by considering a special case to acquire the land bearing certain survey numbers of the village for the project of establishment of Wastage Treatment Plant of Bruhat Bengaluru Mahanagara Palike (BBMP).

2.2 The second prayer is for issuance of writ of mandamus to respondent No.1-State through the Chief Secretary to withdraw/withhold the concession given to respondent No.4-the Deputy Commissioner, Department of Land Acquisition and Transfer Development Rights (TDR). The concession is stated to be given as one time measure for utilisation of land as above as per the decision taken in the Cabinet Meeting.

2.3 The third prayer is to direct respondent Nos.1 and 2 to initiate inquiry in respect of the land acquisition process. There is yet another prayer advanced for directing respondent Nos.3 to 7 who are the authorities of the BBMP to withdraw the Developmental



Right Certificate and Transfer of Developmental Rights Certificate issued to respondent Nos.8 and 9.

2.4 By seeking amendment which is granted today, the petitioner has inserted a prayer to issue writ to set aside the Government Order 03.01.2013 issued by respondent No.2-Additional Chief Secretary to the Department of Urban Development, whereby the terms and conditions prescribed in the Notification dated 18.01.2005 came to be relaxed for the purpose of granting the Transferable Development Rights.

3. The case, *inter alia*, put forward by the petitioner is that the respondent without following the law, wrongfully benefited respondent Nos.8 to 11 by giving TDR in their favour, thereby causing huge loss to the State exchequer including to the taxpayers. According to the petitioner, the exercise of giving the transferable rights in year 2013 has bred corruption and resulted into wrongful gain in favour of certain private individuals.

3.1 The reading of the petition shows that general allegations are made that the grant of developmental rights has resulted into corrupt practice.



4. It appears from the impugned Government Order dated 03.01.2013 and the preceding Minutes of the Proceedings of the Government of Karnataka that certain lands were identified and the Commissioner, BBMP had submitted proposal to the State Government for approval of the land for acquisition under the TDR scheme. The exercise was intended and was undertaken for specific purpose of establishment of Wastage Treatment Plant.

4.1 The garbage development plant was decided to be set up by the BBMP itself as is clearly reflected from the proceedings of the Government of Karnataka which were taken out pleading to the order passed in 2013, quoting from the preamble,

“The waste generated under the jurisdiction of the Bruhat Bangalore Mahanagara Palike is being disposed of in the Wastage Disposal Plants established in different area. But waste disposal in the city is very difficult and sensitive issue as there is oppose from the people in the area. Disposing of waste within prescribed period is not possible. Also with no adequate space for waste disposal in the city, garbage is dumped everywhere in the city and due to the cold climate, it starts to decompose quickly, causing damage to the environment. As the issue of waste disposal is serious, the Bruhat Bangalore Mahanagara Palike has decided to set up a waste treatment plant in Ramanagara Taluk, Ramanagara District, The total area of the following lands of Kodiyalakarenahalli



village is 40 acres 09 guntas in the letter dated: 08.06.2011 read in (1) above the BBMP Commissioner has submitted proposal to the Govt. for approval of the land acquisition under the T.D.R. Scheme.”

4.2 The Government order dated 03.01.2013 reads as under,

“In the background of the points described in the preamble, by relaxing the conditions levied in the Govt. Notification No.UDD 154 BRP 2004, dated 18.01.2006 for acquisition of the land under the T.D.R. by considering as special case granted permission for acquisition of the land bearing Sy.No.532 (5 acres 0.9 guntas) Sy.No.385/2 (1 acre 15 guntas) 386/2 (0.2 gunta) Sy.No.385/1 (1 acre 11 guntas) Sy.No.385/1 (1 acre 13 guntas) 386/1 (0.4 guntas) Sy.No.384 (3 acres 30 guntas) Sy.No.537 (2 acres 16 guntas) Sy.No.544 (3 acres 36 guntas) Sy.No.543 (6 Acres 20 guntas) Sy.No.545 (5 Acres 10 guntas) Sy.No.546 (6 acres 20 guntas), Sy.No.545 (5 acres 10 guntas) Sy.No.546 (6 acres 22 guntas) Sy.No.538 (2 acres 17 guntas) totally measuring 40 acres 09 guntas of Kodiyalakarenahalli Village, Ramanagara Taluk, Ramanagara District for establishment of the Wastage Treatment Plant of BBMP.

- (i) For the above mentioned survey numbers for granting of Development Rights Certificate for 1.5 (1 ½) of the extent relinquished on behalf of the B.M.I.C.A.P.A. under the Karnataka Urban and Rural Planning Act, 1961, Sec.14B.
- (ii) The B.M.I.C.A.P.A should transfer said lands to B.B.M.P at free of cost.





- (iii) The Development Rights Certificate should be utilized within 25 (Twenty Five) km limits only.”

4.3 It was thus for special purpose of setting up the wastage treatment plant of the BBMP that certain conditions which were mentioned in Notification dated 18.01.2006 came to be relaxed and the Government Order dated 03.01.2013 was issued.

4.4 The order dated 03.01.2013 is the main plank of challenge. The rest of the prayers relate to or stem from the said order.

5. Learned Additional Government Advocate Smt. Niloufer Akbar, who appears on behalf of the State and its authorities to assist the Court upon service of copy of the petition in advance, appears to be justified in submitting that the relaxation in the conditions in the Notification dated 18.01.2006 was contemplated at that time when the city of Bengaluru was witnessing fast development. It was with a view to keep in pace with the development of the city that the scheme was visualized by the Government and for special purpose of setting up the garbage wastage plant. As per directions, certain conditions by the order dated 03.01.2013 was issued.



5.1 It was highlighted that not only the Government Order dated 03.01.2013 was an action by the government in aid of and to speed up the process of development of the city, the *locus standi* of the petitioner as public interest petitioner is also to be viewed with suspicion for the *bona fides* inasmuch as the petitioner was leader of the political party, also a Councillor in the BBMP who did not raise his voice during his councillorship however, at a late stage, the petition came to be filed for the purposes which may be known to him.

5.2 Apart from the above aspects, a weighty consideration because of which the Court would not entertain the present public interest petition is that it seeks to raise challenge to the Government Order after a gap of eleven years. The order was passed on 03.01.2013 for special purpose as above and the transferable development rights were given in that connection. The yawning gap of eleven years itself smacks lack of *bona fide* on part of the petitioner. In the pleadings, not a whisper is found about the delay in instituting such a petition after eleven years. In any view, the Court would not entertain the public interest petition filed after more than a decade, even otherwise, it does not found to be containing any merit.



6. While parting, it has to be observed that the BBMP appeared through its advocate voluntarily and learned advocate Mr. N.R. Jagadeeswara for respondent Nos.2 to 6 made submissions. The submissions were advanced in a conflicting tenor with the stand which was taken by the State Government. This aspect became indicative to suggest that the petition might be a collusive attempt to misutilise the public interest jurisdiction. The conduct and stand taken by the BBMP, in appearing without notice and proceeding to make elaborate submissions, contrary to state's stand was incomprehensible. The proposal for the garbage plant was mooted by BBMP itself.

7. Leaving it however, with strong deprecation, the petition is dismissed with cost of Rs.10,000/- to be deposited with the Karnataka High Court Legal Services Authority within fifteen days.

**Sd/-  
(N. V. ANJARIA)  
CHIEF JUSTICE**

**Sd/-  
(K. V. ARAVIND)  
JUDGE**