



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 11<sup>TH</sup> DAY OF SEPTEMBER, 2023**



**PRESENT**

**THE HON'BLE MR PRASANNA B. VARALE, CHIEF JUSTICE**

**AND**

**THE HON'BLE MR JUSTICE KRISHNA S DIXIT**

**WRIT PETITION NO. 17835 OF 2023 (GM-RES)**

**BETWEEN:**

1. VEERABHADRA GOWDA,
2. BALAVINDRAPPA S/O GUTHYAPPA,

Digitally signed  
by SHARADA  
VANI B.  
Location: HIGH  
COURT OF  
KARNATAKA

...PETITIONERS

(BY SMT. DEEPASHREE D., ADVOCATE FOR  
SRI. NAGENDRA NAIK R.,ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA  
REPRESENTED BY ITS CHIEF SECRETARY,  
ROOM NO.110, GATE II, M S BUILDING,



AMBEDKAR VEEDHI  
BENGALURU - 560 001.

2. DEPUTY COMMISSIONER  
WHQG PULS 2FC, SIR. M.V. ROAD,  
SOVLANGA ROAD,  
SHIVAMOGGA DISTRICT - 577 201.
3. TAHSILDAR,  
SORABA TALUK,  
MINI VIDHANA SOUDHA BUILDING,  
SHIRALA KOPPA ROAD, SORAB,  
SHIMOGA DISTRICT - 577 429.
4. RANGE FOREST OFFICER,  
ANAVATTI RANGE, H553+FR2,  
SHIRALA KOPPA ROAD, SORABA TALUK,  
SHIVAMOGGA DISTRICT - 577 413.
5. CHIEF OFFICER,  
ANAVATTI PATTAN PANCHAYAT,  
H572+H8W, SH1, ANAVATTI,  
SORABA TALUK,  
SHIVAMOGGA DISTIRCT - 577 413.

...RESPONDENTS

(BY SMT.NILOUFER AKBAR., AGA FOR R1 TO R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO A)ISSUE A WRIT IN THE NATURE OF CERTIORARI TO QUASH THE ORDER OF DEPUTY COMMISSIONER, SHIVAMOGGA DISTRICT DATED 31/01/2022 VIDE LETTER NO.LND (2) LG 2/113/2021 (E 88059) AS PER ANNEXURE-A AND B) ISSUE A WRIT IN THE NATURE OF MANDAMUS DIRECTING THE RESPONDENT NO.2, THE DEPUTY COMMISSIONER TO CONDUCT ENVIRONMENTAL IMPACT STUDY BEFORE ALLOTING THE LAND TO THE WASTE MANAGEMENT UNIT AND ETC.,

THIS PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY, **CHIEF JUSTICE** MADE THE FOLLOWING:



**ORDER**

1. The petitioners claiming to be public spirited citizens are invoking the PIL jurisdiction of this Court for calling in question Deputy Commissioner's order dated 31.01.2022 whereby, a small portion of 5 acres of land in Sy.No.59 of Kupaturu Village in Soraba Taluka has been reserved for the establishment of Solid and Liquid Waste Disposal Unit within the jurisdictional limits of 5th respondent - Panchayat.

2. Learned counsel appearing for the petitioners argues that earlier, a piece of 2 acres in the very same survey number was earmarked for the said purpose within the jurisdictional limits of Kupaturu Grama Panchayat vide order dated 28.07.2020 and abruptly the said order having been withdrawn, the impugned order has been made without assessing environmental impact. The extent of 5 acres is too huge and that would affect the cattle of the rural public. He also draws attention of the Court to the requirement of a diversion order after notice to the public



at large. Learned Additional Government Advocate appears for the official respondents and opposes the petition contending that the establishment of dry and wet waste management unit has enormous public interest that outweighs the arguable public interest in the petition. 2 acres of land earlier reserved for the purpose having been found to be inadequate, a larger extent in 5 acres is now allocated keeping in view the population growth and expansion of the towns in question. So contending she seeks dismissal of the writ petition.

3. We have heard the learned counsel appearing for the petitioner and the learned Additional Government Advocate appearing for the official respondents. Having done that, we decline indulgence in the matter being broadly in agreement with the submission of learned Additional Government Advocate. There is force in her submission that the population growth is exponential and it causes expansion of the towns and settlements. That in turn would generate more dry and wet waste, humans



being what they are. Therefore, in the considered opinion of the authorities, the 2 acres having been found inadequate, now a piece of 5 acres of land is earmarked for the establishment of waste processing unit. By no stretch of imagination it can be said that, the same is not in public interest. We are also convinced that the public interest in the project in question outweighs the arguable public interest in the petition.

4. The gomal lands are earmarked for the purpose of village cattle in public interest, is true. However, the authorities in their accumulated wisdom having processed the statistical data have taken a decision to earmark 5 acres of land for the establishment of waste processing unit. The public interest in such establishment again overrides the public interest that prompted them to reserve the land for the purpose of gomal/gairon. It is not that the gomal land can never be diverted to other larger public purpose like the one put in challenge. There is absolutely no material on record to substantiate the



argument that any provision of law is violated by diversion of the Government land for the purpose of waste management which in turn serves the interest of environment and ecology. We cannot readily assume that every establishment of project of the kind will have a bad impact on the environment. These are matters left to the Executive wisdom and a writ court having its own limitations cannot run a race of opinions with the authorities.

5. The last submission that several standing trees in the land in question shall be felled for the subject project and therefore the impugned order is liable to be voided, is difficult to countenance. In projects of the kind, trees, plants and grass do vanish away and that is not desirable. However, that happens inevitably. In all human institutions, a smaller evil is tolerated for achieving the greater good. The greatest happiness of the greatest number of people which Jeremy Bentham (1747-1832) propounded in the "Introduction to the Principles of Moral



and Legislation" animate such public projects. Any venture of the kind would inevitably extract some price, is true. What one has to see is the quantum of the price *qua* the enormity of benefit that would accrue by virtue of the project in question. Viewed from this angle, we do not find any merit in the submission.

In the above circumstances, this petition, being devoid of merits, is liable to be and accordingly dismissed, costs having made easy.

**Sd/-  
CHIEF JUSTICE**

**Sd/-  
JUDGE**

Bsv  
List No.: 1 Sl No.: 9