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RECALLING SC ST CONTRACTORS WORK ORDER WITHIN FEW DAYS BY BBMP ON PRESSURE OF NON SC CONTRACTORS IS AN OFFENCE UNDER POA ACT



By : M.S.Yatnatti Editor and Video Journalist Bengaluru : The Mayor and Deputy Mayor and all Corporators of 198 wards of BBMP and officers of BBMP must read provisions of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act as it has Stringent punishment for atrocities on SC, ST under amended Act .BBMP giving contract or work order of SWM to Non SC contractors after recalling the work orders given to SC ST Contractors within few days without any reason is economic and social boycott of SC ST community and is punishable under new amendment brought by Modi government as UPA has proposed the amendments.SC ST Contractors are changed but the pourakarmikas remain same Supervisors remain same Men and Machine remains same by changing only contractor is direct insult to SC ST contractors and it is an offence under POA Act . An Act which provides for stringent action against those committing atrocities against SC and ST communities or indulging in actions which are derogatory to their dignity, including social or economic boycott, has come into effect since January 2016 .Cancelling legitimate contracts without any legal reasons attracts criminal provisions of SCs and STs, under Chapter II of the PoA Act non SC contractors pressure on JC and cancelling the contract or work orders and such contractors has imposed or threatened a social or economic boycott of SC ST person or a family or a group belonging to a Scheduled Caste or a Scheduled Tribe (x) Gives, any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a Scheduled Caste or a Scheduled Tribe;(x) Intentionally insults or intimidates with intent to humiliate a Scheduled Caste or a Scheduled Tribe in any place within public view.Chiranjivi Secretary of SC ST organization has reportedly requested police to file FIR against Joint commissioner an SE and EE of Rajajinagar Malleshwaram and Gandhinagar under sections PoA Act 2105 . As per Law at least 50 wards out of 198 wards Solid waste management contracts need to be given to SC ST Pourakarmikas. These offence punishable under Section 3(1) (ix) (x) (zc) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act.

Filing of the First Information Report (FIR) is of paramount importance as the process of justice begins with registration of an offence with the police station. The procedure for filing FIR has been given under Section 154 of Code of Criminal Procedure, 1973. The Constitution Bench of Supreme Court of India in its judgment dated 12.11.2013, in the W.P. (Criminal) No. 68 of 2008(Lalita Kumari Vs Govt. of Uttar Pradesh and Ors.) has, inter-alia, held that, "Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation". The offences under the PoA Act are cognizable. As such the affected person must file a First Information Report (FIR) in the Police Station of the area as per relevant provisions under Chapter II of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities){PoA} Act, 1989, as amended by the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) (Amendment) Act, 2015(No. 1 of 2016). Chiranjeevi has requested police to take immediate action on him and restore the contract issued to SC ST Pourakarmika Mr Naresh as per BBMP order dated 28-11-2016 .The necessary documents issued by BBMP Joint commissioner were reportedly attached with complaint.The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 has been notified to be enforced with effect from January 26, 2016. The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Bill, 2015 was passed by the Lok Sabha on August 4, 2015 and by the Rajya Sabha on December 21, 2015. The amendment act received President's assent on December 31, 2015. It amends the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, which prohibits the commission of offences against members of the Scheduled Castes and Scheduled Tribes and establishes special courts for trial of such offences. Apart from the offences already listed under the Act, the amendment Act adds that (i) intentionally touching an SC or ST woman in a sexual manner without her consent, or (ii) using words, acts or gestures of a sexual nature, or (iii) dedicating an SC or ST woman as a devadasi to a temple, or any similar practice will also be considered an offence. Besides these, the Act adds new offences of atrocities such as (i) garlanding with footwear, (ii) compelling to dispose or carry human or animal carcasses, or do manual scavenging, (iii) abusing SCs or STs by caste name in public, (iv) attempting to promote feelings of ill-will against SCs or STs or disrespecting any deceased person held in high esteem, and (v) imposing or threatening a social or economic boycott. Preventing SCs or STs from using common property resources; entering any place of worship that is open to the public; or entering an education or health institution, has been categorized as an offence. In such circumstances, it prescribes that the onus to prove that he was not aware of the caste or tribal identity of the victim, would be on the accused. The Amendment Act also includes in the Act, Chapter VI-A which provides for rights of victims and witnesses. Impending activities related to casting a fair vote would also be considered as an offence. The Amendment Act further specifies that an Exclusive Special Court must be established at the district level to try offences listed under the Act. An adequate number of courts are prescribed to be established to ensure that cases are disposed of within two months. Appeals from these Courts shall lie with the High Court, and must be disposed of within a period of three months.

The BBMP is not bothered about RTI Act .It has not published declaration under section 4(1) (a) (b) (c) (d) on its website such that every information is available to public in respect of SWM solid waste Management contracts or work orders given to SC ST contractors and recalled them in few days and given to Non-SC ST contractors .The KIC should take task on BBMP for these blunders. The BBMP has to publish every year the work they carry out or the information they create under 4(1) (a) (b) (c) every day ,but it did not published all the work carried out by the BBMP under section 4(1) (a) (b) (c) (d) of RTI Act 2005 and it has not provided citizens and opportunity to ask the reasons under section 4(1) (a) (b) (c) (d) . This information and reasons need to be provided to everybody as per Guide on RTI to Information Act 2005 published by the Government of India Ministry of Personnel, Public Grievances & Pensions Department of Personnel & Training (available here :<http://rti.gov.in/RTICorner/Guideonrti.pdf>) on page 12 and Para 9, following is stated: Providing Reasons for Decisions: The public authorities take various administrative and quasi-judicial decisions which affect the interests of certain persons. It is mandatory for the concerned public authority to provide reasons for such decisions to the affected persons. It may be done by using appropriate mode of communication .Attention is also invited towards the thread '[affected person ' under rti act](#).In fact, it can be said that "Affected" refers back to an action. The "Affected Persons" are the ones who are affected by that action. The reasons need to be given to affected person and copy of that can be given to me under 2 f of RTI Act.

The BBMP office is THE PUBLIC AUTHORITY under obligation to provide information "PUBLICLY" under section 4(1) (a) (b) (c) (d). The state government and all its departments need to publish everything they do in year as per RTI Act 2005 and this need to be published every year and applicant asking information becomes easier to provide also to the applicant and Government becomes transparent . Citizens can force every PA to create information every day strictly as per the system and procedure as per listed Acts and rules regulations listed under 4(1) (a) (b) (c) every day and that can be cross checked by applicant by



asking reasons under 4(1) (d) by the affected person and copy of the same can be given to any applicant under 2(f) of RTI Act .Promote transparency and accountability in the working of every public authority. Policy on Prevention, Detection, and Remediation of Fraud and Corruption by government is must and a major element of good governance is the control of corruption. For that reason, controlling corruption has been a key indicator. Good governance is a keystone of government. UPA government has given you RTI Act: Use It optimally :All opposition parties should use RTI optimally .Let them create booth wise RTI activists among their members or cadets and give them training and set of questions and gather that booth level information to perform better as opposition parties .Prime Minister should listen to opposition parties as they are voice of 66% voters. All responsible citizens should send RTI Question to each MP and each Minister and Prime Minister and get to know every day what they are doing and what they are performing and keep check on their performances and give them clear indication that India is awakened and want responsible Government which listens citizens.. All 70 MLAs and 543 MPs are public servants : After election are over all MLAs are public servants and they are MLA for all the constituency .All MLAs should chalk out their plans for development of their constituencies irrespective of who voted for them or who is not voted for them . THE RIGHT TO INFORMATION ACT, 2005 is an Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority.RTI Act provides transparency under Section 3 and 4(1) (a) (b) (c) and 2(f) of RTI Act 2005 and accountability under 4(1) (d) RTI Act 2005 as the PA will create information; or to interpret information; or to solve the problems raised by the applicants under the system and procedure as per listed Acts and rules regulations listed under 4(1) (a) (b) (c) every day and that can be cross checked by applicant by asking reasons under 4(1) (d) by the affected person and copy of the same can be given to any applicant under 2(f) of RTI Act . Laws exist, simply put, to ensure the greater good for the greater number of people. This in turn ensures a fairly well organized and safe society. If people were not bound by laws, our society would be full of citizens doing what they most felt like doing (for their own needs and desires.) At the risk of sounding cliché, this would lead to anarchy. I agree that people will always act in their own best interest, and this is not likely to be in the best interest of the many. There are some people who will act according to their own moral code, but even morality varies. For the sake of the greater good and in order to reign in those who act without moral, we have laws.Laws exist because people are selfish and greedy and would steal from and kill each other if they could. That, at least, is how most thinkers see the question.This is the answer given by political philosophers like Locke and Hobbes. They wondered why people live in societies with laws and such. They decided it was because societies without laws were places where people's lives were, in Hobbes' words, "nasty, brutish and short."According to Locke, laws come about because people want their lives, liberties, and property to be protected.

THE INFORMATION IS CREATED UNDER RTI ACT 4(1) (a) (b) (c) 2005: And PA is obligated to provide this information created earlier and created every day and updated publicly and freely to all. Under 4 (1) (a) information is created before 2005 is computerized : The public authorities were functioning since before RTI ACT 2005 Under 4 (1) (a) they need to computerize the all available records and catalogues and make them available in digital or electronic format on electronic network. PA is obligated to provide this information publicly and freely.Under 4 (1) (b) information is created every day: The public approaches every day with request letters and applications and grievances to public authorities .The public authorities functions every day and they create information on the request letters and applications and grievances to public authorities as per organizational function and duties and as per the norms set by it for the discharge of its functions; and as per the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions and as per the powers and duties and procedures followed in decision making process including channels of supervision and accountability as per the rules, regulations, instructions, manuals and records ; under 4 (1) (b). The PA must declare publicly and provide information publicly and free of cost in respect of (iii) the procedure followed in the decision making process, including channels of supervision and accountability; (iv) the norms set by it for the discharge of its functions; (v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions; (vi) a statement of the categories of documents that are held by it or under its control; (vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof; (viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible to public; (ix) a directory of its officers and employees; (x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations; (xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made; (xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes; (xiii) particulars of recipients of concessions, permits or authorizations granted by it; (xiv) details in respect of the information, available to or held by it, reduced in an electronic form; (xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use; (xvi) the names, designations and other particulars of the Public Information Officers; The above information created by everyday by PA need to be updated and put on electronic network every year as updated information.

Under 4 (1) (c) information is created by PA: The PA need to publish all decisions and policies and relevant facts which affects public.The Accountability is checked by public under 4 (1) (d): The citizens who are affected by decisions made under RTI ACT 4(1) (a) (b) (c) can seek reasons for their administrative and quasi judicial decisions .PA can provide reasons to affected person and copy of such reasons can be provided to anybody under 2(f) of RTI Act. Public is fully authorized to ask how and why and under what rules and regulations such decision is arrived at under 4(1) (a) (b) (c) of RTI ACT 2005 using 4 (1) (d).An RTI application can force the PA to create information on his application to PA under 4(1) (a) (b) (c) of RTI ACT 2005 and at the same time he can check the information whether it is provided as per 4(1) (a) (b) (c) of RTI ACT 2005 by invoking 4 (1) (d) of RTI Act 2005.And whereas democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Government and their instrumentalities accountable to the governed.

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