



Environmental Social
Justice
&
Governance Initiatives

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Mangalore Air Crash Tragic Fallout of Criminal Negligence of Planning and Regulatory Authorities

An Air India Express Boeing 737-800 aircraft arriving from Dubai with 167 on board 2010 tragically crashed at Mangalore International Airport at 6.30 am today (22 May 2010). It is reported that the plane overshot the runway while landing and fell over a cliff resulting in this disastrous crash. Very few are known to have survived this horrific crash.

This was no accident, but the direct result of deliberate failure of officials at the highest level in the Director General of Civil Aviation, Airports Authority of India, Ministry of Civil Aviation and the Government of Karnataka for allowing this 2nd runway to be built in criminal negligence of applicable norms and standards. Such a strong charge is being made as the likelihood of this kind of a crash (the worst case scenario) was predicted. A series of Public Interest Litigations were fought by the undersigned to stop the construction of this 2nd runway in Mangalore airport on grounds that the design simply did not conform to the most basic national and international standards of airport design. The PILs also highlighted that the airport does not conform with the most minimum safeguards for emergency situations – particularly during landings and takeoffs, and could not have emergency approach roads within a kilometre on all sides of the airport as required.

It is truly sad that because of the failure of key decision makers at the highest levels so many innocent lives have been lost. It is quite possible that many lives were lost as emergency rescue teams could not access the crash site due to the difficult terrain (a valley) for over a hour after the incident, even though it was proximal to the site.¹

Vimana Nildana Vistharana Virodhi Samithi (Local Communities Alliance Against Airport Expansion), Bajpe and Environment Support Group had repeatedly highlighted the high risk expansion of the Mangalore airport during the late 1990s. The expansion was proposed to enable flight movements of wide bodied aircrafts, such as Airbus A 320. Authorities were repeatedly informed that the proposal did not at all conform with the standards prescribed for runway design as laid down by the Director General of Civil Aviation, National Building Code of India and Ministry of Civil Aviation. Further, considering that the airport was proposed for international flights, a case was also made that the 2nd runway could not conform with International Civil Aviation Authority standards due to terrain limitations.

No one in authority cared to listen to our fervent pleas. This even when we demonstrated through a variety of representations that that the site chosen for expansion at Bajpe was surrounded by deep valleys on three sides of the runway and did not provide for emergency landing areas as required.

This neglect of our legitimate concerns forced us to move the High Court of Karnataka in a PIL in 1997 (Arthur Pereira and ors. vs. Union of India and ors., WP No. 37681/1997). A key concern raised was that the 2nd runway in Mangalore could not meet the standards required in dealing with an emergency, particularly during landings and takeoffs – a time when air crashes are most likely to happen.

The Airports Authority of India filed an affidavit in Court dismissing all our concerns and stated this, amongst other things:

“It is submitted that as regards the apprehensions of the petitioner that the Length and width of the runway is insufficient for a plane making an emergency landing, the same is without any basis. It is respectfully submitted that all the requirements as per the ICAO recommendation will be met and that there has been no

¹That such a crash has occurred at the Mangalore airport is unpardonable as a similar crash had occurred at this airport over a decade ago. Fortunately the plane did not tip over into the valley and all passengers, including Union Law Minister Mr. Veerappa Moily, were fortunate to escape..

infringement of any of the recommendation and limitation therein.” (Copy of this affidavit dated 14 October 1998 is accessible at: <http://www.esgindia.org/campaigns/bajpe/docs/Statement%20of%20Objections%20of%20AAI.htm>)

On the basis of this affidavit, Hon’ble Chief Justice Mr. Y. Bhaskar Rao and the Hon’ble Mr. Justice A. M. Farooq (as their Lordships then were) dismissed this PIL ordering as follows:

“It is stated that the fear of the petitioners that the runway is insufficient for any emergency landing of a plane is without any basis since before the project is to proceed, the authorities will be meeting the recommendations of the ICAO. It is also stated that there is no basis for the allegations made by the petitioners to the effect that the various safety measures have not been followed. That on the other hand they will be getting all the relevant materials described by the petitioners which will be followed in letter and spirit without which the airport would not have been conceived in the first place.

Thus it can be seen that the expansion of Bajpe airport project is at the initial stage and the second respondent has in their objections mentioned above unequivocally stated that all the safety measures etc., stated by the petitioners in their writ petition will be followed during the progress of the project and nothing can be said before the lands are handed over to the second respondent. Considering these facts, we are of the view that the petitioners have rushed to this court before commencement of the project itself and the writ petition is premature. It is not, therefore, necessary to consider the various grounds taken by the petitioners in the writ petition to allege that the respondents have been proceeding with the project in a casual manner. There is nothing to doubt about the statement made by the second respondent in their objection statement and we are sure that the respondents will be taking all necessary measures under the different enactments etc., before proceeding with the project in question. The writ petition stands dismissed.” (Emphasis added. A copy of this order is accessible at:

<http://www.esgindia.org/campaigns/bajpe/docs/1998%20Karnataka%20High%20Court%20Judgement.htm>)

Even though alternative sites existed, the authorities proceeded obstinately to expand the airport yielding to pressures from business, real estate and hotel lobbies who benefited immensely from an airport at Bajpe. Politicians keen to make the expansion a part of their legacy overlooked all concerns raised. Even at the existing Bajpe alternative sites existed to expand the airport, that conformed with most safety norms, but this site was not pursued as it would affect large landholders and influential people. Consequently, nothing whatsoever was done to respond to the concerns we raised about the risks involved in the 2nd runway.

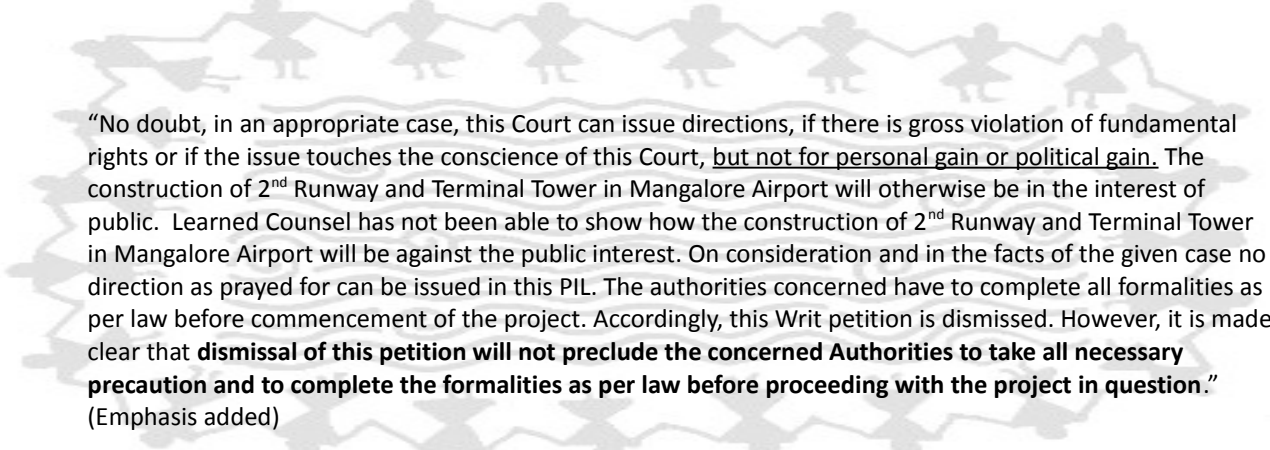
The Airport Authority did not even have a proper feasibility study, and claimed that such a critical information detail would only be prepared after the land was acquired for the airport. Surely this amounted to putting the cart before the horse, for the study, even if eventually prepared, would have been tailor made to justify the decision to so expand the airport.

Distressed by such a turn of events and the absolute lack of compliance with applicable norms and standards, we appealed to the ICAO to intervene in the matter. The ICAO claimed did not respond and so we returned to the High Court with a fresh PIL in 2002. In this exhaustively researched PIL many significant concerns were raised and a case was made that the 2nd runway could not conform with ICAO norms for the following reasons:

“Minimum Area for Stop-way: At page 155 of the said (ICAO) report, para 2-1 prescribes standards for providing the minimum area for a stop way and/or a clear way in the event an aircraft undershoots or over-runs the runway. For instance, if an aircraft has initiated take off, and a technical flaw requires emergency stop, the standard prescribes the minimum area that should be kept free to enable such a stop. In the instant case, the runway distance itself is about 2400 metres, and even if the area left is most cautiously utilised, what is left is only about 300 metres on each end of the runway. By the prescribed standard, this is far below the required distance needed for an emergency stop way. Therefore, the chances of an aircraft that has achieved the decision speed forcing an emergency stop are critically minimised, and the inevitable consequence could be that the plane would come crashing down the hillsides from a height of 80-100 metres on either side of the proposed runway.” (Emphasis added. A copy of the PIL is accessible at: <http://www.esgindia.org/campaigns/bajpe/docs/Bajpe%20HC%20PIL%2020905%20May%202002.htm>)²

The High Court of Karnataka dismissed this PIL initiative by their order dated 27 May 2002 (WP 20905/2002) stating the following:

²This safety standard of ICAO also applies to air crafts when landing. It is truly sad that today's tragic air crash could be a consequence of the lack of conformance with this standard.



“No doubt, in an appropriate case, this Court can issue directions, if there is gross violation of fundamental rights or if the issue touches the conscience of this Court, but not for personal gain or political gain. The construction of 2nd Runway and Terminal Tower in Mangalore Airport will otherwise be in the interest of public. Learned Counsel has not been able to show how the construction of 2nd Runway and Terminal Tower in Mangalore Airport will be against the public interest. On consideration and in the facts of the given case no direction as prayed for can be issued in this PIL. The authorities concerned have to complete all formalities as per law before commencement of the project. Accordingly, this Writ petition is dismissed. However, it is made clear that **dismissal of this petition will not preclude the concerned Authorities to take all necessary precaution and to complete the formalities as per law before proceeding with the project in question.**”
(Emphasis added)

In a desperate effort to stop the Mangalore airport from so expanding and needlessly exposing innocent people to unnecessary risk, we went on appeal against the High Court order to the Hon'ble Supreme Court of India. Dismissing the appeal, the Supreme Court ruled 07 February 2003 in Environment Support Group and ors. vs. Union of India and ors. [SLP(C) 1172 OF 2003] as follows:

“We see no reason to interfere with the impugned order. Accordingly, the special leave petition is dismissed. **We, however, clarify that in constructing the Airport, the Government shall comply with all applicable laws and also with environmental norms.**” (Emphasis added. A copy of this order can be accessed at: <http://www.esgindia.org/campaigns/bajpe/docs/BAJPE%20SC%20ORDER%20070203.htm>)

One hopes with the benefit of hindsight that the Director General of Civil Aviation or Airports Authority of India had complied with this order of the Supreme Court and ensured Mangalore airport was developed in full conformance with applicable laws, standards and norms. In case the current site was not feasible, they could have easily explored alternate sites, as such sites did exist – within Bajpe itself, or even in Padubidri, between Mangalore and Udupi. Instead, the authorities preferred to view the Supreme Court order as a victory, as did the Karnataka Government and Mangalore Chamber of Commerce and Industry which had systematically campaigned for the expansion.

Without any further hesitation the 2nd runway construction began in 2004 and was commissioned in May 2006. No techno-economic assessment, feasibility study, or even an comprehensive Environment Impact Assessment was ever done for the 2nd Runway. Simply put, the runway was built in comprehensive violation of applicable laws, standards and direction of the Hon'ble Supreme Court.

On 8th March 2004, we wrote to Dr. Naseem Zaidi, Chairman (Addl. Charge) & Joint Secretary, Airport Authority of India, Ministry of Civil Aviation, Government of India, reminding him of the need to comply with the Supreme Court direction. In particular we highlighted that “such action would jeopardize passenger safety, put local communities to risk, needlessly dislocate people by acquiring land on a location that in no way could comply with the said provisions and thereby contributed to gross wastage of public money and resources.” We did not get any response.

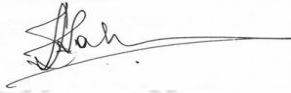
Six years later today we are mourning the unfortunate death of so many people who should have been alive. We are clear that this is no accident, but a direct result of the series of deliberate failures of officials and key decision makers at the highest levels of all authorities connected with the decision to allow the 2nd runway to be constructed and commissioned. Of course all sorts of explanations will be on offer, but none of that can bring lost lives back or cure the tragedy that has wrongly befallen so many families.

India today is frenetically building airports all over, and for all sorts of flaky reasons. Such is the political, bureaucratic and corporate pressure to build and expand airports that anyone questioning the rationale is quickly dubbed as a “busybody”, “useless interloper”, “promoted by vested interest” and raising “frivolous” concerns.

To ensure such incidents do not recur, we demand that the Union Minister of Civil Aviation orders an impartial Commission of Enquiry into the causative factors of this crash, especially investigating the absolute lack of conformance with basic runway design standards and emergency approach measures.

As a small tribute to those who lost their lives in this tragic air crash, ESG offers to assist crash affected families to initiate a damage suits against the Government. We will also initiate criminal negligence proceedings against all

authorities connected with the decision to commission the 2nd runway at Mangalore in violation of the directions of the Hon'ble Supreme Court. We take these corrective actions in the hope they would serve as a deterrence against the lackadaisical approach to critical decisions by key decision makers.



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