

CIRCULAR

The Hon'ble High Court of Karnataka while disposing of **W.P.No.9934/2023 (LB-BMP) (Smt. Kavitha Jain and another Vs. The Commissioner, BBMP and others)** vide order dated 17.08.2023 has noted the power and functions of Zonal Commissioner under the BBMP Act, 2020 and has held that without the rules made by the State Government, Zonal Commissioner cannot delegate his powers to any Officer of the Corporation subordinate to him. The relevant paragraphs of the Judgment are extracted as follows:

“11. Admittedly, there are no rules which have been made by the State Government in this regard and the office order has been issued by the Zonal Commissioner delegating his powers to respondent No.2 and certain other officers in absence of such Rules. Thus, without such rules being made by the State Government no delegation could be made by Zonal Commissioner and until such rules are made, it is only for the Zonal Commissioner to exercise his powers prescribed under the Act more particularly under Section 248 of the Act of 2020.

12. At this stage, Sri.N.R.Jagadeeshwara., learned counsel for respondents submits that there is a process of formulation of rules is underway and it would be so done at the earliest. This matter is of considerable importance in as much as there are several circumstances where powers have to be exercised by Zonal Commissioner including that under section 248 of the BBMP Act when there is a violation of plan sanction or illegal construction. Thus, in all those cases it is but required that the Zonal Commissioner exercise his powers and no other officer of the corporation exercise

such powers until the rules are framed. In that view of the matter, a direction would also have to be issued to the Chief Commissioner and the Zonal Commissioner to instruct all concerned officers of the corporation not to exercise any powers under Section 248 (1) (2) and (3), since it is only the Zonal Commissioner who can exercise such powers.

13. One other aspect which has come to light in the above matter is as regards the suit which had been filed by the petitioner against the corporation, when proceedings were to be initiated by the corporation under the BBMP Act. This matter relating to a statutory performance of obligation by the Corporation, no court including the Civil Court would have jurisdiction to entertain or pass any orders in such proceedings. As such general instructions would also have to be issued in this regard.”

Further, the Hon’ble Court in the said ruling has given directions as follows:

“iv. Respondent No.1 is directed to instruct all officers of the corporation that it is the Zonal Commissioner alone who can exercise powers under Section 248 and no other officer could exercise powers thereunder.

v. The Registrar (General) is directed to forward a copy of this order to all District Judges Exercising jurisdiction in the city of Bangalore, informing them that whenever the powers are exercised under Section 248 (1) and (2) of the BBMP Act, the said Court would not have jurisdiction to exercise in such matter, since, it is only the writ court which can exercise jurisdiction in those matters.”

Hence, as directed, the District Judges exercising jurisdiction in the City of Bengaluru are directed to note that whenever powers are exercised under Section 248(1) and (2) of the BBMP Act, the said Courts would not have jurisdiction to exercise in such matters, since it is only the Writ Court which can exercise jurisdiction in those matters. All the concerned Courts in Bengaluru shall follow the above directions scrupulously.

BY ORDER OF HON'BLE THE CHIEF JUSTICE

Sd/-
(K.S.BHARATH KUMAR)
REGISTRAR GENERAL

To :

1. The P.A. to Hon'ble The Chief Justice
2. The Registrar General/ Registrar (Vigilance)/ Registrar (Recruitment) / Registrar (Administration)/ Registrar (Infra & Maintenance) / Registrar (Protocol & Hospitality) / Registrar (Computers).
3. The Director, Karnataka Judicial Academy, Bengaluru
4. The Central Project Co-ordinator (CPC), with a request to web-host the circular.
5. The Assistant Registrar and Section Officer of DJA-I for circulation of the Circular and the Judgment amongst the District Judges in the City of Bengaluru.
6. Office Copy.