
(2004) 08 KAR CK 0052
In the Karnataka High Court
Case No : Writ Petition No. 30529 of 2004

D.N. Venkatesh Reddy

APPELLANT

Vs

The Chief Engineer, B.W.S.S.B. and Others

RESPONDENT

Date of Decision : 24-08-2004

Acts Referred:

Constitution of India, 1950 — Article 21

Citation : AIR 2004 Kar 494 : (2005) 1 KCCR 313

Hon'ble Judges : D.V. Shylendra Kumar, J

Bench : Single Bench

Advocate : R.S. Gupta, for H.N. Nagamohandas, for the Appellant; S.N. Keshava Murthy, for Respondent Nos. 1 and 2; K.N. Putte Gowda, for the Respondent

Judgement

D.V. Shylendra Kumar, J.—Petitioner who claims to be the owner of a commercial building at No. 10, Domlur Village, Airport Main Road, Bangalore, has approached this Court praying for relief against the respondent Nos. 1 and 2 being the Officials of the Bangalore Water Supply and Sewerage Board and the Respondent No. 3- Assistant Executive Engineer, an Official of the Bangalore Mahanagara Palike. The grievance of the petitioner is essentially in the context of certain refusal of permission on the part of the respondent for the petitioner to obtain what is known as sanitary connection facility provided by the Bangalore Water Supply and Sewerage Board.

2. The petition pleadings inter alia indicates that the petitioner had an occasion to demolish the old structure which was in existence at the place and had put up a new construction about two years back and though the petitioner claims that he has obtained an approved plan for putting up such structure, the respondent No. 3 in particular has contended that the structure so put up is in gross violation of the permitted plan.

3. The cause of action for the petitioner to approach this Court as pleaded in the petition is that the Officials of the Board had issued a Notice dated 2-8-2003 copy of which is produced at Annexure-A, apprising the petitioner that the

petitioner while putting up the new structure was required to obtain a fresh connection to the sanitary pipeline; that even without doing so, on his own, had unauthorisedly made use of the sanitary pipe of the Board and that unless such unauthorised connection was regularised by complying with the necessary formalities, the connection will be closed and such unauthorised connection will be removed. One of the requirements indicated in this Notice is that the petitioner should obtain road cutting permission from the Bangalore Mahanagara Palike; that he should also produce tax paid receipts etc.. The petitioner had approached this Court for relief apprehending that the Board may carry out the threatened action in terms of Annexure-A and had sought for relief from this Court.

4. Respondents had been put to Notice. Respondents Nos. 1 and 2 are represented by Sri S.N. Keshava Murthy, Advocate and respondent No. 3 by Sri Putte Gowda, Advocate.

5. It is now the agreed position that the sanitary connection was subsequently closed by the Board for the non-compliance of the requirements on the part of the petitioner and the building and the occupants of the building are now without sanitary facilities.

6. While it is the stand of the Board that the petitioner in the first instance had drawn an unauthorised connection from the sanitary main pipe of the road without even paying necessary charges in this regard and without complying with other formalities. Subsequent to the presentation of this petition, the petitioner has been apprised in terms of demand dated 20-8-2004, copy of which has been produced along with the Statement of Objections filed on behalf of the Board indicating that the petitioner is required to pay total sum of Rs. 1,18,920/- for regularising the unauthorised connection.

7. It is submitted by Sri S.N. Keshava Murthy, Counsel appearing for the Board that while the petitioner is required to pay this amount, the petitioner is also required to obtain a No Objection Certificate from the Corporation Authorities as also road cutting permission to formalise the unauthorised connection as a regular connection.

8. It is submitted by Sri K.N. Putte Gowda, learned Counsel for respondent No. 3 that the Bangalore Mahanagara Palike is not in a position to provide either the No Objection Certificate or road cutting permission in the light of the gross violation that the petitioner has committed in the construction of the building; that deviations are much beyond even permitted provisions; that the petitioner if at all may be required to demolish by himself or failing which the Corporation may have to demolish such unauthorised portion of the building; that the Corporation had taken action for the same; that in respect of the said order, the petitioner had filed an appeal before the Standing Committee subsequently transferred to Appellate Authority. In view of the pendency of such appeal and the order of stay therein, the hands of the Corporation Authorities are tied; that in the meanwhile,

the Bangalore Mahanagara Palike cannot issue a No Objection Certificate or road cutting permission which virtually amounts to authorising the unauthorised construction.

9. It is not necessary for this Court to examine as to whether the petitioner in fact has committed violation by getting connection to the sanitary pipe unauthorisedly or has put up unauthorised construction in gross violation of the sanctioned plan. It is for the statutory authorities to look into these aspects and to take proper action in accordance with law. What this Court is concerned about is that the premises in respect of which the facility particularly of sanitary connection is now cut off to the premises in which many persons are carrying on their day to day activities. It is submitted that there are about 40 to 50 inmates in the building who are carrying on several commercial activities; that for a building of this magnitude and size, sanitary connection is a basic facility and denial of such sanitary facility virtually amounts to denial of a basic amenity for a dignified living and assuming that there are certain violations and deviations, while action as permitted in law can definitely be taken, even during the pendency of pursuing such action, persons who had been living in the premises for many number of years should not be deprived of such a basic amenity. Denial of even basic amenities to citizens by public authorities themselves amounts to the authorities driving the citizens to lead an undignified life, putting the citizens to avoidable sufferings and can only amount to inflicting punishment on such persons. Courts have time and again held right to lead a dignified life is part of fundamental right of citizens embedded in Article 21 of the Constitution of India. See *Chameli Singh and others etc. Vs. State of U.P. and another*, , (Para 8). While public authorities are always required to implement the statutory provisions in accordance with those provisions and their existence itself being for such purpose, in the course of such implementation, they should not trample upon the rights of citizens particularly driving them to demean themselves or denying them the right to lead a dignified life.

10. It can hardly be argued that sanitary facility in an Urban locality is not a basic facility. In fact, the public interest and public health calls for providing sanitary facility to all citizens living within the limits of the Corporation and it is the responsibility of the Corporation to ensure that it is not denied to any person. Denial of such facility can only lead to endangering public health as persons who are denied of such facility in a proper manner may resort to other methods and surroundings will be subjected to all sorts of misuses. It is the duty of the public authorities to prevent such a possibility.

11. In the circumstances, this writ petition is entertained for the limited purpose of ensuring that the respondent-Authorities continue to maintain the basic facility of providing sanitary connection to the inmates of the building claiming to have been owned by the petitioner in respect of which several controversies as above have arisen and relief is confined to such extent, to ensure that the right of persons using the building to lead a dignified life guaranteed under Article 21 of

the Constitution of India is not violated pending resolution of such controversies or disputes in accordance with law.

12. All contentions of the petitioner as well as the respondents are left open and the respondents Nos. 1 and 2 are hereby directed to restore the sanitary connection alone for the time being subject to the petitioner making payment of a sum of Rs. 68,920/-. On payment of such amount, the respondents Nos. 1 and 2 to restore sanitary connection forthwith.

13. This direction is issued on the submission made by Sri R.S. Gupta, learned counsel appearing for the petitioner that the petitioner has requested for restoration and regularization of sanitary connection only and that the petitioner is not seeking for water connection as of now.

14. The respondent No. 3 Bangalore Mahanagara Palike is also at liberty to realise such charges as are payable by the petitioner in terms of the statutory provisions. However, pending such determination etc., respondent No. 3 not to object for providing sanitary connection to the petitioner's building and the rights and liabilities of parties are subject to proceedings pending before the appropriate Appellate Authority or the concerned Authority whomsoever it may be.

15. Writ Petition disposed of accordingly.