

High Court of Karnataka
Daily Orders of the Case Number : WP 24739/2012 for the date of order 10/01/2013

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Honble Justice N.KUMAR AND B.V.NAGARATHNA
10/01/2013

Order in WP 24739/2012

NKJ & BVNJ:

10.1.2013 W.P.Nos. 24739-40/2012

46523/2012, 30450/2012,

46601/2012

ORDER ON FOR BEING SPOKEN TO

By an order dated 8.1.2013, after hearing the learned counsel for the parties, we passed an order directing the Government to constitute Ward Committees in terms of Section 13A of the Act. Before we could sign the said order, the next day it was brought to our notice Section 13A of the Act is substituted by Chapter IIIA by the way of Karnataka Municipal Corporations (Amendment) Act, 2011 which has come into force from 1.8.2011. As the said fact was not brought to our notice the said order came to be passed. Therefore, as the power to constitute Ward Committees by virtue of the said amended provision vests with the Corporation, the order dated 8.1.2013 requires modification. Therefore, this case is listed today for being spoken to .

2. The Karnataka Legislature has passed the Karnataka Municipal Corporations (Amendment) Act, 2011 (Karnataka Act No.3/2011) providing for the constitution of Area Sabhas and Ward Committees in the State of Karnataka to institutionalize community participation in municipal functions and to provide for matters connected therewith or incidental thereto. Accordingly, Chapter IIIA dealing with Area Sabhas and Ward Committees is substituted in place of Section 13A. The Government has issued a notification dated 8.6.2011 in exercise of the powers conferred under sub-section (2) of Section 1 of the Karnataka Municipal Corporations (Amendment) Act, 2011 appointing the 1st day of August 2011 as the date on which the said Act shall come into force. Therefore, the Amendment Act has become effective. However, in Chapter IIIA, sub-section (2) of Section 13A states that the provisions of this Chapter shall apply to such of the Corporations as may be notified by the State Government. In

the absence of such notification, all the Corporations which are governed by the Karnataka Municipal Corporations Act have to discharge their functions in terms of the amended provision, having regard to Article 243S of the Constitution of India.

3. Section 13-H reads as under : -

13H. Composition, territorial area and manner of filling of seats in Ward Committee.-

(1) There shall be a Ward Committee for each ward in the Corporation.

(2) The Ward Committee shall consist of the following, namely:-

(a) the Councillor of the Corporation representing the Ward, shall be the Chairperson of the Ward Committee;

(b) ten other members to be nominated by the Corporation; out of which, there shall be,-

(i) at least two members belonging to the Scheduled Castes and the Scheduled Tribes;

(ii) at least three women members; and

(iii) at least two members representing residents Associations, whatever name called satisfying all conditions mentioned below, namely:-

(a) its registered office shall be located within the jurisdiction of that ward;

(b) it shall represent majority of residents, or civic groups, or commercial groups or industrial groups;

(c) it shall have been actively engaged in its activities for not less than three years; and

(d) it shall be a registered Association by whatever name called, comprising of individuals who serve in a fiduciary capacity;

(3) Any person disqualified from being elected as a Councillor shall not be nominated as member of the Ward Committee.

(4) An officer of appropriate rank shall be designated by the Commissioner of the Corporation to act as Secretary for each Ward Committee to provide all administrative assistance to it. All minutes of the proceedings of the meeting of the Ward Committee shall be recorded by the Secretary and a copy of the same shall be forwarded to the Corporation.

(5) The Secretary of the Ward Committee shall be the convener of the meeting of the Ward Committee who shall convene the meeting in consultation with Chairperson.

(6) The Ward Committee shall meet at least once in a month.

(7) Decisions of the Ward Committee shall normally be taken by the majority of the nominated members of the Ward Committee:

Provided that the Chairperson may exercise a veto over any decision by giving reasons in writing. The decision of the Chairperson shall be final and binding.

(8) 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.

(9) The Commissioner or his nominee, shall be entitled to take part in the meetings and deliberations of the Ward Committee. The Chairperson of the Ward Committee may request the representatives of concerned departments as special invitees to participate in the meetings.

(10) The term of the nominated members shall be co-terminus with the term of the office of the Corporation.

(11) Notwithstanding anything contained in this Act, the Corporation may in addition to the allotment of funds to various projects in the budget, also allot not less than the prescribed amount towards ward development scheme to each ward which shall be utilised by the ward committee in the manner as may be prescribed.

4. Section 13-I which deals with functions of the Ward Committee reads as under : -

13I. Functions of the Ward Committee.- (1) The Ward Committee shall discharge the following functions, namely:-

- (a) prepare and submit Ward Development Scheme to the corporation for allotment of funds;
- (b) ensure proper utilization of the funds allotted under ward development scheme in the ward.
- (c) approve the list of beneficiaries for beneficiary oriented schemes of the Corporation submitted by Area Sabhas falling under that ward;
- (d) scrutinize list of ineligible beneficiaries submitted by the Area Sabhas and submit it to the Corporation;
- (e) supervise all programmes and schemes being implemented by the Corporation in the ward;
- (f) ensure timely collection of taxes, fees and other sums due to the Corporation;
- (g) ensure water supply maintenance in the ward and finalize location of new public taps and public wells;
- (h) ensure sewerage system maintenance in the ward;

- (i) ensure proper solid waste management and sanitation work in the ward and finalize location of new public sanitation units;
- (j) ensure maintenance of street lighting in the ward and finalize location of new street lights;
- (k) ensure maintenance of parks, open spaces, greening of area in the ward;
- (l) ensure afforestation, and implementation of rain water harvesting schemes;
- (m) mobilize voluntary labour and donation by way of goods or money for implementation of Ward Development Scheme and various programmes and schemes of Corporation;
- (n) inform the Corporation regarding any encroachment of land belonging to the Corporation;
- (o) perform such other functions as may be assigned to it by the Corporation as per its bye-laws.

(2) The procedure to be adopted by the Ward Committee in the transaction of its business shall be as may be prescribed in the rules.

5. A reading of the aforesaid two provisions make it clear that, there shall be a Ward Committee for each ward in the Corporation. The said Ward Committee shall consist of the Councilor of the Corporation representing the ward who shall be the chairperson of the Ward Committee. Then 10 other members of the ward committee are to be nominated by the Corporation. How these 10 persons should be selected is clearly set out in clause (b) of sub-section (2) of Section 13H. As is clear from Section 13-I it is the duty of the Ward Committee to ensure proper solid waste management and sanitation work in the ward and finalize location of new public sanitation units. Therefore, a greater responsibility is thrust on the Councilors of the Corporation representing the ward and his team of 10 members who are to be nominated by the Corporation. It is in the absence of this committee functioning in each ward, probably the task of removal of garbage which was not a problem for the last 5 decades has assumed gigantic proportions in the last couple of months. Therefore, in order to fix the responsibility on the persons who should ensure proper solid waste management it is necessary to constitute a Ward Committee forthwith. That may ease the problem of this garbage which is haunting the city of Bangalore. For the aforesaid purpose, the Council Secretary shall convene the meeting of the Corporation in consultation with the Mayor and the Commissioner, to consider the agenda of nominating the members of the ward committee by the Corporation in terms of clause (b) of sub-section (2) of Section 13-H of the Act. The said meeting shall be held within 3 days from today and we hope by the next date of hearing, i.e., 21.1.2013 the Ward Committees would be functional and report of that would be submitted to the Court.

6. The Commissioner of the Corporation who is present before the Court submits that

the meeting of the Corporation would be convened on Tuesday, 15.1.2013 at 3.00 PM.

(N. KUMAR)
JUDGE

(B V NAGARATHNA)
JUDGE