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THE BBMP COMMISSIONER AND "ARO" VIOLATES SECTION 110 (H) (1) (A) OF THE KMC ACT "ARO" OF ARAKERE TO PASS FRESH ORDERS



By: M.S.Yatnatti: Editor and Video Journalist Bengaluru: Reportedly the high court on 11-07-2017 granted a week to Prakash, Assistant Revenue Officer (ARO) of Arakere, to pass fresh orders in relation to imposition of property tax on Aradhana School on Bannerghatta Road, after classifying that the property was being used for commercial purposes. Sisters of Precious Blood, a charitable society, runs the school. Observing that the order passed by the BBMP 'shocked the conscience of the citizens', Justice Vineet Kothari said both the ARO and commissioner N Manjunath Prasad need not be present on July 19, the next date of hearing, if they pass a sensible order in the matter. "Based on your report, the commissioner passed the order. Who went to the school? How many children were learning karate and dance? How do you feel that these activities are not part of education? Do you feel that a school does not remain a school with these activities?" the judge asked the ARO. The ARO said 20-30 students were attending karate classes and 10-15 were learning dance and the school is collecting extra fees for the same. He, however, apologized to the court. The commissioner said he intends to visit the school. The institution has sought tax exemption under Section 110 of KMC Act on four occasions between August 17, 2009 and March 8, 2016, and all the representations were kept in cold storage. The BBMP officials visited the school on April 11, 2016 with a view to seize and seal the premises as a measure of punishment, claiming that it had not paid Rs 27 lakh property tax dues, the complaint stated. The school has challenged the December 28, 2016 order passed by the BBMP commissioner based on the report of ARO that the school is not entitled to seek tax exemption. A notice was issued on March 16, 2017 by the ARO asking the petitioner-institution to pay Rs 25.06 lakh as tax for 2008-09 to 2015-16 with interest.

Case Study: PIO and ARO and JC without visiting the poor student hostel provide wrong information and declined to put this under tax exempt category.. This poor student hostel is at a distance of stone throw distance from JC West office and every day JC and BBMP officers pass through this student hostel. The PIO ARO Gandhinagar has blatantly replied that he is not bothered about KMC Act and he has put this poor students hostel under residential and non-residential tax bracket despite request and documents submitted by viswakarma samaja and he said that he will not obey the KMC Act and he declined to put this property under tax exemption category as per section 110 (h) (1) (a) of the Karnataka Municipal Corporations Act, 1976 for Vishwa karma student hostel run for no profit for poor students. ARO has no power to violate section 110 (h) (1) (a) of the Karnataka Municipal Corporations Act, 1976. For giving wrong information from the date of wrong information PIO need to be penalized Rs 200/- every day from the date of wrong reply as he has relied upon false report of tax inspector. Now an RTI Appeal is filed by me as Information sought was not provided and tax exemption was not given under section 110 (h) (1) (a) of the Karnataka Municipal Corporations Act, 1976 for Vishwa karma student hostel is built several decades earlier for poor students of viswakarma samaja students.. We had asked information and reasons for not exempting Student hostel run by charitable institution "Karnataka state Vishwakarma Samaja (Registered) No 376/1942 dated 14-03-1942 at No 3 Sirur Park Road Shshadripuram Bangalore -560020 under section 110 (h) (1) (a) of the Karnataka Municipal Corporations Act, 1976 which exempts student hostel which are not established or conducted for profit and it is run by not for profit charitable organisation.. This vishwa karma student hostel is built several decades earlier for poor students of viswakarma samaja students. Since several decades taxes were exempted and suddenly few officer. Prayer or relief sought: Vishwa karma student hostel at No 3 Sirur Park Road Shshadripuram Bangalore -560020 is built several decades earlier for poor students of viswakarma samaja students need to be exempted from tax payments under section 110 (h) (1) (a) of the Karnataka Municipal Corporations Act, 1976. ARO BBMP Gandhi Nagar has put this property under residential and non-residential category as per his reply under RTI dated 20-02-2015 and 03-02-2016. Actually ARO need to put this property under students hostel under exempted category under section 110 (h) (1) (a) of the Karnataka Municipal Corporations Act, 1976 from tax as it the hostel run for poor students and run for non-profit. ARO has no power to violate section 110 (h) (1) (a) of the Karnataka Municipal Corporations Act, 1976. For giving wrong information from the dsate of wrong information PIO need to be penalized Rs 200/- every day from the date of wrong reply as he has relied upon false report of tax inspector.

Conclusion : Hearing the RTI Appeal the revenue officer agreed that Vishwa karma student hostel at No 3 Sirur Park Road Shshadripuram Bangalore -560020 comes under tax exempt category accordingly issued orders to put up the file for commissioners order for tax exempt category.

Copies of documents relied upon by the applicant: We have relied on HKHC Court's decision in the case of [CORPORATION OF THE CITY OF MANGALORE AND ANOTHER vs. KASTURBA MEDICAL COLLEGE](#) reported in 2002 (3) Kar.LJ 145. Paragraphs 3 and 4 read out by him are as follows: "3. Before the Commissioner, certain documents were produced like college calendar, list of documents, particulars of room rent collected from the students, etc. No doubt, at the time of admission, certain amount is collected from each student seeking admission to the hostel which amount is refunded to him at the end of his tenure. The said amount, in the meantime, earns interest that goes to the management. Otherwise, there is no other aspect of profit making that is brought out in the material on record. Learned Counsel for the petitioners Sri K.V.Narasimhan urges that, the balance-sheet would give an overall picture of the management making profit from the running of the hostel. As said earlier, the particulars are available before the Commissioner as to what each student is charged by way of room rent, etc. It is nobody's case that the hostel is being run for profit. It is also not a free hostel. Therefore, while recovering from the students the cost of maintenance of the hostel, it is possible that during certain months there could be excess of amount collected from the students. The question is whether that itself makes the hostel concerned as one being run for profit. If we look to the relevant provision, viz., Sub-clause (a) of Clause (i) of Section 110 of the Act, it is evident there from that it is the dominant purpose for which the hostel is being run, that is important for determining whether the building concerned comes under exemption class or not. It reads thus.- "Section 110.-The following buildings and lands shall be exempted from the property tax-- (i) building or lands exclusively used for-- (a) students hostels which are not established or conducted for profit". KMC Act under section 110 (h) (1) (a) of the Karnataka Municipal Corporations Act, 1976 and hostel inmates details and plan of hostel building and related documents.

BBMP need to exempt the property tax for student hostel under sub-clause (a) of clause (i) of section 110 of the KMC act 1976 run by not for profit and charitable organization "Karnataka Rajya Vishwa Karma Samaja". I had earlier asked BBMP PIO in the office of commissioner and joint commissioner to provide me information and reasons for not exempting Student hostel run by charitable institution "Karnataka state Vishwakarma Samaja (Registered) No 376/1942 dated 14-03-1942 at No 3 Sirur Park Road Shshadripuram Bangalore -560020 under section 110 (h) (1) (a) of the Karnataka Municipal Corporations Act, 1976 which exempts student hostel which are not established or conducted for profit and it is run by not for profit charitable organization.. This vishwa karma student hostel is built several decades earlier for poor students of viswakarma samaja students. Since several decades taxes were exempted and suddenly few officers are troubling for tax payment recently. BBMP is the "public authority" is under obligation to provide information "PUBLICLY" under section 4(1) (a) (b) (c) (d) RTI Act 2005. BBMP seems do not learn from court orders in the case of in Karnataka High Court M/S.Gokula Education vs Bruhath Bangalore Mahanagara ... on 2 July, 2012 and [CORPORATION OF THE CITY OF MANGALORE AND ANOTHER vs. KASTURBA MEDICAL COLLEGE](#) reported in 2002 (3) Kar.LJ 145. Karnataka high court has made several points clear to the corporations to act as per KMC Act 1976. We are reproducing HKHC order for the benefit of charitable and not for profit organizations BBMP should stop collecting taxes from student hostels run by not for profit and charitable organizations as per KMC Act 1976 and as per citations..

"The respondent-management of the Medical College runs a students' hostel for the purpose of its students. The respondent claimed exemption in respect of the building housing the hostel, from tax under Section 110 of the Municipal Corporations Act, 1976 ('Act' for short). The Commissioner of the first petitioner-Corporation of the City of Mangalore demanded tax under Section 109 of the Act in respect of the building housing the hostel. Respondent went in appeal before the learned District Judge, Dakshina Kannada, Mangalore, at M.A. No. 19 of 1995. By the impugned order dated 13-2-1997 at Annexure-B, the learned District Judge has allowed the appeal and reversed the order under appeal by holding that the building housing the students' hostel is entitled for exemption under Section 110 of the Act. The petitioner-Corporation is now before this Court under Articles 226 and 227 of the Constitution. 2. I have heard at length Sri K.V. Narasimhan, learned Counsel for the petitioners, and Sri G.K. Shevagoor, learned Counsel for the respondent. 3. Before the Commissioner, certain documents were produced like college calendar, list of documents, particulars of room rent collected from the students, etc. No doubt, at the time of admission, certain amount is collected from each student seeking admission to the hostel which amount is refunded to him at the end of his tenure. The said amount, in the meantime, earns interest that goes to the management. Otherwise, there is no other aspect of profit making that is brought out in the material on record. Learned Counsel for the petitioners Sri K.V. Narasimhan urges that, the balance-sheet would give an overall picture of the management making profit from the running of the hostel. As said earlier, the particulars are available before the Commissioner as to what each student is charged by way of room rent, etc. It is nobody's case that the hostel is being run for profit. It is also not a free hostel. Therefore, while recovering from the students the cost of maintenance of the hostel, it is possible that during certain months there could be excess of amount collected from the students. The question is whether that itself makes the hostel concerned as one being run for profit. If we look to the relevant provision, viz., Sub-clause (a) of Clause (i) of Section 110 of the Act, it is evident therefrom that it is the dominant purpose for which the hostel is being run, that is important for determining whether the building concerned comes under exemption class or not. It reads thus.- "Section 110.-The following buildings and lands shall be exempted from the property tax-- (i) building or lands exclusively used for-- (a) students hostels which are not established or conducted for profit". 4. It could be seen from the description of the building concerned as specified in Section 110(i)(a) of the Act that emphasises the dominant purpose for which the hostel is established or conducted, viz., whether it is established or conducted for profit. If we examine the facts of this particular case on the basis of the material produced before the Commissioner, it is evident that, the hostel concerned is established for the benefit of the students studying in the respondent-institution, but not established or conducted for profit. If the hostel is thus not established or conducted for profit, then, the mere fact that during some months the amount collected from the inmates of the hostel exceeds the cost of maintenance, it does not matter. There could be some months in summer and in those months the students will not be there in the hostel, wherein there would not be any amount collected from the inmates of the hostel, and the hostel would be empty, and during those months obviously the management will be suffering loss looked at from the maintenance angle. I am only referring to this aspect to emphasise that the dominant purpose is to be looked into for the purpose of seeing as to whether or not building needs to be exempted under Section 110 of the Act. Looked at from this angle, impugned order of the learned District Judge does not call for interference. Result: Petition filed by CORPORATION OF THE CITY OF MANGALORE was dismissed.

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 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



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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 .RTI is a total problem solving mechanism and not just record providing tool.RTI will provide transparency under 4(1) (a) (b) (c) and 2(f) of RTI Act 2005 every day and Accountability can be ensured under 4(1) (a) (b) (c) (d) and 2(f) of RTI Act 2005 and this will reduce the corruption in every public authority .

RTI Act 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. The information under RTI Act is defined in, Section 2(f) of the RTI Act, which defines "information" under this Act, unless the context otherwise requires,- (f) "information" means any material in any form, including records, documents, memos, e- mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;". This act can be called as the "law of transparency and accountability" which acts as the citizen's weapon to question and get information related to the government's functioning so that they can analyze its performance, and act accordingly.

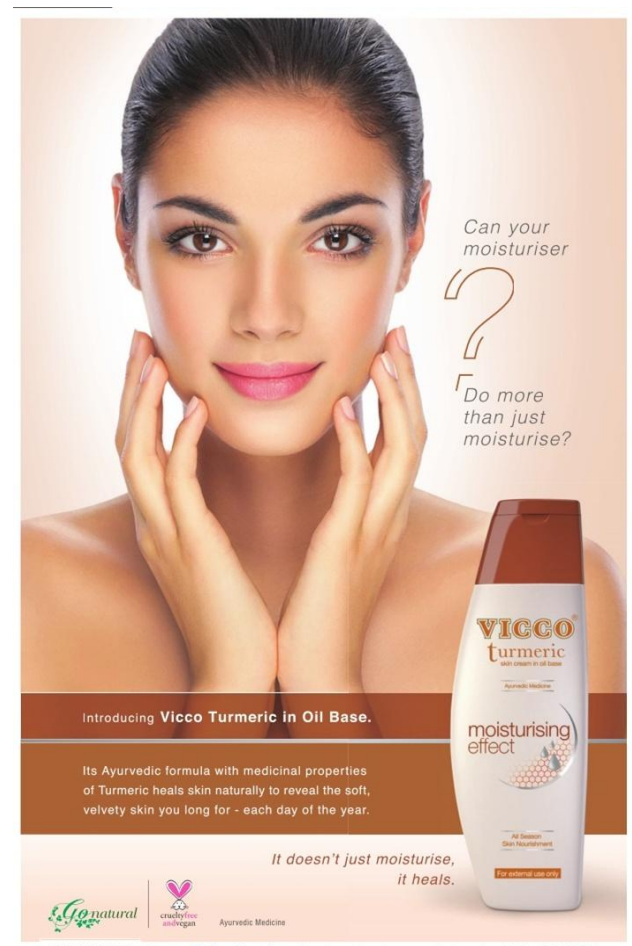
Information is essential for the efficient working of journalists and thus, the Right to Information (RTI) Act is one of the most useful legislations for a journalist. The RTI Act has two basic divisions the first requiring public officials to *suo moto* publish information pertaining to their departments and the second enabling the public to access information from a public office. The official documentary proof can be obtained by simply filing an application with a fee of Rs. 10.Under Section 2 (j) (ii) of the Act, the applicant can ask for certified copies of the documents or records. This certified copy of the document giving information can be admitted in the Court as Secondary Evidence. Note that under the RTI Act, the right to information includes the right to inspection of work, documents and records; taking notes, extracts or certified copies of documents or records; and taking certified samples of material held by the public authority or held under the control of the public authority. A citizen has a right to obtain information from a public authority in any relevant form including in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through print-outs provided such information is already stored in a computer or in any other device from which the information may be e-mailed or transferred to diskettes etc.RTI, one of the few weapons the common man has in his fight against the high and mighty, citizens have unlimited powers under RTI Act 2005.

Every PA must understand that "information" is not created in "Paraloka" or "Swargaloka" or in "CIC" or "SIC" which will be given by PA under Section 2(f) of the RTI Act.It is PA which creates the information every day 4(1) (a) (b) (c) and the "information" in any form, including records, documents, memos, e- mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form need to be created as per 4(1) (a) (b) (c) reasons under 4(1) (a) (b) (c) (d) need to be given by PA to the affected person and copy of the same can be given to any applicant under 2(f) of RTI Act .

The PA should be forced to function and create information strictly as per under 4(1) (a) (b) (c) on the applications and request of public and provide it under 2(f) of RTI Act and information should not be incomplete misleading and false and public is free to check accountability under 4(1) (d) RTI Act 2005.The Right to Information (RTI) Act is one of the most important tools that can empower the common man, it had become imperative to fight against corruption for the effective functioning of the three pillars of democracy — legislature, executive and judiciary. The three pillars of democracy had been included in the ambit of the RTI Act and people should make use of the provisions of the Act to bring down corruption. There was a need to create awareness among people on the wide range of powers enshrined in the RTI Act. The educated sections of society must take active part in the fight against injustice and use the provisions of the RTI Act to protect the rights of the people.

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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