
**KARNATAKA PARKS, PLAY-FIELDS AND OPEN SPACES
(PRESERVATION AND REGULATION) ACT, 1985**

16 of 1985

[March 20, 1985]

CONTENTS

1. Short title, extent and commencement.
2. Definitions
3. Preparation and submission of list of parks, play-fields and open spaces by executive authorities
4. Approval of list by Government
5. Inclusion of new lands
6. Prohibition of the use of parks, play-fields and open spaces in certain cases
7. Maintenance of parks, play-fields and open spaces
8. Prohibition of construction of buildings etc
9. Obligation of owner of parks and play-fields
10. Submission of annual returns
11. Penalties
12. Offences by companies
13. Control
14. Power to make rules
15. Repeal and Savings

**KARNATAKA PARKS, PLAY-FIELDS AND OPEN SPACES
(PRESERVATION AND REGULATION) ACT, 1985**

16 of 1985

[March 20, 1985]

In view of the increasing demand for residential and commercial sites in the urban areas, a number of Parks, Playfields and open spaces are being converted into sites and for other such uses. In order to provide the necessary space for recreation to the residents of each absolutely necessary to preserve parks, playfields and open spaces and to put an end to the practice of converting such lands into other uses. Hence this Bill. (First published in the Karnataka Gazette, Extraordinary, on the Eighth day of May, 1985) (Received the assent of the Governor on the Seventh day of May, 1985) An Act to provide for the preservation and regulation of Parks,

Playfields and Open Spaces in the State of Karnataka. Whereas, it is expedient to provide for preservation and regulation of Parks, Play-fields and Open Spaces in the State of Karnataka. Be it enacted by the Karnataka State Legislature in the Thirty-sixth year of the Republic of India as follows.

1. Short title, extent and commencement. :-

(1) This Act may be called the Karnataka Parks, Play-fields and Open Spaces (Preservation and Regulation) Act, 1985.

(2) It extends to the whole of the State of Karnataka.

(3) It shall be deemed to have come into force on the 26th day of December, 1984 in the Cities of Bangalore, Belgaum, Gulbarga, Hubli-Dharwar, Mangalore and Mysore and in the local areas comprised within a City Municipality in the State and on such date and in such other local areas of the State as the Government may, by notification, specify and the Government may cancel or modify any such notification.

2. Definitions :-

In this Act, unless the context otherwise requires.

(a) "Chief Controlling Authority" means, in the case of the Cities of Bangalore, Belgaum, Gulbarga, Hubli-Dharwar, Mangalore and Mysore, the Government, and in other cases the Commissioner;

(b) "Commissioner" means the Divisional Commissioner of the revenue division;

(c) "Executive authority" means the Chief Executive Authority of the Local Authority concerned who is vested with general executive powers under any law for the time being in force providing for the constitution of such Local Authority;

(d) "Government" means the State Government;

(e) "Local authority" means a municipal corporation, a municipal council, the Bangalore Development Authority, an improvement board, a sanitary board or a notified area committee or a town board constituted or continued under any law for the time being in force and such other authority as may be specified by the Government, by notification, as a local authority;

(f) "Open space" means any land on which there are no buildings or of which not more than one twentieth part is covered with buildings

and the whole or the remainder of which is used or meant for purposes of recreation, air or light or set apart for civic amenity purposes;

(g) "Park" means a piece of land on which there are no buildings or of which not more than one twentieth part is covered with buildings, and the whole or remainder of which is laid out as a garden with trees, plants or flower beds or as a lawn or as a meadow and maintained as a place for the resort of the public for recreation, air or light;

(h) "Play-field" means a piece of land adapted for the purposes of play, game or sport and used by schools or colleges or clubs or general public and includes land set apart as a play-field by a Local Authority

CASE LAW Sections 2(f) and 8(1) "Open space" Definition of Means any land on which there are no buildings or of which not more than 1/20th part is covered with buildings and whole or remainder of which is used or meant for purposes of recreation, air or light or set apart for civic amenity purposes Corporation/Municipality to publish list of open spaces Construction of buildings or structures likely diminish utility of open space, prohibited Party alleging infringement of law to prove that land on which buildings are constructed is "open space" with reference to list published. A.B. Murgod, J., Held. Section 8(1) of the Karnataka Parks, Play-fields and Open Space (Preservation and Regulation) Act, 1985 prohibits construction of any building or structure likely to affect the utility of the park, play-field or open space specified in the list published under Section 4 or Section 5. "Open Space" as defined in clause (f) of Section 2 of the Karnataka Parks, Play-fields and Open Space (Preservation and Regulation) Act, 1985 means any land on which there are no buildings or of which not more than one twentieth part is covered with buildings and the whole or the remainder of which is used or meant for purposes of recreation, air or light or set apart for civic amenity purposes. It is for the petitioner to show that it is an open space as defined under the enactment and it is so included in the list prepared under Sections 4 and 5 of the Act. In the absence of such material, the argument is unsustainable. Smt. Lalitha Bai v City Corporation of Gulbarga and Others, 1996(3) Kar. L.J. 285-B.

3. Preparation and submission of list of parks, play-fields and open spaces by executive authorities :-

(1) The executive authority of every local authority shall, not later than six months from the date on which this Act comes into force in the area within the jurisdiction of the Local Authority concerned,

prepare and submit for the approval of the Government a correct and complete list with plans and maps with dimensions of all the parks, play-fields and open spaces in the area aforesaid containing such other particulars as may be prescribed.

(2) The Government shall, as soon as may be, after the receipt of the list and other documents referred to in sub-section (1), publish the list together with a notice of the date (not being less than three months from the date of publication) before which representation in connection therewith may be submitted in the prescribed manner and such publication shall state at what place and time the plans, maps and documents aforesaid will be available to the public for inspection: Provided that if any private land is included in any park, play-field or open space specified in the list, a copy of the list with the concerned plans and maps shall cause to be served on the owner of that private land.

4. Approval of list by Government :-

(1) Any person interested, may submit his representations, objections or suggestions in writing in respect of anything contained in or relating to the list, to the Government, Within the time specified in the publication of the list under sub-section (2) of Section 3.

(2) The Government may, after considering the representations, objections and suggestions, if any, and making such inquiry as it thinks fit, approve the list with or without modifications.

(3) The order of the Government approving the list under sub-section (2) together with the list approved shall be published in the prescribed manner and such publication shall state at which place and time particulars relating to the matter mentioned in the list will be available to the public for inspection.

5. Inclusion of new lands :-

(1) The Government may at any time either suo moto or at the instance of the Local Authority concerned or of any person interested include new lands in the list.

(2) Before including such new lands the Government shall publish in the prescribed manner a draft notification proposing such inclusion together with a notice specifying a date on or after which such draft will be taken into consideration, and shall consider any

objection or suggestion which may be received in respect of such draft from the Local Authority concerned or any person interested before the date so specified.

6. Prohibition of the use of parks, play-fields and open spaces in certain cases :-

No park, play-field or open space specified in the list published under Section 4 or Section 5 shall be used for any purpose other than the purpose or purposes for which it was used on the date of commencement of this Act in such area.

7. Maintenance of parks, play-fields and open spaces :-

The Local Authority concerned shall maintain in a clean and proper condition all parks, play-fields and open spaces belonging to or vested in it and included in the list published under Section 4 or Section 5.

8. Prohibition of construction of buildings etc :-

(1) No person shall construct any building or put up any structure likely to affect the utility of the park, play-field or open space or make any encroachment in or over any park, play-field or open space specified in the list published under Section 4 or Section 5: Provided that the executive authority may, subject to such rules as may be prescribed, permit the construction of such buildings or putting up of such structures as may be necessary for the improvement or more beneficial utilisation of the park, play-field or open space.

(2) No land or buildings within a park, play-field or open space specified in the list published under Section 4 or Section 5 shall be alienated by way of sale, lease, gift, exchange mortgage or otherwise and no licence for the use of any such land or buildings for any other purpose shall be granted and any alienation made or licence granted in contravention of this section shall be null and void.

9. Obligation of owner of parks and play-fields :-

(1) In the case of parks and play-fields not vested in the Local Authority but included in the list published under Section 4 or Section 5, the executive authority, may, by notice, require the owner or the person or authority in occupation of such park or play-field.

- (i) to maintain such park or play-field in a clean condition;
 - (ii) to remove or alter any projection, encroachment or obstruction in or over any such park or play-field or to execute such repairs to any building in such park or play-field as the executive authority may consider necessary within the date specified in the notice.
- (2) If the owner or the person or authority in occupation fails to comply with the notice under sub-section (1), the executive authority shall itself arrange to.
- (i) maintain such park or play-field in a clean and proper condition;
 - (ii) remove or alter the projection, encroachment or obstruction;
 - (iii) execute such repairs as it may consider necessary and the cost of such maintenance, removal, alteration or repairs shall be recoverable from the owner or the person or authority in occupation in such manner as may be prescribed.
- (3) Any dispute as to the amount of cost shall be decided by the Government and its decision shall be final.
- (4) The Executive Authority, may, instead of or in addition to taking action as indicated in sub-section (2), proceed to acquire the land under the Land Acquisition Act, 1894 for the purpose of effective management of the land as a park or play-field.

10. Submission of annual returns :-

The executive authority shall submit to the Government through the Commissioner in such form and with such particulars as may be prescribed, an annual return in respect of the parks, play-fields and open spaces which are situated within the limits of the local authority concerned and which are specified in the list published under Section 4 or Section 5. The return shall also contain a list of the parks and play-fields in respect of which action was taken under sub-section (2) of Section 9 together with particulars as regards the nature of the action taken in respect of them and the steps taken in regard to their proper maintenance.

11. Penalties :-

Whoever contravenes the provisions of Section 6 or Section 8 or throws any rubbish into any park, play-field or open space specified in the list published under Section 4 or Section 5 shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

12. Offences by companies :-

(1) Where an offence under this Act is committed by a company, the company, as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation. For the purpose of this section.

(a) "company" means a body corporate and includes a firm or other association of individuals;

(b) "director" in relation to a firm means a partner in the firm.

13. Control :-

(1) If the Chief Controlling Authority is satisfied, after giving the Executive Authority an opportunity of being heard, that the Executive Authority has failed to enforce effectively the provisions of this Act or to execute any work which under this Act the Executive Authority is required to execute, it may order the Local Authority concerned to do all things necessary for enforcing the provisions of this Act effectively or for executing any work which under this Act the Executive Authority is required to execute.

(2) For the purposes of this section, the Chief Controlling Authority shall have the same powers of calling for records, causing inspection to be made, and of enforcing its orders by appointing persons to enforce them as the Government has under Sections 94, 96 and 97 of Karnataka Municipal Corporations Act, 1976 (Karnataka Act 14 of 1977).

14. Power to make rules :-

(1) The Government may by notification, and after previous publication, make rules for the purpose of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions such rules may provide for. (a) Controlling or regulating the admission of persons to, and the conduct of persons in, and in the vicinity of parks, play-fields and open spaces; (b) restricting or prohibiting the admission of animals or any class of animals to any park, play-fields or open space; (c) conditions subject to which permission may be granted to construct buildings under Section 8; (d) the time within which the annual return under Section 10 shall be submitted to the Government; (e) all matters expressly required or allowed by this Act to be prescribed.

(3) All rules made, all notifications issued and all lists of parks, playfields and open spaces published under this Act shall, as soon as may be after they are made or published be laid before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in such rule, notification or list, or both Houses agree that such rule, notification or list should not be made or published, such rule, notification or list shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything done under that rule, or notification or list.

15. Repeal and Savings :-

(1) The Karnataka Parks, Play-fields and Open spaces (Preservation and Regulation) Ordinance, 1984 (Karnataka Ordinance No. 19 of 1984) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under this Act.