

Daily Order

Judge Name	Case No/Year	Date of Order	Daily Order
CHIEF JUSTICE AND S VISHWAJITH SHETTY	WP 24739/2012	11/11/2020	<p data-bbox="682 264 968 293">In W.P.No.9367/2020</p> <p data-bbox="682 349 1976 672">We have perused the memo filed by the petitioner- Karnataka State Legal Services Authority (KSLSA). In the letter dated 5th November 2020 submitted by the Member Secretary of the District Legal Services Authority (DLSA), Dakshina Kannada, Mangaluru, addressed to the Member Secretary of KSLSA, it is stated that on 4th November 2020 at 3.00 p.m., the Chairman of DLSA and the Principal District and Sessions Judge along with the Member Secretary visited a hall and met the affected persons for making them aware about their rights. With the assistance of DLSA and the Legal Aid lawyers, the claim applications were collected and submitted to the Municipal Corporation.</p> <p data-bbox="682 812 1976 1089">2. The learned counsel appearing for the Municipal Corporation states that so far, 102 claim petitions have been received and the same are being processed. He further states that after the claim petitions are processed, inquiry will be held in which the affected persons will be heard. To those claimants who want legal assistance, DLSA will appoint Legal Aid lawyers for espousing their causes and the said Legal Aid lawyers shall be permitted to appear during the inquiry held by the Municipal Corporation on the claim petitions submitted by the affected citizens.</p> <p data-bbox="682 1229 1976 1507">3. Now, we come to the role played by the Karnataka State Pollution Control Board (for short 'the Board'). The order dated 14th October 2020 records that the Board was unaware of the orders passed by the Central Government in terms of clause (a) of Section 19 of the Environment (Protection) Act, 1986 (for short 'the said Act of 1986') authorising various authorities/officers to file complaints for the offences punishable under the said Act of 1986. It is only after the order dated 14th October 2020 was passed, the Secretary of the Board produced a copy of the notification issued by the Central Government dated 16th</p>

Judge Name	Case No/Year	Date of Order	Daily Order
			<p>April 1987 under which, certain officers were authorized in accordance with clause (a) of Section 19 of the said Act of 1986 to file complaints for the offences punishable under Section 15 of the said Act of 1986. The notification of the Central Government records that the Chairman, Member Secretary as well as the Regional Officers of the State Pollution Control Boards have been authorized to file complaints in accordance with Section 19 of the said Act of 1986.</p> <p>4. We are informed that the Board was in existence on 16th April 1987. The Board has to act as a watch dog and keep a vigil against all types of pollutions whether it is air pollution, water pollution or any other kind of pollution including noise pollution. Till October 2020, when we passed the aforesaid orders, the Board was not even aware of the notification dated 16th April 1987 issued by the Central Government. Thereafter, the Board, along with the compliance affidavit dated 9th November 2020, has produced a copy of the notification issued by the Chairman of the said Board designating the jurisdictional Environmental Officers working at the Regional Offices as Regional Officers. As per the directions issued earlier, the copies of the orders of acquittal/discharge passed by the Competent Courts have been produced on record. At least, there are two orders wherein the Court has found fault with the Board for not producing any material to show that the Environmental Officer was authorised to file prosecution in accordance with Section 19 of the said Act of 1986. The copies of some of the complaints filed by the Board for invoking Sections 25 and 44 of the Water (Prevention and Control of Pollution) Act, 1974 (for short 'the Water Act') and Section 15 of the said Act of 1986 have been produced. For example, Annexure-X4 is a compliant filed in the Court of the Chief Judicial Magistrate at Bidar. It is presented by the Assistant Environmental Officer who even today is not designated as a Regional Officer. Thus, in all these years, the Board did not even bother to find out who are the Officers authorized by the Central Government in accordance with clause (a) of Section 19 of the said Act of 1986. That is how in large number of complaints filed under Section 19 of the said Act of 1986, either there are orders of discharge or orders of acquittal.</p> <p>5. The activity of dumping undertaken by the Municipal Corporation in the present case is in violation of Solid Waste Management Rules, 2016 as well as the Construction and</p>

Judge Name	Case No/Year	Date of Order	Daily Order
			<p>Demolition Waste Management Rules, 2016. Due to illegal dumping of all categories of wastes by the said Municipal Corporation, a large number of citizens were affected and their livelihood was lost. The incident has taken place few months back. Even as of today, the Board has not taken any action against those who are responsible for violation of the Rules framed under the said Act of 1986 and even violation of the provisions of the Water Act.</p> <p>6. The manner in which the Board is functioning is a matter of concern as can be demonstrated by not only the case in hand, but also by several matters which are dealt with by this Court. The State Government is a party to the petition. The State Government must consider whether an inquiry at the hands of a senior civil servant should be conducted to go into the manner in which the Board is functioning which is supposed to act as a watch dog against the pollution. Therefore, the State Government will make a statement on the next date whether it is willing to direct an inquiry to be conducted in the hands of a senior civil servant into the manner in which the Board is functioning.</p> <p>Order on I.A.No.1/2020</p> <p>7. The petitioner- KSLSA has filed I.A.No.1/2020 for impleading Mangaluru Smart City Limited as a party. The learned counsel appearing for the petitioner pointed out that large amount has been provided to the said company which has undertaken several development projects in the city. His submission is that today, the local authority which is the Municipal Corporation is facing financial crisis and therefore, it may be necessary to issue directions to the added respondent to release some funds for implementation of the Solid Waste Management Rules, 2016 and the Construction and Demolition Waste Management Rules, 2016.</p>

Judge Name	Case No/Year	Date of Order	Daily Order
			<p data-bbox="684 240 1978 391">8. In view of the aforesaid submissions, we allow the said application. The amended copy shall be filed by the petitioner within a period of one week from today. For physically carrying out amendment, we grant time of six weeks. Notice be issued to the added respondent returnable on 2nd December 2020.</p> <p data-bbox="684 532 1978 768">9. Before we part with this application, going by the averments made in the application, it is stated that the added respondent is responsible for implementing Smart City Mission. We hope and trust that this company which is responsible for implementing Smart City Mission is conscious of the elementary fact that no city can become a smart city unless there is a strict implementation of the Solid Waste Management Rules, 2016 and other relevant Rules framed under the provisions of the said Act of 1986.</p> <p data-bbox="684 906 1978 1060">10. We are informed that the Municipal Commissioner is the Managing Director of the added respondent. As the Municipal Corporation is before the Court, the Municipal Corporation will ensure that the added respondent appears before the Court on the next date.</p> <p data-bbox="684 1198 1978 1352">11. The learned counsel appearing for Bruhat Bengaluru Mahanagara Palike (BBMP) states that he will file the affidavit in support of I.A.No.2/2020 within a period of three weeks from today. The supporting affidavit shall be filed by 2nd December 2020 and the copies shall be furnished to all the parties.</p> <p data-bbox="684 1490 1734 1523">12. I.A.No.2/2020 filed by BBMP shall be considered on 7th December 2020.</p>

Judge Name	Case No/Year	Date of Order	Daily Order
			13. All the matters in the group shall be listed on 7th December 2020 at 2.30 p.m.

[Close](#)[Print](#)