

10/08/2018  
RAI/ADV/2018/054

Hon'ble Commissioner,  
Bruhat Bengaluru Mahanagara Palike (BBMP),  
Narasimha Raja Square,  
Bengaluru - 560 002.

**Sub: Implementation of Kannada language**

**Ref:**

1. Circular No. B12/C1/PR/10/2016-17 dated 22/7/2017 issued by the Office of the Commissioner, BBMP
2. Circular No. HO/BTM/PR/269/2017-18 dated 30/7/2018 issued by The Health Officer, BTM Division, BBMP

***Hon'ble Commissioner,***

Greetings from Retailers Association of India (RAI)!

Retailers Association of India (RAI) is the unified voice of Indian retailers, working with all the stakeholders for creating the right environment for the growth of the modern retail industry in India. RAI is the body that encourages, develops, facilitates and supports retailers to become modern and adopt best business practices that will provide best of services and experience to the delight customers. RAI has a three charter aim of Retail Development, Facilitation and Propagation. RAI is the premier body of Retailers in India having more than 1400 member establishments including large and small retailers in the country having approximately 500,000 stores.

We understand that on 22.07.2017, BBMP issued a circular referred at Sl.no. 1 above, which mandated that the name boards of shops/ establishments have to be displayed in Kannada language with 60% of display board in Kannada language and remaining 40% of the board can be in other language. It further provided that if any business/person/establishment fails to abide by this rule or violates this condition, the licenses of such establishment will be cancelled.

Also, recently BBMP issued another circular dated 30.07.2018 (refereed at Slo.no. 2 above) which reiterated the aforesaid language requirements and directed implementation thereof.

We note that relying on the said circulars dated 22.07.2017 & 30.07.2017, the officials of BBMP have started visiting the retail stores owned / run by members of RAI and

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**Shashwat Goenka,**  
Spencer's Retail

**Vinay Nadkarni,**  
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threatening to cancel the licenses /permissions of our members, if they fail to adhere to the said circular.

In this connection, we make the following representation and submissions before your good self for your consideration:

1. **Vodafone Judgement with regard to display of name boards in Kannada language:**

- a. In 2008 the Karnataka Government amended the Karnataka Shops & Establishment Rules and inserted Rule 24A and made it mandatory for all the shops and commercial establishments to display their name boards in Kannada language and where the name boards are in more than 1 language, then prominence has to be given to Kannada language in terms of size, font etc.
- b. This notification was challenged before the Hon'ble High Court of Karnataka in WP No.1901/2009 (L-SE) and it was held that by the High Court that requirement of name boards etc. are beyond the legislative scope of "Shops and Establishments Act" and the said amendment in inserting Rule 24 A was struck down by Hon'ble High Court terming it as 'ultra vires'.
- c. Thereafter, the State Government appealed to the division bench of the Hon'ble High Court of Karnataka in WA no. 3428/ 2009 (L-SE), wherein the judgment passed in WP No. 1901/2009 (L-SE) was confirmed and upheld by the division bench of High Court.

In view of the above, it is now settled position of law that any amendment requiring display of name boards in Kannada language was bad in law and beyond the legislative scope.

2. **BBMP circulars dated 22.07.2017 & 30.07.2018:**

On 22<sup>nd</sup> July 2017, the Commissioner, BBMP issued a Circular No.B12/C1/PR/10/2016-17 dated 22/7/2017. The relevant portion of the circular is reproduced below:

*"In cases of issuing commercial licenses/permissions from the Health Department of BBMP, issue notices to all the shops owners/keepers such as Hotels, company and firms establishments and other permit holders/ license*

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*holders have to display their name plates mainly in Kannada Language, the said Kannada language display should/cover 60% of the Board so that it should be attractive. And they can use other 40% of the Board to other languages. In case anybody didn't display their name plates the name of their establishment in bold Kannada letters the licenses/permissions issued will be cancelled. further if anybody applied for a trade license/permission to open a shop or establishment instruct them to strictly use Kannada language to display his name Board and action should be taken in this regard. On receiving the Circular, the concerned authority had to act to implement the terms and conditions stated in the Circular within 15 days' time. They have to issue notices and/or instruct them to implement the said terms and conditions as soon as possible, or immediately. Action should be taken in this regard”.*

The Health Dept. of BBMP issued another circular dated 30.07.2018, referring to the meeting between KDA and BBMP on 17.07.2017 w.r.t implementation of KDA's recommendation for using Kannada language on the name boards, with 60% of name boards in Kannada language and 40% in other languages.

It is learnt that KDA had in fact made many suggestions/ recommendations to the State Government. The suggestions of KDA are only recommendatory in nature and ought to be considered by State Government before taking any definitive action for implementation. To the best of our understanding, Government of Karnataka is yet to consider the recommendations of KDA and formulate any specific action for implementation. However, in the present case, BBMP is purportedly being selective and acting on only one of the said recommendations of KDA even before the State Government could consider the recommendations of KDA.

It is submitted that in order to give legal effect to the recommendation of the KDA, the State Government necessarily needs to follow the statutory legislative process to bring a new legislation or amend any existing legislation, by way of a gazette notification, which should also specify the date on which such legislation would be effective.

Therefore, in absence of such legislative process being followed, the internal circulars dated 22.07.2017 & 30.07.2018 do not have legislative force and the action of BBMP to implement the recommendations of KDA by issuing such internal circulars is contrary to law.

Furthermore, the circular/s only states about 'name boards' and does not include advertisements to be in Kannada language. Therefore, implementing the Kannada language even for the advertisements is also contrary to law, in the absence of proper legislation as per law.

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### 3. Functions of KDA:

Section 15 of the KDA Act, 1994 (the ACT) lists out the functions of KDA. Section 15 (h) of the Act that deals with name plates, is reproduced below:

#### **Section 15 (h):**

*(h) examine whether the regional language as being used in the forms, notices and name plates that are in day to day use in accordance with the language policy of the Central Government in the offices of the Central Government, banks, post offices and in other offices and undertakings which have more public contacts in the State and to conduct correspondence with those offices in this connections;*

On a reading of the above provision, the functions of KDA is to examine whether the regional language being used in the forms, notices and name plates in the Central Government offices, banks, Post offices and public undertakings functioning in the State are in line with the language policy of the Central Government. Therefore, the recommendation of KDA to BBMP for purported implementation of regional language policy for shops & private commercial establishments is beyond its scope and legislative intent under the Kannada Development Authority Act, 1994.

In view of the above, we submit that implementation of display of Kannada language on the name boards of shops and commercial establishments is beyond the powers and purview of BBMP, without an appropriate legislation being passed by the State Government and a gazette notification of the same to make it effective.

Under the circumstances, we, on behalf of our members, request your good self not to act on the said Circular(s) till such time appropriate legislation is passed and gazette notification thereof is made by the State Government. We further request your good self not to take any coercive steps against our members with regard to display boards or cancel the licenses /permission of the members.

Warm Regards,  
For and on behalf of Retail Association of India,



**Shri Gautam Jain,**  
Director – Finance & Advocacy

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