

**Before the Hon'ble Empowered Committee Constituted per
interim direction of Hon'ble High Court of Karnataka**

in

Writ Petition (PIL) No. 7107/2008

Petitioners Interim Application No. 4/2008

Bengaluru, 05 December 2008

To:

The Chairperson and Members

Empowered Committee Constituted in WP No 7107/2008

C/o Bruhat Bengaluru Mahanagara Palike

Bengaluru

Submitted by:

Petitioners in WP No. 7107/2008

**PART A: Suggestions for the organisation and functioning of
the Hon'ble Empowered Committee constituted per the order
of the Hon'ble High Court of Karnataka in Writ Petition
7107/2008**

Mandate of the Empowered Committee:

The mandate of the Hon'ble Empowered Committee as directed by the Hon'ble High Court of Karnataka in its interim order in WP No. 7107/2008 (PIL) is to take "an ideal balanced view" with regard to "the public sensitivity regarding the felling of trees and the widening

of roads on the one hand but also with regard to the sustained economic and social development of society at large on the other". The members of the Hon'ble Committee "are duty bound to take into consideration views of the public before any developmental work is to be undertaken keeping in view the public interest. It is needless to mention that the suggestions, if any, by the public, would necessarily have to be considered, provided they are in true larger public interest within the realm of the law and in furtherance of sustainable developmental works to be carried on by the Statutory Authorities. Larger public interest would therefore prevail over the minor public interest." (Emphasis added)

The Hon'ble Court has specifically held that the "committee constituted by the 6th respondent would pass such orders as are necessary by taking into consideration all the suggestion that may be offered by the above newly added Members as proposed by both the petitioners and 6th respondent's counsel keeping in mind the various legal grounds urged in the Petition and also to see that the sustainable development works are carried out to widen the roads in the city in the larger interest of the public". (Emphasis added)

In a subsequent direction of the Hon'ble Lok Adalat of the Karnataka Legal Aid Services Authority, in its direction of 19 November 2008 in PIL WP 7107/2008 (PIL), the Hon'ble Adalat has held that Hon'ble Empowered Committee would "hear both the parties and pass an appropriate orders after considering all the valuable suggestions/points/grounds that may be advanced by the parties concerned".

It is therefore beyond any doubt that the Hon'ble Empowered Committee would function as an open court and quasi judicial body and that all proceedings and information processed by the Empowered Committee, including minutes, submissions by its Members and other details of its deliberations, will be available to the public at large.

Submissions by Applicant Agencies to the Hon'ble Empowered Committee:

Every applicant agency, which will include every instrumentality of the state as arrayed in the PIL or any other agency whose activities have a bearing on the issues raised in the PIL in WP No. 7107/2008, proposing to execute any developmental project, shall file an application addressed to the Chairperson of the Hon'ble Empowered Committee seeking necessary orders.

The said written submissions shall be addressed to the Chairperson of the Empowered Committee, and upon submission an acknowledgment shall be provided with a file number. The submission can be made in person or through registered post.

The applicant agency shall not proceed to implement any such developmental project without obtaining prior permission of the Hon'ble Committee.

All applicants, shall place before the Hon'ble Empowered Committee their proposals in detail and seek the approval of the said Committee in conformance of the order of the Hon'ble High Court of Karnataka in WP 7107/2008.

Every such proposal shall contain

- a) A detailed description of the project for which clearance is sought.
- b) A detail report of legal compliance with supportive evidence of how it has complied with applicable laws and policies shall accompany such proposals.
- c) Detailed documentation about how it has followed applicable standards such as the National Building Code of India, Codes developed by the Bureau of Indian Standards, and such other professional standards as applicable in each case.
- d) Explanation demonstrating how the project will benefit the larger public/local community.
- e) Analysis of the impact of the project on the local community and the environment and measures to address such concerns.
- f) Analysis of the anticipated risks (social, economic and environmental) should be described along with a risk management plan for attending to the same.
- g) A survey of the costs and benefits particularly focusing on the environmental, social and economic parameters and an analysis of how the project conforms with the directives of the Hon'ble court to ensure that the project is sustainable and defending the interests of the weakest sections of society as directed by the Hon'ble Court needs to accompany the application.
- h) Detailed technical designs with a report of alternatives considered and why the proposal made is the most appropriate in sustaining wider public interests shall accompany the application.

Copy of every such proposal as stated above shall be deposited in the Convener's office at least 45 days prior to its consideration by the Hon'ble Empowered Committee. The applicant agency shall issue a notice to all parties to the Petition in WP 7107/2008 reporting that such an application has been made and inviting suggestions and objections to the same. An acknowledgment of having served these notices will be filed with the office of the Convenor of the Hon'ble Empowered Committee no later than two weeks from the date of application to the Hon'ble Committee.

The applicant agency will draw the attention of the affected public through notices and publish all the information contained in its application on its website on the same date that the application is made before the Hon'ble Committee.

Comments, objections and such other responses, including counters, to the proposal received from the applicant agency by the Convenor shall be placed before the Hon'ble Committee for due consideration. All such pleadings shall be served upon the Members of the Hon'ble Committee at least one week prior to the date of consideration of the proposal and copies of such pleadings shall be available to any interested party from that date in the office of the Convenor of the Hon'ble Committee as per the Right to Information Act.

A date shall be fixed to hear all interested/affected parties/persons/applicant agencies before a decision is taken on the matter.

A final decision will be issued as an order of the Hon'ble Committee and as far as practicable not later than three months from the date of application for clearance.

Procedure by affected persons or parties before the Hon'ble Empowered Committee:

Any person, body or member of the public who is concerned with the impacts, implications, issues of consideration or any matter relating to the activities of the applicant agencies "keeping in mind the various legal grounds urged in the Petition" (PIL in WP No. 7107/2008) can approach the Hon'ble Empowered Committee with their grievance or suggestions, recommendations and proposals.

The said written submissions shall be addressed to the Chairperson of the Empowered Committee, and upon submission, an acknowledgment shall be provided with a file number. The submission can be made in person or through registered post.

Upon making a written submission, the party or person or body who has made submissions shall be intimated of the date on which his/her/their matter would be heard by the Hon'ble Empowered Committee no later than fifteen days prior to the date of hearing.

A copy of the submissions so made shall be served by the Convener of the Hon'ble Empowered Committee on all Members, Parties to the PIL and applicant agencies who will be at liberty to file their counter to the aforementioned submissions. The copy of the said counter will be served on the Party or Person or Body who has made the submissions and all necessary parties, at least three days prior to the date fixed for consideration of the matter before the Hon'ble Committee.

The party or person or body making such submissions shall be heard within a reasonable time and no later than three months from the date of the submission.

Hearings by the Hon'ble Empowered Committee:

The Hon'ble Empowered Committee should provide an opportunity of oral hearing to all interested parties/persons, including applicants and aggrieved persons, who have made written submissions to the Committee.

After due and careful consideration made by all the relevant parties the Hon'ble Empowered Committee shall by a reasoned order approve or reject a proposal.

The Hon'ble Empowered Committee will have the power to incorporate in the order such conditions as it may deem fit based on suggestions and responses placed before it by the affected/concerned parties/persons and its deliberations and investigations.

Once the Hon'ble Empowered Committee has accorded permission to a project, the project applicant shall file periodic compliance reports (monthly or quarterly) as may be determined by the Committee.

The Hon'ble Empowered Committee shall have the power to issue appropriate directions if it finds that the implementation of the sanctioned schemes is not in accordance with law or in violation of the conditions stipulated in the sanctioning order. The powers would include the power to revoke a clearance accorded.

All decisions of the Hon'ble Committee shall be through consensus and unresolved issues shall be referred to the Karnataka High Court Legal Aid Committee for appropriate resolution.

Powers of Empowered Committee to conduct Site Inspection and Public Hearings:

The Empowered Committee shall have the power to conduct Site Inspection or organize Public Hearings as and when it deems fit to ascertain the implications and impacts of a particular proposal made by an applicant agency or suggestions and solution made by any member of the public.

The Public Hearings and Site Inspections conducted by the Hon'ble Empowered Committee may are not in lieu of the obligation of Statutory Public Hearings, Site Inspections and such other public consultation procedures mandated on the applicant agencies.

Site Inspection:

Site inspection shall be conducted after due notice to the affected community, applicant agency and parties to the PIL (in WP No. 7107/2008) and such a notice shall not be less than one week prior to the date of such an inspection. The notice shall contain details of the time, date and venue for such an inspection including a brief synopsis of the proposed developmental work.

Public Hearing:

The Public Hearing on a proposal shall be conducted on issuance of a thirty day notice in at least two newspapers of large circulation, of which one shall be in a vernacular language. The notice shall contain a synopsis of the proposal under review, address of the offices where the proposal documents can be accessed and time, place and venue of the Hearing. In addition the Hon'ble Committee would also issue Press Releases drawing attention to the Public Hearing.

On issuance of the notice of Public Hearing all documents pertaining to the project for which the applicant agency is seeking clearance shall be made available at the office of the Convenor of the Hon'ble Empowered Committee, the project applicant's office and at an easily accessible public location such as ward/Panchayath office, public library or school in the affected area. The entire application along with its annexures will also be made available on the applicants website in accordance with the *suo moto* provisions of Right to Information Act. All information made available will be in Kannada and English, and where specifically useful a language that is predominantly used by the affected community may also be used to ensure effective communication and appraisal of issues raised by affected parties/persons.

The Public Hearing will be held in a location within the impacted area and will be videographed. Its proceedings will be in Kannada and English, and such other language as the Hon'ble Committee deems is appropriate in ensuring relevant issues and concerns of the affected persons/parties are articulated.

A report of the Public Hearing will be made available no later than two weeks from when the Hearing is conducted and shall be permanently available at the office of the Convenor of the Hon'ble Committee, at the office of the applicant agency, on the website of the applicant agency and at the local ward/Panchayath office.

All information submitted by applicant agencies, and orders and reports issued by the Hon'ble Empowered Committee and any other such related information shall be made available in the official languages of Kannada and English.

Power to grant Interim Relief:

Pending disposal of the application by the applicant agencies, if circumstances so warrant, the Hon'ble Committee may *suo moto* or at the instance of any person pass such interim directions including an order staying any activity by the applicant agencies.

**Part B: Interrogatories to be responded to by Respondents in
PIL WP 7107/2008 before the Hon'ble High Court of Karnataka**

1. Whether the width of the roads proposed for widening or the alignment of *Namma Metro* as found in Comprehensive Development Plan – 2015 for the Bangalore Metropolitan Area were notified in the Draft Comprehensive Development Plan – 2015 in accordance with Sec. 10 of the Karnataka Town and Country Planning Act, 1961.
2. With respect to Roads notified for widening, or with respect to notifications of Metro alignment or with regard to any transport project that involve changes in existing land use before the coming into force of the Comprehensive Development Plan 2015, whether the procedure detailed per Sec. 14 A of the Karnataka Town and Country Planning Act, 1961 has been followed.
3. Whether the commencement certificates in terms of S.14 (2) of the Karnataka Town and Country Planning Act, 1961 has been obtained from the relevant Planning Authority in the prescribed form by Bruhat Bengaluru Mahanagara Palike, Bengaluru Metro Rail Corporation Ltd., or any other agency implementing transport projects in the region covered under the Comprehensive Development Plan – 2015 for Bengaluru?
4. Whether with respect to the roads proposed to be widened, or with respect to implementation of the Metro project, whether the procedure under S.26 and other Procedures envisaged under Chapter V of the Karnataka Town and Country Planning Act, 1961 have been followed in order to implement the Comprehensive Development Plan ?
5. With respect to the road widening activity of Bruhat Bengaluru Mahanagara Palike, wherever the zone of widening falls within Government property, whether such area has been transferred to the Palike in accordance with S.178 of the Karnataka Municipal Corporation Act?
6. Whether the alignment of the Metro and the road widening project is in conformity with provisions of the Karnataka Open Spaces Act and Karnataka Parks Preservation Act?
7. With respect to the impugned orders relating to tree felling in W. P. No. 7107/2008, whether conditions stipulated under S. 8 (2), (3) and (5) of the Karnataka Preservation of Trees Act has been followed?
8. If conditions have been imposed per S. 8(5) of the Karnataka Preservation of Trees Act, whether steps have been taken to ensure compliance of the same?

9. Whether the projects as proposed by applicant agencies and Respondents in PIL WP 7107/2008 are in conformance with the National Urban Transport Policy, National Policy for Urban Street Vendors and various Circulars of the Union Ministry of Urban Affairs as are arrayed in the legal grounds of the PIL.
10. In the lack of compliance with the requisite provisions of law, what steps, if any, are being initiated to ensure such compliance?

Bhargavi S. Rao

Leo F. Saldanha

Kathyayini Chamaraj

Trustee

Executive Trustee

Environment Support Group

Party in person

CIVIC Bangalore

Petitioner 1

Petitioner 2

Petitioner 3