

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF DECEMBER, 2024

PRESENT

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

AND

THE HON'BLE MR. JUSTICE K.V. ARAVIND

WRIT PETITION NO. 5330 OF 2023 (LB-BMP-PIL)

BETWEEN:

1 . HERITAGE BASAVANAGUDI RESIDENTS
WELFARE FORUM (R)
No.124, 1ST FLOOR, GANDHIBAZAR
BASAVANAGUDI, BENGALURU
BENGALURU ZONE -2
CHICKPET, SUNKANAHALLI
BENGALURU - 560 004
REP. BY ITS SECRETARY
SRI GURUPRASAD R.K.

... PETITIONER

(BY SRI G.R. MOHAN, ADVOCATE)

AND:

1 . THE STATE OF KARNATAKA
VIDHANA SOUDHA
BENGALURU - 560 001
REP. BY ITS CHIEF SECRETARY.

- 2 . THE COMMISSONER
BRUHAT BENGALURU MAHANAGARA PALIKE
N.R. SQUIRE
BENGALURU - 560 002.
- 3 . THE PRINCIPAL SECRETARY
URBAN DEVELOPMENT DEPARTMENT
448-A, VIKAS SOUDHA
BENGALURU - 560 001.
- 4 . THE COMMISSIONER
DEPARTMENT OF URBAN LAND TRANSPORT
B.M.T.C. T.T.M.C. BUILDING
'B' BLOCK, 4TH FLOOR
K.H. ROAD, SHANTHINAGAR
BENGALURU - 560 027.

... RESPONDENTS

(BY SMT. NILOUFER AKBAR, AGA FOR R-1, 3 & 4
SRI B.S. SHRINIVAS, ADVOCATE FOR
SRI B.L. SANJEEV, ADVCOATE FOR R-2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO
ISSUE A WRIT IN THE NATURE OF MANDAMUS OR ANY
OTHER WRIT OR DIRECTION AND DECLARE THAT
IMPUGNED 2ND RESPONDENT - DULT PROJECT IS
UNSCIENTIFIC & ETC.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS PRONOUNCED AS UNDER:

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

CAV JUDGMENT

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

Heard learned advocate Mr. G.R. Mohan for the petitioner, learned Additional Government Advocate Smt. Niloufer Akbar for respondent Nos.1, 3 and 4 and learned advocate Mr. B.S. Shrinivas for learned advocate Mr. B.L.Sanjeev for respondent No.2.

2. The present petition is filed in the nature of public interest petition. What is prayed in the petition is to declare that the project sought to be implemented for the Gandhi Bazaar area in the city of Bengaluru by respondent No.4-Department of Urban Land Transport is unscientific. Consequentially, it is prayed to direct the respondent-authorities to modify or re-do the Gandhi Bazaar pedestrians road. Further, prayer is

advanced to direct respondent No.2-Bruhat Bengaluru Mahanagara Palike to immediately put up the construction of Multi Level Car Parking in their own place and accommodate the street vendors for their business in the shopping complex instead of footpath.

3. It is the case of the petitioner that the Gandhi Bazaar area is one of the oldest area in the city of Bengaluru which was initially formed by the founder of Bengaluru by one Sri Kempegowda in the year 1894. It is stated that the area serves the glory and history of the city. The area of Gandhi Bazaar, it is stated, is a busy market area in the Basavanagudi, catering to the needs of the Basavanagudi Assembly Constituency.

3.1 It is further stated that the residents of the area would satisfy their requirements such as flowers, vegetables, fruits, groceries and other daily needs from the stores and shops in the Gandhi Bazaar. The area locates old temples like Dodda Ganapathi Temple, Bull Temple, Karanji Anajaneya Temple, Gavigangadhareshwara Temple and Ramakrishna Ashrama. It is also stated that this is the area where years back, the Father of the Nation addressed the public gathering.

3.2 It is the case that the main road of the Gandhi Bazaar has the width of 90 feet and besides the road, footpath is of the width of 8 to 9 feet. The parking is also available on both the sides of the road and on the footpath, number of street vendors, hawkers do their business for their livelihood.

3.3 It is stated that the petitioner came to know that respondent Nos.2 to 4-authorities have been proposing to white topping on the selected roads in the Bengaluru city and in this project, the Gandhi Bazaar road from Ramakrishna Ashrama to Tagore circle from 0.750 KM is also included to the plan with white topping to rehabilitate heavy traffic during the peak hours. The Gandhi Bazaar road work is assigned to respondent No.4-the Commissioner, Department of Urban Land Transport (DULT). It is stated that the DULT has issued details on 10.11.2022 in respect of the Land Transport Plan which is produced on record of the petition.

3.3.1 It is stated that the said plan go to show that the DULT is going to reduce 90 feet motorable road into 23 feet in the Gandhi Bazaar area and that on both the sides there is going to be an enlargement of the footpath for pedestrians for their

easy walking. It is stated that in this regard, the petitioner did not have any grievance for the project to be implemented.

3.3.2 It is however stated that the plan further indicated that respondent No.4-DULT and respondent No.1-State are going to put up small cubics on the footpath for the purpose of street vendors and hawkers. Thereby, though the footpath would be expanded, the width of the motorable road would be reduced which will not only lead to inconvenience to the traffic, but in ultimate analysis, would work against public interest.

3.3.3 It is further stated that the plan of white topping and modernization of road is not scientific and likely to lead to state of inconvenience. As in its ultimate effect, the road width would be reduced from 90 feet to 23 feet. It is stated that in the name of modernization, a wrong project against public interest is implemented which will disserve the larger public interest.

3.4 It is stated that the petitioner wrote a letter to the Police Inspector of Traffic, Basavanagudi and other authorities making grievance regarding the above plan to modernize the Gandhi Bazaar main road and also filed an application under the Right To Information Act, 2005 to know the details with regard to the pedestrainization of the Gandhi Bazaar. The petitioner relied on

the Gandhi Bazaar pedestrainization study book published by respondent No.4-DULT to submit that the redesigning of the Gandhi Bazaar street and the proposals in that regard go to show clearly that the main road is to be reduced in its width.

3.5 It was further stated that opinions should have been obtained from the residents of Basavanagudi area before implementing the project. The petitioner also referred to the meeting held by the Environmental Social Justice and Governance Initiatives, an organisation with the member of the parliament. The petitioner further mentioned about the correspondence raising grievance addressed to the Chairman of the Bengaluru Environment Trust to submit that glorious history of the Gandhi Bazaar road would be compromised, if the plan proposals are unmindfully implemented.

3.6 It is the case that the width of the main road would be reduced and there is no need to expand the footpath width. The present width is enough and convenient. It is stated that if the proposal to expand the footpath width is implemented and if small cubics are created in various sizes and plan to distribute the same place to street vendors, the very purpose of the footpath would loose its identity.

3.7 It is stated that the people would have no place to walk and people would stop coming as they would have no space to bring their private vehicles also. Therefore, it is stated that making facility of small cubics on the footpath for the street vendors as proposed in the plan is unworkable and counter productive to the very purpose. It is further stated that people will not have the easy walk.

3.7.1 It is stated that the petitioner is not against making the place available to the street vendors, however, the plan is not scientific to cater to the purpose sought to be achieved. The plan to put small cubics on the footpath is an unscientific idea, it is claimed, which is workable only in the foreign countries.

3.7.2 The whole utility as a common market place free for pedestrians would be robbed off for their glory and historical importance by implementing the unscientific plan, it is contended. Along with their pleadings, the petitioner produced various maps and figures in substantiation of its case and the details of Gandhi Bazaar pedestrainization study report.

3.8 Thus, the total grievance put forth by the public interest petitioner is about the reduction in the width of the road at the Gandhi Bazaar area and modernizing the area by further

widening the footpath from 8 feet to 14 feet approximately and more particularly, for putting up small cubics for the purpose of street vendors.

3.9 While the proceedings of the petition witnessed orders of this Court passed from time to time, additional affidavit was also filed by the petitioner to highlight the aspects that the redevelopment plan of the Gandhi Bazaar road would be counteractive. In the guise of developing the footpath, it was stated that not only the width of the main road would be reduced, the whole pedestrian congeniality and convenience would be sacrificed and even the traffic movement may be, on the contrary adversely effected.

4. Statement of objections came to be filed by respondent Nos.1, 3 and 4 on 01.08.2024. The respondents provided on record, the details of the proposals of the project. It was stated that the DULT was set up under the Urban Development Department for the purpose of promoting sustainable transport in accordance with the National Urban Transport Policy, 2006. The DULT discharges its functions which includes preparation of mobility plans, assessing the state of public transport, devising strategies to augment the public transport services,

liaisoning with urban local bodies in mobility related infrastructure etc. It was stated that the DULT took up such plans of such nature in different places and different cities in the State.

4.1 About the Gandhi Bazaar, following was stated in paragraph 5 of the statement,

"Gandhi Bazaar is a prominent market street in South Bengaluru and is known for the availability and sale of different kinds of flowers, pooja items, condiments and is also well-known for its vegetarian eateries. The street supports the movement of pedestrian, cyclists, vehicles and is well connected to the city by bus and metro networks. It is thronged by thousands of visitors daily and lakhs during festivals. The street, however, is chaotic and haphazard due to uncontrolled parking leading to traffic congestion, and narrow unwalkable footpaths that are encroached upon by Respondent 2 and 4 to improve walkability, shopping experience and address various issues related to mobility."

4.1.1 It was stated that the Gandhi Bazaar was one of the streets identified in the city for pedestrianization in the Comprehensive Mobility Plan (CMP) for Bengaluru which was approved by the Government of Karnataka on 29.09.2020. Accordingly, it is stated that the DULT took up the activity to prepare feasibility report to improve the pedestrian infrastructure in the Gandhi Bazaar. The report examined various options for organizing the vending activities on the

street and to provide a better ambience for people who throng the market for their daily shopping needs.

4.1.2 It was then stated that after preliminary study, a detailed project and a concept plan for 'Gandhi Bazaar Market Street Redesign' was initiated in collaboration with the agency under the Indo-German Environment Partnership agreement signed in the year 2015 between the Government of Karnataka and foreign agency identified as 'GIZ'. The plan took into the account the inputs received from various stakeholders which were received during the public exhibition held in May, 2022.

4.2 The details of the design approach which was adopted by the DULT in developing the proposal for the Gandhi Bazaar Market Street Redesign project were mentioned as under,

"(i) A uniform carriageway of 7m (23 feet) width as per Indian Road Congress 86:2018 with 2 way movement.

(ii) Wide footpath of width 2.5m to 4m that can accommodate heavy footfall of pedestrians that is barrier free.

(iii) Designated vending zones that can accommodate 167 street vendors in a manner that they do not impede walkability. The vending zones are provided with temporary shelters.

(iv) Well-designed junctions to facilitate safe crossing of pedestrians.

(v) Organized on-street parking for 2 wheelers and 4 wheelers.

(vi) Bus stop with shelter.

(vii) Dedicated bay for pick up, drop off, loading and unloading activities.

(viii) Landscaped areas to increase green cover and increase ground water percolation.

(ix) Care was taken to provide vehicular access to residential properties though many of them did not have parking within their properties."

4.2.1 Producing photographs which reflects the proposed plan, it was stated about the width of carriageway which is the main concern of the public interest petitioner, reproducing from paragraph 11,

"One of the main concerns raised by the petitioner is regarding the width of the carriageway implemented i.e. 7m. The space where vehicle moves is referred to as carriageway and the width of the carriageway on Gandhi Bazaar before the implementation of the project was not uniform and varied in width. In addition, the carriageway was bounded by a large number of old trees on either side that lent Gandhi Bazaar its very unique character. While the clear width between trees varies across the street the minimum clear width between the trees was 8.5m (28 feet). However, this width too was not generally available for the uninterrupted movement of vehicles due to illegal parking and haphazard street vending. Hence, DULT in its proposal provided a 7m wide carriageway of 2 lanes as per the spatial standards stipulated in the Indian Road Congress 86:2018. The relevant sections of the Indian Road Congress 86:2018 is produced."

4.3 It was stated that proposal was mooted to provide vending zones and better facilities to the street vendors. The details were given in paragraph 12 which are as under,

"Another main concern of the petitioner is regarding the vending zones provided for street vendors. Prior to the project the street vendors sat on the footpath leaving little to no space for pedestrians. They were seated in a single line blocking visibility and access to properties and shops. Hence, DULT in its design provided vending zones in clusters where multiple units of 6' x 6' were provided based on space available at each location without affecting walkability and access to properties. There is a clear walkable footpath of minimum 1.8m width around these clusters to ensure that there is continuous walkability."

4.3.1 It is further stated that the vending zones will have platforms of the height of 15 cms (6 inches) and further have a roofing structure to protect the street vendors from the vagaries of weather and the said roof is a collapsible arrangement to ensure that the same is temporary and removable. It is stated that when the vendors set up their own tarpaulin sheet covers, it leads to a chaotic situation and gives an unpolished look to the entire area, all the more it leads to inconvenience to the vendors themselves as well as the customers who come for purchases in the market. It is stated that space for vending has to be neat, well defined and easily identifiable which would help the BBMP to manage the street vendors in a better way and

would further ensure that vending activities are confined to the vending zones which would in ultimate analysis benefit to the general public.

5. While the above factual scenario emerges from the rival contentions, learned advocate for respondent No.2 relied on the decision of this Court in **Sri Iranna and another vs. Union of India and others**, which was Writ Petition No.5201 of 2024 decided on 15.04.2024, in which the Court took a view that functions like redesigning or realignment of road are executive functions and the Court would not exercise its public interest jurisdiction to trench upon the executive field. It was submitted that the redesigning of the Gandhi Bazaar road for better traffic management etc. cannot be subject matter of public interest litigation since it is a pure executive project.

5.1 The submission could be countenanced. It is well settled that where expert technical functions are involved, the Court would not interject itself. In such circumstances, this public interest petition is not liable to be entertained on that ground only. However, looking to the aspect that the petition is pending since long and it has witnessed long pleadings on the subject,

the Court proceeded to consider the reply of the respondents while deciding the case.

5.2 From the facts highlighted in the affidavit cum reply, it is clear that Gandhi Bazaar Market Street Redesign project undertaken by respondent No.2-BBMP is for better management of entire Gandhi Bazaar area which is a busy humming area where large number of street vendors sit to sell their products, commodities, items and enumerable persons visit the area. The proposal involves widening of footpath to accommodate the street vendors as well as the pedestrians' safe crossing at various junctions. The proposal also include parking management to provide bus stops with shelter, dedicated bay for pick up and drop as well as loading and unloading activities. The vendors are to be provided specific area to be occupied by them. The planning also ensures that vehicular access becomes permissible.

5.3 Not only that, it is given out that the project has been at the advanced stage of its implementation which has started since December, 2022. It is stated that 95% of the project has been completed by January 2024 and remaining 5% of the work like providing temporary shelters to vending zones and to

protect street vendors from the vagaries of weather. It is further stated that this work too would have been completed. An amount of Rs.24.88 crores is spent on the project and any modification and alteration will result to inconvenience.

6. The Gandhi Bazaar Market Street Redesign project is for better convenience of the public, maintenance of traffic movement, to give better facility to the street vendors and to provide the access to the vehicles. The entire re-modeling of Gandhi Bazaar area is thus for larger public convenience and public interest.

7. For all the aforesaid reasons, the present petition is dismissed.

In view of dismissal of the petition, the interlocutory applications, as may be pending, would not survive and they stand accordingly disposed of.

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

**Sd/-
(K.V. ARAVIND)
JUDGE**