



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF NOVEMBER, 2024

PRESENT

THE HON'BLE MR N. V. ANJARIA, CHIEF JUSTICE

AND

THE HON'BLE MR JUSTICE K. V. ARAVIND

WRIT PETITION NO. 17443 OF 2021 (LB-BMP-PIL)

BETWEEN:

1. M/S COMPASSION UNLIMITED PLUS ACTION (CUPA)
AN NGO REGISTERED UNDER THE
INDIAN TRUSTS ACT
HAVING ITS REGISTERED OFFICE AT
No.D, GROUND FLOOR
KENSINGTON APARTMENTS
18/1, ULSOOR CROSS ROAD
ULSOOR, BANGALORE - 560 008
REPRESENTED BY ITS TREASURER
AND FOUNDING TRUSTEE
MS. SUPARNA GANGULY

...PETITIONER

(BY SRI ANJAN VARTAK, ADVOCATE FOR
SRI ALWYN SEBASTIAN, ADVOCATE)

AND:

1. STATE OF KARNATAKA
THROUGH ITS SECRETARY
DEPARTMENT OF HORTICULTURE
M.S. BUILDING
DR. B.R. AMBEDKAR ROAD
BENGALURU - 560 001.

Digitally signed
by PRABHAKAR
SWETHA
KRISHNAN
Location: High
Court of
Karnataka



2. BRUHAT BENGALURU MAHANAGARA PALIKE (B.B.M.P)
THROUGH ITS COMMISSIONER
CORPORATION CIRCLE,
HUDSON CIRCLE
BENGALURU - 560 002.

...RESPONDENTS

(BY SMT. NILOUFER AKBAR, AGA FOR R1 &
SRI S.H. PRASHANTH, ADVOCATE FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN NATURE
OF MANDAMUS DIRECTING THE SECOND RESPONDENT TO
ENFORCE PROVISIONS OF SWM BYE LAWS, 2020 AND THE
GOVERNMENT OF KARNATAKA CIRCULAR AT ANNEXURE - A, IN
PARTICULAR, MANDATING PET OWNERS TO CARRY
BIODEGRADABLE POOP BAGS IN PUBLIC PARKS & ETC.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE THE CHIEF JUSTICE MR. JUSTICE
N.V. ANJARIA
and
HON'BLE MR JUSTICE K.V. ARAVIND

ORAL JUDGMENT

(PER: HON'BLE THE CHIEF JUSTICE
MR. JUSTICE N.V. ANJARIA)

Today, when the present petition came up for consideration,
learned Advocate for the petitioner filed memo dated 21st November
2024 seeking to withdraw the petition on the ground that the prayer
has become infructuous.



2. Since this petition is public interest petition, before permitting withdrawal straightway and disposing of the petition, the Court thought it fit to examine and satisfy itself that public interest involved is not shelved by permitting withdrawal or by disposing of the petition.

2.1 The Court is therefore inclined to consider and survey the subject-matter.

2.2 The promotion of public interest should be paramount which should not be allowed to be compromised in the process. As the involvement of personal interest is the ground for entertaining or refusing to entertain the public interest petition, similar criteria would apply when the public interest petitioner seeks to withdraw. In any view, public interest aspect has to be examined by the court even while disposing of such petition upon withdrawal.

2.3 Once a public interest petition is filed and the Court takes cognisance therefore, the subject matter of public interest travels into the domain of the Court and the Court assumes jurisdiction. A public interest petition has to be normally taken to its logical end and



cannot be permitted to be readily withdrawn midway without examining pros and con of such withdrawal.

3. The petitioner happens to be a Non Governmental Organisation which filed the present public interest litigation wanting to espouse the cause of lack of cleanliness resulting due to irresponsible pet parenting in public parks and further complaining about failure of the respondent authorities to maintain cleanliness in that regard and clean climate in general in the public parks and gardens. They are the State of Karnataka through its Department of Horticulture and Bruhat Bengaluru Mahanagara Palike through its Commissioner.

3.1 It is the case of the petitioner that many complaints are aired from the general public and the pet parent community about irresponsible conduct on the part of a section of pet owners especially in relation to the cleaning up of excrement of their pets from the public parks which are situated within the limits of Bruhat Bengaluru Mahanagara Palike (BBMP), which are in total 1288 in numbers.

3.2 It is stated that a need has arisen to sensitize the pet parents who bring their dogs in the public park to use the disposal bags to



ensure that the pets refuse and excrement are properly disposed of maintaining the decency and cleanliness. It is the case inter alia that the premium garden places in the City of Bengaluru like Cubbon Park need to be protected from deviating conduct by the dog owners who visit the park with their pets. It is also imperative, it was stated, to ensure cleanliness in general, in all respects in public parks.

3.3 It was contended that one of the functions of the BBMP under the Bruhat Bengaluru Mahanagara Palike Act, 2020 is to provide and maintain the urban amenities and facilities, such as parks and gardens. The BBMP has also got powers to make bye-laws in relation to regulation of the use of the parks and gardens, etc. under Section 381(22) of the Act. It is the grievance of the petitioner that despite the guidelines framed, which are to be read with the Solid Waste Management Bye-Laws, 2020, the norms are not adhered to. It was submitted that Bye-laws also include prohibition of nuisance at public places which are also not enforced in true spirit.

3.4 Interestingly, in paragraph 6 of the petition, following averments are made, which have gone undenied,

“...some of these parks have community dogs that already live inside such parks. Cubbon park and



Lal bagh have street dogs that permanently reside within the park premises. Community driven groups called the “Cubbon park Canines”, which is a facebook and whatsapp group, take care of the welfare of these dogs, including veterinary care, vaccinations and sterilizations. These dogs often live in packs and are sociable. In most of the other parks, the Second Respondent have relocated all the street dogs outside the park and therefore, most of these dogs are found loitering outside the park’s premises.”

3.5 It is further pleaded that garbage dumps are found around such parks and most of the dogs are settled in and around these parks. It is stated by the petitioner that the stray dogs are the responsibility of the BBMP for their vaccination, etc., in accordance with the provisions of the Prevention of Cruelty to Animals Act and the Prevention of Cruelty to Animals (Animal Birth Control) Rules, 2001. It is the case in the petition that a section of the society feeds the dogs and that such activity is permissible to be consistent with the duty of compassion towards living creatures under Article 51A(g) of the Constitution. However, the same cannot lead to or cannot be allowed to compromise the corresponding need for checking of the public menace by appropriate measures and enforcing the norms of cleanliness, and the legal obligation in that regard.

3.6 With such pleadings elaborated, the prayer is advanced to direct respondent No.2-BBMP to enforce the provisions of Solid



Waste Management Bye-laws. It is also submitted that the State Government has issued Circular dated 24th August 2020 laying down guidelines to the resident welfare associations and apartment owners associations, the pet owners, covering all those who feed stray or pet dogs. The petitioner wants to implement the guidelines effectively. The prayer is made also to permit access to pets only if the pet owners carry bio-degradable poop bags with them.

4. In response to the case as above, the State filed its objections-cum-affidavit in reply relying on the aforementioned Circular to contend that it provides necessary guidelines. In the affidavit, the respondent-State has highlighted the following steps taken in the subject matter,

- (a) The authorities have been acting as per the guidelines issued by the Animal Welfare Board of India dated 26th February 2015 and 15th November 2016 and the Circular issued by the BBMP dated 30th September 2021.
- (b) The Department of Horticulture has issued instructions for pet and street dogs and their care takers-owners who visit Cubbon Park and Lalbagh.



- (c) Instruction Boards have been erected in the premises of Cubbon Park and Lalbagh for the knowledge of the public in this regard.

4.1 It is stated that the pet dog owners do not follow the instructions and that the public outrage for the use of pet dogs in major gardens such as Cubbon Park and Lalbagh as well as in other gardens, is high and many complaints have been voiced that the visitors in the parks are not able to do yoga and other exercise because of regular interference of pet dogs, and for the reason of not maintaining cleanliness in the parks and garden areas.

4.2 It is stated that in a meeting held on 14th June 2022 under the Chairmanship of the Principal Secretary, Horticulture Department, it was decided to erect notice boards at all entrance of Cubbon Park informing the pet dog owners to abide by the instructions and the discipline as per the animal welfare guidelines while bringing their dogs inside the Cubbon Park, failing which, the entry to be prohibited. It is the case of the respondent that the guidelines are implemented and are complied with.



5. The real beauty of the parks lies in its planting-neatness and the cleanliness. The parks and gardens are meant to exist with ambience of neatness and fragrance of cleanliness.

5.1 The parks and gardens maintained neat and clean contribute to and add to healthy climate. Right to live in a healthy and hygienic climate is being recognised as fundamental right as part of Article 21 of the Constitution, which guarantees right to life in its multiple dimensions and offshoots.

5.2 The citizens in the cities and towns would expect that the gardens in which they relax, go for walk, do exercises or yoga, and where children and senior citizens play or spend time, should be clean and free from garbage and filthy of all kinds. Having the decent, clean and neat parks and gardens with healthy climate as basic civic amenity could well be viewed and could become an interwoven and concomitant right to healthy climate emanating as a necessary trapping.

5.3 Mere claim and assertion on the part of the State authorities that the guidelines are observed for maintaining cleanliness relating to the diffuse and the excrement by the pets who are taken in the parks and gardens by their owners, is not enough.



5.4 While the pet owners may have the liberty to take their dogs to the parks to roam around, on the other hand, the other section of the society and the class of the people who visit the parks, have a right to enjoy clean environment. A clean and comfortable climate are *sine qua non* to make a garden the garden. A park without neatness and cleanliness management is not a park, but turns to be a chaotic place, and a place with nuisance and garbage.

5.5 The people come to the parks and gardens to breath pure and clean air. What is true for gardens and parks as highlighted above, is true for all public places including play grounds, temple-sites, bus stations, railway stations etc. Issue of maintaining clean climate and environment have to be addressed, attended to and redressed.

5.6 The citizens and netizens could legitimately claim to be saved from the pet menace, more particularly those who fail to maintain the cleanliness in all respects, for which the responsibility lies with the owners of the dogs as also with the civic authorities. The luxury of owning dogs may be enjoyed only by strictly observing the guidelines statutorily provided regarding cleanliness and hygiene.



5.7 The cleanliness is desired in all respects by all commuters. All parks including the prominent Cubbon Park and similar big parks should be always spared from the activities of spitting, accumulating garbage, throwing plastic bags and permitting the pet pets to leave the waste of any kind. A garden is a garden, whether big or small, known or unknown. The violators deserve only stern treatment.

5.8 In addition to the need to keep the parks clean, the menace of stray dogs within the area of gardens and parks is also required to be tackled. The stray dogs pose threat to the free and safe movement of the commuters. The authorities are required to discharge their duties in this regard also.

6. In the above view, even while permitting the withdrawal of the petition as prayed for by the petitioner, the following directions are issued,

- (a) The provisions of the Karnataka Parks, Play-fields and Open Spaces (Preservation and Regulation) Act, 1985 shall be implemented in letter and spirit by the authorities concerned.
- (b) Solid Waste Management and Handling Rules, 2016 shall be strictly followed and implemented for parks and gardens including all other areas where they apply. The BBMP



shall also exercise its statutory power to frame or amend or supplement the rules in the subject.

- (c) Adequate funds shall be allocated for maintenance and for cleanliness of the parks and gardens in the City, by the Civil Authorities in the budgetary provisions.
- (d) The Horticulture Department of the State Government as well as the Bruhat Bengaluru Mahanagara Palike shall work out and evolve a permanent mechanism to ensure that vigil is kept in all parks and gardens in the City of Bengaluru.
- (e) It will be the responsibility of the authorities concerned of the Department and the Mahanagara Palike to see to it that the activities of spitting, throwing garbage or leaving the pet refuse does not happen within the park/garden area and precincts thereof, and that the cleanliness is maintained.
- (f) The vigil and monitoring as above shall be done by deploying supervising teams. The BBMP shall amend the relevant Bye-laws to incorporate the appropriate Rule. The Rules shall also provide for imposition of penalty on the violators.
- (g) The penalty amount for the dog owners who or whose dogs are found and detected to be conducting themselves irresponsibly in treating and cleaning of the excrement of



their pets in the public park areas, shall be higher than to be imposed on the other class who commit breach of norms of cleanliness.

- (h) A three member team comprising of one Officer from Horticulture Department and two Officers from BBMP shall be constituted which shall pay periodical visit, say quarterly, to all the major gardens and parks in the city of Bengaluru to inspect, ascertain the effective observance and implementation of maintenance of cleanliness and related measures and suggest and chalk out remedial steps/actions wherever necessary.

7. The present petition is disposed of with the above observations and directions.

Sd/-
(N.V. ANJARIA)
CHIEF JUSTICE

Sd/-
(K.V. ARAVIND)
JUDGE