

"Circular"

Sub-Proceedings under Section 95 of the Karnataka Land Revenue Act, 1964—appeals before Karnataka Appellate Tribunals, reg.,

—:-

Against the orders granting/refusing permission to convert Agricultural Lands into Non-Agricultural purposes, the aggrieved persons have a right to prefer an appeal against such orders of the Deputy Commissioners/Special Deputy Commissioners to the Hon'ble Karnataka Appellate Tribunal. The following shortcomings in the said proceedings of the Deputy Commissioners, Special Deputy Commissioners have been brought to the notice of the Government.

- 1) The orders refusing permission are found in many cases to be very cryptic. No detailed orders are passed.
- 2) The decision either to accord or refuse permission to convert agricultural land to Non Agricultural purposes is taken after a lapse of four months from the date of the receipt of the application by the competent authority.
- 3) Even where a decision on such application has been taken within a period of four months from the date of applications, the decision is communicated after a lapse of four months.
- 4) In certain cases a decision was taken and communicated through telegraphic message, followed, by a detailed order within the statutory 4-month period. In one of these cases, the Hon'ble High Court of Karnataka has held that a telegraphic message proceeding a detailed order has no force of law.
- 5) Even, if a decision is taken and communicated within a period of four months, available records do not speak of any proof of service of the copy of the order on the applicant.
- 6) In many instances, while forwarding records to the Karnataka Appellate Tribunal, Bangalore, the note portion of the files are not sent.

It has also been brought to the notice of the Government that as a result of these shortcomings majority of the decisions rendered by the Karnataka Appellate Tribunal go against the Government.

Government desires to impress upon the competent authorities the importance and the far reaching effects of sub-section (5) of Section 95 of the Karnataka Land Revenue Act. The said Sub-Section reads as follows:-

"Where the Deputy Commissioner fails to inform the applicant of his decision on the application made under Sub-Section (2) within a period of four months from the date of receipt of the application, the permission applied for shall be deemed to have been granted"

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Hence where the decision is communicated after the statutory period of four months, notwithstanding the decision being adverse, the permission sought for is deemed to have been granted. The grantees grounds of refusal contained in such decision however just or genuine they may be cannot take away the statutory relief conferred on the applicants. This interpretation of the sub-section is confirmed by a decision rendered by their Lordship Chandrashekar and in State of Mysore vs. Narayanasetty (1976 (1) K LJ page 48 short notes item No. 29) the operative portion of the judgement reads as follows:-

"Under section 95(5) it is not sufficient if an order refusing permission is passed by the Deputy Commissioner, the burden is on the Deputy Commissioner to show that the applicants were informed of the decision by the Deputy Commissioner, within a period of four months from the date of the receipt of the application by the Deputy Commissioner"

In view of the above, the competent authorities acting under section 95 of the Karnataka Land Reforms Act, 1964 are hereby instructed to communicate their orders to the applicants so as to reach them within the statutory period prescribed. Care should also be taken to despatch the copies of the said orders to the applicants only through registered post under acknowledgement due and if in any case the orders are served on the applicants through the Village Accountants, or process servers, they should be duly instructed to note down the date of service. The orders despatched or served together with acknowledgements should be preserve in the records of the office. Any lapse in this regard on the part of the Village Accountants or process servers and others should be viewed very seriously.

Care should be also be taken to ensure that all files submitted to the Karnataka Appellate Tribunal Bangalore should invariably contain the served acknowledgement cards served copies.

ed/-Under Secretary to Govt, Revenue Department.

No. ALM.95/87-88 Hassan dated 31-8-1987.

Copy forwarded to all the tahsilars in the district for information and strict guidance.

For Deputy Commissioner, Hassan District.

Handwritten notes and signatures on the right side of the page, including a signature that appears to be 'S. S. Srinivas' and other illegible marks.