

# In the High Court of Karnataka at Bangalore

## UNDER WRIT ORIGINAL JURISDICTION

W.P. No.                      /2012

Between :

**Environment Support Group and others**

... Petitioners

And :

**Bruhat Bengaluru Mahanagara Palike and others**

... Respondents

### LIST OF DATES

Date	Description
24 May 2003	1 <sup>st</sup> Petitioner Bruhat Bengaluru Mahanagara Palike (BBMP) receives 100 acres of grazing pastures (gomala land) at Survey no. 8 of Mavallipura village, Hesaraghatta Hobli for dumping of solid waste of Bangalore, <i>vide</i> letter No.LND (NA) CR89/2002-03.
18 November 2003	A Notification is issued by the 5 <sup>th</sup> Respondent, Karnataka Dept. Of Forests, Ecology and Environment declaring 1453 Sq. Kms. of catchment area of the Thippagondanahalli Reservoir (TGR) as an area protected from all pollution, and barring the siting of any polluting units. Mavallipura village is listed in Zone 1 of the area and the Notification explicitly states that there shall not be disposal of “solid as well as liquid waste in this area without

Date	Description
	scientific processing”.
18 December 2003	Residents of Mavallipura make a representation to the Directorate of Municipal Administration to stop the illegal dumping of garbage from Bangalore in Mavallipura village area. The representation specifically opposed the allotment of the village grazing pastures for dumping garbage.
25 February 2004	The residents of Mavallipura appeal to the Revenue Secretary, Government of Karnataka, Deputy Commissioner, Bangalore Urban, the Assistant Commissioner and the Thasildhar of Bangalore North Taluk to cancel the 30 years lease granted over 100 acres Gomala land of Mavallipura to 1 <sup>st</sup> Respondent BBMP for dumping of waste from Bangalore. It is specifically submitted that “if the Bangalore Mahanagara Palike is allowed to dump garbage and waste material in the said land, it will affect the mental, physical and financial health of the people of several villages”, and that agricultural and shepherds would be particularly affected and lose their livelihoods.
22 July 2004	Foundation for Revitalisation of Local Health Traditions (FRLHT) writes to the 5 <sup>th</sup> Respondent Karnataka Department of Environment and Ecology, pleading to stop illegal dumping of waste at Mavallipura village. It is said that “they burn the garbage including plastic (and) a lot of toxic chemicals are released in the atmosphere. There are in-door patients who are treated at FRLHT clinic and they have been complaining of this toxic air pollution”.

<b>Date</b>	<b>Description</b>
5 August 2004	A committee of the 2 <sup>nd</sup> Respondent KSPCB on setting up Municipal Solid Waste processing and disposal facilities under the Municipal Solid Waste (Management & Handling) Rules, 2000 decides that the landfills at Mavallipura can be allowed only after “obtaining NOC from Airport Authority of India, Government Flying Training School, Jakkur and Air Force Station, Yelahanka” as evident in the minutes No. KSPCB/MSW/DEO 2003-04/1096.
11 August 2004	A Concession Agreement is concluded between 1 <sup>st</sup> Respondent Bangalore Mahanagara Palike and 10 <sup>th</sup> Respondent M/s Ramky Infrastructure Private Limited, Hyderabad, for establishing an integrated municipal solid waste processing and engineered sanitary landfill through private participation on Build, Operate and Transfer basis (BOT) over 100 acres at Sy. No. .8 of Mavallipura village, subject to various terms and conditions, and in return for an initial tipping fee calculated ranging between Rs. 198/ton and Rs. 351/ton of waste received over the lease period.
18 August 2004	2 <sup>nd</sup> Respondent KSPCB authorises the operation of the landfill by 10 <sup>th</sup> Respondent Ramky at Mavallipura <i>vide</i> letter No. KSPCB/SEO-3/DEO/AEO/MSW/2004-05/1210. The authorisation is made subject to obtaining NOC from all airports within a 20 kms radius of the landfill. No mention, whatsoever, is made that the landfill falls within Zone 1 of the aforesaid Notification protecting the catchment area of T. G. Halli Reservoir.
3 September	2 <sup>nd</sup> Respondent KSPCB withdraws the authorisation extended to landfill to be operated by 1 <sup>st</sup> Respondent

<b>Date</b>	<b>Description</b>
2004	BBMP and 10 <sup>th</sup> Respondent Ramky on grounds that the “proposed integrated Municipal Solid Waste Management facility at Sy. No. 8, Mavallipura is located within 10 kms radius from Yelahanka Air Force Station”, that this is in violation of “provisions of Aircraft Act 1934 (Section 10(I-A) combined with Aircraft Amendment Act 1988” and that the “Air Force Station, Yelahanka, Bangalore vide their letter dtd: 14.8.04 have objected to issue No Objection Certificate” to the said landfill on such and other grounds <i>vide</i> letter No. KSPCB/MSW/SEO-3/DEO-TC/AEO-3/2004-05/1384.
7 September 2004	The 5 <sup>th</sup> Respondent DFEE writes to the 1 <sup>st</sup> Respondent BBMP citing objections received from FRLHT, adverted to above, to take necessary action against illegal dumping and burning of solid waste at Mavallipura village and to ensure solid waste management is undertaken strictly in accordance with the Municipal Solid Waste Management Rules, 2000 and that “any violation in this regard invites legal action”, vide letter No. FEE 81 ENV 2004.
18 October 2004	The Commissioner of the 1 <sup>st</sup> Respondent BBMP writes to the Chairman of the 2 <sup>nd</sup> Respondent KSPCB strongly urging that the latter “overrule the objections of Air Force Station, Yelahanka & permit BMP to proceed in establishing the proposed landfill station for processing & composting of Municipal Solid Waste on Sy. No. 8 of Mavallipura village” vide letter No. SC/PS/306/2004-05.
12 November 2004	Karnataka State Pollution Control Board sends instruction to Secretary to Government, Urban Development Department, Government of

Date	Description
	Karnataka, Directorate of municipal Administration, Department of Mines and Geology, Commissioner, Bangalore Mahanagara Palike, Town Planning, Airport Authority of India, Director General, EMPRI and Air Force Station, Yelahanka regarding the 11 <sup>th</sup> meeting to consider the issue of authorization for setting up of Waste Processing Facility at Mavallipura area.
20 November 2004	The 2 <sup>nd</sup> Respondent KSPCB pleads on behalf of 1 <sup>st</sup> Respondent BBMP with the 11 <sup>th</sup> Respondent Air Force Station Yelahanka to reconsider the rejection of NOC to the aforesaid landfill in Mavallipura vide letter No. KSPCB/MSW/SEO-3/DEO-TC/AEO/2004-05/1994.
2 December 2004	The 2 <sup>nd</sup> Respondent KSPCB writes to 1 <sup>st</sup> Respondent BBMP to undertake various studies, including studies by Bombay Natural History Society on the vulnerability to aircrafts of Air Force Station at Yelahanka to bird hits, if the landfill at Sy. No.8 of Mavallipura to be operated by 10 <sup>th</sup> Respondent Ramky were allowed, vide letter NO. KSPCB/MSW/SEO-03/DEO-TC/AEO-03/2004-05/2119.
8 April 2005	The 7 <sup>th</sup> Respondent Karnataka Department for Urban Development orders that 1 km around all landfill sites are declared as No Development Zone “in order to prevent mushrooming of development around these areas (as they are) leading to local protests and obstructions including legal delay which will impact negatively on the project”, vide GO No.UDD 94 MNU 2005.

<b>Date</b>	<b>Description</b>
21 June 2005	Mr. D. K. Ved, I.F.S, Addl. Director of Foundation for Revitalisation of Local Health Traditions (FRLHT) writes in a letter to Dr. Manoranjan Hegde, Medical Officer of the 1 <sup>st</sup> Respondent BBMP registering “protest .. against the fire and smoke caused due to illegal & unscientific burning of City Waste at the Mavallipura” area and this has “caused severe health conditions.. such as dyspnoea, choking, burning sensation in the eyes, giddiness, nausea, headache, dry cough, sore throat, allergic rhinitis and allergic dermatitis, urinary tract infections”, etc. It is also stated that data collected from a medical camp conducted amongst the local villagers revealed that “a majority of the patients (both children and adults alike) suffered from allergic rhinitis, allergic dermatitis, repeated infections, diarrhoea, sleeplessness, cough, upper respiratory tract infections. Such health conditions exist only where one is subjected to polluted air and water contamination.”
30 August 2005	A representation is made to the 11 <sup>th</sup> Respondent Air Officer Commanding in Chief of the Yelahanka Air Force Station by the 1 <sup>st</sup> and the 4 <sup>th</sup> Petitioners, amongst others, stating that the landfills in Mavallipura are being operated wholly illegally and “would most certainly prove to be a major hazard to the functioning of a vital denense airport in the present and in future”. The representation also refers to the efforts of the 2 <sup>nd</sup> Respondent KSPCB to coerce the Air Force base to consent to the landfills.
8 October 2005	A detailed analysis of the extent of water pollution due to the Mavallipura landfills is undertaken by the

<b>Date</b>	<b>Description</b>
	1 <sup>st</sup> Petitioner, and the study reveals that all drinking water sources from wells and borewells, as well as lakes and ground water are very heavily polluted by toxic chemicals and pathogenic bacteria.
24 October 2005	A representation is filed by the residents of Mavallipura and other affected villages with the 6 <sup>th</sup> Respondent Deputy Commissioner, 2 <sup>nd</sup> Respondent KSPCB and other authorities urging them to initiate criminal action against Mr. H. Bailappa and others who are illegally dumping waste in Mavallipura causing extensive environmental damage and public health nuisance.
26 October 2005	In response to the aforesaid representation, 2 <sup>nd</sup> Respondent KSPCB's Asst. Environmental Officer files an inspection report stating that as per an earlier inspection report of 26 <sup>th</sup> November 2004 it has been established that Mr. Bailappa is illegally operating a landfill at Sy. No. 72/70 of Subedarpalya village, Yelahanka Hobli, Bangalore North Taluk. It is further stated that on inspection on 26 <sup>th</sup> October 2005, it is discovered that the dumping is continuing to the extent of 500 to 600 metric tonnes, and that no permission has been accorded to such dumping by the KSPCB. It is also recorded that "lorries are unloading the solid waste on open land without any pretreatment", that "it was noticed that lot of leachate is overflowing and joins to near by natural valley" and that this "natural valley joins to the Arkavathi River via Koramanakunte tank, Mavallipura tank, Seekote village tank and Aivarukandapura village tank. The Arkavathi River finally join to TGR" (i.e. Thippagondanhalli

<b>Date</b>	<b>Description</b>
	Reservoir, a major drinking water source of Bangalore.
9 November 2005	The 2 <sup>nd</sup> Respondent KSPCB issues a 15 days notice on 1 <sup>st</sup> Respondent BBMP to show cause why action per Secs. 15 and 17 of the Environment Protection Act should not be initiated against the Commissioner, BBMP for illegally operating a landfill through Mr. H. Bailappa at Mavallipura.
22 November 2005	The 2 <sup>nd</sup> Respondent KSPCB based on a hearing accorded to 1 <sup>st</sup> Respondent BBMP on 11 <sup>th</sup> November 2005, decides that the landfill operated by Mr. Bailappa on behalf of BBMP and that it has caused extensive pollution. The 2 <sup>nd</sup> Respondent directs the 1 <sup>st</sup> Respondent that “BMP Authorities within 20 days shall start treating the leachate generated from the municipal solid waste dumping site at Mavallipura or send the leachate to BWSSB treatment plant.” The 1 <sup>st</sup> Respondent is also instructed that “BMP authorities shall not use lands other than the authorised land” for disposal of Municipal Solid Waste.
30 January 2006	The 2 <sup>nd</sup> Respondent KSPCB issues notice on Mr. H. Bailappa to “show cause” within 15 days why action should not be initiated per Section 15 of Environment Protection Act for operating an illegal landfill at Mavallipura.
18 March 2006	The 2 <sup>nd</sup> Respondent KSPCB files a criminal complaint before the Metropolitan Magistrate at Bangalore (MMCR-1) against Mr. Bylappa for illegally operating a landfill at Mavallipura.
14 June 2006	A detailed analysis of the extent of water pollution due to the Mavallipura landfills is undertaken by the

<b>Date</b>	<b>Description</b>
	1 <sup>st</sup> Petitioner, and the study reveals that all drinking water sources from wells and borewells, as well as lakes and ground water are very heavily polluted by toxic chemicals and pathogenic bacteria, and the pollution load has increased.
28 October 2006	The 2 <sup>nd</sup> Respondent KSPCB issues a Corrigendum restoring authorisation to the new landfill to be operated at Sy. No. 8 of Mavallipura by Ramky comprehensively ignoring the fact that the decision is violative of the Aircraft Act, 1934 (as amended in 1988) and a threat to the aviation safety of Yelahanka Air Force Station.
14 June 2007	The 3 <sup>rd</sup> Petitioner Mr. B.Srinivas lodges a complaint before the Hon'ble Lokayukta of Karnataka against the 1 <sup>st</sup> Respondent BBMP and 2 <sup>nd</sup> Respondent KSPCB for continuing the illegal landfill by Mr. Bailappa, notwithstanding the fact that a criminal complaint for such illegal landfilling had been filed by the 2 <sup>nd</sup> Respondent. The complaint also states that the said Mr. Bailappa is receiving waste illegally for monetary consideration in collusion with various BBMP officials and dumping it on village commons and forest lands, thus continuing to damage environment and human health. Further, the complaint contests the consent accorded by the 2 <sup>nd</sup> Respondent KSPCB to 10 <sup>th</sup> Respondent Ramky for opening another landfill in the same village in blatant violation of law.
04/07/07	The 2 <sup>nd</sup> Respondent KSPCB files a detailed fact finding report in response to the complaint filed by the 3 <sup>rd</sup> Petitioner before the Hon'ble Lokayukta stating that the land allocated to 10 <sup>th</sup> Respondent Ramky at Sy. No. 8 of Mavallipura involves at least 10

<b>Date</b>	<b>Description</b>
	acres of forest land. The report by and large supports all grounds and concerns raised by the Complainant confirming that the earlier landfill operated by Mr. Bailappa is wholly illegal and highly polluting, and that the situation is no better with the landfill operated by 10 <sup>th</sup> Respondent Ramky.
29 August 2007	Regional Officer, Karnataka State Pollution Control Board provides a copy of the Corrigendum issued to Bangalore Mahanagara Palike for setting up and to operate waste processing facility under Municipal Solid Waste Rules, 2000 to Mrs. Dolly Kalita, Environment Support Group with reference to her Right To Information (RTI) application.
20 December 2007	Air Marshal J N Burma, Air Officer-in-charge of Administration of Indian Air Force issues a Speaking Order rejecting the appeal filed by the 1 <sup>st</sup> Petitioner seeking reports on the causative factors of the crash of an Advanced Light Helicopter of the Indian Air Force in February 2007, just ahead of the Aero India show, resulting in the death of the pilots.
17 October 2008	The 2 <sup>nd</sup> Respondent KSPCB issues a 7 day 'show cause' notice to the 1 <sup>st</sup> Respondent BBMP and 10 <sup>th</sup> Respondent Ramky for causing extensive pollution, public health impacts and nuisance caused by dogs to local villagers due to the poor maintenance of the landfill at Mavallipura.
18 August 2009	Overlooking objections from the local public and the 11 <sup>th</sup> Respondent Air Force Station at Yelahanka, the 2 <sup>nd</sup> Respondent KSPCB extends the authorisation of the landfill operated by 10 <sup>th</sup> Respondent Ramky for a further period of 1 year.

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30 November 2009	A detailed analysis of the extent of water pollution due to the Mavallipura landfills is undertaken by the 1 <sup>st</sup> Petitioner, and the study reveals that all drinking water sources from wells and borewells, as well as lakes and ground water are very heavily polluted by toxic chemicals and pathogenic bacteria, and the pollution load has increased even more compared to previous years.
1 July 2010	The 1 <sup>st</sup> Petitioner releases a report entitled “Bangalore’s Toxic Legacy: Investigating Mavallipura's Illegal Landfills ” providing a comprehensive account of the gross illegalities of the landfills operated by Mr. H. Bailappa and 10 <sup>th</sup> Respondent Ramky. The report also reveals that the landfills have never been managed as per applicable norms and that the 1 <sup>st</sup> Respondent BBMP and the 2 <sup>nd</sup> Respondent KSPCB have colluded in sustaining such illegalities. An analysis of the multi-year water sampling results reveal that all water sources are heavily contaminated and this has had a debilitating impact on the health of the local communities. Farming and grazing systems have collapsed as a result. The report also establishes that several of the deaths taking place in the villages reflect the impacts of heavy water, air and soil pollution due to the landfills.
19 July 2010	Mr. M. B. Rajanna, residing in his ancestral house adjacent to the landfill operated by 10 <sup>th</sup> Respondent Ramky, loses his battle against abdominal cancer at the age of 65 years. He was a able body farmer and active participant in the resistance against the illegal landfills. There has been no previous history of

<b>Date</b>	<b>Description</b>
	chronic illnesses in any member of his farming family.
23 July 2010	15 years old Akshay Kumar succumbs to dengue which he contracted due to the mosquito menace caused by landfills at Mavallipura.
5 August 2010	The 4 <sup>th</sup> Petitioner Dalitha Sangarsha Samithi submits a detailed representation to His Excellency the Governor of Karnataka requesting his intervention to stop the illegal landfills of Mavallipura. The representation also requests that a variety of demands of the affected communities be recommended for appropriate action by the Government.
1 October 2010	The 9 <sup>th</sup> Respondent Principal Chief Conservator of Forests directs the Conservator of Forests, Bangalore Circle to investigate the encroachment of forest lands in Mavallipura and take appropriate action against the violators.
8 October 2010	The third Petitioner Mr. B. Srinivas is attacked by goons brought by Mr. Virupaksha Mysuraa, Jt. Commissioner, Yelahanka Zone of BBMP, while participating in a discussion at the landfill operated by 10 <sup>th</sup> Respondent Ramky with various Health officials of BBMP about the health and environmental impacts from the facility. Mr. Mysuraa threatens Mr. Srinivas and other villagers that they would be buried alive in the landfills. A false counter-complaint was filed and is still being pursued against the Petitioner at the time of filing of this Petition. However, the 16 <sup>th</sup> Respondent Police have closed the case filed by the Petitioner.

<b>Date</b>	<b>Description</b>
23 October 2010	A meeting is organised by the Chairman of the 2 <sup>nd</sup> Respondent KSPCB involving the participation of the Commissioner of the 1 <sup>st</sup> Respondent BBMP and various other agencies. In this meeting a variety of decisions are taken and assurance made to the effect that all illegalities being sustained in the landfills at Mavallipura and other villages will be rectified within a period of 3 months, and with the cooperation of the Council and all political parties.
5 March 2011	Mr. Siddaiah, IAS, Commissioner of the 1 <sup>st</sup> Respondent BBMP visits Mavallipura village and the landfills on an inspection with an entourage of officials. After interacting with the affected villagers, he assures them of a variety of health and environmental safeguards. No follow up action is taken thereafter.
9 March 2011	The 1 <sup>st</sup> Petitioner submits a detailed representation to the Superintendent of Police of the Hon'ble Lokayukta detailing all the illegalities in the landfills operated at Mavallipura.
19 March 2011	The Chief Engineer Projects of the 1 <sup>st</sup> Respondent authorises a detailed analysis of physical, chemical and biological parameters of wateranalysis of the water from different water sources of Mavallipura and surrounding villages. The study establishes very high toxic and pathogenci contamination of the drinking and irrigation water sources. To ensure that there no doubt whatsoever in the results, the 1 <sup>st</sup> Petitioner undertook the analysis at Shriram Institute for Industrial Research, Bangalore.
29 June	Shivakote Gram Panchayat passes a resolution

<b>Date</b>	<b>Description</b>
2011	demanding that the illegal landfills must be immediately shut down as they are being operated in comprehensive violation of the Municipal Solid Waste Management Rules, 2000. It is confirmed that as many as 7 people have already died as a consequence of the extensive pollution caused by the landfill, and that the waste dumped there includes industrial and biomedical waste. The resolution demands that criminal action be initiated against the violators in accordance with the aforesaid Rules and the direction of the Hon'ble Supreme Court.
23 August 2011	The 2 <sup>nd</sup> Respondent KSPCB accords a personal hearing to the 10 <sup>th</sup> Respondent Ramky on the operation of the landfill at Mavallipura. It finds that the operator is comprehensively violating all standards and norms, and that along with the 1 <sup>st</sup> Respondent BBMP, the directions to comply with necessary laws and standards issued by the Hon'ble Lok Adalath are being comprehensively violated. The Chairman of KSCPb demands a short term and long term plan to attend to the mess and clean it up immediately.
6 July 2012	A detailed analysis of the extent of water pollution due to the Mavallipura landfills is undertaken by the 1 <sup>st</sup> Petitioner, and the study reveals that all drinking water sources from wells and borewells, as well as lakes and ground water are very heavily polluted by toxic chemicals and pathogenic bacteria, and the pollution load has increased even more compared to previous years. The study reveals toxic chemicals are accumulating in the aquifers.
6 July 2012	Ghantighanahalli Gram Panchayat submits a

<b>Date</b>	<b>Description</b>
	representation to the 2 <sup>nd</sup> Respondent KSPCB demanding action that the illegal landfill being operated by the 10 <sup>th</sup> Respondent Ramky should be immediately shut down, that the entire waste that has accumulated has to be processed and removed and that the entire area has to be decontaminated..The representation also demands that similar action be initiated against Mr. H. Bailappa and the landfill he operated earlier, including on the forest lands encroached.
11 July 2012	The 2 <sup>nd</sup> Respondent KSPCB issues an order to the 1 <sup>st</sup> Respondent BBMP and the 10 <sup>th</sup> Respondent Ramky directing that the landfill operated by the latter must immediately be shut down as it is operating totally illegally and has extensively polluted the local area. The order reveals that this action has been taken on the basis of 29 documents including the submissions made by the Petitioners, in particular the “Bangalore's Toxic Legacy” produced by the 1 <sup>st</sup> Petitioner, and also for operating the landfill without NOC from the Yelahanka Air Force Station. The order directs the operator to comprehensively process the accumulated wastes within a period of 3 months and report action to KSCPB.
16 July 2012	The 3 <sup>rd</sup> Respondent Union Ministry of Environment and Forests writes to the 2 <sup>nd</sup> Respondent KSPCB that action must be initiated on the basis of a complaint filed by the 1 <sup>st</sup> Petitioner, vide letter dated 30 June 2012, and that such action must be for violation of Municipal Solid Waste Management Rules, 2000.
22 August 2012	The 1 <sup>st</sup> Petitioner writes to the 1 <sup>st</sup> Respondent BBMP extending all cooperation in resolving the ongoing

<b>Date</b>	<b>Description</b>
	garbage management crisis in Bangalore in a progressive manner, provided the latter was keen to implement all statutory norms and undertake the entire exercise transparently and with active cooperation of the citizenry as required per the Municipal Solid Waste Management Rules, 2000 and the Karnataka Municipal Corporations Act, <b>1976</b> . The Petitioner further submits that it will provide a range of print and audio visual material to the Respondent for educating the wide public, were the costs to be supported. No response has been received till the date of filing of this petition.
23 August 2012	Following the directions of Mr. Ashokaa, Deputy Chief Minister and Home Minister of Karnataka that the landfill operated by 10 <sup>th</sup> Respondent Ramky shall be forced open disregarding closure orders issued by the 2 <sup>nd</sup> Respondent, the 16 <sup>th</sup> Respondent Police deploy over 600 police personnel to beat back thousands of villagers who have gathered to prevent the operation of the illegal direction. Such is the aggression employed by the police that one Mr. Srinivas, aged 40 years, collapsed of cardiac arrest and dies. The police withdraw their massive force as villagers do not relent.
17 October 2012	A representation is submitted by the 3 <sup>rd</sup> Petitioner in his capacity as Member of the Shivakote Gram Panchayat, demanding criminal action be initiated against the 1 <sup>st</sup> Respondent BBMP and the 10 <sup>th</sup> Respondent Ramky for comprehensively violating all the conditions of the aforesaid landfill closure order.
25 October 2012	The 2 <sup>nd</sup> Respondent KSPCB speciously revokes the order closing the landfill operated by 10 <sup>th</sup> Respondent

<b>Date</b>	<b>Description</b>
	Ramky, claiming the said illegal action is in public interest.
31 October 2012	A comprehensive online petition is launched by the 1 <sup>st</sup> Petitioner addressing the Chief Minister of Karnataka and the 1 <sup>st</sup> and 2 <sup>nd</sup> Respondents with comprehensive decentralised strategies to tackle the prevalent garbage crisis, based on segregation of waste at source. In the matter of days, over 1200 people endorse the petition, and the same is submitted formally to the 1 <sup>st</sup> Respondent for appropriate action.
6 November 2012	A representation is submitted to the 2 <sup>nd</sup> Respondent KSCPb by the 1 <sup>st</sup> and 2 <sup>nd</sup> Petitioners stating that the 25 <sup>th</sup> October 2012 decision of the latter to revoke the closure order issued against 10 <sup>th</sup> Respondent Ramky is wholly illegal, an arbitrary and irrational exercise of power and is comprehensively violative of the directions issued by the Principal Bench of this Hon'ble Court in PILs (WP No. 24739-24740/2012 c/w 30450/2012). In particular, the Petitioners draw the attention of KSPCB to the fact that the Court has observed that the decision to allow landfills at Mavallipura was “oblivious of objections of the Indian Air Force that the landfill is within 10 kms. of the airbase and therefore responsible for bird hits, causing immense national loss in the form of Pilots as well as Aircrafts.”

<b>Date</b>	<b>Description</b>
12 November 2012	A representation is filed with the Group Captain and Public Relations Officer of the Indian Air Force, Command Headquarters Bangalore, stating that this Hon'ble Court has taken note of the threats to the Yelahanka Air Force Station due to the operation of the landfills at Mavallipura. The Officer is requested to submit to this Hon'ble the factual status about the impact the landfills have on the aviation safety and security of the airbase.

# In the High Court of Karnataka at Bangalore

(UNDER ORIGINAL JURISDICTION)

W.P. No. /2012

**Between:**

1. Environment Support Group,  
(Trust Registered under Indian Trust Act, 1882)  
Represented by Ms. Bhargavi S. Rao  
Aged about 43 years  
Trustee  
D/o Mr. Sathyanarayana Rao  
1572, 100 Feet Ring Road, 36<sup>th</sup> Cross  
Banashankari II Stage,  
Bangalore 560070
2. Mr. Leo F. Saldanha  
Aged about 44 years  
S/o S. J. Saldanha  
1, Pearl Gardens  
Vajarahalli  
Kanakapura Road  
Bangalore 560062  
(Appearing in Person)
3. Mr. B. Srinivas  
Member, Shivakote Gram Panchayat  
Aged about 34 years  
S/o Beedappa  
Mavallipura  
Shivakote Post  
Hesaraghatta Hobli

Bangalore 560089

4. Dalit Sangarsh Samthi (S)  
Represented by its Coordinator Mr. M. Ramesh  
Aged about 36 years  
C/o Mahesh Enterprises  
No. 11, 9<sup>th</sup> Cross  
A-Sector, Yelahanka Satellite Town  
Bangalore 560064

.....Petitioners

**And:**

1. Bruhat Bengaluru Mahanagar Palike  
Represented by its Commissioner  
N. R. Square  
Bangalore 560002
2. Karnataka State Pollution Control Board  
Represented by its Chairman and Member Secretary  
Parisara Bhavan, Church Street  
Bangalore 560001
3. Ministry of Environment and Forests  
Represented by its Secretary  
Paryavaran Bhavan, CGO Complex  
Lodi Road  
New Delhi – 110 004
4. State of Karnataka  
Represented by its Chief Secretary  
Vidhana Soudha  
Bangalore 560001
5. Department of Ecology, Environment and Forests  
Represented by its Principal Secretary  
Multistoreyed Building

## 21

Dr. Ambedkar Veedhi

Bangalore 560001

6. Department of Revenue  
Represented by Deputy Commissioner  
Bangalore Urban District  
Kandaya Bhavan  
K. G. Road  
Bangalore 560002
7. Department of Urban Development  
Represented by its Principal Secretary  
Vikasa Soudha  
Dr. Ambedkar Veedhi  
Bangalore 560001
8. Union Ministry of Urban Development  
Represented by its Secretary  
122C, Nirman Bhavan  
Maulana Azad Road  
New Delhi 110011
9. Karnataka State Forest Department  
Represented by the Principal Chief Conservator of Forests  
Aranya Bhavan, 18<sup>th</sup> Cross  
Malleswaram  
Bangalore 560003
10. Ramky Infrastructure Limited  
Represented by its Managing Director  
6-3-1089/G/10-11  
Ramky House, Gulmohar Avenue  
Rajbhavan Road  
Somajiguda  
Hyderabad 500082
11. Air Force Station at Yelahanka  
Represented by Air Officer Commanding in Chief

Yelahanka  
Bangalore 560064

12. Bangalore Development Authority  
Represented by its Commissioner  
T. Chowdiah Road  
Kumara Park West  
Bangalore 560020
13. Nelamangala Planning Authority  
Represented by its Member Secretary  
B.H.Road, Channappa layout  
Nelamangala 562123  
Bangalore Rural District
14. Bangalore Water Supply and Sewerage Board  
Represented by its Chairman  
Cauvery Bhavan  
K. G. Road  
Bangalore 560002
15. State Environment Impact Assessment Authority  
7th Floor,M.S. Building,4th Phase,  
Bangalore 560001
16. Superintendent of Police  
Bangalore Rural  
Millers Road  
Bangalore 560001
17. H. Bailappa  
Aged about 75 years  
Subedarapalya  
Attur Post  
Yelahanka Hobli  
Bangalore 560064

.....**Respondents**

# MEMORANDUM OF WRIT PETITION

## UNDER ARTICLES 226 AND 227 OF

### THE CONSTITUTION OF INDIA

The Petitioners submit as follows:

1. The address for service of Court summons and notices of the Petitioner 1, 3 and 4 is that of its Counsels, Siddappa, Sunil and Nitin, No. 11, Kurubara Sangha Hostel Building, 2<sup>nd</sup> Main Road, Gandhinagar, Bangalore 560009.
2. The 1<sup>st</sup> Petitioner Trust is registered under the Indian Trusts Act, 1882 vide Reg. No.: Book IV 8/98-99. The Petitioner Trust is represented by its Trustee who is also specifically authorized to represent the Trust in the above said litigation. A copy of the resolution authorising the Trustee to institute the present proceedings is annexed at **Annexure A**.
3. The 1<sup>st</sup> Petitioner Trust has been involved in a wide variety of environmental issues and campaigns. Acknowledging its competence in addressing environmental law and policy matters and technical issues pertaining to ecology and environment, the Hon'ble High Court of Karnataka and Karnataka Judicial Academy enlisted its services along with Environmental Law Institute (USA) in organizing a unique workshop on "*Judicial Enforcement of Environmental Law in Karnataka*" during August 2002. The organisation has assisted the State in a variety of public interest initiatives relating to environmental management, and is an active collaborator with a wide range of national and international research, academic and campaign organizations. Inherent to the organisation is a wide range of expertise from the areas of biodiversity conservation, forest management, ecology, public health, environmental law and policy, etc.

4. The 1<sup>st</sup> Petitioner Trust has been actively involved in and initiated several research initiatives and campaigns relating to appropriate implementation of laws and policies relating to solid waste management, amongst other environmental justice matters. In this regard, the 5<sup>th</sup> Respondent Karnataka Dept. of Forests, Ecology and Environment (DFEE) enlisted the Petitioner Trust in undertaking community awareness and environmental education programmes as part of the Karnataka State and Norwegian Embassy sponsored Indo-Norwegian Environment Programme projects to implement progressive solid waste management strategies in Basavanagudi ward of Bangalore and in entire Raichur Municipal Council in the backward region of North Karnataka. As a part of this effort, the Petitioner Trust developed a series of highly accessible community education material promoting segregation of waste at source including the critically acclaimed and popular docu-films *Nagara Nyrmalya* and *Nammuru Chandaduru*, along with various posters, primers, story books, manuals, etc. Such material was produced by the Petitioner Trust about a decade ago, and it has made sincere, significant and consistent efforts to urge civic agencies and the public at large to utilise such material as part of the regular efforts to advance progressive solid waste management. After neglecting this critical requirement for years, the 1<sup>st</sup> Respondent is now utilising some of the material by broadcasting the film *Nagara Nyrmalya* on its website <http://bbmp.gov.in> (which at the time of filing this PIL had already been viewed over 10,000 times on Youtube, over the past two months). At the city scale the Petitioner Trust was engaged in assisting the Raichur City Municipal Council in developing the first ever Management Action Plan on Municipal Solid Waste for a Class 1 town in Karnataka, a task undertaken a decade ago. In addition, the Petitioner Trust has actively worked with various communities adversely impacted by pollution from illegal dumping by solid waste and has assisted these communities in tackling the situation through regulatory systems including challenging illegal decisions to site landfills in forest and common lands which is being done in comprehensive violation of law.

5. The Trustee representing the First Petitioner Trust is a trained environmental science graduate with an M.Phil in Botany (Aerobiology), with previous research experience in Indian Institute of Science and teaching experience in various colleges in India and abroad. She has conducted a variety of training programmes for various constituencies on progressive solid waste management initiatives. She is also a full time Coordinator of education initiatives of the Petitioner Trust.
  
6. The Second Petitioner is a full time Coordinator and Trustee of the first Petitioner Trust. In addition to working with the Petitioner Trust and guiding its efforts, he has played a creative role in many initiatives both with the Government and wider civil society, in advancing people centred and appropriate environmental management, in tackling pollution and also towards developing sustainable solutions to a variety of environmental and social justice problems. He has contributed in a variety of ways for enhancing and democratising the quality of environmental regulation in India, and as a part of this process co-authored a critically acclaimed publication entitled “*Green Tapism: A Review of Environmental Impact Assessment Notification – 2006.*” He has extensive research and training experience in various aspects of solid waste management and has assisted the 2<sup>nd</sup> Respondent Karnataka State Pollution Control Board (hereinafter referred to as KSPCB) on many regulatory issues relating to environmental management and pollution control. He has conducted training programmes for a variety of audiences and has also had the privilege of representing various public interest causes before this Hon'ble Court as a party in person.
  
7. The Third Petitioner is a member of the Shivakote Gram Panchayat of Hesarghatta Hobli, Bangalore North Taluk. For about a decade now he has consistently led the efforts of villagers from Mavallipura and other villages in exposing the illegal egregious acts of pollution and public health nuisance caused by gross negligence of the 1<sup>st</sup>

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Respondent Bruhat Bengaluru Mahanagara Palike (hereinafter referred to as BBMP), 2<sup>nd</sup> Respondent (Karnataka State Pollution Control Board, hereinafter referred to as KSPCB) and the 10<sup>th</sup> Respondent (M/s Ramky Infrastructure Pvt. Ltd., hereinafter referred to as Ramky) due to the siting and operation of the illegal landfill at Survey No. 8 (Gomala land, grazing pasture) of Mavallipura village, which has resulted in death, disease and injury to tens of families, including loss of livelihoods of many. Prior to this, the Third Petitioner has helped organise communities to expose the illegal siting of a landfill spread over 40 acres that included Jarakabande Kaval State Forest which was based on a wholly illegal agreement between the 17<sup>th</sup> Respondent one Mr. H. Bailappa and the 1<sup>st</sup> Respondent BBMP, eventually forcing its closure. He has suffered immense personal damage as a result, including in the form of a variety of fabricated criminal cases that have been foisted against him and other villagers for their acts of asserting their Fundamental Rights.

8. The Fourth Petitioner Dalit Sangarsh Samithi (Samyojaka) is an organisation advancing the Rights of a variety of depressed communities who form a predominant part of the population of Mavallipura and other neighbouring villages. Along with its office bearers and members, this Petitioner has consistently advanced the Constitutionally guaranteed Right to Life, Livelihood and a Clean Environment of villagers of Mavallipura and other nearby villages. The Petitioner has raised a variety of representations on this matter before a wide range of administrative and regulatory authorities to draw their attention to the adverse impacts of the illegal dumping of solid waste on villages, which is a major cause of action in this Petition. A copy of the resolution authorising the organisation to institute these proceedings is annexed at **Annexure B**.

## FACTS OF THE CASE

9. By way of this Petition, the Petitioners respectfully draw the attention of this Hon'ble Court to very serious and systemic failures on the part of the various Respondents in implementing laws and norms governing solid waste management, in particular relating to the siting of landfills in gross violation of the Municipal Solid Waste Management Rules, 2000, Environment Impact Assessment Notification, 2006, Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution), 1981, Aircrafts Act, 1934 (as amended in 1988), Karnataka Town and Country Planning Act, 1961, Constitutional 74<sup>th</sup> Amendment (Nagarpalika) Act, 1992, Karnataka Municipal Corporations Act, 1976, Forest Conservation Act, 1980, etc.
10. In particular the Petitioners wish to present evidence to establish beyond any doubt that the landfills offer a clear and present danger to the health of the citizens as the abandoned landfill operated by 17<sup>th</sup> Respondent Mr. H. Bailappa and the land fill now being operated by 10<sup>th</sup> Respondent Ramky are located within the catchment area of the Thippagondanahalli Reservoir across Arkavathy River which is a major source of drinking water to Bangalore. It is an indisputable fact that the river flows within 2.5 kms of the landfills at Mavallipura, and that the highly toxic leachates are polluting the river which eventually joins Cauvery. The Petitioners submit that such extensive pollution has caused major health problems to the local communities due to water borne and vector carried diseases, which have seen a steep increase in the affected villages since the landfills became operational a decade ago. .
11. In addition the Petitioners submit that the two landfills of Mavallipura, the first operated by 17<sup>th</sup> Respondent Mr. H. Bailappa on Jarakabande Kaval State Forest (now abandoned) and the one operated now by 10<sup>th</sup> Respondent Ramky (abutting the earlier one) are a very serious threat to aviation safety and security of the critical defence facility Yelahanka Air Force Base of the Indian Air Force,

which is merely 05 kilometres from the landfills. Aircraft movements here are seriously compromised due to the threat of bird hits caused by the landfills, putting to serious risk the lives of Indian Air Force personnel and also those of civilians, which has possibly already caused and in the future could aggravate totally avoidable loss to the national exchequer.

12. The Petitioners, in particular, wish to highlight that the 1<sup>st</sup> Respondent BBMP took highly questionable, illegal and high risk decisions to locate not one, but two landfills in forest and grazing pastures of Mavallipura village, Hesaraghatta Hobli, north of Bangalore, over the past decade in gross violation of applicable norms, rules, orders, standards and laws. The first landfill located at Survey Nos. 70, 72 and 59 of Jarakabandekaval of Yelahanka Hobli, spread over about 40 acres, was totally illegally operated between 2001-2006 by the said 17<sup>th</sup> Respondent Mr. H. Bailappa who claimed the land belonged to him. The second landfill is at Survey No. 8 (Gomala, grazing pasture) of Mavallipura village, Hesaraghatta Hobli, and spread over 100 acres, of which 84 acres are already leased to the operator M/s Ramky, arraigned as 10<sup>th</sup> Respondent in this Petition. The Petitioners submit that the decisions of the 1<sup>st</sup> Respondent BBMP in siting, establishing, commissioning and operating of these landfills were wholly illegal, deeply flawed, irrational and against the public interest from the very inception. These anomalies in decision making should readily have been corrected by various regulatory agencies, in particular the 2<sup>nd</sup> Respondent KSPCB, the 4<sup>th</sup> Respondent State of Karnataka, the 5<sup>th</sup> Respondent Karnataka Dept. of Forests, Ecology and Environment (hereinafter referred to as DFEE), the 6<sup>th</sup> Respondent Deputy Commissioner (Bangalore), 7<sup>th</sup> Respondent Karnataka Department of Urban Development (hereinafter referred to as KUD), the 9<sup>th</sup> Respondent Karnataka State Forest Department, and appropriate planning authorities, viz., the 12<sup>th</sup> Respondent Bangalore Development Authority (hereinafter referred to as BDA) and the 13<sup>th</sup> Respondent Nelamangala Planning Authority (hereinafter referred to as NPA), for various reasons set out in this Petition. However, all of

them individually and collectively failed in this task, thus sustaining, even encouraging, the 1<sup>st</sup> Respondent and its contractors to continue with the operation of these illegal landfills. This has consequently caused widespread pollution and public health impacts, including the resultant deaths of many in the impacted villages.

**Landfills located within Arkavathy River/T. G. Halli Reservoir watershed where polluting units are prohibited:**

13. The Petitioners submit that one of the primary reasons why the decision to so locate and continue to operate the landfills is illegal is because they fall within Zone 1 of the protected watershed of Thippagondanahalli Reservoir (hereinafter T. G. Halli Reservoir), a major drinking water source for Bangalore built across River Arkavathy in 1933 by the visionary Chief Engineer of Mysore Sir. M. Visweshwaraiah. In a move to prevent pollution and degradation of the watershed, regulations were issued by the 5<sup>th</sup> Respondent Karnataka State Department of Forests, Ecology and Environment (hereinafter referred to as DFEE) on 18 November 2003, annexed at **Annexure C**, according to which siting of any highly polluting facility within the protected zone of the reservoir is explicitly prohibited. Landfills, in fact, are highly polluting units and are thus listed under Red Category by the 2<sup>nd</sup> Respondent Karnataka State Pollution Control Board (hereinafter referred to as KSPCB), as is evident in its revised order dated 23 May 2011 annexed at **Annexure D**. Consequently, the landfills should never have been located within the watershed of River Arkavathy in the very first instance. The impact of pollution on a critical drinking water source of Bangalore has become a subject matter for *suo moto* Public Interest Litigations before this Hon'ble Court in WP No. 30084/2012, and several directions have been issued. This Hon'ble Court was pleased to issue the following direction in the said matter on 7<sup>th</sup> November 2012 and a relevant extract of the same is as follows:

“We appreciate the fact that respondent no.23 namely, Larsen & Toubro Limited, has already shifted the Plant in order to be compliant with the environmental law. All the other

respondents, who have expressed their willingness to vacate their premises albeit with a request for a period of one year to do so, may file affidavits of undertaking to the Court that they shall vacate the premises on or before 31.07.2013. Undertakings be filed within ten days from today. We have made it clear that strict action shall be taken against all respondents, which may be in the form of sealing orders with immediate effect, if the undertakings are not given and if the respondents are seen to be in violation of environmental laws.”

A copy of this interim direction is annexed at **Annexure E**.

14. The Petitioners submit that the Mavallipura landfills are less than 3 kilometres from the Hesaraghatta Reservoir across Arkavathy River, downstream of which is the T. G. Halli Reservoir. A map prepared by the 13<sup>th</sup> Respondent NPA that details the zoning and land use prescribed per the orders mentioned above is annexed at **Annexure F**.
15. The Petitioners submit that the 14<sup>th</sup> Respondent Bangalore Water Supply and Sewerage Board (hereinafter referred to as BWSSB) failed to take cognisance of the fact that these landfills are dumping grounds for unprocessed, untreated and mixed toxic waste in Zone 1 of the T. G. Halli Catchment Area and are resulting in the direct and irreversible contamination of the drinking water source of the Bangalore metropolis. In light of the aforesaid Notification cited at **Annexure C** above, and the fact that it was issued based on uncontestable evidence of pollution produced by the Indian Space Research Organisation of the situation as it existed a decade ago, alertness on the part of the 14<sup>th</sup> Respondent (being the designated custodian of the watershed) was mandatory and should have compelled the 14<sup>th</sup> Respondent to object to the siting of these landfills at the very inception. Having failed to do thus, such negligence has caused a variety of hardships to the villagers of Mavallipura and other affected villages, and is now threatening the people of Bangalore with the high likelihood of consuming water laced with

highly toxic chemicals that have leached out of the poorly maintained solid waste landfills, and found their way into the reservoir.

**First Landfill at Mavallipura operated by 17<sup>th</sup> Respondent Mr. Bailappa on behalf of 1<sup>st</sup> Respondent BBMP on forest land:**

16. As has been adverted to above, the landfill operated by 17<sup>th</sup> Respondent Mr. Bailappa in collusion with the 1<sup>st</sup> Respondent BBMP over approx. 40 acres of land that he claimed belonged to him was entirely illegal as it was operated without mandatory consent from the relevant regulatory authorities as per the Municipal Solid Waste (Management and Handling) Rules, 2000, and other applicable laws. The Petitioners submit that it was entirely due to their consistent and collective efforts that this illegal landfill was forced to shut down in 2006. The Petitioners further submit that when this landfill was operated, the said 17<sup>th</sup> Respondent Mr. H. Bailappa conducted a roaring business out of dumping waste on what were eventually discovered to be forests lands and not the operator's private property. Besides such serious violations, there were absolutely no environmental and health safeguards built into this operation. Such an illegal operation was carried out in the full knowledge of, and in collusion with, local officials of 1<sup>st</sup> Respondent BBMP.
17. The fact that such dumping was causing widespread pollution and nuisance to the general public from the very beginning is evident in a letter written by the Foundation for Local Health Traditions, a designated ENVIS Centre for Medicinal Plants of the 3<sup>rd</sup> Respondent Ministry of Environment and Forests (hereinafter referred to as MoEF) located at Mavallipura, written on 22<sup>nd</sup> July 2004 to the 5<sup>th</sup> Respondent DFEE, a copy of which is annexed at **Annexure G**. This letter begins with the words “We need your help!!” and goes on to state that (w) are experiencing massive doses of 'air' pollution due to burning of 'plastic' from garbage heaps dumped all around our campus probably by the local municipality. We are also constantly invaded by millions of 'flies' on our campus. ...There are a large number of garbage dumps indiscriminately located in this area (Jarakabande Kaval, Rajankunte/Ramagondanahalli/Bettahalli

Panchayat. Yelahanka). All the villages around this area including FRLHT campus are thus troubled. Then they burn the garbage including plastic a lot of toxic chemicals are released in the atmosphere. There are in-door patients who are treated at FRLHT clinic and they have been complaining of this toxic air pollution.” Responding to this appeal, the 5<sup>th</sup> Respondent DFEE wrote to the 1<sup>st</sup> Respondent BBMP on 7<sup>th</sup> September 2004 stating that “per Municipal Solid Waste (Management and Handling) Rules, 2000 ... the municipal solid waste shall be disposed of in a scientific manner in identified landfill sites only after obtaining authorisation from KSPCB. Indiscriminate dumping, burning of municipal solid waste are prohibited activities... and any violation in this regard invites legal action”. A copy of this letter is annexed at **Annexure H**.

18. The 2<sup>nd</sup> Respondent KSPCB who should have taken serious regulatory action against this illegality, failed to act with due dispatch for several years even when the issue was widely reported and several representations were made to the regulatory agency by the Petitioners and impacted communities for corrective action. It was only when the Petitioners demonstrated beyond any reasonable doubt that the entire operation was carried out by the said 17<sup>th</sup> Respondent Mr. Bailappa within Jarakabande Kaval forest, that the 9<sup>th</sup> Respondent Karnataka Forest Department (hereinafter referred to as KFD) decided to act and initiate steps to protect the forest land. Even here, the 9<sup>th</sup> Respondent KFD did not initiate criminal action for encroachment and diversion of forest land as is the requirement per the Forest (Conservation) Act, 1980 and the directions of the Hon'ble Supreme Court in *T.N. Godavarman Thirumulpad v. Union of India* AIR 1998 SC 769. The astonishing fact is that the 9<sup>th</sup> Respondent KFD worked with the 1<sup>st</sup> Respondent BBMP to cover up the evidence of such gross illegalities by dumping hundreds of truckloads of soil to cover over approximately 22 lakh tonnes of unsegregated garbage that had been dumped here over five years, which now resembled a small mountain range. Confirmation of such actions is evident from a letter dated 6<sup>th</sup> October 2010 of the 1<sup>st</sup> Respondent BBMP to the 4<sup>th</sup> Petitioner, a copy of which is annexed at

**Annexure J.**

19. This situation constrained the 4<sup>th</sup> Petitioner to press for criminal proceedings against the violators and submit a representation under acknowledgment to various authorities on 24<sup>th</sup> October 2005, in particular the 2<sup>nd</sup> Respondent KSPCB, and a copy of the same is annexed at **Annexure K**. It was detailed in this representation that the said 17<sup>th</sup> Respondent Mr. Bailappa was digging deep into the ground and dumping solid waste that also contained industrial and biomedical waste. The entire area was filled with dogs and scavenging birds, that spread disease and fear. Further, the putrefying waste would spread horrible stench for miles arounds, were breeding grounds for flies and mosquitos and a perfect setting for the spread of epidemics like dengue, malaria, cholera, etc. Periodically, to reduce the volume of waste, and thus increase the capacity of this so-called landfill, 17<sup>th</sup> Respondent Mr. Bailappa would set fire to the waste. The hundreds of tonnes of plastic accumulated along with other toxic material such as batteries and resins would burn releasing highly volatile and toxic air pollutants that are highly carcinogenic and cause serious respiratory illnesses and depression. Further, the landfill would be constantly receiving dead and decaying animals, and biomedical waste of hospitals including aborted foetuses, severed limbs, internal organs, etc.

20. Following up on this representation, the 2<sup>nd</sup> Respondent KSPCB inspected the landfill on 26<sup>th</sup> October 2005, and a copy of the inspection report is annexed at **Annexure L**. The official who investigated the landfill provides a vivid representation of the situation that existed and states, amongst other things, as follows:

“At present the BMP has disposing the municipal solid waste of quantity around 500 to 600 MT (metric tonnes per day) at Sy. NO. 72, 70 Subadarpalya and Board have not accorded permission to dispose the solid waste at this area.

During inspection it was noticed that lot of leachate is generated due to heavy rains in that location and the leachate is collected

in the artificial check dam, built by the land owner and BMP.

During inspection it was noticed that the leachate is over flowing and joins to near by natural valley.

This natural valley is joins to the Arkavathi River via Koramanakunte tank, Mavallipura tank, Seekote Village tank and Aivarukandapura villager tank. The Arkavathi River finally joins to TGR.

The overflow and seepage of the leachate from the disposal site will cause surface water pollution of near by tanks, also chance of contamination of Arkavathi River.

The Indian Air Force Air Base station near Hunesamaranahalli village, Bellary Road... is located at aerial distance of around 5.5 KM towards East direction, Jakkur Flying Training Centre, Government of Karnataka is located at a aerial distance around 7 KM and Indian Air Force station, Jalahalli is located at aerial distance of around 6 KM from the disposal site.

The Arkavathi River is located towards down stream side of the dump site and at a distance around 2.5 KM (Aerial).

It is recommended to issue show cause notice to land owner & BMP also call the land owner, BMP and the complainants for personal hearing. Further it is strongly recommended to withdraw the authorisations issued to BMP and filed criminal case under Environment Protection Act, 1986 against the land owner and BMP authorities immediately.”

21. Soon after, a notice was issued by the 2<sup>nd</sup> Respondent KSPCB to the 1<sup>st</sup> Respondent highlighting all the aforesaid violations and to “show cause” within fifteen days .. why action deemed fit under the provisions of Section 15 & 17 per Environment (Protection) Act, 1986 shall not be initiated”. A copy of this notice dated 9<sup>th</sup> November 2005 is annexed at **Annexure M**. Subsequently, a hearing was held on 11<sup>th</sup> November 2005 on the issue by the 2<sup>nd</sup> Respondent, and a decision was taken that the 1<sup>st</sup> Respondent BBMP “within 20 days

shall start treating the leachate generated from the municipal solid waste dumping site at Mavallipura or send the leachate to BWSSB treatment plant.” A copy of the minutes of this meeting released on 22<sup>nd</sup> November 2005 are annexed at **Annexure N**. Even this instruction was not complied with and eventually a notice was issued on the said 17<sup>th</sup> Respondent Mr. Bailappa on 30 January 2006 confirming the following:

“The above facts clearly indicate that that land owners are allowing BMP authorities to dump garbage in their land unscientifically without obtaining authorisation from the Board, which has caused smell and fly nuisance in the area and also leading to pollution of the ground water and surface water bodies. In view of the above, you are hereby called upon to “show cause” within fifteen days of receipt of this letter as to why action deemed fit under the provisions of Section 15 Environment (Protection) Act, 1986 shall not be initiated against you.”

A copy of this notice is annexed at **Annexure P**.

22. As no response was once more forthcoming from the 1<sup>st</sup> Respondent BBMP or its contractor, the 2<sup>nd</sup> Respondent finally instituted criminal proceedings against 17<sup>th</sup> Respondent Mr. H. Bailappa and his son Mr. S. B. Hanumantharayappa by filing a criminal complaint (CC No. 261/2006) before the Court of the Metropolitan Magistrate (MMCT-1) on 18 February 2006 and a copy of the same is annexed at **Annexure Q**. The Petitioners wish to submit that the Board questionably exempted initiating similar criminal action against key officials responsible for the disaster from 1<sup>st</sup> Respondent BBMP when the civic agency was equally, if not more, responsible for committing the crime. The Petitioners further submit that in subsequent years the 2<sup>nd</sup> Respondent KSPCB has failed to follow up on this complaint and the case is yet to be adjudicated. Meanwhile, the waste accumulated in this illegal landfill continues to ooze out thousands of litres of toxic leachates which pollute everything that it comes in contact with, especially lake waters that drain into the Arkavathy

river.

**Landfills sited very close to Yelahanka Air Force Training Base:**

23. Another egregious failure and illegality in the decision making pertaining to the siting of the landfill operated by 17<sup>th</sup> Respondent Mr. Bailappa, and later by the 10<sup>th</sup> Respondent Ramky, is that it is merely 5 kilometres from the Yelahanka Air Force Training Base, a major and critical defence facility of India. Even as this serious violation was brought to the attention of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents by the Petitioners, especially the fact that it is in gross violation of minimal exclusion distance norms to the aerodrome per the Aircraft Act, 1934 (as amended in 1988) which per Section 10 categorically states that there should not be a landfill within 10 kilometres of the aerodrome reference point. So critical is this limitation to safeguard the safety of aircraft movements, that it was made even more stringent when the Municipal Solid Waste Management Rules, 2000 were enacted, which per Clause 10 of Schedule III categorically states as follows:

“Landfill site shall be away from airport including airbase. Necessary approval of airport or airbase authorities prior to the setting up of the landfill site shall be obtained in cases where the site is to be located within 20 km of an airport or airbase.”

24. Rather than comply with this standard rigorously and ensure that there is no possibility whatsoever of violating the siting guidelines, the Petitioners submit that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents colluded in violating this critical standard by allowing for another massive landfill in Mavallipura to be set up and operated by the 10<sup>th</sup> Respondent M/s Ramky. This minimum distance standard is particularly important because landfills and the trucks that transport municipal wastes into them attract hundreds, even thousands, of scavenging birds. Closer the bird activity to an airbase, more likely the possibility of a bird hit, as planes are most vulnerable when they take off and land, and such incidents could potentially disable

aircrafts due to damage to the engine or other parts, or even cause air accidents. The Petitioners produce an aerial image representation detailing the distances involved between the landfills and the Yelahanka Air Force Station based on an extract from Google Earth imagery at **Annexure R**. It may be observed from this that the said landfills are barely 5 kilometres from the airbase, well within the approach funnel wherein there is a high density of flight movements and thus are a clear and present danger to aviation safety and security of the Defence Aircraft and personnel. The same image also reveals that the Jakkur Civilian Flying Training School is also very close, only 7 kilometres away.

25. Evidence that the 2<sup>nd</sup> Respondent was fully aware of the criticality of enforcing this guideline on siting the landfills in Bangalore is evident from the minutes of the “10<sup>th</sup> Meeting of the Committee constituted by the Board to consider applications for issue of authorisation for setting up Municipal Solid Waste processing and disposal facility under Municipal Solid Waste (Management and Handling) Rules, 2000”, dated 5<sup>th</sup> August 2004, and a relevant extract from this is as follows:

“Decision: The committee decided to issue authorisation to the BMP, Bangalore for setting up of Municipal Solid Waste Processing and disposal facility under the Municipal Solid Waste (Management and Handling) Rules, 2000 at Sy. No. 8, Mavallipura, Hesaraghatta, Krishnarajapuram Hobli, Bangalore North Taluk subject to the condition that the scientific disposal shall not cause any bird menace and BMP will be responsible for obtaining NOC from Airport Authority of India, Government Flying Training School, Jakkur and Air Force Station, Yelahanka. ...”

A copy of this decision is annexed at **Annexure S**.

26. It is obvious from the above that Mavallipura falls within a zone that has a very high density of air traffic as two airports are within 10 kilometres of the landfill, viz. Yelahanka Air Force Base and Jakkur

Flying Training School, and also the Bangalore International Airport which is 19 kilometres away. What is shockingly evident is that even before this decision had reached the intended parties for requisite action, in particular the Air Force and Airport authorities, the 2<sup>nd</sup> Respondent KSPCB decided to issue an authorisation for setting up and operating a solid waste processing and disposal facility by the 10<sup>th</sup> Respondent Ramky at Mavallipura vide its letter dated 18<sup>th</sup> August 2004, a copy of which is annexed at **Annexure T**.

27. Soon after better wisdom seems to have prevailed on the 2<sup>nd</sup> Respondent KSPCB which in response to the Indian Air Force, represented by the 11<sup>th</sup> Respondent, staunchly opposing the move to locate the Ramky operated landfill at Mavallipura, withdrew the authorisation extended for siting the landfill by Ramky on the following rationale:

“The Air Force Station, Yelahanka, Bangalore, vide their letter dtd. 14.8.04 have objected to issue No Objection Certificate, as the proposed integrated Municipal Solid Waste Management facility at Sy No. 08, Mavallipura is located within 10 kms radius from Yelahanka Air Force Station. The provisions of Aircraft Act 1934 (Section 10 (1-A) combined with Aircraft Amendment Act 1988, has prohibited the slaughter & flying of animals, depositing rubbish & filth or other polluted & obnoxious matters within radius of 10 kms from the Aerodrome Reference Point”

In the same decision, the 2<sup>nd</sup> Respondent Board also directed that the 1<sup>st</sup> Respondent BBMP “shall identify the alternate site for setting up & operated the waste processing/disposal facility under Municipal Solid Waste (Management & Handling) Rules, 2000 immediately and apply for /obtain authorisation from the Board”. A copy of this decision of the Board taken on 3<sup>rd</sup> September 2004 is annexed at **Annexure U**.

28. It appears, though, that the Respondent Board was pressurised to reverse this legally accurate, scientific and rational decision, due to

pressure from the 1<sup>st</sup> Respondent BBMP, as is evident from a letter dated 18 October 2004 written by then Commissioner of BBMP to the then Chairman of the 2<sup>nd</sup> Respondent KSPCB, which is annexed at **Annexure V**. The intent of this letter clearly is to subvert law and applicable standards and ensure that Mavallipura continues to be grounds for dumping Bangalore's waste. The fact that it is proximal to the very sensitive defence establishment Yelahanka Air Force Base is completely lost on the Commissioner who in fact argues that 2<sup>nd</sup> Respondent KSPCB should "... overrule the objections of the Air Force Station, Yelahanka & permit BMP to proceed in establishing the proposed landfill station for processing & composting of Municipal Solid Waste on Sy No. 8 of Mavallipura village."

29. Rather than uphold the law and secure the Air Force base, the 2<sup>nd</sup> Respondent yielded to the pressure and even took up the cause of pleading for an NOC from the Indian Air Force for the Mavallipura site. The Petitioners submit that such solicitation on the part of a regulatory agency promoting the cause of a landfill over the security of a Defense Airbase, as is evident from the letter dated 20 November 2004, a copy of which is annexed at **Annexure W**, is highly questionable and illegal. Subsequently, a meeting was convened to discuss this issue on 24 November 2004, in which the Air Force Station authorities are said to have participated, as is evident from the letter of the 2<sup>nd</sup> Respondent dated 2<sup>nd</sup> December 2004, a copy of which is annexed at **Annexure X**. As the minutes of the discussion reveal, the Air Force Authorities did not consent to the landfill at Mavallipura. However, in what appears to be a desperate attempt at convincing the Air Force authorities to yield and extend the NOC for the landfill, the Board directed the 1<sup>st</sup> Respondent to "identify in future the separate site to the extent of an area of about 5-6 acres (far away from the air port station) for pre treatment of MSW with prior approval of the KSPCB and then the pre treated waste shall be sent to Mavallipura for further processing." The Board also directed that "BMP will take up the studies of bird behaviour in consultation with BNHS (Bombay National History Society)." The Petitioners contend

that none of these conditions were ever complied with, and yet the 2<sup>nd</sup> Respondent KSPCB proceeded to once more approve the landfill at Mavallipura to be operated by the 10<sup>th</sup> Respondent Ramky by issuing a Corrigendum as authorisation on 28 October 2006, a copy of which is annexed at **Annexure Y**.

30. The consequence of such callous disregard for appropriate standards and norms, the Petitioners contend, has been that birds attracted to the landfills may have caused air crashes in the Yelahanka Air Force Base resulting in the death of at least an Indian Air Force pilot instantly and a co-pilot who went into coma passed away a year later. This accident occurred just days before the prestigious Aero India show in February 2007, as is evident from two news report dated 2<sup>nd</sup> February 2007 annexed at **Annexure Z and Annexure Z-1**. The 1<sup>st</sup> Petitioner sought to secure a copy of the investigation report into these air crashes per the Right to Information Act, 2005 which was denied, and a copy of this decision is annexed at **Annexure AA**. The Petitioners contend, however, that the risks to air safety at the base from the landfill could be verified from the 11<sup>th</sup> Respondent, Air Officer Commanding in Chief of the Yelahanka Air Force Base.
31. It is well established that a high density of bird activity around airports increases the risk of accidents to flight movements in general, especially near airports, where flight movements involve take-offs and landings when they are most susceptible to bird hits and thus also most vulnerable to accidents. It is while undertaking such movements that trainer pilots are at particular risk and it is critical to safeguard them and the aircrafts from such high risk associated facilities that landfills are to prevent any accidents. As is revealed in an article entitled "*Dump the Mavallipura landfill*", reported in The Times of India on 13<sup>th</sup> July 2012, annexed at **Annexure AB**, during the financial year of 2011-12 "11 of 55 training aircraft at the Yelahanka Defence Training Base suffered from bird hits in the past year alone. In recent years, there have also been accidents resulting in deaths of IAF pilots at the base. The Bengaluru International Airport is less than 20 km from the landill, and its currently adding a second runway. This will increase air

traffic in this area and the landfill problem will put more aircraft vulnerable to bird hits”.

32. The Petitioners aver that one of the oldest standards regulating activity around airports is to contain the risk from bird activity by strictly regulating various developments and this is a non-negotiable standard contained in the Aircrafts Act, 1934, as amended in 1988. In the instant case, such statutory standards have been comprehensively flouted by allowing the landfills at Mavallipura in such close proximity to a critical Defence Training facility. As this air base is also the site of the prestigious Aero India show, which annually attracts a wide range of aircrafts from world over, the Petitioners contend that the risks involved are too enormous and irreversible, and abundant caution ought to have been exercised by the regulatory authorities in protecting the Air Force station and such other facilities from needless calamity. From the records produced herewith, it appears that such caution has been thrown to the winds, and as a consequence seriously compromised the defence security of India, as the landfills could potentially result in causing casualties of Defence personnel and civilians, and also associated loss of aircrafts and property.
33. The Petitioners contend that if the risk is as high as has been revealed above when the landfill operated by 10<sup>th</sup> Respondent Ramky has covered half of the designated landfill area of 100 acres, the risks involved if this area is spread to the full extent can well be imagined. If such gross illegalities are sustained now, the problems could worsen manifold when in future the landfills may be expanded further, and the nature of land use around the airbase may drastically alter from the current predominantly agricultural nature, to densely populated neighbourhoods and commercial zones, all of which are potentially high bird attracting zones. The lackadaisical approach of land use planning and regulatory authorities in strictly enforcing relevant planning standards and norms especially given that it has a direct relationship to the safety and security of a defense air base, the Petitioners submit, is an extremely disturbing situation.

**Mavallipura landfills have caused extensive pollution of water, air, soil and have irreversibly damaged public health and farming activities:**

34. The Petitioners now respectfully draw the attention of this Hon'ble Court to the fact that the failure of the regulatory and administrative agencies to rigorously enforce relevant standards and norms applicable to operation of municipal solid waste management landfills at Mavallipura has resulted in extensive pollution of soil, air and water (both surface and ground water aquifers, including lakes, tanks, ponds, wells, bore-wells and the river). A decade of pollution has contaminated water to such an extent that there are no drinking water sources left in the affected villages and the water now available in wells and borewells is not even fit for bathing. The Petitioners submit that the flow of highly toxic effluents discharged from the landfills is directly and irreversibly contaminating waters of the River Arkavathy as well, which flows within 3 kilometres from the landfills at Mavallipura.

35. Such extensive pollution from the landfills has adversely impacted lives and livelihoods of tens of families, even resulting in death of several people, young and old. Several more are suffering from a variety of chronic ailments such as kidney failures, cancers, asthma, cardiac problems, immunity loss, depression, etc. and the population in general, especially women and children, suffer from various infectious diseases such as gastroenteritis, skin diseases, respiratory infections, chikungunya, etc. Such callousness has also caused the destruction of large areas of farmland and has increased the frequency of death and disease amongst cattle and other livestock. Landless labourers have suffered immensely as livelihood opportunities based on farming and grazing have become rather scarce due to pollution, while land holding families are burdened by their lands becoming unproductive as a consequence of pollution. A decade ago Mavallipura and other surrounding villages were well known for cows producing excellent quality of milk. But now the supply of milk from these contaminated villages has been banned by the Karnataka Milk Federation as it has found the milk drawn from

cows foraging in Mavallipura to be of deficient quality and the agency suspects this could be the result of cows being contaminated by toxic chemicals that have bio-accumulated in the cows. As a result, those owning livestock are losing their only base for survival, even as they are struggling to make ends meet to find safe fodder and water to sustain their animals.

36. The Petitioners wish to submit to this Hon'ble Court a comprehensive report that the 1<sup>st</sup> Petitioner prepared, entitled "*Bangalore's Toxic Legacy: Investigating Mavallipura's Illegal Landfills*", a copy of which has been produced at **Annexure AC**. This report has been submitted to various authorities from time to time under acknowledgment, has been relied upon by the 2<sup>nd</sup> Respondent KSPCB in formulating several decisions and is also accessible online at <http://www.esgindia.org>. The report is based on intensive and consistent analysis of at least 7 water sources upstream and downstream of the polluting landfills which has been undertaken annually since 2005. This report also surveys impacts on human health and environment and that on cattle and other livestock. The following is an extract from the concluding part of the report:

"The Mavallipura landfills are a clear indicator of the callous disregard that BBMP has for public health and environmental laws and standards of India. It is also demonstrative of their active contempt to the directions of the Hon'ble Supreme Court of India which has gone into extraordinary detail and effort to arrest environmental pollution. This situation is also an alarming indicator of the appalling dismissal of the Fundamental Right of the communities of Mavallipura and surrounding villages to live a life of dignity, and in a clean environment.

People are dying in Mavallipura today. Despite many falling sick with increasing regularity, there simply has not been any comprehensive effort on the part of BBMP or the health authorities to attend to this health crises. It is deeply worrying that many are reporting incurable diseases like cancer, kidney

failure, etc. which could well be a result of the high toxicity in the ambient environment. Two deaths in July 2010, one of Rajanna, a victim of cancer, and 15 year old Akshay Kumar due to dengue, are alarming indicators of the deteriorating health status of local communities.

While BBMP and the landfill operators, Ramky and Bailappa must accept full responsibility for this unfortunate calamity, it must also be recognised that this kind of situation arises due to the acute disregard to a simple and effective solution to the problem: segregating waste at source, composting organic waste locally, recovering recyclables locally to the maximum possible extent, and only transporting useless and hazardous material to landfills. For this to happen, everyone who generates waste must own up the responsibility for the adverse impacts we are causing on the people of Mavallipura, and similar communities around Bangalore.

Unless we take this proactive approach, it is more than likely that such landfills will continue to cause extensive pollution and disturb the peace, quiet, health and livelihoods of impacted communities. Our use and throw approach will also certainly impact us, indirectly. What is dumped in Mavallipura is polluting water sources of the Arkavathy River, waters from which is pumped back to Bangalore.

The purpose of this report is to awaken us to our collective failure and also lay the ground for punitive action against BBMP, landfill operators and regulatory agencies who are dealing with life and environment callously.”

37. The Petitioners painfully submit that since the Report was released, seven more have died as a direct consequence of the landfills, bring the total number who have died at of the time of submitting this petition to nine. A complete list of those who have died due to the landfills is annexed at **Annexure AD**.

**Landfill operated by 10<sup>th</sup> Respondent Ramky in violation of Environment (Protection) Act, 1986, Environment Impact Assessment Notification, 2006 and the Concession Agreement with 1<sup>st</sup> Petitioner BBMP:**

38. The Petitioners submit that while the landfill operated by 17<sup>th</sup> Respondent Mr. Bailappa was absolutely illegal, the Ramky operated landfill is no different. It is a matter of record that the 1<sup>st</sup> Respondent BBMP along with 6<sup>th</sup> Respondent Deputy Commissioner proceeded to secure 100 acres of grazing pasture at Survey No. 8 of Mavallipura abutting the Jarakabande Kaval forest for landfill operated by 10<sup>th</sup> Respondent Ramky. This landfill, it was claimed when approved, would comprehensively comply with all standards and norms contained in the Municipal Solid Waste Management Rules, 2000 and other applicable laws. On such basis the 1<sup>st</sup> Respondent BBMP entered into a Concession Agreement with the 10<sup>th</sup> Respondent Ramky on 11<sup>th</sup> August 2004, contracting the latter for the task of “Development, Operation, Maintenance and Transfer of an Integrated Municipal Solid Waste Processing and Engineered Sanitary Landfill at Mavallipura Bangalore” according to which the operator seems to be fully aware of the minutes of the 10<sup>th</sup> meeting of the committee constituted by 2<sup>nd</sup> Respondent KSPCB on authorisation of Municipal Solid Waste Management facilities, wherein it is categorically stated that final approval is subject to securing clearances from the three airports in the vicinity. The Concessionaire, 10<sup>th</sup> Respondent Ramky, has submitted per this Agreement that it has only secured a No Objection Certificate dated 29<sup>th</sup> July 2004 from the Jakkur Flying Training School, but none whatsoever from the Yelahanka Air Force Base, and the Bangalore International Airport, which was then under construction. The Petitioners submit that despite these lacunae and serious violations, the 2<sup>nd</sup> Respondent KSPCB approved the landfill on 28 October 2006 as is evident from **Annexure Y** adverted to above.

39. The Petitioners submit that in addition to other violations cited above, the entire process of authorising this landfill is in absolute and gross violation of the Environment Impact Assessment Notification,

2006 (hereinafter referred to as EIA Notification, 2006), which came into effect on 14<sup>th</sup> September 2006. As per item 7 (i) of the Schedule to this Notification, Common Municipal Solid Waste Management Facility (CMSWMF) must secure clearance from the 15<sup>th</sup> Respondent State Environment Impact Assessment Authority (hereinafter referred to as SEIAA), after the proposal has complied with the due process of Screening, Scoping, Public Consultation and Appraisal based on a Comprehensive Environment Impact Assessment of the project. In the event the SEIAA was not yet constituted pursuant to the enactment of the EIA Notification, 2006, the facility should have been processed for clearance by the 3<sup>rd</sup> Respondent Union Ministry of Environment and Forests (hereinafter referred to as MoEF). In the instant case, the Petitioners assert that the 10<sup>th</sup> Respondent Ramky is in comprehensive violation of the mandatory requirements per this Notification and also the one that preceded it, the original EIA Notification, 1994, and thus the landfills have also been approved and operated in fundamental violation of the Environment (Protection) Act, 1986. Despite such glaring irregularities, and the fact that no Environmental Public Hearing was ever conducted on the basis of a Comprehensive Environment Impact Assessment as is required per both EIA Notifications, the 2<sup>nd</sup> Respondent KSPCB proceeded to allow the facility to be operated based on the issuance of a highly illegal and questionable Corrigendum dated 28<sup>th</sup> October 2006, annexed at **Annexure Y**, in blatant disregard of law and applicable standards.

40. The Petitioners wish to submit to this Hon'ble Court that such illegal decision making was conducted wholly in-transparently, without in any manner involving or including the affected communities in decision making as is required per the Principle of Prior and Informed Consent, in gross violation of orders protecting the Arkavathy River watershed, seriously disregarding applicable land use planning norms, in comprehensive violation of standards and statutes protecting airports from the adverse impacts of such facilities within exclusion zones, and also overlooking the staunch opposition to this decision expressed by the Petitioners and also the

villagers on a variety of legal, scientific and human rights violations grounds.

41. The Petitioners submit that it appears whenever local villagers resisted the dumping unable to bear the horrendous pollution, the 2<sup>nd</sup> Respondent KSPCB would send an officer to conduct a site visit and file a report. Thereafter, a 'show cause' notice would be issued on the operator. One such notice was issued on 17<sup>th</sup> October 2008 by the the 2<sup>nd</sup> Respondent KSPCB on the 1<sup>st</sup> Respondent BBMP and 10<sup>th</sup> Respondent Ramky, a copy of which is annexed at **Annexure AE**, wherein the following is recorded:

“Not taken measures to avoid entry of dogs and ragpickers inside the plant.

There is no leachate effluent management facility in the plant. One of leachate pond is completely filled & no more space in the unit. The leachate management by solar evaporation is not viable.

Not taken serious steps on proper handling of leachate generated, for its proper storage and treatment facility. This causes surface waste & ground water pollution in the area.

There is about 1000 tonnes of waste was dumped in the open ground without platform, from which leachate generated was stagnated.

Not provided the green belt as per the guidelines.

The above observations clearly shows that you are violating the conditions mentioned in the authorisation issued ... such action on your part attracts penal action as per Law.”

Despite such stern warnings, no penal action was ever initiated against the 10<sup>th</sup> Respondent Ramky, who continued to pollute Mavallipura and other affected villages, and the Thippagondanahalli Reservoir watershed, with impunity.

**Gross violation of environmental and health standards by 10<sup>th</sup> Respondent Ramky:**

42. The Petitioners submit that none of the conditions imposed by the 2<sup>nd</sup> Respondent while according permission to establish the landfill by 10<sup>th</sup> Respondent Ramky, or even the conditions of the Concession Agreement, have ever been complied with in letter and in spirit. Ramky secured control over 84 acres of the 100 acres and began to dig massive pits to landfill unsegregated waste, including biomedical and toxic waste, over 46 acres, as is evident from a report produced on 7<sup>th</sup> July 2010 by the 2<sup>nd</sup> Respondent KSPCB in response to an enquiry by the Hon'ble Lokayukta based on the 3<sup>rd</sup> Petitioners complaint against the illegal landfills and the same is annexed at **Annexure AF**.
43. The 10<sup>th</sup> Respondent Ramky earned tens of crores by way of tipping fees. Absolutely no treatment of any sort was undertaken, nor was any effort made to contain the massive pollution that resulted. In time all that was visible of what were highly productive grazing pastures of Mavallipura were mountains of waste, as is evidenced in the report published by the Petitioners, annexed at **Annexure AC**, adverted to above. There were not and there are not any measures adopted by the 10<sup>th</sup> Respondent Ramky to process the effluents discharged as per norms. As a matter of fact there has never existed a functional Effluent Treatment Plant to treat the full load of the highly polluting leachates that are regularly released. Nor does one exist now.
44. The Petitioners submit at **Annexure AG** a comparison of the various infrastructural facilities and management steps that the 10<sup>th</sup> Respondent was to have undertaken per the terms and conditions of the Concession Agreement concluded with 1<sup>st</sup> Respondent BBMP, and this reveals that almost all conditions have been comprehensively violated. The Petitioners also submit at **Annexure AH** a calculation of the financial benefits accrued by the 10<sup>th</sup> Respondent, per the terms and conditions of the Concession Agreement. Clearly, a phenomenal financial gain has been made by

the 10<sup>th</sup> Respondent even as none of the obligatory responsibilities to safeguard health and environment have been conformed with. The Petitioners further submit at **Annexure AJ** a comparison of status of the landfills operated by 17<sup>th</sup> Respondent Mr. Bailappa and the 10<sup>th</sup> Respondent Ramky to demonstrate the gross abuse and violations of applicable laws, norms and standards in both landfills.

45. As has been demonstrated by the Petitioners in the aforesaid report of the 1<sup>st</sup> Petitioner at **Annexure AC**, the effluents discharged from the Ramky operated facility are being discharged directly into streams, ponds and lakes, seriously contaminating them. The toxic leachates have polluted wells and bore-wells in Mavallipura and downstream villages as is evident from the aforesaid analysis of the Petitioners. The Petitioners further submit a recent report of the state of contamination of waters of the affected villages, analysed by the Dept. of Mines and Geology, Bangalore on 6<sup>th</sup> July 2012 and a copy of the same is annexed at **Annexure AK**. It is evident from these latest studies that there has been a significant and incremental increase in contamination of water sources in and around the landfill, thus putting beyond any doubt that the landfills are the cause of such widespread pollution. The Petitioners submit that there is no other industrial, urban or such other polluting facility in the vicinity that could have been blamed for contamination of the waters of Mavallipura and surrounding villages. Therefore the cause of such contamination, the Petitioners aver, is absolutely and substantially due to the landfills at Mavallipura being operated by the 10<sup>th</sup> Respondent Ramky, and to a lesser extent due to the leachates released from the accumulated wastes in the landfill operated earlier by 17<sup>th</sup> Respondent Mr. Bailappa.

**Weak action by authorities to attend to complaints from impacted communities:**

46. Despite such exhaustive efforts on the part of the Petitioners, the regulatory agencies, in particular the 2<sup>nd</sup> Respondent KSPCB, the 3<sup>rd</sup>

Respondent MoEF, the 5<sup>th</sup> Respondent DFEE, the 7<sup>th</sup> Respondent KUD, the 9<sup>th</sup> Respondent KFD and the 14<sup>th</sup> Respondent BWSSB amongst others have failed to act in time to correct the situation. This has only encouraged the 1<sup>st</sup> Respondent BBMP to continue dumping of waste at Mavallipura through its contractors, despite widespread protests from local communities over the years.

47. Despite such protests from communities becoming a frequent occurrence, no Mayor has ever visited the villages affected by the landfills. The first Commissioner of the 1<sup>st</sup> Respondent BBMP to visit the affected villages is Mr. Siddaiah, IAS, who visited the Mavallipura landfills on 5<sup>th</sup> March 2011 along with several officials from various interconnected departments and also spent an entire day with the affected villagers. During this visit the local communities interacted with the Commissioner and shared their tales of woe. Without exception, every one complained of the horrible stench and that the landfill had become a breeding ground for mosquitoes and houseflies. The villagers complained that high prevalence disease causing vectors was such a serious problem to their day to day existence that families are forced to sit for meals inside mosquito nets to ward off flies and mosquitoes.
48. Farmers shared with the Commissioner that there were repeated crop failures as water and soil was badly contaminated due to pollution from the landfills. Shepherds complained that hundreds of dogs roamed freely on the uncontained landfills and attacked and killed several sheep and even cows. At least two children have been viciously attacked by packs of dogs. Many of the families who lost their bread winners and next of kin shared their grief with the Commissioner. Many who were suffering from chronic illnesses related their woes and how the landfill had deprived them of their right to a normal healthy existence. In particular Mr. Muniraju, then 40 years, shared with the Commissioner that he suffered kidney failure as he was forced to graze sheep in the village grazing pastures, which now were filled with toxic waste. He also painfully shared that unable to meet the costs of dialysis, he was compelled to sell sheep every time to support the high costs of dialysis in order to stay alive.

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Clearly his family suffered enormously. The Commissioner assured him that all his medical expenses would be undertaken by the 1<sup>st</sup> Respondent.

49. Several assurances were made to rectify the situation, alleviate the sufferings of the impacted communities, provide compensation to the next of kin of the deceased, provide free health care for those suffering from various chronic and infectious ailments, and also compensate those who had lost livestock and farmlands. Villagers were also assured that safe drinking water would be supplied regularly, including for sustaining livestock. None of these promises were kept, however, except for conducting one health camp which too saw no follow up action being carried out. The promise of comprehensively supporting the health costs of those suffering from chronic illnesses was also not kept. On 23 June 2012, Mr. Muniraju passed away unable to support the high costs of dialysis and secure a kidney transplant.

50. Clearly traumatised by Mr. Muniraju's death and several others frequently dying of chronic illnesses as a consequence of the pollution, villagers organised protests and demanded that the landfill should be shut down, the entire area decontaminated and victims of pollution adequately compensated. The Shivakote Gram Panchayat and the Gantiganahalli Gram Panchayat, in whose jurisdiction the affected villagers are located, represented these concerns before the 2<sup>nd</sup> Respondent KSPCB. The representation of the Shivakote Gram Panchayat dated 4<sup>th</sup> July 2012 is annexed at **Annexure AL** and the representation of the Gantiganahalli Gram Panchayat dated 6<sup>th</sup> July 2012 is annexed at **Annexure AM**.

**2<sup>nd</sup> Respondent KSPCB shuts down Ramky operated landfill on substantive grounds, only to revoke this decision soon after under political pressure:**

51. In response to this situation, and also the fact that by now the 2<sup>nd</sup> Respondent KSPCB had verified the aforesaid report of the 1<sup>st</sup>

Petitioner annexed at **Annexure AC** and established the veracity of the analysis based on the regulatory agency's independent analysis, after extending several opportunities to the 1<sup>st</sup> and 10<sup>th</sup> Respondents to rectify the situation, and when it was established beyond any doubt that the said Respondents were not in the least interested in attending to the serious problems confronting the villagers, and also referring to the contamination of River Arkavathy, and considering the fact that the 11<sup>th</sup> Respondent Yelahanka Air Force Station had not extended NOC to the landfill, a decision was finally taken on 11<sup>th</sup> July 2012 by the 2<sup>nd</sup> Respondent KSPCB ordering immediate closure of the landfill operated by the 10<sup>th</sup> Respondent Ramky. The reopening of the landfill, if any, was subjected to a series of conditions including decontamination of the entire landfill, scientifically processing all accumulated wastes and the transport of unprocessed waste to the Mandur landfill site for further processing. A copy of this order dated 11<sup>th</sup> July 2012 of the 2<sup>nd</sup> Respondent is enclosed at **Annexure AN**. This order found uncontestable support from the 3<sup>rd</sup> Respondent MoEF, which vide its letter to the 2<sup>nd</sup> Respondent dated 16 July 2012, annexed at **Annexure AP**, “requested to take necessary action on the above mentioned complaint as per the provisions of the Municipal Solid Waste (Management & Handling) Rules, 2000, under intimation to this Ministry.”

52. The villagers, for the very first time in a decade, began enjoying some relief from the stench, mosquitoes, and the somewhat reduced pollution. However, the leachates continued to flow out without any treatment whatsoever, and contaminate various water sources. In addition, the wastes would frequently catch fire causing widespread air pollution. Clearly the 10<sup>th</sup> Respondent was not complying with the conditions that had been imposed on it by the 2<sup>nd</sup> Respondent. Troubled by such inaction in gross violation of the law, the 3<sup>rd</sup> Petitioner in his capacity as Member of Shivakote Gram Panchayat submitted a representation to the 2<sup>nd</sup> Respondent KSPCB on 17 October 2012 complaining that none of the conditions imposed in the aforesaid closure order of 11<sup>th</sup> July 2012 had been complied with at all. The representation demanded that criminal action per law had to

be initiated against the 10<sup>th</sup> Respondent Ramky, and the pending criminal proceedings against 17<sup>th</sup> Respondent Mr. Bailappa must also be carried forth to its logical end. Further, the representation sought that the entire area had to be decontaminated at the cost of the violators and the victims compensated as per the law and the Polluter Pays Principle. A copy of this Representation is annexed at **Annexure AQ**.

53. Rather than take the sought for corrective action, the 2<sup>nd</sup> Respondent KSPCB has now proceeded to revoke the closure order cited at **Annexure AN** above by issuing the impugned order dated 25<sup>th</sup> October 2012 annexed at **Annexure AR**. The rationale for this is claimed as being “in the interest of the public health & environment in general, the garbage in the city cannot be allowed to stay further, as it would cause health related issues in the core area of the city. Hence, it is decided to revoke the order issued (cited at **Annexure AN** above) with immediate effect temporarily and authorisation under Municipal Solid Waste Rules is hereby granted till 31.12.2012.”
54. The Petitioners submit that this is not only a contradictory statement, as the landfill has been sited and operated in comprehensive violation of the Municipal Solid Waste Management Rules, 2000, but that it is clearly impossible to force compliance with applicable norms and the said Rules by merely indicating that the 2<sup>nd</sup> Respondent wishes for such compliance. Such irrational and unlawful argumentation has formed the basis of issuing the impugned order. The views of the directly affected villagers, the airport authorities, and environmental groups involved with protecting the relevant area’s ecological landscape were not sought nor heard before re-opening the deadly landfill through the impugned order. That the 2<sup>nd</sup> Respondent is aware of the vacuousness of its arguments, and that it is wary of the consequences of sustaining and supporting such gross illegalities, is evident from the following condition in the operative portion of the order which states that it is issued “without prejudice to any court case pending”.
55. The Petitioners contend that this revocation order has been issued

under political pressure from the highest levels and in clear violation of all applicable norms, rules, statutes and the principles of natural justice.

56. At the time of the issual of the said impugned order cited at **Annexure AR** above, this Hon'ble Court was seized of the matter of garbage mismanagement in Bangalore and had also issued several directions in the aforesaid Writ Petitions Nos. 24739/2012 c/w 30450/2012. The least that the 1<sup>st</sup> Respondent BBMP and 2<sup>nd</sup> Respondent KSPCB could have done, and should have done, is to have sought the indulgence of this Hon'ble Court in perusing the matter and issuing appropriate directions. Not only did the said Respondents not bring this matter to the attention of this Hon'ble Court during the pendency of the proceedings as cited above, but even proceeded to hide from the Court various critical documents pertaining to the illegality and in-operability of the Mavallipura landfill, particularly the fact that the 11<sup>th</sup> Respondent Indian Air Force had explicitly and consistently objected to the siting of the landfill in close proximity to the Yelahanka Air Force Base. This has, thereby, constrained this Hon'ble Court to issue a direction in this regard in the aforesaid Writ Petitions and a relevant extract of the order dated 6<sup>th</sup> November 2012, annexed at **Annexure AS**, is as follows:

“(W)e are informed that Mavallipura site which was closed down in July 2012 has been opened in October 2012 oblivious to the objections of Indian Air Force that the site is located within 10 kilometers from Air-base and therefore, responsible for the occurrence of Bird hits causing immense national loss in the form of Pilots as well as Aircrafts. Needless to state that they shall conform to provisions of MSW Rules.”

57. Subsequently, the Petitioners has submitted a representation to the 2<sup>nd</sup> Respondent KSPCB highlighting the illegalities of its order dated 25<sup>th</sup> October 2012 in light of the aforesaid direction, and the same is enclosed at **Annexure AT**. The Petitioners have also brought the import of this order to the 11<sup>th</sup> Respondent through the office of the

Group Captain Bharti, Public Relations Officer, Command Headquarters of Indian Air Force, Bangalore, and this representation is annexed at **Annexure AU**.

**Gross Human Rights Violations:**

58. The Petitioners submit that several villagers in the villages affected by the landfills have peacefully and systematically resisted blatant attacks on their Right to Life, Livelihoods and to a Clean Environment caused due to the landfills and the efforts of the 1<sup>st</sup> Respondent BBMP with active support from the 16<sup>th</sup> Respondent Police in thwarting such democratic efforts. The villagers have sought protection from such abuse of their human rights from the regulatory agencies and various implementing authorities, but all of them have singularly and collectively failed them. The Petitioners submit that villagers have espoused their cause through a wide range of peaceful and lawful efforts, including campaigns, press advocacy, by approaching Human Rights Commissions, Lokayukta, etc. from time to time. But little or no relief has been secured despite such systematic efforts.
59. On the contrary, the responses of several of the Respondents have been very harsh and have consistently been based on the abuse of police powers and an absolute disrespect for the fundamental right to dignity and free expression of the impacted villagers. The Petitioners respectfully submit that it is a matter of evidence that a wide range of fabricated and serious criminal cases have been filed against several villagers, particularly those who have led this struggle for justice for over a decade.
60. The Petitioners further painfully submit that so serious has been the attack on the human rights of the affected communities through the gross abuse of police powers, that it has also resulted in the death of one Mr. Srinivas, aged about 37 years, who died of cardiac arrest as a consequence of the terror caused by over 600 police who were deployed at Mavallipura under the orders of the Deputy Chief Minister and Home Minister Mr. Ashoka on 23 August 2012. It has

been widely reported that the direct orders of the Deputy Chief Minister were the basis for this police action mobilised with the explicit intent of forcing open the landfill operated by 10<sup>th</sup> Respondent to dump garbage from Bangalore disregarding the protests from the villagers and in blatant violation of the closure orders that were then in force. The Petitioners submit that Mr. Srinivas was a young able bodied man and was not known to suffer from any ailment at the time of his death. The Petitioners submit a press report that reveals the climate of fear that has been imposed on the affected villagers due to such gross abuse of police powers, and the same is annexed at **Annexure AV**.

**Progressive Actions proposed by Petitioners and other ignored for a decade resulting in the present garbage management crisis:**

61. The 1<sup>st</sup> Petitioner Trust has systematically addressed the complex issues pertaining to solid waste management in Bangalore and Raichur cities, in collaboration with various leading scientific and technically competent organisations, and produced a wide range of technical and education material to assist the 1<sup>st</sup> Respondent BBMP, the 2<sup>nd</sup> Respondent KSPCB, the 5<sup>th</sup> Respondent DFEE and the 7<sup>th</sup> Respondent KUD, all agencies directly concerned with various aspects of solid waste management, in undertaking their appropriate tasks. In addition, a variety of voluntary initiatives have repeatedly stepped forward in one form or another to assist the implementing agencies in progressively handling various aspects of the solid waste management stream, be it in educating communities in segregating waste at source, building capacities of Pourakarmikas to handle segregated waste, organising waste-pickers, ensuring waste is converted into a valuable resource and not dumped, and also in promoting ways to limit waste generation and limit the need for expensive investment in landfills only for accepting hazardous wastes and rejects. Clearly, therefore, the Petitioners submit, there is no merit if the said Respondents claim that they are helpless to handle this very basic function of municipalities, especially given that such

assistance has been extended *pro bono* for over a decade and more. The Petitioners contend that the collect-dump-forget-waste approach adopted by the 1<sup>st</sup> Respondent is largely a result of a extremely corrupt nexus that has evolved over the past decade or so between contractors and functionaries of the 1<sup>st</sup> Respondent BBMP who own large fleets of trucks that are deployed to remove waste from the city and dump it in villages, which is an highly lucrative exercise, undertaken in a wholly in-transparent manner, highly exploitative of the workers involved (who are neither provide the necessary occupational aids, or even provided their due wages regularly). Keen on sustaining this corrupt nexus, this nexus has systematically undone or thwarted a series of progressive initiatives of various citizen groups resulting in the present crisis.

62. The Petitioners respectfully submit that even during the evolution of the current crisis in garbage management, the 1<sup>st</sup> Petitioner Trust submitted a detailed representation to the 1<sup>st</sup> Respondent BBMP on 22<sup>nd</sup> August 2012 under acknowledgment, detailing various low cost, people centred and progressive steps that could resolve the problem, a copy of which is annexed at **Annexure AW**. Following which, when no response was forthcoming from the Respondent, the Petitioners were constrained to submit an online petition promoting a well detailed series of short term and long terms measures that would ensure Bangalore would become a leader in minimising waste generation and adoption of such progressive methods and technologies which would make it an example for the rest of India to follow. Over 1200 individuals and groups have endorsed this online petition which has been addressed to the Hon'ble Chief Minister of Karnataka, Respectful Mayor and Commissioner of the 1<sup>st</sup> Respondent BBMP, and Chairman of the 2<sup>nd</sup> Respondent KSPCB, and the same is accessible at: <http://tinyurl.com/chkc9mh>. The same was also submitted to the Commissioner of the 1<sup>st</sup> Respondent under acknowledgment on 9<sup>th</sup> November 2012, and a copy of this representation is annexed at **Annexure AX**. This strategy presented herein is based on strict compliance with all statutory norms, in wholesome compliance with Consitutional guarantees and

requirements to decentralise the management of such complex problems, and based on active and possible involvement of citizenry through Ward and Sub Ward Committees as is mandated per the Constitutional 74<sup>th</sup> Amendment (Nagarpalika) Act. Till the time of filing this Writ Petition, no response has been received by the Petitioners from the Respondent to this representation as well.

63. The Petitioners submit that in addition to all such efforts as cited above, the Respondents are also assisted by a variety of manuals, primers, documentation, etc. to handle municipal solid waste in a progressive, environmentally sensitive and socially just manner by various Central Government agencies. For instance, the 8<sup>th</sup> Respondent Union Ministry of Urban Development has evolved a detailed “Checklist for Submission and Scrutiny of Detailed Project Report on Municipal Solid Waste Management”, employing which various systems of waste management can be streamlined, crores of rupees in loss of revenue saved, which also avoids environmental pollution. A copy of the checklist is annexed at **Annexure AY**.

64. The Central Pollution Control Board, for instance, has evolved “Guidelines and Check-list for evaluation of MSW landfills proposals with Information on existing landfills”, a copy of which is enclosed at **Annexure AZ**. Acknowledging the highly polluting nature of such facilities even when they are very well managed, the Guidelines begin with the following introductory lines:

“Landfilling is the ultimate disposal process for Municipal Solid Waste (MSW) management. The quantity of MSW for land disposal can be substantially reduced by setting up waste processing facilities and recycling the waste materials as much as possible.”

65. When considering the overall situation of solid waste management in Bangalore, the Petitioners submit that employing such progressive methods could immensely reduce clearly avoidable and wasteful expenditure on deploying trucks to collect and dump waste in and around villages, in lakes, canals, parks, and even forests. Instead,

what is now considered waste can easily become a highly valuable resource. Biodegradable matter can be composted to produce excellent manure to support urban gardens, and also that of rural farms, and where possible into energy by setting up bio-methanation plants. Recyclables can be recovered to produce new material, while biomedical and hazardous waste can be safely managed to avoid contaminating anyone: producer, processor or villager. In effect, if landfills are required, it would only be to scientifically dispose hazardous and inert material. The Petitioners respectfully submit that the current crisis of garbage management is indeed an opportunity to ensure Bangalore can become a waste-less with transparent governance, strict fiscal control, heightened environmental and public health awareness and active citizen participation in civic affairs, beginning with solid waste management, and thus become a model city that the world could follow. This, the Petitioners submit, would be a truly fitting tribute to an intelligent citizenry that is also enthusiastically looking forward for progressive action and able guidance.

66. Keeping all of the above in view, and having exhausted all remedies to ensure appropriate implementation of the provisions of the Municipal Solid Waste Management Rules, 2000, the Aircraft Act, 1934 (as amended in 1988), Environment (Protection) Act, 1986, Environment Impact Assessment Notification, 2006, Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1980, Forest Conservation Act, 1980, Constitutional 74<sup>th</sup> Amendment (Nagarpalika) Act, 1992 and various other applicable laws, the Petitioners have now approached this Hon'ble Court espousing public interest and seeking justice for this and future generations, and in particular to the communities that have been victimised due to the illegal and unlawful actions of several of the Respondents. Hence this Public Interest Litigation.

67. The Petitioners state that no other petition has been filed under the same cause of action nor is any such petition pending.

68. This petition is filed on the following and other grounds.

## GROUNDS

### **Illegalities in the impugned order:**

69. a) The Petitioners state that the impugned order extending the authorisation “temporarily” till 31<sup>st</sup> December 2012 is illegal, void and *non est* as being in violation of Rule 6 (4) of the Municipal Solid Waste (Management and Handling) Rules, 2000. The 2<sup>nd</sup> Respondent KSCPB in its impugned order has stated that “in the interest of the public health and the environment in general, the garbage in the city cannot stay further, as it would cause health related issues in the core area of the city”. This sort of justification cannot be relevant criteria in deciding the fundamental rights of the residents in and around the Mavallipura landfill. The impugned order and the Respondents’ actions and omissions clearly demonstrate a non-application of mind due to the taking into account of irrelevant considerations and due to non-consideration of the binding requirements of a number of applicable norms, laws and principles.

b) The Petitioners state that the authorisation for the landfill site operated by the 10<sup>th</sup> Respondent Ramky in collaboration with 1<sup>st</sup> Respondent BBMP at Sy. No. 8 of Mavallipura village lapsed on 31<sup>st</sup> December 2010. When the 2<sup>nd</sup> Respondent KSPCB passed the order dated 11<sup>th</sup> July 2012, annexed at **Annexure AN**, ordering closure of the aforesaid landfill, there was no application for renewal of “authorisation to carry out the above activities as required under the law”. As per Rule 6 (4) of the aforesaid Rules, there is no provision to extend the authorisation, even if temporarily. After the lapse of the original authorisation, the only procedure open to the Operator of a landfill is to apply for a fresh authorisation by following the procedure stipulated under Rule 6 (2) of the aforesaid Rules.

c) Rule 6 (2) of these Rules state: “The State Board or the Committee, after the receipt of application from the municipal authority or the operator of a facility in Form I, for grant of authorization for setting

up waste processing and disposal facility including landfills, shall examine the proposal taking into consideration the views of other agencies like the State Urban Development Department, the Town and Country Planning Department, Air Port or Air Base Authority, the Ground Water Board or any such other agency prior to issuing the authorization.” When the Statute prescribes a certain procedure for undertaking a certain act, then action must be carried out in accordance with the procedure prescribed and cannot be done otherwise.

70. a) The 2<sup>nd</sup> Respondent KSPCB has grossly erred in passing the impugned order without specifically adverting to the conditions stipulated in its earlier order dated 11<sup>th</sup> July 2012, annexed at **Annexure AN**, which provided for the following:

- “1) To stop the supply of MSW by the BBMP to the Mavallipura Landfill site at Sy. NO. 8, Hesaraghatta Hobli, Bangalore North immediately till the entire accumulated wastes are completely processed for composting as per scientific treatment within the plant by M/s Ramky Infrastructure Ltd.
- 2) To stop receiving the MSW by its operator M/s Ramky Infrastructure Ltd., forthwith. Also to process the accumulated waste completely for composting within 3 months in a scientific manner without causing eye sore to the public and health/Environmental hazard.
- 3) To transport unprocessed waste from the composting plant to Mandur landfill site for scientific disposal by the BBMP.”

- b) Rule 7 (1) of the Municipal Solid Waste (Management and Handling) Rules, 2000 states that: “[a]ny municipal solid waste generated in a city or a town, shall be managed and handled in accordance with the compliance criteria and the procedure laid down in Schedule-II.” Further, Rule 7(2) states that: “[t]he waste processing and disposal facilities to be set up by the municipal authority on their own or through an operator of a facility shall meet the specifications and standards as specified in Schedules III and IV.” Schedule II of these

Rules provide detailed compliance criteria pertaining to the collection, segregation, storage, transportation, processing and disposal of municipal solid wastes. The Petitioners respectfully submit that the Respondents actions and omissions have resulted in all of these compliance criteria remaining largely unmet. Schedule II of these Rules also provides details about how disposal of municipal solid wastes through landfilling has been contemplated: “[l]and filling shall be restricted to non-biodegradable, inert waste and other waste that are not suitable either for recycling or for biological processing. Land filling shall also be carried out for residues of waste processing facilities as well as pre-processing rejects from waste processing facilities. Land filling of mixed waste shall be avoided unless the same is found unsuitable for waste processing. Under unavoidable circumstances or till installation of alternate facilities, land-filling shall be done following proper norms. Landfill sites shall meet the specifications as given in Schedule III.” The specifications listed in Schedule III are pre-requisites for landfill sites to be established and to operate. The Petitioners respectfully submit that the impugned order displays total non-application of mind since it simply does not consider the sustained non-compliance with these mandatory requirements at the Mavallipura landfill when extending the authorization.

71. The impugned order reflects a clear colourable exercise of power in so far as the 1<sup>st</sup> Respondent BBMP and the 10<sup>th</sup> Respondent Ramky, having failed to fulfill the conditions stipulated in the order of closure dated 11<sup>th</sup> July 2012 are sought to be regularised in the name of public interest through the back door and in absolute violation of all applicable norms, rules and laws. In *Bangalore Medical Trust v. B.S. Muddappa*, AIR 1991 SC 1902, the Supreme Court observed: “Speedy or quick action in public institutions call for appreciation but our democratic system shuns exercise of individualized discretion in public matters requiring participatory decision by rules and regulations. No one howsoever high can arrogate to himself or assume without any authorization, express or implied in law, a discretion to ignore the rules and deviate from rationality by

*adopting a strained or distorted interpretation as it renders the action ultra vires and bad in law. Where the law requires an authority to act or decide, 'if it appears to it necessary' or if he is 'of opinion that a particular act should be done' then it is implicit that it should be done objectively, fairly and reasonably....The action and decision must not only be reached reasonably and intelligibly but it must be related to the purpose for which power is exercised.....Any repository of power – be it the government or the BDA – must be reasonably and rationally and in accordance with law and with due regard to the legislative intent.”*

72. The 2<sup>nd</sup> Respondent KSPCB could not have resorted to the consideration of public interest to revive a *non est* order as there is no such power conferred under the aforesaid Rules under which it traces its power to resuscitate a still born authorisation.
73. The Petitioners state that the impugned order is passed in violation of the Principles of Natural Justice as there was absolutely no public consultation with the affected residents of Mavallipura and other affected villages and is thus violative of the Principle of Prior and Informed Consent, thereby liable to be set aside. The Rights of affected parties which is sought to be trampled upon by the impugned order, could not have been passed without giving them a Hearing. In *S. Nandakumar v. the Secretary to the Government of Tamil Nadu Department of Environment and Forests*, MANU/TN/0423/2010, the Madras High Court, while hearing a petition challenging the decision taken by the Government of Tamil Nadu to allot 70 acres of land for a solid waste management plant in Kuthambakkam Village in the District of Thiruvallur, points out that “public hearing occupies a pivotal position in the matter of environmental impact assessment” and that “the statutory authorities are expected to conduct the hearing by giving reasonable opportunity to all the local affected persons and others who have interest in the particular project or activity.”
74. The Petitioners submit that a very similar situation had emerged before the Andhra Pradesh High Court, which in *Rythu Seva*

*Sangam, Yenamadurru v. Bhimavaram Municipality*, MANU/AP/0606/2012 while considering public interest litigations challenging the unplanned, illegal and negligent method and manner of disposing off municipal solid wastes in adjoining villages, held that urban local bodies including municipalities are bound to discharge their mandatory duties under the Municipal Solid Wastes (Management & Handling) Rules, 2000. The court further held that the municipality could establish municipal waste processing and disposal facilities only within its territorial jurisdiction and was barred from establishing municipal waste processing and disposal facilities outside its jurisdictional territory. The court categorically holds that “*State PCB has no jurisdiction to grant authorization to a municipality for setting up WPD [waste processing and disposal] facility if it is not in conformity with the Rules [Municipal Solid Wastes (Management & Handling) Rules, 2000] and instructions in various Schedules. Any such authorization ignoring these Rules would be illegal.*” Finally, the court observes that “[a]ny authorization issued to ULB [urban local body] for setting up of WPD [waste processing and disposal] facility including compost yard or land fill site, near habitation clusters or water bodies, is impermissible and is liable to be invalidated” and that “*Yenamadurru Gram Panchayat was not given any prior notice before alienating the land for setting up of WPD facility which renders the proposal improper.*” The Petitioners submit that the impugned order re-authorizes the highly polluting and poorly designed Mavallipura landfill despite the 2<sup>nd</sup> Respondent being fully aware of the continual non-compliance with mandatory specifications under the Municipal Solid Waste (Management and Handling) Rules, 2000 and the effect that this would have on the nearby habitation clusters and water bodies. The Petitioners respectfully submit that this clearly reflects the non-application of mind by the Respondents and thereby violates the guarantees of Article 14 of the Constitution of India.

75. The Petitioners state that the 1<sup>st</sup> Respondent BBMP, 2<sup>nd</sup> Respondent KSPCB, 4<sup>th</sup> Respondent State of Karnataka and 16<sup>th</sup> Respondent

Police repeatedly attempted to terrorise into submission the communities affected by the landfill with the intent of forcing them to yield to the illegal nature of the Respondents actions. This, the Petitioners submit, has been resorted to with the oblique view of securing the support of citizens within Bangalore with the political motive of winning the incumbent elections. So blatant has been this desire to secure the approval of the densely populated urban areas, that none less than the Deputy Chief Minister and Home Minister of Karnataka Mr. Ashokaa supported the blatant abuse of police power when on 23<sup>rd</sup> August 2012 over 600 policemen were deployed to beat back the peaceful resistance of the affected villages to the forced reopening of the landfill in violation of the order of the 2<sup>nd</sup> Respondent KSPCB issued on 11<sup>th</sup> July 2012, resulting even in the death of one Mr. Srinivas. Having so failed to secure their desired end against the will and just actions of the villagers fighting to uphold their Fundamental human rights, the Petitioners submit that the impugned order has now been passed through the 2<sup>nd</sup> Respondent KSPCB in an wholly illegal manner to secure the same end of having a place to dump Bangalore's toxic and unsegregated garbage. In *L.K. Koolwal v. State of Rajasthan*, AIR 1988 Raj 2, the Rajasthan High Court held:

*“...it is the primary duty of the Municipal Council to remove filth, rubbish, night-soil, odour or any other noxious or offensive matter. The primary duties will have to be performed by the Municipal Board and there cannot be any plea whether the funds are available or not; whether the staff is available or not. It is for the Municipality to see how to perform the primary duties and how to raise resources for the performance of that duty. In the performance of primary duty no excuse can be taken and can be directed also as it is primary, mandatory and obligatory duty to perform the same.....It has been made very clear that it is not the duty of the Court to see whether the funds are available or not and it is the duty of the Administrator, Municipal Council to see that the primary duties of the Municipality are fulfilled.*

*Municipality cannot say that because of the paucity of funds or because of paucity staff they are not in a position to perform the primary duties.”*

76. The Petitioners respectfully submit that the Respondents’ actions in issuing the impugned order clearly demonstrates unreasonable discrimination and the non-application of mind due to the taking into account of irrelevant considerations and due to non-consideration of the binding requirements of a number of applicable norms, laws and of the principles of natural justice. The impugned order and the current solid waste management system denigrates the rights of those that are resident outside of the core area of the city to that of those who are within the city, and therefore, the impugned order is in blatant violation of Article 14 of the Constitution of India in so far as it belittles the rights of the citizens in and around the landfill at Mavallipura while giving priority to the rights of the citizens of the core area of the city. The Gujarat High Court in *Pravinbhai J. Patel v. State of Gujarat*, 1995 (2) Guj. L. R. 1210, analysed the nature of the duties and powers of the State Pollution Control Board, the special considerations in cases where villages suffer from municipality-generated pollution, and commented on the negative effects of giving more time to a continuously polluting unit thus: *“With the object to be achieved being known, viz., preventing pollution and requiring the adherence to the G.P.C.B. parameters, it would be for the Government or the G.P.C.B. to decide what type of action to be taken against an erring unit. It would stand to reason that if, by a regulatory order, pollution can be controlled then that is the first option to be exercised. If a prohibitory order is required for the purpose of controlling pollution, then that has to be issued. Possibly, as a last resort, if the pollution norms are not met or there is a persistent default or the norms cannot be met, then there may be no option but to order closure..... The owners and the workers in the industrial units are living within the municipal limits of Ahmedabad Municipal Corporation. They are most likely getting all the facilities, which a city dweller gets, like municipal water,*

*sewage, drainage etc. On the other hand, the villages are not supplied with treated water by any Municipality and they have, perforce, to rely upon the river water and the ground water, which is available to them from well. With the pollution of these waters, the villagers do not get even potable water, which is the most basic need for a man to survive. Under these circumstances, where even if competing or rival claims are to be taken into consideration, the Court cannot allow continued violation of the right to live guaranteed under Article 21 to the villagers, just because 15% of the total industrial units have been and want to continue to violate the law merely for the sake of earning profits. It will be opposed to all canons of fair play, justice and law, if continued illegal activity is accorded judicial protection or sanction which, in effect, would be the result if more time is granted to the polluting industries to continue to function till they are able to achieve the parameters set by the G.P.C.B.”*

77. The Petitioners respectfully submit that Article 15 of the Constitution of India provides, *inter alia*, that the State shall not discriminate against any citizen on grounds only of place of birth or caste and that no citizen shall on grounds only of place of birth or caste be subject to any disability, liability, restriction etc. with regard to the use of wells, tanks, etc. In pursuance of the unreasonable discrimination argument outlined above, the Petitioners submit that the Respondents’ actions and omissions resulting in the siting and continued operation of highly polluting toxic landfills in (economically and socially downtrodden) villages at the peripheries of Bangalore constitutes and results in discrimination that operates solely on the ground of place of birth within such unlucky contaminated communities. In the critically acclaimed book *Contaminated Communities – the social and psychological impacts of residential toxic exposure* (1988: Westview Press), Dr. Michael R. Edelstein tellingly points out how toxic landfills represent a form of state and societal discrimination: “*Thus, the stigma and blaming of the victim discussed earlier come not just from a derision of the people who failed to avoid such threats, but also from a denial of*

*our role in victimizing them....Facility siting has become an incredible challenge....Since hazardous technologies by definition are not subject to mitigation for worst case scenarios, they cannot be “rationally” sited from the perspective of those who would suffer should problems arise.....Siting thus becomes a modern ceremony for selecting victims for sacrifice.” (at page 195 of the book.)*

78. Keeping in mind the highly divisive nature of our society on various grounds of class, caste, etc., the Petitioners submit that the Respondent authorities should have been extremely conscious of this factor and should have taken abundant caution to demonstrate that their actions of so locating the landfills did not fall victim to this social divisiveness. The Petitioner submit that it is a matter of fact that a predominant proportion of the population in the impacted villages belong to depressed communities, and that the decision to so locate the landfills here was probably shaped by this social reality.
79. The Petitioners contend that Article 19 (e) of the Constitution of India provides that all citizens shall have the right to reside and settle in any part of the territory of India and Article 19(5) permits the State from making laws that impose reasonable restrictions on this right in the interests of the general public. The Petitioners respectfully submit that the actions and omissions of the Respondents that have resulted in the two highly toxic landfills at and around Mavallipura and surrounding villages violate the right of these villagers under Article 19 (e) to reside and settle in the place where their families have been living for many generations. As has been detailed earlier, the operation of the landfills and the complete disregard for basic health and environmental safeguards has resulted in the shocking contamination of the land, water, livestock and food supplies of the surrounding villages. In this context, the Petitioners respectfully submit that the villagers in these villages no longer have the meaningful right to reside and settle in their traditional home territory. Dr. Michael R. Edelstein articulates the point quite chillingly in his critically acclaimed book *Contaminated*

*Communities – the social and psychological impacts of residential toxic exposure* (1988: Westview Press): “The loss of trust, the inversion of home, a changed perception of one’s control over the present and the future, a different assessment of the environment, and a decided tendency to hold pessimistic health expectations – these are all indications of a fundamentally altered lifescape. Such changes do not just occur. They are the result of a process of coping whereby the individual, family, institutions, and community attempt to deal with the newly accepted realities of toxic exposure.” (at pages 81-82 of the book).

80. The Petitioner states that the continuance of the operation of the landfill at Mavallipura in Sy.No.8 has also violated the right to life of the citizens guaranteed under Article 21 of the Constitution of India who are residing in the villages surrounding the landfill as the unscientific manner of operating the landfill site and the non processing of the accumulated waste dumped in Sy.No.70, 72 and 59 of Mavallipura has resulted in polluting the underground water, rendering it unfit for drinking and other domestic use, destruction of grass lands used for grazing of cattle and livestock, creation of breeding grounds for mosquitoes facilitating the spread of diseases including dengue all of which has deprived the citizens of their rights to live in a healthy environment guaranteed under Article 21 of the constitution of India.

81. The action of the Respondents have clearly violated the well established right that every person enjoys to a wholesome environment, which is a facet of the right to life guaranteed under Article 21 of the Constitution of India, as has been held in *Subhash Kumar v. State of Bihar*, AIR 1991 SC 420, at 424; *MC Mehta v. Union of India (Delhi Stone Crushing Case)*, 1992 (3) SCC 256, at 257; *Virendar Gaur v. State of Haryana*, 1995 (2) SCC 577, 581; *V Lakshmipathy v State of Karnataka* AIR 1994 Kar 57.

82. The continued activity of unregulated dumping and its unscientific management has resulted not only in interfering with the rights of

the citizens to live with dignity but also has deprived the predominant population who are dependent on livestock rearing from their livelihood as a result of rendering unfit all the grasslands which could be used for grazing. Further the action of the Karnataka Milk Federation in refusing to procure milk from the livestock in the vicinity is a clear pointer to the adverse effects of the landfills. All this has resulted in the violation of the rights of the citizens guaranteed under Article 21 of the Constitution of India which also encompasses the right to livelihood and the right to dignity as had been explicitly recognized in *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180; *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, AIR 1981 SC 746; *Bandhua Mukti Morcha v. Union of India*, AIR 1984 SC 802; *D K Basu v. State of West Bengal*, AIR 1997 SC 610.

83. a) The case on hand clearly makes out a case for judicial interference and for the issuance of necessary directions to protect the interests of the residents near the land fill. The said approach is supported by the the following judicial precedents: a) The Gujarat High Court in *Pravinbhai J. Patel v. State of Gujarat*, 1995 (2) Guj. L. R. 1210, 1253., while acknowledging that normally it was for the state government (as a delegate of the Centre) to issue appropriate closure directions under section 5 of the Environment Protection Act, 1986 states: “[w]here, however there is complete abdication of authority by the government and the court comes to the conclusion, like in the present case, that the government has failed to discharge its statutory duty, and which failure has resulted in the violation of the fundamental rights of the petitioners and lacs of other people guaranteed under Article 21 of the Constitution, the court is left with no option but to issue appropriate directions to the government to pass the necessary orders under Section 5 of the Environment Act.”

b) In *Samaj Parivartan Samudaya v. State of Karnataka*, (2012) 7 SCC 407, the Supreme Court observed (at paragraph 44): “Wherever and whenever the State fails to perform its duties, the Court shall step in to ensure that Rule of Law prevails over the abuse of process

*of law. Such abuse may result from inaction or even arbitrary action of protecting the true offenders or failure by different authorities in discharging statutory or legal obligations in consonance with the procedural and penal statutes. This Court expressed its concern about the rampant pilferage and illegal extraction of natural wealth and resources, particularly, iron ore, as also the environmental degradation and disaster that may result from unchecked intrusion into the forest areas. This Court, vide its order dated 29th July, 2011 invoked the precautionary principle, which is the essence of Article 21 of the Constitution of India as per the dictum of this Court in the case of M.C. Mehta v. Union of India: (2009) 6 SCC 142, and had consequently issued a ban on illegal mining. The Court also directed Relief and Rehabilitation Programmes to be carried out in contiguous stages to promote inter-generational equity and the regeneration of the forest reserves. This is the ethos of the approach consistently taken by this Court, but this aspect primarily deals with the future concerns. In respect of the past actions, the only option is to examine in depth the huge monetary transactions which were effected at the cost of national wealth, natural resources, and to punish the offenders for their illegal, irregular activities. The protection of these resources was, and is the constitutional duty of the State and its instrumentalities and thus, the Court should adopt a holistic approach and direct comprehensive and specialized investigation into such events of the past.”*

84. The Petitioners state that it is a matter of record that on an earlier occasion, an illegal landfill was being operated in Sy. No70, 72 and 59 and the 2<sup>nd</sup> Respondent had issued a notice to 17<sup>th</sup> Respondent Bailappa and had ordered for the closure of the said site. The authorization that had been granted in the 10<sup>th</sup> meeting of the 2<sup>nd</sup> Respondent was subject to the condition that NOC would have to be obtained from the Airport of Authority of India, Government Flying Training School, Jakkuru, and Air Force Station Yelahanka. The 1<sup>st</sup> Respondent was informed by the 2<sup>nd</sup> Respondent through its letter dated 3/9/2004 that in view of the objection raised by the Air Force

Station Yelahanka, the Authorization issued to the 1st Respondent to set-up a waste processing facility was withdrawn. Till date no NOC has been obtained from the Yelahanka Air Force Station which is a mandatory requirement as per Clause 10 of Schedule III, in the absence of which the 2nd Respondent could not have permitted the restarting of the landfill at Mavallipura by virtue of the impugned order. The concession agreement between BBMP and the M/s. Ramky also provided for obtaining of NOC from the flying training School at Jakkur which has not been adhered to thus far rendering the passing of the impugned order illegal.

85. The Petitioner states that the continuance of the operation of the landfill at Mavallipura in Sy.No.8 has also violated the right to life of the citizens residing in the villages surrounding the landfill as the unscientific manner of operating the landfill site and the non processing of the accumulated waste dumped in Sy.No.70, 72 and 59 of Mavallipura has resulted in polluting the underground water, rendering it unfit for drinking and other domestic use, destruction of grass lands used for grazing of cattle and livestock, creation of breeding grounds for mosquitoes facilitating the spread of diseases including dengue as deprived the citizens of their rights to live in a healthy environment guaranteed under Article 21 of the constitution of India.

86. Without prejudice to the illegality of the impugned order, the Petitioners state that the applicable Rules regarding siting of landfills have not been adhered to at all in choosing the landfill sites in Mavallipura. This, Petitioners submit, is true in the case of the landfill operated by 17<sup>th</sup> Respondent Mr. H. Bailappa at Sy. Nos. 70, 72 and 59 and also in the case of the landfill now being operated by the 10<sup>th</sup> Respondent Ramky at Sy. No. 8.

87. The Petitioners state that Clause 2 of Schedule III of these Rules states that the “[s]election of landfill sites shall be based on examination of environmental issues” and clause 8 of Schedule III states that “[t]he landfill site shall be away from habitation clusters, forest areas, water bodies monuments, National Parks, Wetlands

*and places of important cultural, historical or religious interest.”*

The Petitioners submit therefore that the passing of the impugned order is arbitrary and inconsistent with the earlier stand of the 2nd Respondent which has clearly stated in Para-6 of the complaint filed against 17<sup>th</sup> Respondent Bailappa in CC 261/2006 (**Annexure Q**) that the landfill site used by 17<sup>th</sup> Respondent Bailappa fell within the catchment area of Arkavathi which is protected watershed of Thippagondanahalli reservoir. The present landfill in Sy. No. 8 being adjacent to the landfill earlier being operated by 17<sup>th</sup> Respondent Bailappa also suffers from the very same illegality of being situated in the area prohibited as per the notification issued on 18th November 2003, annexed at **Annexure C**. Further landfills being enlisted under the highly polluting Red Category of Facilities by the 2nd Respondent as per their order dated 23rd May 2011 enclosed as **Annexure D** makes the impugned order illegal. Further, the impugned order is also violative of the directions issued by this Hon'ble Court in W. P. No.30084/2012, annexed at **Annexure E**. In *A.P. Pollution Control Board v. Prof. M.V. Nayudu*, (1999) 1 S.C.R. 235, the Supreme Court of India considered a decision of the Andhra Pradesh High Court ordering the State Pollution Control Board to grant consent to a polluting industry that was to be located in the catchment area of the Himayat Sagar lake in Andhra Pradesh. The Supreme Court noted the 'precautionary principle', the 'polluter pays principle', etc. and held that there was a new and special principle in our environmental law whereby the burden of proving the absence of injurious effects of the action proposed was to be firmly placed on those who wanted to change the status quo. The Hon'ble Supreme Court also observed: “[t]he principle of precaution involves the anticipation of environmental harm and taking measures to avoid it or to choose the least environmentally harmful activity. It is based on scientific uncertainty. Environmental protection should not only aim at protecting health, property and economic interest but also protect the environment for its own sake; precautionary duties must not only be triggered by the suspicion of concrete danger but also by (justified) concern or risk potential.” The Petitioners vehemently state that such precaution, by employing

which the public health of lakhs of residents would be protected, ought to have been taken. All the decisions that were to be taken ought to have followed the principle of “prior and informed consent”. All the decisions while siting the landfills, have been taken without any consultation with the affected groups of people.

88. Non-consideration of bird strike hazard reduction obligations under the Aircraft Act, 1934, Aircraft Rules, 1937 and relevant Air Safety norms

Rule 91 of the Aircraft Rules, 1937 state that “[n]o person shall slaughter or flay any animal or deposit or drop any rubbish, filth, garbage or any other polluted or obnoxious matter including such material from hotels, meat shops, fish shops and bone-processing mills which attracts or is likely to attract vultures or other birds and animals within a radius of ten kilometers from the aerodrome reference point”. Section 10 (1A) of the Aircraft Act, 1934 (as amended in 1988) states that “[i]f any person contravenes any provision of any rule made under clause (qq) of sub-section (2) of section 5 prohibiting the slaughter and flaying of animals and of depositing rubbish, filth and other polluted and obnoxious matter within a radius of ten kilometres from the aerodrome reference point, he shall be punishable with imprisonment which may extend to three years, or with fine which may extend to ten lakh rupees, or with both.” Amendment 10 to International Civil Aviation Organization (ICAO) Annex 14 –Aerodromes, Volume I – Aerodrome Design and Operations, which have been accepted by India and became applicable on 19.11.2009, unambiguously recognizes that the presence of wildlife (birds and animals) on and in the aerodrome vicinity poses a serious threat to aircraft operational safety. Amendment 10 also explicitly states that “Action shall be taken to decrease the risk to aircraft operations by adopting measures to minimize the likelihood of collisions between wildlife and aircraft..... The appropriate authority shall take action to eliminate or to prevent the establishment of garbage disposal... unless an appropriate wildlife assessment indicates that they are unlikely..... Where the

elimination of existing sites is not possible, the appropriate authority shall ensure that any risk to aircraft posed by these sites is assessed and reduced to as low as reasonably practicable.... *States should give due consideration to aviation safety concerns related to land developments in the vicinity of the aerodrome that may attract wildlife.*” The high costs and serious nature of the threat that bird strikes pose to aircraft operational safety is evidenced by Air Safety Circular 02/2011 dated 4<sup>th</sup> October, 2011 issued by the Office of the Director General of Civil Aviation (DGCA) that applies to all airports licensed by the DGCA and any other airport where scheduled, non-scheduled/charter or any other flying activity takes place. The Petitioners submit that high bird presence is inevitable in and around the Mavallipura landfill due to the current design and operational practices of the landfill, the nature of the wastes being disposed there, and the condition of the trucks transporting the wastes. Given that two airports are within 10 kilometres of the landfill, viz. Yelahanka Air Force Base and Jakkur Flying Training School, and the Bangalore International Airport is 19 kilometres away, it is obvious that the impugned order should have made due consideration of the urgent and critical need to reduce bird strike hazards for aircraft flying to and from all three airports in the vicinity of the Mavallipura landfill. As has been detailed earlier, one of the airports in question – the Yelahanka Air Force Base - has consistently objected to the presence of the landfill in its vicinity. The various Respondents’ actions and omissions in sustaining a high-risk enterprise based on a vague and barely reasoned order (that largely limits itself to the need to assuage public anger over sustained incompetence with regard to solid waste management) without soliciting informed views about, or engaging seriously with, the issue of bird strike hazards reflects non-application of mind and therefore violates the non-arbitrariness guarantee contained in Article 14 of the Constitution of India.

89. The action of the Respondent No.1 in adopting a policy of collecting garbage in cities and dumping in villages around Bangalore amounts to a continuous act of collusion with vested interests in sustaining an illegal activity that also criminally threatens the lives and health of

citizens who are forced to endure the impact of pollution that results. In the specific case of Mavallipura, the Petitioners submit that at least 22 lakhs tonnes of waste have accumulated in the now abandoned landfill which was operated by 17<sup>th</sup> Respondent Mr. H. Bailappa in Sy. No. 70, 72 and 59 of Jarakabande Kaval State Forest. This waste is constantly contaminating surface and ground water bodies with their leachates. Similarly, the landfill being operated by 10<sup>th</sup> Respondent Ramky at Sy. No. 8 of Mavallipura has accumulated approx. 20 lakhs tonnes of toxic waste that similarly pollutes local rural communities. The Petitioners submit that both operators have been amply rewarded for the dump by being paid tipping fee for every tonne of waste that was dumped, as is evident in **Annexure AH**. However, neither has invested in any environmental and health safeguards, and merely resorted to dumping of municipal solid waste on open ground. Consequent to these blatantly criminal actions, extensive pollution has resulted, and a variety of infectious and chronic illnesses are spreading amongst the local populace, affecting farming, grazing and other livelihood options. In fact, one of the first cases of Chikungunya recorded in Bangalore is at Mavallipura, a direct consequence of millions of mosquitos that breed rampantly in the waste dumped. This menace has also cost the life of young Akshay Kumar who died of dengue in 2010. It was due to the consistent efforts of the Petitioners that such adverse impacts were consistently brought to the attention of all the relevant authorities and regulatory agencies.

90. Violations of relevant forest legislations and norms not considered

Section 2 of the Forest (Conservation) Act, 1980 provides that “no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing..... that any forest land or any portion thereof may be used for any non-forest purpose.... that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation not owned, managed or controlled by Government...” In *T.N. Godavarman Thirumulkpad v. Union of India* AIR 1997 SC 1228, the Hon’ble

Supreme Court directed that “*all on-going activity within any forest in any State throughout the country, without the approval of the Central Government, must cease forthwith.*” In the instant case, the actions and continuing omissions of the various Respondents over the past years have resulted in one highly polluting, illegal, and now-abandoned landfill within the within Jarakabande Kaval forest without any serious effort to bring about accountability for this illegality. Further, a good part of the landfill currently operated by the 10<sup>th</sup> Respondent Ramky abuts the Jarakabande Kaval forest and some area of the landfill is also claimed by the 9<sup>th</sup> Respondent the Karnataka State Forest Department. The Petitioners submit that the hastily issued impugned order and the Respondents’ actions and omissions resulting in the same did not consider the actual and likely violations of the Forest (Conservation) Act, 1980 and the directions of the Hon’ble Supreme Court in *T.N. Godavarman Thirumulkpad v. Union of India* AIR 1997 SC 1228. The Petitioners submit that this again reflects non-application of mind by the Respondents and therefore establishes violation of the non-arbitrariness guarantee contained in Article 14 of the Constitution of India.

91. No consideration of whether relevant Environment Impact Assessment norms were complied with or should have been complied with

The Petitioners submit that in addition to other violations cited above and hereafter, the Respondents’ actions and omissions in originally granting an environmental clearance to the landfill and the impugned order temporarily authorising the continued operation of the landfill violate the Environment Impact Assessment Notification, 2006. Item 7 (i) of the Schedule to this Notification provides that a Common Municipal Solid Waste Management Facility (CMSWMF) must secure clearance from the 15<sup>th</sup> Respondent State Environment Impact Assessment Authority (hereinafter referred to as SEIAA), after the proposal has complied with the due process of Screening, Scoping, Public Consultation and Appraisal based on a Comprehensive Environment Impact Assessment of the project. In the event the SEIAA was not constituted at the time of the original

proposal, the facility should have been processed for clearance by the 3<sup>rd</sup> Respondent Union Ministry of Environment and Forests. In the instant case, the Petitioners assert that the 10<sup>th</sup> Respondent Ramky has comprehensive violated mandatory environment impact assessment requirements and has also thereby violated the Environment (Protection) Act, 1986. Further, despite a number of complaints, representations and media reports, the various responsible Respondents did not make any serious effort to investigate whether the operation of the landfill violated relevant provisions of the Water (Prevention and Control of Pollution) Act, 1974 or the Air (Prevention and Control of Pollution) Act, 1980. Despite such glaring irregularities, and the fact that no Environmental Public Hearing was ever conducted on the basis of a Comprehensive Environment Impact Assessment, the impugned order of the 2<sup>nd</sup> Respondent KSPCB represents one more unreasonably lost and costly opportunity to bring this highly-polluting landfill within the fold of legally mandated environment impact assessment procedures and processes regulating environmental pollution. The Petitioners respectfully submit that this reflects the 2<sup>nd</sup> Respondent KSPCB's misguided motives and non-application of mind in authorising the continued un-regulated operation of the landfill without seriously considering how to effectuate genuine safeguards to protect the environment.

92. Effect on obligatory functions of the municipal corporation not considered

Section 58 of the Karnataka Municipal Corporation Act, 1976 provides that “[i]t shall be incumbent on the corporation to make reasonable and adequate provision by any means or measures which it is lawfully competent to use or take” for: “the collection, removal, treatment and disposal of sewage, offensive matter and rubbish and, the preparation of compost manure from such sewage, offensive matter and rubbish”; “the reclamation of unhealthy localities, the removal of noxious vegetation and generally the abatement of all nuisances”; “preventing and checking the spread of dangerous

diseases”; “the securing or removal of dangerous buildings and places”, etc. The Petitioners respectfully submit that the actions and omissions of the Respondents with respect to the management of waste in Karnataka (and in Bangalore in particular) have resulted in the obligatory functions of the corporation not being fulfilled. The impugned order of the 2<sup>nd</sup> Respondent KSPCB and the related actions and omissions of various other Respondents promote the careless disposal of unsegregated wastes at the landfill in Mavallipura and other such landfills across the State, abandon the function of reclamation of unhealthy localities, promote nuisance to many, facilitate the spread of diseases, and result in a proliferation of unhealthy and dangerous peripheral zones around Bangalore that have a high likelihood of affecting Bangalore’s water supply and air quality. The Petitioners submit that the non-consideration of these larger issues once again reflects the non-application of mind by the Respondents and consequently violates the non-arbitrary guarantees of Article 14 of the Constitution of India.

93. The BBMP Respondent No.1 is obligated to treat the untreated and unprocessed Municipal waste dumped in Sy.No.70, 72 and 59 of Jarakabandekaval of Yelahanka Hobli and also dumped in adjacent forest land and restore the said lands to the same state as it was prior to the dumping of Municipal waste in accordance with the principle of “Polluter Pays”, which the Hon’ble Supreme Court has recognized as part of the law of the land in *Indian Council for Enviro-Legal Action v. Union of India (Bichhri Case)*, AIR 1996 SC 1446; *Vellore Citizens Welfare Forum v. Union of India*, AIR 1996 SC 2715; *S. Jagannath v. Union of India (Shrimp Culture Case)*, AIR 1997 SC 811.

94. The 10<sup>th</sup> Respondent Ramky and is absolutely liable for the health, environmental and social harms resulting from the flawed operation of the landfill in Sy. No. 8 at Mavallipura. In *M.C. Mehta v. Union of India*, AIR 1987 SC 965 the Supreme Court emphasized: “We are of the view that an enterprise which is engaged in a hazardous or

*inherently dangerous industry which poses a potential threat to the health and safety of the persons working in the factory and residing in the surrounding areas owes an absolute and non-delegable duty to the community to ensure that no harm results to anyone on account of hazardous or inherently dangerous nature of the activity which it has undertaken.”* The Court also pointed out that absolute liability would require the enterprise to compensate all those affected by its hazardous activity and “*such liability is not subject to any of the exceptions which operate vis-à-vis the tortious principle of strict liability*”. The Petitioners respectfully submit that the 10<sup>th</sup> Respondent Ramky is absolutely liable to the villagers of Mavallipura and surrounding areas who have been affected through the operation of its hazardous, poorly designed, and inadequately managed landfill operations.

## **GROUND S FOR INTERIM PRAYER**

95. The petitioner states that by virtue of the impugned order there is a threat that police action will be initiated to forcibly dump municipal solid waste in Sy. No. 8 of Mavallipura, Hesaraghatta Hobli, Bangalore North Taluk, by virtue of the impugned order which on the fact of it is illegal as demonstrated above.
96. The Petitioner states that in view of the noncompliance with the conditions stipulated in the order of the 2<sup>nd</sup> Respondent dated 11<sup>th</sup> July 2012, annexed at **Annexure AN** and in the absence of the processing and decontamination of the existing solid waste already dumped in Sy. No. 8, the impugned order if allowed to be given effect to, would result in perpetuation of illegality causing irreparable loss and violating the Right to Life of the citizens in and around the said landfill.

**PRAYER**

Wherefore it is prayed, in light of the issues raised above, arguments advanced, and authorities cited, that this Hon'ble Court may be pleased to:

a) Issue a Writ of Certiorari to quash the order of the 2<sup>nd</sup> Respondent KSPCB dated 25<sup>th</sup> October 2012 *vide* No. KSPCB/CEO-2/EO/MSW/ Mavallipura/Authorization/2012-13/4327, enclosed as **Annexure AR.**

b) Issue a Writ of Mandamus directing the 1<sup>st</sup> Respondent and its respective operators, namely the 17<sup>th</sup> Respondent Mr. H. Bailappa and the 10<sup>th</sup> Respondent Ramky, who have illegally dumped municipal solid waste and other toxic waste on Sy. No.70, 72 and forest land at Sy. No. 59 of Jarakabande Kaval and Sy. No. 8 of Mavallipura respectively, to process and clean up the accumulated waste, decontaminate the area thoroughly and restore the said lands to the same state as it was prior to its being used as a landfill at the cost of the aforesaid Respondents, in accordance with the "Polluter Pays Principle".

c) Issue a Writ of Mandamus directing the 2<sup>nd</sup> Respondent KSPCB to initiate appropriate action against the 1<sup>st</sup> Respondent BBMP and its operators, *viz.* 1<sup>st</sup> Respondent BBMP, 17<sup>th</sup> Respondent Mr. H. Bailappa and 10<sup>th</sup> Respondent Ramky, for having established and operated landfills in comprehensive contravention of the Municipal Solid Waste (Management & Handling) Rules, 2000, Environment Impact Assessment Notification, 2006, Water (Prevention and Control of Pollution) Act, 1974 and such other applicable laws.

d) Issue a Writ of Mandamus directing the 11<sup>th</sup> Respondent Air Officer Commanding in Chief, Yelahanka Air Force Station, to furnish reports relating to the threats to aviation security at its airbase due to the said landfills and such other hazards, and also to produce reports with respect to the causative factors of the air crashes that have occurred and losses suffered due to bird hits caused

by such landfills and other hazards, for the period commencing 2000 till date.

e) Direct the 1<sup>st</sup> Respondent to compensate the affected villagers in all the villages impacted by the operation of the aforesaid illegal landfills by provisionally subjecting the same to a detailed enquiry by an independent Ombudsman, and which authority would have the power to investigate and prepare a report to quantify in economic terms the losses suffered due to loss of life and livelihoods by the impacted villagers due to the pollution caused by the operation of the landfill by the 1<sup>st</sup> Respondent BBMP and its operators viz. 10<sup>th</sup> Respondent Ramky and 17<sup>th</sup> Respondent Mr. H. Bailappa.

f) Issue a Writ in the nature of Mandamus directing the 1<sup>st</sup> Respondent BBMP to strictly conform with the Environment Impact Assessment Notification, 2006, Municipal Solid Waste (Management & Handling) Rules, 2000, and such other applicable laws, whenever it is undertaking the task of siting, locating and operating landfills, if and when the need arises.

g) Issue a Writ of Mandamus directing the 1<sup>st</sup> Respondent BBMP to take necessary steps to ensure that segregation of waste at source as mandated per applicable law becomes the fundamental principle of overall management of municipal waste generated in urban areas, and to also undertake all other progressive measures to minimise waste generation and to undertake scientific, environmentally sensitive and socially just processing of waste as mandated by law and evolving guidelines.

h) Issue an appropriate order directing the 1<sup>st</sup> Respondent BBMP and the 4<sup>th</sup> Respondent State of Karnataka to institute with due dispatch all necessary measures to decentralise the management of waste generated in urban areas and to enable progressive and responsible citizen involvement in the same, as is mandated in the Constitutional 74<sup>th</sup> Amendment (Nagarpalika) Act.

i) Pass any order/s as this Hon'ble Court deems fit to grant in the interest of justice and equity.

**INTERIM PRAYER**

Pending disposal of the above said writ petition this Hon'ble Court be pleased to stay the operation of the order of the 2nd Respondent dated 25<sup>th</sup> October 2012 vide No.KSPCB/CEO2/EO/MSW/Mavallipura /Authorization/2012-13/4327, annexed at **Annexure AR**.

And pass any other order, direction, or relief that it may deem fit in the best interests of justice, fairness, equity and good conscience.

Address for service:

Advocate for Petitioner

(for Petitioners 1, 3 and 4)

Date:

Petitioner 2

Bangalore

(Appearing in Person)

**In the High Court of Karnataka at Bangalore**

**UNDER WRIT ORIGINAL JURISDICTION**

W.P. No.                      /2012

Between :

**Environment Support Group and others**

... Petitioners

And :

**Bruhat Bengaluru Mahanagara Palike and others**

...Respondents

**VERIFYING AFFIDAVIT**

I, Bhargavi S. Rao, aged 43 years, D/o Mr. Sathyanarayana Rao,  
do hereby solemnly affirm and state on oath as follows:

1. That I represent the 1<sup>st</sup> Petitioner and have been duly authorised to do so.
2. I know the facts of the case and am swearing on behalf of the 1<sup>st</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Petitioners.
3. I state that what is stated in Paras 1-96 and grounds for interim prayer are true and correct to the best of my knowledge, information and belief and as per the legal advise obtained.
4. I state that **Annexures A** to **Annexures AZ** are true copies of the original.

**VERIFICATION**

5. I state that what is stated above is true and correct to the best of my knowledge, information and belief and this is my name and signature.

Date:

Deponent

Bangalore

Identified by me

Advocate

**In the High Court of Karnataka at Bangalore**

**UNDER WRIT ORIGINAL JURISDICTION**

W.P. No.                      /2012

Between :

**Environment Support Group and others**

... Petitioners

And :

**Bruhat Bengaluru Mahanagara Palike and others**

...Respondents

**VERIFYING AFFIDAVIT**

I, Leo F. Saldanha, aged 44 years, S/o Mr. S. J. Saldanha, do hereby solemnly affirm and state on oath as follows:

1. That I am the 2<sup>nd</sup> Petitioner and appearing as Party in Person.
2. I know the facts of the case.
3. I state that what is stated in Paras 1-96 and grounds for interim prayer are true and correct to the best of my knowledge, information and belief and as per the legal advise obtained.
4. I state that **Annexures A** to **Annexures AZ** are true copies of the original.

**VERIFICATION**

5. I state that what is stated above is true and correct to the best of my knowledge, information and belief and this is my name and signature.

Date:

Deponent

Bangalore

Identified by me

Advocate

In the High Court of Karnataka at  
Bangalore

W.P. No.                    /2012

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35.	<b>ANNEXURE Y-1:</b> Typed copy of reissual of authorisation by 2 <sup>nd</sup> Respondent KSPCB, dated 28 <sup>th</sup> October 2006, No. KSPCB/BE/MSW/SEO-2/EO/AEO/2006-07/1451, allowing 10 <sup>th</sup> Respondent Ramky to operate landfill at Mavallipura	
36.	<b>ANNEXURE Z:</b> Article entitled “IAF copter pilot killed in air show rehearsal” dated 2 <sup>nd</sup> February 2007	
37.	<b>ANNEXURE Z-1:</b> Article entitled “India's Showcase Chopper Crashes Ahead of Airshow”, dated 2 <sup>nd</sup> February 2007	
38.	<b>ANNEXURE AA:</b> Order of Air Officer-in-charge of Administration of Indian Air Force rejecting appeal under Right to Information Act, 2005 of 1 <sup>st</sup> Petitioner, dated 20 <sup>th</sup> December 2007	
39.	<b>ANNEXURE AB:</b> Article entitled “Dump the Mavallipura Landfill”, dated 13 July 2012	
40.	<b>ANNEXURE AC:</b> Report produced by 1 <sup>st</sup> and 2 <sup>nd</sup> Petitioners entitled “Bangalore's Toxic Legacy: Investigating Mavallipura's Illegal Landfills”	
41.	<b>ANNEXURE AD:</b> List of Deceased at Mavallipura and other villages due to pollution from the illegal landfills	
42.	<b>ANNEXURE AE:</b> “Show Cause” Notice issued by 2 <sup>nd</sup> Respondent KSPCB, dated 17 <sup>th</sup> October 2008, No. KSPCB/SEO-2/SCN/MSW/2008-09/3060, on 1 <sup>st</sup> Respondent BBMP and 10 <sup>th</sup> Respondent Ramky, for illegal dumping at Mavallipura	
43.	<b>ANNEXURE AF:</b> Inspection Report of 2 <sup>nd</sup> Respondent KSPCB, dated 4 <sup>th</sup> July 2007, No. KSPCB/RO BNG (N-1)/IR/2007-08, submitted to Hon'ble Lokayukta on pollution due to illegal land-filling at Mavallipura	
44.	<b>ANNEXURE AG:</b> Comparison of legally required standards for landfill operated by 10 <sup>th</sup> Respondent Ramky with actual situation	
45.	<b>ANNEXURE AH:</b> Representation of financial benefits accrued by 10 <sup>th</sup> Respondent M/s Ramky for operating landfill at Mavallipura as per Concession Agreement	
46.	<b>ANNEXURE AJ:</b> Comparison of landfills operated by	

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	10 <sup>th</sup> Respondent Ramky and 17 <sup>th</sup> Respondent Mr. H. Bailappa	
47.	<b>ANNEXURE AK:</b> Report of Chemical analysis of water sampled at Mavallipura, dated 6 <sup>th</sup> July 2012	
48.	<b>ANNEXURE AL:</b> Representation of Shivakote Gram Panchayat, dated 4 <sup>th</sup> July 2012, No. She/Gra/Pa/No. 30/2012/2013, submitted to 2 <sup>nd</sup> Respondent KSPCB regarding pollution due to illegal land-filling in Mavallipura	
49.	<b>ANNEXURE AL-1:</b> Translation of representation of Shivakote Gram Panchayat, dated 4 <sup>th</sup> July 2012, No. She/Gra/Pa/No. 30/2012/2013, submitted to 2 <sup>nd</sup> Respondent KSPCB regarding pollution due to illegal land-filling in Mavallipura	
50.	<b>ANNEXURE AM:</b> Representation of Gantiganahalli Gram Panchayat, dated 6 <sup>th</sup> July 2012, No. Gam/Gra/Pa/No. 52/2012-3, submitted to 2 <sup>nd</sup> Respondent KSPCB regarding pollution due to illegal land-filling in Mavallipura	
51.	<b>ANNEXURE AM-1:</b> Translation of representation of Gantiganahalli Gram Panchayat, dated 6 <sup>th</sup> July 2012, No. Gam/Gra/Pa/No. 52/2012-3, submitted to 2 <sup>nd</sup> Respondent KSPCB regarding pollution due to illegal land-filling in Mavallipura	
52.	<b>ANNEXURE AN:</b> Order issued by 2 <sup>nd</sup> Respondent KSPCB, dated 11 <sup>th</sup> July 2012, No. KSPCB/CEO-2/EO/MSW/Mavallipura/2012-13/1721, directing 1 <sup>st</sup> Respondent BBMP and 10 <sup>th</sup> Respondent Ramky to stop receiving waste at landfill at Mavallipura	
53.	<b>ANNEXURE AP:</b> Letter of 3 <sup>rd</sup> Respondent Ministry of Environment and Forests, dated 16 <sup>th</sup> July 2012, No. 17-21/2011-HSMD, to 2 <sup>nd</sup> Respondent KSPCB, regarding complaint received from 1 <sup>st</sup> and 2 <sup>nd</sup> Petitioners on illegal land-filling at Mavallipura	
54.	<b>ANNEXURE AQ:</b> Representation of 3 <sup>rd</sup> Petitioner, dated 17 <sup>th</sup> October 2012, submitted to 2 <sup>nd</sup> Respondent KSPCB to enforce conditions of closure order directed at 10 <sup>th</sup> Respondent Ramky	
55.	<b>ANNEXURE AQ-1:</b> Translated copy of representation of 3 <sup>rd</sup> Petitioner, dated 17 <sup>th</sup> October 2012, submitted to 2 <sup>nd</sup> Respondent KSPCB, to enforce conditions of closure order directed at 10 <sup>th</sup> Respondent Ramky	
56.	<b>ANNEXURE AR:</b> Impugned order issued by 2 <sup>nd</sup> Respondent KSPCB, dated 25 <sup>th</sup> October 2012, No. KSPCB/CEO-2/EO/MSW/Mavallipura/Authorisation/2012-13, reopening landfill to be operated by 1 <sup>st</sup> Respondent BBMP and 10 <sup>th</sup> Respondent Ramky at Mavallipura	
57.	<b>ANNEXURE AS:</b> Interim Direction issued by this	

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	Hon'ble Court in WP No. 24739/2012, dated 6 <sup>th</sup> November 2012, regarding prevailing garbage mismanagement in Bangalore and about threats to aviation safety of Yelahanka Air Force Station due to landfills in Mavallipura	
58.	<b>ANNEXURE AT:</b> Representation submitted by 1 <sup>st</sup> Petitioner to 2 <sup>nd</sup> Respondent KSPCB, dated 6 <sup>th</sup> November 2012, regarding illegalities involved in the impugned order reopening landfill at Mavallipura	
59.	<b>ANNEXURE AU:</b> Representation submitted by 1 <sup>st</sup> Petitioner to Group Captain of Command Headquarters of Indian Air Force Bangalore, regarding illegalities of Mavallipura landfill and threat to aviation safety at Yelahanka Air Force Station	
60.	<b>ANNEXURE AV:</b> Article entitled "One dies fighting for right to live in Bangalore", dated 24 August 2012	
61.	<b>ANNEXURE AW:</b> Representation submitted by 1 <sup>st</sup> Petitioner, dated 22 <sup>nd</sup> August 2012, to 1 <sup>st</sup> Respondent on progressive ways to save Bangalore from garbage crisis	
62.	<b>ANNEXURE AX:</b> Representation submitted by 1 <sup>st</sup> Petitioner, dated 9 <sup>th</sup> November 2012, providing detailed strategy to resolve solid waste management crisis in Bangalore	
63.	<b>ANNEXURE AY:</b> Checklist for Submission and Scrutiny of DPR (Municipal Solid Waste Management) issued by 8 <sup>th</sup> Respondent Union Ministry of Urban Development during March 2012	
64.	<b>ANNEXURE AZ:</b> Guidelines and Check-list for evaluation of MSW Landfills proposals issued by Central Pollution Control Board during August 2008	
65.	<b>Vakalath</b>	

Date:  
Bangalore

Advocate for Petitioner 1

Petitioner 2

(Party in person)