

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF MAY, 2021

BEFORE

THE HON'BLE MS. JUSTICE JYOTI MULIMANI

WRIT PETITION.NO.11358 OF 2014 (LB-RES)

BETWEEN

M/S. GOTAWAT INDUSTRIES,
NO.232, SOMPURA 1ST STAGE,
KIADB I.A,
THYAMAGONDLU,
MAKANAKUPPE VILLAGE,
NELAMANGALA TALUK,
BANGALORE RURAL-562 132.
REPRESENTED BY ITS PARTNER
SRI SUSHIL JAIN.

...PETITIONER

(BY SRI BASAVARAJ V. SABARAD, ADVOCATE)

AND

1. THE PANCHAYAT DEVELOPMENT OFFICER,
MANNE GRAMA PANCHAYAT,
NELAMANGALA TALUK,
TYAMAGONDLU HOBLI,
BANGALORE RURAL DISTRICT.
2. THE TALUK PANCHAYAT,
NELAMANGALA,
BY ITS CHIEF EXECUTIVE OFFICER,
BANGALORE RURAL DISTRICT.

...RESPONDENTS

(SRI B. M. HALASWAMY, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA SEEKING CERTAIN RELIEFS.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Sri. Basavaraj V. Sabaraj, learned counsel for petitioner and Sri B. M. Halaswamy, learned counsel for respondents have appeared through video conferencing.

2. It is stated that the petitioner is an industry having its unit at plot No.232, Sompura 1st Stage, KIADB I.A, Thaymagondlu, Makanakuppe Village, Nelarnangala Taluk, Bangalore Rural-562132. The Karnataka Industrial Areas Development Board (KIADB) has developed Sompura Industrial Area 1st stage near Dabbaspet by invoking the provisions of the Karnataka Industrial Areas Development Act, 1966 ('the KIAD Act' for short) and Rules made there under.

It has formed several plots for allotment in favor of entrepreneurs.

It is stated that the petitioner was initially allotted one acre of land in Plot No.191 on 30.11.2009 but later the allotment was changed to Plot No.232. The plot was allotted to establish an industry for manufacturing of HDPE/PP Sewing Thread, Multifilament Yarn and Woven Sacks/Fabrics on 01.07.2010. The petitioner was required to obtain sanction to the building construction plan from the KIADB. The Board maintains the industrial area by collecting all requisite charges, however due to certain environmental issues, the Board is not collecting charges from the petitioner and asking them to shift from the area. It is stated that the petitioner has complied with the terms of allotment, agreement and has paid all leviable charges to the Board.

It is averred that the industrial area does not form part of Panchayat area of Manne Village Panchayat notified under Section 4 of the Karnataka (Gram Swaraj And Panchayat Raj) Act, 1993. The Panchayat at Manne Village has not provided any facility / services. The Board has formed the Industrial Area after acquisition of lands, formed roads, provided water and electricity and collects charges for their maintenance from the industrialists to whom plots are allotted.

It is stated that the industrial area is not handed over to Panchayat. The Panchayat has not provided any infrastructure or facility to the Industrial Area. Notwithstanding the aforesaid facts, the Panchayat is harassing the petitioner in respect of the industrial plot without ascertaining as to whether it has jurisdiction and also whether the provisions of the Panchayat Raj Act are made applicable to the

industrial area. It is specifically stated that several representations have been made and meetings have been conducted by the Government Authorities on this menace but in vain. It is alleged that persons from Panchayat come in groups and impose threats to the persons in-charge of the unit. It was therefore decided to write to the District Superintendent of Police to stop the menace. Accordingly, the Chief Executive Officer and Executive Member of KIADB has written a letter to the Superintendent of Police on 21.03.2013.

As matter stood thus, the Panchayat issued a notice on 20.01.2014 stating that the petitioner is required to pay tax and cess for the building and has to obtain license, failing which, the electricity supply would be stopped and the factory would be closed. The petitioner gave a suitable reply on 29.01.2014 denying the allegation made in the notice. Petitioner has averred that without providing any details, a

group of persons on behalf of Panchayat are visiting regularly and threatening to close the industry forcibly. To the shock and surprise of petitioner, Panchayat issued a notice on 12.02.2014 stating that the electricity supply will be stopped as the petitioner has not renewed the general license and also not paid the tax.

Under these circumstances, left with no other alternate or efficacious remedy, petitioner has invoked the writ of jurisdiction of this Court under Articles 226 and 227 of the Constitution of India.

3. Learned Counsel for petitioner has urged several grounds.

4. Heard the contentions urged on behalf of petitioner and respondents and perused the Annexures with care.

5. Annexure-E is the final notice dated 20.01.2014 issued by the first respondent-Panchayat stating that petitioner is required to pay tax and cess for the building and has to obtain license, failing which the electricity supply would be stopped and the factory would be closed. Annexure-G is one more notice dated 12.02.2014 issued by the first respondent-Panchayat electricity supply will be stopped as the petitioner has not renewed the general license and also not paid the tax.

It is significant to note that it is the specific contention of the petitioner that the Board has formed the Industrial Area after acquisition of lands. The petitioner is an allottee of an Industrial plot and that the industrial area does not form part of Panchayat area. Therefore, the Panchayat has not power / jurisdiction to intervene. The contentions have been noted with care.

It is relevant to note that the plot is allotted by the Industrial Board. There is nothing on record to show that the industrial area forms the part Panchayat area of Manne Village. Further, the authority of the Panchayat to levy tax is not absolute or unguided power. The power to levy tax by the Panchayat is available only in respect of the buildings and lands in the Panchayat area and after following the procedure laid down in Sections 199, 200 and 201 of the Panchayat Act.

It is further relevant to note that the tax leviable cannot also be more than what is prescribed under Schedule IV of the Panchayat Raj Act. It is needless to say that the power may be available to levy tax to the areas not notified under Section 3(1) of the KIAD Act, but in respect of an area declared as an industrial area under the said provision in respect of which the Board exercises exclusive authority of providing

amenities, infrastructure, power to approve construction plans etc. It is surprised that the action of the Panchayat is without any source of power and authority of law and is also contrary to all the provisions of the Statute.

It is perhaps well to observe that the Panchayat has not able to substantiate the levy of tax in respect of buildings in an industrial area formed by the KIADB. Further, in the present case, there is nothing on record to show that the industrial area has been handed over to the Panchayat and that the Panchayat is providing any services to the industrial area.

Under these circumstances, the action on behalf of Panchayat by issuing notices is illegal and unsustainable in law. Therefore, the notices at Annexure-E and Annexure-G are liable to be quashed and hereby quashed.

For the reasons stated above, the writ petition is **allowed**. The notice No.nil dated 20.01.2014 (Annexure-E) and notice No.nil dated 12.02.2014 (Annexure-G) are quashed.

The respondents are hereby directed to consider the representation / reply at Annexure-F within four months from the date of receipt of copy of this order. Accordingly, the writ petition is disposed off.

**Sd/-
JUDGE**

HA/-