

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 27th DAY OF MARCH, 2008

BEFORE

THE HON'BLE MR. JUSTICE K.L.MANJUNATH

WRIT PETITION NO.19643 OF 2007 (GM-RES)

BETWEEN:

- 1 SRI M A BAIG S/O M M BAIG
AGED ABOUT 54 YEARS
DEPUTY COMMISSIONER
BRUHAT BANGALORE MAHANAGARA PALIKE
N.R.SQURE
BANGALORE
- 2 SRI C MOHAMMED KALEEMULLA S/O MOHAMMED
AGED ABOUT 55 YEARS
GENERAL MANAGER
KARNATAKA WOMEN DEVELOPMENT
CORPORATION, 6TH FLOOR, JAYANAGAR
SHOPPING COMPLEX, 4TH BLOCK
BANGALORE
- 3 SRI D L NARAYAN S/O LATE D T LINGAPPA
AGED ABOUT 50 YEARS
DEPUTY COMMISSIONER
RAJARAJESHWARI NAGAR ZONE
BRUHAT BANGALORE MAHANAGARA PALIKE
RAJARAJESHWARINAGAR
BANGALORE-560 098
- 4 SRI B HEERA NAIK S/O BHEEMA NAIK
AGED ABOUT 51 YEARS
DEPUTY COMMISSIONER
MAHADEVAPURA ZONE

BRUHAT BANGALORE MAHANAGARA PALIKE
 MAHADEVAPURA, HOODY ROAD
 BANGALORE

... PETITIONERS

(By Sri: L VENKATARAMA REDDY, ADV.)

AND :

1 THE KARNATAKA STATE POLLUTION
 CONTROL BOARD
 REGIONAL OFFICE
 BANGALORE EAST-1
 22ND FLOOR, PUB, M.G.ROAD
 BANGALORE-560 001
 REP. BY DEPUTY ENVIRONMENTAL OFFICER

... RESPONDENT

(By Sri: D NAGARAJ, ADV.)

THIS W.P. IS FILED UNDER ARTICLES 226 &
 227 OF THE CONSTITUTION OF INDIA, PRAYING TO:
 QUASH THE PROCEEDINGS INITIATED AS PER ANN-A
 BY THE RESPONDENT BOARD IN C.C.NO.1101/06,
 BEFORE THE METROPOLITAN MAGISTRATE (TRAFFIC
 COURT I), MAYO HALL AT BANGALORE.

This Petition coming on for orders this
 day, the Court made the following:

ORDER

The respondent - Pollution Control Board
 has filed a case against the petitioners
 herein under Sec.49 of the Water (Prevention

re

and Control of Pollution) Act, 1974 on the ground that the petitioners herein are responsible for discharging the sewerage water and causing pollution. Therefore, the complaint is lodged by the respondent before the jurisdictional Magistrate under Section 43 and 44 of the Act to issue process to the petitioners herein and secure their presence and punish them in accordance with law.

2. The present petition is filed on the ground that the complaint lodged by the respondent against the petitioners is not maintainable as the respondent has to ^{lodge} ~~file~~ a case against the head of the Institution and not against the officials or against any other person. Contending that the very complaint lodged by the respondent is without jurisdiction, the present petition is filed to quash the complaint.

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3. Heard the learned counsel for the petitioner.

4. The learned counsel for the petitioner contends that the respondent has no jurisdiction to initiate proceedings under the Water Act against the petitioner. According to the petitioners, as per section 43 of the Water Act 1974, if any offence is committed by any Govt. Department, Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. Therefore he contends the complaint lodged by the respondent against the petitioners is one without jurisdiction.

5. Even if the case of the petitioners is accepted it is for the petitioners to appear before the learned Magistrate and bring to his notice about the provisions of Section 43 of the Water Act, 1974 requesting the Magistrate

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either to dismiss the case lodged against the petitioners or to discharge them from the case. If such ^{and} application is filed, it is for the learned Magistrate to pass an appropriate order considering all provisions of the Water Act. Without recourse to such procedure the petitioners cannot file the present petition invoking Article 226 of the Constitution of India.

6. Therefore, the present petition is dismissed. Liberty is granted to the petitioners to make necessary application before the learned Magistrate either for dismissal or discharge and if such ^{and} application is filed, the Court shall deal with the said application in accordance with law.

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Sd/3
Judge