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Karnataka High Court

Case No: Writ Petition No. 11213 of 2006

The Karnataka Land Developers Association (R) and Others — APPELLANT

Vs

The Commissioner, Bangalore Metropolitan Regional Development Authority and Bangalore Metropolitan Regional Development Authority — RESPONDENT

Date of Decision: Sept. 11, 2006

Acts Referred:

- Bangalore Metropolitan Region Development Authority Act, 1985 - Section 10, 27, 28, 9
- Karnataka Town and Country Planning Act, 1961 - Section 4, 81 C, 9

Citation: (2007) 2 KarLJ 57 : (2006) 4 KCCR 2359

Hon'ble Judges: B.S. Patil, J

Bench: Single Bench

Advocate: R.N. Narasimhamurthy for M.S. Bhagwat, for the Appellant; Udaya Holla, AG for S.G. Pandit, for R-1 and R-2, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

B.S. Patil, J.

The Karnataka Land Developers Association (R) and its members have approached this Court challenging the notifications dated 14.07.2006 vide Annexures-A and B and 15.07.2006 vide Annexure-C issued by the Commissioner, Bangalore Metropolitan Region Development Authority (for short "BMRDA") - respondent No. 1.

2. By the impugned notifications the 1st respondent has notified that since it has undertaken the task of preparing Interim Master Plan for Anekal, Hoskote,

Kanakapura, Magadi and Nelamangala planning areas coming within its jurisdiction, in the interest of ensuring planned development of the region and in aid of preparing the Interim Master Plan the proposals for conversion of the land use and other proposals u/s 10 of the Bangalore Metropolitan Region Development Authority Act, 1985 (for short ''the Act'') shall be rejected. The petitioners claim that the impugned notifications affect their rights to have their lands converted by approaching the Authorities under the provisions of the Land Revenue Act.

3. Learned Counsel Sri. R.N. Narasimha Murthy appearing for the petitioners contends that there is no power vested in the BMRDA to issue such directions prohibiting the Authorities functioning under various statutes including the Authorities discharging their duties under the provisions of the Land Revenue Act He submits that the impugned notifications are not issued by the State Government expressed in the name of the Governor and it is nothing but interference in the exercise of the statutory powers by the prescribed Authorities under the Land Revenue Act. In this regard, he submits that when Section 95 of the Land Revenue Act confers powers on the Revenue Officers to pass orders regarding the change of land use, no other Authority has the power to exercise the said power vested in the specified Authorities to whom the legislature has conferred such powers. He has placed reliance on a judgment in the case of Commissioner of Police, Bombay Vs. Gordhandas Bhanji, .

4. The next contention urged is that the impugned notifications are issued without jurisdiction and without authority of law. He submits that as Section 10 of the Act gives power to the 2nd respondent-Authority to accept applications individually for the purpose of granting approval for developmental schemes which it can upon enquiry either permit or reject An aggrieved party is entitled to prefer an appeal to the State Government Therefore the respondents have no power to issue any notification banning the conversion of lands or banning grant of approval of development of any land.

5. His further contention is that there is no statutory duty cast on the respondents to prepare the Master Plan as per the provisions of the Act. The preparation of the Master Plan is vested with the Planning Authority constituted u/s 4 of the Karnataka Town and Country Planning Act, 1961. According to him the Government Order dated 21.09.2005 already directs the 2nd respondent to prepare a final Master Plan and the said order does not ban any developmental activities till the finalisation of the Master Plan and therefore the notifications issued by the respondents imposing ban on the ground that they intend to prepare a Master Plan is illegal.

6. The learned Advocate General Sri Udaya Holla defending the action of the respondents takes the court through the objects and purpose for which the BMRDA Act is enacted. He places reliance on Sections 9, 10, 27 and 28 of the Act to contend that in so far as the developmental activities coming within the jurisdiction of BMRDA, it is the Authority (BMRDA) which is competent to exercise its powers. It is

next contended by him that the ban imposed is only an interim measure till the BMRDA prepares the Interim Master Plan in respect of the planning area. The urgent necessity for the same has been felt on account of the haphazard manner in which the areas are being developed resulting in frustration of the very object for which the Authority is constituted. In sum and substance, his submission is that these notifications are in the nature of an interim measure and are issued to facilitate the preparation of Master Plan in respect of these planning areas and to facilitate planned development of these areas. If these notifications had not been issued exponential and unplanned growth which are occurring in these areas would render the Master Plan redundant which would be wholly detrimental to the general public. Taking me through the statement of objections filed on behalf of respondents and placing reliance on several judgments of the Apex Court and also of this Court, he submits that planned development, protection of the environment and safe and healthy atmosphere for comfortable living cannot be achieved unless the Authorities invested with the powers act with vision for the future and take preventive actions curbing unplanned and indiscriminate growth of the region which has the potential danger of causing great health hazards to the citizens in the region. He has placed reliance on the judgments of the Apex Court in the case of M.C. Mehta v. Union of India and Ors. AIR 2000 SCW 4033 to emphasize the need of protecting the environment.

7. Contending that the respondent-Authorities have the primary responsibility to ensure planned development of the region and therefore all necessary and incidental powers that are essential to achieve this object are to be conceded as incidental powers, the learned Advocate General has referred to the doctrine of implied powers placing reliance on the judgment of the Apex Court in the case of Bidi, Bidi Leaves'' and Tobacco Merchants Association Vs. The State of Bombay, . Further, contending that the free play in joints in certain matters like this where the Authorities intend to achieve laudable objects is always conceded in favor of the administration, he places reliance on the judgment in the case of Fasih Chaudhary Vs. Director General, Doordarshan and Others, . He draws the attention of the Court to the observations made by the Apex Court in the case of B.K. Srinivasan and Others Vs. State of Karnataka and Others, , that Bangalore was once regarded as glorious Garden City known for its wonderful weather and environment has now been fast deteriorating. He submits that the steps now undertaken by the Authorities are aimed at preventing further deterioration of the situation and that such an effort shall not be thwarted or prevented as otherwise it will result in chaotic conditions. Referring to the power and jurisdiction of the respondent-Authorities to issue the impugned directions, he draws the attention of the court to the non-abstante clause used in Section 10 of the Act to contend that the powers to be exercised by the respondents cannot be excluded on the ground that the provisions of other laws clothe certain other Authorities with similar powers and functions. He refers to the decision in the case of Union of India and Anr. v. G.M.

Kokil and Ors. 1984 (Supp) SCC 196 to explain the effect of the non-abstante clause.

8. Having heard the learned Counsel appearing for the parties and upon careful perusal of the entire materials made available, the questions that arise for consideration in this writ petition are:

1) Whether the impugned notifications issued by the 1st respondent are without jurisdiction and are therefore illegal? And

2) Whether they suffer from any other illegality so as to warrant interference by this Court?

9. A perusal of the impugned notifications produced at Annexures-A, B and C disclose that they are issued to prohibit any development within the limits of the BMRDA pending preparation of an Interim Master Plan. The notifications take note of the fact that for the towns Anekal, Hosakote, Magadi Kanakapura and Nelamangala coming within the jurisdiction of the Authority, so far no Master Plan has been prepared and hitherto, based on the structural plan prepared, in certain special circumstances technical opinion had been given by the respondent-Authorities for conversion of the land use. This, having resulted in the unplanned development of the region, the Authority has taken up the task of preparing Interim Master Plan for the entire area coming within the aforementioned 5 planning areas. The task of preparing the Interim Master Plan having been taken up on priority basis, it is resolved to complete the said task within a period of 5 months from the date of issue of the impugned notifications. In this background, having regard to the larger object of ensuring planned development and keeping in mind the public interest, till the finalisation of the Master Plan the developmental activities such as conversion of land used and other developments in the region are ordered to be refused as per the provisions contained u/s 10 of the Act. The challenge made before the Court is that the Authority does not have such powers to issue the notifications.

10. One of the contentions urged by the learned Senior Counsel Sri. R.N. Narisimha Murthy is that the BMRDA has no power to prepare the Master Plan nor has it got any power to direct the local planning body to prepare the Master Plan in a particular manner. It can only insist that the Master Plan shall conform to the structural plan. In this regard, placing reliance on Section 9 of the Karnataka Town and Country Planning Act, 1961, he submits that it is the duty and function of the Local Planning Authority constituted for these five regions to prepare the Master Plan within a period of two years and if they fail to discharge this function, the State Government can get the Plan prepared through the Director of Town Planning. In this connection itself, referring to Section 81C of the Town & County Planning Act, he submits that the BMRDA will act as a Director of Town Planning for the purpose of securing the preparation of the Master Plan or for preparing it by itself in case the Local Planning Authority fails to prepare the same within the prescribed time. He

further submits that two years time has not expired since the date of introduction of the Amendment obligating the Planning Authority to prepare the Master Plan, which amendment has been introduced in February 2005 and therefore without waiting for two years from 14th of February 2005, the BMRDA could not have undertaken this venture. In this regard, he submits that the Government cannot confer by way of internal correspondence issued vide Annexure R-1, a power on the BMRDA to prepare the Master Plan by itself ignoring the statutory duties and functions vested in the Local Planning Authorities.

11. To understand the powers and functions of the BMRDA and to appreciate the contentions of the parties, it is necessary to refer to some of the relevant provisions of the act. Section 9 of the Act is introduced by Karnataka Act No. 39 of 1985. The object and purpose of this enactment is to establish an Authority for the purpose of planning, coordinating and supervising the proper and orderly development of the areas within Bangalore Metropolitan Region and to provide for matters connected therein. The provisions pertaining to the constitution and incorporation of the Authority are contained in Section 3, This Authority is a Body Corporate and it consists of several functionaries. The Chief Minister of Karnataka is the Chairman, the Minister-in-Charge of the Urban Development is the Vice-Chairman, the Chairman of Bangalore Development Authority, the Mayor of the Corporation of City of Bangalore, the Chief Secretary to the Government of Karnataka, the Divisional Commissioner, Bangalore Division and Chairman of various Bodies like, Karnataka Housing Board, Karnataka Slum Clearance Board, Karnataka Electricity Board, KSRTC, BWSSB and a host of other Authorities including Members representing the Local Authorities in the Bangalore Metropolitan Region constitute this Apex Body which is called as ''Authority'' for the purpose of the Act. The powers and functions of this Authority are enumerated in Section 9 of the Act. It is useful to refer to the relevant provisions of Section 9. The functions of the Authority, among others, are:
(i) to carry out a survey of the Bangalore Metropolitan Region and prepare reports on the surveys so carried out;

(ii) to prepare a structure plan for the development of the Bangalore Metropolitan Region;

(iii) to formulate as many schemes as are necessary for implementing the structure plan of the Bangalore Metropolitan Region;

(iv) to secure and co-ordinate execution of the town planning scheme and the development of the Bangalore Metropolitan Region in accordance with the said schemes;

(v) to do such other acts and things as may be entrusted by the Government or as may be necessary for, or incidental or conducive to, and matters which are necessary for furtherance of the objects for which the Authority is constituted;

(vi) to entrust to any local authority the work of execution of any development plan or town planning scheme;

12. Section 10 lays down that no person or Authority shall undertake any development in the Region which may be specified by issuing a notification in the Gazette, without its prior permission.

13. Section 18 of the Act enjoins the Authority with a power to issue directions. It reads as under:

18. Directions by the Authority. (1) The Authority may, in order to carry out the development plans and schemes formulated u/s 9 or any town planning scheme may issue direction to the Bangalore Development Authority, Bangalore Water Supply and Sewerage Board, Karnataka Electricity Board and such other bodies as are connected with developmental activities in the Bangalore Metropolitan Region. The directions issued by the Authority shaft prevail over any directions issued by the Bangalore Development Authority u/s 53 of the Bangalore Development Authority Act, 1976 (Karnataka Act 12 of 1976).

(2) Notwithstanding anything contained in any other law for the time being in farce, every such direction shall be complied with by the body to whom it is issued On failure, it shad be competent for the Authority to take necessary action to carry out the directions issued under Sub-section (1) and recover expenses, if any, incurred therefore from the body concerned.

(3) Any dispute which arises between the Authority and the Boards or other bodies referred to in Sub-section (1) in respect of the directions issued to them shall be determined by the State Government whose decision shall be final.

14. Section 27 of the Act clothes the Government with a power to issue directions to the Authority. It reads as under:

27. Government''s power to give directions to the Authority. The State Government may give such directions to the Authority as in its opinion are necessary or expedient for carrying out the purposes of this Act, and it shall be the duty of the Authority to comply with such directions.

15. Section 28 of the Act gives over-riding effect to the provisions of the Act over other laws. It reads as under:

28. Act to override other laws. - The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

16. It is thus clear that the object for which the Authority is established is for planning, coordinating, supervising the proper and orderly development of the area falling within the Bangalore Metropolitan Region and to provide for all matters connected therein. Consistent with this object Section 9 of the Act clothes the

Authority with the powers and functions to carry out survey of the entire area coming within the Bangalore Metropolitan Region, to prepare necessary reports, to prepare a structure plan for the development of the region, to formulate as many schemes as are necessary for Implementing the structure plan of the Bangalore Metropolitan Region and to do such other acts or things as may be entrusted by the Government or as may be necessary, incidental or conducive for furthering the objects of the Authority for which it is constituted.

17. A perusal of the powers and functions conferred u/s 9 of the Act, make it clear that the range and sweep of the powers are such that the Authority is vested with the power to formulate as many Schemes as are necessary for implementing the structure plan for the Bangalore Metropolitan Region and to do all such acts that may be entrusted by the Government or which may be necessary or incidental to further the object for which the Authority is constituted, These powers and functions of the Authority, examined in the background of the object for which the Authority is constituted have overriding effect over the provisions of Section 9 of the Town & Country Planning Act wherein the Local Planning Authorities established for the areas falling within the Metropolitan Region are conferred with the powers and duties to prepare the Master Plan. If the BMRDA itself takes up the task of preparing the Master Plan for development of the region, it cannot be said by referring to Section 9 of the Town & Country Planning Act that the local Planning Authority can only do it and not the BMRDA. If this is to be accepted, then it would mean that if at all BMRDA has to intervene in the matter, it has to wait for two years during which period the local Planning Authority fails to prepare the Master Plan. If such an interpretation is given, the developmental activities in the region for which the Authority is constituted will be subject to the provisions of Section 9 of the Town & Country Planning Act It would also mean that the Planning of the Region is dependant upon the perception and vision of the different local planning Authorities and their priorities and BMRDA can only exercise the over all supervision in its capacity as a Director of Town Planning. But, this is not the intendment of the Act. The BMRDA Act is a special legislation applicable only for the development of the Bangalore Metropolitan Region as compared to the Town and Country Planning Act which is applicable to the entire state. This legislation is enacted latter in point of time, in the year 1985. Moreover, in view of the overriding effect given to the provisions of the BMRDA Act as spelt out in Section 28 such an interpretation is impermissible. The provisions of Section 9 of the Town & Country Planning Act have to yield in such situations to the provisions of the BMRDA Act. If so understood the resultant position is that the BMRDA itself can undertake any developmental scheme including preparation of the Master Plan for the region. Only because the BMRDA Act does not specifically mention that it has the power to prepare the Master Plan it doesn�t mean that the Master Plan cannot be prepared by the BMRDA. Master Plan is the next step after a structural plan is prepared and it comes within the sweep of Section 9(iv) and 9(vii) which provides for formulating schemes

necessary for implementing the structure plan for the region and which also authorises the Authority to do such acts as are necessary or incidental or conducive to matters necessary for furthering the objects for which the Authorities are constituted. These powers and functions cannot be understood in a restricted sense to hold that the power to prepare Master Plan is not vested with the BMRDA.

18. Section 81(c) of the Town & Country Planning Act on which reliance is placed cannot be construed to subordinate the power of the BMRDA to Section 9 of the Town & Country Planning Act. In this regard the fact that Section 81(c) of the Town & Country Planning Act is introduced by the very provisions of the BMRDA Act vide Section 31 of the Act does not make any difference, in as much as that does not make Section 81(c) part of the BMRDA Act so that the other provisions of the Act, particularly the powers & functions of the Authority as spelt out in Section 9 of the Act could be understood to be subject to the provisions contained u/s 81(c) of the Town & Country Planning Act.

19. Section 10(1) of the Act gives power to the Authority to notify the type of developments that shall not be undertaken within its units without the prior permission of the Authority. This prohibition applies to any person or Authority. Such person or Authority desirous of undertaking the development as restricted/prohibited u/s 10(1) shall have to apply to the Authority and take permission. The BMRDA after enquiry can either grant or refuse the permission as per Section 104) which is appealable to Government u/s 10(5).

20. The effect of the present notifications is that the BMRDA has notified for the notice of the persons and Authorities concerned that conversion of any land falling within its units shall not be undertaken. This declaration the BMRDA is empowered to make u/s 10(1). However, exception is taken by the petitioners to the directions issued to reject the proposals for conversion u/s 10 of the Act.

21. In fact, once the Authority specifies by issuing notification u/s 10(1) the type of development, it is mandatory for any person desirous of undertaking such development to take prior permission of the Authority before it can undertake such a venture of converting the land use. The concerned person has to apply to the Authority seeking permission and the Authority can either permit or refuse permission. Even the local Authorities who are otherwise competent to grant permission to undertake certain developments as per the other laws shall not grant permission unless the Authority has granted such permission. What therefore emerges is that none of the petitioners can undertake the developmental activity viz., the conversion of land use formation of layouts, etc., without obtaining prior permission of the BMRDA.

22. As regards the absence of power vested in the BMRDA to issue directions to the Authorities to reject the proposal for conversion u/s 10 of the Act, it does not materially alter the position if we look at this direction as one given to the local

Authorities as defined under the Act inasmuch as they are any way barred from granting permission for such development unless the Authority has granted the permission. But still the question that remains to be answered is can the Authority issue such general directions thereby taking away the rights of the individuals (developers in the instant case) to apply u/s 10(3) for permission, foreclosing its own obligation to enquire into the matter and decide either to permit or to reject the request and shutting the doors for the aggrieved person to challenge the said decision by preferring an appeal to the Government u/s 10(5). The Legislative intent, as expressed in Section 10, does not clothe the Authority with such a right. When an Authority is created under a statute and is conferred with specific powers, it cannot by a process of interpretation, be it with the help of the objects and purposes of the enactment or keeping in mind the general scheme of the legislation confer or concede such powers which are obviously beyond the range of the ones conferred by the statute. Even though the powers incidental for effective discharge of the duties and functions can be conceded on the strength of the principle of implied powers, that concept cannot be used to introduce a new or a larger power than what is envisaged in the statute. For instance, where an Authority is enjoined with an obligation to receive application, enquire into it and pass orders either permitting or rejecting the request for development and where such order is subject to appeal, it cannot, by a general order declare that none of the persons can apply or no application will be considered. Such a power cannot be conceded where the statute itself does not enable the same.

23. The object behind the direction contained in the impugned notifications is undoubtedly very laudable. Planned development of the area over which the Authority has power and jurisdiction is the crying need. If the same is ignored and all possible steps necessary are not taken, it will certainly lead to chaos throwing up environmental, ecological, health and safety hazards. Posterity will not forgive any omission or lethargy in this regard. A vision informed by deep sense of awareness and consciousness in this direction to achieve planned development is imperative. Therefore a pedantic or wooden approach in approaching the problem that is presented in this case is not desirable. But at the same time what is not sanctioned by the statute also cannot be allowed.

24. It is clear from Section 10(1) of the Act that the Authority is conferred with the power to notify the type of developments that shall not be undertaken without its prior permission. The term ''development'' is defined u/s 2(f) of the Act It states that;

''development'' with its grammatical variations means the carrying out of building, engineering, or other operations in or over or under any land or the making of any material change in any building or land or in the use of any building, or land and includes redevelopment and forming of layouts and subdivision of any land including amenities.

25. It is thus clear that change of land use that is to say conversion of the land for other uses is also included in the definition of the expression ''development''. Therefore, the Authority has the power to notify that certain categories of developments including conversion of the land use shall not be undertaken without its permission.

26. It is thus clear that Section 10(1) clothes the Authority with a power to permit or not to ban certain developmental activities in the region in respect of which it has issued a notification in the Gazette specifying the types of developments which it wants to ban. By the present notifications, Annexure ''A'', the BMRDA has notified for the notice of the persons and Authorities concerned that conversion of any land falling within its limits shall not be undertaken and shall be refused as per Section 10. The direction is of general nature. Such general directions are not permissible u/s 10 of the Act

27. The impugned notifications no doubt notify the types of developmental activities within the limits of the Authority which shall not to be undertaken. However, they farther direct rejection of such proposals u/s 10. Had the respondent-Authorities exercised its powers strictly in accordance with Section 10 the result would have been to only specify the developmental activities and declare that without its prior permission such activities shall not be undertaken by any person or Authority within the limits of the Authority. Thereafter, it would have been open to any person or Authority to file necessary applications individually seeking its prior permission before proceeding with other formalities for either effecting the change of land use or for any other developmental activities. By the present notification, such an opportunity is denied to the citizens and to other Authorities, though of course, for a limited period of 5 months as an interim measure. What therefore emerges now is that none of the petitioners herein can apply seeking permission for development to the Authority because of the general ban. There is no such enabling provision to impose such a general ban either for a temporary period or permanently. The legislative intent, as expressed in Section 10 does not support such an action. The Authority in the instant case is enjoined with a duty to receive applications, enquire into the same and pass orders either permitting or rejecting the request for development and such an order is subject to appeal It cannot therefore be said by taking recourse to the doctrine of implied or incidental powers that the Authority can as well prohibit the persons concerned from making any applications or declare that the said applications shall be rejected. This will not only allow the Authority to act in an arbitrary manner but will negate the right of appeal provided.

28. It is true the object behind the passing of the impugned orders is undoubtedly very laudable. Planned development of the area over which the Authority has power and jurisdiction is a prime need. If the same is ignored and all possible steps necessary are not taken, it win certainty throw up environmental, ecological, health and safety hazards. Posterity will not forgive any omission or lethargy in this regard.

A vision informed by deep sense of awareness and consciousness is necessary in this direction to achieve planned development. If the need for planned development is harmonised with the nature of the power conferred on the Authority under Sections 9 and 10 of the Act what must emerge as a reasonable corollary is that the general ban imposed under the impugned notifications requires to be read down. The notifications issued u/s 10(1) of the Act shall be read as specifying the nature of developments like conversion of the land use, formation of layouts, taking up construction or any other developmental activities, as defined u/s 2(f) of the Act for which prior permission of the Authority is a must. If so read, the effect would be that no person or Authority can change the land use nor can undertake any development without first applying to the Authority and securing its permission. Unless such permission is obtained no person or any Authority can undertake such development in the area coming within the jurisdiction of the Authority.

29. As regards the contention urged by the learned Senior Counsel for the petitioner that the Authority has no power to come in the way of discharge of powers by the Authorities under the Land Revenue Act to pass orders regarding conversion of the land it has to be stated here that when the BMRDA Act u/s 10 requires that no person shall undertake any development as specified in the impugned notifications it necessarily follows that if the BMRDA does not grant permission to any person or any Authority, the question of such a person or the Authority successfully moving the Deputy Commissioner for conversion of land use and putting it to use thereafter would not arise. If the argument of the petitioner that any person or Authority can approach the Deputy Commissioner and obtain the order of conversion and convert the land use, in respect of the Bangalore Metropolitan Region, is accepted, the very efficacy of the provisions of the BMRDA Act gets neutralize or negated. Even the provisions of Section 95 of the Land Revenue Act provide sufficient indication that the Deputy Commissioner may refuse permission on the ground that the diversion would defeat the provisions of any other law or is not in the interest of general public. When Section 10 of the BMRDA Act starts with a non-abstante clause and states that no person or Authority shall undertake any developmental activities in any area coining within its jurisdiction without its prior permission, the legislative intent has to be given its full meaning and effect. It cannot be said that any person or Authority can approach the Deputy Commissioner and secure the conversion of land use and carry on the developmental activities in accordance with the order of conversion. That will negate the very object and purpose for which Section 10 is introduced.

30. Further, Section 27 of the BMRDA Act gives overriding effect to the provisions of the Act over any other laws. In that view of the matter also, it cannot be said that without reference to the BMRDA and without its prior permission change of land use can be resorted to by any person or Authority. This construction would be in harmony with the purpose and object sought to be achieved by the enactment Any other construction would affect the laudable object and introduce in congruency in

realising the purpose and object of the enactment.

31. In view of the foregoing discussions, the points raised for consideration are answered as under:

1) The BMRDA has got the power and authority to prepare schemes, plans including a Master Plan for the area coming within the jurisdiction of the Authority.

2) That it has the power to specify that certain types of developments shall not be undertaken without its prior permission. If such a declaration is made by issuing a notification, in view of the primacy given to the BMRDA Act u/s 28 coupled with the non-abstante clause used in Section 10, without the prior approval of the BMRDA, no person or Authority can change the land use. The Authorities invested with the power to order conversion of land use also cannot act in derogation of the declaration made by issuing the notification.

3) The impugned notifications vide Annexures A, B, & C shall be read down to mean that no developments, as specified in these notifications including the conversion of land use, shall be undertaken without prior permission of the BMRDA.

4) The BMRDA shall consider and pass appropriate orders in respect of individual applications filed or to be filed by the petitioners or any other person or Authority, in accordance with law.

Writ Petition is accordingly disposed of with no order as to costs.