

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 25<sup>TH</sup> DAY OF AUGUST 2014

BEFORE

THE HON'BLE DR.JUSTICE JAWAD RAHIM

WRIT PETITION NO.26700/2013 C/W  
WRIT PETITION NOS.56331/2013, 46878/2013,  
37425/2013, 33080/2013, 7000/2014 &  
2023/2014 (KLR-RES)

W.P.NO.26700/2013

BETWEEN:

SRI.H.N.JAYA KUMAR  
S/O NINGE GOWDA  
AGED ABOUT 40 YEARS  
R/O HETHUR VILLAGE AND POST  
SAKALESH PURA TALUK  
HASSAN DISTRICT - 573 201.

...PETITIONER

(BY SRI. SUMANTH L.BHARADWAJ, ADV.)

AND:

1. STATE OF KARNATAKA  
REPRESENTED BY ITS  
PRINCIPAL SECRETARY  
REVENUE DEPARTMENT  
BANGALORE - 560 002.
2. THE DEPUTY COMMISSIONER  
HASSAN DISTRICT  
HASSAN - 573 201.
3. THE ASSISTANT COMMISSIONER  
SAKLESH PURA TALUK  
HASSAN DISTRICT - 573 201.

4. THE THASILDHAR  
SAKLESH PURA TALUK  
HASSAN - 573 201.
5. THE DIRECTOR  
DEPARTMENT OF SAINIK WELFARE  
& RESETTLEMENT,  
FIELD MARSHAL  
K.M.KARIYAPPA BHAVAN  
NO.58, FIELD MARSHAL ROAD  
K.M.CARIYAPPA ROAD  
BANGALORE - 560 025.

...RESPONDENTS

(BY SMT.M.ELIZABETH, HCGP FOR R4)

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THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA WITH A PRAYER TO DIRECT THE RESPONDENTS TO GRANT 10 ACRES OF LAND IN SURVEY NO.80 SITUATED AT HETHUR VILLAGE AND POST, SAKALESH PURA TALUK, HASSAN DISTRICT IN FAVOUR OF PETITIONER BY CONSIDERING THE APPLICATION AT ANNEXURE-D DATED 25.02.2012.

W.P.NO.2023/2014

BETWEEN:

SRI.G.KRISHNAMURTHY  
S/O LATE R.GANESH IYER  
AGED ABOUT 84 YEARS  
OCC:EX-SERVICEMAN  
RESIDING AT NO.1060/C  
3<sup>RD</sup> MAIN, NEAR DHARMA RAJA TEMPLE  
K.N.EXTENSION  
YESHWANTHAPURA  
BANGALORE - 560 022.

...PETITIONER

(BY SRI.I.R.BIRADAR, ADV.)

AND:

1. THE STATE OF KARNATAKA  
BY ITS SECRETARY

REVENUE DEPARTMENT  
M.S.BUILDING, BANGALORE - 01.

2. THE DEPUTY COMMISSIONER  
BANGALORE URBAN DISTRICT  
BANGALORE - 560 010.
3. THE JOINT DIRECTOR  
BANGALORE URBAN DISTRICT  
SOLDIERS WELFARE AND REHABILITATION  
DEPARTMENT  
FIELD MARSHAL  
K.M.CARIYAPPA BHAVAN  
BANGALORE - 560 025.
4. THE TAHASILDAR  
ANEKAL TALUK  
ANEKAL - 550 120.

...RESPONDENTS

(BY SRI.M.ELIZABETH HCGP)

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THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA WITH A PRAYER TO DIRECT THE R2 AND R4 TO CONSIDER THE APPLCIATION DATED 01.12.2012 VIDE ANNEX-G WHICH WAS FORWARDED BY THE R3 TO TEHR2 VIDE LETTER DATED 17.11.2-12 VIDE ANNEX-F IN ACCORDANCE WITH LAW AND TO PASS SUITABLE ORDERS IN ACCORDANCE WITH LAW.

W.P.NO.7000/2014

BETWEEN:

HARSHAVARDHAN Y.D.,  
S/O A.DEVAPPA  
AGED ABOUT 33 YEARS  
R/O NO.3784/1, BALEGAR STREET  
HASSAN - 573 201.

...PETITIONER

(BY SRI.SUMANTH L BHARADWAJ, ADV.)

AND:

1. STATE OF KARNATAKA  
REPRESENTED BY ITS  
CHIEF SECRETARY  
REVENUE DEPARTMENT  
VIDHANA SOUDHA, BANGALORE - 01.
2. THE REGIONAL COMMISSIONER  
MYSORE DIVISION  
MYSORE - 573 211.
3. THE DEPUTY COMMISSIONER  
KODAGU DISTRICT  
MADIKEREI - 573 201.
4. THE ASSISTANT COMMISSIONER  
MADIKERI SUB-DIVISION  
MADIKERI  
KODAGU DISTRICT - 571201.
5. THE THASILDAR  
SOMVARPET TALUK  
KODAGU DISTRICT  
MADIKERI - 571 201.  
ANEKAL - 550 120..

...RESPONDENTS

(BY SMT.M.ELIZABETH, HCGP)

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THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA WITH A PRAYER TO DIRECT THE RESPONDENT TO GRANT 10 ACRES OF LAND IN SY.NO.28/5, SITUATED AT KELAKODLI VILLAGE, KODLIPETE HOBLI, SOMVARPETE TQ., KODAGU DIST., IN FAVOUR OF THE PETITIONER.

W.P.NO.33080/2013

BETWEEN:

SRI.L.KUMAR  
EX-SERVICEMAN  
S/O L.LINGANNA

AGED BOUT 48 YEARS  
 R/AT NARASAPUR VILLAGE  
 SRIGANDADAKAVAL, YASHAWANTHAPURA  
 HOBLI, BANGALORE NORTH TALUK  
 VISHWANEEDAM POST  
 BANGALORE - 91.

.. PETITIONER

(BY SRI.NAGAI AH, ADV.)

AND:

1. STATE OF KARNATAKA  
 REPRESENTED BY ITS SECRETARY  
 REVENUE DEPARTMENT  
 M.S.BUILDING  
 BANGALORE - 560 001.
2. THE DEPUTY COMMISSIONER  
 BANGALORE URBAN DISTRICT  
 K.G.ROAD  
 BANGALORE -- 560 009.
3. THE TAHASILDAR  
 BANGALORE SOUTH TALUK  
 KANDAYA BHAVANA  
 K.G.ROAD,  
 BANGALORE - 560 009.
4. DEPARTMENT OF SAINIK WELFARE  
 & RESETTLEMENT, FIELD MARSHAL K.M.  
 KARIYAPPA BHAVAN  
 NO.58 FIELD MARSHAL  
 K.M.KARIYAPPA ROAD  
 BANGALORE - 560 025.  
 REP BY ITS  
 DIRECTOR.

...RESPONDENTS

(BY SMT.ELIZABETH, HCGP)

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THIS WRIT PETITION IS FILED UNDER ARTICLES  
 226 AND 227 OF THE CONSTITUTION OF INDIA WITH A  
 PRAYER TO QUASH THE INTIMATION LETTER DATED  
 28.03.2013 ISSUED BY THE R-3 VIDE ANNEX-M.

W.P.NO.37425/2013

BETWEEN:

SRI.ANAND RAO  
S/O V.VENKOBA RAO  
AGE: 65 YEARS  
OCC:EX-AIRFORCE SARGENT  
(EX-SERVICE MAN)  
R/AT NO.47, 5<sup>TH</sup> CROSS  
VIJAYALAKSHMI LAYOUT  
ABBIGERE  
CHICKKABANAWARA POST  
BANGALORE -560 090.

...PETITIONER

(BY SRI.SHREESHAIL TURKANI, ADV.)

AND:

1. THE GOVERNMENT OF KARNATAKA  
REP BY SECRETARY  
REVENUE DEPARTMENT  
VIDHANA SOUDHA  
BANGALORE - 560 001.
2. THE DEPUTY COMMISSIONER  
OFFICE OF THE DEPUTY COMMISSIONER  
BANGALORE NORTH TQ.  
BANGALORE
3. DIRECTOR  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF SAINIK WELFARE  
AND RE-SETTLEMENT  
NO.58, FIELD MARSHAL K.M.  
KARIYAPPA BHAVAN  
BANGALORE - 25.

...RESPONDENTS

(BY SMT.M.ELIZABETH, HCGP)

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THIS WRIT PETITION IS FILED UNDER ARTICLE 226  
OF THE CONSTITUTION OF INDIA WITH A PRAYER TO  
QUASH THE GOVERNMENT CIRCULAR NOTE DATED

31.07.2010 VIDE ANN-J PASSED BY R1 AND ALSO  
ENDORSEMENT ORDER DATED 20.03.2013 PASSED BY  
THE RESPONDENT NO.2 VIDE ANNEXURE-K.

W.P.NO.46878/2013

BETWEEN:

SMT.MADEVI  
W/O LATE SRI.H.D.RANGAIAH  
AGED ABOUT 50 YEARS  
R/O UTTANAHALLI VILLAGE  
JALA HOBLI  
BANGALORE NORTH (ADDL.) TALUK  
BANGALORE DISTRICT.

...PETITIONER

(BY SRI.V.R.BALARAJ, ADV.)

AND:

1. THE STATE OF KARNATAKA  
REPRESENTED BY ITS  
SECRETARY TO GOVERNMENT  
(LAND GRANTS)  
REVENUE DEPARTMENT  
M.S.BUILDING  
BANGALORE - 560 001.
2. THE DEPUTY COMMISSIONER  
BANGALORE URBAN DISTRICT  
BANGALORE - 560 009.
3. THE TAHASILDAR  
BANGALORE NORTH (ADDL.) TALUK  
YELAHANKA  
BANGALORE - 560 062.
4. THE DIRECTOR  
DEPARTMENT OF SAINIK & RE-SETTLEMENT  
FIELD MARSHAL K.M.KARIYAPPA  
BHAVAN, NO.58, FIELD MARSHAL

K.M.KARIYAPPA ROAD  
BANGALORE (URBAN DISTRICT)  
KARNATAKA - 560 025.

...RESPONDENTS

(BY SMT.M.ELIZABETH, HCGP)

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THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA WITH A PRAYER TO DIRECT THE RESPONDENTS TO ALLOT THE LANDS IN SY.NO.73 MEASURING 1 ACRE 14 GUNTAS OF UTTANAHALLI VILLAGE & SY.NO.25, MEASURING 24 GUNTAS OF MARANAYAKANAHALLI VILLAGE, JALA HOBLI, BANGALORE NORTH TQ., BANGALORE DISTRICT IN FAVOUR OF THE PETITIONER UNDER THE EX-SERVICE MAN QUOTA.

W.P.NO.56331/2013

BETWEEN:

SMT.VANAJAKSHI  
W/O LATE B.M.RAMAKRISHNA  
AGED ABOUT 56 YEARS  
RESIDENT OF HONAKARAVALLI VILLAGE  
KUNAGANAHALLI POST  
K.HOSAKOTE HOBLI  
ALUR TALUK - 573 213  
HASSAN DISTRICT.

...PETITIONER

(BY SRI.G.G.TIAGASHETTI, ADV.)

AND:

1. STATE OF KARNATAKA  
REPRESENTED BY ITS  
PRINCIPAL SECRETARY  
BANGALORE - 560 001.
2. THE DEPUTY COMMISSIONER  
HASSAN DISTRICT  
HASSAN - 573 201.



3. THE ASSISTANT COMMISSIONER  
SAKALESH PURA TALUK  
HASSAN - 573 201.

4. THE TAHASILDHAR  
ALUR TALUK  
HASSAN - 573 201.

...RESPONDENTS

(BY SMT.M.ELIZABETH, HCGP)

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THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA WITH A PRAYER TO QUASH THE IMPUGNED ENDORSEMENT PASSED BY THE R4 DATED 10.12.1998 BEARING NO.DARKASTU 132/1998-99 AS PER ANNEX-E.

THESE PETITIONS COMING ON FOR *FURTHER HEARING* THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

The genesis of this writ action is non-consideration of the applications filed by the petitioners and similarly placed persons for grant of land.

2. Heard the learned counsel Sri. Sumanth L. Bharadwaj, Shreeshail Turkani, Sri. S. Dorai Babu, Sri. Chetan, Sri. R. Biradar, Sri. V.R. Balaraj, Sri. Nagaiah for the petitioners and the learned Government Advocates and perused the records from which following contextual facts surface for consideration.

3. Petitioners in these writ petitions are similarly placed and they seek virtually the same relief. Thus, as common legal and factual issues have arisen for consideration, these petitions are clubbed and taken up for hearing and disposal together.

4. Petitioner in W.P.No.26700/2013 H.N.Jaya Kumar claims he is a Soldier of Border Security Force on appointment as a Constable in the 1993. He applied to the government for grant of land in terms of entitlement under the provisions of the Karnataka Land Revenue Act, 1964. He has referred to the gazette notification dated 03.05.1972 whereby respondent No.1-State had reserved 5499.37 acres of land in Sakleshpur Taluk, Hassan District for the purpose of grant of land as envisaged under the provisions of Karnataka Land Grant Rules. His grievance is that he and similarly placed ex-serviceman and soldiers had approached the Government, but there is no action on its part. Some such disappointed applicants had approached this

Court in W.P.No.47443/2011 (KLR-RES) seeking direction to respondent No.2 viz., the Deputy Commissioner of Hassan District and respondent No.4, the Tahsildar to consider their applications. The writ action was accepted by this Court questioning the order passed by those authorities and it was allowed on 13.07.2012 vide Annexure-F directing to grant land. The petitioner has therefore, sought a writ in the nature of mandamus to direct the respondents to grant 10 acres of land in Sy.No.80 situated at Hittur Village, Sakleshpur Taluk, Hassan District.

5. W.P.No.2023/2014 is also by an ex-serviceman who served as Hawaldar in Indian Army for 21 years and was discharged from service on 09.06.1971. Being eligible for grant of land, he applied to respondent No.2 - the Deputy Commissioner who forwarded it to the Tahsildar with a direction to verify and report. The respondent No.4 recommended petitioners' case for allotment of land, despite it, no allotment is made. Thus, he has also

sought direction respondents 2 and 4 to consider his application submitted on 01.12.2012 vide Annexure-G forwarded by respondent No.3 to respondent No.2 on 17.11.2012 vide Annexure-F, in accordance with law and to grant to him out of the land in Sy.No.26 of Malingondanahalli Village, Kengeri Hobli, Bangalore South Taluk or the land in Sy.No.26/13 situate at Deshpande Guttahalli Village, Sarjapur Hobli.

6. Writ Petition No.7000/2014 is by Harshavardhan Y.D. an ex-serviceman of the Indian Army. He claims he had sought grant of land vide his application submitted to respondent No.2 on 08.01.2007 vide Annexure-C. It was forwarded to respondent No.2 vide Annexure-D. He claims he was successful in getting the grant but the land is not delivered to him.

7. The grievance of the petitioner is that respondent No.5 after receipt of the application forwarded it to respondent No.3 for necessary action and then respondent No.4 in turn conducted the spot

inspection and forwarded report recommending grant of land. However, the respondent No.3 vide impugned memo raised untenable issues and has failed to complete the process of allotment even though there is no impediment. Thus, he has sought a writ in the nature of mandamus to direct respondents to consider his application for grant of 10 acres of land in Sy.No.28/5 situate at Kelakodi Village, Kodlipete Hobli, Somavarpete Taluk, Kodagu District.

8. In W.P.No.33080/2013, the petitioner L Kumar claims he is similarly placed like other petitioners. He claims he has been in cultivation of land unauthorizedy and had filed form Nos.50 & 53 of the Karnataka Land Revenue Act through the Sainik Welfare and Re-Settlement Board for regulaisation of his occupation or to grant land in view of the State nctifying and calling for application from ex-serviceman for rehabilitation. His application is dated 04.05.1998 vide Annexure-B. In his case, the Minister for revenue is said to have directed the respondent

No.2 to consider his application vide letter dated 05.01.2000 at Annexure-C. It is alleged, the respondent No.2 unjustifiably directed respondent No.3 to consider grant of land in Sy.No.8 of Sulikere Village measuring 4 acres vide Annexure-D. His grievance is as his application was not considered by respondent No.3, he had filed writ petition 20058/09 before this Court. The writ petition was allowed on 27.07.2009 directing respondent No.2 to consider his application, but no order has been passed as yet. He relies on the proceedings initiated by him in C.C.C.No.182/2013 to punish the respondents for contempt. It is alleged, the respondent No.3 ignored the directions of this Court and has vide endorsement dated 28.03.2013 declined to grant land. Thus, he seeks a writ of certiorari to quash the endorsement dated 28.03.2013 vide Annexure-B and seeks further direction to other respondents to allot land or regularize his occupation.

9. W.P.No.37425 is by Anand Rao who served the Indian Air Force as Sargent from 1966-86 and claims he has discharged the duties to the best of his ability and served the cause of nation. He took part in the Indo-Pak war in 1971 and was conferred the Sangram medal by the President of India. He was discharged on 22.07.1985 vide Annexure-A. Being eligible, he applied to the Government for the grant of land in the Bangalore North Taluk District through his application dated 27.07.2009. His grievance is though the Tahsildar and the Assistant Commissioner recommended the grant, the application was not considered by respondent No.2 relying on the Government Circular Note KE No.32 Praka/2010 dated 31.07.2010 has declined to accept his request vide endorsement Order No. LND/NA/CR/55/2011-12 dated 20.03.2013. Thus he seeks directions to the respondent No.2 to grant land measuring 1 acre 25 guntas in Survey No. 9 of Thimmarasanahalli Village, Bangalore North Taluk.

10. W.P.No.46878/2013 is by Smt.Madevi, a widow of ex-serviceman H.D.Rangaiah who died on 12.07.1992. It is averred he joined Army on 14.05.1947 and served till 09.09.1966. The petitioner and her daughter are his surviving heirs and had applied to respondents for allotment of land in Sy.No.73 of measuring 1 acre 14 guntas of Uttanahalli Village and Sy.No.25 measuring 24 guntas of Maranayakanahalli Village, Jala Hobli, Bangalore North Taluk, Bangalore District. It is averred, the respondent No.1 had directed respondent No.2 to verify the case of the petitioners. Respondent No.2 after due verification has sent positive report to respondent No.3 recommending grant of land. Despite such report, land is not allotted. Thus, she has sought a writ in the nature of mandamus to direct the respondents to grant to her land in Sy.No.73 measuring 1 acre 14 guntas of Uttanahalli Village and Sy.No.25 measuring 24 guntas of Maranayakanahalli Village, Jala Hobli, Bangalore North Taluk, Bangalore District.



11. W.P.No.56331/2013 is by Smt.Vanajakshi who claims her husband B.M.Ramakrishna served in Indian Defence as Lance Naik. He died intestate on 26.07.1999 survived by her and her children. During his lifetime, he had applied for grant of land in Sy.No.6 measuring 12 acres and 2 guntas of Honakaravally Village, Kunaganahalli Post, Alur Taluk, Hassan District through his commandant. It is averred petitioner's husband had virtually become bed ridden because of such ailments could not personally pursue the application filed on 03.08.1998. Their grievance is, despite repeated requests and demands the authorities did not consider the application favourable and instead have issued the endorsement under signature of the 4<sup>th</sup> respondent dated 10.12.1998 declining to accept the application. They, thus sought writ in the nature of certiorari to quash the endorsement and to direct the respondents to grant lands vide Annexure-C.

12. During preliminary hearing, I had directed the petitioners to implead the Director, Department of Sainik Welfare and Re-Settlement - the authority constituted for the welfare of the ex-servicemen and soldiers, for effective adjudication of the issues.

13. In response to the Court's directions, Major R.S.Vishwanath, Joint Director of Sainik Welfare and Re-Settlement Board along with Captain P.V.Shetty, Director of the Sainik Welfare and Re-Settlement Board appeared and have filed certain documents, which includes a brochure giving details of benefits extended to ex-serviceman and their dependants by the Government of Karnataka published on the occasion of flag day on 05.12.2013. It is in the form of a souvenir and I have taken it on record.

14. Directions was also issued to the Deputy Commissioners of each District in the State of Karnataka to file detailed report, as to which land coming within the territorial limits of their jurisdiction is identified and reserved for purpose of grant to the

ex-serviceman as envisaged under Section 71 of the Karnataka Land Revenue Act, 1964. The attention of all the Deputy Commissioners was drawn to the Government notification issued in pursuance to which the Deputy Commissioner, Hassan District had identified the lands to an extent of 5499.37 acres in Hassan District vide Notifications dated 02.05.1972 and 03.05.1972 (Annexure-C) for such grant.

15. It is evident from the notification issued by the Government vide Annexure-C dated 03.05.1972 produced in W.P.No.26700/2013 that the Government of Karnataka, in exercise of the powers conferred by Section 71 of the (Mysore) Karnataka Land Revenue Act, 1964, had identified 5499.37 acres of land situate in various villages of Hassan District as detailed in the notification, to be reserved for allotment to ex-serviceman and soldiers.

16. This necessitated further directions to the other District Commissioners to submit report whether similar statutory duty has been performed by them to

identify and reserve land within their territorial jurisdiction for the purpose of grant to the ex-serviceman and soldiers. It is regrettably noted, except one Deputy Commissioner, the rest of the Deputy Commissioners have failed to comply with the direction requiring serious view to be taken of inaction on their part.

17. On being questioned Mrs. Elizabeth, learned Additional Government Advocate could not justify their lapses but has done her best to secure information from these officers at her level and has produced some of it before this Court. That is not sufficient material.

18. In the circumstances, the Principal Secretary, Department of Revenue, Government of Karnataka was directed to verify and report as to what action was taken by the Government to address the grievance of the petitioners. If not, the stage of such applications and reason for its pendency. He was to submit statistical report as to how many applications

were received till date and what action was taken on it. After such directions some junior officers appeared and submitted report, which was not in terms of directions. Hence, an order was passed on 02.07.2014 directing the Principal to appear in person. He appeared and has filed a report.

19. While dealing with these writ petitions, incidental question has arisen as to what action the Government had taken to allot land to awardees who were decorated with gallantry and service medals as part of awards by the President of India for their meritorious service in the defence. Though Government is silent, a statistical report is filed by Captain P.Shetty and Major Swaminathan detailing the applications received and forwarded to the Government. It gives a rosy picture indicating that the Government has taken action but on further ascertainment of facts, I am dismayed. The report does not reflect the truth. It is material to note, the Government of Karnataka has established a Board in

nomenclatured "Sainik Welfare and Re-Settlement Board" for the welfare of defense personnel and is headed by retired officers. Presently Major Vishwanathan and Captain P.V. Shetty are heading it. They have highlighted various schemes formulated by the Government for the welfare of ex-serviceman, the widows, soldiers, but merely formulating these schemes as published in souvenir on the flag day is not enough. The very fact that the petitioners in these writ petitions are still craving for relief and their relentless efforts have yielded no result bears testimony to dereliction of statutory duty cast on the concerned officials/authorities. Such inaction and non-performance of such statutory duty by the respondents has generated a cause of action for the petitioners to invoke writ jurisdiction of this Court.

20. Mrs. Elizabeth - Additional Government Pleader referring to the counter filed by the Government submits that the State of Karnataka after serious consideration tried its best to implement the

directions issued by this Court in W.P.No.47443/2011 (KLR-RES) and connected writ petitions and had directed the concerned Deputy Commissioners and other Officers to examine the applications submitted by ex-service men, soldiers and other persons coming in the category for grant of land. On such verification, they found applications submitted by the petitioners in W.P.No.47443/2011 and other petitions did not meet the eligibility criteria. The Tahsildar concerned and other Revenue Officers have submitted detailed report on each application to bring out that except four applicants, others were ineligible. Four eligible applicants have been granted lands and in that regard a detailed order has been passed on 05.09.2013 vide No.LND 2 338/2011-12, copy of which is produced today. She would further submit, though at the first look, the averments in the petitions may appear supporting claim of each petitioner, but petitioners in these petitions have not established their eligibility for grant of land. For instance, she submits, the provisions of Rule 97(4) of the Karnataka Land

Revenue Rules, 1966 as also Rule 108(i) has been amended by the State Government consequent to which a person whose gross annual income exceeds Rupees two lakhs will not be eligible for grant of land. Besides, lands coming within the limits of City and Town Municipalities shall not be granted to any individual or private Institutions except for public purpose. She submits, in this regard, an order has been passed by the Government vide G.O. RD 74 LGP 2005 dated 24.12.2005 to comply with the repealed provision of Rule 97(4). She would submit, in view of the Government Order referred to above, if the land is gomal land, gayarana land or goathan land, it could not be granted. It is also her case that provisions of Rules 4, 5 and 12 of the Land Grant Rules, 1969 requires conditions enumerated therein shall be satisfied. On this basis, it is urged the applications submitted by the petitioners in these writ petitions are without any supporting material and therefore, relief sought cannot be granted.



21. In paragraph 10 of the report, submitted by and on behalf of the Government, I find there is a mention that 36 servicemen who were awarded with service medals and gallantry awards of Belgaum District opted for cash award and 3 ex-service men from Bijapur who are the awardees of service medal, instead of land sought cash award. Similarly, it is also stated on behalf of the Government that 6 servicemen who were awardees of service medals have opted for cash instead of and in Mysore, 19 ex-servicemen satisfied their claim by accepting cash. The only reference regarding grant of land to awardee is in the case of Colonel Vasanth who was awarded Ashoka Chakra. It is material to note even though Smt. Subhashini, wife of Colonel Vasanth had applied for grant of land being part of the Ashoka chakra to her husband, the Government had failed to honour the commitment and in fact her plea was pending consideration for a long time. It is only after several interim orders were passed in these writ petitions directing the Secretary of the Revenue Department

and other Officers to explain as to why the applications submitted by her for grant of land was not considered, the Government has activated itself to process her application. The very fact that during pendency of this writ petition, the Government has passed an order on 18.02.2014 vide Annexure – R-1 to grant 5 acres of land to Smt. Subhashini speaks of the fact that the Government has failed to act on its own except when compelled by judicial orders.

22. I have also noticed from the averments in the counter filed by the Government, in pursuance to interim orders passed in these writ petitions, the State Government has constituted a committee vide G.O.No.R.D.No.95/IG/2014 dated 19.03.2014 (Annexure- R-2) under the Chairmanship of the Divisional Commissioner, Belgaum to simplify the rules and procedures to process the applications of ex-service men seeking grant of land in the State of Karnataka. This is a welcome development. Though it is after the interim order was passed in the writ

petition, yet it is appreciable that the Government has shown interest to gear up its machinery to address the grievance of ex-service men like the petitioners in these writ petitions. Smt. Elizabeth assures this Court that the Committee would embark on its function immediately and will examine all pending applications. However, while assuring the Court, the Government seems to be finding excuse referring to the impending election as a reason for not expediting action. *Be that as it may*, from the stand taken by the Government, it is evident no ground worthy of acceptance is urged to show why the applications submitted by the petitioners and similarly placed persons has not received its attention and as to why the officers concerned have failed to process the applications.

23. More than one Government Advocates has appeared in these writ petitions and at their instance, several adjournments were granted from the month of January 2014 till the month of July 2014. Except assuring the Court of prompt action, I find no action in

the right earnest is taken by the respondents. Smt. Elizabeth would submit the delay is not attributable to the officers concerned but it is due to the conduct of the petitioners themselves. She submits most of the petitioners have not satisfied the eligibility criteria as stated in earlier paragraphs of this order. Besides, she has raised additional ground of defence that though lands were identified in the Hassan District, no allotment could be made as the land so identified has since been reserved for public purpose and therefore based on priority the claim of the petitioners stand no chance. From such submission, it is apparent the State having highlighted several beneficial schemes framed by it for the welfare of service personnel is now putting up volte-face to rescind from its commitment taking refuge of the repealed provisions of Rule 97(4) and 108 of the Karnataka Land Revenue Rules, 1966.

24. Therefore, conspectus of the provisions of the Karnataka Land Revenue Act, 1964, the Rules

made thereunder and other sub-ordinate legislation is necessary. Section 71 of the Karnataka Land Revenue Act, Rule 3, 4, 5 and 6 of the Karnataka Land Grant Rules, 1969 are relevant provisions.

**Section 71 - Lands may be assigned for special purposes and when assigned, shall not be otherwise used without sanction of the Deputy Commissioner**

Subject to the general orders of the State Government, Survey Officers, whilst survey operations are proceeding under this Act, and at any other time, the Deputy Commissioner, may set apart lands, which are the property of the State Government and not in the lawful occupation of any person or aggregate of persons in any village or portions of a village, for free pasturage for the village cattle, for forest reserves or for any other public purpose; and lands assigned specially for any such purpose shall not be otherwise used without the sanction of the Deputy Commissioner; and in the disposal of lands under section 69 due regard shall be had to all such special assignments.

**Karnataka Land Grant Rules, 1969**

**Rule 3. Preparation and publication of list of lands available for disposal:--**

(1) For determining the lands available for disposal in any village the Tahsildar of the Taluk shall prepare a list of lands which have been or have to be assigned for special purposes under <sup>4</sup>[Section 71 of the Act and the lands which have been classified as belonging to categorise C and D by the Department of Agriculture] <sup>5</sup>[Unoccupied lands other than lands classified as belonging to categories C and D by the Department of

Agriculture] fit for cultivation remaining after reserving sufficient extent for the aforesaid special purposes, shall be included in the list of lands available for disposal.

(2) Such lists in so far as they relate to all the villages in a Taluk shall be notified in the Taluk office and so far as they relate to each village shall be notified in the Chavadi of the village and the Office of the <sup>6</sup>[Grama Panchayat]. The list relating to each village shall be available for inspection with the concerned Village Accountant.

(3) Every list shall be prepared, revised and brought up to date each year and notified not later than the 1st day of July of that year.

**Rule 4. Persons eligible for grant of land for agricultural purposes:--**

(1) Lands available for disposal may be granted for agricultural purposes under these rules to a person.

(i) who has attained the age of eighteen; and

<sup>7</sup>[(ii) whose gross annual income does not exceed rupees eight thousand; and.]

(iii) who is either a bona fide agriculturist cultivating the land personally or has bona fide intention to take up personal cultivation; and

(iv) Who is not a sufficient holder;

<sup>8</sup>[Provided that in the case of Ex-servicemen and Soldiers, lands may be granted, if the gross annual income of the

applicant <sup>9</sup>[exceed Rupees eight thousand but less than <sup>10</sup>[rupees twenty thousand]].

Provided further that the extent of land granted to any person shall not together with the land already held by such person exceed the limits prescribed for a sufficient holder in rule 2 (15).]

(2) Notwithstanding anything contained in sub-rule (1) any person may be granted the land adjacent or close to the land already held by him on collection of market value as on the date of grant to be determined by the authority granting the land, if such land is, in the opinion of such authority required for better enjoyment or better cultivation of the land so held:

Provided that no such grant shall be made of an extent exceeding in the case of wet or garden land half hectare and in the case of dry land one hectare and that the total extent of land after such grant does not exceed the ceiling area according to the Karnataka Land Reforms Act, 1961.

**Rule 5. Reservations:--**

(1) The land available for disposal in any village shall be granted observing the reservation indicated below:-

- (i) Ex-Servicemen and ... 10 per cent Soldiers
- (ii) Persons belonging to ... 50 per cent

	Scheduled Castes and Scheduled tribes	
[(ii-a)	Backward Tribes	5 per cent]
(iii)	Political sufferers	10 per cent
(iv)	Others	[25 per cent]

(2) Where the extent reserved under (ii) and (iii) is in excess of the extent that can be granted to the persons belonging to those categories, the excess land shall with the approval of the Deputy Commissioner be disposed of among persons in category (iv).

<sup>12</sup>Explanation: "Backward Tribes" means, the Backward Tribes as mentioned in the list appended to the Government Order No. SWL. 12 TBS 77 dated 22nd February, 1977].

(3) Notwithstanding anything in sub-rule (1), where the land available for disposal in village is less than four hectares, the whole of such land shall be disposed of to persons belonging to the Scheduled Castes and Scheduled Tribes who are ordinarily residents of such village or who reside in the neighbouring village and where no persons belonging to Scheduled castes and Scheduled Tribes apply, it shall be disposed of to others.

**5-A. Lands disposed of to Scheduled Castes and Scheduled Tribes in a Taluk to be not less than fifty per cent:--**

Where, in any Taluk, the total extent of lands disposed of from the date of commencement of these rules till the date of commencement of the Karnataka Land



Grant (Amendment Rules, 1979, to persons belonging to Scheduled Castes and Scheduled Tribes is less than fifty per cent of the lands which were available for disposal in the Taluk during ' that period then until such disposal reaches such percentage for the taluk, the percentage of reservation of lands in each village in the taluk shall be <sup>13</sup>[five per cent for the purpose of item (i) of sub-rule (1) of Rule 5 in respect of ex-servicemen and soldiers, seventy five per cent for the purpose of item (ii) of the said sub-rule in respect of persons belonging to Scheduled Castes and Scheduled Tribes, five per cent for the purpose of item (iii) of the said sub-rule in respect of political sufferers and ten per cent for the purpose of item (iv) of the said sub-rule in respect of others].

**Rule 6. Order of priority:--**

In disposing of land among persons belonging to category (iv) of sub-rule (1) of Rule 5, the following order of priority shall be observed,-

- (i) landless persons residing in the village;
- (ii) insufficient holders residing in the village;
- (iii) landless persons residing in other villages in the same or adjacent Taluk;
- (iv) Others:

Provided that when Government directs under Section 71 of the Act that any particular area Government land shall be reserved for grant to displaced persons and tenants affected by any Government

<sup>14</sup>[x x] Project, provisions of rule 5 and 6 will not apply.

25. The provision of Section 71 of Karnataka Land Revenue Act, is explicit in its terminology that subject to the general orders of the State Government, available land within the territorial jurisdiction of the particular village (District) may be set apart for any public purpose for free pasturage for the village cattle, for forest reserves or for any other public purpose; and lands assigned specially for any such purpose shall not be otherwise used without the sanction of the Deputy Commissioner; and in the disposal of lands under Section 69 due regard shall be had to all such special assignments.

26. The mandate in Section 71 requires identification of lands for setting apart for the purpose indicated therein and once it is so set apart it shall not be used for any other purpose. It is material to note in Hassan District, the Deputy Commissioner, in exercise of power conferred by Section 71, passed an order reserving 5,499.37 acres of land in Sakleshpur and other Taluks of the Hassan District for the purpose of grant to ex-servicemen and soldiers etc., as envisaged in the

Karnataka Grant Rules, 1969, as is evident from the following Notifications dated 02.05.1972 & 03.05.1972.

The purpose for which it is set apart is clearly indicated in the notification which reads :

**1. Notification dated 2<sup>nd</sup> May 1972 :**

No.LND.II.237/71-72. It is hereby notified under Section 71 of the Mysore Land Revenue Act, 1964 that out of 170 acres 21 guntas (One hundred seventy acres and twenty one guntas) of Government waste lands fit for cultivation available for disposal in the village of 'Hassan Taluk' specified in the Annexure is reserved for being granted to the ex-service men and soldiers.

List of lands Reserved for Military persons and soldiers in Hassan Taluk.

**2. Notification dated 3<sup>rd</sup> May 1972 :**

No.LND.II.237/71-72. It is hereby notified under Section 71 of the Mysore Land Revenue Act, 1964, that an extent of 238 acres 18 guntas (Two hundred Thirty eight acres and eighteen guntas) of Government waste lands fit for cultivation, available for disposal in the village of "ARAKALGUD TALUK" specified in the annexure is reserved for being granted to the Ex-Servicemen and Soldiers.

List of lands reserved for Military persons and soldiers in Arkalgud Taluk.

**3. Notification dated 2<sup>nd</sup> May 1972 :**

**No.LND.II.237/71-72.** It is hereby notified under Section 71 of the Mysore Land Revenue Act, 1964, that an extent of 368 acres 7 guntas (Three hundred sixty eight

acres and seven guntas) of Government waste lands fit for cultivation, available for disposal in the villages of "Holenarasipur Taluk" specified in the annexure is reserved for being granted to the Ex-Servicemen and Soldiers.

Land available for disposal and reserved for Ex-servicemen and servicemen in Holenarasipur Taluk.

**4. Notification dated 2<sup>nd</sup> May 1972 :**

**No.LND.II.237/71-72.** It is hereby notified under Section 71 of the Mysore Land Revenue Act, 1964, that an extent of 2567 acres 28 guntas (Two thousand Five hundred Sixty Seven acres and Twenty Eight guntas) of Government waste lands fit for cultivation, available for disposal in the village of Belur Taluk specified in the annexure is reserved for being granted to the Ex-Servicemen and Soldiers.

List showing the Lands Reserved for Reservation to Ex-Servicemen and Soldiers in Belur Taluk.

**5. Notification dated 3<sup>rd</sup> May 1972 :**

**No.LND.II.237/71-72.** It is hereby notified under Section 71 of the Mysore Land Revenue Act, 1964, that an extent of 5499 acres 39 guntas (Five thousand Four hundred Ninety Nine acres and Thirty Nine guntas) of Government waste lands fit for cultivation, available for disposal in the villages of "SAKLESPUR TALUK" specified in the annexure is reserved for being granted to the Ex-Servicemen and Soldiers.

List of Land to be reserved for being granted to the Ex-Servicemen and soldiers in Saklespur Taluk.

27. Thus, the notification dated 02.05.1972 and 03.05.1972 dispels all doubts and puts to rest all contentions to the contrary. As the land has been set apart by the Deputy Commissioner in exercise of the power conferred by Section 71 of the Mysore Land Revenue Act, 1964 (Karnataka Land Revenue Act, 1964), for grant of land to the military personnel and ex-servicemen and soldiers as indicated in the notification, it had to be used for that purpose.

28. The contention today is contrary to the notification referred to supra. The submission is thus discounted. In the resultant position, the entire extent of 5,499.37 acres lands in Hassan District shall deemed to be for grant to the ex-servicemen and soldiers. Consequently, the order passed by the Government dated 05.09.2013 describing the petitioners named in the said order as ineligible on the basis that subsequent to notification dated 02.05.1972 the land has now been

declared not available for grant to ex-servicemen and soldiers is wholly unsustainable.

29. Besides the clear mandate in the provisions of Rule 3, 4, 5 and 6 of the Karnataka Land Grant Rules, 1969, does not permit such arbitrary decision. Rule 3 requires preparation and publication of list of lands available for disposal and to do so, the Tahsildar of the Taluk shall prepare a list of lands which have been or have to be assigned for a special purposes under Section 71.

30. Rule 4 refers to persons eligible for grant of land for agricultural purposes and spells out that the lands available for disposal may be granted for agricultural purposes to any person who has attained the age of 18 years, whose gross annual income does not exceed Rs.8,000/- who is either a bonafide agriculturist cultivating the land personally or has bonafide intention to take up personal cultivation; and who is not a sufficient holder. The proviso to sub-rule iv of Rule 4 envisages in case of ex-servicemen and soldiers, lands may be granted, if the gross annual income of the applicant exceeds Rs.8,000/- but less than Rs.20,000/-. This has been further amended

by the Government and the limit of gross annual income is increased to Rs.2,00,000/- (Rupees two lakhs only). This Rule does not apply to the awardees.

31. Rule 5 is of relevance. It postulates the land available for disposal shall be granted observing the reservation indicated in the rule. Ex-servicemen and soldiers are listed at Sl.No.1. The Rule requires 10% of the available land shall be reserved for the purpose of grant to them. Rule 6-A specifies the priority and brings within its ambit ex-service men and the soldiers.

32. Thus, there is no gain saying that the petitioners are ineligible for grant of land under the provisions of the Karnataka Land Revenue Act, 1964 and the Karnataka Land Grant Rules, 1969. It must further be noticed that though this Court by its order dated 13.07.2012 directed the respondents in these writ petitions to consider the applications submitted by the petitioners in Writ Petition No. 47443/2011 (KLR-RES) and connected writ petitions, the Government has granted land only to 4 of the petitioners and for no valid reasons rejected the claim of others by its order dated

05.09.2013. I have perused the said order. In the preamble to the order there is a reference to the order of this Court but the text of the order of the Government dated 13.07.2012 would show there is absolutely no compliance to the order of this Court dated 13.07.2012 in Writ petition No.47443/2011 and the connected writ petitions.

33. The factual matrix manifesting from the grounds in the writ petitions, various Government Orders and the defence urged by the State, shows no pragmatic and honest approach by the respondents in considering the applications submitted by the petitioners under benevolent provisions of the Karnataka Land Revenue Act, 1964, the Rules made thereunder and the Karnataka Land Grant Rules, 1969. Consequent to discriminatory act of the respondents, while erratic grants are made in favour of other individuals, the ex-defense service personnel have been deprived of the benefit. The Order dated 05.09.2013 No.LMD 2 338/2011-12 of the Deputy Commissioner, Hassan (presently in office) being in defiance to the order of this Court dated 13.07.2012 passed in the batch of writ petitions No.47443/2011 is



quashed. The Deputy Commissioner concerned is directed to comply with the said order and reexamine the eligibility of those applications and of the petitioners in these writ petitions in the light of the provisions referred to above.

34. This direction shall not affect the land granted to four applicants as indicated in the said order and the process of granting them land shall reach the logical end.

35. In the backdrop of what has transpired and discussed in the paragraphs supra, the writ petitions are examined individually.

**In W.P.No.26700/2013 :**

36. Sri. H.N. Jaya Kumar, the petitioner in W.P.No.26700/2013 is a former soldier of the Border Security Force. He is a native of Hassan District and has applied to the Respondent No.2 on 25.02.2012 vide Annexure-D for grant of 10 acres of land in Sakslehspur Taluk, Hassan District out of 5499.39 acres of land notified as reserved for grant to ex-servicemen and soldiers vide Gazette Notification No.03.05.1972 vide Annexure-C. His application has been forwarded to respondent No.2 on 29.2.2012 vide Annexure-E. Despite submission of such

application, the respondents have not considered it. His grievance is that the lands have already been identified and reserved for grant to the ex-service men and soldiers, but the respondents have declined to grant the request. He has also referred to the order referred by this Court in batch of Writ Petition Nos.47443/2011 (KLR-RES) dated 13.7.2012 (Annexure-F) directing respondents to consider the applications submitted by the ex-servicemen. He seeks grant of 10 acres of land in survey No.80 of Hethur village of Sakleshpur Taluk, Hassan District which is one of the lands notified as reserved to ex-servicemen vide Annexure-C dated 03.05.1972.

37. I am satisfied that the grievance is justified and there shall be a direction to the respondents to consider his application.

**In W.P.No.2023/2014 :**

38. This Writ petition is filed by Sri. G. Krishnamurthy, who retired as a Hawaldar having served for 21 years in the Armed Force. He has been discharged from service on 09.06.1971. He submitted his application to the second respondent which was forwarded to the 4<sup>th</sup> respondent. The 4<sup>th</sup> respondent

has, after examining his eligibility, recommended grant of land. Despite such recommendatory note and eligibility of the petitioner, the land has not been granted to him. He has sought land in survey No.26 of Malegondahalli village. The annexures to the writ petition would show relentless efforts of the petitioner to secure the grant. His application vide Annexure-G was forwarded to the 2<sup>nd</sup> respondent by the 4<sup>th</sup> respondent through letter dated 17.11.2012 – annexure-F.

39. It is clear from Deputy Commissioner's letter dated 06.09.2012, the Tahsildar was directed to consider the claim of the petitioner and submit a report. The Tahsildar in turn directed the Nadakacheri Sarjapur to verify records. But there is no response from the authorities. Be that as it may, it is clear that the land in question is a Government land available for grant.

40. In the circumstances, respondents are directed to consider the application of the petitioner vide Annexure-G.

**In W.P.NO.7000/2014 :**

41. The petitioner Sri. Harshavardhan in W.P.No.7000/2014 is a soldier of the Indian Army and claims he is a landless individual entitled to the land in terms of provisions of Land Grant Rules, 1969. He applied to the 2<sup>nd</sup> respondent through proper channel for grant of land vide his application dated 08.01.2007 vide Annexure-C. The application was forwarded to the authorities vide Annexure-D. In further action, he has produced Darkhast application to the 5<sup>th</sup> respondent 26.05.2007 vide Annexure-E. The respondent No.5 forwarded his application to the 3<sup>rd</sup> respondent. The 4<sup>th</sup> respondent has conducted spot inspection recommending grant of land to him. The respondent No.3 on receipt of such report from the subordinate officers sought certain clarifications from the petitioner which he has furnished. The 4<sup>th</sup> respondent acting on the instructions of the 5<sup>th</sup>

respondent, directed the Revenue Inspector to verify and submit a report in terms of memo. The Revenue Inspector filed a detailed report dated 10.07.2008 vide Annexure-F recommending grant of 6.80 cents land to the petitioner. On receipt of such recommendatory note, the 5<sup>th</sup> respondent has forwarded it to the 4<sup>th</sup> respondent through his letter dated 23.7.2008 favouring petitioner's case. Copy of it is at Annexure-G. Again there is further action in forwarding the records by the 4<sup>th</sup> respondent to the 3<sup>rd</sup> respondent on 08.08.2008. The 3<sup>rd</sup> respondent has also favourably considered his application and forwarded it to the 2<sup>nd</sup> respondent on 8.10.2009 for necessary action vide Annexure-H. The 2<sup>nd</sup> respondent on receipt of such recommendatory notes and records has forwarded it to the 1<sup>st</sup> respondent State through letter dated 11.04.2011 vide Annexure-J. Despite such favourable actions by the respondents i.e., Tahsildar, Assistant Commissioner, Deputy Commissioner and the Regional Commissioner, the first respondent - State

Government has failed to pass an order. He has also made out a case for issuances of direction to the respondent- State to accept the recommendations of respondents 2 to 5 and pass appropriate orders to grant land to him in terms of his request. Thus the 1<sup>st</sup> respondent is directed to consider petitioners' applications, accept recommendation of the Deputy Commissioner.

**In W.P.No.33080/2013 :**

42. Sri. L. Kumar – the petitioner in Writ Petition No.33080/2013 is a soldier of the Indian Army having retired from the service in the year 1989. He filed application for grant of land in Survey No.8 of Sulikere village in the year 1998 through Sainik Welfare Re-settlement Board, Bangalore. As his application was not considered, he was in writ action before this court in Writ petition No.20058/2009 which was allowed in his favour directing the respondents to consider his application. In response to such direction of this Court, the respondents issued an endorsement expressing

ineligibility to grant land to the petitioner which he questioned in Writ Petition No.21709/2010. This Court by Writ of Certiorari quashed the endorsement and directed respondents to consider his applications. Again there was inaction compelling the petitioner to take further writ action in Writ Petition No.5716/2011. That Writ petition was disposed of in his favour on 26.07.2012 directing the respondents to consider his application expeditiously within the outer limit of six months. Even that order was not complied with compelling him to initiate action for contempt of Court in CCC.No.182/2013. That petition has been disposed of by this Court reserving liberty to the petitioner to file fresh contempt if the action is not taken by the respondents vide order dated 01.04.2013. Again he was in action in CCC.No.786/2013 which was also disposed of accepting the 3<sup>rd</sup> respondent's submission through his letter dated 28.3.2013 that he will consider the application of the petitioner. The grievance of the petitioner is, despite such undertaking, the respondent No.3 has not considered

his application. He is one such aggrieved ex-servicemen whose request for grant of land is pending from the year 1998. He has sought for grant of land in Sulikere village measuring 4 acres. Learned Government Advocate submits the land sought for, falls within 18 kms from the city limit, thus cannot be granted. But there is no reason why his application for grant of land in any of the survey numbers in the said district cannot be considered. It needs to be clarified, when application is filed seeking grant of land in any particular survey number, if the land in such survey number is either not available or cannot be granted because of certain other restrictions, the authorities are required to verify the availability of land in other survey number which are not hit by such restrictions for the purpose of grant of land. Merely endorsing that the land applied cannot be granted is no valid reason for not considering the request for grant of land in question. In the circumstances, the respondents are directed to consider the application of the petitioner for grant of land in any of the other



survey number in the Bangalore Rural District, if the land applied for is not available.

**In W.P.No.37425/2013 :**

43. The petitioner Sri. Anand Rao in Writ Petition No.37425/2013 (KLRA) served in Indian Air Force as Sergeant from 1966 to 1986 and has since been retired. He participated in Indo-Pak war and was awarded Sangram Medal. In the year 2009 he filed darkhast in form No.1 for grant of land in survey No.9 measuring 1.25 acres of land in Thimmarasanahalli village which was rejected by the Deputy Commissioner vide Annexure-K referring to the Government Circular vide Annexure-J. In view of the judgment of this Court reported in ILR 1989 (1) KAR page 60 that by way of circulars or otherwise the Government cannot nullify the provisions of the Land Revenue Act and Land Grant Rules, the petitioner has questioned the endorsement. The material propositions in the pleadings would show that his application has been favourably considered and recommended by the Tahsildar and the Assistant

Commissioner for grant of land to him. Despite such recommendation, the Deputy Commissioner, who is second respondent herein, has issued an endorsement declining to grant land. Annexures appended to the writ petition would show, the Tahsildar has obtained report from the Revenue Inspector and village accountant on the availability of land for grant and by his report dated 17.05.2012 (Annexure-F) has forwarded it to the Assistant Commissioner recommending the grant. The Assistant Commissioner in his report dated 3.7.2012 (Annexure-G) has also recommended grant of land to the Petitioner. Mahazar dated 21.07.2010 has also been drawn vide Annexure-H. The Deputy Commissioner, despite such clear reports of both the officers, has declined to grant land referring to the Government Circular No.KE 32 Praka/2010 dated 31.07.2010 (Annexure-J) issued by the Secretary to the Government, Department of Revenue not to grant land if it is declared gomal land. Based on it, the order has been passed in LND (NA):CR:55/2011-12

dated 20.03.2013 rejecting his application vide Annexure-K. It is quite evident from the order passed by the Deputy Commissioner dated 20.03.2013 (Annexure-K) that he has rejected application of the petitioner based on the circular, which this Court speaking through its judgment reported in ILR 1989 (1) KAR page 60 held under Rule 5 and 6 of the Land Grant Rules 1969, lands needs to be identified, reserved and allotted as mandated in the statute and such statutory mandate cannot be annulled by circulars issued by the Government.

44. I am satisfied, as issue is well settled by the judicial pronouncement, the order passed by the Deputy Commissioner - 2<sup>nd</sup> respondent Annexure-K rejecting application of the petitioner only on the basis of circular dated 31.07.2010 is unsustainable. Hence by writ of certiorari the order vide Annexure-A rejecting the application of the petitioner is quashed and the 2<sup>nd</sup> respondent is directed to consider application of the petitioner afresh taking into

consideration the recommendations of the Tahsildar, Assistant Commissioner and other officers.

**In W.P.No.46878/2013 :**

45. Smt. Madevi, petitioner in W.P.No.46878/2013 is a widow of H.D. Rangaiah who died intestate leaving behind him her wife - the petitioner and a daughter. He served Indian Army in the Madras Regiment as Sepoy from 14.5.1947 till 09.09.1966. He died on 12.07.1992. After his demise, the petitioner along with his daughter Smt. Manjula being his legal heirs were admitted to family pension and are held entitled to all benefits of service and other benefits. The petitioner and her daughter applied to the authorities through Sainik Welfare Department for grant of land under the provisions of the Karnataka Land Revenue Act. Their representation to the Ministry of Defense Kendriya Sainik Board, was forwarded on 11.05.2011 to the Sainik Welfare and Resettlement Board at Bangalore vide Annexure-D. In the follow-up action the Sainik Welfare and Resettlement Board of Karnataka on

receipt of recommendation from the Ministry of Defense vide Annexure-D forwarded it to the second respondent vide Annexure-E. The grievance of the petitioner is, the authorities have failed to consider her application for grant of land in survey No.73 measuring 1 acre 14 guntas of Uttanahalli village and Survey No.25 measuring 24 guntas of Maranayakanahalli village, Jala Hobii, Bangalore North Taluk. She claims she is in possession and unauthorized cultivation of the land. Her application dated 27.09.2012 is at Annexure-H. Thereafter, she approached the officers in hierarchy for redressal and the Chief Secretary to the Government of Karnataka accepting her request directed the second respondent to verify her records and do the needful vide Annexure-G. The 3<sup>rd</sup> respondent has collected further records from the Revenue Department and opined that the petitioner could be granted land under the ex-servicemen quota and sent a report dated 11.04.2012 at Annexure-H. Based on Annexure-H, the 2<sup>nd</sup> respondent has sent detailed report to the

Chief Secretary to the Government showing availability of the land in survey No.73 measuring 1 acre 14 guntas of Uttanahalli village and survey No.25 measuring 24 guntas of Maranayakanahalli village. The 2<sup>nd</sup> respondent has also confirmed in his correspondence that there is no objection from the villagers to grant land to the petitioner and also that there is no application in form No.50 and 53 (applications under Section 94-A or 94-B of the Karnataka Land Revenue Act, 1964) pending consideration from any person. Despite such recommendation from the competent authority i.e. Deputy Commissioner, the Government has failed to pass an order. Thus she is in writ action.

46. On perusal of the material propositions in the writ petition, I am satisfied that the petitioner Madevi has substantiated her entitlement for allotment of land on two counts. One is by virtue of her husband being ex-servicemen under the provisions of Rule 5 of the Karnataka Land Grant

Rules, 1969 and also under the provisions of Section 94-A or 94-B of the Karnataka Land Revenue Act, 1964 which permits regularization of unauthorized occupation and cultivation of land by the cultivator. There is no dispute she is in unauthorized occupation and cultivation of Government land. It has been confirmed by the Revenue authorities and thus even on this ground she should be entitled for regularization of her occupation to the extent of land in her occupation.

47. I am satisfied that the petitioner has made out a case to grant land in terms of her application either under the provisions of Rule 5 of Karnataka Land Grant Rules from the quota of Ex-servicemen reserved for that purpose or under the provisions of Section 94-A or 94-B of the Karnataka Land Revenue Act, 1964.

**In W.P.No.56331/2013 :**

48. Smt. Vanajakshi - the petitioner in W.P.No.56331/2013 is a widow of B.M. Ramakrishna

who served Indian Army as Lance Naik. He was discharged from service after the period more than seven years. He died in the year 1999. His wife applied for grant of land from out of land reserved as per Government Notification dated 2/3.5.1972 - Annexure-C to be granted to ex-servicemen and soldiers. In this regard, she has further revealed that her husband Ramakrishna before his death on 26.07.1999 had applied to respondents through his commandant for a grant of land in survey No.6 measuring 12 acres and 2 guntas situate in Honakaravally village, Kunaganahalli post, Alur Taluk, Hassan District. However upon his death, his wife - the petitioner continued to request. She has also submitted an application on her behalf on 03.08.1998 vide Annexure-C. The application has been forwarded by the Deputy Director, Sainik Welfare and Resettlement Board, Madikeri, through his note dated 18.09.1998 - Annexure-D. Despite such factual aspects, the 4<sup>th</sup> respondent has declined to grant her land on the premise that no land is available. The



endorsement – Annexure-E is impugned in this Writ Petition. I am satisfied the endorsement Annexure-E dated 10.12.1998 is wholly unsustainable as the land sought for by the petitioner is within the territorial limits of Hassan district where more than 5000 acres of land has been reserved to be granted to ex-servicemen and soldiers etc. as detailed in the notification dated 02/03.05.1972 -Annexure-C. Thus the writ petition is allowed quashing the endorsement Annexure-E. Respondents are directed to process petitioner's application and grant her land from the land reserved in Hassan district or any other suitable land.

49. In terms of the above directions, the above referred writ petitions are allowed as prayed for in terms of the order in each of the writ petitions. With this preclude about the individual grievance, we shall now consider the grievance of service personnel/legal heirs of deceased service personnel who were recipients of various service medals and awards.

50. The statistical information furnished by Principal Secretary to the Government, Revenue Department and the statistical information submitted by Director and Deputy Director of Sainik Welfare and Resettlement Board brings to surface the fact that though several persons from the State of Karnataka are recipients of such awards, neither the State Government nor the Director of Sainik Welfare and Resettlement Board have ensured that the benefit of land reaches them. A feeble defence of the Advocates on behalf of the State is that the awardees opted to receive cash in lieu of the land. During the course of hearing, I had the benefit of hearing some of the applicants who brought out that there was no voluntary giving up of claim by them to receive cash award instead of land. I have no reason to disbelieve the statement that they were prevailed upon and persuaded by the authorities to receive cash in lieu of the land. They succumbed to such undue influence resulting deprivation of actual benefit which they are entitled to get. At this juncture, the learned

Government Advocate would submit, most of the awardees have voluntarily sought cash award as they could not satisfy their eligibility criteria for grant of agricultural land. I am dismayed at this submission. From several writ petitions moved before this Court, we can notice, despite clear direction of this Court to consider the applications for grant of land by the ex-service men and other personnel, the Deputy Commissioners concerned, have, for one or other unacceptable reason defied the directions. From the inconsistent ground urged by the State and the respondents, it is evident, the respondents have, for unjustifiable reason, deprived statutory benefits to the applicants and to overcome such lapses have taken the general defence of ineligibility. Be that as it may, the eligibility criteria prescribed by Rule 4 particularly the ceiling limit based on income; the prescription of reservation by Rule 5 to an extent of 10% for ex-service men and soldiers and the order of priority prescribed under Rule 6 and further saving clause in the proviso to Rule 6 is not applicable to the

applicants who are awardees. They are entitled to as a matter of right the benefit of awards which includes grant of land and this right is indefeasible. It is regrettable that the respondents have frustrated the very object of grant of the award to the service personnel rendering the entire process a mocking formality than a reality. This, in law is wholly unacceptable. The disdainful conduct of the respondents in avoiding to comply with the orders of this Court passed in earlier writ petitions, on the grounds which are wholly untenable, compels me to bind the respondents with specific directions to avoid recurrence of such lapses.

51. In the circumstances, while disposing of these writ petitions and to avoid any further deprivation of statutory benefits to the persons like the petitioners, following directions are issued:

**DIRECTIONS**

1. The Deputy Commissioners of all the districts shall direct survey of lands by the officers concerned as envisaged in Rules 3 and 4 of the

Land Grant Rules, 1969 and then identify lands in each village within their territorial jurisdiction for the purpose of grant to the ex-servicemen and soldiers and notify it as envisaged under, Section 71 of the Karnataka Land Revenue Act, 1964, within a period of six months from the date of receipt of a copy of this order.

2. Copy of such notification shall be forwarded to the Director, Sainik Welfare and Resettlement Board, who, shall publish it in its office and such other places as is accessible to the service personnel.
3. If in any such district agricultural land is not available, then the Deputy Commissioner shall identify revenue land for the purpose of grant in lieu of agricultural land.
4. The Deputy Commissioners shall maintain a register incorporating therein the details of applications submitted by ex-servicemen and soldiers for such grant.
5. Ex-servicemen and soldiers; the legal heirs of war casualties and such other persons who come in this category may apply for grant of land directly to the Deputy Commissioners of the concerned district with a copy of it marked to the Director, Sainik Welfare and Resettlement Board, Karnataka. The Director, Sainik Welfare and

Resettlement Board shall be the nodal agency who, shall, after receipt of the copy of such application, register in his office and maintain record of it. It shall pursue the application with concerned authorities following the instructions issued by the Government vide Circular No.RD 33 LGP 83 of June 1983.

6. It shall be the duty of the Sainik Welfare and Resettlement Board not only to receive and forward the applications but to assist the applicants in pursuing the application for grant of land till it reaches logical end.
7. All the applications received by the Deputy Commissioners shall be examined on its merit and shall be considered for grant of land within the outer limit of six months from the date of its filing/submission. All applications pending consideration till this date shall be considered and disposed of within three months from the date of receipt of copy of this order.
8. No application shall be rejected without hearing the applicant or assigning any valid reason. Non-availability of land in any particular village applied for shall not be a reason for rejecting the application.
9. In case applicant seeks land in any particular survey number of any particular village, the

same shall be considered for allotment and in the event of such land being not available, then the concerned Deputy Commissioners shall consider grant of land situate in any other village in same district.

10. In the event of agricultural land being not available in the district applied for, then the application shall be considered for allotment of land in any other district and concerned Deputy Commissioner shall recommend to the first respondent to consider grant of land in any other district or a house site to the applicant as assured to this court in these writ petitions.

11. The Principal Secretary, Department of Revenue, Government of Karnataka shall ensure that such sites are allotted by the authorities namely, 1) The Additional Chief Secretary, Urban Development Department, 2) The Secretary, Urban Development Department & 3) The Commissioner, Karnataka Housing Board, Kaveri Bhavan, as indicated in the letter dated RD 282 LGX 2013 dated 11.07.2014 filed in Writ Petition No.26700/2013 and connected matters. The benefit shall be extended to the applicants who are recipients of gallantry awards, service medals, cash awards, annuity etc.

12. In the case of applicants who are recipients of service medals, gallantry awards and those who are conferred with certificate of recognition of service shall be entitled to all benefits as declared in the award including land or land sites, cash award, annuity etc. The restrictions imposed by Rule 4, particularly ceiling limit based on the income stipulating eligibility criteria for purposes of grant of land; the prescription of 10% reservation under Rule 5; the prescription of order of priority by Rule 6 and the restrictions indicated in proviso to Rule 6 of Karnataka Land Grant Rules, 1969 shall not apply to them. They will be entitled to grant of land, land sites on priority and their applications shall be considered as expeditiously as possible and in any circumstance, but not beyond the period of six months from the date of receipt of such applications. The applicants in this category shall be entitled to allotment in the district to which they belong or in any other district where they have settled or intend to settle.

13. The District Sainik Welfare and Resettlement Board shall maintain record of all service personnel who have been awarded service medals, gallantry awards, year-wise and shall publish the same annually by the end of



each year and forward it to the Principal Secretary, Revenue Department, Government of Karnataka for needful action.

14. The directions issued in individual writ petitions as detailed in paragraphs supra shall be complied by the respondents **within the period of six months** from the date of receipt of this order and the general directions issued hereby shall be complied as expeditiously as possible **but not beyond the period of one year** from the date of receipt of a copy of this order.

52. The Writ Petitions are disposed of in terms of the directions mentioned above.

53. Mrs. Elizabeth, learned Government Advocate is permitted to file her memo of appearance.

54. Rule Nisi issued is made absolute. However, there shall be no order as to costs.

**Sd/-  
JUDGE**