

**BEFORE THE HON'BLE HIGH COURT OF KARNATAKA,  
BENGALURU  
(Original Jurisdiction)**

**Writ Petition No. \_\_\_\_\_ of 2020**

**BETWEEN:**

PETITIONER

**AND:**

**1. STATE OF KARNATAKA**

Represented by the Principal Secretary,  
Department of Horticulture, Government of  
Karnataka, Bengaluru 560001

**2. THE BANGALORE TRAFFIC POLICE**

Represented by its IGP & Additional  
Commissioner of Police (Traffic),  
Bengaluru City  
No. 5, 2<sup>nd</sup> Floor, Traffic Head Quarters,  
Infantry Road,  
Bengaluru - 560 001

**3. KARNATAKA STATE DISASTER MANAGEMENT  
AUTHORITY**

Represented by the Principal Secretary/  
Secretary to Government, Department of  
Revenue, Room No.547, 5<sup>th</sup> Floor, M.S.  
Building, Dr. Ambedkar Veedhi, Bengaluru,  
560 001

**4. DIRECTORATE OF URBAN LAND TRANSPORT**

Represented by its Commissioner, Urban  
Development Department, BMTC TTMC 'B'  
Block (above bus stand), 4th Floor,  
Shantinagar, KH Road, Bengaluru, 560027

RESPONDENTS

**MEMORANDUM OF WRIT PETITION UNDER ARTICLE 226**  
**OF THE CONSTITUTION OF INDIA**

The Petitioner above-named most respectfully submits as follows:-

- I. The address of the Petitioner for the purposes of service of process in this matter is as stated in the cause title above, the Petitioner may also be served through his/her/their counsel

The

Petitioner begs to prefer the present writ petition being aggrieved by failure of the Respondents in adequately and safely regulating the movement of motorized vehicles within Cubbon Park in a safe manner without causing distress to other users and beneficiaries of the Park.

**II. BRIEF FACTS:-**

1. The Petitioner is an infant who is a regular visitor to Sri Chamarajendra Park [more popularly known as **Cubbon Park** (and hereinafter referred to as the "**Park**") along with his family and is a public spirited citizen of India. The Petitioner has been a regular visitor to the Park for the last few months and his family have been regular visitors to the Park for the last few decades.
2. It is submitted that the Park was originally created in 1870 and has a rich history of abundant flora and fauna plantations integrating thickets of trees, massive bamboos, with grassy expanse and flowerbeds along with monumental and heritage buildings. Identifying the same, the Government of Karnataka passed the Karnataka Government Parks Preservation Act, 1975 to preserve the uniqueness and the horticulture of the Park under which the Park is protected at present.

3. It is submitted that the Government of Karnataka *vide* notification bearing No. HCD 515 HGM 2014 dated 05.11.2015 under authority derived from sub-sections 1 and 2 of Section 3 of the Karnataka Government Parks Preservation Act, 1975 has specified the boundaries for the land within the boundaries of the Park. It is submitted that the said notification also lists and specifies the various structures within the Park and also the area demarcated for roads within the Park. A copy of the notification bearing No. HCD 515 HGM 2014 dated 05.11.2015 is produced herewith and marked as **Annexure 'A'**.
  
4. When things stood thus, a global pandemic, i.e., the novel corona virus, Covid-19 created havoc all over the world. It is submitted that the National Disaster Management Authority, constituted under the Disaster Management Act, 2005, had issued several guidelines over the course of the year commencing from January 2020 to be followed by the various state governments in managing the Novel Coronavirus Disease. Pursuant thereto, the Central Government, via the National Disaster Management Agency (hereinafter, the "**NDMA**") imposed a country-wide lockdown with the populace allowed to go out only for gathering essentials.
  
5. It is submitted that pursuant to the guidelines issued by the Central Government, the Respondent No.1 shut down the Park from access by the general population from 25.03.2020 and as such, the Park was completely shut for public access till 20.05.2020, till the Government of Karnataka passed an order bearing No. RD 158 TNR 2020 on 18.05.2020 directing opening of public parks between 7am to 9am and 4pm to 7pm every day. A copy of the order bearing No. RD 158 TNR 2020 on 18.05.2020 is produced hereunder and marked as **Annexure 'B'**.

6. It is submitted that even after 20.05.2020, Respondent No.1 allowed restricted access to the Park and only allowed walkers, joggers and cyclists into the Park at specified times. It is further submitted that the impact of the lockdown on the quality of the Park itself was highly positive, in that there was a reduction of suspended particulate matter and carbon monoxide levels. A copy of news reports indicating reduced pollution and improved biodiversity is attached herewith as **Annexure 'C'**.
7. It is submitted that the idea of ensuring that there are no motorized vehicles within the Park is neither novel, nor radical as averred in Paragraph 5 hereinabove. It is submitted, that over a decade ago, buses, transportation vehicles and auto rickshaws were permitted to ply within the Park till such time the Respondent No. 1 issued appropriate orders banning the same. Even prior to the aforementioned lockdown, motorized vehicles were not allowed into the Park between 10 PM and 8 AM on all weekdays and were banned from the Park in entirety during Sundays and all public holidays. This position continues even now. It is further submitted that the Respondent No.1, which also manages Lalbagh, has successfully managed to ensure that there are no thoroughfares in Lalbagh from as early as 1975- this decision has gone unhindered and unchanged till date. There is no logical reasoning or explanation as to why similar implementations cannot be done under the Preservation Act for the Park. Without prejudice, an argument could be made that permitting traffic through Lalbagh could greatly reduce the pressure of the traffic on the roads surrounding Lalbagh and ease the commute between South Bangalore and the central business district of Bangalore.
8. It is submitted that the Directorate of Urban Land Transport, Respondent No.4 herein, a branch of the Urban Development Department, has been created by the latter with an objective to coordinate planning and implementation of Urban Transport

projects and programs. The Directorate is in general responsible for overseeing all urban land transport initiatives in Urban/Local Planning Areas of Karnataka and administers the State Urban Transport Fund. It is further submitted that the Respondent No.4 claims the following on their website as their functions, which has been reproduced below for reference:

- a. *“Periodic assessment of travel demand*
- b. *Determination of the level of public transport required in different corridors and the type of transport systems required*
- c. *Assessment & recommendation of the new investments needed (for) creation of infrastructure*
- d. *Procurement of public transport service from private operators*
- e. *Policy guidelines for development of total network in urban areas/ new layouts*
- f. *Designing and developing integrated policies and plans for city level transportation” [Emphasis supplied]*

A printout of the webpage of the Respondent No.4 is produced herewith and marked as **Annexure ‘D’**.

9. It is submitted that the Respondent No.4 had recognized the need to keep motorized transport out of the Park and had accordingly issued a Standard Operating Procedure on the usage of the Park. The Respondent No.4 unequivocally recommended that the Respondent No.1 prohibit movement of all motorized traffic through the Park and take appropriate steps to approve the said Standard Operating Procedures and commence demarcating one lane of the carriageways within the Park as a ‘cycles-only’ lane. A copy of the letter dated 02.07.2020 issued by the Commissioner of the Respondent No. 4 to the Secretary to Government, Respondent No. 1 is produced herewith and marked as **Annexure ‘E’**. The Standard Operating Procedure is produced herewith and marked as **Annexure ‘F’**.

It is further submitted that Respondent No. 4 issued a further letter to the Respondent No. 1 recommending closure of the Park vide letter dated 02.09.2020. A copy of the letter dated 02.09.2020 is produced herewith and marked as **Annexure 'G'**.

10. It is submitted that a team of researchers from the Department of Transportation Systems Engineering, Indian Institute of Science, Bengaluru, conducted a detailed investigation to understand the traffic impact; in terms of volume to capacity ratio of the roads, total vehicle kilometers travelled by all motorized modes, and vehicular emissions over the whole Bangalore Metropolitan Region network due to the closure of the Park to motorized vehicles. The study also considered two scenarios for its analysis; one without closing the Park to traffic, and the second, by closing the Park to all motorized vehicles, with identical traffic volumes. The study was conducted independently without any funding by any organization or individual to assess the traffic and emission impact of banning motorized traffic through the Cubbon Park in public interest. The authors of the study concluded as follows:

- a. *“There will be a net reduction in total motorized VKT, under CPNT scenario, of 0.44% (from 32.08 million km per day in BAU to 31.94 million km per day in CPNT).*
- b. *There is no substantial reduction in traffic or improvement in V/C ratio and LOS observed on the roads adjoining Cubbon park even if the park is opened for traffic. These adjoining roads will continue to function at worst LOS “F”. Therefore, opening of Cubbon park to traffic will not result in any noticeable gains on the roads surrounding it, whereas banning traffic through Cubbon park will help city preserve an important lung space and an ecologically sensitive area and will enable access to people across all walks of life to a socially vibrant and environment friendly space thereby improving the QoL of individuals.*

- c. Under the Cubbon park no traffic scenario (CPNT) there will be a net reduction in CO2 and PM2.5 emissions as compared to when the traffic is allowed inside Cubbon park (BAU). [Emphasis supplied]

Furthermore, the aforementioned study, published as recently as 10.09.2020 recommended the following measures, produced hereunder for ready reference.

“i. Based on the modelling results and its analysis, the closure of Cubbon park to motorized traffic will result in net benefits in terms of overall VKT and emissions and will also lead to preservation of an important green and ecological space for the well-being of people and improvement in their QoL. It is therefore, recommended to ban motorized traffic completely inside Cubbon park permanently.

ii. The roads adjoining Cubbon park and elsewhere in CBD are already congested and functioning at worst LOS even if traffic is allowed inside Cubbon park. To mitigate this, the more permanent and sustainable measure is to strength and improve public transport (bus, metro etc.) network as well as LOS in the CBD area, which coupled with dis-incentivization of personal modes (cars and two wheelers) by measures like banning traffic in Cubbon park, will induce mode shift towards more sustainable modes like public transport, walking, and cycling.

iii. Further, local and low-cost traffic management measures (junction improvements, oneway/two-way, traffic signal timings etc.) can be worked out for some immediate and short-term relief in roads adjoining Cubbon park.

iv. Since, there are existing institutions/organizations functioning inside the Cubbon park, banning traffic through park will result in some in-convenience to them in terms of commuting and accessibility. To mitigate these difficulties, the following are some recommendations:-

- a. A survey can be done in each of the existing institutions/organizations functioning inside the Cubbon park, to map and cluster the OD of their employees and visitors, understanding which, targeted improvements in bus and metro services connectivity can be done to make it easy for them to use public transport to reach Cubbon park.
- b. To improve the last mile connectivity to Cubbon park from nearby metro stations and bus stops, a service quality assessment of pedestrian and cycling facilities in and around Cubbon park can be done by DULT together with other concerned agencies. With the result of this assessment, targeted improvements in walking and cycling facilities can be done to improve last mile connectivity of public transport to Cubbon park (wider and good surface quality footpaths, cycles paths, cycle sharing systems with docking locations inside Cubbon park as well as nearby public transport stations and stops, electric micro-mobility options for last mile, electric rickshaws/carts inside Cubbon park to specially help elders and physically challenged etc.)
- c. Based on feasibility and without impacting the ecology of Cubbon park, underground parking with very limited capacity (say 1/3rd of existing parking demand) can be established at a convenient location for those still traveling by their own vehicles to reach Cubbon park. Providing only a limited parking capacity will ensure that we induce mode shift of majority of travellers coming to Cubbon park, towards public transport, walking and cycling.
- v. A blueprint and long-term plan can be prepared to make Cubbon park a more socially vibrant space. Without impacting the environment and ecology of the park, the blueprint can suggest ways to increase recreational activities and other forms of social engagements inside the park, which will also contribute



*to improvements in health and well being of people in the city.”*

[Emphasis Supplied]

A copy of the report dated 10.09.2020 is produced hereunder as **Annexure ‘H’**.

11. It is submitted that one Mr. Rajkumar Dugar, a public minded resident of Vasanthnagar conducted a detailed study on the traffic patterns and the distances that were covered by vehicular traffic going through the Park and the distances that were covered in the month of August 2020. It is further submitted that it is interesting to note that the study conducted by Mr. Dugar concluded that by using the Park as a thoroughfare only an average of 350 meters were saved. It is further submitted that this study, again conducted by him along from a position of conscientiousness and not sponsored by any particular individual or organization, found that the maximum savings made by vehicles through the Park was no more than 650 meters. The study further concluded that on some traffic routes, there were no distance savings and anyone within the Park could access a main junction within 850 meters. The map generated on the basis of the studies by the said Mr. Dugar is produced herewith and marked as **Annexure ‘J’**. Without prejudice to the foregoing, the margin of error is sufficiently negligible to warrant a closer look at alternatives considering that the environmental benefits of not using the Park as a thoroughfare outweighs the need to reduce travel distance by a mere 650 meters. Pertinently, it may be noted that the conclusions arrived at by the public minded citizen are corroborated by the study conducted by the researchers from the venerated Indian Institute of Science which has been adverted to earlier.

12. It is submitted that the members of the citizen’s initiative, *Heritage Beku*, a Bangalore-based collective of concerned citizens, with permission of Respondent No. 1 enabled 4 air

quality meters at various locations within the Park in October 2020. It is further submitted that a simple comparison between the levels of pollution between weekdays and weekends clearly indicates the positive benefit to shutting the gates of the Park to vehicular movement. A copy of the information download from each of the 4 air monitors are produced herewith collectively as **Annexure 'K'**.

13. It is submitted that the Ministry of Home Affairs, Government of India, under authority of the NDMA issued appropriate guidelines on 29.08.2020 reopening parks and other similar public spaces, *inter alia*, to the populace vide its notification bearing No. 40-3/2020-DM-I(A). Accordingly, the Secretary to the Government of Karnataka and the Member Secretary of the Executive Committee of the Karnataka State Disaster Management Authority, Anjum Parvez issued an order bearing No. RD 158 TNR 2020 on 08.09.2020 to the Department of Horticulture to open the parks within its jurisdiction. It is however submitted that while the directive indicates that public parks operate at the same basis as it did prior to the start of the Coronavirus pandemic, at no point does it indicate or direct vehicular movement within parks. It is further submitted that while the NDMA and the KSDMA are allowed to issue guidelines and directives, the final decision in respect of the Park still remains indisputably with the Respondent No. 1. A copy of the guidelines issued on 29.08.2020 is produced herewith and marked as **Annexure 'L'**. A copy of the order bearing No. RD 158 TNR 2020 dated 08.09.2020 is produced herewith and marked as **Annexure 'M'**.

14. It is submitted that further to the aforementioned directions issued on 08.09.2020, the Respondent No. 2 issued a letter bearing No. CC/151/KaPaSunPooTa/2020 dated 08.09.2020 requesting the Deputy Director of the Department of Horticulture to open the Park to traffic. A copy of the letter dated

08.09.2020 is produced herewith and marked as **Annexure 'N'**. It is humbly submitted that the said letter seeking approval totally misinterprets the intent behind the aforementioned guidelines issued by the NDMA and KSDMA. A harmonious reading of the aforementioned guidelines issued by the NDMA and the KSDMA can and should only be read as not indicating the allowing of vehicular traffic through the Park for the reasons set out in the preceding paragraphs herein.

15. It is submitted that on 09.09.2020 the Joint Director of the Department of Revenue, Mr. K. Umapathi, issued further orders amending the orders issued on 08.09.2020 to include vehicular movement and pedestrians within public parks. It is submitted that there are no public parks in Bangalore that permit vehicular movement within their premises, barring the Cubbon Park. Clearly, this guideline is not only an afterthought, but grossly misinterprets the NDMA guidelines and would clearly result in destroying the integrity and biodiversity of the Park. A strict interpretation of the amending guideline would therefore indicate that the Department of Horticulture is now required to permit vehicular movement within Lalbagh and all other parks. A copy of the said amending order dated 09.09.2020 is annexed herewith and marked as **Annexure 'P'**.

16. It is submitted that whilst the authorities at the central and the state bodies managing disasters are entitled to, and have the overriding right to order ceasing or opening certain spaces to manage disasters, however, such overriding authority is limited with the view to manage disasters. As such, it is submitted that the said guidelines and the notifications issued are drafted to restore a sense of normalcy. However, it is submitted that the final decision to reopen the Park remains with the Respondent No. 1 as per its policies, and neither the Respondent No. 3 nor the Respondent No. 2 have any right or authority in respect thereof. Such an act is clearly ultra vires and illegal. In this

regard, it may be pertinent to refer to the provisions of Section 38 of the Disaster Management Act, 2005 where it is stated as under:

*“38. State Government to take measures.—(1) Subject to the provisions of this Act, each State Government shall take all measures specified in the guidelines laid down by the National Authority **and such further measures as it deems necessary or expedient, for the purpose of disaster management.***

*(2) The measures which the State Government may take under sub-section (1) include measures with respect to all or any of the following matters, namely:— (a) coordination of actions of different departments of the Government of the State, the State Authority, District Authorities, local authority and other non-governmental organisations; (b) cooperation and assistance in the disaster management to the National Authority and National Executive Committee, the State Authority and the State Executive Committee, and the District Authorities; (c) cooperation with, and assistance to, the Ministries or Departments of the Government of India in disaster management, as requested by them or otherwise deemed appropriate by it; (d) allocation of funds for measures for prevention of disaster, mitigation, capacity-building and preparedness by the departments of the Government of the State in accordance with the provisions of the State Plan and the District Plans; (e) ensure that the integration of measures for prevention of disaster or mitigation by the departments of the Government of the State in their development plans and projects; (f) integrate in the State development plan, measures to reduce or mitigate the vulnerability of different parts of the State to different disasters; (g) ensure the preparation of disaster management plans by different departments of the State in accordance with the guidelines laid down by the National*

*Authority and the State Authority; (h) establishment of adequate warning systems up to the level of vulnerable communities; (i) ensure that different departments of the Government of the State and the District Authorities take appropriate preparedness measures; (j) ensure that in a threatening disaster situation or disaster, the resources of different departments of the Government of the State are made available to the National Executive Committee or the State Executive Committee or the District Authorities, as the case may be, for the purposes of effective response, rescue and relief in any threatening disaster situation or disaster; (k) provide rehabilitation and reconstruction assistance to the victims of any disaster; and (l) such other matters as it deems necessary or expedient for the purpose of securing effective implementation of provisions of this Act.”*

It may be apposite to refer to an observation by the Hon'ble Supreme Court in its judgment in Centre for Public Interest Litigation , reported in **2020 SCC OnLine SC 652** wherein it is stated as follows:

*“36. National Plan and guidelines as contemplated by the statute for Disaster Management is by its very nature prior to the occurrence of any disaster and as a measure of preparedness. It is not conceivable that a National Plan would be framed after the disaster has occurred. A National Plan encompasses and contemplate all kinds of disasters.”*

As such, it is submitted that only the interpretation as mentioned above can be given to the recommendation of the NDMA and KSDMA and it cannot be interpreted to mean a order to open the Park to vehicular access.

In this regard, it may also be pertinent to refer to the SOP issued by the Ministry of Health and Family Welfare dated 08.10.2020

titled “SOP on preventive measures to be followed in Entertainment Parks and similar places to contain spread of COVID-19”. Clause 2 thereof states as under:

“2. *Scope* This document outlines various generic precautionary measures to be adopted in addition to specific measures to be ensured at Entertainment Parks and similar places to prevent spread of COVID-19. Entertainment Parks and similar places in Containment Zones shall remain closed. Only those outside Containment Zones will be allowed to reopen. **The authority with appropriate jurisdiction may consider implementing additional measures as per their local assessment and in line with activities permitted by Ministry of Home Affairs (MHA) as per MHA orders issued under Disaster Management Act, 2005 from time to time.**”

It is submitted that a reading of the above, despite pertaining to the spread of Covid-19, clearly envisages power to the local authorities to take such additional measures as per their local assessment. A copy of the SOP issued by the Ministry of Health and Family Welfare dated 08.10.2020 is produced herewith and marked as **Annexure ‘Q’**.

17. It is submitted that the council of the Bruhat Bengaluru Mahanagara Palike that played an integral role in the effort to manage the Coronavirus pandemic, on 30.06.2020 also passed a resolution bearing number Ref: 9(97)/2020-21 supporting the ban on vehicular traffic within the Park. The resolution, a translation of which reads as follows, has been produced hereunder for the ready reference of this Hon’ble Court.

“.....

*Smt. Shantakumari approved the decision.*

*Decision: Bengaluru which has a distinction of being called the Garden City is on the verge of falling down due to the air pollution caused by heavy traffic. Cubbon Park which is one of the lungs of the city is open for traffic whereas Lalbagh is traffic free causing harm to the biodiversity and birds in Cubbon Park. With this we are request the BBMP Commissioner to petition the State Government to curb motor vehicles inside the Cubbon Park and allow only pedestrian, bicycles and electric vehicles (EV) movement inside. ” [Emphasis Supplied]*

The resolution dated 30.06.2020 by the Bruhat Bengaluru Mahanagara Palike council, and a translation thereof has been produced hereunder at **Annexure ‘R’**.

18. It is submitted that the general public and the civil society have petitioned the Government of Karnataka via online petitions and have spoken to several notable citizens who are up in arms about the decision of the State to permit vehicular traffic in the Park. Details of the online petitions and news clippings of the protests are attached hereunder at **Annexure ‘S’**.

19. It is submitted that these protests have also received support from the Hon’ble Minister of Home Affairs, State of Karnataka, Shri Basavaraj Bommai, the Hon’ble Minister of Revenue, Shri R Ashoka, the former Commissioner of Police, Bangalore, Mr. Bhaskar Rao among others. Copies of the news reports indicating the same and the letters from prominent personalities unequivocally supporting a ban on vehicular traffic barring electric vehicles within the Park is produced hereunder at **Annexure ‘T’**.

20. It is submitted that the Cubbon Park Walkers Association filed a public interest litigation bearing Writ Petition No. 10949/2020 on 09.09.2020, before this Hon’ble Court seeking directions that

the Respondent No. 1 herein consider the recommendations made by the Respondent No. 4 herein. This Hon'ble Court was pleased to dispose off the said matter on 22.10.2020 with directions to the Respondent No. 1 to consider the said recommendations of Respondent No. 4 (DULT) dated 02.09.2020 and take a decision on the same within a period of 6 weeks from the date of the judgment. A copy of the judgment of this Hon'ble Court in Writ Petition No. 10949/2020 is produced herewith and marked as **Annexure 'V'**.

21. The inaction of the Respondents is opposed to law, facts and circumstances of this case. By their perverse actions, the Respondents have not only caused an illegality, but the Respondent No. 1, has perpetuated the illegality by not asserting and exercising its rights accorded to it in respect of the Park, under the Karnataka Government Parks Preservation Act, 1975, and permitting the Park to be used for purposes fundamentally contrary to the purpose stipulated under the aforementioned Act. The Petitioner is seeking to present the petition on the following amongst other grounds which are taken without prejudice to each other:

III. **GROUND:-**

- 3.1 The action of the Respondents are opposed to law, facts and circumstances of this case.
- 3.2 The Respondents have failed to discharge their duties and have illegally and without justification in law, permitted vehicular traffic into the Park.
- 3.3 The action of the Respondents are arbitrary, unfair, unreasonable and opposed to the notion of fairness or justice to the utter prejudice of the Petitioner.



- 3.4 The Respondents are bound by the constitutional mandate to ensure that their actions are reasonable and equitable and that they do not suffer from the vice of arbitrariness. The Respondent No. 1 has utterly failed in preserving the Park.
- 3.5 The Respondent No. 2 has failed to provide adequate reason to allow vehicular traffic ingress and egress from the Park, other than that the Respondent No. 3 issued a directive to open parks to the public. The amendment directive dated 09.09.2020 is well beyond the purview of the role and responsibilities of Respondent No. 3, and the responsibility and power to take action thereto lies solely with Respondent No. 1.
- 3.6 The actions of the Respondents are against the constitutional conscience and rights afforded to the Petitioner in law.
- 3.7 The actions of the Respondents have a direct impact on the health, wellbeing and quality of life of the Petitioner, who as an infant is made to bear the burden of the environmentally irresponsible Respondents.
- 3.8 The actions of the Respondents impinge on the rights of the Petitioner to enjoy pollution free air and water and endangers and impairs his quality of life and is a clear derogation of his constitutional rights. (See judgement of the Hon'ble Supreme Court in Subhash Kumar vs. State of Bihar, reported at (1991) 1 SCC 598)
- 3.9 The Park has already suffered serious consequences due to the lack of proactive protection coupled with predatory actions of the various Respondents and consequently the Petitioner ought not to be put to any further distress.
- 3.10 It is submitted that the action/inaction of the Respondents insofar of opening the Park to vehicular traffic is in violation of

the Doctrine of Public Trust, which mandates sustainable development which has been declared as an inalienable human right by the General Assembly of the United Nations. As such, it is further submitted that it is imperative that this Hon'ble Court may lay down appropriate guidelines/directions regarding the use of such public lands and/or natural resources. (See the judgement of the Hon'ble Supreme Court in *Intellectuals Form vs. State of Andhra Pradesh*, reported at (2006) 3 SCC 549)

- 3.11 The Respondents have failed to consider the pleas of several concerned citizens on the issues of traffic management around the Park and have failed to assign any legible, cogent and due cause for allowing vehicular movement within the Park.
- 3.12 Furthermore, in view of the agencies of the State and the State itself adopting such a callous attitude in the discharge of their duties and exercise of their powers, law abiding citizens like the Petitioner has no recourse or remedy other than approaching this Hon'ble Court for the redressal of his/her grievances and vindication of rights.
- 3.13 The inaction of the Respondents is arbitrary, unfair, unreasonable and is to the utter prejudice of the Petitioner.
- 3.14 There is an obvious and blatant violation of all the principles of natural justice. The actions and inactions of the Respondents are illegal and cannot be justified either on facts or in law.
- 3.15 The failure of the Respondents, both individually and collectively, to act are not in consonance with principles pertaining to good administrative practises and are a failure of the duties vested upon them to protect the Petitioner and others similarly situated.

- 3.16 The Petitioner reserves his/her right to raise and urge such other and further grounds at the time of hearing without prejudice to any of those raised hereinabove.
- 3.17 The Petitioner, as already demonstrated hereinabove, has no other alternate, efficacious remedy available in law and has therefore approached this Hon'ble Court by way of these writ proceedings.
- 3.18 The Petitioner has not instituted any other proceedings on the same or similar cause of action against the Respondent herein before this or any other Court, Forum or Tribunal in India.

**IV. GROUND FOR INTERIM RELIEF**

- 4.1 It is submitted that it is imperative that the interim order be passed to protect the rights of the Petitioner and to uphold the rule of law. It is only just and necessary that this Hon'ble Court be pleased to grant an interim order directing a stay on the movement of vehicular movement within the Park till such time that the impugned matter has been decided on merits.
- 4.2 It is submitted that a ban on vehicular movement within the Park was already active during the lockdown and consequently, granting an interim stay will not impact either the respondents or the general public at large. For reasons stated in this petition, the inconvenience of travelling an additional distance shall be no more than an average of 350 meters.
- 4.3 It is submitted that the Respondents have paid no heed to the several representations of the he public at large, to maintain and conserve the integrity and biodiversity of the Park. Consequently, the Petitioner is deeply aggrieved by the inaction of the Respondents to adequately care for the Park and the Petitioner is therefore left with no other recourse but to seek for an interim order from this Hon'ble Court to protect his/her interest.

- 4.4 The Petitioner apprehends that continuing to allow vehicular traffic through the Park may cause irreparable damage to the biodiversity of the Park. Further, such interim order would also ensure adherence to the law and end the commission of an illegal act.
- 4.5 In light of the above, it is submitted that the balance of convenience clearly lies in favour of the Petitioner in granting an interim order pending disposal of these proceedings.
- 4.6 No hardship or injury would be caused to the Respondents if the interim relief as prayed for is granted. On the contrary, grave and irreparable hardship, injury and loss would be caused to the Petitioner herein if the interim relief as prayed for is not granted.

### **P R A Y E R**

**WHEREFORE**, it is most respectfully prayed that this Hon'ble Court be pleased to:

- a) Pass a writ in the nature of **CERTIORARI** banning all vehicular traffic within and through Cubbon Park;
- b) Issue an order striking down the Amended Directive dated 09.09.2020 issued by the Respondent No. 3 as illegal and unconstitutional;
- c) **ISSUE** a writ in the nature of **MANDAMUS** and/or any such/other writ order or order directing Respondents to consider the representation of the Petitioner and other concerned citizens in ceasing all vehicular activity within the Park; and
- d) **ISSUE** such other/further orders as this Hon'ble Court deems fit in light of the facts and circumstances of the case in the interest of justice and equity.

### **INTERIM PRAYER**

**WHEREFORE**, it is most respectfully prayed that this Hon'ble Court may be pleased to issue appropriate orders to restrict vehicular traffic through the Park pending disposal of this Writ Petition, in the interests of justice and equity.

*Place: Bengaluru*

*Date:*

*Advocate for Petitioner*