

Judgement of the Honourable Madras High Court of 12 August 2022

Summary and some excerpts

This compilation contains excerpts from the High Court judgement that may shed some light on questions that many of us in Auroville have been grappling with, in trying to understand the frame of mind of the current Secretary and the Governing Board. It is followed by a summary of the judgement that has been circulated online in Auroville.

The first page contains excerpts from the submission of the AV Foundation Secretariat (the 'respondent') which show their interpretation of the Auroville Foundation Act, regarding the relationship between Governing Board and Residents' Assembly, and how this contrasts with the actual intention of the Act as explained by its main architect, Sri Kireet Joshi, whose words from a talk on Auroville's Self-governance given in 2003 form a cornerstone of this remarkable judgement.

The second page contains some quotes of the respondent referring to 'a section of Aurovilians' and notably to those who filed the court cases for the sake of safeguarding Auroville's principles, as well as a surprising statement about privileges granted to Auroville by the Government of India. While it is not suggested to dwell on any of these utterances, it was felt that those who care for Auroville should be aware of the attitudes that the City of Dawn is having to contend with.

*A **summary of the judgement** is reproduced on pp 3 & 4. The [full judgement can be found online](#).*

1. On the Relationship between Governing Board and Residents' Assembly

From the respondent's submission:

"The Governing Board is the Supreme authority under the Auroville Foundation Act, 1988. In terms of section 7(1)(a) of the Act, the general superintendence, direction, control and management of the affairs of the undertakings and the right, title and interest thereon vest with the Foundation.

[...] Thus all powers of Foundation which includes the Residents Assembly is exercisable by the Governing Board the the Governing Board has complete control and management of the affairs of all undertakings and the right, title and interest thereon of Auroville.

(y) Rule 4 of the Auroville Foundation Rules, 1997 have further expanded the power of the Governing Board. Therefore, it is abundantly clear that it is only the Governing Board which has the sole exclusive power as per the Act to decide on matters with relation to the Foundation and the Residents' Assembly at best can only be called an advisory body to the Governing Board.

In terms of section 19(1) of the Act, the function of the Residents Assembly is to only advise the Governing Board in respect of all activities relating to the residents of Auroville."

[Also:] "According to the petitioner, in this context, the respondent Foundation claimed that the Secretary (as the convener of the FAMC) has the absolute power to order the reallocation of assets."

From the Judgement:

in italics from Kireet Joshi's talk on Auroville Self-Governance, 2003]

[31] "The nature of the enactment shows that there is no place for egoistic thinking as all three authorities will have to jointly work for the achievement for 'The Mother's Charter. *The relationship between the three authorities is of mutuality. In this world, as Sri Aurobindo says, there are always three terms of existence: the individual, the group in which he lives, and largest group which is humanity as a whole. And nobody can get rid of these three terms. The world cannot get rid of groups and the individuals, individual cannot give up group or their largest group, and no group can exist without the membership of individuals and the larger groups around. The three are inter related. There is a spiritual unity of the three namely the individual, groups and the largest group. Therefore, if you are really spiritually governed, you will see mutuality of the three. Sri Aurobindo says "by no mechanical law can you attain to this mutuality". It is only when you develop true brotherhood and you exercise true brotherhood that this mutuality can be experienced and can be realised.*

[32.] The Auroville Foundation Act has been enacted to fulfil the noble and divine ideals of “Sri Aurobindo” and “The Mother” and to develop brotherhood. The enactment prescribes brotherhood and is of such a nature that *you are bound, even if you want to throw away brotherhood, you are bound to have it, it's like a spiritual compulsion.*”

2. Statements by the respondent regarding Auroville and Aurovilians

“It has been noted by the Governing Board that there is proliferation of groups and discussion forums and decision paralysis or incapacity to put decisions into practice. [...] A few stray entries [*into the Register of Residents*] made from time to time without the approval of the Secretary would not mean that the updated list as on April 2021 was in existence. [...] However, because of the present litigation and the lack of cooperation of the section of belligerent residents, the process has been delayed.

(k) The government of India is providing free lands, subsidised infrastructure, food, energy, electricity and providing full income tax exemption to Auroville and its people only for this divine purpose and for the realisation of Charter of Auroville. This cannot be abused by meddlesome interlopers like the petitioner in W.P.No. 11738 of 2022 who seemed to have a “my way or highway” attitude.

[...] petitioner in W.P.14707 of 2022 want to ensure that they use Auroville as their own private fiefdom which actions are purely against the vision of the Mother. [*This claim is repeated.*] People like the petitioner in W.P.14707 of 2022 want Auroville to be made into their own elite club by restricting entry to freshers and by squatting and claiming title over lands belonging to the Auroville Foundation (government as per the statue). The Government of India also provides grants close to 30 crores (earlier 20 crores) every year for hardly 2500-3000 people living in Auroville.

(m) The petitioner in W.P.14707 of 2022 has filed his writ petition only with malafide and vindictive motive to wreak vengeance against the first respondent Foundation and this is more so evident from a bare perusal of various interim reliefs which have been sought in the petition which purely deal with the private disputes between the petitioner in W.P.14707 of 2022 and the respondents 2 to 5.

(r) The petitioner in W.P.14707 of 2022 has been continuously indulging in anti-Aurovilians activities by opposing every action of the Governing Board and acting against the interest of the residents of the Auroville and the Mother’s charter. Development works at Auroville have been sought to be thwarted by the petitioner in W.P.14707 of 2022.

(s) The petitioner in W.P.14707 of 2022 has gone to the extent of criminal offences and has disturbed public functionaries from performing their legal duties and an FIR has been registered against him [...]

(j) Auroville as an idea and as a concept, are being destroyed by people like the petitioner in W.P.14707 of 2022. [...] Miscreants like the petitioner in W.P. 11738 of 2022 who do not believe in the spiritual guidance of the divine Mother, are disturbing the peaceful humanity, co-existence and selfless life-style, and thus, the present writ petition ought not to be entertained by this Court.

No person who wants to be a true Aurovilian should fight for positions and assets. However, the very petition of the petitioner in W.P. 8675 of 2022 [regarding Outreach Media] seems to smack of arrogance, since the petitioner wants a certain set of persons to continuously hold position in the foundation. This action is directly opposite to the Charter of Auroville.

(i) [X], whose cause the petitioner has espoused in the writ petition not have a clean track record. It can be seen that the Foundation has given complaints against [X] for usurping public property and stealing the equipments belonging to the Foundation which have been purchased through public funds and public money.”

Please see the Summary of the High Court Ruling on the following page

3. Summary of the 12 August 2022 Madras High Court Ruling

On 12 August 2022, The Madras High Court gave its judgement in a case that examined the top down decision making of the Auroville Foundation Governing Board (GB). In particular, the Court looked at:

1. GB interference with the work of the Residents' Assembly (and in particular its Working Committee) pending an update to the Register of Residents that the GB said was necessary;
2. Whether the replacement of the Outreach Media's Executives by the GB and the replacement of those Executives with their own choices was valid; and
3. Whether the GB's interference with the work of the Town Development Council (TDC) by reconstituting it and imposing their own members on it was valid.

Key Points

Many important points arose in the ruling of Mr Justice Abdul Quddhose. These included:

1. Town Development Council (TDC) - GB cannot create their own TDC: The attempt by the GB, through an Office Order signed by the Under Secretary, to unilaterally reconstitute the TDC was rejected. The learned judge said: "The reconstitution of members for the Auroville Town Development Council under the Office Order dated 15.07.2021 definitely requires the consent of the Residents' Assembly...". Because that consent was lacking, it breached the Auroville Foundation Act ("violative" of the Act said the judge). The Office Order was therefore quashed (effectively meaning that it was declared invalid).
2. Membership of the Working Committee: A key part of the case dealt with the legality of the Order of 6 May 2022 by which the GB, through its "Officer on Special Duty," sought to suspend RA activities like Decision Making Processes (RADs). On 10 May, there was an RAD that addressed the membership of the Working Committee. The result was that the Anu, Arun, Partha and Srimoyi were voted out of office. If the Order of 6 May was valid then GB would have had the right to retain these four members, enforce an interpretation of the Participatory Working Groups document that these four adopted to justify the ejection from office of Chali, Hemant and Sauro, and accept the additional members that were co-opted onto the Working Committee without RA approval. The Court quashed the 6 May Order (effectively declaring it invalid). The consequence of this is that the RAD of 10 May is valid: Aurovilians who were selected by the Residents' Assembly to serve in the Working Committee on that date are the lawful Working Committee.
3. Outreach Media – only persons directly affected should bring a case to court: The Court did not interfere with the decision of the GB to replace the Executives of Outreach media with their own choice of Executives and Spokespeople. There were two reasons for this. First, it was for any executives who had been removed to personally challenge the GB decision. In this case, it was a fellow Aurovillian who brought the case to court. Second, a complaint about the removal of executives should correctly be addressed to the Civil Court – not the High Court. The learned judge's ruling in relation to Outreach media is not a reflection on the merits of the real issue of whether the GB should have removed the Executives: the wrong person filed a case in the wrong court.
4. Updating the Register of Residents: There was no finding, it appears, either way regarding the claim by the GB that the Register of Residents had not been updated since 2005. The Court accepted that the Register of Residents needing updating. The rationale was not because of deficiencies in it since 2005, but in order "to put a quietus to the dispute and for achieving the noble ideals of the Mother." The judge ordered that be done. He said that "no policy decision can be taken" by any of the three authorities of the Auroville Foundation "...till the Register of Residents is updated by the Secretary of the foundation after giving wide publicity." No deadline was imposed by when this should be done.

The consequence of the Secretary not discharging this duty to update quickly affects the GB as much as the RA as in this period the GB, as much as the RA, are prohibited from taking policy decisions.

Other important points

Apart from the key points highlighted above, it is to be noted that Mr Justice Abdul Quddhose dispassionately put to one side attempts by counsel for the Auroville Foundation to cast slurs on the reputations of the petitioners: Allegations were raised of criminality that had “disturbed public functionaries,” and “continuously indulging in anti-Aurovillian activities by opposing every action of the Governing Board..” Instead, in addition to quashing key Orders emanating with the GB’s authority, the learned judge proceeded to give several key pointers to help with interpretation of the Auroville Foundation Act 1988 and the functioning of the Auroville Foundation. These included:

- There is no Supreme Authority in Auroville: The GB’s argument that it was “the Supreme authority under the Auroville Foundation Act, 1988” was rejected. The GB, the Residents’ Assembly (RA) and the International Advisory Council are the three Authorities under the 1988 Act. “The relationship between the three authorities is of mutuality” said the learned judge. While acknowledging the GB “has the power of control and supervision and to see that everything is run smoothly...” the learned judge stated that “as long as the people of Auroville want to develop Auroville in accordance with the Charter of Auroville, they have full freedom to do so. Even the Governing Board of the Auroville Foundation cannot infringe upon the Residents of Auroville as long as they follow the Auroville charter...”.
- Auroville Trusts are not Government: In relation to the Trusts of Auroville, whether they be charged with overseeing commercial activities or “village work” “these trusts are recognised as non-governmental organisations.” The point is of significance given the repeated misunderstandings regarding the nature of the Auroville Foundation work that the GB and the Secretary have been appointed by the Government to oversee.
- GB cannot act unilaterally: The GB cannot unilaterally restrict the functioning of the RA because it thinks that the Register of Residents needs to be updated. It could only consider such a move after receiving a Resolution of the RA.



Links:

Madras High Court judgement online:

<https://mhc.tn.gov.in/judis/index.php/casestatus/viewpdf/676440>

Kireet Joshi’s talk on Self-governance of Auroville (2003)

<https://www.youtube.com/watch?v=k944Ciipcl0>