

## **A CRITIQUE OF THE MOU FROM THE PERSPECTIVE OF THE ART COMMUNITY**

The Memorandum of Understanding, made between the Government of Karnataka represented by the Department of Archaeology, Museums and Heritage (1<sup>st</sup> Party), The Department of Tourism (3<sup>rd</sup> Party), and MAP, a division of the Tasveer Foundation, a Trust represented by its Trustee Mr. Abhishek Poddar (2<sup>nd</sup> Party), is a Stand-alone document, meaning it is specially formulated, with its own special conditions, for this particular context.

It is a MoU that is clearly drafted by the Second Party – Mr. Abhishek Poddar, more or less giving himself complete control. The various aspects of the MoU as discussed later here will make that evident. The Government has endorsed such a draft without any particular conditions of its own; to safeguard its own interest let alone that of the artist community! It is a MoU that says a lot in analysis but very little in words.

### **MAP & CSR**

Curiously **MAP** remains MAP in the entire MoU – as an abbreviation! Could it be **Museum of Abhishek Poddar? In essence YES!** Outside references however say it is a Museum of Art and Photography.

MAP/Tasveer Foundation is cited- in the description of the Second Party - to be adopting the VAG under 'its' Corporate Social Responsibility (CSR) programme. *The Notification dated 27<sup>th</sup> Feb, 2014, issued by the Government of India, Ministry of Corporate Affairs clearly states that the CSR activities shall be undertaken by the Company, as per its stated CSR Policy, as projects or programs or activities, excluding activities undertaken in its normal course of business. This is clearly a conflict of interest.*

CSR is a regulatory requirement under the Companies Act, 2013 to ensure corporates, with profits in excess of Rs.5 Cr, set aside 2% of their profits to meet their corporate social responsibilities. It seems that Tasveer, like other entities that showed interest, will channel funds of related-party entities to fuel their goals. Clearly, they will not need external funding and interference. This seems an extremely smart but dubious way to push the Government to accede to its request and draw up a policy that enables 'gallery-lifting' in premium locations. It looks like the CSR story is used to camouflage the interest in quickly 'owning' a gallery space with substantial land and heritage buildings in the middle of the city. Mr. Poddar is actually saving money, not spending it. This is not a PPP – Private Public Partnership in its true sense either – it is a 'Takeover'. From the Government side it is a 'Handover'.

### **FOOTPATH TO FOOTFALLS**

#### **WHEREAS:**

*A. The Department of Tourism has announced a programme for adoption of tourist destination in collaboration with Corporate through Government Order No. RD/98/TTF/dated 16/09/2014 which enables initially adoption of 46 tourist destinations to provide various activities such as maintaining the facilities, training of guides, provisioning of signage's, refurbishing etc.*

- Venkatappa Art Gallery, in its present form and function, came about because in 1971 the artist community demanded such a public gallery from the Government by exhibiting on the footpath, not far from its present location.
- How and why VAG was declared an orphan and came up for adoption on the list of 46 other orphans, that too as a Tourist destination, itself needs investigation.
- It is a big spoof to subsume culture under Tourism. “Footfalls” is the much-used mantra by the Tourism Minister to explain this.
- VAG’s parent department is the Department of Kannada and Culture. Curiously this department has been kept in the dark by the Tourism Department. (See the press report by the Minister of Kannada and Culture on this issue)

### **LIBERTIES TAKEN**

For a few years now many of us in the art world have been hearing of Mr. Poddar’s desire to have a piece of land in the city to house his collection. He is a member of the Vision Group committee from the beginning(see attachment showing list of members).As an insider to the decisions of the committee to find adoptive fathers or mothers for public sites, Mr. Poddar proposes and gifts himself VAG to fulfill his own ambitions.

### **“ADOPTION” IS A MISUSED WORD IN THIS TRANSACTION**

2.0. *“With the aim to promote art and culture in the city of Bangalore, to both residents and tourists, MAP, a division of Tasveer Foundation will take up the cause of the adoption of the Venkatappa Art Gallery tourist destination....., and in doing so will **redevelop** various facilities”.*

It is not morally correct to adopt a child with an eye on the wealth the child will bring into your business. The MAP’s ‘adoption/redevelopment’ agenda does not mean making a few necessary changes to how VAG can look and be maintained better.

### **WHAT IT REALLY MEANS**

2.1. *MAP’s adoption and redevelopment of the Venkatappa Art Gallery will improve the display and visitor experience of the existing gallery, WHILST ALSO BRINGING IN A NEW COLLECTION OF ART, AND OPERATING A NEW SERIES OF PUBLIC PROGRAMMES AND EVENTS”.*

Mr. Poddar apart from being a businessman (Director, SUA Explosives) is a collector as well as a dealer in art. All private galleries showcase artists whom they are interested in and try to sell these artists’ work to collectors. Perhaps Mr. Poddar does that too in Tasveer Gallery which he also owns (situated diagonally opposite to VAG!). Mr. Poddar, unlike many collectors, also speculates on art that is not necessarily shown in his gallery and with what he collects. (See the attachment of Mr. Poddars recent investment in an Online Auction House to sell ART AND DIAMONDS!) This puts him in the role of a middleman as well. When such a dealer is given the license to use a public place to bring in his own collection one can imagine the speculative thinking behind it. Many collectors in India have housed their collection on land that they have bought or rented and built with their own money, for example the Kiran Nadar Museum of Art, Devi Art Foundation, Swaraj Art Archive, Apeejay Art Gallery etc. There

are approximately 700 private museums (like the ones stated) that are created in the world every year, mostly in China, USA and Europe. All of these players are doing it without asking anything of their respective government. Mr. Poddartoo can do so well -with his own money, his own land, his own brand. Why is he trying to piggyback on an existing public institution, the VAG?

International standards and practices are mentioned in this MoU, as it is in the Vision Group Document, to prop up Mr. Poddar's activities.

In the Vision Group document, they mention the Louvre (no less!) as an example of best practice. In France, there is a department running all the state museums. The Louvre's director is appointed by the President and has to be part of the body of *conservateurs* (i.e. people trained to manage a collection). The MAP project is far from the Louvre benchmark; it is in fact a ludicrous point of reference even!

The strength of institutions like the Louvre is its structure. Those who manage the collections do not own the collections. There is no conflict of interest between what you show and what you own. That being said, it does not prevent rich patrons to donate money to restore a gallery or a painting, sometimes they also donate art works.

There is nothing in the Indian law preventing Mr. Poddar to donate his collection if it makes sense for the public i.e. if it is representative enough of a movement, a period or a region. But only art historians / professionals can assess the relevance of this, not a businessman. The Louvre regularly rejects donations because what is donated does not make historical sense. Contemporary experience has shown that museums led by private collectors have a tendency to distort art historical research to enhance the prestige of their own collection. A Museum of Art and Photography or whatever else from his collection, will be of such a nature. Except for Mr. Poddar, his family and those close to him, who knows what is in his collection? He might have a passion for collecting what takes his fancy but why should such a subjective collection be put into a public space depriving the artists of Karnataka of their one and only democratic space?

## **COMPLETE CONTROL**

Not only is it going to be Mr. Poddar's museum, he also proceeds to give himself complete control in determining what kind of programmes will take place in VAG and who will have the eligibility to show there. What this really means is, the artists of this State who use this gallery the most will have no right to question the selections made or the programme. If you get invited at all, you pay, consume what is presented and leave.

## **'DEVELOPMENT' & 'OPERATION'**

*2.2: The First Party that is the Archaeology department has consented to the development and operational activities proposed by the Second Party (MAP), a division of the Tasveer Foundation at the Venkatappa Art Gallery site, and agrees to the same. Accordingly, the First Party shall not enter into any understanding or agreement with anyone else for the performance or undertaking of any activity which is within the scope of this understanding mentioned herein during the tenure of the Memorandum of Understanding.*

Development and operational activities are nowhere elaborated in the MoU. It could mean the Government itself will not be allowed to host a programme in these premises, in partnership with other groups/institutions/artists, or on its own without the approval of Mr. Poddar.

## **CHECKS AND BALANCES**

**2.3** *Submission of a comprehensive plan before commencement of work - there is no explicit provision for the government to alter, amend or reject this plan or even seek clarifications.* This is made worse by paragraph 2.5, which begins with "Following the approval of plans by the Project Implementation Committee" and not "Subject to the approval of plans by the Project Implementation Committee". The PIC consists of members of the DoT, which is bound by Para 2.6 "to facilitate in obtaining all approvals/consent" from concerned departments. The MoU clearly lacks any mechanism of checks and balances. There is also a provision to "outsource the work". There are no safeguards with respect to the competence of the "component agency" to which the work can be outsourced.

## **SO WHAT ABOUT VENKATAPPA?**

**2.4:** *Prior to the commencement of work, the destination shall be vacant and free of any encumbrance. The Second Party shall be furnished with a complete inventory and condition report of existing artworks to be kept at the destination, along with an inventory and condition report of all said equipment at the destination. The inventories will be ratified by the Second Party before the commencement of work.*

This clause refers to the preparations for the handing over of all that is at VAG to a private player. So what are the existing artworks that are discussed here? It refers to the works of K.Venkatappa after whom this gallery is named; it refers to the works K.K.Hebbar, and to the works of C.P Rajaram. These works of art were bequeathed by their respective families to the Government of Karnataka (not bought by the Government) and therefore to the people of Karnataka, with the trust, confidence and on the condition that they would be permanently on display and looked after for posterity. The Families have not been consulted at all regarding this matter before the signing of the MoU. The Government does not even think it necessary to address them or seek their permission.

**2.7:** *"The Tasveer Foundation's adoption of the VAG will act in honour and accordance with the government orders and details pertaining to the establishment of the VAG and the terms and conditions laid down upon its sanction. However, in light of new internationally agreed practices and shifts in regards to crating and preservation of artworks, on occasion, updated interpretations of the founding principles of how the VAG collection is stored and displayed may occur.*

We are now being told that Mr. Poddar/MAP, will abide by the rules, but using some mumbo jumbo *about "international agreed practice and shifts in regards to crating and preservation of artworks"* he has also written into this MoU that he will have the freedom to display what, when and how much of the works of K. Venkatappa, K.K.Hebbar and C.P. Rajaram that will be in his possession from now on.

## **ART BRANDING –SELFBRANDING**

**2.8:** *The display of the VAG signage will remain clearly on the façade of the building, with the addition of Map Signage, thus co-branding the destination. Additional signage, relating to specific galleries within the destination may also appear on the building façade, such as for the promotion of temporary exhibition and events.*

In business these days, branding is hugely important. But what is the product that might get sold here? Of course there won't be crass price tags hanging from the objects in this museum. The Brand that gets popularized and legitimized by belonging to a sole custodian of a prime public space will be promoted outside, through networking and a show of power and influence; things sold elsewhere (at auctions for example) will get value added in such circles. History has shown that even Fakes get legitimized this way.

## **ARTISTS AS BEGGAR APPLICANTS**

**2.9:** *“ALL CURATORIAL EXHIBITIONS AND PROGRAMMING DECISIONS SHALL BE GOVERNED BY MAP, ITS CURATORS AND ADVISORY PANEL”.*

Artists will no longer be able to hire VAG as before, unless you are considered eligible by this gentleman and can afford enhanced rentals! One person's taste seconded by a crony advisory committee(perhaps a good curator or two even) will determine who will show and what will be shown. Take it or leave it. The common ground and freedom to exhibit what the individual artist believes to be worthy of exhibiting is a right that will be negated by this shift of power.

## **BUSINESS AND 'FLIGHT'TIMING**

### **3.1, 3.2:**

5+5 years is a long enough time to do business; In the form of Brand enhancement, ratification/certification of art works in order to commercially value enhance them in the art market, to use the position and power that the Government is out to bestow on Mr. Poddar as a certificate of authentication -of him and the art he wants to show and promote. The Minister of Tourism said, in our meeting with him, that Mr.Poddar is putting in 15 Crores (the amount is not mentioned in the MoU) and would leave all this behind when he leaves! But who would want to leave such a comfortable arrangement? The money is peanuts for a piece of real estate approximately of about 1 acre in the heart of the city, all permission hurdles out of the way - courtesy Government of Karnataka - and a blanket license to do what he wants. This is a story of a very shrewd businessman and a Ministry that is bending over backwards to please him.

## **WE BRING MONEY WE SPEND THE MONEY**

**3.3:** *The second party agrees to finance the activities, operations, and maintenance the facilities on their own as approved by the committee rather than transfer of funds to any Government body or department.*

Which committee is being referred to above in the list of 3? - 4.1: Project Implementation Committee (PIC), 4.2: Governing Body within which is a Technical Sub committee comprising of the First and Second Party or 4.3: Independent working body?

## **BUILDING WITHOUT RAISING ANY DUST**

**4.3** says “the Independent Working Body will consist of MAP Officials and will look after the day to day operations of the project, under the directions set by the Technical sub committee. Its activities will include operations, maintenance, development, design, **construction**, financing relating to the performance of services at the Destination”.

“CONSTRUCTION” is a word quietly stated under ‘Development’ (1.3 & 4.3) and not elaborated anywhere else in the MoU. Nowhere does it state, what is going to be constructed, for what purpose and where. Even more tellingly, in order to facilitate this most crucial activity, (Mr. Poddar’s main ambition to have his own museum at VAG depends on this) the obliging government has issued a Notification in November 2015 redefining the Cubbon Park’s purview, in effect excluding VAG and its surrounding areas from the ‘No construction regulation’.

## **FUNDS OUT**

**3. 4:** *The Second Party agrees to ensure adequate funding is provided to improve and maintain the facilities for minimum of 5 years.*

There is no budget mentioned, there is no source of funding defined, there is no clear statement about the government support (or not) on the running expenses – electricity, water, security personnel etc.

There is no mention of who is responsible for the security of the current collections in particular.

## **FUNDS IN**

**3.5:** *The Second Party agrees that during the period of adoption that any revenue generated from the public as collection or entry fee shall be reinvested directly to offset costs related to the establishment and maintenance of the Project.*

What does collection mean? Does it refer to Mr. Poddar’s intention to have an art shop to sell art nick knacks (As we know from elsewhere, preparations for it are underway)? Does it refer to his plans for a café in the premises?

Of course these are not mentioned in the MoU though it is going to be a commercial activity within VAG.

Does the Government get a share in this?

Even though the adoption is supposedly under CSR Mr. Poddar wants to be reimbursed for the money he spends! - *Any revenue generated from the public as collection or entry fee shall be*

*reinvested directly to offset costs related to the establishment and maintenance of the Project.*  
 How is an outside agency (government has become an outside agency in this set up) going to assess the real costs incurred in the making of anything at all in this project?  
 How and which Governmental department in particular (a long list of Departments and individuals are listed under 4.1 as Project Implementation Committee – PIC) is going to keep account of the number of visitors (footfalls – the magic word in the Tourism Department propaganda) and the money that is going to be generated by the activities of MAP?  
 There is no mention of the pricing of the ticket and what the rationale of it might be from the point of view of a public consisting of all classes.  
 Interestingly and rightly, based on the statements made by Mr. Poddar in the media regarding the setting up of a Café on the ground floor, the Secretary, Department of Archaeology has ruled out such a possibility. (Stated to the media)

#### **'WE ARE NOT RESPONSIBLE' CLAUSE**

**7.1:***The first and Third parties will indemnify and hold harmless the Second Party and its officers and employees, against any loss, costs and expenses of any third party claims which the latter may suffer as the result of any claims or proceedings brought against them from work performed in accordance with the scope of work and performance of this understanding.*

On one hand, as stated in clause 4.3, the Independent Working Body consisting of MAP officials will look after the day to day operations of the project such as maintenance, development, design, construction and financing relating to the performance of services at VAG, under the directions set by the Technical Sub Committee.  
 However it is clearly stated that MAP and its personnel will not be responsible for the safety of the visitors in the gallery and premises, any loss, costs and expenses of any third party claims, they will not be held responsible for damage to artworks that is being handed over to them, they will not be responsible for any participating artist's complaint against wrong treatment of work and person. The Government will be made accountable for such things!

#### **VAG Forum 17<sup>th</sup> March 2016 Bengaluru**

For further clarifications and elaboration on the unstated and unclear bits in this MoU and what actually is proposed, please read Mr. Poddar's various statements and interviews in the media. They are very informative. In the media Mr. Poddar from his side declares that he is the one who will enlighten the public, one who will give Bangalore what it deserves - "...*(We) are dedicated to building a new, broader, more democratic and inclusive audience for art*".  
 Tasveer gallery, which he owns, has never attempted to do any of that. *Elsewhere he says "in the spirit of transparency that we place utmost emphasis on ..."*!!!! Mr. Poddar is a master in using the right words but his actions speak otherwise. He is using an advertising language to sell his products.

