

**PRESS RELEASE: Bangalore: 19 September 2008**

## **Hopes Dashed as High Court Appointed Committee to review Road Widening turns people-unfriendly**

**Path breaking judgment to resolve complex issues of road widening:**

Two months ago, we applauded a path breaking judgment by Justice Mr. Gopalagowda and Justice Mr. Ravi Malimath constituting the Division Bench of the Hon'ble High Court of Karnataka in a PIL filed by Environment Support Group and ors. (WP No. 7107/2008) questioning the legality of Bruhat Bengaluru Mahanagara Palike's (BBMP) mega project to widen 91 roads and a similar effort by Bangalore Metro project in the city. The Hon'ble Court favourably considered our arguments that BBMP and other agencies were carrying out such schemes in total disregard of public opinion, legal procedures, and public rationale. Emphasizing that such projects can only be undertaken after addressing the concerns of the larger public and in full conformance with the law, the Court in its interim direction of 28 June 2008 held that "suggestions made and its acceptance by all the parties before the court and the learned Advocate General and other counsel is a welcome sign with a view to find out workable solution to redress the public interest. .... An ideal and balanced view is therefore necessary in a matter of this nature."

To ensure that the process of addressing all concerns transparently and with full public accountability was realised, the Hon'ble Court constituted a committee of six experts to assist by Mr. Yellappa Reddy, former Environment Secretary, in reviewing the entire programme of road widening. Reflecting a spirit of collaboration and openness in dealing with these matters, the members were drawn in equal numbers on the basis of suggestions made by the Petitioners and Respondents. The Court defined the terms of reference for this Committee as being **"duty bound to take into consideration the views of the public before any developmental works is to be undertaken keeping in view the public interest."** The mandate of the Committee was to ensure that "suggestions, if any, by the public would necessarily have to be considered, **provided they are in true public interest, within the realm of law and in furtherance of sustainable developmental works to be carried on by the Statutory Authorities.**" To ensure that there would not be any prevarication or bias, the Court ordered that the "Committee... would pass such orders as are necessary by taking into consideration all the suggestions that may be offered by the above newly added Members.... **keeping in mind the various legal grounds urged in the Petition and also to see that the sustainable developmental works are carried out to widen the roads in the City in the larger interest of the public.**" (emphasis supplied)

The High Court issued the following directions as an interim measure:

- "We refer this matter to the Karnataka High court Legal Aid Committee headed by its President, Justice K. L. Manjunath for resolving the issues that are raised by hearing all the parties from time to time and monitor the sustainable developmental works to be executed by the 6<sup>th</sup> respondent" (BBMP).
- "*The Committee would hear the parties.....to determine the issues regarding the widening of roads, the felling of trees and also trees replanting in the City as required under Section 8 (5) of the Karnataka Preservation of Tree Act, 1976.*" (emphasis supplied)
- "The persons who are included in the Committee headed by Mr. Yellappa Reddy shall offer suggestions to assist it in the decision making process to maintain ecology and environment in the urban area where the widening of road work will be executed."
- **"The parties are at liberty to request the Committee for an interim arrangement with regard to widening of the roads and the felling and replanting of trees in urban area where the widening of the roads work is launched and executed."** (emphasis supplied)
- **"The Committee shall also take into consideration not only the felling of trees and the widening of roads to reach the international airport but also such other incidental and related matters which result in the traffic hazards and also in relation to public/private transport, senior citizens, physically handicapped persons, children, ecology, environment and health."** (emphasis supplied)

We consider this interim direction of the Hon'ble High Court as an emphatic statement in support of the need for executing urban infrastructure development works in consultation with the public and to maintain high levels of transparency in their review. We are also pleased that the Hon'ble Court emphasized the importance of considering multiple interests of various types of road users in executing such schemes and that all legal procedures are complied with.

**Petitioners sincere efforts to advance public interest disregarded:**

In conformance with the Hon'ble Court's directions, the Petitioners respectfully approached the Committee Chairman Mr. Reddy soon after the Court's directions and assured him of all cooperation. The Petitioners were very well received initially. In conformance with the direction of the Hon'ble Court the Petitioners submitted various representations and Interim Applications requesting "interim

arrangements” to advance various issues and concerns. To help the Committee in meaningfully and sensitively addressing complex issues relating to law and project impacts, Petitioners also requested permission to be allowed to participate as observers in the Committee’s proceedings.

Summarily the following concerns were arrayed in these submissions:

1. That BBMP and other respondents were carrying on with road widening and related developmental works in blatant violation of the directions of the Hon’ble Court. In particular it was highlighted that massive tree felling was undertaken on Kanakapura Road, Bellary Road, Race Course Road, Palace Road, Sarjapur Road, amongst others, without in any manner securing the assent of the Committee or conforming to the law as required.
2. That Petitioners be allowed to observe the proceedings of the Committee constituted by the Hon’ble Court and also to be provided a copy of the minutes of the proceedings of the Committee meetings.
3. That the Convenor of the Committee (not a member) was rejecting submissions made by the Petitioners on behalf of Project Affected Communities without having authority to do so.
4. That Petitioners be provided an opportunity of participation in meetings of Committee on par with those already extended to the Respondents. This in light of the fact that every meeting ensured the participation of at least 10 – 15 officers from various government agencies. Such opportunity was also questionably extended to private infrastructure agencies, in one case M/s Nandi Infrastructure Corridor Enterprise, which has absolutely nothing to do with the affairs of the Committee constituted per directions in the aforesaid PIL.
5. Urging that the proceedings of the Committee be held in a manner that could ensure transparency, public accountability and procedural conformity with a process equivalent to that of an open court as is required per law and norms applicable to *quasi-judicial* forum.

When these submissions were not in any manner responded to, the Petitioners attended a meeting of the Committee held on 25 July 2008 at BBMP and were allowed in by officials. The hope was that Mr. Reddy would consider these submissions favourably if they were presented to him directly. But such hopes were quickly dashed when Mr. Reddy expelled the Petitioners disregarding fervent and respectful appeals that the forum ought to be open to Petitioners, in the very least, as much it was to the Respondents. Disturbingly, when the proceedings of this Committee meeting were recorded, it was unfairly, unjustly and untruthfully recorded that the Petitioners and their Advocate aggressively entered the Committee’s meeting. A member of the Committee contested this dishonest recording and a decision was taken to strike down that recording by the Chair. However, the Chair reversed this decision in a recent letter to that Member and retained the earlier false recording.

#### **Committee proceedings out of bounds to Petitioners, and thus the wide public:**

Recently, on the instructions of Mr. Reddy, the Committee’s Convenor has addressed a letter to the Petitioners on the instructions of the Chair stating that Petitioners do not have a right of participation in the Committee. It is also claimed that all the concerns of the Petitioners have been considered in five meetings held by the Committee. A careful review of the Committee’s proceedings unofficially obtained by the Petitioners reveals that not a single written submission made by the Petitioners has at all been considered by the Committee’s Chair, nor have these been brought to the attention of the Members in a formal way.

Several Members of the Committee have expressed their dismay and disappointment over such arbitrary conduct of the Committee’s proceedings. Some have written very detailed letters to the Chair requesting that a proper procedure be instituted to conduct meetings in a transparent and publicly accountable manner. Some members have also stated that there is the possibility of bias when the Committee listens to issues only from the perspective of the Respondents. Several members have repeatedly insisted, and in writing, that no project should be considered for approval unless they were in full compliance with law and involved the public in forming the decision. In some instances it has also been highlighted that the minutes have not been an accurate reflection of the proceedings of the meeting.

#### **Committee addresses NICE’s concerns, not of lakhs affected by road widening:**

While such critical concerns need immediate attention, Mr. Reddy has now “decided to take up an inspection with all Honorable Members of the Committee on 20-09-2008 at 9.30 am Venue: Hosur Road NICE Bridge (Electronic city turning), to discuss about the Environmental issues of the NICE Road” according to a communication issued to Members. This is a shocking development as the Bangalore Mysore Infrastructure Corridor Project has nothing to do with any fact or grounds and prayers raised in the PIL.

It is a matter of record that Nandi Infrastructure Corridor Enterprise (NICE) which is implementing this project has been repeatedly accused by various Governments, including the present one, of disregarding law and directions of the Courts in the implementation of the project. In an affidavit presented to the Hon’ble Supreme Court on 17<sup>th</sup> September 2008, the Principal Secretary of Karnataka Public Works Department has stated that the company has been repeatedly instructed by the Government “to implement the project as per court directions”. Yet, “they are trying to change the alignment of the road and seek more lands than what is specifically set out in the said judgments. The present application” of NICE “is one such attempt to pressurise the officials to submit to this illegal

demands." In such a situation it is a troubling and a highly questionable initiative of Mr. Reddy to take up the review of a project that has nothing to do with the mandate of the Hon'ble High Court in WP 7107/2008. Such action could well be *sub judice* in light of the fact that tens of petitions are under the consideration of the High Court of Karnataka and Supreme Court of India over contentions between project affected communities, the State and NICE.

**Our deep disappointment:**

All this presents a very sorry picture of a Committee on which we have placed a lot of reliance in resolving very complex issues involving the livelihoods of thousands of traders and street vendors who are directly affected by road widening. Of equal concern are the rights of the differently abled, senior citizens and children, whose needs are quite simply disregarded by BBMP in any of their road widening programmes. It is a matter of record that the widening of Bellary Road alone has killed over 20 people in accidents so far, and maimed many times more – all because of the absolute disregard for wider public interest in the rush to serve the needs of high income lobbies. The insensitive design of the road leading to fatalities and injuries has become a matter of grave concern to the High Court, which has repeatedly directed the Government to rectify the situation immediately.

In all this, the silent sentinels of Bangalore's heritage and environmental futures, our avenue trees, are being ruthlessly and unnecessarily felled by the dozens, an unforgivable destruction officiated ironically by Forest officials. Even as trees are axed, transformers, telephone boxes, and religious sites that have encroached into the roads, remain, making the very purpose of tree felling senseless.

**Our renewed Hope:**

As Petitioners and concerned residents of Bangalore, we believe it is our obligation to bring such unfortunate turn of events to the attention of all. We are hopeful that with widespread public pressure Mr. Reddy would consider conducting the proceedings of the Committee in a manner befitting a *quasi judicial* forum and in conformance with the interim directions of the Hon'ble High Court in our PIL.

Sunil Dutt Yadav  
Petitioners Advocate

Leo F. Saldanha &  
Divya Ravindranath  
Environment Support Group

Kathyayini Chamaraj  
Exec. Trustee  
CIVIC Bangalore

Prashant and Anuja  
Alternative Law Forum

Address:

Environment Support Group, 105, East End B Main Road, Jayanagar 9th Block East, Bangalore 560069. Tel: 91-80-22441977/26531339 Voice/Fax: 91-80-26534364 Email: [esg@esgindia.org](mailto:esg@esgindia.org) / [esgindia@gmail.com](mailto:esgindia@gmail.com) Web: [www.esgindia.org](http://www.esgindia.org)