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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

W.P. No.

/2020 (PIL -GM RES)

BETWEEN:

Cubbon Park Walkers Association
(registered as a society under the Karnataka
Societies Registration Act, 1960)
No. 19, 1st floor
18th Cross
Cubbonpet
Bangalore – 560 002
(Represented by its President
Sri. S. Umesh)

... PETITIONER

AND

1. The State of Karnataka
Represented by Chief Secretary
Government of Karnataka
Vidhana Soudha
Bangalore – 560 001
2. The Home Secretary
Home Department
Government of Karnataka
Vidhana Soudha
Bangalore – 560 001
3. The Additional Chief Secretary
Urban Development Department]
Vikasa Soudha
Bangalore -560 001
4. Directorate of Urban Land Transport
Urban Development Department
Vikasa Soudha
Bangalore -560 001
5. The Principal Secretary
The Department of Horticulture
Govt. of Karnataka
Bangalore -560 001

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- k. The Deputy Director of Horticulture (Cubbon Park)
Govt. of Karnataka
Cubbon Park
Bangalore -560 001

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

The Petitioner above named begs to submit as follows :

1. The Petitioner is an association registered under the Karnataka Societies Registration Act, 1960 having its office at No. 19, 1st floor, 18th Cross, Cubbonpet, Bangalore – 560 002 and is represented by its President Sri.S. Umesh in the present proceedings. A Copy of renewed Registration Certificate dated 04.05.2019 issued by the competent authority is enclosed as **ANNEXURE –A**. The President of the Association is a practising advocate and an Environmentalist. The Petitioner has no personal/individual interest in the matter.
2. The Petitioner Association is extensively involved in preservation and protection of the historical place of Bangalore i.e., Cubbon Park for the past 7 years. In this regard, the Petitioner has initiated several proactive steps to preserve the heritage value of the Cubbon park. The Petitioner has been instrumental in moving the Hon'ble Lokayukta in the year 2014 for ensuring scientific survey of Cubbon Park area and prevention of illegal constructions/encroachments within the Cubbon Park area.
3. As per the website maintained by the Bangalore Urban District administration:
 - i) Cubbon Park, officially known as Sri. Chamarajendra Park is a historic park, located in the heart of the city in the Central Administrative Area. The park provides sylvan surroundings to the State Legislature building- the Vidhana Soudha, the High Court Buildings – the Attara Kacheri and a number of other organizations located along the periphery and within the park which constitute the Central Administrative Area.

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- ii) The Cubbon Park has a history of over 100 years. It was established in the year 1870 by Sri John Meade, the then acting Commissioner of Mysore. The vast landscape of the park was conceived by Major General Richard Sankey, the then Chief Engineer of the State. As a mark of honor to Sri John Meade, the park was initially named as "Meade's Park" and subsequently it was called the Cubbon Park. Since the inception of the park, it was developed and improved by adding new structures and features. In the year 1927, the park was officially renamed as "Sri Chamarajendra Park" to commemorate the Silver Jubilee of Sri. Krishnaraja Wodeyar's rule in Mysore State. Cubbon Park is under the control of the Department of Horticulture. The Deputy Director of Horticulture (Cubbon Park) is responsible for the administration and maintenance of the park.
4. All the Respondents are entrusted with a solemn duty to preserve and protect the aforesaid heritage place. Recently, the media carried report/s that there is a proposal to throw open the Cubbon park area for vehicular movement. The same came to be opposed. Upon consideration of the representations by the Citizen Groups, the Respondent No. 2 has written a communication dated 02.09.2020 recommending that the Cubbon Park be closed for motorised traffic and Parking of Motorised vehicles shall not be allowed in the Cubbon Park. A Copy of Communication dated 02.09.2020 is enclosed as **ANNEXURE -B.**
5. The Petitioner reasonably apprehend that the State Government may take a decision in a hurry and pass order/s permitting vehicular movement at the instance of the Respondent No. 2 (Home Department) and thus creating ecological imbalance. The action of the Respondent No. 2 in seeking permission of the State Government to allow vehicular movement within the Cubbon park area is not in the public interest. Viewed from any angle, It is imperative that Cubbon Park lung space be preserved

and protected by completely banning any vehicular movement/
Parking

6. If the State Government is allowed to permit the vehicular movement contrary to the recommendations of the Directorate of Urban Land Transport, the same will seriously affect the residents of Bangalore and permitting of the vehicular movement cannot be said to be in the public interest.
7. Hence, the Petitioner is constrained to approach this Hon'ble Court in the public interest on the following amongst other

GROUNDS

8. That, the proposed action of the State Government violates the right to clean air to which every citizen is entitled which is part of the right to life guaranteed article 21 of the Constitution of India.
9. That, the communication dated 02.09.2020 by the expert boy Directorate of Urban Land Transport is required to be acted upon to preserve the Cubbon park free from pollution and to preserve the ecology.
10. That, the Cubbon Park is a notified Park under the KARNATAKA PARKS, PLAY-FIELDS AND OPEN SPACES (PRESERVATION AND REGULATION) ACT, 1985.
11. The Petitioner has not filed any writ petition on the same cause of action and no other proceedings are pending.

GROUNDS FOR INTERIM PRAYER

12. In view of the lockdown restrictions, there is no movement of vehicles permitted and the lockdown restrictions have brought about a situation of clean and green Cubbon park. The public interest will suffer if the State Government were to be allowed to throw open the Cubbon park area for vehicular movement. The public at large will be put to irreparable loss and injury if such a decision is allowed to be taken by the State Government contrary to the recommendations of the Respondent No. 3.

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PRAYER

Wherefore, it is humbly prayed that this Hon'ble Court be pleased to –

- i) Issue a writ of mandamus or any other appropriate writ, order or direction to Respondent No. 1 to act upon and implement the Recommendation dated 02.09.2020 (Annexure – B) made by the Respondent No. 3 in its letter and spirit and thus Cubbon Park be closed for motorised traffic including parking of the vehicles.
- ii) Grant such other and further relief/s as may be found appropriate in the interest of justice and equity.

INTERIM PRAYER

Pending notice and appearance of the Respondents, it is humbly prayed that this Hon'ble Court be pleased to grant an ex-parte ad interim order for maintaining status quo in the matter of vehicular movement in the Cubbon area, in the interest of justice and equity,