



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF NOVEMBER, 2023

BEFORE

THE HON'BLE MR JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 21639 OF 2023 (LB-BMP)

BETWEEN:

1. DR. C. VISHWANATH REDDY,

2. ACCESS LIFE ASSISTANCE FOUNDATION,
REGISTERED OFFICE AT FLAT NO. 1901,
19TH FLOOR, A WING, LODHA IMPERIA LTD.,
OFF LBS MARG BHANDUP
WEST MUMBAI - 400 078,
THE PRIVATE COMPANY INCORPORATED
UNDER THE COMPANIES ACT, 1956,
REPRESENTED BY ITS CENTRE MANAGER,
SMT. NEHA KUMARI JAIN,
W/O ASHOK KUMAR JAIN,
AGED ABOUT 31 YEARS.

...PETITIONERS

(BY SRI. R. RANGANATHA REDDY, ADVOCATE)

AND:

1. THE COMMISSIONER BBMP,
BBMP OFFICE BUILDING,

Digitally signed
by
NARAYANAPPA
LAKSHMAMMA
Location: HIGH
COURT OF
KARNATAKA



N.R. SQUARE,
BANGALORE - 560 002.

2. HEALTH OFFICER,
BTM LAYOUT WARD,
BBMP BANGALORE - 560 068.

...RESPONDENTS

(BY SRI. K.S. MALLIKARJUN REDDY, ADVOCATE
FOR R1 AND R2)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO QUASH THE
NOTICE ISSUED BY THE R2 DTD 6.9.2023 VIDE ANNEXURE-J
HAVING NO.A.Y/BTM/PR/49/2023-24 AND ETC.,

THIS PETITION, COMING ON FOR ORDERS, THIS DAY,
THE COURT MADE THE FOLLOWING:

ORDER

1. The petitioners are before this Court seeking for the following reliefs:
 - (i) *To quash the notice issued by the Respondent No.2 dated 06.09.2023 vide "Annexure J" having No. A.Y/BTM/PR/49/2023-24 in the interest of justice.*
 - (ii) *ii) Call for records if necessary for the records in respect of the scheduled property from the file of the respondents.*
 - (iii) *Issue such other orders as this Hon'ble court deems fit to grant in the facts and circumstances of the case including an order as to the costs of the present writ petition.*
2. The petitioner No.1 is the owner of the property bearing No.66/4, 4th Cross, 36th Main, BMT 1st Stage, Dollars



Scheme Road, Bengaluru. Petitioner No.2 is a nonprofit organization registered as company which provides multi-disciplinary supportive care to families who come to for treatment of their children for cancer. During this time, petitioner No.2 which is a nonprofit provides temporary accommodation free of cost and such assistance as may be required for the parents and children undergoing treatment to reside while undergoing treatment at an hospital since they are not in-patients.

3. Respondent No.2 had served a notice on petitioner No.1 on 06.09.2023 stating that the premises have been used as a cancer hospital on the basis of a complaint received from certain neighbours, and on that basis, it was contended that without necessary trade license or otherwise, the premises could not be used for such purposes. In that background, the petitioners are before this Court seeking for aforesaid reliefs.
4. On 05.10.2023, while issuing notice respondent No.2 was directed to cause an inspection of the premises, photographs and videographs of the premises and place



the same on record so that the aspect of whether there is any hospital activities being carried in the premises could be verified.

5. A status report dated 07.11.2023 has been filed, enclosing the photographs and mahazar prepared. The status report categorically indicates that the premises in question is being used only as a housing and lodging facility for cancer affected children, and their parents or guardians and there is no machinery, equipment, or other facilities available in the premises for treatment to children and that no such treatment has been provided in the premises. The photographs also do not indicate any equipment in the property; if that be so, I am of the considered opinion that the notice which had been issued by the respondents claiming that the premises have been used for running a hospital cannot be sustained. The usage of the premises for residential or lodging purposes without charging any fees from the persons undergoing treatment and their family members cannot be said to be an hospital activity. As such, I pass the following:



O R D E R

- (i) The writ petition is allowed.
- (ii) A Certiorari is issued the notice issued by respondent No.2 dated 06.09.2023 at Annexure-J is hereby quashed.

**Sd/-
JUDGE**

GJM
List No.: 1 Sl No.: 22
CT: BHK